

Planning Department

W240N3065 Pewaukee Road
Pewaukee, WI 53072
(262) 691-0770 Fax (262) 691-1798

**PLAN COMMISSION
MEETING NOTICE AND AGENDA
Thursday, August 18, 2022
6:00 PM**

Common Council Chambers ~ Pewaukee City Hall
W240 N3065 Pewaukee Rd., Pewaukee, WI 53072

-
1. Call to Order and Pledge of Allegiance
 2. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Bridger Tower Corporation for Property Located at W229 N2467 Redford Boulevard for the Purpose of Constructing a Monopole Cell Tower (PWC 0915994004)
 3. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Hydro-Thermal Corporation for Property Located at N22 W23977 Ridgeview Parkway for the Purpose of Constructing a Demonstration Brewery (PWC 0954994)
 4. Discussion and Action and Public Hearing Regarding Changes Related to Accessory and Temporary Uses and Structures Within the Zoning District Standards, Sections 17.0208, 17.0209, 17.0902, and 17.1400
 5. Adjournment

Ami Hurd
Deputy Clerk

8/11/2022

NOTICE

It is possible that members of other governmental bodies of the municipality may be in attendance to gather information that may form a quorum. At the above stated meeting, no action will be taken by any governmental body other than the governmental body specifically referred to above in this notice.

Any person who has a qualifying disability under the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible format must contact the City Planner, Nick Fuchs, at (262) 691-6007 three business days prior to the meeting so that arrangements may be made to accommodate your request.

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 2.**

DATE: August 18, 2022

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Bridger Tower Corporation for Property Located at W229 N2467 Redford Boulevard for the Purpose of Constructing a Monopole Cell Tower (PWC 0915994004)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

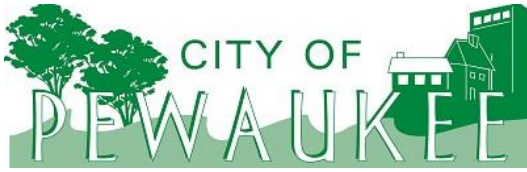
Bridger Tower Corp staff report 8.18.22

Bridger Tower Corp conditional use matter of

Bridger Tower Corp conditional use site plans

WI Law summary related to cell towers

Bridger Tower Corp conditional use permit



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE PLAN COMMISSION

Meeting of August 18, 2022

Date: August 10, 2022

Project Name: Bridger Tower Conditional Use Permit

Project Address/Tax Key No.: W229N2467 Redford Boulevard/PWC 0915994004

Applicant: Bridger Tower Corporation

Property Owner: Jerry's Automotive Holdings, LLC

Current Zoning: M-2 Limited Industrial District

2050 Land Use Map Designation: Manufacturing/Fabrication/Warehousing

Project Description

The applicant filed a Conditional Use Permit Application requesting approval for the construction of a wireless communication facility at W229N2467 Redford Boulevard.

The applicant is proposing a 120-foot-tall tower. The tower is designed to resemble an evergreen tree and will be constructed within a 50' x 50' fenced-in area on the east end of the property.

The tower is designed to accommodate multiple service providers with Dish Network anticipated to be the first provider to locate on the tower. In total, up to four wireless providers may locate on the tower. The plans do not appear to include a backup generator.

The subject property is zoned M-2 Limited Industrial District, which does not reference the use of wireless communication facilities or towers. Note that Section 17.0900 states:

Communication and Power-Generating Structures shall not exceed 30 feet in height or the distance of the base of such structure from the nearest lot line, which is less, unless otherwise authorized by the Plan Commission.

Furthermore, Section 17.0909 states that a Conditional Use Permit may be required as determined by staff or the Plan Commission.

It is important to note that the State of Wisconsin has overriding restrictions on how a municipality may regulate cell towers under a zoning ordinance. Any standard within a zoning code not in conformance with State Statutes is null and void.

The proposed tower and submittal by the applicant is in compliance with Wis. Stat. 66.0404, which regulates wireless siting. A legislative summary of the law is also attached for Plan Commission

review. Below is a further summary of what the City may not restrict and what must be included within an application.

- Prohibit cell towers within any district.
- Projects requiring new construction
 - Application must include:
 - The name and business address of, and the contact individual for, the applicant.
 - The location of the proposed tower.
 - The location of the proposed facilities.
 - A construction plan that describes the proposed new tower and facilities.
 - An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement attesting to one of the following regarding collocation within the area in which the applicant needs to site the new facilities (termed the applicant's "search ring"):
 - ◆ Collocation would not result in the same mobile service functionality, coverage, and capacity.
 - ◆ Collocation is technically infeasible.
 - ◆ Collocation is economically burdensome to the mobile service provider.
- Cannot ask for any additional information than that listed above.
- If application is deemed incomplete, must notify applicant within 10 days of receiving the application. Must specify in detail the information that was lacking. Applicant may file as many times as needed to complete the application.
- Within 90 days of receipt of application, the City must:
 - Review the application
 - Make a final decision to approve or disapprove
 - Notify applicant of decision
 - If denied, provide substantial evidence for denial
- Ask for engineering certificate showing structure collapse zone
- A municipality may not:
 - Impose environmental testing or monitoring requirements
 - Enact a moratorium on cell towers
 - Prohibit towers within certain zoning districts
 - Charge more than \$3,000 for new tower
 - Charge any recurring fees
 - Allow third party consultants to charge the applicant for travel expenses
 - Disapprove an application based on aesthetic concerns
 - Regulate radio frequency signal strength
 - Impose a surety requirement
 - Prohibit placement of emergency power systems (generators)
 - Require placement on City property
 - Disapprove an application based on height or whether the structure requires lighting
 - Require providing services to the City for less than market rate
 - Limit the duration of any permit granted
 - Require collocation
 - Disapprove based on assessment of potential alternative locations
 - Require backup power

- Impose a setback or fall zone requirement that is different than other types of commercial structures (i.e. district setbacks apply)
- Consider a project to be substantial if modification adds 20 feet or more in height of a tower that is not more than 200 feet tall
- Consider a project to be substantial if adds 20 feet to the diameter
- Limit the height of a cell tower to under 200 feet
- Condition the approval to indemnify City
- Condition the application to require allowance for City placement or collocation of services

Recommendation

A motion to recommend approval of the Conditional Use Permit for Bridger Tower to locate a 120-foot-tall wireless communication tower and associated equipment area upon property located at W229N2467 Redford Boulevard.

HUSCH BLACKWELL

Mike Long
Senior Counsel

511 North Broadway, Suite 1100
Milwaukee, WI 53202
Direct: 414.978.5622
Fax: 414.223.5000
Mike.long@huschblackwell.com

June 14, 2022

Mr. Nick Fuchs
City of Pewaukee
Zoning Administrator and City Planner
W240 N3065 Pewaukee Rd.,
Pewaukee, WI 53072

Re: Conditional Use Permit Application to Construct Mobile Communications Tower
Property Address: W229N2467 Redford Blvd., Waukesha, WI 53186-1103
Applicant: Bridger Tower Corporation
Parcel Owner: Jerry's Automotive Holdings, LLC

Dear Mr. Fuchs:

Enclosed for your review and consideration please find the enclosed Conditional Use Permit Application (the "**Application**") from Bridger Tower Corporation ("**Bridger**"), to construct a multi-carrier wireless communications self-support tower (the "**Communications Facility**") in the City of Pewaukee (the "**City**"). Our firm serves as counsel to Bridger.

