

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022**

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, June 17, 2019 7:00 p.m.
Immediately following Committee of the Whole but not before 7 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 AND DEPARTMENT 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, Village Clerk, And Department Heads.
- 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 Minutes: June 3, 2019 Regular Village Board Meeting.
- B. Accounts payable/payroll
- | | | | |
|----|---------------|------------------|---------------|
| 1. | June 10, 2019 | Accounts Payable | \$ 576,199.32 |
| 2. | June 11, 2019 | Payroll (Hourly) | \$ 243,215.18 |
| 3. | June 14, 2019 | Payroll (Salary) | \$ 108,057.60 |
- C. Operator’s Licenses: Frank Arena, Lawrence Baker, Arick Fakhar, Sherry Gagliano, Kim Gamroth, Stehanie Glosser, Cynthia Heyman, Jayme Hoff, Elizabeth Humlie, Kirk Kussman, Julie Kussman, Marcus Lanter, Heather Lazar, Jessica Lomibao, James Manseau, Michelle Michek, Daniel Moran, Luanna Naputi, Sina Marie Pavia, Steven Repka, Melisa Roseleip, Ashley Smith, Heather Spilger, Heidi Steckel, Shawn Stinson, Tyler Tapp, Brittany Thomas, Joel Timmerman, Asif Vadsaria, Rebecca Waldeon, James Weggen, Kassius Whitmore [Recommendation Forthcoming]

The following items were forwarded from **Public Works** with a unanimous recommendation.

- D. Resolution 44-2019, Well #4 Rehab, Contract with CTW in an amount not to exceed \$64,000, with an additional \$32,250 dependent on what parts are salvageable and can be reused.
- E. Resolution 45-2019, Contract with Wisconsin DOT Salt Bid for 2019/2020.
- F. Resolution 46-2019, Adopting 2018 CMAR (Compliance Maintenance Annual Report).
- G. Grapple Bucket Purchase from Kelbe Brothers Equipment in an amount not to exceed \$15,117.
- H. Recycling Center Material Processing Blanket Purchase Order with Enercon in an amount not to exceed \$25,000.
- I. Purchase of Wastewater Utility Truck Cab and Chassis from Badger Truck and Auto Group in an amount not to exceed \$44,096.00.

VIII. OLD BUSINESS:

- A. None.

IX. PUBLIC HEARING:

- A. MSTLC LLC, Agent for TLC Acres LLC and Matthew & Amy Seban, Property Owners -W210 N10738 Appleton Avenue. Rezoning Application from A-1: Agricultural to A-2: Agricultural (Required to allow "Horticultural Services").
- B. Germantown Historical Society for Frank & Irene Blau, Property Owners – W148 N12297 Pleasant View Drive. Application for Historic Designation. Public Hearing Only.
- C. Dan Barnes, Agent for John & Mary Barnes & Heritage Park Development Corp., Property Owners – 30.65 Acres East of Division Road, South of Larkspur Lane, North of Revere Lane, West of Gunflint Trail. Conditional Use Permit application to allow development within a 25-foot wetland setback.
- D. Keefe John, Agent for Ethoplex, LLC and Techplex LLC, Property Owner – N115 W19150 Edison Drive. Conditional Use Permit application for the installation of a 195' tower and operation of a wireless communication facility.

X. NEW BUSINESS:

- A. Ordinance 06-2019, Rezoning Application from A-1: Agricultural to A-2: Agricultural, and Conditional Use Permit to allow 1) the operation of a landscape services business, 2) retail sales of nursery products not raised on the property and 3) storage of commercial vehicles and equipment. MSTLC LLC, Agent for TLC Acres LLC and Matthew & Amy Seban, Property Owners -W210N10738 Appleton Avenue.
- B. Conditional Use Permit to allow development within a 25-foot wetland setback for Dan Barnes, Agent for John & Mary Barnes & Heritage Park Development Corp., Property Owners – 30.65 Acres East of Division Road, South of Larkspur Lane, North of Revere Lane, West of Gunflint Trail.

- C. Conditional Use Permit for the installation of a 195' tower and operation of a wireless communication facility Keefe John, Agent for Ethoplex, LLC and Techplex LLC, Property Owner – N115 W19150 Edison Drive.
- D. Resolution 48-2019, Community Development Department – 2050 Comprehensive Plan: Community Engagement Program.
- E. Resolution 47-2019, Northeast Interceptor Sanitary Sewer Extension Contract with Minger Construction Co., Inc. in an amount not to exceed \$5,970,918.00, plus a Contingency of 5% or \$298,545.
- F. July 29th, 2019 Joint Meeting with the Village Board and School Board, in accordance with Resolution 12-2019, Joint School District and Village Board Meetings to be held on the Fifth Monday's and the Benefits Thereof.

XI. ADJOURNMENT.

The next regular meeting of the Village Board will be on Monday, July 1, 2019 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.

**VILLAGE OF GERMANTOWN
VILLAGE BOARD MEETING MINUTES
June 3, 2019**

CALL TO ORDER: The meeting was called to order at 7:00 p.m. by President Wolter.

ROLL CALL: Present: President Wolter, Trustees Baum, Hughes, Kaminski, Miller, Myers (7:03 p.m.), Warren, Wing and Zabel. Also present: Administrator Kreklow, Director Rath, Clerk Braunschweig, Attorney Sajdak, Director Ratayczak, Director Schroeder, and Manager Tucker.

PLEDGE OF ALLEGIANCE:

PRESIDENT'S REPORT:

No Report.

**ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC
INTEREST/DEPARTMENT AND COMMITTEE REPORTS:**

Fire Chief John Delain Read Commendations for Police Officers Darren von Bereghy, Matthew Jones, and Jared Spreiter. The Commendations were for going above and beyond the call of duty while on calls. The gallery applauded with standing ovation for the honorable actions of Police Officers Darren von Bereghy, Matthew Jones, and Jared Spreiter.

CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:

None.

CONSENT AGENDA:

Approval of Minutes: May 20, 2019, Regular Meeting.

Accounts payable/payroll

1.	May 25, 2019	Accounts Payable	\$ 880,468.34
2.	May 28, 2019	Payroll (Hourly)	\$ 232,472.38
3.	May 31, 2019	Payroll (Salary)	\$ 109,115.99
4.	May 31, 2019	Accounts Payable	\$ 223,510.40

Operator's Licenses: Mary Erickson, Kailee Garstecki, Rick Perry, McKenzie Poetzel
[Recommendation Forthcoming]

MOTION (Baum/Miller) to approve Consent Agenda Items A-C. Trustee Hughes requested to pull item D. Roll Call Vote Carried Unanimously.

Operator's Licenses: Kelly Passig and Tracy Tennies. [Recommended Denial]

MOTION (Hughes/Wing) to approve Operator's Licenses for Kelly Passig and Tracy Tennies. Motion Carried. Myers voted no.

OLD BUSINESS:

Water Rate Increase Study.

Vicky Hellenbrand of Baker Tilly came to the podium to report on and review the Water Rate Increase Study. Vicky reported on the Water Conservation Study as summarized in the packet. Consistently, throughout Wisconsin the Water Conservation Rates are for residential class. Only 51 utilities in the State of Wisconsin have conservation rates. Most do not offer water conservation rates to non-residential class. Moving to a flat non-residential rate is uncommon. Most utilities conservation rates apply only to residential customer classes.

The conservation rate options were discussed. The Public Service Commission will ask what conservation measures the Village has undertaken in the Construction Authorization process. Water Conservation will send a message to encourage conservation. The Public Service Commission will require a special annual report to measure the effectiveness of the conservation efforts.

Currently, the Village does offer a sprinkler credit which is actually a sewer credit. This is not part of a rate case.

Moving the Public Fire Protection from the tax bills to water billing was discussed. Currently the Public Fire Protection is on the tax roll. Discussion ensued of the method for billing and if all would be moved at once.

It was pointed out that the Village is unique, with approximately 1,700 parcels that are a significant distance from a hydrant.

Discussion ensued to choose a gradual approach and direct bill a portion of the fire protection. As a new tower is built, there will be financial impact and reason to move to direct billing. The hydrant rental could go up 46% and with levy limits, there is not room for the increase.

Discussion ensued with consensus to forgo the Conservation Rate and to look at a partial movement of Public Fire Protection to direct billing from the tax bills. The partial movement percentage would be a management discussion.

Reconsideration of Resolution 19-2019, Approve Facility Usage Agreement Between the Village and School District.

Administrator Kreklow gave an overview of the Intergovernmental Agreement History. The Village board adopted an agreement in March. The School Board has come back with a different version.

Administrator Kreklow reported in regards to the distribution of the non-lapsing fund. The School District is requesting the \$28,000 to be transferred to them. \$17,000 to be used for the refurbishing of Kennedy Middle School Gym Floor. The remaining \$11,000 is requested to offset the use of the facilities and the School District would not bill the Village until the fall programs begin. The second item is that the fee schedule be fixed for the term of the agreement. Administrator Kreklow recommends approval of the agreement. The Superintendent of schools will present to the school board.

Director Schroder reported that fees have been increased to include a facility fee. Other locations have been scheduled and reserved for the summer programs.

Discussion ensued of the language for the start of the fees. Attorney Sajdak reported that the version in packet did not have the current language.

MOTION (Zabel/Miller) to Accept Staff Recommendation and Agree to the Changes in the Intergovernmental Agreement Between the Village and School District with the updates subject to Village Attorney Approval. Roll call vote carried. Discussion ensued of disappointment of the fee structure and process involved. Trustees Baum, Myers, Zabel voted no.

PUBLIC HEARING:

None.

NEW BUSINESS:

Class “B” Fermented Malt Beverage and “Class B” Liquor License, July 1, 2019 – June 30, 2020, for Das Barrel Room, LLC, W201N10466 Appleton Ave, Mark Brooks Agent.

Premise license approvals are conditional upon completion of all documentation, compliance of all code violations/permits/ requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions noted.

MOTION (Baum/Hughes) to approve Class “B” Fermented Malt Beverage and “Class B” Liquor License, July 1, 2019 – June 30, 2020, for Das Barrel Room, LLC, W201N10466 Appleton Ave, Mark Brooks Agent. Motion Carried Unanimously.

Application For Fireworks User Permit, July 4th At Fireman’s Park – Lynn Grgich, Kiwanis. Operator: Wolverine Fireworks Display.

MOTION (Baum/Hughes) to approve Fireworks User Permit, July 4th At Fireman’s Park – Lynn Grgich, Kiwanis. Operator: Wolverine Fireworks Display. Motion Carried Unanimously.

Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Fireworks, July 4, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion.

MOTION (Baum/Hughes) to approve Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Fireworks, July 4, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion. Motion Carried Unanimously.

Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Taste of Germantown, July 25, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion.

MOTION (Baum/Hughes) to approve Kiwanis of Germantown, Picnic License, Temporary Class “B” Fermented Malt Beverage for Taste of Germantown, July 25, Firemen’s Park, Northside of Gehl’s Performing Arts Pavilion. Motion Carried Unanimously.

ADJOURNMENT.

ADJOURNMENT: There being no further business, the meeting adjourned at 8:20 p.m.

The next regular meeting of the Village Board will be on Monday, June 17, 2019 at 7:00 p.m.

Respectfully Submitted,
Deanna B. Braunschweig, WCMC/CMC
Village Clerk

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 44-2019

**WELL #4 REHAB, CONTRACT WITH CTW IN AN AMOUNT NOT TO
EXCEED \$64,000 WITH AN ADDITIONAL \$32,250
DEPENDENT ON SALVAGABLE PARTS AND THEIR REUSE**

WHEREAS, the Village of Germantown will contract for the rehabilitation of Well #4 (Old Farm Road); and,

WHEREAS, the Public Works Committee met on June 5, 2019 and recommended authorization to contract CTW Corporation to rehabilitate Well #4 (Old Farm Road) at an approved project amount of \$64,000.00 with an additional cost of \$32,250.00 dependent on what can be salvaged and reused; and,

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Germantown, does hereby approve the rehabilitation of Well #4 (Old Farm Road) at an approved project amount of \$64,000.00 with an additional cost of \$32,250.00 dependent on what can be salvaged and reused.

Introduced by: _____

Adopted: June 17, 2019

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC
Village Clerk

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

MEETING DATE: June 5, 2019

AGENDA ITEM: New Business

ITEM TITLE: Consideration to Rehab Well #4

SUBMITTED BY: Paul Haugen, Water Utility Superintendent

SUMMARY EXPLANATION:

In the last several months the water around the area of Well #4 (Old Farm Rd.) has been showing signs of suspended air through customer complaints. After many attempts to trouble shoot the problem with internal staff and then with the help of CTW it was determined that this Well is suffering from a Biofilm issue causing a CO2 discharge into the water.

We then proceeded to follow a temporary fix by super chlorination and acid treatment to clean off the biofilm on the carrier pipe and in the bore hole. We saw favorable decline in the biofilm but not a cure allowing us to put the well back online until we could rehab the Well in late fall of this year. As we were putting this well back online, the CO2 came back and, it was also determined that we had lost pumping capacity down hole either indicating there is a pump/impeller issue and/or hole in the carrier pipe.

With the up coming summer months of high usage, it is critical that the Village make the necessary repairs in a timely manner.

Insurance Claims have been submitted to the following:

Liberty Mutual Insurance – Claim #432118600

CHUBB Insurance – Claim #040519025109

ATTACHMENT: ORDINANCE _____ RESOLUTION _____ OTHER X

RECOMMENDATION:

Staff recommends authorizing CTW to rehab Well #4 as an emergency per the attached.

The cost to treat and remediate the well (recommended work) is an estimated \$64,000.00

We will see addition cost of up to \$35,250.00 but this will depend on what can be salvaged and reused.

The only unknown cost will be what we find out after our motor is evaluated. We have a cost to recondition the motor back to factory specs which we will have done but the overall condition is unknown.

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.

May 17, 2019

Mr. Paul Haugen- via email
Village of Germantown
N122 W17177 Fond du Lac Avenue
Germantown, WI 53022

RE: Well 4 Pump Issues

Dear Mr. Haugen:

Thank you for the opportunity to provide this proposal to address water quality issues at Well 4. Approximately three weeks ago, you had contacted us to address air bubbles in the water being pumped from well 4. We ruled out the bubbler system by turning it off. We then collected water samples that were analyzed by Mr. Andrew Jacque, PE, PhD who identified a significant amount of biological growth within the column pipe. This was treated with a combination of glycolic acid and chlorine and produced favorable results downhole. After pumping the well to waste for two days, a bacteriological sample was taken and the well placed back into service this morning. At the time that the well was placed back into service, it was noted that the amp draw was high on the motor, indicating that there is either a hole in the column pipe or wear on the pump which is reducing the output and increase the work being done. Within an hour of placing the well back into service, we received a call stating that the cloudy water had returned (despite clear water over the past few days).

At this time, we feel that the best approach to ensure consistent water quality is to pull the well pump and evaluate all of the pumping equipment. The current pump setting is 690 feet, so we anticipate it taking three days to get the pump removed from the well. Once the pump is out of the well, we recommend brushing the well to remove any build-up and then televising. This work can all be completed prior to receiving WDNR approval.

The next work to be completed would be treatment of the well, which requires WDNR approval. Andy recommends treatment of the well in a two-step process. The first step would include placing inhibited hydrochloric acid down the well and recirculating for at least 24 hours. Additional acid will be added and recirculated until the pH remains below 3 for at least 24 hours. Once this has been achieved, the hydrochloric acid will be pumped out of the well and neutralized. The second step includes injecting a combination of Clearitas, glycolic acid, and sodium hypochlorite. This would be recirculated/chemical added until there is no additional demand. After initial injection of the chemical, CTW personnel will monitor the pH and chlorine content at least twice daily and add additional chemicals if necessary.

Our pricing is based on the following chemical usage:

Hydrochloric Acid- 150 gallons
 Clearitas- 40 gallons
 Glycolic Acid- 25 gallons
 Chlorine- 75 gallons

After completion of the second phase of chemical treatment, the water from the well will be pumped off into a tank and neutralized. The pump and motor will then be installed, well pumped to waste, and two safe bacteriological samples taken.

The cost for the recommended work is:

Mobilize, disconnect motor and remove pump	\$20,000
Brush Well	\$1,000
Televis	\$1,000
Acid Treatment	\$8,500
Chemical Cleaning	\$10,500
Rebuilding Stuffing Box	\$500
Replace air lines (2)	\$500
Reinstallation of the pump and motor, start-up	\$21,000
Alterations to head to add recirculation line including installation of a copper recirculation line	\$1,000

The price for reinstallation can be reduced if we determine that the pump can be set shallower. Currently there is approximately 200 feet of water over the top of the bowl assembly whereas, we would recommend needing only approximately 100 feet over the top.

Depending on what is found down hole, the following pricing is being provided for budgetary purposes:

Rebuild existing 18 stage pump	\$14,000
(I can provide pricing on a replacement pump next week)	New Pump-\$25,000.00
Replacement of column pipe	\$300 per 10' length (total of 69 present)
Replacement of lineshaft bearings (select one of options below)	
rubber lineshaft bearings	\$30 each (total of 69 present)
vesconite bearings	\$60 each (total of 69 present)
Replacement of Pump	TBD
Initial Evaluation of Motor	\$750
(Additional costs if motor rebuild is recommended)	New bearings, dip/bake motor and balance rotor-\$2,200.00
Shaft (should not need to be replaced as spec was SS)	\$250 per 10' length (69 total)

We can complete the WDNR submittal for the chemical rehabilitation work yet today if you would like and I can request expedited review. We would then be able to get onsite the week of May 27th to pull the pump and complete the initial evaluation. Overall, I'd estimate that the well will be out of service approximately 4-6 weeks to complete the work

If you have any questions or need any additional information, please contact me at (414)308-0024 or sarah.nunn@ctwcorporation.com.

Sincerely,

Sarah J. Nunn

Sarah Nunn, PE
Operations Manager

Accepted By:

Signature

Printed Name

Date

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 45-2019

**CONTRACT WITH WISCONSIN DEPARTMENT OF TRANSPORTATION
FOR THE SALT BID 2019-2020**

WHEREAS, the Village of Germantown contracts for the road salt purchases for Village roads; and,

WHEREAS, the Public Works Committee met on June 5, 2019, and recommended approval of the Village's contract with the Wisconsin Department of Transportation and the commitment to approximately 3,600 ton of road salt for the 2019-2020 season as part of the Wisconsin Department of Transportation Salt Bid Process; and,

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Germantown, does hereby approve to contract with the Wisconsin Department of Transportation and the commitment to approximately 3,600 ton of road salt for the 2019-2020 season as part of the Wisconsin Department of Transportation Salt Bid Process.

Introduced by: _____

Adopted: June 17, 2019_____

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC
Village Clerk

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

MEETING DATE: Monday June 17th, 2019

AGENDA ITEM: Consent Agenda

ITEM TITLE: WDOT Salt Bid 2019-2020

SUBMITTED BY: Jay Olszewski, Highway Superintendent

SUMMARY EXPLANATION:

Public Works Committee is confirming that the Village entered into WisDOT Bid Process for 2019 and 2020 season. Staff will be purchasing 500 tons of salt in 2019 and up to 3,100 tons in 2020. The per ton cost is not available. Currently the Village has approximately 1,600 tons of salt on hand. The Village used approximately 3,200 tons this past winter season. Attached is a breakdown of the salt usage for the past 18 seasons.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER __x__

RECOMMENDATION:

Committee unanimously recommends remaining part of the WisDOT bid process.

BOARD 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.

SALT PURCHASING INFO

YEAR	SALT	# OF OPERATIONS
18-19	3,205	42
17-18	3,130	39
16-17	2,875	34
15-16	2,756	33
14-15	2,185	44
13-14	3,258	67
12-13	3,467	53
11-12	2,127	42
10-11	3,430	57
9-10	2,045	38
8-9	3,332	53
7-8	3,432	79
6-7	3,304	52
5-6	3,093	46
4-5	2,475	45
3-4	1,659	32
2-3	2,138	39
1-2	1,744	25
AVERAGE SALT USE	2,759 TONS	
Average use multiplied by 1.5	4,100 TONS	
SALT ON HAND end of 18-19 Season	1,600	TONS

SALT ORDERED FOR '19-20

**500 Ton Early Fill
2,500 Ton Seasonal Fill
600 Ton Vendor Reserve**

Estimate cost per ton \$73.00

2020 Budget (est.) \$226,300

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

MEETING DATE: June 17, 2019

AGENDA ITEM: Consent Agenda

ITEM TITLE: 2018 Compliance Maintenance Annual Report

SUBMITTED BY: Public Works and Highways Committee

SUMMARY EXPLANATION:

The Public Works and Highways Committee is presenting for your review the 2018 CMAR (Compliance Maintenance Annual Report). This requirement went into effect on January 1, 2006 as part of the renewal of our WPDES (Wisconsin Pollutant Discharge Elimination System) General Permit under the authority of Chapter 283, Wisconsin Statutes and the requirements of ch. NR 208 Wisconsin Administrative Code. The report must be accepted by resolution by the governing body (Village Board) before submission to the Department of Natural Resources.

ATTACHMENT: ORDINANCE____ RESOLUTION X OTHER X

RECOMMENDATION:

It is the unanimous recommendation of the Public Works and Highways Committee to send forward to the Village Board the 2018 CMAR and adopt its results by resolution of the full Village Board.

BOARD 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.

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 46-2019

**ADOPTING THE 2018 WISCONSIN POLLUTION DISCHARGE ELIMINATION SYSTEM
COMPLIANCE MAINTENANCE ANNUAL REPORT**

WHEREAS, by the action taken in Resolution No. 46-2019, the Village of Germantown is a participant in the Wisconsin Pollutant Discharge Elimination System ("WPDES") program; and,

WHEREAS, participants in the WPDES program are required to renew their General Permits issued under the program; and,

WHEREAS, the permit renewal requires the Village to complete and submit a Compliance Maintenance Annual Report ("CMAR"); and,

WHEREAS, the Village's Public Works Committee reviewed the attached CMAR report and forwarded the same to the Village Board with a recommendation for adoption; and,

WHEREAS, the Village Board having reviewed the same concurs with the recommendation of the Public Works Committee;

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Germantown, do hereby adopt the attached Compliance Maintenance Annual Report.

BE IT FURTHER RESOLVED that the Village Wastewater Superintendent is hereby directed and authorized to include the attached CMAR in the Village's application for the renewal of its WPDES General Permit.

Introduced by: _____

Adopted: June 17, 2019

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC
Village Clerk

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:
5/9/2019 2018

Financial Management

1. Provider of Financial Information

Name:

Timothy K. Zimmerman

Telephone:

262-253-7765

(XXX) XXX-XXXX

E-Mail Address
(optional):

tzimmerman@village.germantown.wi.us

2. Treatment Works Operating Revenues

2.1 Are User Charges or other revenues sufficient to cover O&M expenses for your wastewater treatment plant AND/OR collection system ?

● Yes (0 points) ☐

○ No (40 points)

If No, please explain:

2.2 When was the User Charge System or other revenue source(s) last reviewed and/or revised?
Year:

2018

● 0-2 years ago (0 points) ☐

○ 3 or more years ago (20 points) ☐

○ N/A (private facility)

2.3 Did you have a special account (e.g., CWP required segregated Replacement Fund, etc.) or financial resources available for repairing or replacing equipment for your wastewater treatment plant and/or collection system?

● Yes (0 points)

○ No (40 points)

REPLACEMENT FUNDS [PUBLIC MUNICIPAL FACILITIES SHALL COMPLETE QUESTION 3]

3. Equipment Replacement Funds

3.1 When was the Equipment Replacement Fund last reviewed and/or revised?

Year:

2018

● 1-2 years ago (0 points) ☐

○ 3 or more years ago (20 points) ☐

○ N/A

If N/A, please explain:

3.2 Equipment Replacement Fund Activity

3.2.1 Ending Balance Reported on Last Year's CMAR

\$ 726,174.88

3.2.2 Adjustments - if necessary (e.g. earned interest, audit correction, withdrawal of excess funds, increase making up previous shortfall, etc.)

\$ 0.00

3.2.3 Adjusted January 1st Beginning Balance

\$ 726,174.88

3.2.4 Additions to Fund (e.g. portion of User Fee, earned interest, etc.)

+

\$ 51,114.30

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:
5/9/2019 2018

3.2.5 Subtractions from Fund (e.g., equipment replacement, major repairs - use description box 3.2.6.1 below*)

- \$ 0.00

3.2.6 Ending Balance as of December 31st for CMAR Reporting Year

\$ 777,289.18

All Sources: This ending balance should include all Equipment Replacement Funds whether held in a bank account(s), certificate(s) of deposit, etc.

3.2.6.1 Indicate adjustments, equipment purchases, and/or major repairs from 3.2.5 above.

3.3 What amount should be in your Replacement Fund?

\$ 125,000.00

Please note: If you had a CWFP loan, this amount was originally based on the Financial Assistance Agreement (FAA) and should be regularly updated as needed. Further calculation instructions and an example can be found by clicking the SectionInstructions link under Info header in the left-side menu.

3.3.1 Is the December 31 Ending Balance in your Replacement Fund above, (#3.2.6) equal to, or greater than the amount that should be in it (#3.3)?

☒ Yes

☐ No

If No, please explain.

4. Future Planning

4.1 During the next ten years, will you be involved in formal planning for upgrading, rehabilitating, or new construction of your treatment facility or collection system?

☒ Yes - If Yes, please provide major project information, if not already listed below. ☐ ☐

☐ No

Project #	Project Description	Estimated Cost	Approximate Construction Year
1	Private property I/I remediation	375000	2019
2	48" Interceptor Rehabilitation 5240 lin. ft. 2018 cost 2.375 million	2375000	2019
3	Park Avenue Sewer relays	175000	2019
4	Wrenwood pump station and interceptor	5400000	2019

5. Financial Management General Comments

ENERGY EFFICIENCY AND USE

6. Collection System

6.1 Energy Usage

6.1.1 Enter the monthly energy usage from the different energy sources:

COLLECTION SYSTEM PUMPAGE: Total Power Consumed

Number of Municipally Owned Pump/Lift Stations: 8

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:
5/9/2019 2018

	Electricity Consumed (kWh)	Natural Gas Consumed (therms)
January	58,179	
February	55,311	
March	61,549	
April	55,285	
May	44,638	
June	50,229	
July	55,507	
August	53,840	
September	51,469	
October	54,136	
November	56,134	
December	47,986	
Total	644,263	0
Average	53,689	0

6.1.2 Comments:

6.2 Energy Related Processes and Equipment

6.2.1 Indicate equipment and practices utilized at your pump/lift stations (Check all that apply):

- ☐ Comminution or Screening
- ☐ Extended Shaft Pumps
- ☒ Flow Metering and Recording
- ☐ Pneumatic Pumping
- ☒ SCADA System
- ☐ Self-Priming Pumps
- ☒ Submersible Pumps
- ☒ Variable Speed Drives
- ☐ Other:

6.2.2 Comments:

6.3 Has an Energy Study been performed for your pump/lift stations?

● No

○ Yes

Year:

By Whom:

Describe and Comment:

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:
5/9/2019 **2018**

6.4 Future Energy Related Equipment

6.4.1 What energy efficient equipment or practices do you have planned for the future for your pump/lift stations?

As available from WI focus on energy and annual budget

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

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Sanitary Sewer Collection Systems

1. Capacity, Management, Operation, and Maintenance (CMOM) Program

1.1 Do you have a CMOM program that is being implemented?

☒ Yes

☐ No

If No, explain:

1.2 Do you have a CMOM program that contains all the applicable components and items according to Wisc. Adm Code NR 210.23 (4)?

☒ Yes

☐ No (30 points)

☐ N/A

If No or N/A, explain:

1.3 Does your CMOM program contain the following components and items? (check the components and items that apply)

☒ Goals [NR 210.23 (4)(a)]

Describe the major goals you had for your collection system last year:

Continue to reduce system I/I. Use cost effective I/I removal technologies. Continue to provide current levels of service and improve on them as time and money allow.

Did you accomplish them?

☒ Yes

☐ No

If No, explain:

☒ Organization [NR 210.23 (4) (b)] ☐

Does this chapter of your CMOM include:

☒ Organizational structure and positions (eg. organizational chart and position descriptions)

☒ Internal and external lines of communication responsibilities

☒ Person(s) responsible for reporting overflow events to the department and the public

☒ Legal Authority [NR 210.23 (4) (c)]

What is the legally binding document that regulates the use of your sewer system?

Chapter 13 Municipal code

If you have a Sewer Use Ordinance or other similar document, when was it last reviewed and revised? (MM/DD/YYYY) 2003-01-01

Does your sewer use ordinance or other legally binding document address the following:

☒ Private property inflow and infiltration

☒ New sewer and building sewer design, construction, installation, testing and inspection

☒ Rehabilitated sewer and lift station installation, testing and inspection

☒ Sewage flows satellite system and large private users are monitored and controlled, as necessary

☒ Fat, oil and grease control

☒ Enforcement procedures for sewer use non-compliance

☒ Operation and Maintenance [NR 210.23 (4) (d)]

Does your operation and maintenance program and equipment include the following:

☒ Equipment and replacement part inventories

☒ Up-to-date sewer system map

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☒ A management system (computer database and/or file system) for collection system information for O&M activities, investigation and rehabilitation

☒ A description of routine operation and maintenance activities (see question 2 below)

☒ Capacity assessment program

☒ Basement back assessment and correction

☒ Regular O&M training

☒ Design and Performance Provisions [NR 210.23 (4) (e)] ☐ ☐

What standards and procedures are established for the design, construction, and inspection of the sewer collection system, including building sewers and interceptor sewers on private property?

☒ State Plumbing Code, DNR NR 110 Standards and/or local Municipal Code Requirements

☒ Construction, Inspection, and Testing

☒ Others:

<http://www.village.germantown.wi.us/DocumentCenter/View/76/Sec-5---Gtown-San-Sewer-System-Requirements>

Industry accepted best practices

☒ Overflow Emergency Response Plan [NR 210.23 (4) (f)] ☐ ☐

Does your emergency response capability include:

☒ Responsible personnel communication procedures

☒ Response order, timing and clean-up

☒ Public notification protocols

☒ Training

☒ Emergency operation protocols and implementation procedures

☒ Annual Self-Auditing of your CMOM Program [NR 210.23 (5)] ☐ ☐

☒ Special Studies Last Year (check only those that apply):

☒ Infiltration/Inflow (I/I) Analysis

☐ Sewer System Evaluation Survey (SSES)

☐ Sewer Evaluation and Capacity Management Plan (SECAP)

☐ Lift Station Evaluation Report

☐ Others:

0

2. Operation and Maintenance

2.1 Did your sanitary sewer collection system maintenance program include the following maintenance activities? Complete all that apply and indicate the amount maintained.

Cleaning % of system/year

Root removal % of system/year

Flow monitoring % of system/year

Smoke testing % of system/year

Sewer line televising % of system/year

Manhole inspections % of system/year

Lift station O&M # per L.S./year

Manhole rehabilitation % of manholes rehabbed

Mainline rehabilitation % of sewer lines rehabbed

Private sewer inspections

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Private sewer I/I
removal

0

% of system/year

0

% of private services

River or water
crossings

100

% of pipe crossings evaluated or maintained

Please include additional comments about your sanitary sewer collection system below:

3. Performance Indicators

3.1 Provide the following collection system and flow information for the past year.

39.30

Total actual amount of precipitation last year in inches

34.89

Annual average precipitation (for your location)

103.23

Miles of sanitary sewer

8

Number of lift stations

0

Number of lift station failures

0

Number of sewer pipe failures

4

Number of basement backup occurrences

2

Number of complaints

3.493

Average daily flow in MGD (if available)

4.18

Peak monthly flow in MGD (if available)

Peak hourly flow in MGD (if available)

3.2 Performance ratios for the past year:

0.00

Lift station failures (failures/year)

0.00

Sewer pipe failures (pipe failures/sewer mile/yr)

0.00

Sanitary sewer overflows (number/sewer mile/yr)

0.04

Basement backups (number/sewer mile)

0.02

Complaints (number/sewer mile)

1.2

Peaking factor ratio (Peak Monthly:Annual Daily Avg)

0.0

Peaking factor ratio (Peak Hourly:Annual Daily Avg)

4. Overflows

LIST OF SANITARY SEWER (SSO) AND TREATMENT FACILITY (TFO) OFERFLOWS REPORTED **

Date	Location	Cause	Estimated Volume (MG)
None reported			

** If there were any SSOs or TFOs that are not listed above, please contact the DNR and stop work on this section until corrected.

5. Infiltration / Inflow (I/I)

5.1 Was infiltration/inflow (I/I) significant in your community last year?

☐ Yes

☒ No

If Yes, please describe:

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:

5/9/2019

2018

5.2 Has infiltration/inflow and resultant high flows affected performance or created problems in your collection system, lift stations, or treatment plant at any time in the past year?

☐ Yes

☒ No

If Yes, please describe:

5.3 Explain any infiltration/inflow (I/I) changes this year from previous years:

I/I is trending down due to manhole rehab and mainline grouting

5.4 What is being done to address infiltration/inflow in your collection system?

on going manhole rehab, mainline pipe evaluations, PP I/I program through MMSD

Total Points Generated	0
Score (100 - Total Points Generated)	100
Section Grade	A

Compliance Maintenance Annual Report

Germantown Village

Last Updated: Reporting For:
5/9/2019 2018

Grading Summary

WPDES No: 0047341

SECTIONS	LETTER GRADE	GRADE POINTS	WEIGHTING FACTORS	SECTION POINTS
Financial	A	4	1	4
Collection	A	4	3	12
TOTALS			4	16
GRADE POINT AVERAGE (GPA) = 4.00				

Notes:

- A = Voluntary Range (Response Optional)
- B = Voluntary Range (Response Optional)
- C = Recommendation Range (Response Required)
- D = Action Range (Response Required)
- F = Action Range (Response Required)

Compliance Maintenance Annual Report

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Last Updated: Reporting For:
5/9/2019 2018

Resolution or Owner's Statement

Name of Governing
Body or Owner:

Village of Germantown

Date of Resolution or
Action Taken:

2019-06-17

Resolution Number:

Date of Submittal:

ACTIONS SET FORTH BY THE GOVERNING BODY OR OWNER RELATING TO SPECIFIC CMAR SECTIONS (Optional for grade A or B. Required for grade C, D, or F):

Financial Management: Grade = A

Collection Systems: Grade = A

(Regardless of grade, response required for Collection Systems if SSOs were reported)

ACTIONS SET FORTH BY THE GOVERNING BODY OR OWNER RELATING TO THE OVERALL GRADE POINT AVERAGE AND ANY GENERAL COMMENTS

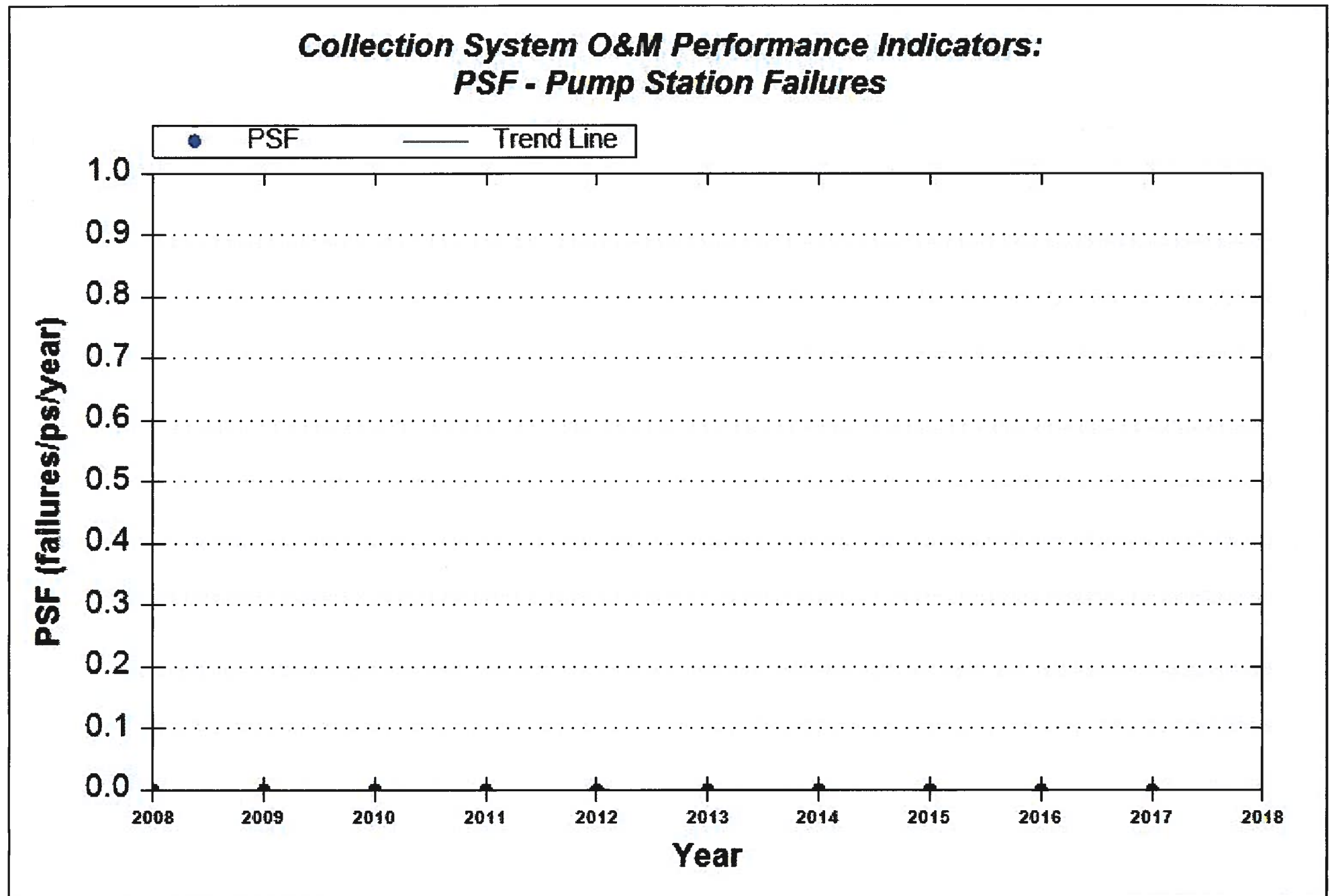
(Optional for G.P.A. greater than or equal to 3.00, required for G.P.A. less than 3.00)