The proposed Communications Facility has been designed to accommodate multiple communications providers (carriers, wireless internet providers and E911) interested in improving service within the City. Dish Network ("**Dish**"), a nationwide licensed provider of wireless communications services, plans to be the first tenant to co-locate on the Communications Facility. Bridger actively markets its tower sites for co-location to all communications providers and offers competitive business terms, which are attractive to its customers.

The proposed facility meets the guidelines in Wis. Stat. § 66.0404 (the "**Wireless Siting Law**") and the City of Pewaukee Zoning Regulations.¹ It includes a 120-foot monopine tower

¹ The Wireless Siting Law provides that a political subdivision may regulate the siting and construction of a new mobile service support structure and facilities only as provided in Wis. Stat. § 66.0404 and further

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Page 2

(the “**Tower**”). A monopine is a type of communications support structure that is designed to look like an evergreen tree.

WIRELESS SITING LAW

Wisconsin’s Wireless Siting Law and the City’s ordinances set forth the requirements which must be included in an application to construct a new communications tower.² Those requirements, and Bridger’s responses to those requirements, follow. It is our belief that this information and related enclosures fulfill the requirements of the Wireless Siting Law.

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

Applicant:	Contact Individual:
Bridger Tower Corporation 1951 E. 400 th Road, Lecompton, KS 66050 Phone: (406)600-2327 Email: chad@bridgertowercorp.com	Michael Long Husch Blackwell LLP 511 N. Broadway Milwaukee, Wisconsin 53202 Email: mike.long@huschblackwell.com (414) 978-5622 (262) 470-3193

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

Bridger proposes to construct the Tower on a portion of W229N2467 Redford Blvd., Waukesha, WI 53186-1103 which bears Tax Key Number PWC 0915994004 (the “**Property**”).

The Communications Facility, including the Tower, will be constructed within a 50’ x 50’ leased compound (the “**Leased Premises**”) which will be fenced in as depicted in the enclosed site plan and construction drawings (the “**Construction Drawings**”).

provides that any ordinances in effect that are inconsistent with Wis. Stat. § 66.0404 may not be applied to, or enforced against, the activity. Wis. Stat. § 66.0404(h) & (i).

² The requirements are found at Wis. Stat. § 66.0404(2)(b).

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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.³

The Construction Drawings depict where the mobile service facility will be located on the Property (the mobile service facility and the Tower, are collectively, the “**Installation**”). Dish will attach its equipment on the Tower as depicted in enclosed drawing “**Z-5**”. The Installation is designed to accommodate three (3) additional wireless communications carriers.

- 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.**

Bridger proposes installation of a new self-support 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 are included with this Application.

- 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 co-location, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the**

³ Wis. Stat. § 66.0404(1)(L).

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Page 4

same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

Enclosed is a sworn statement from a representative of Dish (the “**Sworn Statement**”). The Sworn Statement refers to the search ring which defines the precise geographic area where an additional Communications Facility is needed to expand network coverage or capacity for Dish. The Sworn Statement attests there are no existing structures of sufficient height available for co-location within the search ring, making co-location technically infeasible.

ADDITIONAL DISCUSSION

Bridger is a national owner and operator of wireless communications infrastructure. However, the proposed Installation results from the needs of Dish, which will install its equipment on the Tower and place ground equipment within the Leased Premises. It is not uncommon for wireless telecommunications service providers such as Dish to partner with companies like Bridger in tower site development projects such as the one proposed in the City.

The Installation will also enhance E-911 services, further protecting public health, safety, and welfare within the City as well as portions of the surrounding Waukesha County communities. Once constructed, the Installation will also negate requests for additional towers in the area. The Installation will conform to all applicable laws and regulations, including those regulations of the Federal Communications Commission and Federal Aviation Administration.

The Installation will be unmanned. No parking or employee facilities are required. Dish’s technicians will visit the site periodically, typically for a few hours once per month, for security monitoring, testing, and maintenance of its communications equipment. Bridger will also visit the site periodically to monitor and perform maintenance on the Tower as needed. The Installation will not generate recognizable traffic.

CONCLUSION

We look forward to working with your office to advance this project. Please contact me at (414) 978-5622 or by e-mail at mike.long@huschblackwell.com if you have questions or require additional information about this Application.

June 14, 2022
Page 5

Very truly yours,

HUSCH BLACKWELL LLP

A handwritten signature in blue ink, appearing to read "J. Michael Long", is written over a light blue circular background.

J. Michael Long

Enclosure



GROUND SCOPE OF WORK:

- INSTALL (1) PROPOSED METAL PLATFORM
- INSTALL (1) PROPOSED ICE BRIDGE
- INSTALL (1) PROPOSED PPC CABINET
- INSTALL (1) PROPOSED EQUIPMENT CABINET
- INSTALL (1) PROPOSED POWER CONDUIT
- INSTALL (1) PROPOSED TELCO CONDUIT
- INSTALL (1) PROPOSED TELCO-FIBER BOX
- INSTALL (1) PROPOSED GPS UNIT
- INSTALL (1) PROPOSED SAFETY SWITCH (IF REQUIRED)
- INSTALL (1) PROPOSED FIBER NID (IF REQUIRED)
- INSTALL (1) PROPOSED METER SOCKET

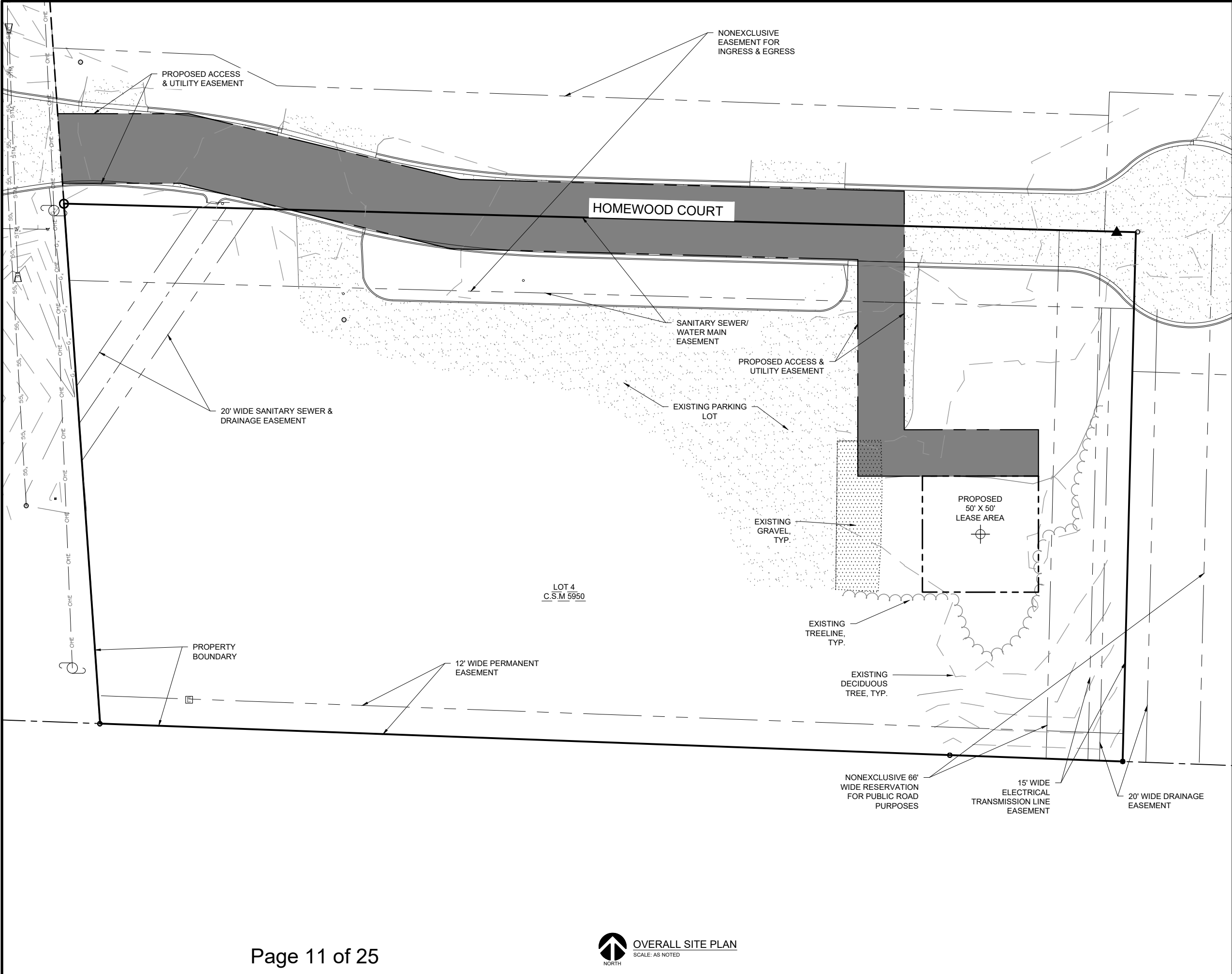
TELEPHONE COMPANY: TBD

RF ENGINEER: TBD

HEAD EAST TOWARD ARRIVALS / BAGGAGE CLAIM. USE THE LEFT 2 LANES TO TURN SLIGHTLY LEFT ONTO ARRIVALS / BAGGAGE CLAIM. KEEP LEFT TO CONTINUE ON WI-119 W. TAKE THE I-41/I-94/I-894 W EXIT TOWARD MILWAUKEE. MERGE ONTO I-41. KEEP RIGHT AT THE FORK TO CONTINUE ON I-41/I-894 W. TAKE THE EXIT ONTO I-94 W TOWARD MADISON. TAKE EXIT 295 TOWARD SUSSEX. USE ANY LANE TO TURN RIGHT ONTO HIAWATHA PLEASANT TRAIL/REDFORD BLVD. TURN RIGHT ONTO HOMEWOOD CT. SITE IS ON THE RIGHT.

CONTRACTOR SHALL VERIFY ALL PLANS, EXISTING DIMENSIONS, AND CONDITIONS ON THE JOB SITE, AND SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK.

SHEET NUMBER





5701 SOUTH SANTA FE DRIVE
LITTLETON, CO 80120



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Certification & Seal:

I hereby certify that this Survey Document was prepared and the related Survey Work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the Laws of the State of Wisconsin.

Trent D. Nelson, PLS
License Number: 3132-8

REV	DATE	DESCRIPTION
ISSUE PHASE	FOR CLIENT REVIEW	DATE ISSUED 04/22/2022

PROJECT TITLE:

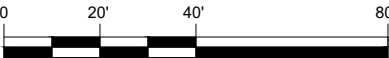
US-WI-5440

PROJECT ADDRESS:

**HOMWOOD COURT
PEWAUKEE, WI 53072
WAUKESHA COUNTY**

SHEET TITLE:

LEASE SURVEY



0 20' 40' 80'

11" x 17" - 1" = 40'
22" x 34" - 1" = 20'

PROJECT NUMBER	53568
SHEET NUMBER	SITE APPROVAL OF 1



TAX KEY: PWC 0915994
OWNER NAME: RYDER TRUCK RENTAL, INC.
OWNER ADDRESS: 11690 NW 105 ST
MIAMI, FL 33178

TAX KEY: PWC 0915994004
OWNER NAME: JERRY'S AUTOMOTIVE HOLDINGS, LLC.
OWNER ADDRESS: W229N2467 REDFORD BLVD
WAUKESHA, WI 53186

TAX KEY: PWC 0958986009
OWNER NAME: KW OFFICE, LLC.
OWNER ADDRESS: 700 PILGRIM PKWY, STE 100
ELM GROVE, WI 53122

TAX KEY: PWC 0915994001
OWNER NAME: KLUMB HOLDINGS, LLC.
C/O MICHAEL KLUMB
OWNER ADDRESS: 5327 S CALHOUN RD
NEW BERLIN, WI 53151

TAX KEY: PWC 0915994003
OWNER NAME: KLUMB HOLDINGS, LLC.
C/O MICHAEL KLUMB
OWNER ADDRESS: 5327 S CALHOUN RD
NEW BERLIN, WI 53151

TAX KEY: PWC 0958986012
OWNER NAME: NANCY'S COURT13, LLC.
OWNER ADDRESS: N22W22922 NANCY'S CT
WAUKESHA, WI 53186

TELECOMMUNICATIONS
TOWER COMPOUND

dish
wireless™

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LITTLETON, CO 80120



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verticalbridge

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LECOMPTON, KS 66050

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DRAWN BY:	CHECKED BY:	APPROVED BY:
CAS	AWS	AWS