G.P.A. = 4.00

Germantown Village

Linear equation uses 2008 - 2018 CMAR data

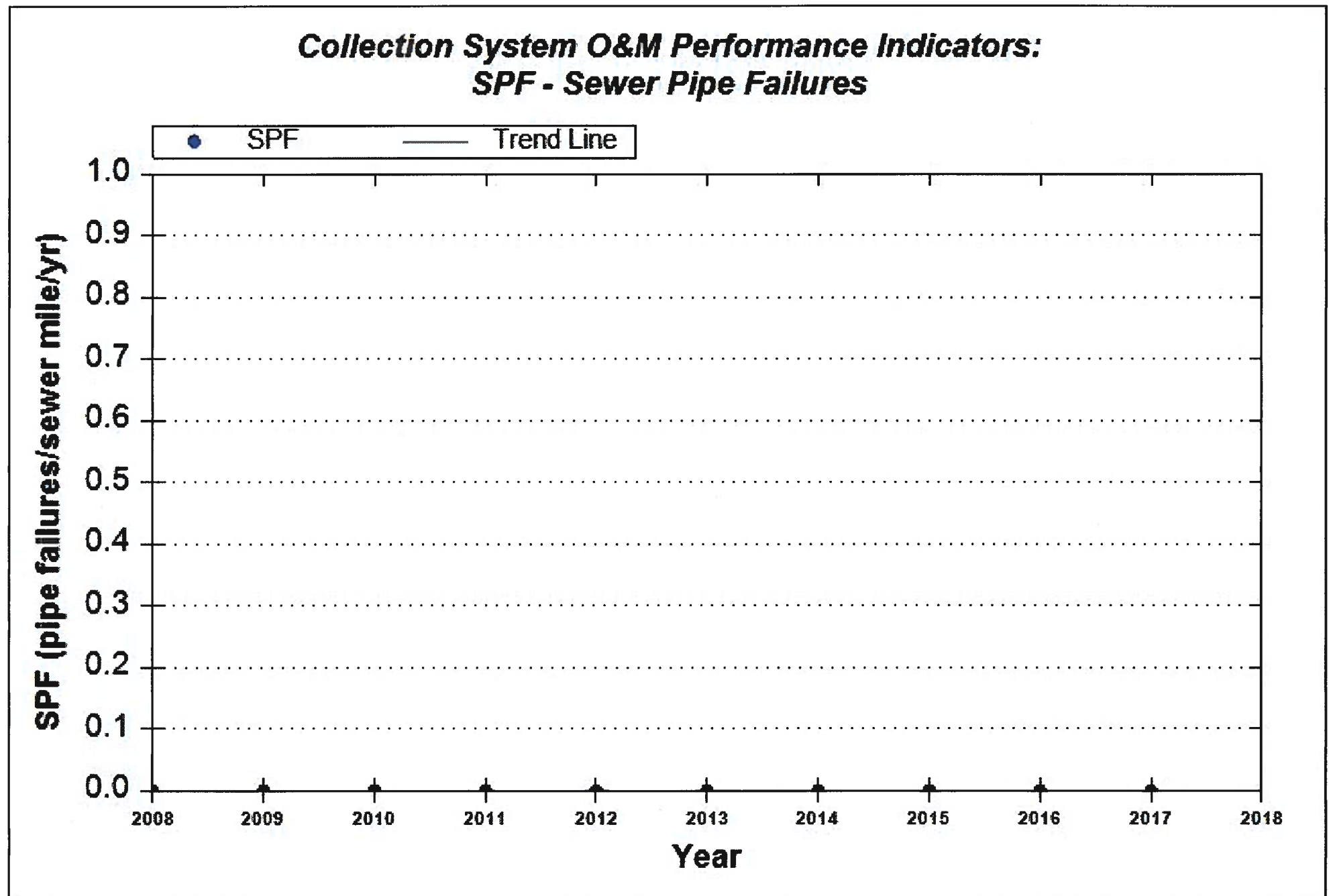
for Trend Line: PSF: $y = 0x + 0$



Germantown Village

Linear equation uses 2008 - 2018 CMAR data

for Trend Line: SPF: $y = 0x + 0$

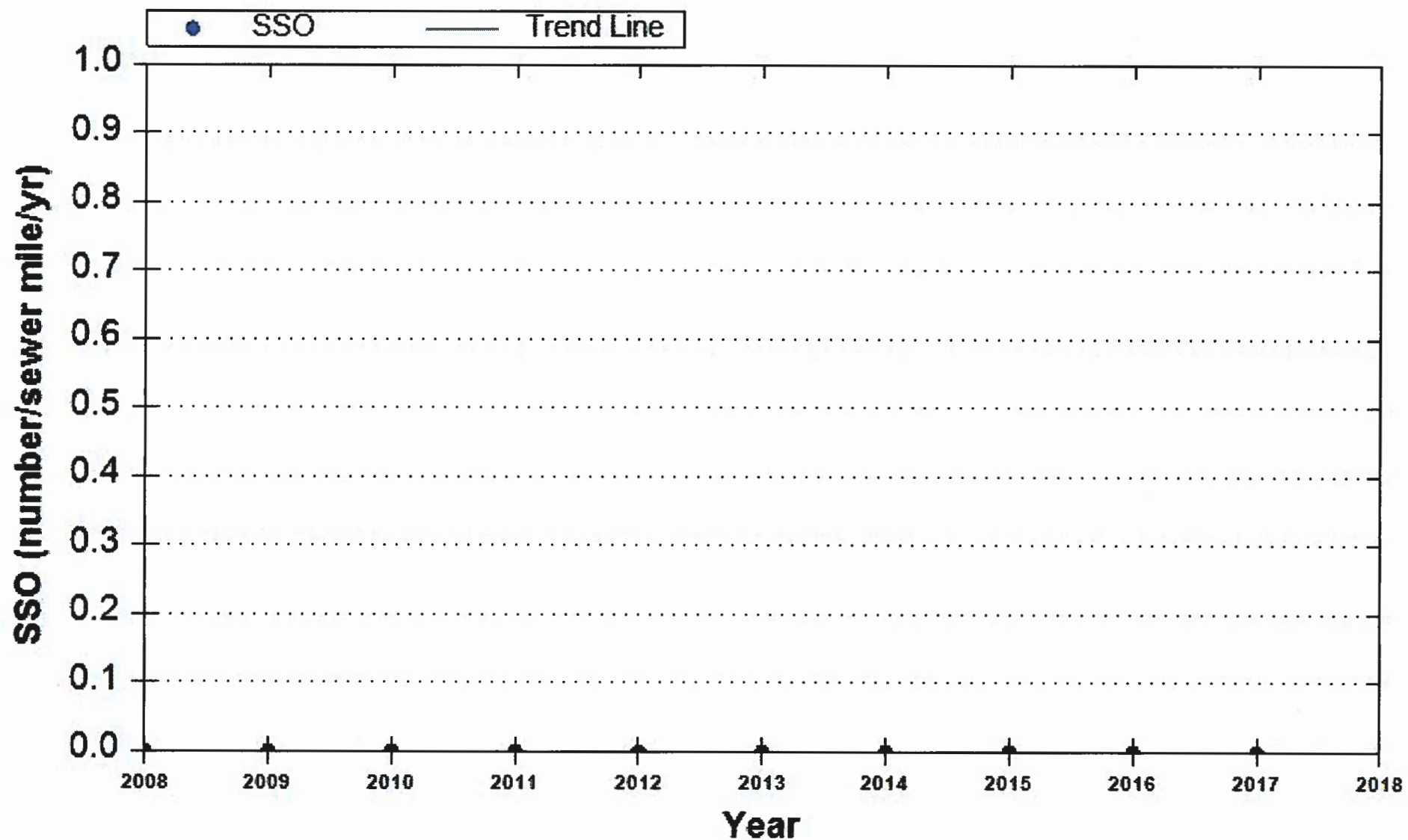


Germantown Village

Linear equation uses 2008 - 2018 CMAR data

for Trend Line: SSO: $y = 0x + 0$

Collection System O&M Performance Indicators: SSO - Sanitary Sewer Overflows

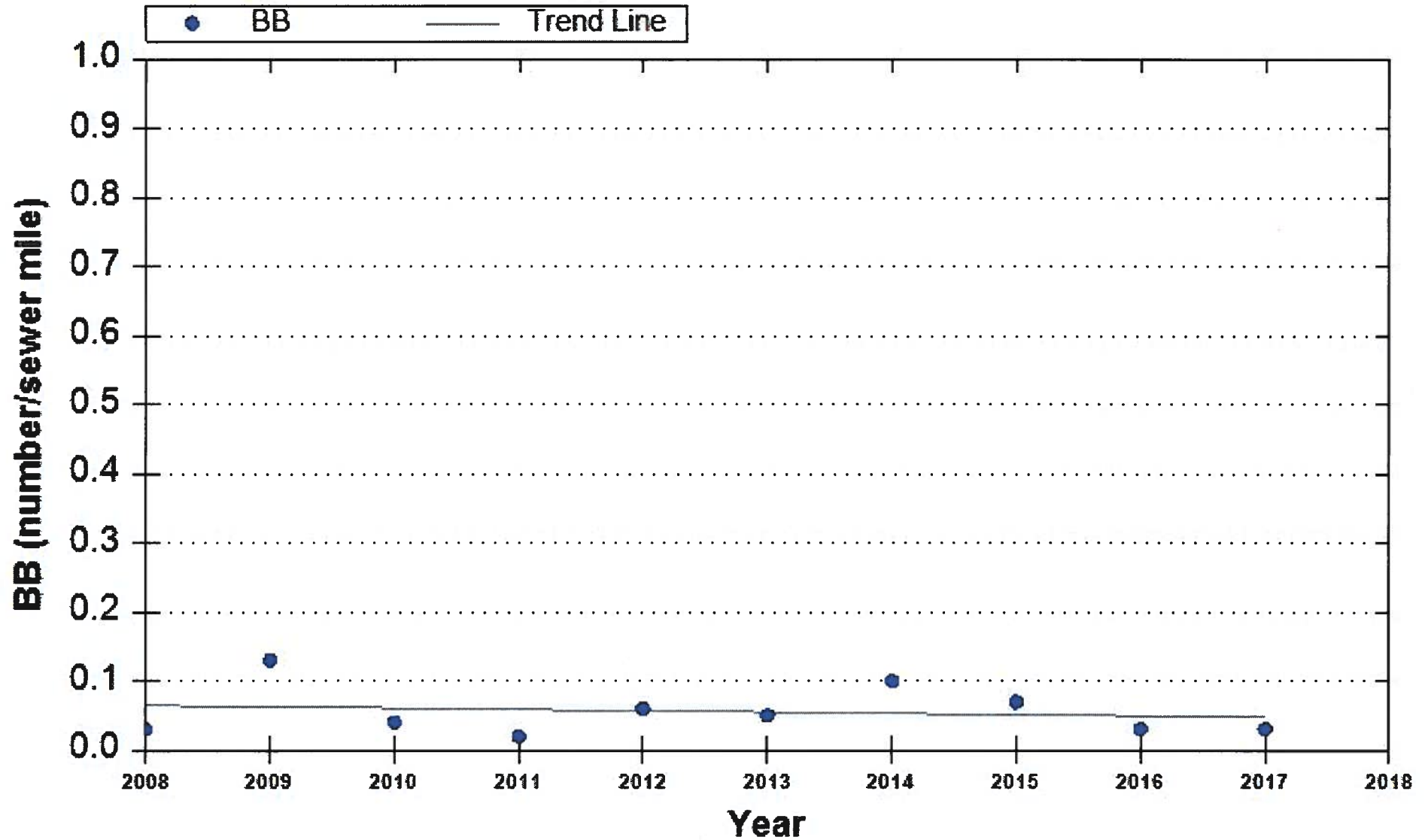


Germantown Village

Linear equation uses 2008 - 2018 CMAR data

for Trend Line: BB: $y = -0.001938x + 0.06$

Collection System O&M Performance Indicators: BB - Basement Backups

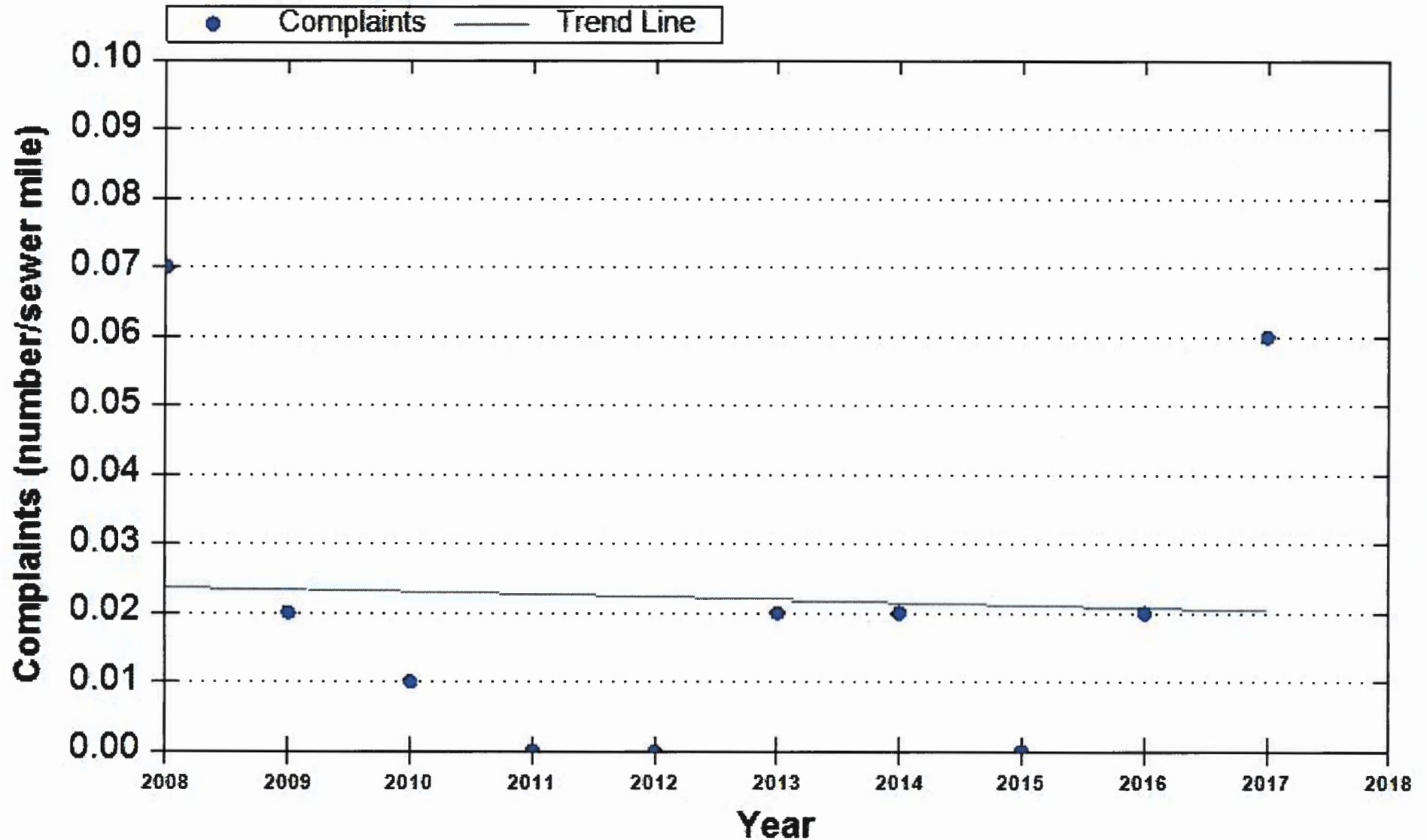


Germantown Village

Linear equation uses 2008 - 2018 CMAR data

for Trend Line: Complaints: $y = -0.000363x + 0.02$

Collection System O&M Performance Indicators: Complaints



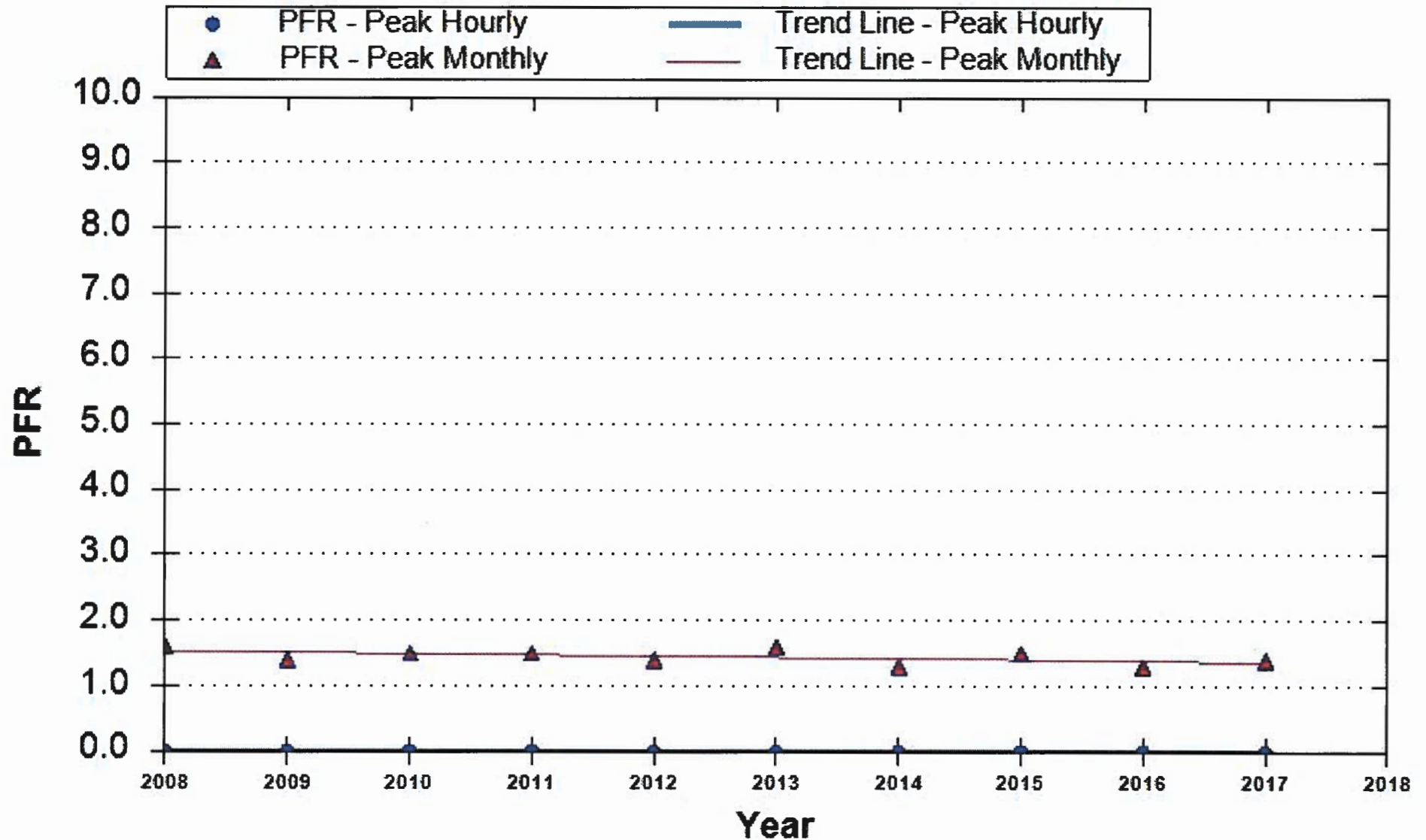
Germantown Village

Linear equations use 2008 - 2018 CMAR data

for Trend Lines: PFR - Peak Hourly: $y = 0x + 0$

PFR - Peak Monthly: $y = -0.017577x + 1.53$

Collection System O&M Performance Indicators: PFR - Peaking Factor Ratio (Hourly and Monthly)



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

MEETING DATE: June 17, 2019

AGENDA ITEM: Consent Agenda

ITEM TITLE: Authorization to Purchase – Brush Grapple Bucket

SUBMITTED BY: Public Works and Highways Committee

SUMMARY EXPLANATION:

The Public Works and Highways Committee is seeking authorization to purchase a 3.5 cu.yd. brush bucket for use at the Recycling Center for brush handling and material processing. RFP's were solicited from the area heavy equipment dealers and two responded to the request. Kelbe Brothers Equipment were low bid at \$15,117.00

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER

RECOMMENDATION:

It is the unanimous recommendation of the Public Works and Highways Committee to purchase one (1) JRB 500GB350 Grapple Bucket size 416 compatible, from Kelbe Brothers Equipment for the amount not to exceed \$15,117.00 and to forward this recommendation on to the Village Board for approval. Money for this purchase was approved in the 2019 Recycling Budget in line item 40-546-570-8400.

BOARD 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.

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

MEETING DATE: June 17, 2019

AGENDA ITEM: Consent Agenda

ITEM TITLE: Authorization for a Blanket Purchase Order for the Recycling Center for Material Processing

SUBMITTED BY: Public Works and Highways Committee

SUMMARY EXPLANATION:

The Public Works and Highways Committee is seeking authorization for a blanket purchase order for Enercon for material processing for the Recycling Center for 2019, in the amount not to exceed \$25,000. This amount will cover 7 days of wood material processing at the Center.

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER

RECOMMENDATION:

It is the unanimous recommendation of the Public Works and Highways Committee to approve the Blanket P.O. to Enercon for the amount not to exceed \$25,000.00. And to forward the same recommendation onto the Village Board for approval. Funds to be allocated from Recycling Budget line item 10-546-570-7960.

BOARD 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.

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

MEETING DATE: June 17, 2019

AGENDA ITEM: Consent Agenda

ITEM TITLE: Consideration of purchase- Wastewater Utility Truck Cab and Chassis

SUBMITTED BY: Public Works and Highways Committee

SUMMARY EXPLANATION:

The Public Works and Highways Committee is presenting for your review the proposals for the Wastewater Utility Truck Cab and Chassis:

Badger Truck and Auto Group	\$47,343.00
-----------------------------	-------------

Lakeside International	\$49,987.00
------------------------	-------------

Ewald Automotive Group	\$44,096.00
-------------------------------	--------------------

ATTACHMENT: ORDINANCE____ RESOLUTION____ OTHER

RECOMMENDATION:

It is the unanimous recommendation of the Public Works and Highways Committee to purchase a 2019 MD 4500 cab and chassis as specified from Ewald Automotive Group. Funds will be distributed from account number 60-180-185-3730, Transportation Equipment. Funding for this item was approved in the 2019 capital budget for the Utility. This vehicle will replace truck 554 a 2006 GMC 3500. The existing truck has been requested by our mechanics to remain in the fleet as a shop vehicle for road emergencies. Trade value is \$10,500 if the Committee feels reimbursement is needed. This is an incomplete vehicle, service body proposals will come forward in July.

BOARD 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.

From: [Janice Wick](#)
To: [Deanna Braunschweig](#)
Subject: Public Works Agenda Items for Village Board - June 17, 2019
Date: Tuesday, June 11, 2019 12:45:38 PM
Attachments: [RESOLUTIONS -June 5, 2019.docx](#)

CONSENT AGENDA:

-

WELL #4 – REHABILITATION:

MOTION made by Zabel, seconded by Kaminski to forward to the Village Board with a positive recommendation authorizing staff to contract with CTW to rehab Well #4 at an estimated cost of \$64,000 and allow an additional increase of \$32,250 dependent on what parts can be salvaged and reused.

Motion carried unanimously.

-

WDOT SALT BID FOR 2019-2020:

MOTION made by Zabel, seconded by Hughes to forward to the Village Board with a positive recommendation to approve the Village's commitment of approximately 3,600 ton of road salt for the 2019-2020 season as part of the WDOT Salt Bid Process.

Motion carried unanimously.

-

RESOLUTION – ADOPTING 2018 CMAR (Compliance Maintenance Annual Report): MOTION

made by Zabel seconded by Hughes to forward to the Village Board with a positive recommendation to approve the 2018 Compliance Maintenance Annual Report (CMAR) and adopt its results by Resolution.

Motion carried unanimously.

-

GRAPPLE BUCKET – RECYCLING CENTER:

MOTION made by Hughes, seconded by Warren to forward to the Village Board with a positive recommendation authorizing the purchase of one Grapple Brush Bucket to be used at the Recycling Center from Kelbe Brothers Equipment for an amount not to exceed \$15,117.00. Funds to be allocated from Acct. #40-546-570-8400.

Motion carried unanimously.

-

RECYCLING CENTER MATERIAL PROCESSING – BLANKET PURCHASE ORDER:

MOTION made by Hughes, seconded by Zabel to forward to the Village Board with a positive recommendation to approve the allocation of an amount not to exceed \$25,000 in the form of a blanket purchase order to Enercon for the continuing material processing at the Recycling Center. Funds to be allocated from Acct. #10-546-570-7960.

Motion carried unanimously.

-

WASTEWATER UTILITY TRUCK PURCHASE:

MOTION made by Hughes, seconded by Warren to forward to the Village Board with a positive recommendation to purchase a 2019 MD 4500 cab and chassis from Ewald Automotive Group for an amount of \$44,096.00. Funds to be distributed from Acct. #60-180-185-3730.

Motion carried unanimously.

-

NEW BUSINESS:

-

NORTHEAST INTERCEPTOR SEWER – CONTRACT:

MOTION made by Warren, seconded by Hughes to forward to the Village Board with a positive recommendation to contract Minger Construction Co., Inc. in the amount of \$5,970,918.00 plus a 5% contingency or \$298,545.00 for a total approved project amount of \$6,269,463.00 for the construction of the proposed extension of the northeast interceptor sanitary sewer.

Motion carried 3-1 (Zabel)

Regards,

Janice
DPW/Engr.
Village of Germantown
262-250-4721

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a public hearing will be held by the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following dates and times noted below (or soon thereafter):

PLAN COMMISSION: Monday, June 10, 2019 at 6:30 p.m.

VILLAGE BOARD: Monday, June 17, 2019 at 7:00 p.m.

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the application filed to REZONE the property described below from A-1: Agricultural to A-2: Agricultural pursuant to Sections 17.13 of the Village Zoning Code:

Applicant: MSTLC LLC, Agent for TLC Acres LLC and Matthew & Amy Seban, Property Owners
Property: W210 N10738 Appleton Avenue (Tax Key: GTNV 304-959)

That part of the NORTHEAST $\frac{1}{4}$ and NORTHWEST $\frac{1}{4}$ of the SOUTHWEST $\frac{1}{4}$ of Section 30, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, bounded and described as follows: beginning at the EAST $\frac{1}{4}$ corner, SECTION 30-9-20, thence South 00 27' 58" East on the east line of the Southeast $\frac{1}{4}$ of said Section 1,222.00 feet; thence South 890 32' 02" West, 670.00 feet; thence 00 27' 58" West, 118.80 feet; thence South 810 32' 02" West, 863.51 feet; thence North 550 27' 58" West on the center line of Appleton Avenue 113.65 feet; thence North 550 21' 58" West on said center line 148.60 feet; thence North 530 08' 58" West on said center line 107.70 feet; thence North 440 39' 18" West on said center line 203.19 feet; thence North 400 55' 06" West on said center line 199.71 feet; thence North 540 23' 20" East, 669.00 feet; thence North 750 12' 40" West, 310.40 feet; thence North 640 10' 40" West, 471.50 feet; thence South 890 30' 20" West, 175.40 feet; thence North 260 14' 40" West, 36.70 feet; thence North 890 30' 20" East on the East $\frac{1}{4}$ line of said Section 2,463.18 feet to the point of beginning . Containing 53.39 Acres.

W210 N10738 Appleton Avenue; Tax Key: GTNV 304-959

A copy of the application and a map showing the property described above are on file and available for inspection at the Community Development Department-Planning & Zoning Services office at the Germantown Village Hall during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, or, on the Village's website by following this link:

<http://www.village.germantown.wi.us/589/5318/Current-Projects-Under-Review>

Deanna Braunschweig, Village Clerk
Dated this 15th day of May 2019

To Be Published On: May 22nd and May 29th, 2019

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a public hearing will be held by the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following dates and times noted below (or soon thereafter):

PLAN COMMISSION: Monday, June 10, 2019 at 6:30 p.m.

VILLAGE BOARD: Monday, June 17, 2019 at 7:00 p.m.

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against an application filed by the following applicant for an HISTORIC DESIGNATION for the following described property pursuant to Section 26.06 of the Germantown Municipal Code:

Applicant: Frank & Irene Blau Property Owners

Property: W148 N12297 Pleasant View Drive (Tax Key: GTNV 143-990)

A three acre tract of land in the Northeast Quarter of the Southwest Quarter of Section 14, Town 9 North of Range 20 East, Commencing at a point on the west curb line of the north-south thoroughfare known as Pleasant View Road, said point lying 60 feet due east of the northeast corner of existing house addition, continuing south along said Pleasant View Road a distance of 100 feet; thence continuing 200 feet due west; thence continuing 120 feet due north, thence continuing 200 feet due east to intersection of said line with curbline of said Pleasant View Road, thence continuing south along said curb line 20 feet to the Point of Beginning.

W148 N12297 Pleasant View Drive; Tax Key: GTNV 143-990

A copy of the application and a map showing the property described above are on file and available for inspection at the Community Development Department-Planning & Zoning Services office at the Germantown Village Hall during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, or, on the Village's website by following this link:

<http://www.village.germantown.wi.us/589/5318/Current-Projects-Under-Review>

Deanna Braunschweig, Village Clerk

Dated this 15th day of May 2019

To Be Published On: May 22nd and May 29th, 2019

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 17, 2019

AGENDA ITEM: Public Hearing **[REZONING]**

ITEM TITLE: Irene & Frank Blau, Jr., Property Owners; W148 N12297 Pleasant View Drive (Parcel GTNV#143-990); Historic District (HD) Overlay Zoning Designation

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

SUMMARY EXPLANATION:

Irene & Frank Blau, Jr. are seeking approval of the Village's historic district designation for the existing farmhouse located at W148 N12297 Pleasant View Drive. The property is zoned Rs-2: Single-family and the 2020 Land Use Plan map designation for this parcel is "Rural Residential".

Because the Historic Preservation Commission (HPC) has not yet acted on the application, the Plan Commission held a similar hearing but tabled action pending action by the HPC. Since the public hearing notices have already been published, the VB is asked to hold the hearing, receive public comment, and table action.

Historic Designation applications are part of an overall voluntary program as set forth in Section 26 of the Village Code. Once designated, the regulations in Section 26 limit the type and amount of future improvements to designated structures without meeting certain guidelines intended to protect and preserve historical character.

PLAN COMMISSION RECOMMENDATION:

TABLE action on the requested Historic Designation for the Irene and Frank Blau, Jr. farmhouse (former Friedrich Groth farm) located at W148 N12297 Pleasant View Drive until such time as a recommendation on the application has been provided by the Village's Historic Preservation Commission.

HISTORIC DESIGNATION APPLICATION

6/10/19 Plan Commission Meeting

Friedrich Groth Farm / Irene & Frank Blau, Jr.

Village Planner Report

Germantown, Wisconsin

Summary

Irene & Frank Blau, Jr. property owners, are seeking approval of the Village's Historic Designation for the (former Friedrich Groth) farmhouse located at W148 N12297 Pleasant View Drive.

Location: W148 N12297 Pleasant View Drive

**Owner/
Applicant:** Irene & Frank Blau, Jr.
W148 N12297 Pleasant View Drive
Germantown, WI

Current Zoning: Rs-2: Single-Family

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



Proposal/Background

Historic Designation applications are part of an overall voluntary program as set forth in Section 26 of the Village Code. The Historic Designation (HD) serves as an “overlay” district with specific design and improvement guidelines that need to be met in order to retain the Historic Designation. Once designated, the regulations set forth in Section 26 limit the type and amount of future improvements to designated structures or lands without meeting certain guidelines intended to protect and preserve historical character.

Irene & Frank Blau, Jr. property owners, are seeking approval of the Village’s Historic Designation for the (former Friedrich Groth) farmhouse located at W148 N12297 Pleasant View Drive. As required, the owners have provided a detailed history of the property along with their application (attached). Please note: this property was added to the National Register of Historic Places in 1999 (one of only three such properties in the Village of Germantown and one of only 26 properties in all of Washington County, WI).

As required, other Village Departments have been provided a copy of the application for review and comment. Of the responses to date, all departments have expressed their support for the Historical Designation request. However, the Historic Preservation Commission (HPC) has NOT yet acted on the application. According to the procedural requirements of Section 26.06(1), Plan Commission action and recommendation to the Village Board is required within (30) days after HPC action.

Once the HPC has acted, the Plan Commission is required to review and make a recommendation to the Village Board (similar to a rezoning application). A recommendation from the Plan Commission for approval of the historic designation requires a 2/3-majority vote (5 of 7 members) of the Plan Commission.

Village Planner Recommendation

TABLE action on the requested Historic Designation for the Irene and Frank Blau, Jr. farmhouse (former Friedrich Groth farm) located at W148 N12297 Pleasant View Drive until such time as a recommendation on the application has been provided by the Village’s Historic Preservation Commission.



Village of

Germantown
Willkommen

**HISTORIC PRESERVATION
COMMISSION**
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

APPLICATION FOR HISTORIC DESIGNATION

PURSUANT TO SECTION 17.00 OF THE MUNICIPAL CODE

PLEASE READ AND COMPLETE THIS APPLICATION CAREFULLY. ALL APPLICATIONS MUST BE SIGNED AND DATED.

1. APPLICANT OR AGENT

Irene Blau

PHONE 262-251-6378

2. PROPERTY OWNER

Mr. & Mrs. Frank J. Blau, Jr.

PHONE 262-251-6378

3. PROPERTY ADDRESS

W148N12297 Pleasant View Drive

4. TAX KEY NUMBER

143990

5. PROPERTY HISTORY

HISTORIC NAME OF PROPERTY

Friedrich Groth Farm

DATE BUILT

~1860

ARCHITECT / BUILDER

Friedrich Groth & his family

SOURCE OF THIS INFORMATION

Washington County Records

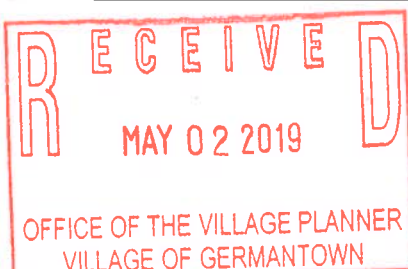
Verbal history from descendents of the Groth family

☐ CHECK HERE IF THIS PROPERTY IS THREATENED WITH DEMOLITION OR DESTRUCTION.

6. PURPOSE OF APPLICATION

BRIEFLY DESCRIBE THE REASON FOR YOUR REQUEST

We have lived in this field and quarry stone farm house for over 50 years. During that time we have spent much time appropriately restoring the property and enjoying the long history which began with the original land tract sales of the Wisconsin territory in 1838.



RECEIVED

MAY 1 2019

**VILLAGE OF GERMANTOWN
CLERK'S OFFICE**

7. HISTORIC SIGNIFICANCE OF PROPERTY

CHOOSE ONE OR MORE OF THE FOLLOWING.

- ☒ THIS PROPERTY ILLUSTRATES AN IMPORTANT ASPECT OF GERMANTOWN'S HISTORY THROUGH ITS ETHNIC, AGRICULTURAL, INDUSTRIAL, ETC., HISTORY.
- ☐ THIS PROPERTY IS DIRECTLY ASSOCIATED WITH A PERSON WHO MADE IMPORTANT CONTRIBUTIONS TO GERMANTOWN'S HISTORY.
- ☐ THIS PROPERTY IS ARCHITECTURALLY OR ARTISTICALLY SIGNIFICANT.

EXPLAIN BRIEFLY AND INCLUDE SOURCES IF APPROPRIATE. ATTACH ADDITIONAL PAGES AS NECESSARY.

The Groth family arrived in America with the immigrants and Pastor that would establish the first Lutheran Church in Wisconsin, Trinity Lutheran in what would become known as Freistadt. The immigrants were a large enough group, with enough demand for adjacent land tracts, that they needed to settle this far north of Milwaukee. They came north on the Military Road and platted farms and a community on the north & south sides of what would become Freistadt Road.

8. DOCUMENTATION

PLEASE CHECK ONE OR MORE OF THE FOLLOWING:

- ☒ RECENT PHOTOGRAPH (REQUIRED)
- ☐ BUILDING PLANS (IF AVAILABLE)
- ☒ HISTORIC PHOTOGRAPH (IF AVAILABLE)
- ☒ ANY ADDITIONAL SUPPORTING INFORMATION.
- ☒ SIMPLE MAP OF THE PROPERTY (REQUIRED)

BRIEFLY DESCRIBE. ATTACH ADDITIONAL PAGES AS NECESSARY.

The farm house was restored in 1975 to its original style with second floor rooms added and the a new basement foundation was installed. An addition to the summer kitchen was added in 1980 with careful consideration to make it fit with the historic property.

9. ALTERATIONS / ADDITIONS TO PROPERTY

BRIEFLY DESCRIBE WITH DATES. ATTACH ADDITIONAL PAGES AND PHOTOGRAPHS AS NECESSARY.

The summer kitchen addition was carefully designed to protect the historic integrity of the original house. The sun room (west end) roof was extended west from the main house and a family room was added. The summer kitchen was also a western extension of the house. The summer kitchen expansion included room for a laundry and additional garage/storage space.

10. SIGNATURES

APPLICANT

DATE

OWNER

DATE

**Additional
Information
Taken from
Friedrich Groth House
Application for a
National Register of
Historic Places
designation.**

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Section 7

Page 1

Friedrich Groth House, Germantown, Washington County.

Introduction:

The Friedrich Groth House is a one-and-one-half story, side-gabled cottage in a traditional vernacular form with slight Greek revival influences. The building, constructed in 1860, has load-bearing coursed limestone walls, a low fieldstone foundation, and a center entry with sidelights flanked with two bays on either side. Unoccupied and used only for storage for over fifty years, between 1890 and 1942, the house was altered during the course of its rehabilitation, and has been occupied as a home since that time. Although the 1942 alterations and two subsequent additions to the rear of the property have altered some aspects of the property's exterior appearance, the building retains sufficient integrity to effectively represent its history as a typical domestic building constructed by inhabitants of the Freistadt Prussian community during its period of adaptation to their Wisconsin settlement.

Physical Context:

The Groth property is located approximately 20 miles northwest of Milwaukee, in an area historically dominated by farms but increasingly becoming developed for suburban housing as a result of its proximity to primary auto corridors leading to Milwaukee. The terrain in the vicinity tends to rolling hills and second-growth timber; with swamps and marshes historically predominating in lower areas, although many of these have been drained. One such marsh lies approximately one-half mile north of the Groth house, creating a physical barrier between Freistadt and the similar unincorporated community of Kirchain, located approximately one and one-half mile northwest of this marsh. As a result, this marsh served as the historic northern boundary of the settlement associated with the Freistadt community.

The community of Freistadt is centered around the historic Trinity Lutheran Church, located approximately one-half mile south and two and one-half miles east of the Groth house. The church is adjoined by two cemeteries and an elementary school; the church complex is adjoined to the north and east by a small collection of mid-to late nineteenth century commercial and residential buildings. The balance of the area historically associated with the Freistadt community consists of historic-era and non-historic residences along approximately ten miles of roads in an area of approximately seven square miles. The growth of the historic community was limited to this area by marshes approximately one mile east and one mile south of the church, as well as by the marsh to the north mentioned previously. Thus the Groth house lies within the historic boundaries of the community of Freistadt. The historic community of South Germantown, a later settlement developed around a railroad station, lies approximately one mile southwest of the Groth house.

The Groth house sits on a five acre parcel, a remnant of the 120-acre farm historically associated with the property. The parcel is adjoined to the west by undeveloped lands, to the east by the public road, and to the north by a narrow driveway and row of brush screening the property from a non-historic residence located immediately north of the house. The southern border of the property is marked by a branch of the Menominee River, a waterway which commences near the Groth property and flows approximately east-west across the parcel before turning south and ultimately east, emptying into Lake Michigan in downtown Milwaukee. The balance of the parcel between the river and the house consists of an open meadow, which is unimproved with the exception of modest landscape features.

United States Department of the Interior
National Park Service

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Continuation Sheet

Section 7

Page 2

Friedrich Groth House, Germantown, Washington County.

General Features:

The house consists of two parts: the historic building, which constitutes the primary visual facade of the building, and two 1968 additions to the rear of the building, which include residential and garage space. Although the additions are sizable, they are distinct from the historic building in terms of materials and design; they are also clearly subordinate in design to the historic building and do not impact the appearance of the primary historic facade. As a result, the additions have little impact on the historic building's ability to represent its area of historic significance.

The historic building has undergone alterations to its primary and side facades, almost all of which date from 1942 and are the result of the building's rehabilitation as a residence after over fifty years of vacancy. As may be expected, the house's six-over-six double-hung windows are replacements of the original sash, which are likely to have been completely deteriorated as a result of the years of disuse. The sash match closely to the likely historic appearance of the windows. The building's low foundation is of fieldstone; the walls, which are unaltered, consist of load-bearing stone anchored in two locations by S-shaped wrought iron ties. The primary, south-facing facade and the east-facing facade, which adjoined the historic driveway, are constructed of roughly coursed limestone in heavy mortar beds; the west-facing facade consists of rough courses of limestone and fieldstone, the latter of which appears to primarily consist of dark granites which match those in the foundation. The corners of the building are anchored by larger and more precisely hewed limestone block quoins, and the bays of the south-facing and east-facing facades are surmounted by rectangular blocks of limestone arrayed in a slight arch, in a manner similar to soldiered bricks. All of the bays are original and have not been altered in size or use. The roof of the building consists of cedar shingles, and the roof lines are edged with a simple molded cornice. The gables also have simple molded returns. The features of each facade and of the rear additions are described in greater detail below.

Primary (south-facing) facade:

The building's historic primary facade is oriented to the south and extends perpendicular to the adjoining road, which was developed between 1859 and 1873 from the property's historic driveway. The south-facing orientation resulted from traditional building design norms held by the immigrant community, rather than from the location of the drive or other area access routes. The facade has five bays at the first floor,

United States Department of the Interior
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Continuation Sheet

Section 7 Page 3 Friedrich Groth House, Germantown, Washington County.

East-facing facade, historic building:

The east-facing facade of the historic building consists of two bays, with two evenly-spaced windows at both the first and second floors. All four windows consist of six-over-six double-hung sash, as described previously; the upper windows are the same width and approximately three-quarters the length of the lower floor windows, which are identical to those on the primary facade. There is no evidence of alteration to these openings; the second floor windows are nearly bisected by the plane of the gable returns. Centered above and between these two bays in the top of the gable is a single semicircular wood ventilator grille cut in a sunburst pattern; this feature is also original to the building. At the north corner of the facade at the first-floor level, one of the quoin blocks bears the legend: "A D / 1860." The cornice, gable returns, and stonework on this facade are identical to those described previously.

West-facing facade, historic building:

The west-facing facade of the historic building is identical in form, quoins and gable returns to the east-facing facade, but differs in some details. The facade consists of three windows of equal size, two at the first floor level and one centered between these two at the second floor, at a slightly higher level than those noted on the east-facing facade. There is no evidence of alteration to the window openings, and there is no evidence of a gable grille such as that described on the east-facing facade. As noted previously, there is some variation in the stone used on this wall, with limestone similar to that noted on the balance of the historic building used in the quoins and in the gable of the facade. A large portion of the lower section of this facade is constructed of limestone interspersed with fieldstone similar to that noted on the foundation level elsewhere. The foundation level at this facade is predominately obscured by the sloping grade and by a pair of cellar doors set into the ground directly below and slightly off-center to the south from the facade's gable.

Kitchen Ell, rear of historic building.

The house's kitchen ell is at present used in part as a hyphen between the historic building and the additions. The ell is constructed of a liberally-mortared combination of limestone and fieldstone similar to that described on the west-facing facade. This ell has two extant walls, the east-facing wall having collapsed unexpectedly during construction of the rear additions. The west-facing facade of the ell has a paired set fixed multi-light windows, which date from 1942, while the north-facing facade has no features and is visible as a portion of the north-facing facade of the building. Although this ell has undergone substantial alterations, these alterations are not visible from the primary facades and have little relative impact on the historic building's integrity.

Rear additions:

Unlike many non-historic additions, which often obscure, overwhelm or visually compete with the historic building, the rear additions to the Groth house were designed and constructed in a manner that differentiates the non-historic building from the historic building, subordinates the additions to the historically significant feature, and maintains as much of the historic materials as possible while endeavoring to visually complement the historic features. The additions are sheathed in board-and-batten siding; they also have a lower profile than and differing facade lines from the historic house's facades.