ZONING
DOCUMENTS

SUBMITTALS		
REV	DATE	DESCRIPTION
A	05/24/22	PRELIM ZD# ISSUED

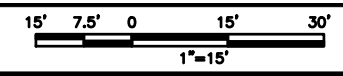
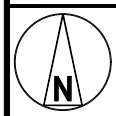
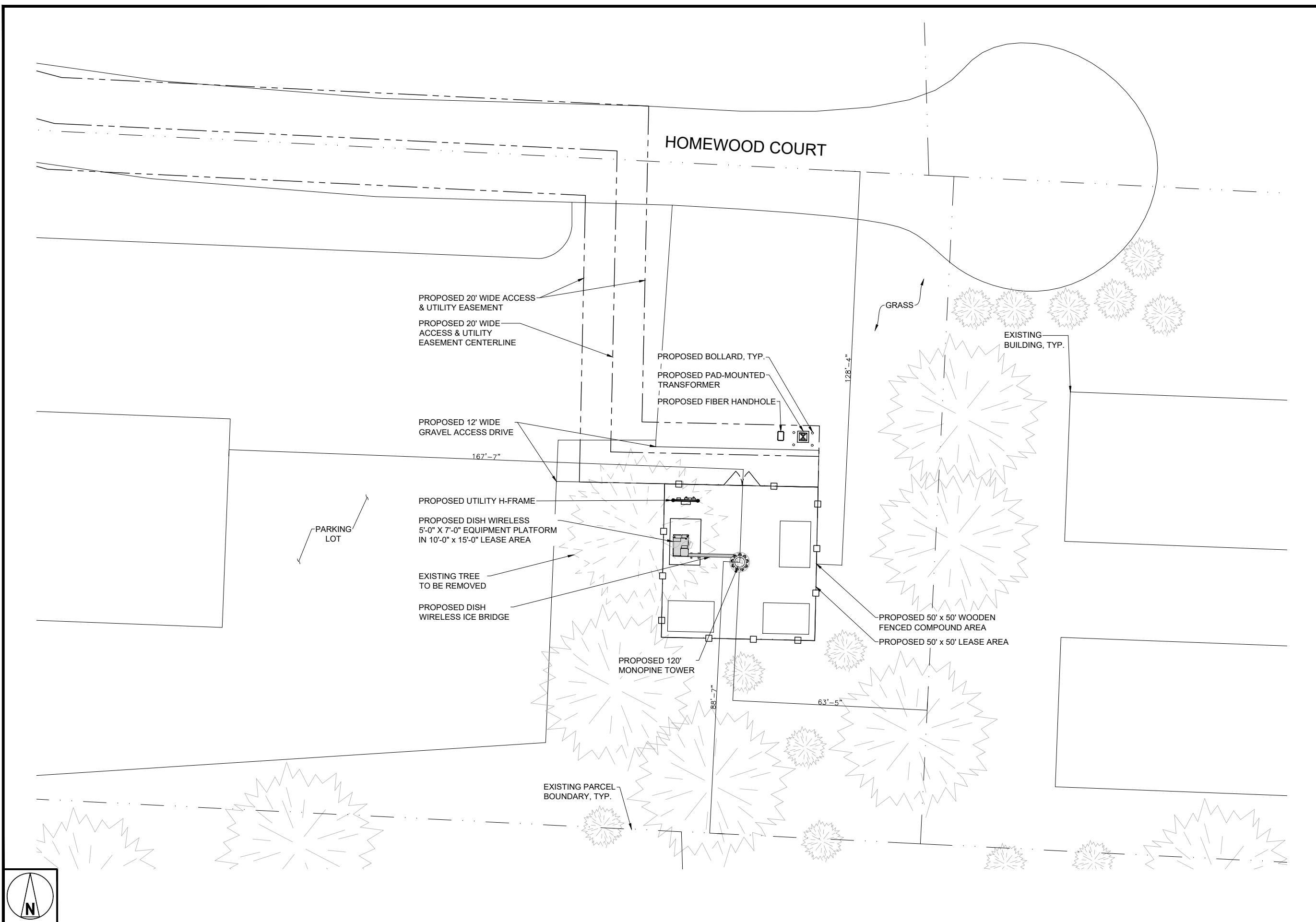
A&E PROJECT NUMBER
53568

PROJECT INFORMATION

US-WI-5440
W229N2467 REDFORD BLVD
WAUKESHA, WI 53072

SHEET TITLE
**PROPOSED PARCEL
BOUNDARY PLAN**

SHEET NUMBER
Z-1



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DOCUMENTS

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REV	DATE	DESCRIPTION
A	05/24/22	PRELIM ZD# ISSUED

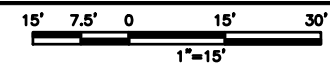
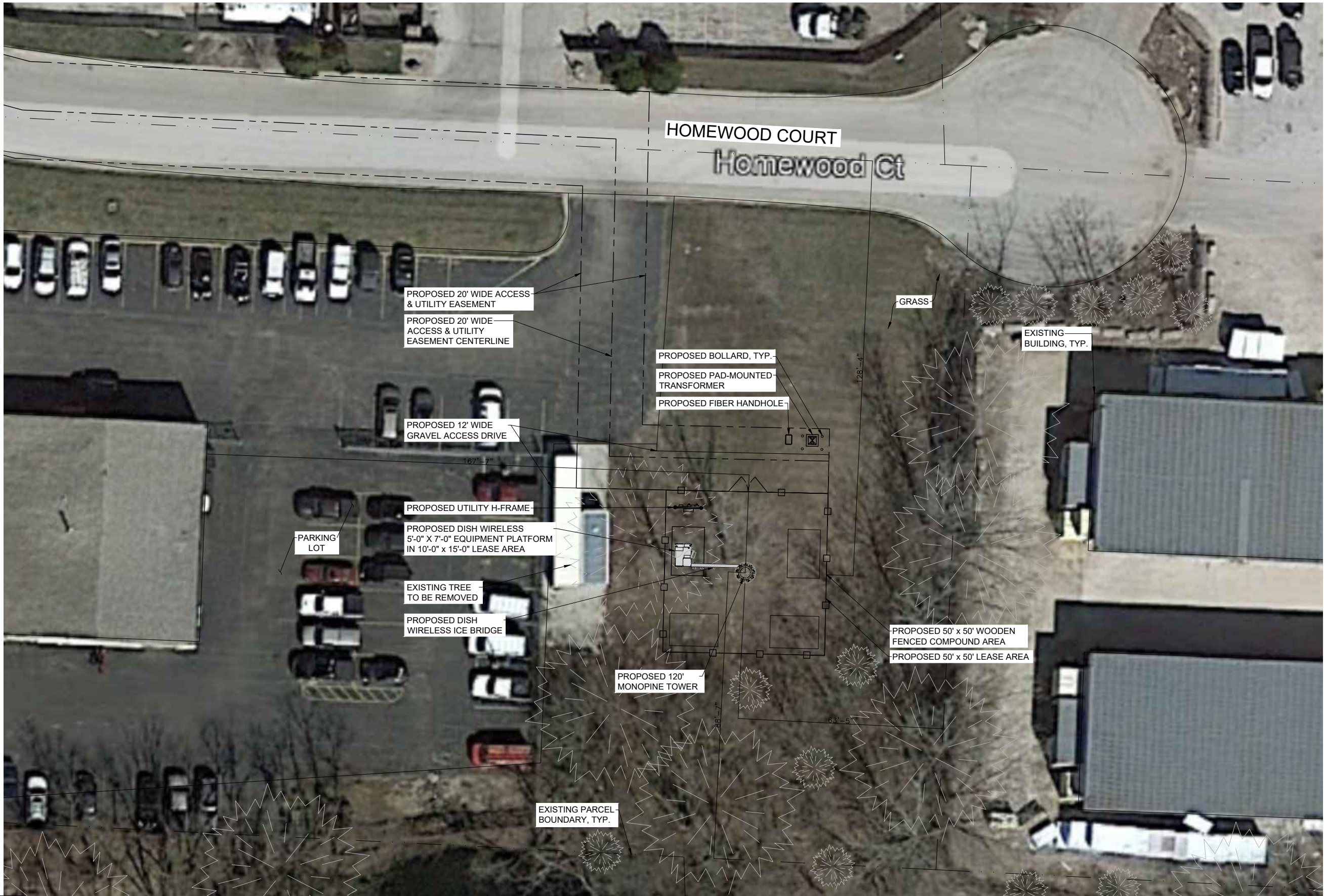
A&E PROJECT NUMBER
53568