The eastern addition was constructed to provide additional living space, and extends from the driveway

United States Department of the Interior
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National Register of Historic Places
Continuation Sheet

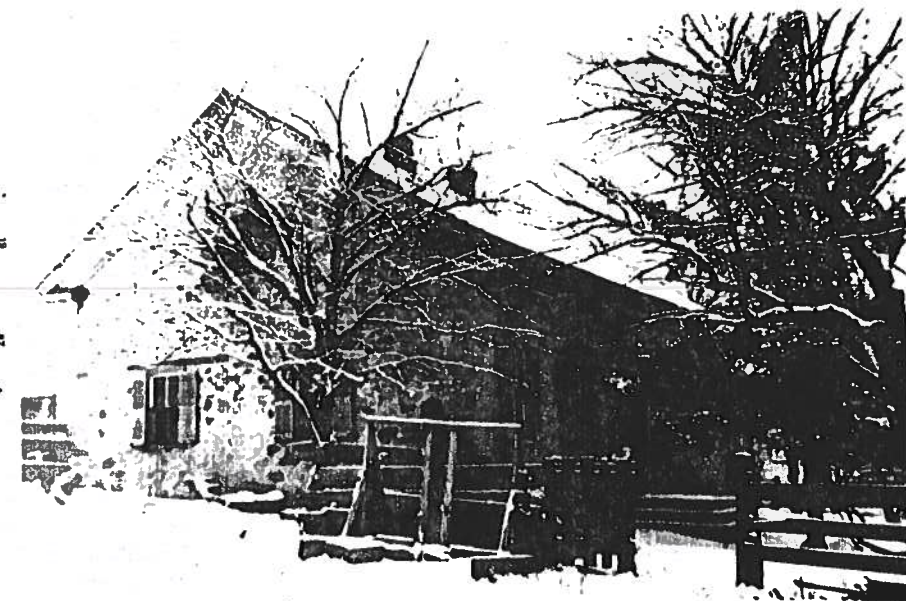
Section 7 Page 4 Friedrich Groth House, Germantown, Washington County.

and side yard to the former kitchen ell and from the rear facade of the main block of the historic building to a few feet beyond the plane of the rear of the kitchen ell. The east-facing facade of the addition, the mass of which is inset from the facade line of the historic building under an open porch, has plain square posts; a single door in a plain surround; a paired set of multi-light double-hung windows in a plain shared surround, and three singly-spaced board-and-batten gables on a cedar shingle roof. On the north-facing facade of the building, the north-facing facade of this residential addition, which has a gabled form and board-and-batten siding with three double-hung windows, adjoins the rear facade of the kitchen ell, described previously. On the west side of this kitchen ell is a similar addition, constructed as a garage and also having board-and-batten siding and square posts, with one pedestrian door and two overhead garage doors. The west-facing facade of this addition has no features with the exception of a plain wood door. The south-facing facade of this addition has two evenly-spaced double-hung multi-light windows and is stepped back near the facade's intersection with the historic building in order to maintain the integrity of the historic facade and the kitchen ell, which looks as a result onto a small courtyard area between the garage and the historic building. Although these additions are not historic, they are executed in a manner that minimally impacts the historic character of the building, and do not impair the historic building's ability to represent its historic significance.

Conclusion:

The Friedrich Groth House retains sufficient integrity in its character-defining features to clearly and appropriately represent its history and its area of historic significance. Of the alterations conducted on this building, the 1968 additions have been shown to have relatively little impact on the primary historic facades, being located and designed in a manner that is distinct from, complementary to and visually subordinate to the historic building. Of the alterations required in 1942 to make the building habitable after decades of disuse, most were done in a manner that minimally impacted the historic appearance of the property and did not alter the building's primary fenestration patterns, wall finishes or other details. Although the dormers on the south-facing facade do constitute a more substantial alteration of the building's primary facade, this alteration is considerably less notable than will be evidenced on other contemporary buildings discussed in section 8, below; these also do not substantially impair the Groth House's ability to effectively portray its historic significance. As a result, the Friedrich Groth house may be shown to have a sufficient level of integrity to be determined eligible for the National Register of Historic Places under National Register Criterion A, as discussed below.

Wickham Groth build
186



United States Department of Interior
National Park Service

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in *How to Complete the National Register of Historic Places Registration Form* (National Register Bulletin 16A). Complete each item by marking "x" in the appropriate box or by entering the information requested. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional entries and narrative items on continuation sheets (NPS Form 10-900A). Use a typewriter, word processor, or computer, to complete all items.

1. Name of Property

historic name Friedrich Groth House

other names/site number _____

2. Location

street & number N12297 Pleasant View Dr. _____ not for publication

city or town Germantown _____ vicinity

state Wisconsin code WI county Washington code 131 zip code 53022

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this x nomination _____ request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property _____ meets _____ does not meet the National Register criteria. I recommend that this property be considered significant _____ nationally _____ statewide _____ locally. (_____ See continuation sheet for additional comments.)

Signature of certifying official/Title

Date

State or Federal agency and bureau

F. Groth House
Name of Property

Washington / Wisconsin
County and State

In my opinion, the property ☐ meets ☐ does not meet the National Register criteria.
(☐ See continuation sheet for additional comments.)

Signature of certifying official/Title

Date

State or Federal agency and bureau

4. National Park Service Certification

I hereby certify that the property is:
☐ entered in the National Register.

☐ See continuation sheet.

☐ determined eligible for the
National Register.

☐ See continuation sheet.

☐ determined not eligible for the
National Register.

☐ See continuation sheet.

☐ removed from the National
Register.

☐ other, (explain:)

Signature of the Keeper

Date of Action

Friedrich Groth House
Name of Property

Washington / Wisconsin
County and State

5. Classification

Ownership of Property within Property

(check as many boxes as apply)

☒ private
☐ public-local
☐ public-state
☐ public-federal

Category of Property

(Check only one box)

☒ building(s)
☐ district
☐ site
☐ structure
☐ object

Number of Resources

(Do not include listed resources within the count)

Contributing	Noncontributing
<u>1</u>	<u>0</u> buildings
<u> </u>	<u>0</u> sites
<u> </u>	<u>0</u> structures
<u> </u>	<u>0</u> objects
<u> </u>	<u>0</u> Total

Name of related multiple property listing

(Enter "N/A" if property is not part of a multiple property listing.)

n/a

Number of contributing resources previously listed in the National Register

0

6. Function or Use

Historic Functions

(Enter categories from instructions)

DOMESTIC: single dwelling

Current Functions

(Enter categories from instructions)

DOMESTIC: Single dwelling

7. Description

Architectural Classification

(Enter categories from instructions)

OTHER: double-pile cottage

Materials

(Enter categories from instructions)

foundation STONE:fieldstone
walls STONE:Limestone

roof wood
other

Narrative Description

(Describe the historic and current condition of the property on one or more continuation sheets.)

Friedrich Groth House
Name of Property

Washington / Wisconsin
County and State

8. Statement of Significance

Applicable National Register Criteria

(Mark "x" in one or more boxes for the criteria qualifying the property for the National Register listing.)

☒ **A** Property is associated with events that have made a significant contribution to the broad patterns of our history.

☐ **B** Property is associated with the lives of persons significant in our past.

☐ **C** Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.

☐ **D** Property has yielded, or is likely to yield, information important in prehistory or history.

Criteria Considerations

(Mark "x" in all the boxes that apply.)

☐ **A** owned by a religious institution or used for religious purposes.

☐ **B** removed from its original location.

☐ **C** a birthplace or grave.

☐ **D** a cemetery.

☐ **E** a reconstructed building, object, or structure.

☐ **F** a commemorative property.

☐ **G** less than 50 years of age or achieved significance within the past 50 years.

Narrative Statement of Significance

(Explain the significance of the property on one or more continuation sheets.)

Areas of Significance

(Enter categories from instructions)

ETHNIC HERITAGE: European

Period of Significance

1860- 1890

Significant Dates

1860, 1890

Significant Person

(Complete if Criterion B is marked above)

Cultural Affiliation

Architect/Builder

Friedrich Groth House
Name of Property

Washington / Wisconsin
County and State

9. Major Bibliographic References

Bibliography

(Cite the books, articles, and other sources used in preparing this form on one or more continuation sheets.)

Previous Documentation on File (NPS):

- ☐ preliminary determination of individual listing (36 CFR 67) has been requested
- ☐ previously listed in the National Register
- ☐ previously determined eligible by the National Register
- ☐ designated a National Historic Landmark
- ☐ recorded by Historic American Buildings Survey # _____
- ☐ recorded by Historic American Engineering Record # _____

Primary location of additional data:

- ☒ State Historic Preservation Office
- ☐ Other State Agency
- ☐ Federal Agency
- ☐ Local government
- ☒ University
- ☐ Other
- Name of repository: _____

10. Geographical Data

Acreage of Property approximately five acres, more or less

UTM References (Place additional UTM references on a continuation sheet.)

- | | | | | | |
|-------------------------------|------------------------------|------------------------------|-----------------------|---------------------------|----------------------------|
| 1. <u>116/</u>
Zone | <u>141111180/</u>
Easting | <u>14787950/</u>
Northing | Zone | Easting | Northing |
| 2. <u>111</u>
Zone | <u>1111111</u>
Easting | <u>1111111</u>
Northing | 4. <u>111</u>
Zone | <u>1111111</u>
Easting | <u>1111111</u>
Northing |
| <u>see continuation sheet</u> | | | | | |

Verbal Boundary Description (Describe the boundaries of the property on a continuation sheet)

Boundary Justification (Explain why the boundaries were selected on a continuation sheet)

11. Form Prepared By

name/title Della G. Rucker
organization Rucker Historical Research
street & number P.O. Box 204
city or town Green Bay state WI

date January 19, 1998
telephone 920/432-7044
zip code 54305-0204

Friedrich Groth House
Name of Property

Washington / Wisconsin
County and State

Additional Documentation

Submit the following items with the completed form:

Continuation Sheets

Maps

A **USGS map** (7.5 or 15 minute series) indicating the property's location.

A **sketch map** for historic districts and properties having large acreage or numerous resources.

Photographs Representative **black and white photographs** of the property.

Additional Items (Check with the SHPO or FPO for any additional items)

Property Owner

(Complete this item at the request of SHPO or FPO.)

name Irene and Frank Blau

street & number N12297 Pleasant View Dr.

telephone 414/251-6378

city or town Germantown state WI zip code 53022

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 18.1 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Chief, Administrative Services Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127; and the Office of Management and Budget, Paperwork Reduction Projects, (1024-0018), Washington, DC 20503.

Chriatian Groth

b. 28 May 1842

Chriatian purchased 40 acres of land on Saturday, 28 May 1842 identified as SESW in Section 12. The land patent number is 9532 while the BLM database index is WI2650_.479. He was issued the land patent on Thursday, 01 August 1844.

Frederick Groth

b. 15 September 1843

Frederick purchased 80 acres of land on Friday, 15 September 1843 identified as N1/2SW in Section 14. The land patent number is 12344 while the BLM database index is WI2710_.276. He was issued the land patent on Tuesday, 10 September 1844.

Frederick Groth

b. 15 September 1843

Frederick purchased 40 acres of land on Friday, 15 September 1843 identified as NWSE in Section 14. The land patent number is 12344 while the BLM database index is WI2710_.276. He was issued the land patent on Tuesday, 10 September 1844.

Friedrich Groth

b. 29 September 1843

Friedrich purchased 80 acres of land on Friday, 29 September 1843 identified as E1/2NE in Section 11. The land patent number is 12477 while the BLM database index is WI2710_.406. He was issued the land patent on Tuesday, 10 September 1844.

Joachim Groth

b. 25 November 1843

Joachim purchased 40 acres of land on Saturday, 25 November 1843 identified as SESE in Section 02. The land patent number is 13002 while the BLM database index is WI2720_.425. He was issued the land patent on Tuesday, 01 October 1844.

Joachim Groth

b. 01 March 1848

Joachim was issued a land patent on Wednesday, 01 March 1848 for 40 acres identified as SWSW in Section 01. The land patent number is 16554 while the BLM database index is WI2790_.462.

NPS Form 10-900-a
(Rev. 8-86)
Wisconsin Word Processing Format
(Approved 1/92)

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Section 10 Page 1 F. Groth House, Germantown, Washington County.

Boundary Description:

The nominated property is defined as follows:

A five acre tract of land in the Northeast Quarter of the Southwest Quarter of Section 14, Town 9 North of Range 20 East, Commencing at a point on the west curb line of the north-south thoroughfare known as Pleasant View Road, said point lying 60 feet due east of the northeast corner of existing house addition, continuing south along said Pleasant View Road a distance of 100 feet; thence continuing 200 feet due west; thence continuing 120 feet due north, thence continuing 200 due east to intersection of said line with curb line of said Pleasant View Road, thence continuing south along said curb line 20 feet to the Point of Beginning.

Boundary Justification:

The above boundaries incorporate the entire parcel legally associated with the nominated property and incorporate the lands historically associated with the building's domestic functions. The boundaries exclude properties on all sides that were historically associated with the property but which are either substantially altered by new construction or remain unimproved and lack historic built resources.

United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Section 8 Page 1 Friedrich Groth House, Germantown, Washington County.

Introduction:

The Friedrich Groth House is located in the Town of Germantown in southeastern Washington County, but is historically associated with the unincorporated settlement of Freistadt, which is centered in the adjoining Town of Mequon in Ozaukee County. The Freistadt community, which predated the village of Germantown, was the earliest known German immigrant settlement in Wisconsin. The Groth House, built in 1860, is eligible for the National Register of Historic Places under National Register Criterion A as a representative of a typical family home in the community during the period of community establishment. During the Groth House's period of significance, spanning from 1860 to 1890, the Freistadt community underwent significant growth and technological advance, as families gained increased affluence through farming and commerce. Concurrent with these changes, however, members of the Freistadt community continued to perpetuate community practices and building traditions derived from vernacular Prussian models. As the residence of a typical Freistadt family, the Groth House exemplifies both the change and the continuance of community practices throughout the period of significance.

The Groth House is located in an area of intense development pressure as a result of its proximity to Milwaukee. Although houses like the Groth house dominated the community's landscape during the historic period, few remain, most having been replaced by late 19th and early- to mid-twentieth century styles in popular builder's styles. Those few that remain generally have comparable integrity to the Groth house, with most such buildings having undergone comparable additions, second-story gables, and other alterations. However, the alterations evident on the Groth house, as well as a few of its counterparts, do not impair the ability of the structure to represent its period of historic significance. As a result, the property may be seen to provide a good representation of properties associated with this aspect of the community's history, and to be eligible for the National Register of Historic Places under Criterion A as a good example of a typical domestic building from the period of establishment of the Freistadt community.

Historical Background: Freistadt Prussian Old Lutheran Community

The Freistadt community is commonly cited as one of the first distinct immigrant settlements established in Wisconsin. Arriving at the beginning of the nineteenth-century surge of immigration that was to define not only numerous individual communities, but the state of Wisconsin as a whole, the Freistadt settlers represented a new manner of settlement for the young territory of Wisconsin. Although some European emigrants had found their way to Wisconsin-area communities previously, such immigrants tended to arrive singly or in small groups and to assimilate into the communities in which they arrived. The Freistadt settlers, however, arrived in Wisconsin with clearly different intentions: having professedly left Prussia to ensure the integrity of their religious beliefs and avoid persecution or absorption by the state-sanctioned sect, the Freistadt settlers established themselves with the avowed intention of creating an ethnically and religiously distinct and inviolable community in a location that made such a community possible by virtue of providing a relatively blank slate. In the wooded area that would become Freistadt, this group of immigrants found a location where they could develop the community they desired and avoid both much of the strictures of government and much of the temptation of outside influences. As articulated in the Wisconsin thematic history Cultural Resources Management in Wisconsin, "[i]mmigration en masse, or the transplantation of entire congregations led by their pastors, characterized Old Lutheran immigration to Wisconsin and ultimately gave rise to a common pattern of tightly knit and contiguously

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Section 8

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Friedrich Groth House, Germantown, Washington County.

settled communities."¹

However, the land on which they settled had been defined, demarcated, and made available to them in a manner that dictated fundamentally different means of development than that to which they had been accustomed. New owners of sections and quarter-sections, the Freistadt settlers soon found themselves with plots of forty or more acres, a geographic arrangement that not only enforced an unfamiliar level of separation from one's neighbors, but that permitted one to eventually farm for profit, rather than merely for survival. Larger plots and innovations in farming practices and technology allowed the Freistadt Old Lutheran farmer to grow cash crops which were sold outside the settlement; the development of regional roads and the increasing influence of the railroads following construction of the Milwaukee and La Crosse Railway in 1855 gradually overcame much of the physical and social isolation that defined Freistadt as an ethnically distinct and religiously homogeneous community. It is during this period of transition that the extant Groth House was constructed, and its construction and design exemplifies the intermingling of new affluence and old traditions that defined this period of Freistadt development.

Freistadt's initial settlers consisted of a group of about 20 families, emigrants from the Pomeranian region of Prussia who belonged to a sect known as the Old Lutheran Church. Their emigration had been precipitated by their refusal to adopt variances in theology and liturgical practice which were espoused by the King Friedrich Wilhelm III, who had determined that Prussia should have a state religion in 1817. Groups having practices that disagreed with the new edicts were pressured to concede; as may be expected, a few groups insisted that their beliefs were correct and struggled to maintain them in the face of official pressure. Although the state-sanctioned theology and liturgy would be recognized by modern observers as belonging to the Lutheran tradition, Old Lutheran beliefs differed from the state church on a variety of catechismal points. Pressures upon the Old Lutherans grew between 1831 and 1838, and included the arrest and imprisonment of pastors and teachers, as well as economic and employment sanctions against those participating in Old Lutheran practices.

In 1839, a group of 400 Prussian Old Lutherans departed from Hamburg and journeyed to New York. The emigration effort was managed by two pastors and a lay leader who was also the group's sole nobleman; funds were pooled and passages arranged for the entire group as a whole in order to bring along all those who were believed to be sincere in their desire to emigrate. Although economic hardships were certainly among the motivators for many emigrants, since profession of the Old Lutheran faith and prosecution for its practice had caused considerable loss of money and property, the leaders of the initial emigration insisted on proof of faith and practice according to Old Lutheran tenets, in a stated effort to ensure that those joining the emigrants would foster the growth of the religion and were not merely seeking economic advantage. Additionally, only those who could prove commitment to the entirety of the body of Old Lutheran belief and practice would be accepted to join the group.² This selection process, and the administration of the emigrants as a unit, resulted in a tightly knit and highly homogeneous emigrant group, characteristics which significantly influenced the subsequent form of the Freistadt community.

After arriving in Buffalo, New York, the group underwent one of its first divisions. The group's rules of

¹ "Germans" Barbara Wyatt, Ed. Cultural Resources Management in Wisconsin Volume 1 [Madison: State Historical Society of Wisconsin] 1986, p. 2-3.

² By The grace of God: v.2 [Freistadt, Wisc.;: Trinity Evangelical Lutheran Church]1964, p. 18.

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passage required support for the poor only to such a location as they could find work for themselves;³ by the time the group reached Buffalo many of the emigrants had exhausted their savings and were required to find work in order to save enough money to continue the journey. Although efforts had been made to ensure the passage of even those Old Lutherans who could not have afforded to make the trip independently, such persons had been expected to make their own way once the group had reached the United States. By October 1839 approximately one-half of the Prussian emigrants, a total of 40 families, arrived in Milwaukee. The leadership of the groups quickly determined the location of the nearest land available for the federal government price of \$1.25 per acre; surveying and purchasing of the original tract in Town 9, Washington County, was done quickly in order to allow the men to construct crude housing before moving their families to the location.⁴ As had been the case in Buffalo, approximately one-half chose to stay in Milwaukee, while the other half established themselves in the rural location. The characteristics of this split do not appear to have been conclusively analyzed; it is likely, however, that those who proceeded to the wilderness predominately consisted of those families who had left Prussia with the most wealth, and, rather than having their resources exhausted by the journey, had sufficient funds left by the time they reached Milwaukee to pay for a portion of the land being purchased for the settlement.

The Freistadt group purchased 1200 acres, and drew lots to distribute the parcels.⁵ By Christmas 1839, most of the initial Freistadt-bound families were able to move to new settlement, where their initial survival was assisted by a scattering of Euro-American individuals living in the vicinity. In 1840 the settlement built a log schoolhouse, which would also serve as a church, on a 40-acre parcel at the center of the settlement area; this parcel had been paid for with a self-imposed tax on their purchases and had been set aside for such a use. A parsonage was built in 1841, but a pastor did not arrive to serve the Wisconsin Old Lutherans until late that year.

Due to the limited number of ordained ministers in the Old Lutheran faith, as well as the dispersal of the Old Lutheran immigration across two states and a territory,⁶ no pastor was available in the first two years to serve the Wisconsin emigrants. As a result of this extended isolation from church leadership, lay leaders of the Freistadt and Milwaukee communities, which functioned as a single parish began administering the sacraments themselves, including the conduct of marriages and baptisms and the presentation of communion. This raised consternation among the clergy working in New York and elsewhere, and written attempts were made to truncate the practices, which went unheeded because, as a later writer described it, "the settlers felt that they had a genuine emergency on their hands, and that as Christians they had a right to the sacraments."⁷ The pastor who eventually arrived in Wisconsin in 1841 further castigated the membership and insisted that all who did not admit the error of the practice were excommunicated from the church. This controversy was the first of at least three such conflicts between various portions of the Milwaukee and Freistadt congregations and the clergy serving them; the initial pastor and his successor insisted upon exerting extensive control over the conduct of the religion and of members' personal practices, and in each circumstance the dissenting portion of the group broke with the majority con-

³ *ibid.*

⁴ Freistadt and the Lutheran Immigration [Mequon, Wisc.: Freistadt Historical Society], 1989, p. 6.

⁵ By The grace of God: v.2 *op cit.*, p. 24

⁶ An additional group of Old Lutherans from Silesia, who were not associated with the Prussian groups but emigrated at the same time, established themselves in Illinois at the same time as the group established in Wisconsin.

⁷ Freistadt and the Lutheran Immigration, *op cit.*, p. 7.

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gregation and formed their own churches.

Although as many as three church groups operated within the Freistadt settlement at some point during the 1840s and 1850s, by 1868 all of the factions had been reconciled and merged under the aegis of the Missouri Synod of the Lutheran Church, which one of the dissenting groups had joined in 1846. Although these controversies had some impact on the physical arrangement of the church parcel, as portions of it passed in ownership between the factions and two separate cemeteries were established, the divisiveness appears to have had little impact on either the structure or the functioning of the larger Freistadt community. The divisions were instigated and carried out by members of the Freistadt Old Lutheran community; there is no evidence of the introduction of other ethnic groups as a result of these upheavals. Although the groups regarded their differences as serious, the conflicts had little known impact on the farming or commercial practices of the community, which continued to function as a distinct ethnic community and which pursued social ties primarily with similar communities as they developed. Similarly, this divisiveness had little if any impact of the choice or means of development of land in the community, as members of the various factions were drawn from all parts of the community and continued to meet on or near the church parcel.

Despite the considerable community attention given to the disputes, the community grew and prospered steadily. Within two years of the arrival of the initial settlers, Prussia relaxed its emigration policies and allowed massive numbers of Prussians, Old Lutheran and otherwise, to journey to Wisconsin. Between 1839 and 1843, approximately 3,000 Old Lutherans emigrated to Wisconsin, settling throughout the Milwaukee region.⁸ For Old Lutheran immigrants able to afford land purchases after emigration, the Freistadt community became the primary destination. During the late summer and autumn of 1843, Pastor Krause of the Freistadt church recorded 330 families arriving at Freistadt, while another 425 Old Lutheran families were reported arriving in Milwaukee.⁹ Considering that the village of Milwaukee at this time was estimated to consist of 1800 individuals, and that the surrounding area was estimated as having 5900 people, the relative magnitude of this emigration is difficult to underestimate.¹⁰ The Freistadt-bound portion of the influx more than exhausted the available land adjacent to the the original settlement area, which was limited to the north, east and south by a series of marshes. Many of these settlers established themselves beyond the northern marsh, and, as one of the immigrant groups was accompanied by a pastor, a second Old Lutheran Congregation was established at Kirchayn, approximately four miles northwest of Freistadt. Although considerable interaction took place between the two settlements, since many of the Kirchayn settlers were relative of those established earlier in Freistadt, the two communities remained distinct as a result of the physical barriers and focus of each communities' activities on its respective church.

Community agricultural economy during period of historic significance

During the balance of the 1840s and 1850s, the Freistadt settlers were primarily occupied with the tasks of clearing land and subsistence farming. The region in which the Freistadt community was

⁸ "Lutheran." Barbara Wyatt, Ed. Cultural Resources Management in Wisconsin, Volume 3. [Madison: State Historical Society of Wisconsin] 1986, 13-4.

⁹ Roy A. Suefflow, Trans., The Chronicle of Rev. L.F.E. Krause, Trinity Lutheran Church, Freistadt [private publication], 1945, n.p.

¹⁰ By the Grace of God, *op cit.*, p. 30.

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developed consisted primarily of heavily-wooded terrain interspersed with marshes such as those that defined the limits of the Freistadt development. Both woods and marshes, although not generally considered as desirable as the already-occupied prairie land surrounding Milwaukee, provided significant advantages for the settlers, including public land in the marshes on which to graze animals and cut hay, and timber for building and fuel on their own parcels. Clearing such land, however, was a difficult and time-consuming task, completed with human and animal labor. As a result, improvement of most farms proceeded very slowly, with the resulting lack of cleared land forcing most families to concentrate on subsistence farming and commodities for local barter rather than on growing cash crops and participating in regional trade. This pattern was by no means unique to the Freistadt settlers; rural settlers of most ethnic and cultural groups faced the same initial challenges.

As land was cleared, however, Freistadt residents were able to gradually add wheat to their cultivation, which introduced both a cash-crop economy and a greater interaction with businesses outside of Freistadt. The reasons for the growth of wheat production in Freistadt during this era are similar to those of other wheat-producing regions of the era: wheat was commercially in demand outside of the community; wheat grew well on the farms' newly-broken soil; and wheat required little capital investment and little attention from the farm family during most of the year, which allowed families to concentrate on continued subsistence and local commodity farming and clearing of additional land, while their cash crop, to a great extent, took care of itself. During the 1850s, mechanical implements suited to the cultivation of wheat also began to be developed, and tools such as steel plows allowed farmers to greatly improve their efficiency at a relatively small cost. By 1849, the southeastern corner of the state, including Freistadt, contained 38 percent of the state's wheat acreage,¹¹ and by 1860 the Midwest wheat producing belt was considered to center on southeastern Wisconsin.¹² Although wheat production in the region would fall steadily after the Civil War, a significant portion of the community's farmland would be occupied by this crop into the 1870s.

The impact of cash crops on the development of the Freistadt community is difficult to underestimate. The availability and pursuit of cash crops created a certain level of prosperity among the immigrants, and by the late 1850s and 1860s this relative affluence led to a significant building boom, as residents became able to replace their initial primitive housing with buildings that were both more comfortable and which, from their cultural perspective, felt and looked more like proper houses than the earlier buildings constructed under duress. Additionally, participation in wheat and other cash crop economies appears to have provided for a greater level of interaction with surrounding German but non-Old Lutheran communities, which represented the dominant population group in both Ozaukee and Washington counties by 1850. No grist mill is known to have been established in Freistadt, and as late as 1881 the community had only one general store and two blacksmith and wagon shops.¹³ As a result of the limited resources available in the immediate vicinity, the sale of wheat or other, later crops, or the purchase of goods not available at the local store, required the farmer to travel to mills and stores at the new railroad depot community of South Germantown, or to similar establishments in Cedarburg or Milwaukee.

¹¹ "Wheat." Barbara Wyatt, Ed. Cultural Resources Management in Wisconsin, Volume 2 [Madison: State Historical Society of Wisconsin] 1986, 2-5.

¹² John G. Gregory, Ed. Southeastern Wisconsin: Old Milwaukee County [Chicago: S. J. Clarke Co.], 1932, p. 1160.

¹³ History of Washington and Ozaukee Counties [Chicago: Western Historical Society] 1881, p. 524.

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Since their immigration to Freistadt, most of the Old Lutheran settlers had been to a great extent cut off from outside influences, both due to distance and travel difficulty and due to their necessary concentration on establishing their physical survival as well as the form and structure of their cultural and religious communities; as their farms became established and farmers began to pursue sources of cash income, this isolation began to dissolve.

Wheat production became gradually less important in Freistadt following the Civil War. Unlike some portions of Wisconsin, where repeated drastic crop failures resulted in widespread economic upheaval, farmers of the Freistadt community appear to have been spared such turmoil, for reasons that appear to include a continued reliance on sustenance crops despite the successes of the 1850s, and a level of diversification in cash crops from an early date. During the decline in crop prices following the inflation of the Civil War era, Freistadt farmers began to pursue a wider range of crops, as well as livestock husbandry. Like many other portions of southeastern Wisconsin, Freistadt's wheat fields were supplemented with oats and barley. These crops benefited from the introduction of horse-driven threshing machines in the 1870s, which was succeeded by the steam-driven threshing machine in the years surrounding 1890.¹⁴ As in other rural Wisconsin farming communities, a few privately-owned threshing machines were generally used by numerous farmers, who would share labor to help each other harvest the crops using this equipment. By the turn of the century, innovations in silage and the growth of the cheese manufacturing industry led many Freistadt area farmers to invest in dairy production. In 1997, a few dairy farms are still extant in the vicinity of Freistadt, although the area's proximity to the Milwaukee metropolitan area has to a great extent resulted in its evolution from a farming to a suburban residential environment.

Cultural continuity during period of historic significance

As has been indicated, much of the cultural character, as well as the cultural longevity of the Freistadt community, results from the central role of the church in community life. Even when the members of the community attended different churches, the close similarities between congregations resulted in a highly cohesive cultural experience. In a governmentally self-reliant unincorporated community, the church provided a kind of *de facto* government, during the late nineteenth century, as members taxed themselves in order to provide for the church, pastor and school, the bases of the community's cultural and social life. This self-commitment, the first version of which was passed in 1842, initially required each member to contribute one dollar per year toward the pastor's salary, and to contribute specified amounts of various foodstuffs toward the pastor's upkeep.¹⁵ This method of support, in lieu of most church's voluntary collections, continued as the church's primary source of funding into the 1930s.

In a community of such religious and ethnic homogeneity, most major community events revolved around traditional observances of religious events. As in most homogeneous ethnic communities, such events as weddings, funerals and baptisms received considerable social attention and were surrounded by detailed traditional observances, including songs, special foods, dances and other cultural markers that were expected at such events. Major holidays such as Christmas and Easter included church rituals and household traditions, and a highlight of the summer in Freistadt in the late nineteenth century was a Mission Festival held jointly by Trinity Lutheran of Freistadt and David's Star Lutheran Church of Kirchayn.

¹⁴ By the Grace of God, *op cit.*, 35.

¹⁵ August Suefflow, History of Trinity Lutheran Congregation, 1839-1954. [Theinsville, Wisc.: The Church] 1954, p. 9-10.

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This event was highlighted by two Sundays during which members of one congregation would visit the other for services.

Language, of course, provided one of the strongest cultural identifiers for the Freistadt community, which appears to have continued the use of German in formal and informal contexts for several decades beyond that of non-Old Lutheran communities. During the Groth House's period of historic significance, all church services and all church-related events were conducted in German, also the language used for the church's records throughout the nineteenth century. The first regular English language service was not implemented until 1937, and as late as 1954 at least one service each Sunday was conducted entirely in German. In light of the fact that little immigration to the community occurred after 1850, this longevity of use reflects the day-to-day prevalence of the language among the generations born in the United States. The Freistadt community ungraded school also persisted in the use of German, even in the face of state law stating that all public school classes must be held in English. The Freistadt school, in fact, appears to have functioned during the Groth House's period of historic significance as a parochial school in the morning and a public school in the afternoon. Morning classes, which included religion and arithmetic, were conducted in High German, while afternoon classes were conducted in English.¹⁶ This blending of religious and public education, while technically illegal under state law, was supported and expected by the Freistadt community, for whom parochial and academic education had traditionally been conducted in concert in Prussia., and for whom education in English was considered to a great extent unnecessary due to the cohesion of the community and the overwhelming preponderance of German speakers in the surrounding area. As a county superintendent during the period averred in response to complaints that public schools were frequently being taught in German, exclusively German communities such as Freistadt "can and will establish and maintain private schools unless a proper course is taken," adding that the large-scale removal of German students from the public schools would impair their ability to eventually learn English.¹⁷ School events, which, as in most rural communities, were also community events, with such activities as a summer picnic being celebrated with recitations and singing by the students and games for adults and children.¹⁸

With the exception of pastors and teachers, who were almost universally looked to as the community's leaders, members of the Freistadt community do not appear to have adopted the commonly-perceived American emphasis on excelling beyond one's neighbors. Although some farmers clearly did better materially than others, no ostentatious physical displays of wealth are known to have been constructed in the Freistadt vicinity. Even the more comfortable houses, such as those described below, appear relatively modest by the standards of contemporary construction in other area communities. Personal self-promotion also appears to have been frowned upon; the only known vanity biography for the region during this period, which was published in 1881, lists only one person with a Freistadt address: the postmaster and owner of the community's sole store.¹⁹ Similarity, accounts of the history of the community give little attention to any individuals other than the succession of pastors and teachers, who are portrayed as providing the primary leadership in both religious and social circles. As a result, a proportionately very small number of individuals appear to have been considered as worthy of special attention; success at

¹⁶ By the Grace of God, *op cit.*, 69.

¹⁷ Southeastern Wisconsin: Old Milwaukee County. *op cit.*, p. 1242.

¹⁸ *ibid.*, p. 70.

¹⁹ History of Washington and Ozaukee Counties, *op cit.*, p. 756.

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farming, the occupation of the great majority of Freistadt residents, does not appear to have been cause for public display of wealth or self-promotion. It is likely that this social modesty springs from the emphasis placed in the community on the moral values of modesty, frugality, and humility.

Although Freistadt area farmers tended at an early date to appropriate American methods of housing animals in separate, segregated buildings, adopting the basement barn in turn at approximately the same time as the introduction of dairying, house building methods remained a relative cultural constant through much of the late nineteenth century. As mentioned previously, the relative affluence established through cash crop farming resulted in the re-siding or, more frequently, replacement of most of the original log or half-timber homes with larger and more substantial houses. Starting in the mid-to late 1850s, stone houses began to be built in the Freistadt vicinity, as masons began to work in the area and as limestone quarries were developed in Rockland and South Germantown and in numerous locations in western Ozaukee County. The resulting buildings generally had load-bearing stone walls of roughly ashlar blocks, with larger, more carefully finished blocks as quoins and with fieldstones taken from the fields associated with the house used in the foundation.

Although many of these houses employed vernacular versions of stylistic details common to Wisconsin during that period, such as entries with sidelights and modest cornice returns on gables, most of the Freistadt houses of this era continued to reflect the inhabitants' cultural and ethnic expectations as to what form a house should take and how it should function. Most houses, for example, were built with primary facades facing south, regardless of the location of the adjoining road or driveway. Most employed side-gabled forms; as expectations were still relatively modest, many houses stood one-and one-half stories, with the attic space lighted and ventilated only by small windows in the gable ends. Most houses had symmetrical bays, the most common arrangement appearing to have been the five-bay primary facade with central entry. Few appear to have had porches initially, although many had porches added at a later date. The primary floor of the house was generally divided by a central, usually unheated, hallway into equal or near-equal spaces, which, since most houses were single-pile and relatively small, might function variously as parlor, living space, or bedroom for the eldest family members. The attic space received little, if any, subdivision into rooms, and served as storage or as sleeping quarters for children. The kitchen was frequently housed in an ell extending from the rear of the house. Stone houses in this mold were most popular in the later 1850s through the 1860s, while balloon-frame versions of the same form began to appear in the vicinity in the early 1870s.²⁰

By the end of the nineteenth century, however, the growing affluence of the community and the growing familiarity with fashions in outside communities led to the replacement of a significant proportion of these first-generation houses with balloon-frame builder's Italianate and Queen Anne structures. Such houses, taller and having more rooms and windows than the older houses, offered some practical advantages, avoiding the perpetual dark and dankness often claimed to characterize the stone buildings. In some cases, the old house was incorporated as an ell attached to the new house, while in other cases, particularly where log or balloon-frame side-gabled structures were involved, the former house might become the new chicken coop or pig shed.

Throughout the second half of the 1800s, the community of Freistadt underwent significant growth in its affluence and economy while simultaneously striving to maintain the community's homogeneity and its

²⁰ Freistadt and the Lutheran Immigration, *op cit.*, p. 109.

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cultural and religious characteristics. The period was marked by the continuance of a large portion of the practices, ranging from music and education to language and building forms, that provided self-definition to the initial settlers based on their lives and heritage in Pomerania. Although a certain level of assimilation did take place, particularly with regard to the adoption of American commercial farming methods, the material benefits reaped from this aspect of experience appears to have played a significant role in the community's ability to maintain its physical homogeneity and its cultural and religious institutions and practices. Although physical and cultural aspects of the community's character would fade during the late nineteenth and early twentieth centuries, the cultural persistence of the Freistadt community outlasted that of many ethnic enclaves and resulted in a series of unique cultural and physical aspects that exist in the Freistadt community to date.

Friedrich Groth House:

Friedrich Groth emigrated from Tribsow, Prussia in 1843 with his wife, Dorotea Dobberphul and their daughter. Groth and his family arrived with one of the large groups of emigrants in that year which was noted in the records of Rev. Krause, as cited previously; on September 15 he purchased a tract of 120 acres in section 14, Town of Germantown.²¹ This tract was among the last government parcels associated with Freistadt; many of the Groth's fellow travelers found the nearest available government land north of the swamp just beyond the Groth property, where they established the unincorporated community of Kirchayn. Groth appears to have arrived with a relative level of prosperity, as most of his counterparts purchased 40 or 80 acre tracts, although larger tracts were not uncommon.²² Groth built his family's initial house on the westernmost 40-acre parcel, near the Menominee River as it ran through the parcel.²³ This house is reputed to have been a log structure. A low-profile community member like most of his neighbors, Groth was among the dissidents who left the initial church in 1846 and formed a congregation under the Missouri Synod which, as the result of a court case, took possession of the existing church building and split the church's 40 acres with the Buffalo Synod group they had left.²⁴ Groth also signed a letter from this congregation calling a pastor in 1847.²⁵

Groth appears to have prospered during the 1840s, and pursued the previously-cited combination of subsistence crops with potentially saleable commodities and wheat to the extent possible on his cleared acres to date. By 1850, 28-year-old Friedrich had improved 30 of his 120 acres, and had two horses along with two oxen.²⁶ The ownership of horses at this early date appears to have been somewhat unusual, as farmers in the region were reputed to have relied on oxen for farm work and transportation longer than farmers elsewhere in the region.²⁷ Groth also had four milk cows, four sheep, and 12 swine, and was credited with 200 pounds of butter, 30 bushels of potatoes, 50 bushels of oats, 10 bushels of beans and 20 bushels of wheat, among other commodities. By the time of the next census, Groth had cleared an additional 20 acres and increased his farm's output. In 1860, Groth had eight cows and fifteen sheep, one of the highest numbers of sheep in the vicinity, as well as 50 bushels of wheat, 150 bushels of oats, 20

²¹ History of Washington and Ozaukee Counties, op cit., .p. 466.

²² *ibid.*

²³ Plat Book, Washington County [West Bend, Wisconsin: West Bend News] , 1859.

²⁴ Freistadt and the Lutheran Immigration, op cit., p. 9.

²⁵ History of Trinity Lutheran Congregation, 1839-1954, op cit., p. 15.

²⁶ "Agricultural Schedule." 1850 Federal Census, Washington County, Town of Germantown.

²⁷ Southeastern Wisconsin: Old Milwaukee County op cit., p. 1235.

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pounds of wool, 20 bushels of beans, fifty bushels of potatoes, and 150 pounds of butter.²⁸ The increase in production between the two years emphasized cash crops and potentially saleable commodities, while the removal of swine from the farm's production may indicate an increased reliance on purchased food. However, some of this growth in production is likely to result from the fact that the Groth household's needs had expanded dramatically during this time; five children had been born since the previous census.²⁹

As a probable result of the family's income growth and increasing number of children, a new house was built in 1860, on the opposite side of the driveway leading into the parcel.³⁰ Like most of the houses constructed in Freistadt during this era, it represented a substantial improvement in living conditions over the log structure, although it was by no means an ostentatious display. Relatively early for a stone house in the vicinity,³¹ the house is oriented perpendicular to the driveway and with its primary facade facing south, overlooking a small meadow leading to the river. The one-and-one half story side-gabled house has limestone walls two feet thick, with five evenly-spaced bays and a central entry with side-lights. The gable ends have modest returns, and one of the few pieces of ornamentation on the building is a small half-round ventilating grille in a gable. The limestone is likely to have been quarried in South Germantown or another nearby community, while the fieldstone foundation is likely to represent several years' collection of rocks heaved in the Groth fields. Excluding the kitchen ell, the house had only two rooms at the first floor, with an undivided attic. The final result resembled homes constructed across Freistadt during this era: substantially constructed, modest in size and ornamentation, and resembling to a great extent the homes in which the Groths and their neighbors are likely to have spent their youths in Prussia.

By 1870, the Groth farm had almost half of its acreage cleared. The number of cows and sheep and their respective products had declined slightly, and swine had again been added to the production, most likely in response to the high food prices of the Civil War era. The largest crop, however, was spring wheat, with 235 bushels listed.³² Although the farm continued to pursue some crops, such as beans, that were likely to have been consumed by the family, it appears that cash crops were demanding an increasing proportion of the farm's resources. By 1873, the Groth driveway had been extended north as a road leading to farms north of the Groths. Friedrich Groth died in a farming accident in 1885; following the probate process the farm passed to the youngest Groth son, Henry. By 1892, Henry had added a 19-acre field to the west end of the parcel, and had named the property Spring Brook Farm, a practice also adopted by a few of the larger farms in the vicinity.³³ All of these named farms have English names. At approximately the same time, Henry had a new balloon frame house in a builder's Queen Anne style built just north of the original log building site. The 1860 house was subsequently abandoned. The farm remain in the Groth family until 1942, when it was purchased and rehabilitated for use after fifty years of neglect. An addition incorporating the kitchen ell was added in 1968.

As shown, the Friedrich Groth family represents to a great extent a typical pattern of religious experi

²⁸ "Agricultural Schedule." 1860 Federal Census, Washington County, Town of Germantown.

²⁹ Household #84, Census Schedule, 1860 Federal Census, Washington County, Town of Germantown.

³⁰ Date inscribed on stone at first-floor level, northeast corner of building.

³¹ *Freistadt and the Lutheran Immigration*, *op cit.*, p. 109.

³² "Agricultural Schedule." 1870 Federal Census, Washington County, Town of Germantown.

³³ *Plat Map of Washington and Outagamie Counties* [Minneapolis: Charles M. Foote, Publisher] 1892.

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ence, family agricultural life, and building habits found among the residents of the Freistadt community during the Groth House's period of historic significance. Although not exceptional in wealth, taste, or achievement, the family's evolution as outlined mirrored much of the development of the Freistadt community, which unfolded during the mid-to-late 19th century with a similar lack of ostentation. The house constructed for this family represents a significant portion of this social experience; as the center of both family social and cultural life and as the headquarters of household production, houses such as the Groth House fostered not only the community's achievement but also its social, religious and cultural homogeneity and continuity over time. No small part of that continuance is exemplified in the structure itself, which represented to a great extent a transplantation of a cultural ideal of appropriate domestic structure to a new context. As late as 1881, a visitor to Freistadt cited buildings such as the Groth House as an element of the physical and cultural landscape distinguishing the community from its surroundings: "the county at large presenting the appearance of one vast chain of gardens, with good, substantial frame and stone houses."³⁴

Context:

As previously discussed, pressures against Freistadt area houses of the Groth House's vintage commenced in the late 1800s and have continued to the present. Although the first generation appears to have considered these houses a significant improvement over their initial privations, the second generation tended to view these houses as lacking desirable amenities. A significant number of historic residential sites in the Freistadt vicinity are occupied by generically American domestic building forms of the late nineteenth century; these buildings include modest Italianate and Queen Anne houses constructed in the vertically-oriented styles of the period. These buildings not only employ methods and forms having no relation to the community's ethnic and cultural heritage, but they also feature the characteristic machine-made ornaments, such as sawn gingerbread trim, brackets and novelty shingles, that were made outside the community, either at a local mill, or, more likely, at a distant factory. In some cases, a house comparable to the Groth House appears to have been incorporated as a rear or side ell attached to a more recent front-gabled block. Such architectural forms reflect the increasing cultural and economic integration of the Freistadt area; although such buildings may be significant in their own right, they represent a significantly different stage of the development of the community than those buildings comparable in form and age to the Groth House.

Domestic buildings which represent the same period of construction and building form to the Groth House were built most commonly in stone; they were also executed in half-timber, over which siding was affixed, and balloon frame construction. With few exceptions, the extant domestic buildings in the Freistadt vicinity which are comparable in age and form to the Groth House have also undergone comparable alterations. The following information, while not exhaustive, is based on three windshield surveys of the area. Frequently-found alterations are listed below:

• **Windows.** Most of the observed examples comparable to the Groth House have modern casement or one-over-one double-hung sash, rather than the six-over-six light double-hung sash that one may expect in rural buildings of this era. Most of the windows appear to be post-World War II replacements. Window openings in stone houses tend to be unaltered, due to the difficulty of doing so in a load-bearing stone wall; a few of the frame or half-timbered houses have non-historic picture windows.

³⁴ History of Washington and Ozaukee Counties, *op cit.*, p. 524

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Friedrich Groth House, Germantown, Washington County.

•**Dormers.** No one- or one-and-one-half story house was found in the Freistadt vicinity that did not have non-historic dormers along its primary side-gabled facades. As discussed above, the attics of such houses were frequently used for storage or children's sleeping areas, and the lack of light, ventilation and head room appears to have seriously impaired the use of this space. Dormers range from small, gabled single-window openings, to shed dormers having two or more windows, to the dormer on the Kressin House, W188 N11881 Maple Road, Town of Jackson, Washington County. This frame gablet rises from the center of the primary facade to the height of the gable ridge; it is sided with wood shakes and inset with two non-historic windows. The rare two story variants of this building form appear to have been generally spared dormers as a result of the eyebrow windows found on these facades.

•**Porches.** The traditional building form, and the manner in which historic photographs of the community indicate it having been constructed, did not include verandas or porches of any type. With the exception of the Groth and Kressin houses, most of the examples of this building form in the vicinity currently have porches, most of which are clearly of a later provenance. Such porches are full-length and single or two-bay length, may be open or enclosed, and are constructed of materials or in a style that indicates a later addition.

•**Orientation.** Although a south-facing primary facade is indicated in most of the pertinent literature as a characteristic of houses constructed in Freistadt during this era, and as such represents a significant cultural identifier and continuance, some of the buildings which bear the general characteristics of the form are oriented with the side-gable facades facing east and west. It is not readily apparent if this feature of some properties results from the buildings' original construction or from their having been moved to their current location.

•**Loss of Agricultural outbuildings.** With only one exception, the Freistadt area buildings comparable to the Groth house have all lost their historic farm buildings. The sole noted example was located at 11915 Farmdale Road, and was associated with a four-bay asymmetrical house with modern replacement one-over-one windows and a non-historic attached enclosed porch that covered one-half of the primary facade. Although some of this farm's buildings date from the era of the house's construction, most of the farm structures appear to date from the early twentieth century. As discussed previously, suburbanization pressures on the Freistadt vicinity during the last 30 years has resulted in the removal of most farm buildings and the subdivision of many of the vicinity's former fields.

As a result, although some houses representing the historic period exemplified by the Groth House do exist in the Freistadt community, all of the known comparable examples have been altered to a similar or greater extent than the Groth house. Those known buildings having a comparable level of integrity to the Groth house are cited and described below.

•**12521 Granville Road.** This two story brick house may or may not represent the Freistadt community of the Groth House's period; its historic entrance was in a gable end facing north or south. The building has three bays along the east-facing wall; all appear to be replacements.

•**12950 Highland Road.** This one-story house, which may be frame or half-timber covered with clapboard siding, has replacement one-over-one windows, a shed dormer and a three-bay porch dating from the early twentieth century.

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Section 8 Page 13 Friedrich Groth House, Germantown, Washington County.

•11011 Granville Road. Originally a one-story house, this building also has two non-historic dormers, replacement windows and an attached one-bay porch with a bell curve shed roof.

•12595 Pleasant View Road. Located immediately north of the Groth house, this building's primary facade faces east, the windows appear to be replacements, and the primary facade has been altered to include an uncharacteristic stepped-out central entry bay surmounted by a gabled dormer.

•13051 Donges Bay Road/ This two-story stone building has poorly-tuckpointed stone block walls and has four irregular bays across its primary facade, in which the entry is off-set. All of the historic windows have been replaced inappropriately, and a non-historic wood patio and an exterior stairway have been appended to the building's front and side walls.

The most comparable house in the Freistadt vicinity appears to be the Kressin House, located at W188 N11881 Maple Road, Town of Jackson, Washington County, which was built in 1855. A double-pile one and one-half story house, is somewhat deeper and taller to the ridge than most of the similar houses observed. This building also has six-over six double-hung windows that appear to date from the early twentieth century, as well as casement non-historic multi-light windows in the gablet dormer. This dormer, as discussed above, is of the same height and width as the gable ends, and is sided in wood shakes, thus dominating the visual profile of the primary facade. The building also has decorative gable end windows, sidelights, and transom light, the only building noted in the vicinity to do so, and has a timber beam over the entry inscribed in German with the name of the first owner, the date of construction, and the tradesmen responsible for the construction. Although this is a relatively intact building, and is the most comparable known structure with regard to the Groth house, this building represents two significantly different aspects of the Freistadt area heritage. First, the Kressin House is located across the historic marsh from the Groth House, and is associated with the historic community of Kirchayn in Washington County. As discussed previously, Kirchayn was a separate and distinct community from Freistadt, although the two shared a similar heritage. Second, the Kressin house represents a level of ornamentation and detailing found on no other house of this era in the vicinity. It appears likely that Kressin, unlike many of his counterparts, intentionally sought a house that would represent his wealth and status. As previously discussed, such displays of wealth conflicted with the Old Lutheran tradition of modesty, humility and frugality, with the result that no other known house in the Freistadt vicinity included such ornamentation.

As a result, the Groth House may be seen to provide a good representation of its historic context in terms of its extant context. Almost all of the houses in the Freistadt vicinity representing a similar time period and cultural and ethnic experience evidence alterations similar to or more extensive than the Groth House, particularly with regard to the culturally-defining primary facade. The Kressin House, potentially the one house in the vicinity with closely comparable integrity, also evidences substantial alterations and represents both a different community and a significantly different cultural experience than the Groth House, which remains closer to the Old Lutheran cultural and religious tradition. The Groth House, therefore, is seen to provide one of the best representations in the vicinity of a typical Freistadt home of its era, and retains a relatively significant proportion of the characteristics that make it a good representative of properties associated with the building's representative aspects of the Freistadt heritage.

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Section 8 Page 14 Friedrich Groth House, Germantown, Washington County.

Conclusion:

The Groth House is eligible for the National Register of Historic Places under National Register Criterion A as a good representative of a typical first-generation house constructed in the ethnically, religiously and culturally distinct community of Freistadt. Both the building's history and its physical appearance exemplify much of the history of the Freistadt community during the community's period of transition and solidification during the mid-to-late nineteenth century. The building exemplifies the economic improvement of the era, as well the commonly-held culturally-and religiously-derived principles and beliefs regarding proper house design, living requirements and practices, and display of material wealth. The Groth house's level of integrity is similar to or better than most houses of comparable age and cultural heritage in the vicinity, those alterations having taken place to the Groth house being of a sufficiently limited scope to allow the Groth House to retain the essential physical features that enable it to convey its historic identity.

Archeological Potential:

As portions of the property have been occupied by Euro-American settlers since 1843, there is some potential for archeological materials to be extant, particularly in the vicinity of the house and the site of the initial log structure. There is no known evidence of prehistoric or historic period Native American occupation of the site, however the foregoing statement does not preclude that possibility.

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Section 7 Page 1 Friedrich Groth House, Germantown, Washington County.

Introduction:

The Friedrich Groth House is a one-and-one-half story, side-gabled cottage in a traditional vernacular form with slight Greek revival influences. The building, constructed in 1860, has load-bearing coursed limestone walls, a low fieldstone foundation, and a center entry with sidelights flanked with two bays on either side. Unoccupied and used only for storage for over fifty years, between 1890 and 1942, the house was altered during the course of its rehabilitation, and has been occupied as a home since that time. Although the 1942 alterations and two subsequent additions to the rear of the property have altered some aspects of the property's exterior appearance, the building retains sufficient integrity to effectively represent its history as a typical domestic building constructed by inhabitants of the Freistadt Prussian community during its period of adaptation to their Wisconsin settlement.

Physical Context:

The Groth property is located approximately 20 miles northwest of Milwaukee, in an area historically dominated by farms but increasingly becoming developed for suburban housing as a result of its proximity to primary auto corridors leading to Milwaukee. The terrain in the vicinity tends to rolling hills and second-growth timber; with swamps and marshes historically predominating in lower areas, although many of these have been drained. One such marsh lies approximately one-half mile north of the Groth house, creating a physical barrier between Freistadt and the similar unincorporated community of Kirchayn, located approximately one and one-half mile northwest of this marsh. As a result, this marsh served as the historic northern boundary of the settlement associated with the Freistadt community.

The community of Freistadt is centered around the historic Trinity Lutheran Church, located approximately one-half mile south and two and one-half miles east of the Groth house. The church is adjoined by two cemeteries and an elementary school; the church complex is adjoined to the north and east by a small collection of mid-to late nineteenth century commercial and residential buildings. The balance of the area historically associated with the Freistadt community consists of historic-era and non-historic residences along approximately ten miles of roads in an area of approximately seven square miles. The growth of the historic community was limited to this area by marshes approximately one mile east and one mile south of the church, as well as by the marsh to the north mentioned previously. Thus the Groth house lies within the historic boundaries of the community of Freistadt. The historic community of South Germantown, a later settlement developed around a railroad station, lies approximately one mile southwest of the Groth house.

The Groth house sits on a five acre parcel, a remnant of the 120-acre farm historically associated with the property. The parcel is adjoined to the west by undeveloped lands, to the east by the public road, and to the north by a narrow driveway and row of brush screening the property from a non-historic residence located immediately north of the house. The southern border of the property is marked by a branch of the Menominee River, a waterway which commences near the Groth property and flows approximately east-west across the parcel before turning south and ultimately east, emptying into Lake Michigan in downtown Milwaukee. The balance of the parcel between the river and the house consists of an open meadow, which is unimproved with the exception of modest landscape features.

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Friedrich Groth House, Germantown, Washington County.

General Features:

The house consists of two parts: the historic building, which constitutes the primary visual facade of the building, and two 1968 additions to the rear of the building, which include residential and garage space. Although the additions are sizable, they are distinct from the historic building in terms of materials and design; they are also clearly subordinate in design to the historic building and do not impact the appearance of the primary historic facade. As a result, the additions have little impact on the historic building's ability to represent its area of historic significance.

The historic building has undergone alterations to its primary and side facades, almost all of which date from 1942 and are the result of the building's rehabilitation as a residence after over fifty years of vacancy. As may be expected, the house's six-over-six double-hung windows are replacements of the original sash, which are likely to have been completely deteriorated as a result of the years of disuse. The sash match closely to the likely historic appearance of the windows. The building's low foundation is of fieldstone; the walls, which are unaltered, consist of load-bearing stone anchored in two locations by S-shaped wrought iron ties. The primary, south-facing facade and the east-facing facade, which adjoined the historic driveway, are constructed of roughly coursed limestone in heavy mortar beds; the west-facing facade consists of rough courses of limestone and fieldstone, the latter of which appears to primarily consist of dark granites which match those in the foundation. The corners of the building are anchored by larger and more precisely hewed limestone block quoins, and the bays of the south-facing and east-facing facades are surmounted by rectangular blocks of limestone arrayed in a slight arch, in a manner similar to soldiered bricks. All of the bays are original and have not been altered in size or use. The roof of the building consists of cedar shingles, and the roof lines are edged with a simple molded cornice. The gables also have simple molded returns. The features of each facade and of the rear additions are described in greater detail below.

Primary (south-facing) facade:

The building's historic primary facade is oriented to the south and extends perpendicular to the adjoining road, which was developed between 1859 and 1873 from the property's historic driveway. The south-facing orientation resulted from traditional building design norms held by the immigrant community, rather than from the location of the drive or other area access routes. The facade has five bays at the first floor,

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Section 7 Page 3 Friedrich Groth House, Germantown, Washington County.

East-facing facade, historic building:

The east-facing facade of the historic building consists of two bays, with two evenly-spaced windows at both the first and second floors. All four windows consist of six-over-six double-hung sash, as described previously; the upper windows are the same width and approximately three-quarters the length of the lower floor windows, which are identical to those on the primary facade. There is no evidence of alteration to these openings; the second floor windows are nearly bisected by the plane of the gable returns. Centered above and between these two bays in the top of the gable is a single semicircular wood ventilator grille cut in a sunburst pattern; this feature is also original to the building. At the north corner of the facade at the first-floor level, one of the quoin blocks bears the legend: "A D / 1860." The cornice, gable returns, and stonework on this facade are identical to those described previously.

West-facing facade, historic building:

The west-facing facade of the historic building is identical in form, quoins and gable returns to the east-facing facade, but differs in some details. The facade consists of three windows of equal size, two at the first floor level and one centered between these two at the second floor, at a slightly higher level than those noted on the east-facing facade. There is no evidence of alteration to the window openings, and there is no evidence of a gable grille such as that described on the east-facing facade. As noted previously, there is some variation in the stone used on this wall, with limestone similar to that noted on the balance of the historic building used in the quoins and in the gable of the facade. A large portion of the lower section of this facade is constructed of limestone interspersed with fieldstone similar to that noted on the foundation level elsewhere. The foundation level at this facade is predominately obscured by the sloping grade and by a pair of cellar doors set into the ground directly below and slightly off-center to the south from the facade's gable.

Kitchen Ell, rear of historic building.

The house's kitchen ell is at present used in part as a hyphen between the historic building and the additions. The ell is constructed of a liberally-mortared combination of limestone and fieldstone similar to that described on the west-facing facade. This ell has two extant walls, the east-facing wall having collapsed unexpectedly during construction of the rear additions. The west-facing facade of the ell has a paired set fixed multi-light windows, which date from 1942, while the north-facing facade has no features and is visible as a portion of the north-facing facade of the building. Although this ell has undergone substantial alterations, these alterations are not visible from the primary facades and have little relative impact on the historic building's integrity.

Rear additions:

Unlike many non-historic additions, which often obscure, overwhelm or visually compete with the historic building, the rear additions to the Groth house were designed and constructed in a manner that differentiates the non-historic building from the historic building, subordinates the additions to the historically significant feature, and maintains as much of the historic materials as possible while endeavoring to visually complement the historic features. The additions are sheathed in board-and-batten siding; they also have a lower profile than and differing facade lines from the historic house's facades.

The eastern addition was constructed to provide additional living space, and extends from the driveway

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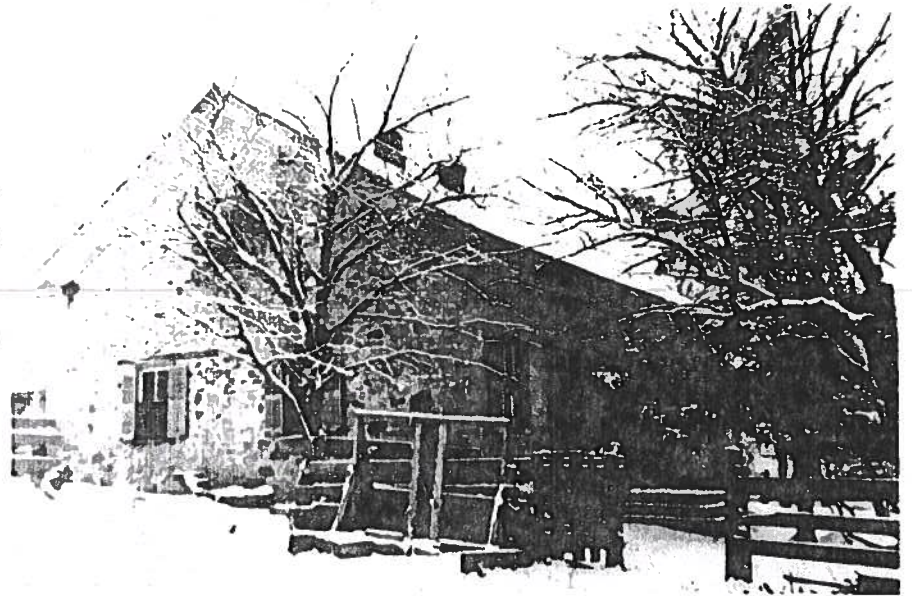
Friedrich Groth House, Germantown, Washington County.

and side yard to the former kitchen ell and from the rear facade of the main block of the historic building to a few feet beyond the plane of the rear of the kitchen ell. The east-facing facade of the addition, the mass of which is inset from the facade line of the historic building under an open porch, has plain square posts; a single door in a plain surround; a paired set of multi-light double-hung windows in a plain shared surround, and three singly-spaced board-and-batten gables on a cedar shingle roof. On the north-facing facade of the building, the north-facing facade of this residential addition, which has a gabled form and board-and-batten siding with three double-hung windows, adjoins the rear facade of the kitchen ell, described previously. On the west side of this kitchen ell is a similar addition, constructed as a garage and also having board-and-batten siding and square posts, with one pedestrian door and two overhead garage doors. The west-facing facade of this addition has no features with the exception of a plain wood door. The south-facing facade of this addition has two evenly-spaced double-hung multi-light windows and is stepped back near the facade's intersection with the historic building in order to maintain the integrity of the historic facade and the kitchen ell, which looks as a result onto a small courtyard area between the garage and the historic building. Although these additions are not historic, they are executed in a manner that minimally impacts the historic character of the building, and do not impair the historic building's ability to represent its historic significance.

Conclusion:

The Friedrich Groth House retains sufficient integrity in its character-defining features to clearly and appropriately represent its history and its area of historic significance. Of the alterations conducted on this building, the 1968 additions have been shown to have relatively little impact on the primary historic facades, being located and designed in a manner that is distinct from, complementary to and visually subordinate to the historic building. Of the alterations required in 1942 to make the building habitable after decades of disuse, most were done in a manner that minimally impacted the historic appearance of the property and did not alter the building's primary fenestration patterns, wall finishes or other details. Although the dormers on the south-facing facade do constitute a more substantial alteration of the building's primary facade, this alteration is considerably less notable than will be evidenced on other contemporary buildings discussed in section 8, below; these also do not substantially impair the Groth House's ability to effectively portray its historic significance. As a result, the Friedrich Groth house may be shown to have a sufficient level of integrity to be determined eligible for the National Register of Historic Places under National Register Criterion A, as discussed below.

Widener's Hotel build
186



Chriatian Groth

b. 28 May 1842

Chriatian purchased 40 acres of land on Saturday, 28 May 1842 identified as SESW in Section 12. The land patent number is 9532 while the BLM database index is WI2650_.479. He was issued the land patent on Thursday, 01 August 1844.

Frederick Groth

b. 15 September 1843

Frederick purchased 80 acres of land on Friday, 15 September 1843 identified as N1/2SW in Section 14. The land patent number is 12344 while the BLM database index is WI2710_.276. He was issued the land patent on Tuesday, 10 September 1844.

Frederick Groth

b. 15 September 1843

Frederick purchased 40 acres of land on Friday, 15 September 1843 identified as NWSE in Section 14. The land patent number is 12344 while the BLM database index is WI2710_.276. He was issued the land patent on Tuesday, 10 September 1844.

Friedrich Groth

b. 29 September 1843

Friedrich purchased 80 acres of land on Friday, 29 September 1843 identified as E1/2NE in Section 11. The land patent number is 12477 while the BLM database index is WI2710_.406. He was issued the land patent on Tuesday, 10 September 1844.

Joachim Groth

b. 25 November 1843

Joachim purchased 40 acres of land on Saturday, 25 November 1843 identified as SESE in Section 02. The land patent number is 13002 while the BLM database index is WI2720_.425. He was issued the land patent on Tuesday, 01 October 1844.

Joachim Groth

b. 01 March 1848

Joachim was issued a land patent on Wednesday, 01 March 1848 for 40 acres identified as SWSW in Section 01. The land patent number is 16554 while the BLM database index is WI2790_.462.

NPS Form 10-900-a
(Rev. 8-86)
Wisconsin Word Processing Format
(Approved 1/92)

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Section 9 Page 1 F. Groth House, Germantown, Washington County.

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NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a public hearing will be held by the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following dates and times noted below (or soon thereafter):

PLAN COMMISSION: Monday, June 10, 2019 at 6:30 p.m.

VILLAGE BOARD: Monday, June 17, 2019 at 7:00 p.m.

The purpose of said hearing is to hear any and all parties, their attorneys or agents, for or against the applications filed by the following applicant for a CONDITIONAL USE PERMIT to allow development within a 25' wetland setback on portions of the following described property pursuant to Section 24.04(3) of the Municipal Code:

Applicant: Dan Barnes, Agent for John & Mary Ann Barnes & Heritage Park Development Corp., Property Owners
Property: 30.65-Acres East of Division Road, South of Larkspur Lane, North of Revere Lane, West of Gunflint Trail
(Tax Key Number #GTNV 342-426)

30.65 Acres on Division Road (Tax Key #342-426)

All of Lot 6 of Heritage Park being a redivision of Parcel 2 of CSM 2895, Being part of the SW ¼, SE ¼ and NE ¼ of the NW ¼ of Section 34, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, Containing 30.65 acres more or less.

A copy of the application and a map showing the property described above are on file and available for inspection at the Community Development Department-Planning & Zoning Services office at the Germantown Village Hall during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, or, on the Village's website by following this link:

<http://www.village.germantown.wi.us/589/5318/Current-Projects-Under-Review>

Deanna Braunschweig, Village Clerk

Dated this 15th day of May 2019

To Be Published On: May 22nd and May 29th, 2019

NOTICE OF PUBLIC HEARING VILLAGE OF GERMANTOWN

NOTICE is hereby given that a public hearing will be held by the Village of Germantown Village Board at the Germantown Village Hall located at N112 W17001 Mequon Road, Germantown, Wisconsin on the following dates and times noted below (or soon thereafter):

PLAN COMMISSION: Monday, June 10, 2019 at 6:30 p.m.

VILLAGE BOARD: Monday, June 17, 2019 at 7:00 p.m.

The purpose of said hearings is to hear any and all parties, their attorneys or agents, for or against a CONDITIONAL USE PERMIT application to allow the installation and operation of a Wireless Communication Facility (195' tall self-supporting lattice-frame structure) from the property described below pursuant to Section 17.56 of the Village Zoning Code:

Applicant: Keefe John Agent for Ethoplex, LLC and Techplex LLC, Property Owner
Property: N115 W19150 Edison Drive (Tax Key Number #GTNV 204-959)

Parcel Three (3) of Certified Survey Map No. 1825, recorded in the office of the Register of Deeds for Washington County on January 17, 1978, in Volume 9 of Certified Survey Maps, on Pages 263 through 266, as Document No. 398687, and being a part of the North One-half (1/2) of the Southeast One-quarter (1/4) of Section Twenty (20), in Township Nine (9) North, Range Twenty (20) East, in the Village of Germantown, County of Washington, State of Wisconsin.

A copy of the application and a map showing the property described above are on file and available for inspection at the Community Development Department-Planning & Zoning Services office at the Germantown Village Hall during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, or, on the Village's website by following this link:
<http://www.village.germantown.wi.us/589/5318/Current-Projects-Under-Review>

Deanna Braunschweig, Village Clerk
Dated this 15th day of May 2019

To Be Published On: May 22nd and May 29th, 2019

PLAN COMMISSION MINUTES
June 10, 2019

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:32 p.m.

ROLL CALL: Chairman Dean Wolter, Commissioners Tony Laszewski, Peter Nilles, Bill Shadid and Matt Kimmmler were present. Trustee Representative David Baum arrived late and Commissioner Bob Williams was absent. Also present were Community Development Director/Village Planner Jeff Retzlaff, Associate Planner Emily Zandt and Planning Assistant Lori Johnson.

PUBLIC INPUT: None

APPROVAL OF MINUTES: ***MOTION Shadid second Nilles to Approve the minutes from 5-13-19. MOTION carried unanimously.***

PUBLIC HEARING/ACTION

TLC Acres LLC/Matthew & Amy Seban – W210 N10738 Appleton Avenue. The property owners of the 53.4 acre property are requesting approval of a rezoning from A-1: Agricultural to A-2: Agricultural which will allow “Horticultural Services”. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 6:38 pm.
No one spoke. The Public Hearing was closed at 6:46

MOTION Laszewski second Nilles to Approve the proposed rezoning from A-1: Agricultural to A-2: Agricultural or the 54.4 acre property located at W210 N10738 Appleton Avenue.

MOTION carried unanimously.

PUBLIC HEARING

Germantown Historical Society for Frank & Irene Blau – W148 N12297 Pleasant View Drive.

The property owners are seeking approval of the Village’s Historic Designation for the former Friedrich Groth farmhouse. Planner Retzlaff summarized the proposal. He asked that the Plan Commission table action on the request until the Historic Preservation Commission has provided a recommendation.

Chairman Wolter opened the Public Hearing at 6:44 pm.
No one spoke. The Public Hearing was closed at 6:46.

MOTION Shadid second Laszewski to TABLE action on the requested Historic Designation for the Irene & Frank Blau farmhouse located at W148 N12297 Pleasant View Drive until such time as a recommendation on the application has been provided by the Village’s Historic Designation Preservation Commission.

MOTION carried unanimously.

PUBLIC HEARING/ACTION

Heritage Park Development – Dan Barnes Agent – 30.65 acres east of Division Road, south of Larkspur Lane, north of Revere Lane, west of Gunflint Trail. The request is for a Conditional Use Permit to permanently encroach within the required 25’ setback from the identified wetlands for

grading of stormwater management facilities in the Heritage Park North Subdivision. Associate Planner Zandt summarized the proposal.

Chairman Wolter opened the Public Hearing at 6:54 pm.

- Matt O'Neill, 1911 N. Hi Mount Blvd., Milwaukee, Attorney representing Kathy Coakley, W166 N10081 Santa Fe Court stated she is opposed to the project and the CUP because the proposed compensation was not adequate, potential for increase runoff wasn't addressed, and impact on wetland setback was not consistent with the Villages Comprehensive Growth Plan. Other concerns are risk of overdevelopment, and potential harm from blasting.
- Heidi Kennedy, 501 Maple Avenue, Delafield, spoke on behalf of SEH. She was involved with the wetland delineation and said the current vegetative buffer is not a high-quality buffer. SEH is proposing to regrade the slope, stabilize it and restore it to a high-quality buffer. They have met the qualifications of the Village standards.
- Ralph Zak, N100 W16800 Revere Lane. Said he has an easement on the back of his property and is concerned he will have more water issues due to any re-grading. He also had concerns with blasting that may occur.
- Greg Kamps, N100 W16762 Revere Lane, said he has deep ruts in his yard from the runoff. He said he opposes the construction because of blasting and wants there to be a precheck before. He also said there is a gas pipe in the area.
- Jay Knight, W168 N10247 Bittersweet Trail, said he was against the CUP because he was concerned with filling the wetlands and blasting.
- Barry Humiston, N102 W16853 Bittersweet Tail, said his concerns were the same as Ms. Coakley and was concerned with the depth of the blasting
- Marilyn Drewek, N100 W16826 Revere Lane, had concerns with blasting, the impact on the school system and traffic on Division and Donges Bay.
- Kathy Coakley, W166 N10081 Santa Fe Court, had concerns with blasting and the wetlands and asked that a vote not be taken tonight.

Chairman Wolter explained the Plan Commission gives a recommendation to the Village Board to take action on the CUP. He said all other areas of this development had already been approved.

The Public Hearing was closed at 7:25 pm.

MOTION Laszewski second Kimmler to Approve the requested conditional use permit for encroachment into the required 25-foot setback from an identified wetland including 435 square feet of permanent encroachment for the entrance road to the Heritage Park North Subdivision and approximately 50,465 square feet of temporary encroachment for grading for stormwater management and the construction of an equalizer pipe within the wetland area to connect two stormwater basins subject to the following conditions:

- 1. The Stormwater Management Plan and the Construction Plans must be approved by the Village Engineer.***
- 2. Prior to any grading, the boundary of the wetland must be staked and marked with orange construction fencing. All erosion control measures shall be installed outside of the construction fencing. There shall be no grading work or heavy equipment inside the designated wetland areas.***
- 3. Restoration work shall be completed and wetland impact shall not exceed that submitted in the application and supporting information dated June 3, 2019.***
- 4. SEH and Heritage Park Development Corporation shall monitor the site as needed and***

submit a letter/report to the Village to provide an update on the status of the restoration work and what, if any additional measures will be taken to ensure the successful restoration of the area. The letter/report shall be submitted annually beginning July 2020 for three (3) years.

Discussion followed. Planner Retzlaff explained the encroachment is within the 25' wetland setback area and not in the actual wetland area. He said there is a provision in the code to allow encroachment into the setback area with a conditional use permit, but compensation to restore and enhance the area is required. The developer is proposing to improve the area beyond what is there today. Ms. Kennedy confirmed there would not be blasting with the wetland mitigation.

Trustee Baum arrived 7:35.

MOTION carried unanimously. (Baum abstained)

PUBLIC HEARING/ACTION

Techplex LLC, property owner and Ethoplex LLC, tenant – N115 W19150 Edison Drive. The request is for approval of a conditional use permit, site plan and wall signage for the installation of a 195' lattice tower on the 1.58 property in the Germantown Industrial Park. Associate Planner Zandt summarized the proposal.

Chairman Wolter opened the Public Hearing at 7:45 pm.

Keefe John, Ethoplex LLC, spoke. He said he is a local company that has been in Germantown for 12 years and is building the tower to support the growth of his business and new building. He asked if the letter of credit requirement could be a bond instead. Planner Retzlaff explained the Village requires a letter of credit but he will discuss the request with the Village Attorney.

The Public Hearing was closed at 7:50 pm.

MOTION Shadid second Baum to Approve an issuance of a conditional use permit and approve the site plan submitted by Techplex LLC, owner, and Ethoplex LLC, tenant and facility operator, for the installation of a 195' lattice tower on the 1.58-acre property at N115 W19150 Edison Drive.

- 1. This permit authorizes the installation of a 195' lattice tower as set forth in site development and building plan set dated May 6, 2019, and in the supporting documents and plans made part of said application. All of the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.***
- 2. If use of the tower and/or operation of the communication equipment supported thereon falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to mitigate or eliminate harmful effects associated with the use but are subsequently insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board***

by the amendment to or addition of conditions after public hearing thereon.

- 3. Installation and continued operation of the wireless communication facility shall comply with all requirements set forth in Section 17.56 (Wireless Communication Facilities) of the Village Code to the extent that such requirements do not conflict or are inconsistent with Wis. Stat. 66.0404; including, but not limited to the requirement that the applicant/owner shall provide an irrevocable letter of credit or cash to the Village in the amount of \$20,000 to guaranty the removal of wireless communication facilities and associated site restoration if/when said facilities are no longer used.*
- 4. The Applicant shall provide a final set of stamped and sealed engineering plans and the Engineer's certificate regarding the fall zone of the proposed tower at the time building permit applications are submitted, And,*

Approve the proposed wall sign for Ethoplex LLC with the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.*

Discussion followed.

MOTION to Amend Shadid second Baum that Condition #3 allow the Planning Department to negotiate how to setup the security deposit.

MOTION to Amend carried unanimously.

MOTION to Approve as Amended.

KinderCare Learning Center – N112 W17060 Mequon Road. The request if for approval for a ground and wall sign for the 10,782 square foot childcare center. Associate Planner Zandt summarized the proposal.

MOTION Baum second Laszewski to Approve the proposed ground and wall signs for the 10,782 square foot childcare center subject to the following conditions:

- 1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.*
- 2. A detailed landscape plan for the ground sign along Mequon Road shall be provide to the Village Planner for review and approval prior to installing the monument sign.*

MOTION carried unanimously.

Community Development Department – 2050 Comprehensive Plan: Community Engagement Program. Planner Retzlaff explained Wisconsin Statute 66.1001(4)(a) requires all municipalities that are developing and adopting comprehensive plans to prepare and adopt written procedures and/or a plan for including open communication, public participation and other community engagement activities as part of the overall process. Graef, consultant for the 2050 Comprehensive Plan project, developed the Community Engagement Plan and requires Plan Commission review and Village Board to adopt. The 2050 Steering Committee reviewed the Community Engagement Plan at their May 22nd meeting.

MOTION Nilles second Baum to Adopt the Community Engagement Plan as presented.

Plan Commission

June 10, 2019

Page 5

Trustee Baum asked what methods will be used to inform the community of the 2050 Comprehensive Plan project. Planner Retzlaff explained using cable TV, preparing flyers to post at retail establishments, posting notices on the Village website, newspaper and social media. He said we will try to reach out as much as possible but said that mailing notices to property owners will not be done due to the cost.

MOTION carried unanimously.

Saxony Village-Main Street Connectivity Workshop Summary.

ANNOUNCEMENTS: The next Steering Committee Meeting is scheduled for June 18th and the next Plan Commission meeting is June 24th.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 17, 2019

AGENDA ITEM: Public Hearing & New Business **[REZONING APPLICATION &
CONDITIONAL USE PERMIT]**

ITEM TITLE: Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners, are requesting approval of a Rezoning Application & Conditional Use Permit (CUP) to Allow the Operation of a Landscape Maintenance and Construction Services Business, and, the Retail Sale of Nursery Products Not Raised on the Property.

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

SUMMARY EXPLANATION:

Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners of a 53.4-acre property located at W210 N10738 Appleton Avenue, are requesting approval to rezone the property from A-1: Agricultural to A-2: Agricultural, and, a Conditional Use Permit (CUP) to allow the operation of a landscape maintenance and construction services business, and, the retail sale of nursery products not raised on the property.

Village Board held a public hearing for the CUP on May 6 but tabled action pending recommendation from the Plan Commission and hearing of A-1 to A-2 rezoning application.

PLAN COMMISSION RECOMMENDATIONS:

APPROVE the proposed rezoning from A-1: Agricultural to A-2: Agricultural for the 53.4-acre property located at W210 N10738 Appleton Avenue.

APPROVE a conditional use permit (CUP) for Matthew and Amy Seban to allow the operation of a landscape maintenance and construction services business, and, the retail sale of nursery products not raised on the 53.4-acre TLC Acres LLC property located at W210 N10738 Appleton Avenue subject to ten (10) conditions.

APPLICATION, PLANS & RELATED DOCUMENTS:

All relevant documents, including applications, plans, supporting information, the staff report & recommendation, and Plan Commission meeting minutes (when available) are included in the PDF digital file distributed by the Village Clerk.

ORDINANCE NO. 06-2019

**AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP
OF THE VILLAGE OF GERMANTOWN ZONING CODE
(TLC Acres LLC & Matthew & Amy Seban, Property Owners)**

THE VILLAGE BOARD OF THE VILLAGE OF GERMANTOWN, WASHINGTON
COUNTY, WISCONSIN, ORDAINS AS FOLLOWS:

SECTION 1. That the zoning map of the Village of Germantown is amended by rezoning from the A-1: Agricultural Zoning District to the A-2: Agricultural Zoning District the following described property:

That part of the NORTHEAST $\frac{1}{4}$ and NORTHWEST $\frac{1}{4}$ of the SOUTHWEST $\frac{1}{4}$ of Section 30, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, bounded and described as follows: beginning at the EAST $\frac{1}{4}$ corner, SECTION 30-9-20, thence South $0^{\circ} 27' 58''$ East on the east line of the Southeast $\frac{1}{4}$ of said Section 1,222.00 feet; thence South $89^{\circ} 32' 02''$ West, 670.00 feet; thence $0^{\circ} 27' 58''$ West, 118.80 feet; thence South $81^{\circ} 32' 02''$ West, 863.51 feet; thence North $55^{\circ} 27' 58''$ West on the center line of Appleton Avenue 113.65 feet; thence North $55^{\circ} 21' 58''$ West on said center line 148.60 feet; thence North $53^{\circ} 08' 58''$ West on said center line 107.70 feet; thence North $44^{\circ} 39' 18''$ West on said center line 203.19 feet; thence North $40^{\circ} 55' 06''$ West on said center line 199.71 feet; thence North $54^{\circ} 23' 20''$ East, 669.00 feet; thence North $75^{\circ} 12' 40''$ West, 310.40 feet; thence North $64^{\circ} 10' 40''$ West, 471.50 feet; thence South $89^{\circ} 30' 20''$ West, 175.40 feet; thence North $26^{\circ} 14' 40''$ West, 36.70 feet; thence North $89^{\circ} 30' 20''$ East on the East $\frac{1}{4}$ line of said Section 2,463.18 feet to the point of beginning . Containing 53.39 Acres.
W210 N10738 Appleton Avenue; Tax Key: GTNV 304-959

SECTION 2. This ordinance shall take effect and be in full force the day after its passage and publication, as provided by law.

Introduced by Trustee: _____
Adopted: _____, 2019

Vote: _____
Ayes: _____
Nays: _____

Dean Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC Village Clerk

APPROVED AS TO FORM:

Brian Sajdak, Attorney

Published:

CUP # 10-19

Document No.

CONDITIONAL USE PERMIT

Document Title

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

Whereas the Applicant:

**Matthew & Amy Seban, Agents for TLC Acres LLC,
 Property Owner**

agrees to comply with applicable Codes and Ordinances of the Village of Germantown, Wisconsin, and further agrees that all land uses and activities conducted on the property will conform with the applications and supporting information filed with and approvals granted by the Village for the purpose of obtaining this permit.

Therefore, this permit is issued to the Applicant to allow: (1) the operation of a landscape services business that provides services including: landscape maintenance and construction services business; (2) the retail sale of nursery products not raised on the property; and (3) the storage of commercial vehicles and equipment on the property located at W210 N10738 Appleton Avenue pursuant to Section 17.07(3)(a), 17.12(2)(l) & 17.12(2)(gg) of the Village Zoning Code.

Name & Return Address:

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

Parcel Identification No:

GTNV 304-959

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

That part of the NORTHEAST $\frac{1}{4}$ and NORTHWEST $\frac{1}{4}$ of the SOUTHWEST $\frac{1}{4}$ of Section 30, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, bounded and described as follows: beginning at the EAST $\frac{1}{4}$ corner, SECTION 30-9-20, thence South $0^{\circ} 27' 58''$ East on the east line of the Southeast $\frac{1}{4}$ of said Section 1,222.00 feet; thence South $89^{\circ} 32' 02''$ West, 670.00 feet; thence $0^{\circ} 27' 58''$ West, 118.80 feet; thence South $81^{\circ} 32' 02''$ West, 863.51 feet; thence North $55^{\circ} 27' 58''$ West on the center line of Appleton Avenue 113.65 feet; thence North $55^{\circ} 21' 58''$ West on said center line 148.60 feet; thence North $53^{\circ} 08' 58''$ West on said center line 107.70 feet; thence North $44^{\circ} 39' 18''$ West on said center line 203.19 feet; thence North $40^{\circ} 55' 06''$ West on said center line 199.71 feet; thence North $54^{\circ} 23' 20''$ East, 669.00 feet; thence North $75^{\circ} 12' 40''$ West, 310.40 feet; thence North $64^{\circ} 10' 40''$ West, 471.50 feet; thence South $89^{\circ} 30' 20''$ West, 175.40 feet; thence North $26^{\circ} 14' 40''$ West, 36.70 feet; thence North $89^{\circ} 30' 20''$ East on the East $\frac{1}{4}$ line of said Section 2,463.18 feet to the point of beginning . Containing 53.39 Acres.