PROJECT INFORMATION

US-WI-5440
W229N2467 REDFORD BLVD
WAUKESHA, WI 53072

SHEET TITLE
**PROPOSED
SITE PLAN**

SHEET NUMBER
Z-2



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SUBMITTALS

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A	05/24/22	PRELIM ZD# ISSUED

A&E PROJECT NUMBER

53568

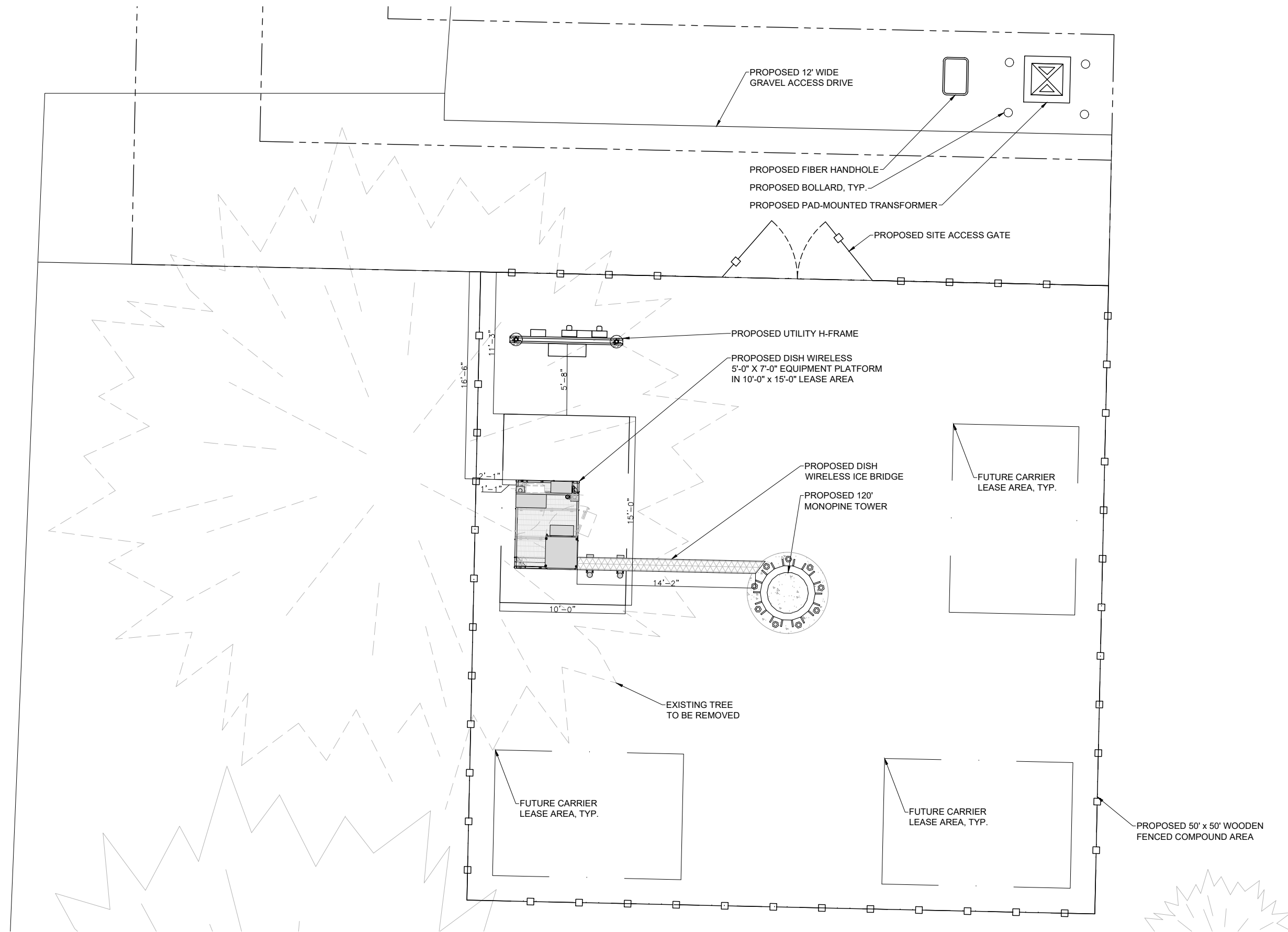
PROJECT INFORMATION

US-WI-5440
W229N2467 REDFORD BLVD
WAUKESHA, WI 53072

SHEET TITLE
**PROPOSED AERIAL
SITE PLAN**

SHEET NUMBER

Z-3



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ZONING DOCUMENTS

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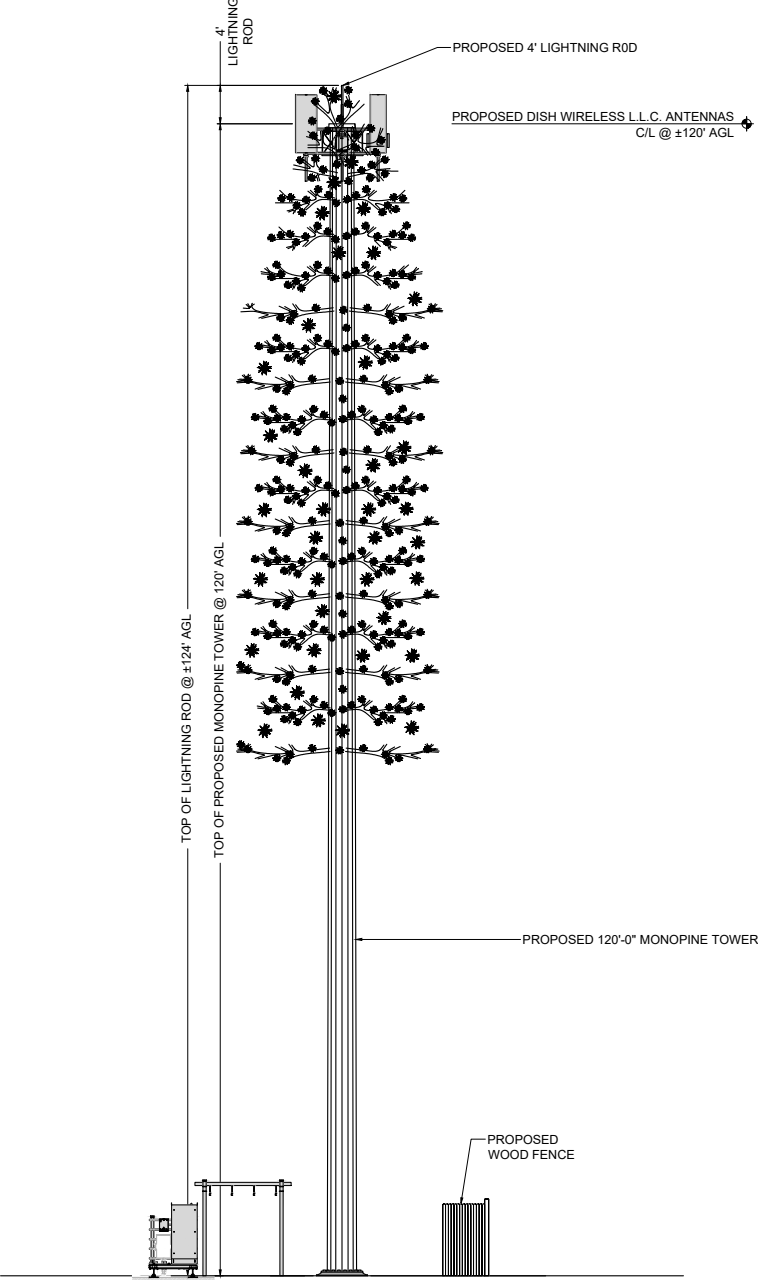
A&E PROJECT NUMBER
53568