W210 N10738 Appleton Avenue; Tax Key: GTNV 304-959

Pursuant to the following condition(s):

1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit (CUP) application and supporting documents dated February 26, 2019. The size and relative location of those areas within the property from which said uses and activities are permitted are limited to that presented in the detailed site plan and description submitted with the supporting documents. Days and hours of operation shall be limited to those specified in the CUP application and supporting documents submitted to the Village. The Owner/Operator is responsible for reporting any significant changes in the type, intensity, amount or location of the land uses and activities, days and hours of operation, size or location or other operational characteristics of said uses and activities

authorized under this CUP to the Village Planner.

2. All temporary and permanent exterior signs require a permit and shall comply with all current sign regulations. Off-premise advertising and directional signage is regulated by the Village and requires a permit if/when allowed.
3. In the event the Village receives complaints regarding noise negatively affecting the nearby residential neighborhood and adjacent properties, including but not limited to noise from truck-mounted backup alarms, the Owner/Operator shall work cooperatively with the Village to mitigate the noise and resolve the issue. The Owner/Operator shall implement the measures and practices described in the application and supporting documents to mitigate noise, dust and traffic impacts on the surrounding area on a continual basis.
4. Site improvements, buildings, shelters, parking areas, signage, exterior lighting and any other improvements on the property that benefit the vehicles, equipment, materials, employees, and/or customers of or are necessary for the land uses and activities authorized under this CUP shall be reviewed and approved by the Village through the Zoning Permit or Site Plan application process as determined by the Village Zoning Administrator. If required, Site Plan review and approval will include Plan Commission review and approval.
5. The area leased to MSTLC/Total Lawn Care for purposes of parking and storage of vehicles and equipment shall be visually buffered in some manner from the residential properties to the north, west and south. This requirement is not intended to require a complete opaque visual screen, but rather a buffer comprised of either landscape plantings and trees, fencing, berming or a combination, that lessens the impact of viewing commercial vehicles that are primarily used by and for the MSTLC/Total Lawn Care business and not the tree nursery. A detailed grading and landscape plan for the required visual buffer and the "landscape berm" shown in the Site Plan shall be prepared and submitted to the Village Planner for review and approval within six (6) months after issuance of the CUP.
6. No inoperable vehicles, trailers, equipment, junk or trash that may negatively affect the nearby residential areas and adjacent properties shall be kept on the property.
7. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
8. Residential or other non-agricultural uses not permitted "by right", as an accessory use or authorized under this CUP may constitute a violation of the Village's Zoning Code or this CUP.
9. Matt Seban shall notify the Community Development Department-Planning & Zoning Services Division on the date that Tier 2 is fully completed and has ceased filling operations.

10. The Conditional Use Permit shall come back to the Plan Commission for review in one (1) year after Village Board approval and include a public hearing.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin on the ____ day of _____, 2019.

Dean Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this ____ day of _____, 2019, the above named Dean Wolter, Village President, and Deanna B. Braunschweig, Village Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY OPERATOR

As agent for TLC Acres LLC, property owner, and business operator, we hereby accept the terms and conditions set forth herein and realize that non-adherence to the terms and conditions as stated herein may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2019

Matthew Seban, Agent for TLC Acres LLC, Property Owner

Amy Seban, Agent for TLC Acres LLC, Property Owner

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2019, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}
Notary Public, State of Wisconsin
My Commission Expires: _____

REZONING APPLICATIONS

6/10/19 Plan Commission Meeting

TLC Acres LLC / Matthew & Amy Seban

Village Planner Report

Germantown, Wisconsin

Summary

Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners of the 53.4-acre property located at W210 N10738 Appleton Avenue are requesting approval of a rezoning of the property from A-1: Agricultural to A-2: Agricultural.

Location: W210 N10738 Appleton Avenue

Applicant/

Property Owner: Matthew & Amy Seban
W210 N10738 Appleton Avenue
Germantown, WI

Zoning: A-1: Agricultural

Adjacent Land Uses		Zoning
North	Agricultural	A-1/A-2
South	Residential	Rs-2/Rs-3/Rs-4/Rs-5
East	Agricultural	A-1
West	Residential/Business	Rs-2/Rs-3/Rs-4/B-3

Location Map



History/Proposal

Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners of the 53.4-acre property located at W210 N10738 Appleton Avenue are requesting approval of a rezoning of the property from A-1: Agricultural to A-2: Agricultural.

In April, the Plan Commission recommended approval of a conditional use permit (CUP) to the Village Board to allow: (1) the operation of a landscape maintenance and construction services business; and (2) to sell retail products not raised on the 53.4-acre Appleton Avenue property subject to eight (8) conditions. (*NOTE: See attached Staff Report & Recommendation for details*).

Prior to action on the CUP, the Village Board was advised that, in addition to the CUP, the property needed to be rezoned from the A-1 to the A-2 agricultural district as a prerequisite for operating the landscaping business (referred to as “horticultural services” in the A-2 District regulations). The A-2 District allows the same permitted uses as the A-1 District (including plant nurseries), but also allows more intense agricultural uses (more than the traditional farming uses) including “horticultural services”.

Staff Comments**Consistency with Village’s Land Use Plan.**

The 2020 Land Use Plan map classifies this property as “Agricultural/Conservation Residential”. The current zoning of the property is A-1: Agricultural. The proposed A-2 District is also consistent with 2020 LUP map classification. As discussed above, many of the activities conducted on or from the property are permitted “by right” land uses in both the A-1 and A-2 Districts and, therefore, not subject the CUP requirement. Agricultural activities such as these are also consistent with the 2020 Land Use Plan map.

As explained in the staff report for the CUP, while not specifically named or described in the list of “permitted” or “conditional” uses in the A-1 District regulations, similar businesses like the Seban’s operation have been allowed in the A-1 Zoning District in the past as one of many “unclassified uses” that is considered to be the same or similar to other permitted uses in the A-1 District.

While it is not uncommon to see landscape maintenance operations located in industrial zoning districts and even some small-scale operations in residential districts operating as “home occupations”, full-service landscaping operations such as the Total Lawn Care business are typically located in agricultural zoning districts. Particularly those that involve growing their own trees and other plant material, as well as, those that provide services that include the storage and screening of topsoil, and the hauling, cutting, grinding and mulching of cut trees and other plant debris. While not the same as more traditional agricultural operations as dairy farming or crop raising, landscaping services businesses are one of many specialized land uses that is typical and customary for agriculturally zoned districts.

Notwithstanding, in 1988 the Village's Zoning Code was changed to specifically allow "horticultural services" in the A-2 District with a CUP. Landscape businesses that were operational before 1988 and located in A-1 Districts are considered to be legal non-conforming uses that can continue to operate.

For example, despite having started operations in 1986, Wendland Landscape Services Inc. and Nursery operation on Division Road expanded in 1989 to provide the retail sales of nursery products not grown on the property. Under the A-2 District within which the southern half of the property is located, Wendland was required to obtain a CUP. The other aspects of their landscape services operation were and continue to be considered legal non-conforming with the tree nursery area allowed as a permitted use under the A-1 District that applies to the north part of their property.

Similarly, D.J. Frank Landscape Contracting started operating from their Freistadt Road property in or about 1975. While most of the 41 acres owned by David J. Frank is zoned A-1, the 5.1-acre property from which the business was started is currently zoned B-3: General Business. It appears that in 1975 the Village allowed the operation under the business zoning district that applied to the 5.1-acre property (which subsequently evolved into what is now the B-3: General Business District). Which effectively means the current operation is a legal non-conforming use with portions of the property located in both the B-3 and A-1 Districts.

In light of the above, and the fact that the current Zoning Code allows "horticultural services" in the A-2 District with a CUP (which is not listed in the A-1 District regulations), all future landscape contracting businesses can only operate from the A-2 District (unless otherwise allowed as a home-based business with a CUP in certain residential districts).

The Village Board held a public hearing of the CUP application but tabled action on the CUP pending receipt of a recommendation from the Plan Commission regarding the A-1 to A-2 rezoning application.

Village Planner Recommendation

APPROVE the proposed rezoning from A-1: Agricultural to A-2: Agricultural for the 53.4-acre property located at W210 N10738 Appleton Avenue.



Village of

Germantown
Willkommen

FEES MUST BE PAID AT TIME OF APPLICATION

- ☒ \$200 Plan Commission Consultation
☒ \$1,085 Rezoning
☐ \$1,240 PDD < 5 acres
☐ \$2,095 PDD 5-20 acre site
☐ \$3,460 PDD > 20 acre site

Date Paid: 5-13-19 Received by: A.

REZONING & PDD APPLICATION

Pursuant to Section 17.51 of the Municipal Code

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

1 APPLICANT OR AGENT

TLC Acres, LLC
W210 N10738 ST Hwy 175
Germantown, WI 53022
Phone (414) 403-8956
Fax ()
E-Mail MASEban @ Yahoo.com

PROPERTY OWNER

Matthew + Amy Seban
4736 Keeley Dr.
Slinger WI 53086
Phone (414) 403-8956

2 PROPERTY ADDRESS OR GENERAL LOCATION

TAX KEY NUMBER

W210 N10738 ST. Hwy 175 Germantown WI 53022

GTNV-304959

3 REZONING REQUEST

FROM

A-1

TO

A-2

4 METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY - REQUIRED

Attach pages as necessary

See Attached

PURPOSE OF REZONING REQUEST

Briefly describe why the applicant is rezoning the property. Include a description of the proposed use, including any new construction and number of employees, if applicable.

A-2 allows for "horticultural services" designation which I need to operate ~~my~~ MSTLC, LLC. Please see my CUP application for information regarding M.S.T.L.C., LLC.

6 SUPPORTING DOCUMENTATION:

- ☐ Plat of Survey (1:100)
- ☐ Site Plan and elevations for new construction (can be conceptual)
- ☐ _____
- ☐ _____

7 READ AND INITIAL THE FOLLOWING:

MS I understand that the Village is under no obligation to rezone property and that density and lot coverages provided in the Zoning Code are maximums. Actual build out will depend on myriad factors including topography and other natural conditions, surrounding neighborhood context and the detailed design of a project.

MS I understand that Village Staff, Plan Commission and/or Village Board may request additional information to properly evaluate this request and failure to provide such information may in itself be sufficient cause to deny the petition.

MS I am aware that this rezoning shall go into effect immediately upon the final approval of the Village Board and its execution of the rezoning ordinance

8 SIGNATURES – ALL APPLICATIONS MUST BE SIGNED BY OWNER!

Matthew Sh 5/10/19
Applicant Date

Matthew Sh 5/10/19
Owner Date

Legal Description Of Property

THAT PART OF THE NORTHEAST $\frac{1}{4}$ AND NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ SECTION 30, TOWN 9 NORTH, RANGE 20 EAST, VILLAGE OF GERMANTOWN, WASHINGTON COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST $\frac{1}{4}$ CORNER, SECTION 30-9-20, THENCE SOUTH 0 DEGREES 27' 58" EAST ON THE EAST LINE OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 1222.00 FEET, THENCE SOUTH 89 DEGREES 32' 02" WEST - 670.00 FEET, THENCE 0 DEGREES 27' 58" WEST 118.80 FEET, THENCE SOUTH 81 DEGREES 32' 02" WEST - 863.51 FEET, THENCE NORTH 55 DEGREES 27' 58" WEST ON THE C/L OF APPLETON AVENUE 113.65 FEET, THENCE NORTH 55 DEGREES 21' 58" WEST ON SAID C/L 148.60 FEET, THENCE NORTH 53 DEGREES 08' 58" WEST, ON SAID C/L 107.70 FEET, THENCE NORTH 44 DEGREES 39' 18" WEST, ON SAID C/L 203.19 FEET, THENCE NORTH 40 DEGREES 55' 06" WEST, ON SAID C/L 199.71 FEET, THENCE NORTH 54 DEGREES 23' 20" EAST, -669.00 FEET, THENCE NORTH 75 DEGREES 12' 40" WEST, -310.40 FEET, THENCE NORTH 64 DEGREES 10' 40" WEST, -471.50 FEET, THENCE SOUTH 89 DEGREES 30' 20" WEST -175.40 FEET, THENCE NORTH 26 DEGREES 14' 40" WEST, -36.70 FEET, THENCE NORTH 89 DEGREES 30' 20" EAST, ON THE EAST $\frac{1}{4}$ LINE OF SAID SECTION 2463.18 FEET TO THE POINT OF BEGINNING.

CONDITIONAL USE PERMIT (CUP) APPLICATION

4/8/19 Plan Commission Meeting

TLC Acres LLC / Matthew & Amy Seban

Village Planner Report

Germantown, Wisconsin

Summary

Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners, are requesting approval of a Conditional Use Permit (CUP) to operate a landscape maintenance and construction services business and to sell retail products not raised on the 53.4-acre TLC Acres LLC property located at W210 N10738 Appleton Avenue.

Location: W210 N10738 Appleton Avenue

Applicant/

Property Owner: Matthew & Amy Seban
W210 N10738 Appleton Avenue
Germantown, WI

Zoning: A-1: Agricultural

Adjacent Land Uses		Zoning
North	Agricultural	A-1/A-2
South	Residential	Rs-2/Rs-3/Rs-4/Rs-5
East	Agricultural	A-1
West	Residential/Business	Rs-2/Rs-3/Rs-4/B-3

Location Map



History/Proposal

Matt & Amy Seban, MSTLC LLC, agents for TLC Acres LLC and property owners, are requesting approval of a Conditional Use Permit (CUP) to operate a landscape maintenance and construction services business, and, to sell retail products not raised on the 53.4-acre TLC Acres LLC property located at W210 N10738 Appleton Avenue.

As detailed in their application and supporting documentation, the Seban's purchased the 53.4-acre property in 2017. Like the former owner, Dick Gerschke, the Seban's are operating a tree nursery on the property.

Fundamental to their nursery operation is the concept of growing plant material (evergreen and deciduous trees and shrubs) on elevated "plateaus" or "tiers". Soon after purchasing the property the Seban's began trucking in fill material (and continue to do so) in order to create two (2) tiers in the area abutting Appleton Avenue south of an existing drainage ditch and existing maintenance building (see site plans in back of bound supporting documents). Tier 1 (approximately 1.75 acres in area) was completed and a portion planted in 2018. Tier 2 (approximately 4.85 acres in area) is currently under construction that will continue this spring and be ready for planting in 2019. Both tiers will be irrigated with pole-mounted overhead water "cannons" and planted with Spruce and Arborvitae trees, a variety of deciduous trees and other plants.

In addition to their tree nursery, the Seban's lease approximately 16 acres of land located off Hilltop Drive to the Pfaff Sod operation, and, lease an unspecified amount of land to MSTLC LLC, a.k.a. "Total Lawn Care", a landscaping maintenance and construction services business also owned and operated by the Seban's. The area leased to MSTLC/Total Lawn Care is used for parking and storage of business and employee vehicles, equipment and materials used in the landscape maintenance and construction services operation. This mutually-beneficial lease arrangement also involves the use of MSTLC/Total Lawn Care vehicles and equipment for the tree nursery and other farming-related activities on the 53.4-acre TLC Acres property.

The 53.4-acre property is located in an A-1: Agricultural Zoning District. Tree nursery, sod farming and the sale (wholesale or retail) of plant material raised on the property are all permitted "by-right" land uses and activities in the A-1 District. The uses and activities that are not allowed "by right" in the A-1 District that the Seban's are required to get a conditional use permit (CUP) for include:

1. Retail sale of nursery products not raised on the property
2. Operation of a landscape maintenance and construction services business

Conditional Use #1 (Retail sale of nursery products not raised on the property)

As detailed in the supporting documents, in addition to selling plant and soil material grown or extracted from the property, e.g. trees, shrubs, topsoil, peat moss and sod, the Seban's intend to sell plant and landscape material that is NOT raised on the property, including: trees, perennials, mulch, topsoil, stone and firewood.

The retail sale of these products not raised on the property will occur during the general hours of operation associated with the TLC Acres nursery operation:

April 1 through November 1

7:30am to 4:30pm Monday through Saturday

9:00am to 4:30pm Sundays

Conditional Use #2 (landscape maintenance and construction services business)

As mentioned above, the Seban's lease an unspecified amount of land to MSTLC LLC, a.k.a. "Total Lawn Care", a landscaping services business also owned and operated by the Seban's. In return, some vehicles and equipment owned and used for the MSTLC/Total Lawn Care business are also used for the TLC Acres tree nursery and other farming-related activities on the 53.4-acre property.

The MSTLC/Total Lawn Care landscape maintenance and construction business has four (4) divisions or service areas, including:

1. Total Lawn Care
 - a. Provides landscape maintenance services for commercial and residential properties
2. TLC Hardscapes
 - a. Provides design and installation of outdoor living areas and features
3. TLC Athletic Fields
 - a. Provides athletic field and complex maintenance
4. Snow Management Solutions
 - a. Provides snow plowing & removal services for commercial and residential properties

Almost all business activities for each of the four divisions is done off-site on customer properties and sites located elsewhere and not on the 53.4-acre property. Activities associated with the MSTLC/Total Lawn Care business that are conducted on-site include: vehicle and equipment maintenance (existing pole building on site is used for office and maintenance functions), parking of business and employee vehicles, storage of equipment and materials, and farm-related activities utilizing vehicles, equipment and/or employees contracted through TLC Acres for unspecified tree nursery and farming activities (including the temporary filling & grading activities associated with construction of the two nursery tiers on the property).

MSTLC/Total Lawn Care days and hours of operation for the first three (3) divisions listed above are:

March 15 through December 1 (Lawn Care, Hardscapes & Athletic Fields)

6:00am to 8:00pm Sunday through Saturday (on-site/indoor shop employees)

7:15am to 8:00pm Sunday through Saturday (field laborers)

The days and hours of operation for the fourth division listed above are:

November 1 through April 1 (Snow Management)
6:00am to 8:00pm Sunday through Saturday (on-site/indoor shop employees)
Unspecified days & hours for off-site location employees

MSTLC/Total Lawn Care currently employs eight (8) full-time and as many as (23) part-time employees.

NOTE: Other details regarding the TLC Acres tree nursery operation and the MSTLC/Total Lawn Care operation are contained in the application and supporting documents.

It is important to point out that a CUP is NOT required for the temporary filling and grading activities associated with construction of the two “tiers” that have gone on since 2017 and will continue into 2019. While not a farming activity that is exempt from certain zoning restrictions and regulation under Wisconsin’s “right to farm” statutes, these temporary land disturbing activities are subject to the Village’s erosion control permitting and storm water management regulations while this construction is ongoing. The Seban’s have obtained the necessary erosion control permits from the Village and, if necessary, will be required to prepare a storm water management plan for and install storm water management measures on their property.

Staff Comments

Consistency with Village’s Land Use Plan & A-1 Zoning District.

The 2020 Land Use Plan map classifies this property as “Agricultural/Conservation Residential”. The current zoning of the property is A-1: Agricultural. As discussed above, many of the activities conducted on or from the property are permitted “by right” land uses and not subject the Village’s CUP requirements. Agricultural activities such as these are generally consistent with the 2020 Land Use Plan map.

While not specifically named or described in the list of “permitted” or “conditional” uses in the A-1 District regulations, landscape maintenance and construction businesses like the Seban’s operation is and has been allowed in A-1 Zoning Districts throughout the Village as one of many “unclassified uses” that is considered to be the same or similar to other permitted uses in the A-1 District. Similar landscaping businesses such as D.J. Frank Landscape Contracting Inc., Wendland Landscape Service Inc., and Dan Larsen Landscaping Inc., all provide varying levels of the same or similar services and are all located in A-1 Districts in different areas the Village. While it is not uncommon to see landscape maintenance operations located in industrial zoning districts (and even small-scale operations in residential districts operating as “home occupations”), full-service landscaping operations such as the Seban’s MSTLC/Total Lawn Care business are typically located in agricultural zoning districts. Particularly those that involve growing their own trees and other plant material, as well as, those that provide services that include the storage and screening of topsoil, and the hauling, cutting, grinding and mulching of cut trees and other plant debris. While not the same as more traditional

agricultural operations as dairy farming or crop raising, landscaping services businesses are one of many specialized land uses that is typical and customary for agriculturally zoned districts.

With that said, the circumstances unique to this particular CUP request are: (1) the previous property owner of the 53.4-acre property also operated a tree nursery on the property, but to a lesser degree than the Seban's full-service landscaping maintenance and construction business; The Gerschke operation did not provide all of the same landscape maintenance, hardscape construction or snow management services as does the MSTLC/Total Lawn Care operation; and (2) the Seban's property is relatively close to pre-existing residential neighborhoods that "were here first" before the Seban's acquired the property and certainly before the MSTLC/Total Lawn Care business came into being on this property. This is different than the D.J. Frank and Wendland landscaping operations that are located further away from or otherwise buffered from existing residential areas, or, were already in business on those properties well before the nearby residential development came about.

For these reasons, Staff supports the CUP proposal provided that certain mitigative measures are put into place and continually practiced and maintained to lessen or mitigate impacts associated with the uses requiring the CUP that can negatively affect the nearby residential neighborhood and adjacent properties.

Finally, in the application and supporting documents, the Seban's refer to the existing pole building as a storage and maintenance shop for TLC Acres. This building is also referred to as a "man cave" to be used by family and friends. The property is zoned for agricultural land uses and activities and not residential primary or accessory uses. While it is understandable that the owners would want to take advantage of the value and amenities that their property provides, but it should be noted that residential or other non-agricultural uses not permitted "by right" or as may be allowed with a conditional use permit may not comply with the Zoning Code or terms of any CUP issued for the property.

Village Planner Recommendation

APPROVE a conditional use permit (CUP) for Matthew and Amy Seban to allow the operation of a landscape maintenance and construction services business, and, to sell retail products not raised on the 53.4-acre TLC Acres LLC property located at W210 N10738 Appleton Avenue subject to the following conditions:

1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit (CUP) application and supporting documents dated February 26, 2019. The size and relative location of those areas within the property from which said uses and activities are permitted are limited to that presented in the detailed site plan and description submitted with the supporting documents. Days and hours of operation shall be limited to those specified in the CUP application and supporting documents submitted to the Village. The Owner/Operator is responsible for reporting any significant changes in the type, intensity, amount or location of the land uses and activities, days and hours of operation, size or location or other operational characteristics of said uses and activities authorized under this CUP to the Village Planner.
2. All temporary and permanent exterior signs require a permit and shall comply with all current sign regulations. Off-premise advertising and directional signage is regulated by the Village and requires a permit if/when allowed.
3. In the event the Village receives complaints regarding noise negatively affecting the nearby residential neighborhood and adjacent properties, including but not limited to noise from truck-mounted backup alarms, the Owner/Operator shall work cooperatively with the Village to mitigate the noise and resolve the issue. The Owner/Operator shall implement the measures and practices described in the application and supporting documents to mitigate noise, dust and traffic impacts on the surrounding area on a continual basis.
4. Site improvements, buildings, shelters, parking areas, signage, exterior lighting and any other improvements on the property that benefit the vehicles, equipment, materials, employees, and/or customers of or are necessary for the land uses and activities authorized under this CUP shall be reviewed and approved by the Village through the Zoning Permit or Site Plan application process as determined by the Village Zoning Administrator. If required, Site Plan review and approval will include Plan Commission review and approval.
5. The area leased to MSTLC/Total Lawn Care for purposes of parking and storage of vehicles and equipment shall be visually buffered in some manner from the residential properties to the north, west and south. This requirement is not intended to require a complete opaque visual screen, but rather a buffer comprised of either landscape plantings and trees, fencing, berming or a combination, that lessens the impact of viewing commercial vehicles that are primarily used by and for the MSTLC/Total Lawn Care business and not the tree nursery. A detailed grading and landscape plan for the required visual buffer and the "landscape burm" shown in the Site Plan shall be prepared and submitted to the Village Planner for review and approval within six (6) months after issuance of the CUP.
6. No inoperable vehicles, trailers, equipment, junk or trash that may negatively affect the nearby residential areas and adjacent properties shall be kept on the property.

Village Planner Recommendation *(cont.)*

7. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
8. Residential or other non-agricultural uses not permitted “by right”, as an accessory use or authorized under this CUP may constitute a violation of the Village’s Zoning Code or this CUP.

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 17, 2019

AGENDA ITEM: Public Hearing & New Business **[CONDITIONAL USE PERMIT]**

ITEM TITLE: Dan Barnes, Agent for Heritage Park Development Corp., and John & Mary Barnes, Property Owners & Developer of the Heritage Park North Subdivision. Conditional Use Permit (CUP) to Allow Development within a 25' Wetland Setback.

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

SUMMARY EXPLANATION:

Dan Barnes and Heritage Park Development Corp., agents for John and Mary Barnes, are requesting approval of a Conditional Use Permit (CUP) to allow grading and filling within a 25' wetland setback as part of developing the 35-lot, 33-acre single-family residential development called "Heritage Park North" located east of Division Road and north of Revere Lane.

As discussed in April, the Developer has since received WisDNR approval to fill three of four wetlands within the property (Wetland W-1 and W-4 were found to be "artificial" and not subject to regulation). With respect to the filling of Wetland W-3, WisDNR approval requires the Developer to provide mitigation for the amount of filling over 10,000 sqft through the purchase of "credits" from a WisDNR-approved wetland mitigation bank. The attached affidavit indicates that Heritage Park Development Corp. has purchased the required wetland credits from the Wolf River Basin Wetland Mitigation Bank.

The CUP is required in order to allow grading and filling into approximately 50,900 sqft (1.17 acres) of the 25' wetland setback area that extends around the largest wetland area (Wetland W-2) on the site. All of the disturbed area will be re-graded and seeded with native, wetland-friendly seeding as detailed in the Wetland Setback Compensation Plan (dated June 3, 2019).

PLAN COMMISSION RECOMMENDATION:

APPROVE the requested conditional use permit for encroachment into the required 25-foot setback from an identified wetland including 435 square feet of permanent encroachment for the entrance road to the Heritage Park North Subdivision and approximately 50,465 square feet of temporary encroachment for grading for stormwater management and the construction of an equalizer pipe within the wetland area to connect two stormwater basins subject to four (4) conditions.

APPLICATION, PLANS & RELATED DOCUMENTS:

All relevant documents, including applications, plans, supporting information, the staff report & recommendation, and Plan Commission meeting minutes (when available) are included in the PDF digital file distributed by the Village Clerk.

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

Whereas the Applicant:

Heritage Park Development Corp., Property Owner

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

Now, therefore, this permit is issued to the Applicant to permit the to allow development within the 25' wetland setback areas as presented in the Heritage Park North Preliminary Subdivision Plat and exhibits contained in the Wetland Setback Compensation Plan dated June 7, 2019, pursuant to Section 24.04 of the Shoreland-Wetland Zoning Code.

Name & Return Address:

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

Parcel Identification No:

GTNV 342-426**On the following described property located in the Village of Germantown, Washington County, Wisconsin:**

All of Lot 6 of Heritage Park being a redivision of Parcel 2 of CSM 2895, Being part of the SW $\frac{1}{4}$, SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 34, Township 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, Containing 30.65 acres more or less.

Tax Key No: GTNV 342-426

Pursuant to the following condition(s):

1. The Stormwater Management Plan and the Construction Plans must be approved by the Village Engineer.
2. Prior to any grading, the boundary of the wetland must be staked and marked with orange construction fencing. All erosion control measures shall be installed outside of the construction fencing. There shall be no grading work or heavy equipment inside the designated wetland areas.
3. Restoration work shall be completed and wetland impact shall not exceed that submitted in the application and supporting information dated June 3, 2019.
4. SEH and Heritage Park Development Corporation shall monitor the site as needed and submit a letter/report to the Village to provide an update on the status of the restoration work and what, if any additional measures will be taken to ensure the successful restoration of the area. The letter/report shall be submitted annually beginning July 2020 for three (3) years.
5. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities or uses which causes problems or harmful effects that were not anticipated at the time of approval of this CUP, the conditional use permit may be modified or terminated by the Village Board by the amendment to or addition of conditions after public hearing thereon.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin
on the ____ day of _____, 2019.

ATTEST:

Dean Wolter, Village President

_____, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this ____ day of _____, 2019, the above
named Dean Wolter, Village President, and _____, Village Clerk, to me
known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

The following named person, who is authorized to represent Heritage Park Development Corp., Property Owners, hereby accepts the terms and conditions set forth in this Permit, and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2019

{type or print name on this line}

{signature on this line}
Agent for Heritage Park Development Corp.

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2019, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

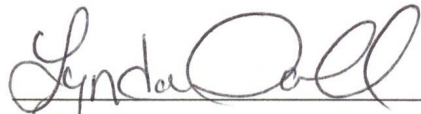
Notary Public, State of Wisconsin
My Commission Expires: _____

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

Affidavit of Bank Credit Purchase –Wolf River Basin Mitigation Bank

Applicant Information	
Name: Heritage Park Development Corp.	
Address: W147 N9838 Rimrock Road Germantown, WI 53022	
Phone: (262) 893-5444 Contact Name: Dan Barnes	
Project Summary	
Brief Description of Project	Bittersweet Trail/Heritage Park Artificial Wetland Exemption
Acres of Wetland Impact by Wetland Cover Type	0.10 Shrub-Carr impacts
Permit numbers from all agencies requiring mitigation.	Wisconsin Dept. of Natural Resources: #EXE-SE-2018-67-02717
Location of Wetland Impacted	
County	Washington County
BSA	Southwestern Lake Michigan
Latitude/Longitude	Wetland 1 - Latitude 43.202279; Longitude -88.118175 Wetland 4 - Latitude 43.202433; Longitude -88.118199
Township/Range & 1/4-1/4 Section	SW 1/4-NW 1/4, Sec. 34, T09N, R20E, Village of Germantown
Compensation Details	
Replacement Ratio by wetland cover type	0.10 Shrub-Carr impacts @ 1:1 = 0.10 credits
Number of credits of each wetland cover type being purchased	0.10 Shrub-Carr credits

1. I certify that Heritage Park Development Corp. has purchased 0.10 wetland compensatory mitigation credits from the Wolf River Basin Wetland Mitigation Bank.


Applicant Signature

5-30-19
Date

2. I certify that the Wolf River Basin Wetland Mitigation Bank has sold 0.10 wetland compensatory mitigation credits to Heritage Park Development Corp. and that such debit has been noted in the bank's accounting system.


Bank Sponsor Signature

6-1-19
Date

CONDITIONAL USE PERMIT

6/10/19 Plan Commission Meeting

Heritage Park Development Corporation

Village Planner Report

Germantown, Wisconsin

Summary

Dan Barnes, on behalf of Heritage Park Development Corporation, is requesting a Conditional Use Permit to permanently encroach within the required 25' setback from the identified wetlands for grading of stormwater management facilities in the Heritage Park North Subdivision.

Property Location: Heritage Park North Subdivision

Applicant: Dan Barnes
Heritage Park Development Corporation
W147 N9838 Rimrock Road
Germantown, WI 53022

Existing Zoning: **Rs-5: Single-family Residential** (w/ Shoreland-Wetland Overlay Zoning on portions of property within designated wetlands)

Adjacent Land Uses		Zoning
North	Residential	Rs-2 & Rs-5
South	Residential	Rs-4 & Rs-5
East	Residential	Rs-4 & Rs-5
West	Residential	Rs-2 & Rs-4



History

The property to be Heritage Park North Subdivision was rezoned from Rs-4 Single-Family Residential to Rs-5 Single-Family Residential in August of 2018. The preliminary plat for the Heritage Park North Subdivision was approved by the Village Board on April 15, 2019. One condition of approval for the preliminary subdivision plat included: *The Developer shall obtain a conditional use permit (CUP) and prepare a setback mitigation plan for any development that encroaches into a 25' wetland setback. Setback mitigation required under the Village's 25' Shoreland-Wetland Code wetland setback requirement is different than and in addition to the wetland mitigation required to satisfy the WisDNR's wetland filling permit requirements.*

Proposal

Heritage Park Development Corporation is requesting a Conditional Use Permit for encroachment into the required 25-foot setback from an identified wetland. The request is for 435 square feet of permanent encroachment for the entrance road (Tanglewood Drive) to the Heritage Park North Subdivision and approximately 50,465 square feet of temporary encroachment for grading for stormwater management and the construction of an equalizer pipe within the wetland area to connect two stormwater basins.

The addition of the equalizer pipe is permitted without a building permit for "the maintenance and repair of existing drainage systems to restore pre-existing levels of drainage" under Chapter 24.04(3)(b). The proposed work within the wetlands must be approved through the Stormwater Management plan and construction plans by the Village Engineer.

Staff Analysis

Chapter 24.04(3)(c) of the Village's Shoreland-Wetland Zoning Code requires an approved Conditional Use Permit to encroach within the required 25-foot setback of from wetlands.

All development within the 25' wetland setback must provide additional protection in the form of a vegetative buffer or compensation for the amount of area disturbed within the setback areas in a ratio of 1:1 for "horizontal" development or 2:1 for "vertical" development.

As described in the application narrative and tables, there will be a total of 50,900 square feet of encroachment within the 25' wetland setback, 12,145 square feet of which will be a change in grade greater than 3' (vertical development). The total required compensation area is 63,045 square feet. The Compensatory Mitigation Plan includes 1) seeding all graded areas with a native species mix; and 2) debris (concrete, asphalt, tires, etc.) removal from within the wetland boundaries. These areas will also be seeded with a native species mix, as indicated in the application narrative. The proposed compensation meets the requirements of Chapter 24.04(3)(c).

As shown on application Exhibits No. 2 and No. 3, much of the 25' setback area will be graded, including areas up to the boundary of the wetland. Due to the minimal to no setback from the wetland boundary, Village Staff is recommending a condition which will require the staking of the wetlands and the installation of construction fencing along the

wetland boundary. Required erosion control measures (i.e. silt fence) must be placed outside the wetland boundary, beyond the construction fencing to prevent sedimentation runoff into the wetland area.

Village Planner Recommendation

APPROVE the requested conditional use permit for encroachment into the required 25-foot setback from an identified wetland including 435 square feet of permanent encroachment for the entrance road to the Heritage Park North Subdivision and approximately 50,465 square feet of temporary encroachment for grading for stormwater management and the construction of an equalizer pipe within the wetland area to connect two stormwater basins subject to the following conditions:

1. The Stormwater Management Plan and the Construction Plans must be approved by the Village Engineer.
2. Prior to any grading, the boundary of the wetland must be staked and marked with orange construction fencing. All erosion control measures shall be installed outside of the construction fencing. There shall be no grading work or heavy equipment inside the designated wetland areas.
3. Restoration work shall be completed and wetland impact shall not exceed that submitted in the application and supporting information dated June 3, 2019.
4. SEH and Heritage Park Development Corporation shall monitor the site as needed and submit a letter/report to the Village to provide an update on the status of the restoration work and what, if any additional measures will be taken to ensure the successful restoration of the area. The letter/report shall be submitted annually beginning July 2020 for three (3) years.



Village of



Fee must accompany application

☐ \$1460 Paid _____ Date _____

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

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

1 APPLICANT OR AGENT

Dan Barnes

W147 N9838 Rimrock Road

Germantown, WI 53022

Phone (262) 893-5444

Fax (262) 250-9738

E-Mail danbarnes20@yahoo.com

PROPERTY OWNER

John and Mary Ann Barnes

Heritage Park Development Corp.

3336 Lake Drive

Hartford, WI 53022

Phone (262) 893-5444 Dan Barnes

414-217-4499 Lyn Doll

2 TO WHOM SHOULD THE PERMIT BE ISSUED?

Heritage Park Development Corp.

3 PROPERTY ADDRESS

30.66 Acres East of Tanglewood Dr, South of Larkspur Lane
West of Confluent Trail, North of Reserve Lane

TAX KEY NUMBER

GTNV-342426

4 DESCRIPTION OF EXISTING OPERATION

Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages as necessary.

Vacant Lands/Wetland

5 DESCRIPTION OF PROPOSED OPERATION

Write the name of the proposed conditional use exactly as it appears in the Municipal Code.

Shoreland-Wetland Zoning Code, Section 24.06(4)

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations.

Grading within 25' of Wetlands and reestablishing with native grasses

METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY — REQUIRED

6

Attach pages as necessary.

SW 1/4, SE 1/4, and NE 1/4 of the NW 1/4 of Section 34,
T9N, R20E, Village of Germantown, Washington County, WI.

SUPPORTING DOCUMENTATION:

7

- ☒ Site plan and elevations for new construction (can be conceptual)
- ☐ Photos of existing use and/or proposed use operating elsewhere

☐

☐

READ AND INITIAL THE FOLLOWING:

8

DJB I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.

DJB I will notify the Village if any aspect of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.

DJB I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

SIGNATURES — ALL APPLICATIONS MUST BE SIGNED BY OWNER!

9

DJB
Applicant

5-5-2019
Date

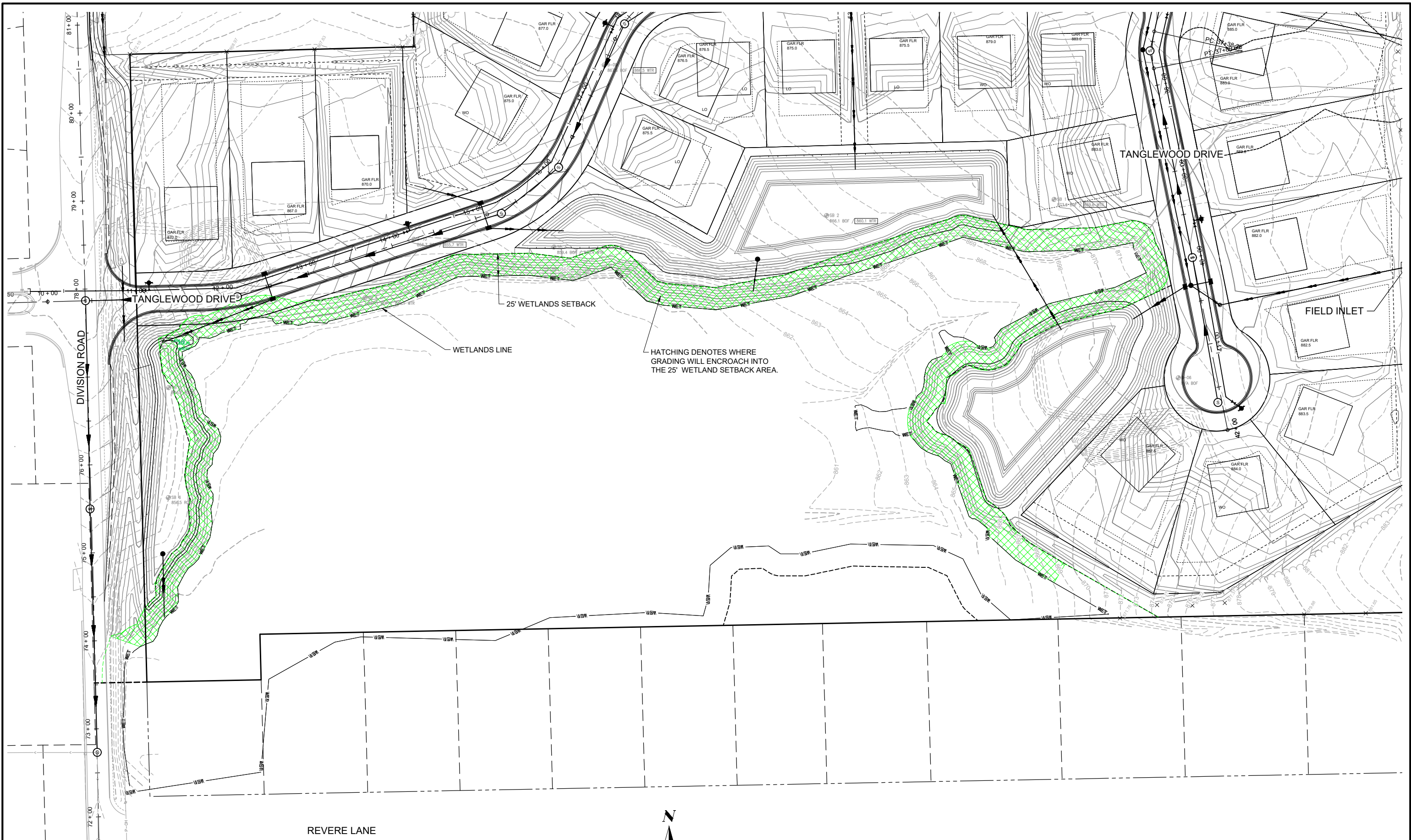
Owner

Mary Ann Barnes

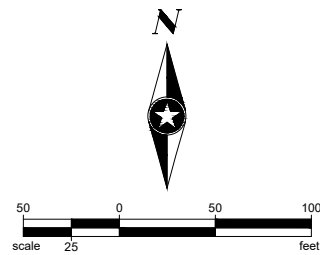
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REVERE LANE



PHONE: 262.646.6855
501 MAPLE AVENUE
DELAFIELD, WI 53018
www.sehinc.com

FILE NO.
149049

DATE:
5/2/2019

**WETLAND SETBACK EXHIBIT
HERITAGE PARK NORTH
VILLAGE OF GERMANTOWN, WI**

**EXHIBIT
NO. 1**

Native Landscaping Mix - 25' Buffer

#SWB

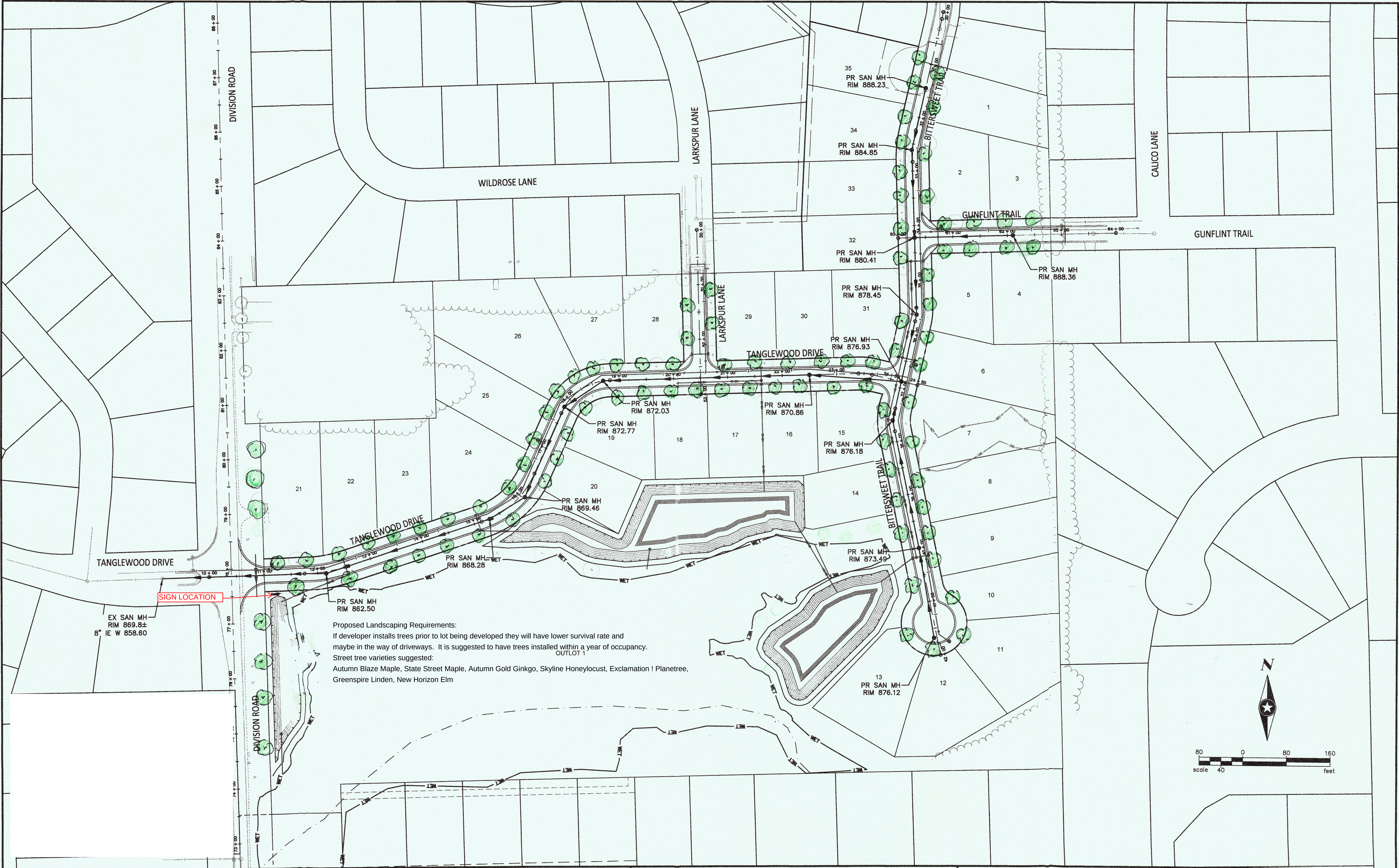
Wet Mesic to Mesic

Full Sun

Wildflowers		Oz/Acre
Alisma subcordatum	Mud Plantain	1.00
Asclepias incarnata	Marsh (Red) Milkweed	2.00
Aster novae-angliae	New England Aster	1.00
Cassia hebecarpa	Wild Senna	6.00
Eupatorium maculatum	Spotted Joe Pye Weed	0.50
Eupatorium perfoliatum	Boneset	0.50
Helianthus grosseserratus	Sawtooth Sunflower	0.75
Liatris spicata	Marsh Blazing Star	1.50
Mimulus ringens	Monkey Flower	0.15
Monarda fistulosa	Wild Bergamot	1.25
Parthenium integrifolium	Wild Quinine	2.00
Penthorum sedoides	Ditch Stonecrop	0.10
Pycnanthemum virginianum	Mountain Mint	0.50
Rudbeckia hirta	Black-Eyed Susan	2.00
Rudbeckia subtomentosa	Sweet Black-Eyed Susan	2.00
Silphium perfoliatum	Cup Plant	4.00
Solidago riddellii	Riddell's Goldenrod	1.00
Verbena hastata	Blue Vervain	2.00
Vernonia fasciculata	Ironweed	1.50
Grasses, Sedges, & Rushes		Oz/Acre
Carex grayi	Common Bur Sedge	4.00
Carex lupulina	Common Hop Sedge	2.00
Carex vulpinoidea	Brown Fox Sedge	1.00
Elymus virginicus	Virginia Wild Rye	32.00
Glyceria striata	Fowl Manna Grass	2.00
Juncus dudleyi	Dudley's Rush	0.50
Leersia oryzoides	Rice Cut Grass	8.00
Panicum virgatum	Switchgrass	4.00
Poa palustris	Fowl Bluegrass	6.00
Scirpus atrovirens	Dark-Green Bulrush	0.50
Scirpus cyperinus	Wool Grass	0.25
Scirpus validus	Great Bulrush	2.00
Spartina pectinata	Prairie Cordgrass	4.00

List based on data obtained from: Agrecol Native Seed & Plant Nursery

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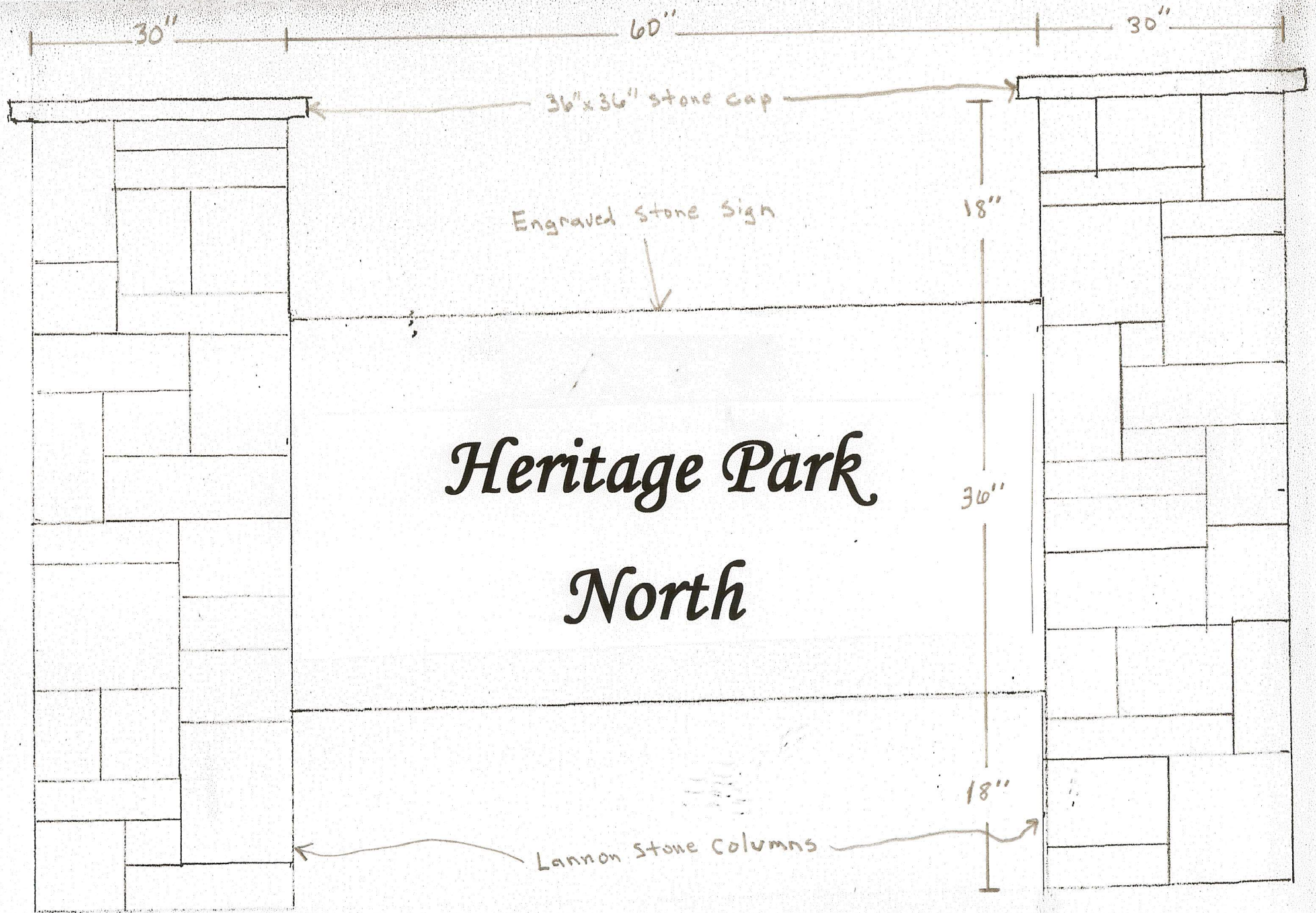
Proposed Landscaping Requirements:
If developer installs trees prior to lot being developed they will have lower survival rate and maybe in the way of driveways. It is suggested to have trees installed within a year of occupancy.
Street tree varieties suggested:
Autumn Blaze Maple, State Street Maple, Autumn Gold Ginkgo, Skyline Honeylocust, Exclamation ! Planetree, Greenspire Linden, New Horizon Elm

REVISIONS			
NO.	BY	DATE	

Completed by:
Wendland Landscape Services, Inc.

HERITAGE PARK NORTH
VILLAGE OF GERMANTOWN, WI

PRELIMINARY LANDSCAPING





Wetland Setback Compensation Plan

Heritage Park North Subdivision

Germantown, WI

149049 | June 3, 2019



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June 3, 2019

RE: Heritage Park North Subdivision
Wetland Setback Compensation Report
Germantown, WI
SEH No. 149049 4.00

Mr. Jeffrey W. Retzlaff, Village Planner & Zoning Administrator
Village of Germantown
N112 W17001 Mequon Road
Germantown, WI 53022-0337

Dear Mr. Retzlaff:

Enclosed please find the Wetland Setback Compensation Plan that was requested in your letter to Mr. Dan Barnes dated May 28, 2019 for the Heritage Park North Subdivision. Your letter was in response to our application for a Conditional Use Permit (CUP) application for grading within the 25-foot wetland buffer area. This report addresses your request for more detailed information regarding the areas affected, the proposed compensation, and the planting locations.

If you have any questions, please feel free to contact Tracy at 414-949-8978/tpinkowski@sehinc.com, or Heidi at 414-949-8988/hkennedy@sehinc.com.

Sincerely,

Tracy L. Pinkowski, PE, PH
Senior Professional Engineer II
(Lic. WI, IL)

Heidi Kennedy
Natural Resources Scientist

q:\fjh\herpd\149049\5-final-dsgn\wetland setback impact report\149049-wetland setback impact report.doc

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 501 Maple Avenue, Delafield, WI 53018-9351

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INTRODUCTION:

The Heritage Park North Subdivision is approximately a 39-acre parcel, all of which will be developed into a single-family residential subdivision. The proposed development is located east and along Division Road, adjacent to Tanglewood Drive, in the Village of Germantown, Washington County, Wisconsin. The subdivision flows to an unnamed tributary (WBIC #5034040) in the Menomonee River Watershed (WBIC #16000).

The majority of the property to be developed is currently fallow, however, it also has one large 7.4 acre wetland on the south side of the property, and three other small wetlands. The four wetlands are shown and numbered in Exhibit 1, Wetland Boundary Map. The project site is bordered by Division Road on the west, the Country Meadow West Subdivision to the north, and Pebblebrook Estates Subdivision to the east, and Heritage Park Subdivision to the south. The soils found on the site are entirely Type-C soils classified as Ozaukee Silt Loam from the Natural Resource Conservation Service (NRCS) soil survey for Washington County.

The proposed development will contain 35 single-family lots ranging in size from 1/3 acre to over 1/2 acre. In addition, the development will contain three outlots, which will be used as storm water detention facilities. These basins are shown on Exhibit 2. Basin 1 will be a dry detention basin. Basin 2 and 3 will be wet detention basins, connected with a 12" equalizer pipe. All detention basins ultimately discharge to the 7.4 acre wetland (W-2).

The large wetland, W-2 is federally and state regulated and no filling activities are proposed. Grading activities will be limited to the 25' buffer area and minor temporary construction activities. Wetland number W-3 is only state regulated and the WDNR is processing a non-federal wetland exemption and impacts will be mitigated by purchasing credits from a private wetland mitigation bank. Wetland W-1 and W-4 have been designated exempt artificial wetlands by the WDNR and Army Corps of Engineers and are not regulated. Therefore, W-1 and W-4 will be filled as part of this project.

Due to site constraints and the Village's desire to have the entrance road match up with Tanglewood Drive, these slight impacts to the wetland setback area were unavoidable.

25-FOOT WETLAND SETBACK IMPACTS:

The majority of the wetland setback impacts are related to creating a berm and grading between the wetland W-2 and the 3 detention basins. The areas will be completely restored with a native plant landscaping mix once construction is complete. There is also a very small area of permanent encroachment from the entrance road that was unavoidable due to the Village's desire for the location of the entrance road into the subdivision. The grading adjacent to the road in the impact area will also be completely restored with a native plant landscaping mix. The last small area of impact is within wetland W-2 and will be temporarily disturbed to construct the equalizer pipe between wet detention basins 2 and 3. This area will be completely restored with a native plant landscaping mix as well. The impact areas, including vertical and horizontal areas, are shown in Exhibit 2 and summarized in Table 1 below.

Table 1. Wetland Setback Impact Areas

Encroachment Type	Encroachment Area (sf)	Compensation Ratio	Required Compensation area (sf)
Green Space (Grading impact) – horizontal development, $\leq 3'$ grade change	36,145	1:1	36,145
Green Space (Grading impact) – vertical development, $> 3'$ grade change	12,145	2:1	24,290
Impervious surfaces – horizontal development, $\leq 3'$ grade change	435	1:1	435
Temporary impact for sewer construction	2,175	1:1	2,175
Totals	50,900	--	63,045

COMPENSATORY MITIGATION PLAN:

The majority of the required compensation as shown in Table 1, will be accomplished with restoring the impacted areas as previously mentioned. The additional small areas needed due to the 2:1 ratio and the impervious area will be compensated by removing debris along the slopes adjacent to and within wetland W-2 as shown on Exhibit No. 3. The debris was placed historically within the wetland. Areas disturbed with the removal of debris and the disturbance of the storm sewer construction will be replanted with native species. Areas are shown in Exhibit 3 and are summarized in Table 2 below.

Table 2. Wetland Setback Compensation

Encroachment Type	Required Compensation area (sf)	Actual Compensation area (sf)
Green Space (Grading impact) – horizontal development, $\leq 3'$ grade change	36,145	36,145
Green Space (Grading impact) – vertical development, $> 3'$ grade change	24,290	12,145
Impervious surfaces – horizontal development, $\leq 3'$ grade change	435	0
Temporary impact for sewer construction	2,175	2,175
Debris removal and restoration area	0	12,580
Totals	63,045	63,045

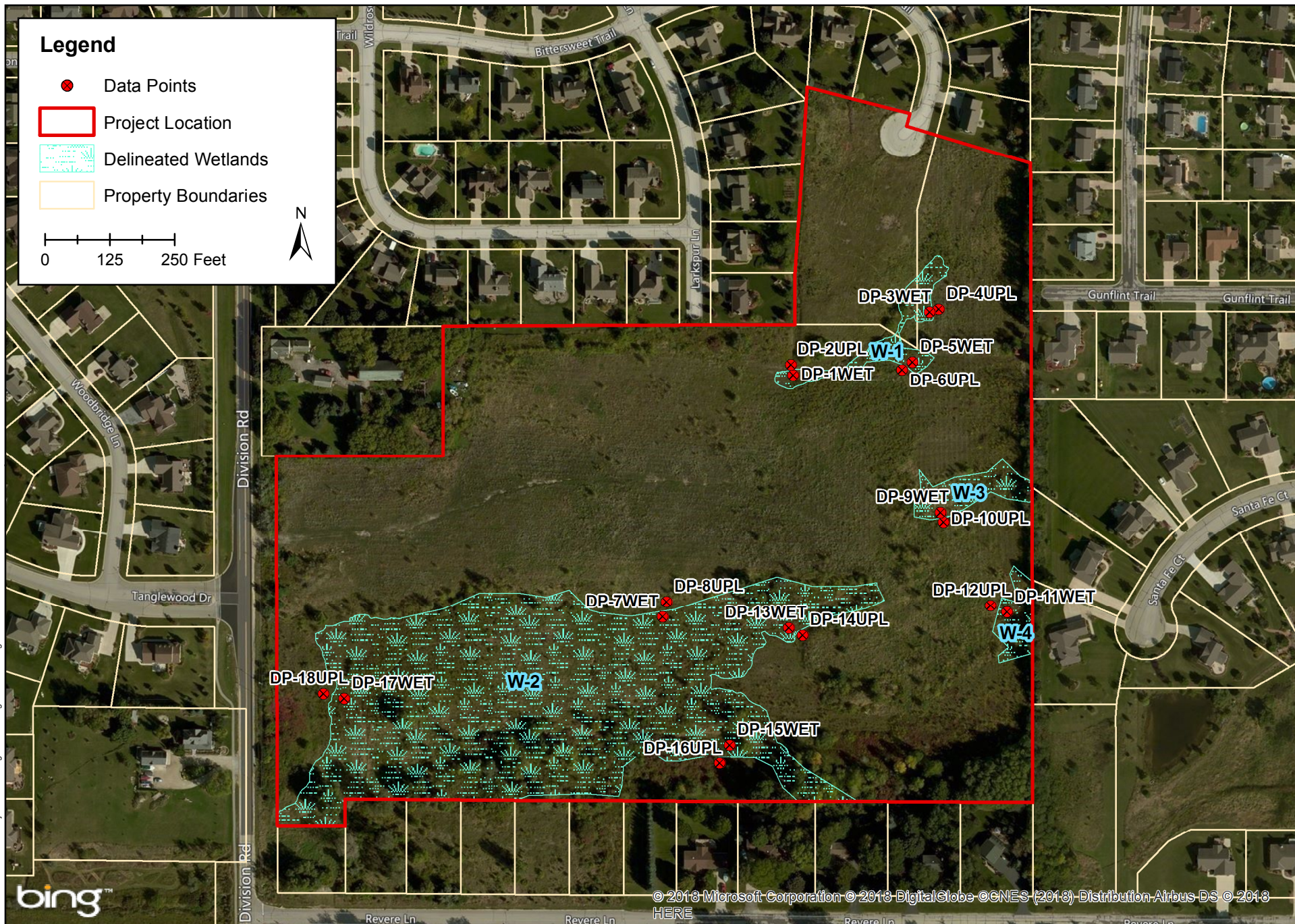
CONCLUSION:

The calculations presented in this report satisfy the Village of Germantown's requirements for wetland setback impacts. This plan will also assist in removing debris and restoring the wetland to its natural condition. This will improve the overall native biodiversity of the wetland and overall wildlife habitat as compared to its current condition.

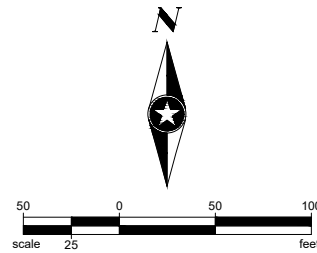
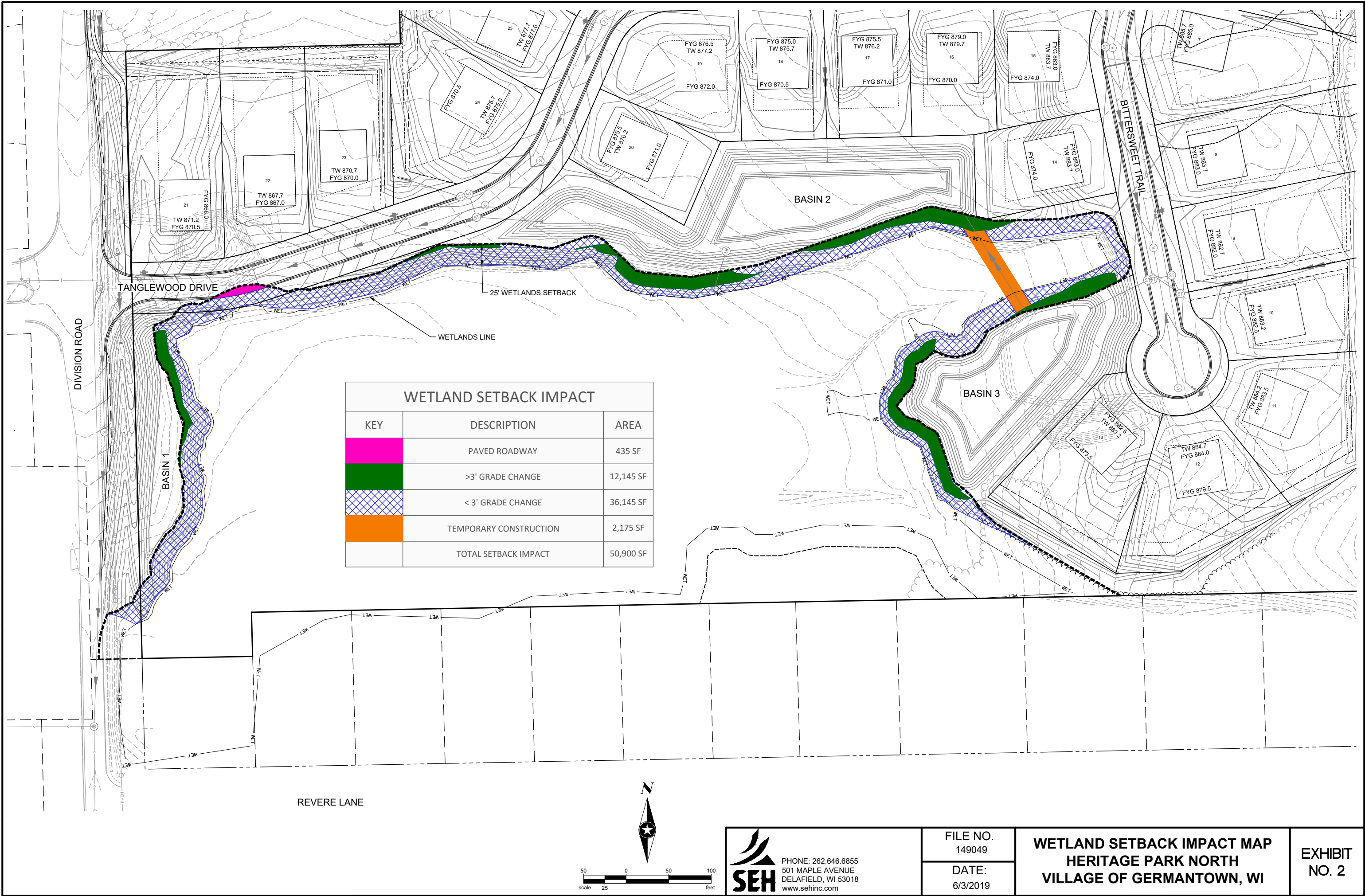
Appendix A

Exhibits:

- Exhibit 1. Wetland Boundary Map
- Exhibit 2. Wetland Setback Impact Map
- Exhibit 3. Wetland Setback Impact Compensation Map



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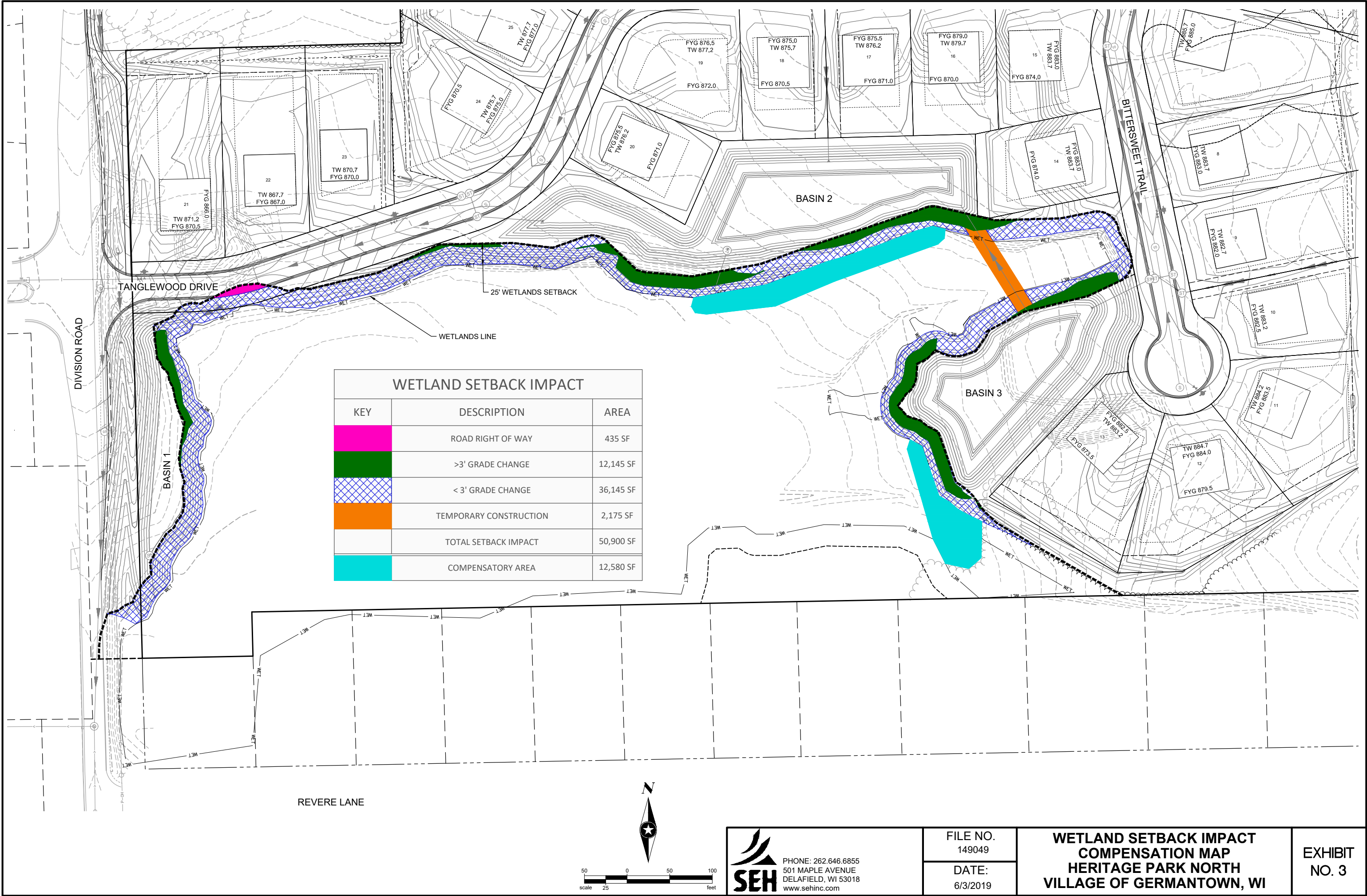
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PHONE: 262.646.6855
501 MAPLE AVENUE
DELAFIELD, WI 53018
www.sehinc.com

FILE NO.
149049
DATE:
6/3/2019

WETLAND SETBACK IMPACT MAP
HERITAGE PARK NORTH
VILLAGE OF GERMANTOWN, WI

EXHIBIT
NO. 2

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Matthew W. O'Neill
mwoneill@foslaw.com

June 5, 2019

VIA EMAIL

Deanna Braunschweig, Village Clerk
Village of Germantown
N112 W17001 Mequon Rd.
Germantown, WI 53022

Re: *Request for Conditional Use Permit – Dan Barnes, Agent for John & Mary Ann Barnes & Heritage Park Development Corp., Property Owners (Tax Key #GTNV 342-426)*

Dear Ms. Braunschweig:

Our firm represents Kathy Coakley, a resident of Germantown who resides on Sante Fe Court and whose property abuts the proposed Heritage North Development. We are submitting this letter in advance of the June 10, 2019 Plan Commission hearing, at which the Commission will be considering the above-referenced Application for a Conditional Use Permit (“CUP”).

Ms. Coakley hereby registers her objection to the CUP Application, and urges the Commission to reject the Application, for the reasons stated below. The stated reasons should not be considered all-inclusive, and Ms. Coakley may identify additional issues with the proposed development.

1. The Scope of the Encroachment on the Wetland Setback Area is Absolute.

The Village requires a minimum setback area of 25’ from any identified wetland and does not allow any development or other disturbance within that 25’ setback zone without a conditional use permit. See Germantown Ord. § 24.04(3)(c). The purpose of the setback requirement is to prevent impingement on the existing wetlands in order to protect the environment and storm water management. For this reason, the Commission at its April 8, 2019 meeting required that:

“The Developer shall obtain a conditional use permit (CUP) and prepare a setback mitigation plan for any development that encroaches into a 25’ wetland setback. Setback mitigation required under the Village’s 25’ Shoreland-Wetland Code wetland setback requirement is different than and in addition to the wetland

mitigation required to satisfy the WDNR's wetland filling permit requirements."

As reflected in the Wetlands Setback Exhibit attached to Heritage North's CUP Application, the developer is proposing to conduct grading activities on ***the entirety of the 25' setback area*** on the western, northern and eastern boundaries of the wetlands. This is not a minor encroachment, but rather the developer proposes to negatively impact the entirety of the setback area. Nothing is spared. For this reason alone, the proposed CUP should be denied.

2. The Proposed "Compensation" for the Encroachment on the Wetland is Legally Inadequate.

According to Heritage North's CUP Application, the developer proposes "grading within 25' of wetlands and reestablishing with native grasses." The Application includes a list of "native landscaping mix," but gives no indication of how the "native grasses" will compensate for the harm to the required minimum wetland setback area.

This single sentence does not constitute a "setback mitigation plan" as required by the Commission's April 8, 2019 vote. Nor does the Application indicate the ratio of the compensation, whether the encroachment is both horizontal and vertical, and whether the proposed installation of "native grasses" is intended to or will leave the wetlands and the 25' setback area in the same condition they were in prior to the proposed grading activities.

Under Germantown § 24.04(3)(c)(5), a property owner like Heritage North who proposes to engage in development activities within a wetland setback area is required, among other things, to demonstrate that it is providing a "vegetative buffer and/or compensation for the area affected by the development, up to or at the ratios set forth in Table 1." For a wetland area such as that at issue here, a horizontal development requires a compensation ratio of 1:1, while a vertical development requires a compensation ratio of 2:1. It is unclear whether there will be any vertical development within the setback area, but it does appear that at least one portion of the extended Tanglewood Drive will run through the wetland setback area and therefore involve a vertical change.

Under Wis. Admin. Code Ch. NR 350, developers must take concrete steps in order to properly compensate for developments that impact identified wetlands. "Compensation" is defined to mean "the restoration, enhancement or creation of wetlands expressly for the purpose of compensating for unavoidable adverse impacts that remain after all appropriate and practical avoidance and minimization has been achieved." Nothing the developer is proposing to do is "unavoidable" – all adverse impacts could be avoided by reducing or discontinuing the development. Section NR 350.03(25) defines "restoration" to mean "a technique involving the reestablishment of historic wetland conditions and functions, to the maximum extent practicable, at a site where they have ceased to exist, which can include focus on reestablishing hydrologic conditions, plant communities, land contours and surrounding land conditions." The Application's reference to reestablishing with "native grasses" does not meet this standard.

It thus is apparent that the CUP Application as presented is legally deficient under the applicable ordinance and DNR regulations.

3. The Potential for Increased Runoff is Not Addressed.

Another concern created by comprehensive grading activities within a wetland setback area is the potential for increased runoff into the wetlands, which could impair their function. This is why Section NR 350.05(5) requires that “compensation sites shall include a zone of vegetative upland adjacent to the wetland that the Department determines is adequate to filter run-off entering the wetland.” Heritage North’s CUP Application does not reflect any intent to create a vegetative upland area in order to prevent increased run-off into the wetland from its grading activities. Rather, the Application’s reference to “native grasses” reflects an intent to short-cut any substantive analysis of the potential problems caused by the proposed wholesale impingement of the entire setback area.

4. The Proposed CUP is Inconsistent with Multiple Aspects of Germantown’s Existing Comprehensive Growth Plan.

Germantown invested significant resources to develop the 2020 Smart Growth Plan (“Comprehensive Plan”) to establish the Village’s long-range goals for growth and development. The proposed Heritage North Conditional Use Permit is inconsistent with a number of the stated long-range goals in that carefully crafted plan. Ms. Coakley urges the Plan Commission and the Village Board to take this under careful consideration as it considers this current CUP Application and any future aspects of the proposed development.

a. Harm to environmentally sensitive land. The first stated long-range goal in the Comprehensive Plan regarding Housing identifies that in order to maintain high quality residential neighborhoods that are safe and attractive, the Village should require landowners to pursue a master plan for residential developments, and to ensure that “environmentally sensitive land should be protected.” The parcel under consideration for the Heritage North Development includes a large wetland area, the largest in the immediate area. The development, as set forth in the rezoning and the CUP Application, will fill in three smaller wetland areas and literally disturb, regrade and reshape every inch of the setback area of the large wetland. There is no effort to protect the environmentally sensitive area, but rather an apparent attempt to develop every inch that is not specifically meted out as a wetland.

b. Negative impact on storm water management. Goal No. 1 regarding Utilities and Community Facilities urges the “respect for the natural environment” and notes an intent to “discourage development within the environmental corridors as a component of storm water management.” The developer has apparently received an exemption to fill in two and possibly three existing wetlands (deemed “artificial,” but wetlands nonetheless). The development thus appears to present the risk of straining the existing municipal infrastructure and compromising the viability of the overall storm water management functions in the neighborhood. This presents obvious risks to all existing homes in the area. Given the recent spate of extraordinary storm events in our area and around the country, and the critical importance of a robust storm water management system to avoid basement backups and flooding, this is a critical issue.

c. **Reduce quality wetlands.** Goal No. 1 in the Comprehensive Plan section regarding Agricultural, Natural and Cultural Resources is to promote the preservation of existing natural resources, including discouraging “site development that would remove or reduce the extent of quality wetlands and woodlands.” The Heritage North Development proposes to eliminate several existing wetlands, and to engage in development activity right up to the very border of a substantial wetland, including grading activities within the entire 25-foot setback area.

5. Overdevelopment and the Potential for Abandoned or Vacant Lots.

Another one of the stated goals of Germantown’s Comprehensive Plan is to “coordinate timing of subdivision creation and housing developments so that there is a balance between the market demand for housing and the supply of available housing in the Village.” (Housing Goal No. 3). The Comprehensive Plan further delineates that the Village should regulate the manner in which residential units are improved “to insure there is not an excessive amount of vacant or undeveloped residential housing units.” Heritage North, if approved, would be the fourth residential development approved by the Village within the last 24 months. The Village has already given its nod of approval to the Wrenwood Development (142 residential lots plus 60 multi-family units), the Harvest Hills Development (37 residential lots) and the Germantown Acquisition Development (17 residential lots). There are thus 196 proposed new residential lots currently slated for development in Germantown, plus the Wrenwood multi-family units. Heritage North would add another 33 to 35 potential residential lots to be developed. Ms. Coakley is unaware of any credible Feasibility Study to support this extraordinary level of development in such a short span of time.

This rapid overdevelopment creates a substantial risk of exactly what Goal No. 3 of the Comprehensive Plan was intended to prevent – the potential for vacant and undeveloped residential housing units adding a blight to the landscape. Ms. Coakley’s fear is that this development could proceed through initial stages of disturbing the existing peaceful landscape, including the extraordinary impingement upon the wetland setback area, and then be abandoned for lack of investment by new home owners, leaving behind a half-developed wasteland filled with attractive nuisances. At a minimum, the situation calls for the Village to hit the pause button to ensure any additional residential development – on top of the hundreds of residential lots and multi-family units already in process – is warranted by a documented level of demand.

6. The Proposed Blasting Could Cause Great Harm to Nearby Properties Without Adequate Notice or Protection.

At the August 20, 2018 Village Board meeting, it was discussed that the proposed development would involve substantial blasting activity, given the stone formations underlying Germantown. Nearby homeowners questioned the Board about this and expressed concern for potential damages to their properties. The minutes of the meeting reflect that there were no soil borings available at the time, that blasting was a “common practice,” and that regulations concerning blasting would protect the “property owner and the blaster.” What about the nearby property owners, like Ms. Coakley and her neighbors? The potential harm to their foundations is paramount and seems to not have been considered seriously by the Commission or by the Board.

The applicable Wisconsin administrative regulations do not inspire confidence that the nearby homeowners will have adequate notice and the ability to protect themselves. Wis. Admin. Code SPS 307.41(1)(a) states as follows:

(1) Preblasting Survey.

- (a) At least 24 hours prior to initial blasting at a blast site, the blaster in charge shall make a reasonable effort to notify in writing or verbally all residents or owners of affected dwellings or other structures, as determined under sub. (2), that a blasting operation is to begin. The blaster in charge shall offer to perform a preblasting survey for the residents or owners. If a resident or owner requests a copy of the preblasting survey, the blaster in charge shall provide a copy for not more than the actual cost of the copy within 48 hours of the request. Except as provided under pars. (b) and (c), only one initial preblasting survey is required for a blast site.

As I read this regulations, Ms. Coakley and other nearby homeowners will get only 24 hours' notice of when blasting will commence, will have to request and pay for copies of a preblasting survey, and the preblasting survey itself can be provided 48 hours after the request, which would be after the blasting has already commenced. This makes little sense and appears to provide little to no opportunity for the homeowners to adequately protect themselves from potential damage to their properties from blasting activities. Indeed, any homeowner who is out of town at the time will get no real notice at all.

At a bare minimum, the Plan Commission and the Board should perform true due diligence to protect their constituents from potential harm from blasting activities. This would include demanding: (a) additional detailed information about proposed blasting; (b) detailed plans to provide adequate notice to nearby homeowners (far more than 24 hours); and (c) proof of insurance or other assets to compensate homeowners for any damage to their property from blasting activities. Simply noting that the regulations require a preblasting survey is not sufficient, when those regulations do not provide any substantive protection.

* * *

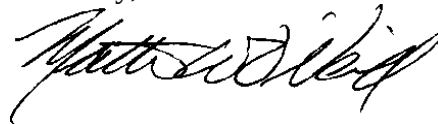
The immediate issue presented for the June 10, 2019 Plan Commission is the proposed Conditional Use Permit to allow the Heritage North developer to conduct grading activities on the entirety of the 25' wetland setback area that is within the development. In this regard, the Application fails to include the "setback mitigation plan" required by the Commission. The Application also fails to satisfy the applicable "compensation" requirements in Germantown Ord. § 24.04(3)(c) and Wis. Admin. Code NR 350.03 and 350.05. Even if a mitigation plan was included and addressed the compensation requirements of the ordinance and regulations, there are no "unavoidable adverse impacts," as such impacts could easily be avoided by reducing or

discontinuing the development. Moreover, the CUP Application fails to demonstrate adequate protection for the Village's storm water management system (as reflected in part by the City Engineer's March 5, 2019 Memo), and will, in conjunction with the removal of two or three other wetlands within the proposed development, cause undue harm to environmentally sensitive land.

In addition to these avoidable adverse impacts on the Village's wetland structure, the proposed development presents a clear and present danger of overdevelopment, given the spate of single-family developments approved in the past two years, and the potential harm to adjoining properties from blasting activities.

Given these serious and troubling issues, Ms. Coakley urges the Plan Commission and the Village Board to reject the CUP Application and to reject any further efforts to promote the Heritage North development. If the CUP is approved and the development is allowed to proceed, Ms. Coakley will consider and pursue all appropriate and available legal avenues available to her.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew W. O'Neill", written in a cursive style.

MATTHEW W. O'NEILL

MWO/kkn

cc: Kathy Coakley



Building a Better World
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June 6, 2019

RE: Heritage Park North Subdivision
CUP – Response to Citizen Concern
SEH No. 149049

Jeff Retzlaff, Community Development Director
Village of Germantown Community Development
N112 W17001 Mequon Road
Germantown, WI 53022

Community Development Director Retzlaff,

Thank you for forwarding on correspondence from the public regarding the Heritage Park Development Corporation request to grade within 25' of a wetland. With over 80 Year of experience in community planning and development, SEH's Natural Resource Scientist and other professionals understand the sensitivity of wetland setback areas and the value of improving these areas. We feel honored to have been asked by the Heritage Park Development Corporation to take part in the layout and design of 35 future home sites for Village of Germantown residents, and believe the natural landscape is a very important aspect of this project. We therefore offer the following information in response to Ms. Kathy Coakley, represented by Attorney Mathew O'Neill, with regards the reestablishment and improvements being proposed within the 25' wetland setback area.

1. Conditional Use Request – Grading and improvement of areas within 25' of a wetland.

Heritage Park Development Corporation is requesting review and approval by the Village of Germantown Plan Commission of grading and improvement to an area within 25' of a wetland. This is the **ONLY** matter being considered at this time since conceptual plans, rezoning, preliminary plat, and approval to fill artificial wetlands-wetlands on the site have been discussed, presented, and approved (when applicable) by Village Staff, Plan Commission, Village Board, the Wisconsin Department of Natural Resources and the Army Corp of Engineers over the past year. Therefore we respectfully request the Plan Commission consider the request at hand only under the auspices of the Village of Germantown Code of Ordinances.

Below is a reference to applicable sections within the Village of Germantown's Code of Ordinances regarding grading within 25' of a wetland:

Chapter 24.04(3) Uses which are allowed upon the issuance of a conditional use permit....:

Chapter 24.04(3)(c)(5) Development within the minimum required wetland and navigable water setback areas provided that additional protection, e.g. vegetative buffer, and/or compensation for the area affected by said development is provided....