PROJECT INFORMATION

US-WI-5440
W229N2467 REDFORD BLVD
WAUKESHA, WI 53072

SHEET TITLE
**ENLARGED
SITE PLAN**

SHEET NUMBER
Z-4



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53568

PROJECT INFORMATION

US-WI-5440
W229N2467 REDFORD BLVD
WAUKESHA, WI 53072

SHEET TITLE
PROPOSED TOWER
ELEVATION

SHEET NUMBER
Z-5



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

New Law Relating to Local Regulation of Cell Phone Transmission Towers

The 2013 Biennial Budget Act modified the regulatory powers of local governments in regard to cell phone towers. The new law specifies the manner in which a political subdivision can use zoning to regulate cell phone towers and lists specific regulations that a political subdivision may not apply.

OVERVIEW

The primary tool used by political subdivisions of the state to regulate the siting and construction of cell phone transmission towers, and other land uses, is zoning. Zoning serves to separate incompatible land uses by segregating them in zones, such as residential, commercial, and industrial zones. A typical zoning ordinance identifies land uses that are prohibited in a particular zone, those that are permitted, and those that are permitted subject to a conditional use permit. For example, cell phone towers are a land use that, under prior law, might have been prohibited in a residential zone but allowed, subject to a conditional use permit, in other zones. Note that not all political subdivisions have zoning ordinances, and those with zoning ordinances vary considerably in how they regulate various land uses.

Two other tools available to political subdivisions to regulate cell phone towers are building codes and other, non-zoning police-power regulations, such as license requirements. Again, not all political subdivisions require building permits; it is not known how many have enacted other police-power regulations, but it is presumed to be very few.

The new law created in 2013 Act 20 states specifically that a political subdivision may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and standards a political subdivision must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a political subdivision may not impose on the construction or modification of a tower. Significant among these, it specifies that a political subdivision may not prohibit the placement of cell phone towers in particular locations within the political subdivision, meaning essentially that it may not designate cell phone towers as a prohibited use in any zone.

The new law does not disturb existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law, and building codes.

APPLICABILITY

The new law applies to local regulation of three types of projects, all for the installation of various types of cell phone transmission facilities:

- Projects requiring construction of a new tower.
- Projects requiring substantial modification of an existing tower and facilities, but not construction of a new tower. Projects of this type are referred to as “class 1 collocations.”
- Projects requiring neither construction of a new tower nor substantial modification of an existing tower and facilities. Projects of this type are referred to as “class 2 collocations.”

The new law defines “substantial modification” as a project that does any of the following:

- For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.
- Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
- Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

The law defines “permit” as “a permit, other than a building permit, or other approval required by a political subdivision” for one of these types of projects. It defines “political subdivision” as a city, village, town, or county.

The new law specifies that a county ordinance to regulate the construction of a new tower or a class 1 collocation applies only in the unincorporated areas of the county, but not in any town that has such an ordinance in effect. It does not include a parallel provision regarding the applicability of county ordinances regulating class 2 collocations.

PERMITTED REGULATIONS AND REQUIRED PROCESSES

The new law specifies the regulations a political subdivision may impose on cell phone transmission towers and facilities, and the process a political subdivision must follow in reviewing an application for a permit.

PROJECTS REQUIRING NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS

The new law treats a project requiring substantial modification of an existing tower and facilities the same as a project requiring construction of a new tower.

Permitted Regulations

The new law specifies that a political subdivision may enact a zoning ordinance to regulate any of the following:

- The construction of cell phone towers.

- The substantial modification of existing towers and facilities (class 1 collocations).

However, it specifies that a political subdivision may only regulate these activities as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to the activities and may not be enforced against them.¹

Required Processes

The new law requires that an ordinance prescribe the application process for obtaining a permit or approval. The ordinance must require that an application include all of the following:

- The name and business address of, and the contact individual for, the applicant.
- The location of the proposed or affected tower.
- The location of the proposed facilities.
- A construction plan that describes the proposed new tower and facilities or the proposed modifications to the existing tower and facilities.
- If an application is to construct a new tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement attesting to one of the following regarding collocation within the area in which the applicant needs to site the new facilities (termed the applicant's "search ring"):
 - Collocation would not result in the same mobile service functionality, coverage, and capacity.
 - Collocation is technically infeasible.
 - Collocation is economically burdensome to the mobile service provider.

The new law specifies that an application is complete if it contains all the information described above; by implication, a political subdivision may not require any additional information from an applicant. If a political subdivision does not believe that an application is complete, it must notify the applicant of this in writing, within 10 days of receiving the application. The notice must specify in detail the information that was lacking from the application. The applicant may refile the application as many times as is needed to complete it.

Within 90 days of receiving a complete application, a political subdivision must do all of the following:

- Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in the new law, zoning ordinances.
- Make a final decision whether to approve or disapprove the application.

¹ The law appears to contemplate that a political subdivision will require a person engaging in one of these activities to obtain a conditional use permit, since the language does not allow treating them as prohibited uses. However, a political subdivision could elect to treat them as permitted uses.

- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.

If the political subdivision fails to comply with these requirements by the 90-day deadline, the application is considered approved, except that the political subdivision and the applicant may agree to extend the deadline.

A political subdivision may disapprove an application if the applicant refuses to evaluate the feasibility of collocation within its “search ring” and to provide the sworn statement required in the application.

A party that is aggrieved by the political subdivision’s final decision may appeal the decision to the circuit court for the county in which the project was proposed. This appears to allow the aggrieved party to appeal to circuit court without first exhausting administrative reviews at the level of the political subdivision.

Limitations

The new law specifies that a zoning ordinance does not apply to a particular structure if the applicant provides the political subdivision with an engineering certification showing that the structure is designed to collapse in a smaller area than the setback or fall zone area required in the ordinance. However, the political subdivision may apply the ordinance to the structure if it provides the applicant with substantial evidence that the engineering certification is flawed.