Heritage Park Development Corporation has chosen a **vegetative buffer improvement** for the area within 25' of the wetland to allow grading activities. Further the developer is proposing to remove junk and debris from wetland areas and revegetate with native landscaping mix.

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 1701 West Knapp Street, Suite B, Rice Lake, WI 54868-1350
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2. Vegetative Buffer Improvement.

As a part of the approval of grading within 25' of a wetland, the applicant is required to propose a vegetative buffer to the wetlands. The 25' upland buffer is currently dominated with over 90% cover of non-native invasive species. The upland buffer consists of Kentucky Blue Grass, Red Fescue, Honeysuckle, Prickly-Ash, Hawthorn, Wild Parsnip, Bird's Foot Trefoil, Red Clover, Common Plantain, Canada Thistle and Dandelion. As you can see from the photo on the left, the slopes within the buffer are steep and the quality of the vegetation is low, providing little wildlife habitat, water quality, and natural scenic beauty. The photos on the right show examples of the proposed seed mix for this buffer during different times of the year.



Grading within the buffer to create more stable slopes and the removal of debris will improve native habitat within the wetland. The proposed seed mix is six times (6x) more diverse than the current vegetation. With a native seed mix and the grading of this buffer, wildlife habitat will be improved, runoff will be reduced into the wetland, and the buffer will provide natural scenic beauty to the current and future residents of the Village of Germantown.

3. Public Hearings & Public Involvement.

Heritage Park Development Corporation has been working with the Village of Germantown Staff on review and approval of the proposed subdivision since June of 2018. This has involved several publicly noticed meetings on the following dates:

August 13, 2018: Plan Commission – Rezoning and Conceptual Review (Approved)

August 20, 2018: Village Board – Rezoning and Conceptual Review (Approved)

April 8, 2019: Plan Commission – Preliminary Plat (Approved)

April 15, 2019: Village Board – Preliminary Plat (Approved)

As you can see, there has been ample opportunities for Ms. Coakley to express concerns to Village Staff, Village Plan Commission and Village Board members through an open public process or

individually. To date, we have not heard of any objection to the subdivision as proposed. To object to any portion of the project at this point would appear to be circumventing the entire reason for Village Staff, Plan Commission and Village Board review and approval of a project.

In addition to the information provided above, it should be noted that while there was no public comment at the August 13, 2018, Plan Commission meeting, Ms. Coakley was at the meeting and did have separate conversations with both Mr. Dan Barnes of Heritage Park Development Corporation and myself. In separate conversations, Ms. Coakley asked whether or not she could purchase two (2) lots within the subdivision that abutted her single family residence to the east. At this time, neither Mr. Barnes nor I have been contacted by Ms. Coakley since that meeting to discuss either the affects on the wetland setback area or potential purchase of lots. Once again, we raise the question of why this objection is being brought up during the Conditional Use review of a 25' vegetative buffer area between the wetland and lands being developed.

While Attorney O'Neill brings up several other items within his letter on behalf of Mr. Coakley, these are not relevant to the subject at hand which is: ***Conditional Use Permit review of grading within 25' of a wetland.***

We appreciate Village Plan Commission and Staff time in reviewing this matter and look forward to presenting our vegetative buffer plan at the June 10, 2019 Plan Commission meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly at (262) 389-0704.

Sincerely,



Brian Depies
SEH

Cc: Deanna Braunschweig, Village Clerk
Emily Zandt, Village Zoning Administrator-Associate Planner
Heritage Park Development Corporation
Bittersweet Trail LLC
John and Mary Ann Barnes
Heidi Kennedy, SEH

#

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 17, 2019

AGENDA ITEM: Public Hearing & New Business **[CONDITIONAL USE PERMIT]**

ITEM TITLE: Keefe John, Agent for Ethoplex, LLC and Techplex, LLC, Property owner – N115 W19150 Edison Drive. Conditional Use Permit for the installation of a 195' tower and operation of a wireless communication facility.

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

SUMMARY EXPLANATION:

Techplex, LLC, property owner, and Ethoplex, LLC, tenant and facility operator, are requesting approval of a conditional use permit for the installation of a 195' lattice tower on the 1.58-acre property at N115 W19150 Edison Drive in the Germantown Industrial Park.

Ethoplex LLC is a wireless internet service provider that has been based in Germantown for the last 12 years. Ethoplex currently operates from their facility located directly to the east of the subject property, at N115 W19006 Edison Drive, which includes an existing 120' tower. The proposed communications tower will be funded by Washington County Economic Development through the Wisconsin PSC Broadband Grant.

In July 2013, Wisconsin Act 20 went into effect that included a new statute, Wis. Stat. 66.0404, which effectively preempts all local regulation and control of wireless communication facilities, cell towers, etc. The new statute rendered the Village's zoning regulations of wireless communication facilities (Section 17.56 of the Zoning Code) unenforceable after July 1, 2013, to the extent that the Village's regulations are inconsistent with the new statute. The applicant has submitted an opinion by Ralph Ehlinger representing Ethoplex, LLC stating that the proposed tower and services meet the definition of mobile service in 47 USC 153 (33) and that it is entitled to the limitations on municipal regulation contained in Wis. Stat. 66.0404.

PLAN COMMISSION RECOMMENDATION:

APPROVE the requested conditional use permit for the installation of a 195' tower and operation of a communications facility subject to four (4) conditions and allow flexibility to the Planning Department to negotiate the amount and means by which the security deposit is provided.

APPLICATION, PLANS & RELATED DOCUMENTS:

All relevant documents, including applications, plans, supporting information, the staff report & recommendation, and Plan Commission meeting minutes (when available) are included in the PDF digital file distributed by the Village Clerk.

CUP # 12- 19

Document No.

CONDITIONAL USE PERMIT

Document Title

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

Whereas the Applicant:

**Ethoplex LLC, Applicant/Operator, and Techplex LLC,
 Property Owner**

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

Now, therefore, this permit is issued to the Applicant and Property Owner to allow the installation and operation of a wireless communication facility and 195' lattice support structure pursuant to Section 17.56 of the Village's Zoning Code.

Name & Return Address:

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

Parcel Identification No:

GTNV 204-959

N115 W19150 Edison Drive (Tax Key: GTNV 204-959)

Parcel Three (3) of Certified Survey Map No. 1825, recorded in the office of the Register of Deeds for Washington County on January 17, 1978, in Volume 9 of Certified Survey Maps, on Pages 263 through 266, as Document No. 398687, and being a part of the North One-half (1/2) of the Southeast One-quarter (1/4) of Section Twenty (20), in Township Nine (9) North, Range Twenty (20) East, in the Village of Germantown, County of Washington, State of Wisconsin.

1. This permit authorizes the installation of a 195' lattice tower as set forth in site development and building plan set dated May 6, 2019, and in the supporting documents and plans made part of said application. All of the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.
2. If use of the tower and/or operation of the communication equipment supported thereon falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to mitigate or eliminate harmful effects associated with the use but are subsequently insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and

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

3. Installation and continued operation of the wireless communication facility shall comply with all requirements set forth in Section 17.56 (Wireless Communication Facilities) of the Village Code to the extent that such requirements do not conflict or are inconsistent with Wis. Stat. 66.0404; including, but not limited to the requirement that the applicant/owner shall provide an irrevocable letter of credit or cash to the Village in the amount of \$20,000 to guaranty the removal of wireless communication facilities and associated site restoration if/when said facilities are no longer used. The Plan Commission recommends the Village Board allow the Planning Department to negotiate the setup of the security deposit.
4. The Applicant shall provide a final set of stamped and sealed engineering plans and the Engineer's certificate regarding the fall zone of the proposed tower at the time building permit applications are submitted.

Granted by the Village Board of the Village of Germantown, Washington County, Wisconsin on the ____ day of _____, 2019.

Dean Wolter, Village President

ATTEST:

Deanna Braunschweig, Village Clerk

STATE OF WISCONSIN) SS
WASHINGTON COUNTY)

Personally came before me this ____ day of _____, 2019, the above named Dean Wolter, Village President, and Deanna Braunschweig, Village Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

{type or print name of Notary on this line}

{signature of Notary on this line}

Notary Public, State of Wisconsin
My Commission Expires: _____

ACCEPTANCE OF TERMS AND CONDITIONS BY PROPERTY OWNER

I, _____, representing Techplex LLC, hereby accept the terms and conditions set forth in this Permit, and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2019

{type or print name on this line}

{signature on this line}
Agent for Techplex LLC, Property Owner

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2019, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

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

ACCEPTANCE OF TERMS AND CONDITIONS BY OPERATOR

I, _____, representing Ethoplex LLC, hereby accept the terms and conditions set forth in this Permit, and realize that non-adherence to the terms and conditions as stated hereon may result in the revocation of this Permit by the Village of Germantown.

Dated this ____ day of _____, 2019

{type or print name on this line}

{signature on this line}
Agent for Ethoplex LLC, Operator

STATE OF WISCONSIN) SS
_____ COUNTY)

Personally came before me this ____ day of _____, 2019, being the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

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

CONDITIONAL USE PERMIT, SITE PLAN REVIEW, SIGN REVIEW

6/10/19 Plan Commission Meeting

Ethoplex, LLC

Village Planner Report

Germantown, Wisconsin

Summary

Techplex, LLC, property owner, and Ethoplex, LLC, tenant and facility operator, are requesting approval of a conditional use permit, site plan, and wall signage for the installation of a 195' lattice tower on the 1.58-acre property at N115 W19150 Edison Drive in the Germantown Business Park.

Property Location: N115 W19150 Edison Drive

Applicant/ Owner:

Keefe John, Ethoplex, LLC
N115 W19150 Edison Drive
Germantown, WI

Techplex, LLC
N115 W19006 Edison Drive
Germantown, WI

Current Zoning: M-1: Limited Industrial

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



History

Ethoplex LLC is a wireless internet service provider that has been based in Germantown for the last 12 years. Ethoplex currently operates from their facility located directly to the east of the subject property, at N115 W19006 Edison Drive, which includes an existing 120' tower. The proposed communications tower will be funded by Washington County Economic Development through the Wisconsin PSC Broadband Grant, which aims to improve broadband services in Washington County. The tower will fill the wireless coverage void in the immediate geographic area.

In July 2013, Wisconsin Act 20 went into effect that included a new statute, Wis. Stat. 66.0404, which effectively preempts all local regulation and control of wireless communication facilities, cell towers, etc. The new statute rendered the Village's zoning regulations of wireless communication facilities (Section 17.56 of the Zoning Code) unenforceable after July 1, 2013, to the extent that the Village's regulations are inconsistent with the new statute. The applicant has submitted an opinion by Ralph Ehlinger representing Ethoplex, LLC stating that the proposed tower and services meet the definition of mobile service in 47 USC 153 (33) and that it is entitled to the limitations on municipal regulation contained in Wis. Stat. 66.0404. The Opinion has been included with the application documents.

CUP and Site Plan Proposal

Techplex, LLC, property owner, and Ethoplex, LLC, tenant and facility operator, are requesting approval of a conditional use permit and site plan for the installation of a 195' lattice tower on the 1.58-acre property at N115 W19150 Edison Drive in the Germantown Business Park.

As detailed in the supporting application information and plan set, the 195' lattice tower will be located on the north side of the building, near the center of the property. The tower will be enclosed on the south and east sides and on the north side and west sides by the existing fence, which will be moved to align with the north edge of the building. The tower will have a galvanized steel finish and be capable of accommodating equipment of up to three (3) additional providers. There are currently no finalized leases.

The Federal Aviation Administration (FAA) requires lighting on towers greater than 200' in height. No lighting is planned for this tower.

Staff Comments

As indicated above, Wis. Stat. 66.0404 preempts Village regulation of wireless communication facilities to the extent that such regulations are inconsistent with the provisions in the new statute. In addition, prescribing minimal application requirements and a narrow 90-day review period, the "Wireless Siting Law" severely limits the circumstances and/or reasons for which a municipality can deny or restrict an application for a proposed wireless communication facility. The bolded items in the list are the items that relate to the proposed tower. As set forth in Section 66.0404(4), a municipality cannot do any of the following:

-
- *Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.*
 - *Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.*
 - *Enact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the political subdivision.*
 - *Charge a mobile radio service provider a fee in excess of one of the following amounts: For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by a political subdivision for a building permit for any other type of commercial development or land use development. 2. For a permit for an activity described in sub. (2)(a) \$3,000.*
 - *Charge a mobile radio service provider any recurring fee for an activity described in sub. (2)(a) or a class 2 collocation.*
 - *Permit 3rd party consultants to charge the applicant for any travel expenses incurred in the consultant's review of mobile service permits or applications.*
 - ***Disapprove an application to conduct an activity described under sub. (2)(a) based solely on aesthetic concerns.***
 - *Disapprove an application to conduct a class 2 collocation on aesthetic concerns.*
 - *Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.*
 - *Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. There is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this paragraph.*
 - *Prohibit the placement of emergency power systems.*
 - *Require that a mobile service support structure be placed on property owned by the political subdivision.*
 - ***Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.***
 - *Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.*
 - *Limit the duration of any permit that is granted.*
 - *Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.*
 - ***Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.***
 - *Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.*
 - ***Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.***
 - *Consider an activity a substantial modification under sub. (1) (s) 1. or 2. if a greater height is necessary to avoid interference with an existing antenna.*
 - *Consider an activity a substantial modification under sub. (1) (s) 3. if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.*
 - ***Limit the height of a mobile service support structure to under 200 feet.***

-
- *Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.*
 - *Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.*

Colocation: In addition to the limitations listed above, the only standard set forth in the "Wireless Siting Law" that a municipality can use to "disapprove" an application is if the "...applicant refuses to evaluate the feasibility of co-location within the applicant's search ring and provide a sworn statement...attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity or is technically infeasible or economically burdensome to the service provider". With regard to the colocation for this proposed tower, as stated in the May 6, 2019 letter written by Keefe John, CEO of Ethoplex, "no other sites in the search ring provide a feasible alternative".

Height: The Village can no longer require an analysis of alternative tower heights nor limit the height of a tower less than 200'.

Setbacks: The Applicant is proposing the following setbacks as shown on site plan:

Lattice Tower distance to:

North: Approximately 110 feet to north property line
East: Approximately 90 feet to the east property line
West: Approximately 125 feet to the west property line
South: Approximately 175 feet to the Edison Drive right-of-way line/property line

Although there is no minimum prescribed setback distance from the tower to the nearest property line in the Wireless Siting Law, there is a limitation that we cannot impose a setback requirement "...that is different from a requirement that is imposed on other types of commercial structures".

Further, the Wireless Siting Law provides under 66.0404(g) that:

If an applicant provides a political subdivision with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the political subdivision provides the applicant with substantial evidence that the engineering certification is flawed.

The applicant included a statement in the application materials that Rohn, the tower company, has issued a certification stating there is a 90' fall radius (zone) for the

proposed tower. The 90' fall zone would keep the tower within the property lines. A copy of the Engineer's certification regarding the fall zone of the tower will be required with the building permit application materials.

The ATC power lines are located on the west side of the property. The tower will be located approximately 140' from the center of the lines and 77.5 feet from the east edge of the easement. Village staff reached out to ATC requesting comments on the proposed tower. ATC staff stated via email that Ethoplex, LLC will be liable for any damage to the lines resulting from the proposed tower. The recorded easement does not specifically require that the "fall zone" be completely outside the easement area. (The easement agreement has been included with the application documents.)

Aesthetics: The Village can no longer require that the facility be screened or camouflaged to eliminate visual obtrusiveness as was the case before the new statute went into effect. No landscaping or screening is proposed. No privacy slats in the wire fence are proposed. The base of proposed tower will be visually screened from the Edison Drive right-of-way by the existing building.

Village Planner Recommendation on CUP and Site Plan

APPROVE an issuance of a conditional use permit and approve the site plan submitted by Techplex LLC, owner, and Ethoplex LLC, tenant and facility operator, for the installation of a 195' lattice tower on the 1.58-acre property at N115 W19150 Edison Drive.

1. This permit authorizes the installation of a 195' lattice tower as set forth in site development and building plan set dated May 6, 2019, and in the supporting documents and plans made part of said application. All of the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.
2. If use of the tower and/or operation of the communication equipment supported thereon falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to mitigate or eliminate harmful effects associated with the use but are subsequently insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.
3. Installation and continued operation of the wireless communication facility shall comply with all requirements set forth in Section 17.56 (Wireless Communication Facilities) of the Village Code to the extent that such requirements do not conflict or are inconsistent with Wis. Stat. 66.0404; including, but not limited to the requirement that the applicant/owner shall provide an irrevocable letter of credit or cash to the Village in the amount of \$20,000 to guaranty the removal of wireless communication facilities and associated site restoration if/when said facilities are no longer used.
4. The Applicant shall provide a final set of stamped and sealed engineering plans and the Engineer's certificate regarding the fall zone of the proposed tower at the time building permit applications are submitted.

Sign Background/Proposal

There are no existing signs on the property. Ethoplex LLC is requesting approval for the following wall sign:

A 223" x 45" (69 square feet) metal and plastic illuminated sign to be located on the south (front) elevation of the building facing Edison Drive. The proposed sign meets the Village's wall sign regulations.

Village Planner Recommendation on Sign

APPROVE the proposed wall sign for Ethoplex LLC with the following conditions:

1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.



Village of



Fee must accompany application

☐ \$1460 Paid _____ Date _____

CONDITIONAL USE PERMIT APPLICATION

Pursuant to Section 17.42 of the Municipal Code

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

1 APPLICANT OR AGENT

Keefe John
Ethoplex, LLC
N115W19150 Edison Dr
Germantown WI 53022
Phone (262) 345-5200
Fax ()
E-Mail kjohn@ethoplex.com

PROPERTY OWNER

Tedplex, LLC
N115W19150 Edison Dr
Germantown WI 53022
Phone ()

2 TO WHOM SHOULD THE PERMIT BE ISSUED?

Ethoplex, LLC

3 PROPERTY ADDRESS

N115W19150 Edison Dr

TAX KEY NUMBER

GTNV- 204959

4 DESCRIPTION OF EXISTING OPERATION

Briefly describe the use as it exists today, including use, size, number of employees, hours of operation, etc. If this permit involves new construction, describe the current status of the property, e.g. "vacant." Use additional pages as necessary.

multi-tenant industrial /flex space. Ethoplex intends to construct new telecommunications tower.

5 DESCRIPTION OF PROPOSED OPERATION

Write the name of the proposed conditional use exactly as it appears in the Municipal Code.

Wireless Communications Facility

Describe the proposed use, including size, number of employees, hours of operation and extent of any new construction/alterations.

195' self support tower, antennas, equipment

METES AND BOUNDS LEGAL DESCRIPTION OF PROPERTY — REQUIRED

6

Attach pages as necessary.

See attached legal description.

SUPPORTING DOCUMENTATION:

7

- ☒ Site plan and elevations for new construction (can be conceptual)
- ☒ Photos of existing use and/or proposed use operating elsewhere

☐

☐

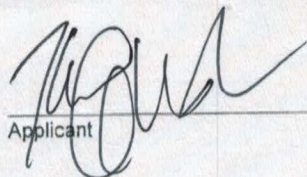
READ AND INITIAL THE FOLLOWING:

8

- ☒ I understand that the Village is under no obligation to issue a Conditional Use Permit and will do so only if the applicant successfully demonstrates that the proposed use is harmonious with the neighborhood and the long range goals of the Village.
- ☒ I will notify the Village if any aspect of the conditional use changes. I understand that failure to do so may result in the revocation of the CUP.
- ☒ I understand that a Conditional Use Permit is valid only if the conditions and restrictions of the permit are met. I understand that failure to comply with any aspect of the permit may result in revocation.

SIGNATURES — ALL APPLICATIONS MUST BE SIGNED BY OWNER!

9

 5/6/19
Applicant Date

 5/6/19
Owner Date

EHLINGER LAW OFFICE, LLC

**Stonewood Corporate Center
W175 N11117 Stonewood Drive, # 212
Germantown, WI 53022-6506
Telephone: (262) 255-5060
Fax: (262) 255-5553**

Ralph J. Ehlinger
ralph@ehlingeradvocates.com

June 7, 2019

Jeffrey W. Retzlaff
Village Planner and Zoning Administrator
Village of Germantown
N112 W17001 Mequon Rd.
Germantown, WI 53022

Re: Ethoplex LLC

Dear Mr. Retzlaff:

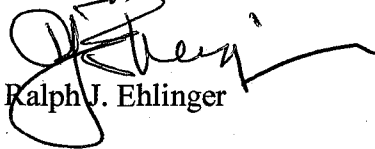
I represent Ethoplex, LLC in connection with its application for a Conditional Use Permit for a Wireless Communications Facility. I understand that in the course of your review of that application you have asked for written confirmation that the applicant meets the definition of mobile service provider in 47 USC §153 and Wis. Stat. § 66.0404 (1) (k).

I am familiar with the operations of the applicant and am of the opinion that the services it provides do meet the definition of mobile service in 47 USC 153 (33) and that it is thus entitled to the limitations on municipal regulation contained in Wis. Stat. 66.0404 (4).

Feel free to contact me if you need further information

Thank you.

Sincerely,

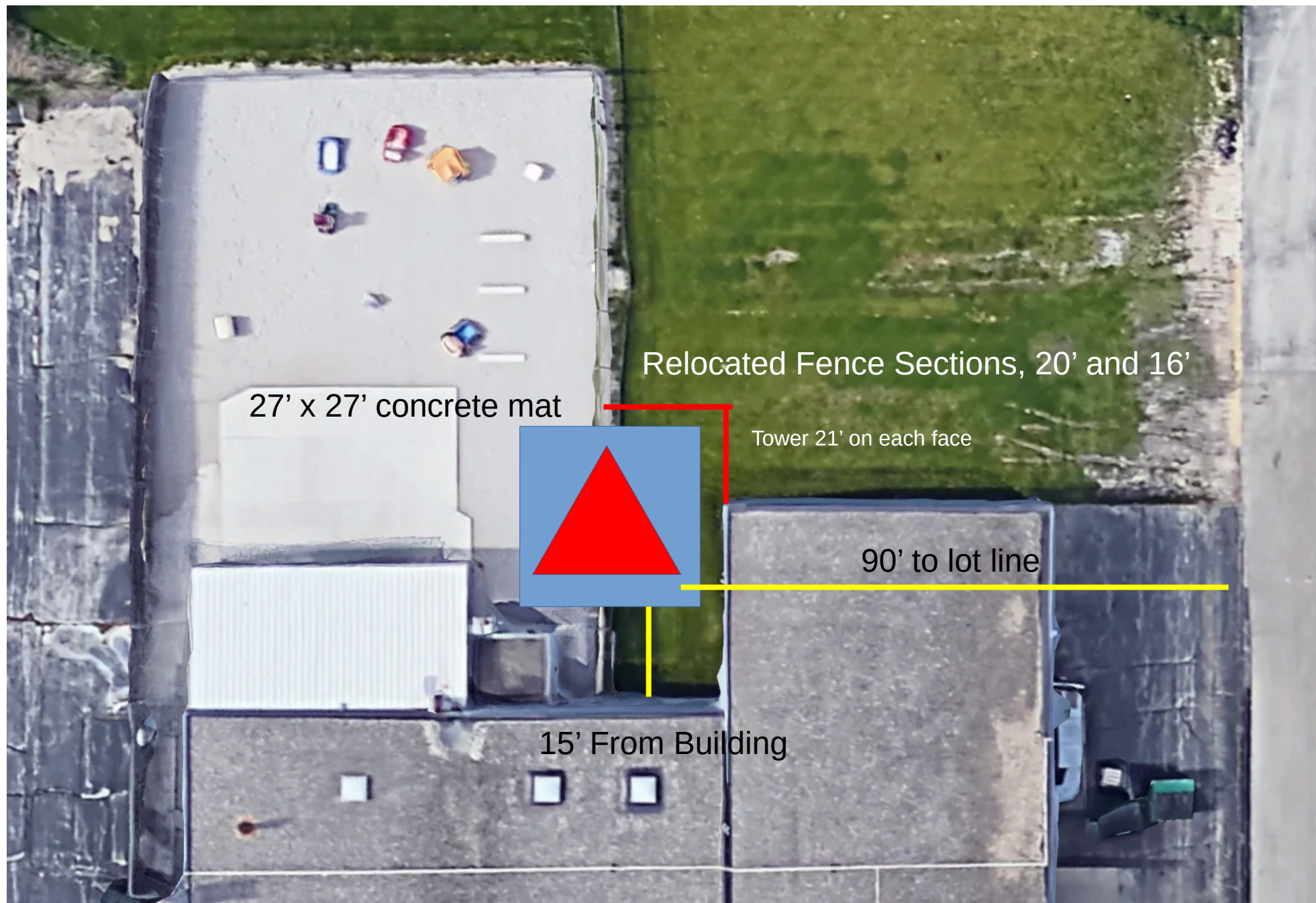


Ralph J. Ehlinger

cc: Keefe John

Site Plan – Ethoplex LLC – N115W19150 Edison Dr, Germantown WI 53022





27' x 27' concrete mat

Relocated Fence Sections, 20' and 16'

Tower 21' on each face

90' to lot line

15' From Building

Site Plan – Ethoplex LLC – N115W19150 Edison Dr, Germantown WI 53022



Site Plan – Ethoplex LLC – N115W19150 Edison Dr, Germantown WI 53022



Site Plan – Ethoplex LLC – N115W19150 Edison Dr, Germantown WI 53022



May 6th, 2019

Mr. Jeff Retzlaff
Ms. Lori Johnson
Village of Germantown
N112 W17001 Mequon Road
Germantown, WI 53022

Re: Application for Conditional Use Permit for Wireless Communications Facility

Applicants: Ethoplex, LLC
Parcel Owner: Techplex, LLC

Dear Jeff and Lori:

I am the owner and CEO of Ethoplex, LLC and Techplex, LLC. Ethoplex and Techplex (the "Applicants") respectfully request the review and issuance of a conditional use permit to construct a wireless communications facility at the parcel noted above.

The proposed facility meets the guidelines in Wis. Stat. § 66.0404 (the "Wireless Siting Law"). It includes a 195-foot self-support tower.

The Wireless Siting Law sets forth six (6) requirements which must be included in an application to construct a new tower. Those requirements, as well as the Applicants' responses to those requirements, follow. It is my belief that the information and related enclosures set forth in this letter fulfill the requirements of the Wireless Siting Law.

1. The name and business address of, and the contact individual of, the applicant.

Ethoplex, LLC and Techplex, LLC
N115W19150 Edison Dr
Germantown WI 53022
Keefe John, CEO
kjohn@ethoplex.com
Tel: 262-345-5200

2. The location of the proposed or affected support structure.

Applicants propose to construct a mobile service facility and related mobile support service structure, as defined by the Wireless Siting Law, (the "Installation") at N115W19150 Edison Dr.

The Tower will be constructed by Ethoplex and located behind the building in a fenced in area.

3. The location of the proposed mobile service facility.

The Wireless Siting Law defines "mobile service facility" as:

the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

The Construction Drawings depict where the mobile service facility will be located on the Property. The Tower and mobile service facility is designed to accommodate at least three (3) additional wireless providers.

4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

The application proposes installation of a new tower; therefore, the requirements of this section are not applicable.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile services support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

The Construction Drawings set forth this information.

6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

Ethoplex chose this location because it is our headquarters and where our head-end is located. No other sites in the search ring provide a feasible alternative.

SETBACK

The Wireless Siting Law provides that if an applicant furnishes an engineering certification showing that a mobile service support structure is designed to collapse within an area smaller than the setback or fall zone area required in a zoning ordinance, that zoning ordinance does not apply unless the political subdivision provides the applicant with substantial evidence that the engineering certification is flawed. Rohn, the Tower manufacturer and has issued the certification that the Tower has a fall radius of 90 feet, keeping it within the lot lines. The Tower is set 91.5 feet from the nearest (east) property line.

ADDITIONAL DISCUSSION

Ethoplex is a Wireless Internet Service Provider that has been based in Germantown, WI for over 12 years. Ethoplex provides wireless internet to homes, businesses, and other organizations throughout SE Wisconsin. In addition to providing mobile LTE wireless at this site Ethoplex will also provide Fixed Wireless and 5G services.

This tower is in support of a Wisconsin PSC Broadband Grant to improve broadband services in Washington County. Additionally, the tower is financed by Economic Development Washington County.

Ethoplex is a growing business and plans to add several jobs within the next three years.

The Installation will provide a great benefit in providing high quality, technologically advanced wireless communication services to the area. The Installation will conform to all applicable laws and regulations, including the national standard's seventh revision for Steel Antenna Towers and Antenna Supporting Structures published by the Telecommunications Industry Association (ANSI/TIA 222-G), Federal Communications Commission, and Federal Aviation Administration ("FAA"). Enclosed is the FAA Determination of No Hazard, which further negates any risk posed by the Tower.

The Installation will fill the void for wireless coverage within the immediate geographic area of the site. Once constructed, the Installation's ability to accommodate additional carriers on the Tower will negate requests for additional towers in the area. Ethoplex will be actively marketing this tower site for collocation to all communications users.

Should you require further information or have questions regarding the application, please contact me directly at 262-345-5200 or by e-mail at kjohn@ethoplex.com.

Best Regards,

Keefe John
CEO
Ethoplex, LLC
N115W19150 Edison Dr
Germantown WI 53022

COMMITMENT - SCHEDULE A

File Number: 32718

LEGAL DESCRIPTION

Parcel Three (3) of Certified Survey Map No. 1825, recorded in the office of the Register of Deeds for Washington County on January 17, 1978, in Volume 9 of Certified Survey Maps, on Pages 263 through 266, as Document No. 398687, and being a part of the North One-half (1/2) of the Southeast One-quarter (1/4) of Section Twenty (20), in Township Nine (9) North, Range Twenty (20) East, in the Village of Germantown, County of Washington, State of Wisconsin.

* * * * *



Shipping Address

#1 Fairholm Avenue, Peoria, Illinois 61603 USA

Phone: 309-566-3000

Mailing Address

P.O. Box 5999, Peoria, Illinois 61601-5999 USA

www.rohntower.com

QUOTATION

Please Reference This Quotation Number: Q18-10783 - 1

May 24, 2018

ETHOPLEX
N115 W 19006 Edison Dr.
Germantown, WI 53022

Thank you for the opportunity to meet the supply requirements of your current need. ROHN is pleased to supply the attached quotation. We have carefully reviewed your requirements and believe our proposal meets those requirements, unless otherwise noted. Please note the validity period and related terms and conditions as attached.

Your quotation was prepared by: Amber Kaufman
a.kaufman@rohntower.com
309-566-3005

Your ROHN primary contact is: JD Long
j.long@rohntower.com
309-566-3030

Please carefully review the quotation supplied. Feel free to contact any of the persons listed above with additional questions or clarifications. ROHN believes you, as our valued client should have a single point of contact for your business with ROHN. That is normally your sales contact person. They can assist you answering a wide variety of questions and bring in additional resources as required.

Lastly, the entire ROHN team is here to serve your needs and requirements. Please call on any of us to assist you as needed. ROHN values both our relationship and your business.

Sincerely,

The ROHN Quotation Team

Quote #: Q18-10783

**Shipping Address**

#1 Fairholm Avenue, Peoria, Illinois 61603 USA

Phone: 309-566-3000

Mailing Address

P.O. Box 5999, Peoria, Illinois 61601-5999 USA

www.rohntower.com

QUOTATION

Quote To: ETHOPLEX

Keefe John

kjohn@ethoplex.com

Germantown WI, 53022

Phone Number: 262-893-9518

Proposal Number: Q18-10783 - 1

Quote Date: 5/24/2018

Quote Valid for: 30 days

ROHN Contact: JD Long

Phone: 309-566-3030

Email: j.long@rohntower.com

Item #	Qty	Description	Unit Price
C-18883	1	ROHN Structure: 195ft Self-Supporting Tower Model RT (Tubular Leg, Angle Brace) Designed to Support the Antennas & Transmission Lines as shown on enclosed drawing "Q18-10783-2 PROFILE" for site "Germantown" located in Washington County, WI	
STRUCTURE		Rohn Structure Parts Total	\$23,362.00
C-18883-A		Anchor Bolts & Full Size Templates	\$1,737.00
DESIGN		Design Drawings & Calculations w/State PE Seal (If Each Pg of a Design Set must be sealed, Please ADD \$250.00 for EACH set prepared in this manner)	\$1,000.00
FOUNDATION DESIGN		Conventional Foundation design based on submitted soil report	\$500.00
SUB TOTAL			\$26,599.00
TOTAL			\$26,599.00

This Structure is designed for:

Design Code: ANSI/TIA-222-REV G 2005

Wind Speed: ASCE 7-16 Ultimate Wind Speed (No Ice) = 106 MPH

Wind Speed With Ice: 40 MPH with 0.75 inches Ice

Structure Class: II

Exposure Category: C

Topographic Category: 1

Price above includes:

Tower Sections

Step Bolts for Climbing

Tuf Tug Safety Cable Type System w/o Trolley or Harness

(1) 5ft Lightning Rod (no downlead)

(3) Base Grounding Lugs

(1) 15-Hole Waveguide Ladder w/4ft spacing (Tower Base to Top)

Quote #: Q18-10783

Any Applicable State Sales Tax is NOT INCLUDED in the Prices Quoted. Please provide Sales Tax Exemption Information if Applicable.

NOTES:

- Structure Height is Nominal, unless otherwise stated.
 - Structure is designed to support the Antennas and Transmission Lines as per the attached preliminary profile drawing.
 - Sealed Design Drawings and Calculations will be supplied in electronic format only unless otherwise requested.
 - If Each Page of a Design set must be sealed, Please ADD \$250.00 for EACH set prepared in this manner.
 - All welding conforms to AWS.
- Additional corrosion protection may be required for steel guy anchors and direct embedded poles that come in direct contact with soil. This additional corrosion protection is to be provided by others, unless otherwise indicated.
- Estimated foundation based on REV G Presumptive clay soil: see attached drawing.
 - In accordance with TIA-222-G, a geotechnical site investigation is required for a Class III structure and is preferred for Class I and II structures. When "Normal Soil" or "Presumptive Parameters" are used, it is the customer's responsibility to ensure that the soil conditions are consistent with the design criteria. ROHN does not accept liability for foundation designs that are based on normal soil or presumptive parameters. ROHN recommends a site-specific geotechnical report be obtained for all site-specific foundation designs (refer to TIA-222-G Annex G for guidelines for geotechnical investigations).
 - Step Bolts are provided on one leg for all other sections that are not below:
 - 4-Bay sections below RTT12 will have bolts on 3 legs.
 - 3-Bay sections below RTT06 will have bolts on 3 legs.
 - 2-Bay sections all have bolts on 3 legs.
 - ROHN'S proposal does not include GROUNDING, unless, the Optional REV G Standard Base Grounding Kits are purchased.

Please note that lead times are estimated and can fluctuate due to production capacity and material availability. The estimated lead times are reassessed upon receiving the Purchase Order. Please contact ROHN to verify current lead times or if a better delivery date is possible when placing an order.

Estimated Current Engineering Design Package Lead Time (ARO):

7 Business Days

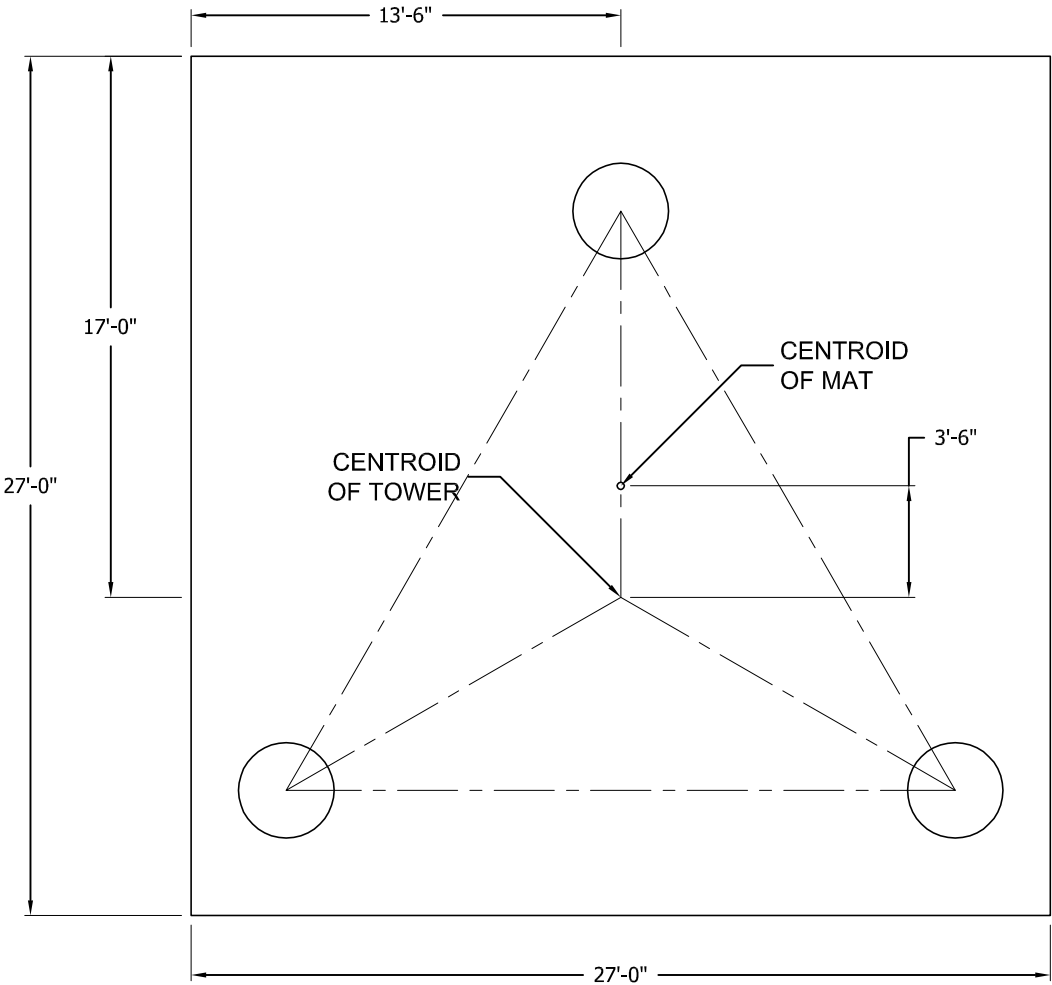
Estimated Current Structure Lead Time (ARO):

9-10 Weeks

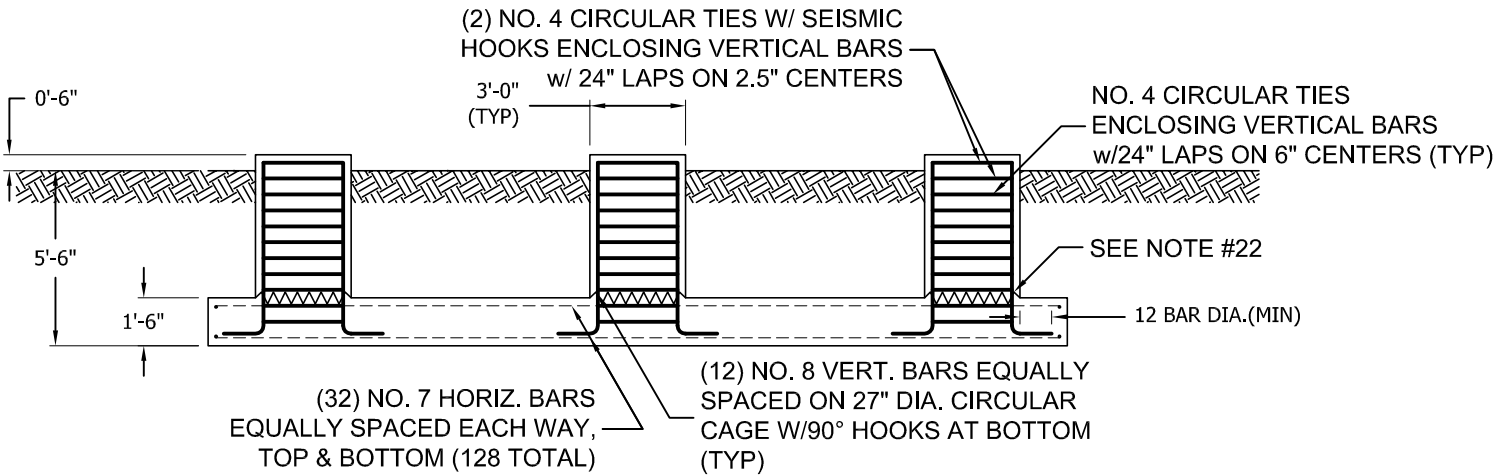
Optional Items: Not Included in Total Price. Price is Per Each Item

Qty	Description	Unit Price	Extended Price
1	Estimated Freight for Anchor Bolt Shipment to Germantown, WI 53022	\$305.00	\$305.00
1	Estimated Freight Charges (FLAT BED TRAILER) for shipment of the Above Quoted Tower Material to an accessible delivery site in Germantown, WI with unloading by the customer	\$1,500.00	\$1,500.00
1	Trolley Only	\$190.00	\$190.00
1	Journeyman Harness (Tuf Tug)	\$150.00	\$150.00
1	TIA REV G Standard Grounding	\$445.00	\$445.00
1	12ft Rotatable Leg Mntg Frame Assembly w/12 Mtg Pipes	\$2,952.00	\$2,952.00
1	Leg Dish Mount w/o Tie-Backs	\$195.00	\$195.00

NOTE: SEE DRAWING NO. B090548 FOR STANDARD FOUNDATION NOTES.



PLAN VIEW



ELEVATION VIEW

CONCRETE VOLUME (cu.yds)

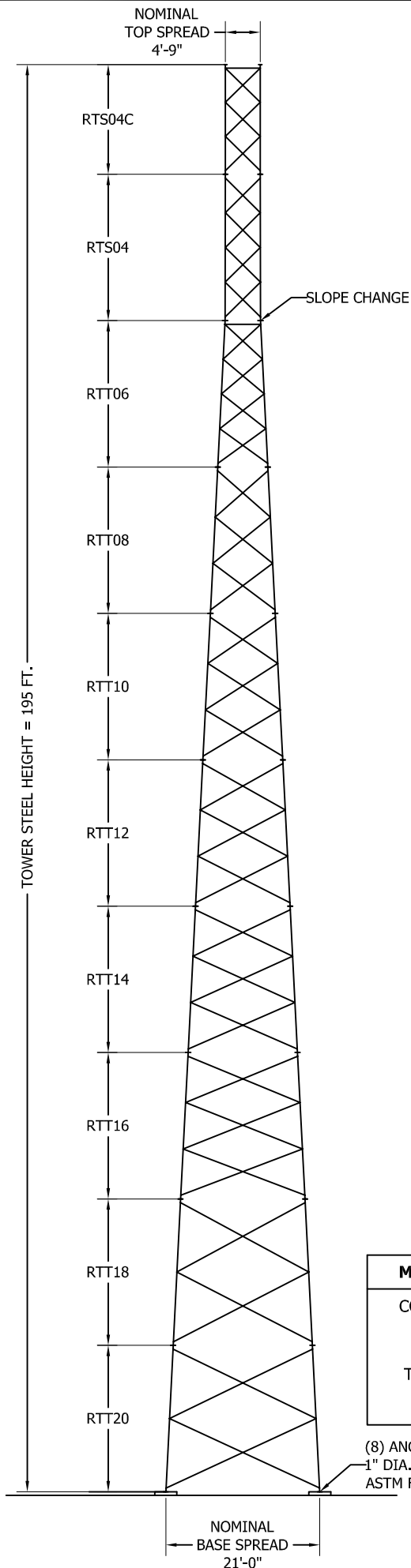
	ROUND
PIER	3.5
PAD	40.5
TOTAL	44.0

FACTORED REACTIONS

Maximum O.T.M =	4,622.42 FT-K
Total Tower Wt =	38.53 KIPS
Total Shear =	40.71 KIPS
Max. Shear/Leg =	25.16 KIPS
Max. Ten./Leg =	231.85 KIPS
Max. Comp./Leg =	269.21 KIPS

FILE NO.				
Q18-10783-1				
REVISIONS				
REV.	DESCRIPTION	DWN	CHK	APP
PRELIMINARY NOT FOR CONSTRUCTION				
ROHN[®] PRODUCTS LLC PO BOX 5999 PEORIA, IL 61601-5999 TOLL FREE 800-727-ROHN				
THIS DRAWING IS THE PROPERTY OF ROHN. IT IS NOT TO BE REPRODUCED, COPIED OR TRACED IN WHOLE OR IN PART WITHOUT OUR WRITTEN CONSENT.				
MAT WITH RAISED PIERS PRESUMPTIVE CLAY PER ANSI/TIA-222-G				
DWN:	CHK'D:	DATE:		
AS		5/23/2018		
ENG'R:		SHEET #:		
		1 OF 1		
PRJ. ENG'R:		PRJ. MANG'R:		
AS				
DRAWING NO:				REV:
Q18-10783-1 FOUNDATION				0

May 23, 2018 @ 03:29 PM



MAXIMUM FACTORED REACTIONS			
COMPRESSION	=	269.2	KIPS
TENSION	=	231.9	KIPS
TOTAL SHEAR	=	40.7	KIPS
O.T.M.	=	4,622.4	FT-KIPS

(8) ANCHOR BOLTS (24 TOTAL)
1" DIA. X 70" LONG
ASTM F1554 Gr. 105

TOWER DESIGN LOADING		
DESIGN WIND LOAD PER ANSI/TIA-222-G: ASCE 7-16 ULTIMATE WIND SPEED (NO ICE) = 106 MPH BASIC WIND SPEED (ICE) = 40 MPH DESIGN ICE THICKNESS = 0.75 IN. STRUCTURE CLASS = II EXPOSURE CATEGORY = C TOPOGRAPHIC CATEGORY = 1 EARTHQUAKE SPECTRAL RESPONSE ACCELERATION: SS = 0.071		
THIS TOWER IS DESIGNED TO SUPPORT THE FOLLOWING LOADS:		
ELEVATION (FT)	ANTENNA TYPE	LINE SIZE (NOM)
TOP	LIGHTNING ROD	-
190	(12) CUX063X25X00 [8 FT PANELS] & (12) RRUS-11 ON (3) SECTOR FRAMES	(12) 1-5/8"
180	(12) CUX063X25X00 [8 FT PANELS] & (12) RRUS-11 ON (3) SECTOR FRAMES	(12) 1-5/8"
170	(12) CUX063X25X00 [8 FT PANELS] & (12) RRUS-11 ON (3) SECTOR FRAMES	(12) 1-5/8"
100	(2) 4 FT STANDARD DISHES [AZ. 0 & 120 DEG] [6 GHZ]	(2) EW63

SECTION MAIN MEMBER SCHEDULE			
SECTION	LEG	DIAGONAL	HORIZONTALS
RTS04C	PIPE 2.875x0.203	L1 3/4x1 3/4x1/8 (3)	L1 3/4x1 3/4x3/16 (1)
RTS04	PIPE 3.500x0.216	L2x2x1/8 (4)	N/A
RTT06	PIPE 3.500x0.300	L2x2x1/8 (4)	L1 3/4x1 3/4x3/16 (1)
RTT08	PIPE 4x0.318	L2x2x1/8 (3)	N/A
RTT10	PIPE 4.500x0.337	L2x2x3/16 (3)	N/A
RTT12	PIPE 5.563x0.375	L2 1/2x2 1/2x3/16 (3)	N/A
RTT14	PIPE 5.563x0.375	L2 1/2x2 1/2x3/16 (3)	N/A
RTT16	PIPE 5.563x0.375	L3x3x3/16 (3)	N/A
RTT18	PIPE 6.625x0.340	L3 1/2x3 1/2x1/4 (2)	N/A
RTT20	PIPE 6.625x0.432	L3 1/2x3 1/2x1/4 (2)	N/A

NOTE: SECTION NUMBERS ARE FOR REFERENCE ONLY. FOR NOMINAL FACE WIDTH DIMENSIONS, REFER TO THE STRESS ANALYSIS.
THE NUMBERS SHOWN IN PARENTHESES INDICATE THE NUMBER OF BAYS FROM TOP TO BOTTOM.

FILE NO.

Q18-10783-1

REVISIONS

REV.	DESCRIPTION	DWN	CHK	APP
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PRELIMINARY
NOT FOR CONSTRUCTION

ROHN®

PRODUCTS LLC

PO BOX 5999
PEORIA, IL 61601-5999
TOLL FREE 800-727-ROHN

THIS DRAWING IS THE PROPERTY OF ROHN. IT IS NOT TO BE REPRODUCED, COPIED OR TRACED IN WHOLE OR IN PART WITHOUT OUR WRITTEN CONSENT.

ETHOPLEX
DESIGN PROFILE
195 FT RT TOWER
GERMANTON, WI

DWN:	AS	CHK'D:		DATE:	5/23/2018	
ENG'R:		SHEET #:	1 OF 1			
PRJ. ENG'R:	AS	PRJ. MANG'R:				
DRAWING NO:	Q18-10783-1 PROFILE				REV:	0

Quote Specific Terms:

- 1- This proposal is valid for 30 calendar days from the quotation date. Please refer to ROHN's proposal number when submitting your purchase order.
- 2- Typically ROHN's Terms for Material Purchases are: 1/3 down payment – with the order, prior to fabrication; 1/3 down payment – when fabrication is complete and the tower is ready to ship; 1/3 within 30 days of shipment from the point of manufacturing.
- 3- This proposal is subject to the attached Terms and Conditions of Sale.
- 4- Foundation and tower designs, if ordered independently, are \$1500. This cost is deductible from the overall price of the structure once the structure is released for production and shipped. Design work will be billed at the time the service is provided. Please specify as a separate line item on your purchase order.
- 5- Quoted prices do not include taxes. Refer to Terms and Conditions of Sale. Taxes will be invoiced unless an exemption certificate is provided with the order.
- 6- Shipment schedules are contingent upon the backlog at the time of order and the availability of materials and resources.
- 7- Certification of ROHN's products or foundation designs based on specifications provided to ROHN's do not include services for serving as a project's prime professional or engineer of record for the purposes of reviewing and coordinating documents submitted for a building permit, including deferred submittals and documents prepared by others. ROHN's has not verified that the design parameters provided to ROHN's for this proposal meets the requirements for the intended application or meets the requirements of the appropriate regulatory agencies. Price adjustments may apply for requirements in addition to those stated in this proposal.
- 8- Prices for foundation designs to be based on geotechnical data to be supplied at the time of an order are based on the design of conventional foundations consisting of pier and pad, caissons, mat and deadman anchor blocks. Other types of foundation designs, if required for site-specific conditions, will be quoted upon receipt of the geotechnical data.
- 9- Materials and services placed on hold for more than 30 days after placement of an order will be subject to a price review upon notification to proceed with the order. This may result in an increase to the quoted prices.
- 10- For structures to be shipped by the customer at the point of manufacturing, dunnage and loading charges of \$350 may apply and will be invoiced with the structure.
- 11- Storage charges will be .02% of invoice amount per day with a minimum charge of \$8.00 a day. These charges will be invoiced on a monthly basis for material requested to be withheld from shipment. Storage will begin 30 days from the date the buyer is notified that the shipment is ready for pickup or delivery.
- 12- Estimated freight pricing is obtained at the time the proposal is generated. If a significant amount of time elapses between the proposal and the customers order date, freight prices may fluctuate. Final freight pricing will be reviewed and confirmed at the time an order is placed. Final freight pricing is subject to change.
- 13- Additional freight may apply for optional items ordered. Prices for optional items are based on the optional items being ordered with the structure.
- 14- Acceptance of an order is contingent on customer credit approval. Terms, as noted above, may be subject to change.
- 15- Design profile provided at time of quotation is preliminary and is subject to change based upon final design.
- 16- This quotation is proprietary, confidential and a trade secret of ROHN. This proposal is being provided for the exclusive use of our customer and is not to be disclosed to third parties.
- 17- Unless noted above, ROHN's general terms and conditions (attached) apply.
- 18- Purchaser agrees to accept delivery on the mutually agreed upon delivery date, typically stated in the customer's purchase order. If this date passes, and the product is completed and staged for delivery, the Purchaser acknowledges that they have accepted title to the goods by default. If customer has requested early shipment of partial materials, such materials may be invoiced at the time of shipment.
- 19- Sealed Design Drawings and Calculations will be supplied in ELECTRONIC format only unless otherwise requested.
- 20- If EACH Page of a Design set must be sealed, Please ADD \$250.00 for EACH set prepared in this manner.
- 21- For quotes including installation service the following apply:
 - a. Non-union, non-prevailing wages, and non-winter conditions.
 - b. In the event existing soil conditions are found to be other than assumed for design, change orders for a price adjustment from the quoted price may be required.
 - c. Customer agrees to obtain any and all required permits pursuant to the job.
 - d. Site accessible for over the road truck delivery of materials. Customer is responsible for unloading the truck in a timely manner, otherwise waiting charges may apply.
 - e. ROHN assumes sufficient room for delivery of tower and sufficient room for installation of tower and foundation (if applicable) at tower site.

Rohn Products LLC Terms and Conditions Relating to All Sales

1. All quotation, proposals, prices, or other terms are made for acceptance within 30 days (after 30 days, prices in effect at time of shipment will apply) and shipment within 30 days of purchase order date, unless otherwise stated. They are subject to change without notice; however, ROHN invites your request for an extension. Prices are also subject to review prior to acceptance of any order due to raw material price fluctuations. No other price protection is available. Any order placed on hold will have the price reviewed and adjusted upon release.

2. Every effort will be made to maintain shipping schedules, either on ROHN equipment or via common carrier. ROHN cannot be responsible for delays in shipping caused by state or local agencies with regard to permits, routing, weather, detours, etc. All deliveries and schedules are contingent on availability of raw materials, fuel, and transportation. ROHN will not be liable for damages on account of any delays or abnormalities caused in shipping due to causes beyond our reasonable control. ROHN reserves the right to make partial shipments and to submit invoices accordingly.

3. Changes or modifications to orders can be made only by written agreement executed by all parties affected thereby, which agreement shall include any price modification.

4. ROHN's responsibility ceases upon delivery of all shipments to the carrier. The unloading of all shipments is the responsibility of the Buyer, not the carrier or ROHN. Buyer is warned against receipting for merchandises until careful inspection has been made. Any claim made against ROHN must be made within 90 days after receipt of merchandise. All merchandise leaving ROHN's factory has been carefully inspected and ROHN does not assume responsibility for damages or shortages which occur in transit. Buyer must make all claims and report all damages and losses to the delivering transportation company.

5. No federal, state, or local taxes are included in quoted prices. All quotations, proposals, prices, or other terms are subject to increase without notification by the amount of any sales, excise, or other tax levied or charged to seller by any governmental agency and any such tax will be passed onto purchaser as a tax or as an addition to the selling price. This also applies to all costs incurred due to local statutes or governmental regulations.

6. Orders are not subject to cancellation by Buyer except by written agreement with seller. Any order canceled, after any work has been done by ROHN, such as drawings, production, etc., will have a cancellation charge, to be determined solely at the discretion of ROHN for whatever work has been performed with a minimum of 25% of the purchase order price. If Buyer so chooses, he shall have the right to receive the material already performed at time of cancellation at the quoted price. If an order is canceled before any work has been done by ROHN, a \$200 cancellation charge will apply.

7. Material received may not be returned by Buyer except by written agreement with seller. In all cases, permission must be secured from ROHN prior to the returning of any goods for credit. All returned goods are subject to a minimum service charge of 25%, plus all transportation charges, and are subject to inspection by ROHN. Returned goods will be offered and paid for only upon proof of purchase (i.e. invoice no.) and credit will be issued against invoice value. ROHN reserves the sole right to determine amount of credit to be issued on all goods returned for credit. Only standard, currently manufactured ROHN products may be considered for return and credit. Unsaleable products will be scrapped and no credit will be received. If returned goods are determined to have no value and Buyer wishes them returned, the Buyer will be charged return freight. Safety equipment, erection equipment, insulators, transformers, nuts and bolts are not returnable.

8. ROHN warrants the commercial items of its manufacture only, to be reasonably fit for the purpose for which they are manufactured and sold, provided, however, that this warranty shall be effective only if purchaser installs all material according to ROHN's recommendations and specifications and that purchaser during the warranty period shall regularly, not less than semi-annually, inspect and properly maintain all items. Any item found unfit for its purpose within 12 months from date of delivery will be repaired or replaced free of charge, F.O.B. ROHN's plant. ROHN shall be immediately notified in writing of such unfitness. ROHN reserves the sole right to determine if any material is to be repaired or replaced free of charge or to be supplied at ROHN's standard prices. Such obligation shall be limited to parts returned for inspection, properly packed and expenses prepaid, and providing inspection shall satisfactorily indicate defects. The warranty herein made is in lieu of all other warranties and, except as expressly stated herein, ROHN does not make and there are no warranties or obligations of any kind or nature whatsoever either expressed or implied including, but not restricted to, warranty or obligations as to product, material, workmanship, or manufacture or as to the use of the items covered hereby. ROHN shall not under any circumstances be liable to third persons for any claims for damages including direct, special, indirect, or consequential damages for any reason. The Buyer agrees to indemnify and to hold ROHN harmless for, of, and from any loss, claims, damages, expenses and attorney's fees, including but not limited to, any fines, penalties and corrective measures ROHN may sustain by reason of Buyer's failure to comply with said laws, rules, and regulations in connection with the performance of this sale. The above warranty warranted applies only to items manufactured by ROHN. Items not manufactured by ROHN are guaranteed only to the extent and in the manner warranted and guaranteed to ROHN by the manufacturer of such items and then only to the extent ROHN is liable to enforce such warranty or guarantee.

ROHN will assume no responsibility for the adequacy of any product if material is used which is not totally supplied by ROHN. The above sets forth the only warranty made by ROHN in connection with items manufactured or sold by it, and any provisions in any proposals, specifications, advertising, or other provisions hereof, are merely descriptive and are not to be construed as warranties made by ROHN. All warranties are void on drawings made by others, whether by a professional engineer, sealed or not, that are not rechecked by ROHN and approved by ROHN. ROHN assumes no liability for the adequacy of the drawings or the product. Without limiting the generality of the foregoing, the Buyer hereby indemnifies ROHN and hold ROHN harmless from any and all claims and/or damages (including direct, special, indirect or consequential damages, attorneys' fees and costs) relating to or arising out of any highway structure or component not designed by ROHN.

ROHN hereby disclaims any and all warranties, including express or implied warranties of merchantability and fitness for any particular purpose, relating to or arising out of metal fatigue.

9. ROHN reserves the right to change or modify the product and construction of any product manufactured by ROHN and to substitute material equal to or superior to that originally specified.

10. Buyer agrees not to disclose or make available to any third party processes, drawings, specifications, reports, photographs, data and other technical or proprietary information relating to ROHN products without obtaining prior written consent of ROHN.

11. No proposal, order, quotation, or acceptance may be changed or varied by verbal agreement, and all orders are accepted only under the provisions set forth herein.

12. Purchase orders and requests for quotations must be submitted in writing to ROHN. It is the responsibility of the Buyer or Buyer Representative to provide ROHN design criteria (environmental loads, equipment loads, operational limitations, geotechnical information, etc.) based on site-specific data. In designing the product for the Buyer, ROHN is relying solely and entirely on design criteria provided by the Buyer to ROHN. Without limiting the generality of the indemnities in these Terms & Conditions, the Buyer hereby indemnifies ROHN and holds ROHN harmless from and against any and all claims and/or damages (including direct, special, indirect or consequential damages, attorneys' fees and costs) relating to or arising out of any inaccuracy or incompleteness in design criteria provided to ROHN by the Buyer, and the Buyer waives all claims against ROHN for same.

13. If outside source inspection, assembly, etc. is required prior to shipment of an order, \$50.00 per man hour (plus equipment time, if applicable) is chargeable, with \$300.00 as a minimum.

14. Any welding inspection required by Buyer or Buyer's specifications must be done at ROHN's plant prior to packing and shipment of material from ROHN's plant.

15. A minimum charge of \$25.00 will be billed for special handling and preparation of material for air shipments.

16. ROHN reserves the right to apply all remittances and credit memos to the oldest outstanding balance in your account. No credits will be issued for any reason against a purchase order whose billing is more than 90 days old. Buyer corrections or complaints must be made within this period of time.

17. Standard catalog prices do not include special drawings or product evaluations. If any are required, there will be a charge.

18. ROHN at all times reserves the right to take pictures of any or all of its products after installation for advertising purposes, except those which are under classified governmental control.

19. The Buyer will be responsible for any extra charges incurred on prepaid shipments.

20. A service charge not to exceed 2% per month or maximum allowable per State law will be billed on all accounts not paid within 30 days of invoice date.

21. Minimum total net worth of merchandise which can be ordered is \$100.00. Any orders placed for less will be billed at \$100.00.

22. Storage charges will be .02% of invoice amount per day with a minimum charge of \$8.00 a day. These charges will be invoiced on a monthly basis for material requested to be withheld from shipment. Storage will begin 30 days from the date the buyer is notified that the shipment is ready for pickup or delivery

23. All CIA requirements must be met with certified checks or money orders to insure prompt shipment.

24. Should it become necessary for ROHN to enforce the provisions of this contract, a purchase order or an invoice through pre-suit negotiations, or by instituting or participating in any legal (including bankruptcy) proceedings, including but not limited to injunctive or other equitable/legal relief, including any appeals associated with the foregoing, ROHN shall be entitled to recover for reasonable attorney's fees, costs of collection and court costs incurred whether the attorney's fees are incurred for the purpose of negotiation, trial, appellate or other legal services.

25. Once the equipment is ready for pickup or has been shipped, an invoice for payment in full shall be issued by ROHN.

26. Buyer is responsible for inspection of material upon delivery. ROHN should be notified of any shortages or discrepancies within 48 hours of delivery. ROHN will not be responsible for down time or equipment ordered.

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 17, 2019

AGENDA ITEM: New Business **[RESOLUTION]**

ITEM TITLE: 2050 Comprehensive Plan; Community Engagement Plan

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

SUMMARY EXPLANATION:

Wisconsin Statute 66.1001(4)(a) requires all municipalities that are developing and adopting comprehensive plans (and amendments thereto) to prepare and adopt written procedures and/or a “plan” for including open communication, public participation and other community engagement activities as part of the overall process.

GRAEF, the Village’s consultant for the 2050 Comprehensive Plan project, has developed the attached “Community Engagement Plan” for consideration and adoption by the Plan Commission and Village Board. The attached document was reviewed by the 2050 Plan Steering Committee at their meeting on May 22 and by the Plan Commission on June 10.

PLAN COMMISSION RECOMMENDATION:

APPROVE the Community Engagement Plan as proposed by GRAEF, the Village’s project consultant, dated June 7, 2019.

**VILLAGE OF GERMANTOWN
WASHINGTON COUNTY**

RESOLUTION NO. 48-2019

**ADOPTING A COMMUNITY ENGAGEMENT PLAN
FOR THE 2050 COM PREHENSIVE PLAN**

WHEREAS,

Wisconsin Statute 66.1001(4)(a) requires all municipalities that prepare and adopt a comprehensive plan also prepare and adopt written procedures for including open communication, public participation and other community engagement activities as part of the overall process of preparing and adopting said comprehensive plan; and

WHEREAS, GRAEF, the Village's planning consultant for the 2050 Comprehensive Plan project has developed a "Community Engagement Plan" dated June 7, 2019 and attached here to as "Exhibit "A"; and

WHEREAS, the Village of Germantown Plan Commission did, on June 10, 2019, review the proposed "Community Engagement Plan" dated June 7, 2019, and, recommended to the Village Board that said Community engagement Plan be adopted; and

WHEREAS, the Village of Germantown Village Board did, on June 17, 2019, review said Community Engagement Plan and receive the Plan Commission recommendation to adopt said plan;

NOW, THEREFORE, BE IT RESOLVED that in accordance with the requirements of Wis. Statute 66.0404 (4)(a) the Village Board adopts the Community Engagement Plan dated June 7, 2019 attached hereto as Exhibit "A".

Introduced by: _____

Adopted: _____

Vote: _____ Ayes: ____ Nays: ____

Dean Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/CMC, Village Clerk

EXHIBIT A

Community Engagement Plan for the Village of Germantown 2050 Comprehensive Plan

DRAFT

COMMUNITY ENGAGEMENT PLAN FOR COMPREHENSIVE PLANNING

Village of Germantown

INTRODUCTION

In order to facilitate public knowledge and involvement in the Comprehensive Planning Process, the Village of Germantown has prepared the following community engagement plan. The plan was prepared in conformance with Section 66.1001(4)(a) of Wisconsin Statutes, which states: “The governing body of a local government unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services, and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative, or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments.”

Public participation helps to ensure that the Comprehensive Plan accurately reflects the needs, opportunities and desires of our community. This document outlines the procedures that will be used in the Comprehensive Planning Process to foster public participation, and to ensure that there are opportunities for public participation at every stage of the preparation of the Comprehensive Plan Update.

GOALS OF COMMUNITY ENGAGEMENT PLAN

The major goals of the community engagement plan are as follows:

- Provide a range of opportunities and venues for the residents of the Village of Germantown to participate in the Comprehensive Planning Process.
- Meet the standards set forth in Section 66.1001(4)(a), Wisconsin Statutes.
- Establish a formalized and recorded framework for public participation.
- Work with the Village Plan Commission and Village Board to create a thorough plan that can implement the goals and vision of the village.

PUBLIC PARTICIPATION STRATEGY AND METHODS

The public participation strategy provides a timeline, outlines notification methods and identifies how to submit written comments.

Timeline

The timeline is project specific. It provides an approximate timeframe and a description of the key events and opportunities for public participation. The exact dates are subject to revision as the planning process unfolds. See Attachment A.

Plan Oversight

The Village of Germantown has hired GRAEF to carry out the 2050 Comprehensive Plan. GRAEF, in coordination with Village staff, will work with the Steering Committee, Plan Commission, and Village Board to develop the Comprehensive Plan Update. Local residents and interested parties are encouraged to attend and provide input at Plan Commission meetings, as well as any of the “Community Conversations” planned throughout the project duration.

Survey

A survey will be conducted to gather opinions from village residents with respect to the 2050 Comprehensive Plan. Survey results will be viewable on the Village Website as well as woven into the 2050 Comprehensive Plan document itself.

Notification Methods

All meetings on the 2050 Comprehensive Plan will be open to the public. Except for Steering Committee Meetings, the Village of Germantown will post a notice of all meetings at Village Hall and on the Village's Website in accordance with Chapter 985.02(2) of the Wisconsin Statutes. Meeting agendas will be posted at Village Hall, as well as on the posting board at the Germantown Community Library. Press releases will be provided at key points in the planning process.

Written Comments

Written comments will be collected both electronically and on paper throughout the Comprehensive Planning Process. Electronic comments should be submitted via the Village of Germantown's webpage (<https://www.village.germantown.wi.us/578/2050-Comprehensive-Plan>). Written comments should be directed to the Office of Community Development at N112 W17001 Mequon Road, Germantown, WI 53022 or emailed to plan2050@village.germantown.wi.us. Copies of the comments will be routed to the Village staff and project consultant. Village staff will respond to the written comments by acknowledging that the document has been received and that the comments have been shared with those noted above for consideration in the final plan.

Website & Technology

A page will be created on the Village website specifically for information pertaining to the 2050 Comprehensive Plan. Information will include meeting notices and summaries and drafts of chapters of the plan. An email feedback option will be provided so that questions and comments can be forwarded electronically to the Community Development Department.

PLAN ADOPTION PROCESS

When complete, a draft plan will be available at the Germantown Community Library, the Village Hall and on the Village of Germantown's website. At least 30 days before the public hearing, written notice of when and where the 2050 Comprehensive Plan can be inspected and how a copy of the plan can be obtained will be sent to all the relevant parties as specified in Chapter 66.1001(4) of the Wisconsin Statutes. Additionally, written notice will be sent to every governmental body that is located in whole or part within the boundaries of the Village of Germantown and the clerk of every local governmental unit that is adjacent to the Village of Germantown.

The Village will publish a class one notice at least 30 days prior to the public hearing. The notice will include the date, time, and place of the public hearing; a summary, which may include a map, of the draft plan; the name of an individual employed by the local governmental unit who may provide additional information regarding the proposed ordinance; information relating to where and when the draft plan or amendment may be inspected before the hearing, and how a copy of the draft plan or amendment may be obtained.

The Village of Germantown Plan Commission will adopt a resolution to recommend the draft plan to the Village Board, after the public hearing. A public hearing will be held in accordance with Wisconsin Statutes 66.1001(4)(d) prior to Village Board approval of the draft plan. Subsequent to the public hearing and on the recommendation from the Plan Commission, the Village Board will enact an ordinance adopting the Comprehensive Plan Update. The Village of Germantown will send one copy of the adopted 2050 Comprehensive Plan to all of the following: every governmental body that is located in whole or part within the boundaries of the Village of Germantown, the clerk of every local governmental unit that is adjacent to the Village of Germantown, the Wisconsin Department of Administration, Southeastern Wisconsin Regional Planning Commission, and the Germantown Community Library.

Attachment A: Village of Germantown 2050 Comprehensive Plan

Phase	Timeframe (Approximate)	Description/Key Events
Organization	May - June 2019	• Creation & adoption of community engagement plan • Establishment of 2050 Comprehensive Plan Webpage
Plan Kickoff Meetings & Visioning	May – July 2019	• Kick-off meetings with Staff, Plan Commission, and Steering Committee
Sub-Area Visioning; Inventory/Analysis & Issues/Opportunity Identification	June – Sept 2019	• Launch Community Survey • Discuss and develop alternatives for potential land use, density, and circulation for key sub-areas within the Village • Identify and prioritize issues (needs) and opportunities • Community Conversation #1 (July)
Neighborhood, Districts, Corridor Identification; Chapter Updates and Recommendations Development;	July – October 2019	• Update/develop Plan alternatives and goals, strategies and recommendations • Update/develop maps • Conduct stakeholder meetings • Community Conversation #2 (September) • Close Community Survey
Plan Development	November 2019 – January 2020	• Develop final plan, strategies and recommendations • Community Conversation #3 (January)
Plan Review, Public Hearing & Adoption	February – May 2020	• Develop draft Comprehensive Plan Update document • Publish 30-day public notice • Hold Public Hearing at Plan Commission Meeting • Plan Commission recommendation of Comprehensive Plan Update • Village of Germantown adoption of Comprehensive Plan Update by ordinance

VILLAGE OF GERMANTOWN
WASHINGTON COUNTY

RESOLUTION NO. 47-2019

CONTRACT WITH MINGER CONSTRUCTION CO., INC. FOR THE
NORTHEAST INTERCEPTOR SANITARY SEWER
IN THE AMOUNT OF \$5,970,918 PLUS A CONTINGENCY OF 5% OR \$298,545

WHEREAS, the Village of Germantown will contract for the Northeast Interceptor Sanitary Sewer; and,

WHEREAS, proposals were received from three different contractors for the construction; and,

WHEREAS, the Public Works Committee met on June 5, 2019 and recommended authorization to contract with Minger Construction Co., Inc. in the amount of \$5,970,918 plus a contingency of 5% or \$298,545 for a total project amount of \$6,269,463; and,

NOW THEREFORE BE IT RESOLVED that the Village Board of the Village of Germantown, does hereby approve contracting with Minger Construction Co., Inc. in the amount of \$5,970,918 plus a contingency of 5% or \$298,545 for a total approved project amount of \$6,269,463.

Introduced by: _____

Adopted: June 17, 2019

Vote: Ayes: ____ Nays: ____

Dean M. Wolter, Village President

ATTEST:

Deanna B. Braunschweig, WCMC/
CMC Village Clerk

BUSINESS OF THE VILLAGE BOARD GERMANTOWN, WI

MEETING DATE: June 5, 2019

AGENDA ITEM: New Business

ITEM TITLE: Northeast Interceptor Sanitary Sewer

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

SUMMARY EXPLANATION:

Staff advertised and received three (3) proposals for the construction of the proposed extension of sanitary sewer, which would be completed in two (2) phases; Phase #1; from approximately 923 feet south of the Well # 11 to 421 feet north of Pheasant Lane on Country Aire Drive (approx. 3,843 lf) and Phase #2; from the abandonment of Lift Station #1 to a point of connection to sanitary sewer in the Wrenwood Development (approx.. 1,999 lf).

The three (3) proposals where received from:

- | | |
|---------------------------------|------------------|
| 1) Minger Construction Co., Inc | = \$5,970,918.00 |
| 2) Advanced Construction, Inc | = \$6,292,297.00 |
| 3) Super Excavators, Inc | = \$7,344,170.00 |

All bidding contractors where reviewed resulting with the determination that all could perform the work required to complete this project.

Funding will be a combination of Wastewater Utility Funds and Borrowed Funds.

ATTACHMENT: ORDINANCE_____ RESOLUTION_____ OTHER XX

- Bid Summary

RECOMMENDATION:

Staff recommends Public Works and Highway Committee approve awarding the project to Minger Construction Co. Inc in the amount of \$5,970,918.00 plus a contingency of 5% or \$298,545.00 for a total approved project amount of \$6,269,463.00 and forward with a positive recommendation for award to Village Board.

VILLAGE OF GERMANTOWN
NORTHEAST INTERCEPTOR SEWER

BID OPENING:
THURSDAY, MAY 30, 2019
10:00 AM
AT: GERMANTOWN DPW OFFICE

I. BID SCHEDULE				Minger Construction Co., Inc.		Advance Construction, Inc.		Super Excavators, Inc.	
Item #	Item Description	Qty.	Unit	Unit \$	Total	Unit \$	Total	Unit \$	Total
PHASE 1: MEQUON RD RIGHT-OF-WAY / COUNTRY AIRE RD TO PARK / WATER TOWER AREA									
1	18" Sanitary Sewer (Open Cut with spoil backfill)	858	LF	\$ 525.50	\$ 450,879.00	\$ 400.00	\$ 343,200.00	\$ 260.00	\$ 223,080.00
2	18" Sanitary Sewer (Open Cut with granular backfill)	1176	LF	\$ 970.00	\$ 1,140,720.00	\$ 560.00	\$ 658,560.00	\$ 400.00	\$ 470,400.00
3	18" Sanitary Sewer (Directional Drill)	1,809	LF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4	48" Sanitary Manhole	205	VF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5	48" Sanitary Manhole with Outside Drop	18	VF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6	60" Sanitary Manhole with Inside Drop	22	VF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7	6" Sanitary Lateral	113	LF	\$ 79.00	\$ 8,927.00	\$ 550.00	\$ 62,150.00	\$ 380.00	\$ 42,940.00
8	4" HMA Pavement Binder Course (3 MT 58-28 S)	310	TON	\$ 72.50	\$ 22,475.00	\$ 90.00	\$ 27,900.00	\$ 115.00	\$ 35,650.00
9	2" HMA Pavement Surface Course (4 MT 58-28 S)	160	TON	\$ 89.90	\$ 14,384.00	\$ 107.00	\$ 17,120.00	\$ 105.00	\$ 16,800.00
10	Lawn Restoration	850	SY	\$ 10.50	\$ 8,925.00	\$ 9.60	\$ 8,160.00	\$ 6.00	\$ 5,100.00
11	Sawcut	2,340	LF	\$ 1.00	\$ 2,340.00	\$ 3.00	\$ 7,020.00	\$ 3.00	\$ 7,020.00
12	Pavement Marking, Epoxy, 4" (Yellow)	2,930	LF	\$ 2.90	\$ 8,497.00	\$ 2.90	\$ 8,497.00	\$ 3.00	\$ 8,790.00
13	Pavement Marking, Epoxy 12-inch (Yellow)	105	LF	\$ 14.00	\$ 1,470.00	\$ 14.00	\$ 1,470.00	\$ 16.00	\$ 1,680.00
14	Pavement Marking, Epoxy, Arrow	1	EA	\$ 550.00	\$ 550.00	\$ 550.00	\$ 550.00	\$ 650.00	\$ 650.00
15	Pavement Marking, Epoxy 8-inch (White Skip)	35	LF	\$ 8.00	\$ 280.00	\$ 8.00	\$ 280.00	\$ 9.00	\$ 315.00
16	Pavement Marking, Epoxy 8-inch (White)	110	LF	\$ 8.00	\$ 880.00	\$ 8.00	\$ 880.00	\$ 9.00	\$ 990.00
17	Pavement Marking, Epoxy 4-inch (White Skip)	10	LF	\$ 2.90	\$ 29.00	\$ 2.90	\$ 29.00	\$ 3.00	\$ 30.00
18	Pavement Marking, Grooved Wet Ref Epoxy 4-inch (White)	10	LF	\$ 14.00	\$ 140.00	\$ 14.00	\$ 140.00	\$ 16.00	\$ 160.00
19	Traffic Control	1	LS	\$ 325,000.00	\$ 325,000.00	\$ 30,000.00	\$ 30,000.00	\$ 97,000.00	\$ 97,000.00
20	6" PVC C-900 Force Main	35	LF	\$ 205.00	\$ 7,175.00	\$ 300.00	\$ 10,500.00	\$ 400.00	\$ 14,000.00
SUBTOTAL PHASE 1 (ITEMS 1-20):					\$ 1,992,671.00		\$ 1,176,456.00		\$ 924,605.00
PHASE 2: CONNECTION TO SUBDIVISION AND WEST OF RAILROAD									
21	12" Sanitary Sewer (Open Cut with Spoil Backfill)	1,835	LF	\$ 210.00	\$ 385,350.00	\$ 370.00	\$ 678,950.00	\$ 920.00	\$ 1,688,200.00
22	10" Sanitary Sewer (Open Cut with Granular Backfill)	17	LF	\$ 225.00	\$ 3,825.00	\$ 588.00	\$ 9,996.00	\$ 1,250.00	\$ 21,250.00
23	24" Casing Pipe with 12" Sanitary Sewer (Jack & Bore)	147	LF	\$ 1,165.00	\$ 171,255.00	\$ 1,300.00	\$ 191,100.00	\$ 2,300.00	\$ 338,100.00
24	48" Sanitary Manhole	114	VF	\$ 498.00	\$ 56,772.00	\$ 1,000.00	\$ 114,000.00	\$ 550.00	\$ 62,700.00
25	Abandon Existing Lift Station SA233-WW1	1	LS	\$ 125,000.00	\$ 125,000.00	\$ 25,000.00	\$ 25,000.00	\$ 75,000.00	\$ 75,000.00
26	Lawn Restoration	1,200	SY	\$ 10.50	\$ 12,600.00	\$ 9.60	\$ 11,520.00	\$ 6.00	\$ 7,200.00
27	Clearing and Grubbing	1	LS	\$ 115,000.00	\$ 115,000.00	\$ 20,000.00	\$ 20,000.00	\$ 50,000.00	\$ 50,000.00
28	12-inch Gravel Access Drive	900	TONS	\$ 28.00	\$ 25,200.00	\$ 25.00	\$ 22,500.00	\$ 45.00	\$ 40,500.00
29	Geogrid (Tensar TX-7)	1,225	SY	\$ 7.00	\$ 8,575.00	\$ 7.00	\$ 8,575.00	\$ 8.00	\$ 9,800.00
30	36-inch Class IV RCP Culvert	1	EA	\$ 25,000.00	\$ 25,000.00	\$ 10,000.00	\$ 10,000.00	\$ 12,000.00	\$ 12,000.00
31	Trench Stabilization	500	LF	\$ 90.00	\$ 45,000.00	\$ 50.00	\$ 25,000.00	\$ 70.00	\$ 35,000.00

I. BID SCHEDULE				Minger Construction Co., Inc.		Advance Construction, Inc.		Super Excavators, Inc.	
Item #	Item Description	Qty.	Unit	Unit \$	Total	Unit \$	Total	Unit \$	Total
ALTERNATE BID: REPLACE ITEMS 3, 4, 5 AND 6 WITH THE FOLLOWING									
3A	18" Sanitary Sewer (Microtunneling)	1,809	LF	\$ 1,595.00	\$ 2,885,355.00	\$ 1,800.00	\$ 3,256,200.00	\$ 2,185.00	\$ 3,952,665.00
4A	48" Sanitary Manhole	205	VF	\$ 425.00	\$ 87,125.00	\$ 2,500.00	\$ 512,500.00	\$ 550.00	\$ 112,750.00
5A	48" Sanitary Manhole with Outside Drop	18	VF	\$ 725.00	\$ 13,050.00	\$ 1,600.00	\$ 28,800.00	\$ 800.00	\$ 14,400.00
5B	48" Sanitary Manhole with Outside Drop (place \$0 in unit price if NOT installing MH 1A)	46	VF	\$ -	\$ -	\$ 3,500.00	\$ 161,000.00	\$ -	\$ -
6A	60" Sanitary Manhole with Inside Drop (place \$0 in unit price if NOT installing MH 1A)	22	VF	\$ 870.00	\$ 19,140.00	\$ 1,850.00	\$ 40,700.00	\$ -	\$ -
SUBTOTAL ALTERNATE BID (ITEMS 3A-6A):				\$	3,004,670.00		\$ 3,999,200.00		\$ 4,079,815.00
TOTAL PHASE 1, 2, AND ALTERNATE:				\$	5,970,918.00		\$ 6,292,297.00		\$ 7,344,170.00

VILLAGE OF GERMANTOWN
WASHINGTON COUNTY

RESOLUTION NO. 12-2019

JOINT SCHOOL DISTRICT AND VILLAGE BOARD MEETINGS TO BE HELD ON
THE FIFTH MONDAY'S AND THE BENEFIT THEREOF

WHEREAS, the Village Board and School District Board need to maintain a cooperative, harmonious relationship to benefit all Germantown Community Residents; and,

WHEREAS, a cooperative, harmonious relationship will foster communication with the boards and community; and,

WHEREAS, hosting joint Village Board and School District Board meetings will cultivate communication and cooperation for the boards, organizations, and community; and,

WHEREAS, The Village would like to host Joint Meetings on the Month's with Fifth Mondays. The logistics of the meeting will be posted on the agenda prior to the meetings; and,

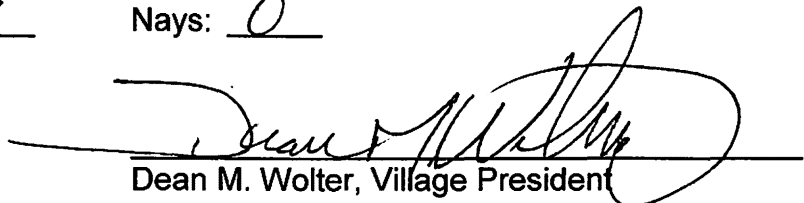
WHEREAS, The Village, HEREBY, extends an invitation to the Germantown School District Board for a meeting to be held on Monday, April 29th, at 7 p.m. at the Germantown Community Library; and,

NOW THEREFORE BE IT RESOLVED, that the Village Board will harbor a cooperative, communicative relationship with the School District Board and will host the next Joint Village Board and School District Board meeting at the Germantown Community Library on April 29th at 7 p.m. with the intent to continue meetings on the Month's with Fifth Mondays.

Introduced by: Trustee Baum

Adopted: February 4, 2019

Vote: Ayes: 9 Nays: 0


Dean M. Wolter, Village President

ATTEST:

Deanna B. Braunschweig
Deanna B. Braunschweig, WCMG/CMC
Village Clerk