PROJECTS REQUIRING NEITHER NEW CONSTRUCTION NOR SUBSTANTIAL MODIFICATIONS

As noted earlier, the new law refers to projects that involve neither new construction nor substantial modifications of towers as “class 2 collocations.”

Permitted Regulations

The new law specifies that a class 2 collocation is a permitted use under a zoning ordinance. It also provides that class 2 collocations are subject to the same building permit requirements as other commercial development or land use development.² Again, the law specifies that a political subdivision may only regulate class 2 collocations as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to class 2 collocations and may not be enforced against them.

Required Processes

The new law specifies a process for the review of “an application for a permit to engage in a class 2 collocation.”³ The process is a simplified version of the process for other projects, described above. It differs from that process in the following ways:

² The provisions of the new law relating to construction of a new tower or a class 1 collocation do not include a similar statement, but the review process does require the political subdivision to determine whether the proposed project complies with its building code.

³ As noted above, a class 2 collocation is a permitted use under a zoning ordinance, so there can be no conditional use permit to apply for. Further, building permits are excluded from the definition of “permit,” so the procedures described here do not apply to a building permit application. Consequently, it appears that the new law contemplates that a political subdivision may require a person engaging in a class 2 collocation to apply for a

- Only the first three items of information (identifying the business and the location of the project) are required for an application.
- The political subdivision must inform the applicant of deficiencies in the application within five days of receiving the application, rather than 10 days.
- The political subdivision must complete its actions within 45 days of receiving a complete application as opposed to 90 days, and the list of actions it must complete is slightly different:
 - Make a final decision whether to approve or disapprove the application.
 - Notify the applicant, in writing, of its final decision.
 - If the decision is to approve the application, issue the applicant the relevant permit.
 - If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- The application is not considered automatically approved if the political subdivision does not take final action within the specified time frame.

LIMITATIONS ON POLITICAL SUBDIVISIONS' ACTIONS

Under the new law, a political subdivision may not do any of the following with regard to the construction of a new cell phone tower or a class 1 or class 2 collocation:

- 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 cell phone tower in particular locations within the political subdivision.
- Charge a cell phone 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 the political subdivision for a building permit for any other type of commercial development or land use development.
 - For a permit for construction of a new tower or a class 1 collocation, \$3,000.
- Charge a cell phone service provider any recurring fee for a project covered by the law.
- Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of cell phone service permits or applications.

determination that the activity is, in fact, a class 2 collocation; that is to say, a determination that the political subdivision will not require a conditional use permit for the activity. This Information Memorandum assumes that it is an application for this type of approval to which the process described here applies.

- Disapprove an application based solely 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. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation.
- Prohibit the placement of emergency power systems.
- Require that a cell phone tower 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 owner of the facilities 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 tower or using 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 cell phone tower or facilities have or be connected to backup battery power.
- Impose a setback or fall zone requirement for a cell phone tower that is different from a requirement that is imposed on other types of commercial structures.
- Consider a project to be a substantial modification if the project adds more than 20 feet to the height of a tower that is not more than 200 feet tall but the greater height is necessary to avoid interference with an existing antenna.
- Consider a project to be a substantial modification if the project adds 20 feet or more to the diameter of the tower but the greater diameter 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 cell phone tower 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.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by David L. Lovell, Principal Analyst, on December 9, 2013.

WISCONSIN LEGISLATIVE COUNCIL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536

Telephone: (608) 266-1304 • Fax: (608) 266-3830

Email: leg.council@legis.wisconsin.gov

<http://www.legis.wisconsin.gov/lc>

**A COVENANT
REGARDING THE ISSUANCE OF A
CONDITIONAL USE PERMIT
BY THE
CITY OF PEWAUKEE**

**TAX KEY NUMBER(S)
OR PARCEL(S) INVOLVED:** **CONDITIONAL USE
PERMIT:
NO. CUP-22-8-1**

PWC 0915994004

LEGAL DESCRIPTION:

LOT 4 CSM #5950 VOL 48/315 REC AS DOC #1553674 PT SW1/4
SEC 13 T7N R19E :: DOC #4342034

**PERSON(S), AGENT(S) OR CORPORATION(S) PETITIONING
FOR PERMIT:**

Bridger Tower Corporation

Recording area

Name & Return Address

City of Pewaukee
W240N3065 Pewaukee Rd
Pewaukee, WI 53072

WHEREAS, It is understood by all parties to this covenant that Section 62.23 of WIS. Statutes prescribes the legal basis for the granting of a conditional use permit by a City and Chapter 17 of the City Codes and Ordinances provides for the issuance of such permits as well as the standards by which all such uses will be measured; and,

WHEREAS, The City Plan Commission has held a meeting on August 18, 2022; has reviewed the various elements of the petitioner's proposal; and has recommended that a Conditional Use Permit be granted to the above-named petitioner for the property/parcel identified above; and,

WHEREAS, The City Common Council held a public hearing meeting on September 19, 2022.

NOW, THEREFORE, let it be known that the City Common Council, by its action on September 19, 2022 has, hereby, granted a Conditional Use Permit for the following use(s):

Construct an unmanned 120-foot monopole cell tower.

FURTHER, such approved use of the above designated parcel(s) are hereby allowed based on the following conditions being continually met:

No conditions.

The parties hereto, namely the City of Pewaukee and the Equitable Owner of the property for which this conditional use has been sought, set their signatures or the signatures of their representatives below, thereby agreeing to the provisions and conditions set forth in this covenant.

Attest:

Signature of equitable owner

Date

Kelly Tarczewski
City Clerk

Steve Bierce
Mayor, City of Pewaukee

Date

State of Wisconsin
County of Waukesha

Signed or attested before me on _____, 2022 by Steve Bierce, Mayor and Kelly Tarczewski, Clerk.

(Seal)

Ami Hurd
My Commission expires _____

This instrument was drafted by Ami Hurd, Deputy Clerk

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 3.**

DATE: August 18, 2022

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Hydro-Thermal Corporation for Property Located at N22 W23977 Ridgeview Parkway for the Purpose of Constructing a Demonstration Brewery (PWC 0954994)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

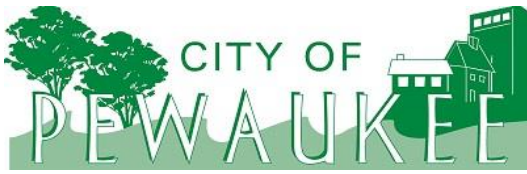
ATTACHMENTS:

Description

Hydro-Thermal staff report 8.18.22

Hydro-Thermal conditional use plans

Hydro-Thermal conditional use permit



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE PLAN COMMISSION

Meeting of August 18, 2022

Date: August 11, 2022

Project Name: Hydro-Thermal Corporation Conditional Use Permit Application

Project Address/Tax Key No.: N22W23977 Ridgeview Parkway/PWC 0954994

Applicant: Hydro-Thermal Corporation

Property Owner: Welsh Pewaukee, LLC

Current Zoning: M-4 Industrial Park District and UC Upland Conservancy

2050 Land Use Map Designation: Manufacturing/Fabrication/Warehousing and Floodplains, Lowland & Upland Conservancy and Other Natural Areas

Use of Surrounding Properties: Single-family residential to the north, conservancy land to the south, manufacturing to the east and commercial and the Pewaukee Fire Station No. 1 to the west

Project Description

The applicant has filed a Conditional Use Permit requesting approval of a demonstration brewery use within the building located at N22W23977 Ridgeview Parkway.

The demonstration brewery space is 14,317 square feet. According to the applicant there will be no beer sales or public access at this site. The beer will be packaged onsite in bulk and shipped to customers.

The brewery space will include a generator, milling room, venting equipment, coolers, mixing vessels and processing equipment, and storage.

The property is zoned M-4, which permits B-4 and M-2 uses. M-2 uses include manufacturing as long as smoke, noise, dust, flash, liquid, or odor are all confined within the building. As brewing will likely produce an odor, the applicant is requesting the use be allowed via Conditional Use Permit.

The applicant has noted that odor will be less than a typical brewery due to its technology. Further details on the brewing process are included in the applicant's project narrative.

The proposed use also includes a food laboratory; however, that use will not emit any odors and is permitted.

Exterior modifications include rooftop ventilation equipment, a fifteen-foot-tall carbon dioxide vessel mounted on the south elevation, and a 5,000 gallon septic tank. Staff would like to see additional details of the carbon dioxide vessel; however, there will likely not be an aesthetic concern as it is being located on the south side of the building screened from public view.

Staff is primarily concerned with this use and its proximity to the Hawk's Meadow Subdivision. The subject building is about 200 feet south of the Hawk's Meadows Subdivision. With that said, as a demonstration brewery, any odors produced will be less than a larger, traditional brewery.

Recommendation

Staff recommends approval of the Conditional Use Permit for Hydro-Thermal Corporation to operate a demonstration brewery at N22W237977 Ridgeview Parkway, subject to the following recommendations:

- *This Conditional Use Permit is personal to Hydro-Thermal Corporation, does not run with the land, and is not transferrable.*
- *Conditional Use approval is subject to annual review by the Plan Commission and Common Council as may be initiated by the City Planner or Alderperson in case of frequent odor complaints.*
- *Brewing operations that may produce odors emanating outside of the building shall be limited to between 8:00 a.m. and 6:00 p.m. Monday through Friday. Brewing shall not occur Saturday and Sunday.*
- *Rooftop equipment shall be fully screened from public view.*
- *Applicant shall obtain the State Fermented Malt Beverages Permit as may be required, or any other applicable permits and licenses.*

**Hydro-Thermal request for
City of Pewaukee
“Petition for Conditional Use”**

**Location:
N22 W23977 Ridgeview Parkway
Pewaukee Wisconsin 53072**

**June 17, 2022
Jim Zaiser, President and CEO
Hydro-Thermal Corporation**

Summary:

Hydro-Thermal is requesting Conditional Use at a property it intends to lease and then construct within the building a demonstration brewery. Conditional Use is necessary because the property is zoned M-4 which does not allow the emission of odor. The brewery will emit far less odors typical of a brewery, due to its technology, when it operates the laboratory.

Operation is expected for short batches on periodic basis, within the normal working hours 7:30-4:30. Typically, and based on its initial capacity, the brew-house will make two batches of wort (sugar water) once a week, taking approximately 15-minutes twice. The odor would be a sweet smell typical of converting malted grains like barley into sugar.

Hydro-Thermal will immediately discharge wastewater to the Pewaukee Sewer System.

The odors of a brewery are typically described as: aroma in homebrew, but it's usually a pleasant, brief aroma. The aroma of boiling wort is generally pleasant on brew day, with **notes of sweetness, spice, and fruit**. An aroma of yeast and fruit is common during active fermentation.

The brewery will not have public access.

The brewery will package its beer in bulk containers and transport offsite in semi-trailers for sale to its customers.

Technically... why an odor

(1) In the Brewhouse:

The wort must be boiled, or it will remain unstable. Boiling is a vital step because it sterilizes the liquid and halts the starch to sugar conversion. Contrary to a typical process, hops are NOT added to the liquid wort during boiling. Hops are added after boiling.

In the process, wort will be heated to boiling temperature until vapor occurs. The boiled wort evaporates volatiles that are present naturally in starch and thereafter the conversion process to sugar.

Boiling wort changes the molecular arrangement of the α -acids (give the bitterness) to "iso-alpha acids". These now, iso-alpha acids are much more soluble so, more easily impart bitterness to the wort. The process of boiling wort is to evaporate some unwanted volatile compounds.

(2) In Fermentation:

Fermentation is when yeast produce all the alcohol and aroma and flavor compounds found in beer. Manipulation of temperature, oxygen levels, and pitch rate as well as yeast strain selection will all dramatically affect the production of aroma and flavor compounds produced during fermentation.

Fermentation will emit: "CO₂ is a colorless, odorless gas produced during beer fermentation and also used in dispensing systems."

Fermentation will also create Hydrogen sulfide (H₂S) and mercaptans; they form when brewing byproducts ferment in anaerobic conditions, but this amount is negligible.

Project Narrative

A major technological breakthrough – one that could alter an entire industry – is a rare occurrence. But Hydro-Thermal in Waukesha, Wisconsin, is on the verge of something that could dramatically elevate Waukesha's standing as a hub for bold innovation.

Hydro-Thermal has been an integral part of the Waukesha manufacturing community and has been innovating in direct steam injection technologies for 88 years. We've served industries across more than 100 countries worldwide.

And now we've set our sights on the brewing industry, with a groundbreaking demo brewery that uses direct steam injection technology. This brewing equipment – with its innovative, more efficient process and smaller footprint -- could significantly impact the brewing industry as we know it.

But while the brewing industry certainly has plenty to gain from this technology, Waukesha will be the first to feel the benefits. This demo brewery will create new jobs and help to continue Waukesha's long-standing tradition in food and beverage processing equipment manufacturing.

"Hydro-Thermal has always been innovation focused and manufacturing best-in-class products for its customers. With the intention of thought leadership, we have this special opportunity to develop recently patented technology and demonstrate a new way of brewing to the world. We will engage employees and partner within the community to complete the development, begin producing 'Futuristic Brewhouses', and brew great beer !"

Jim Zaiser President and CEO

This unprecedented technology will position Waukesha as the center of thought leadership and have a positive impact on the community. But make no mistake – this demo brewery is a technology center, not a brewpub. It is not a venue that will serve or sell beer to the public, and it will not be open to the public. It will be completely dedicated to discovery, innovation, and demonstration.

This state-of-the-art demo brewery further advances our commitment to the Waukesha community and blazing new trails in direct steam injection technologies. We're the two-time manufacturer of the year in Wisconsin and are a family-owned company since 1934.

This is a bold step into the future for us, and for Waukesha County.

Business / Use Operational Information

The laboratory will operate as a food lab (that won't emit smell) and a demonstration brewery to convert grains, like malted barley, into finished packaged beer. The purpose of the operation is to complete the development process of an innovative and completely new process that has recently been patented. The brewery will demonstrate beer production to prospect customers, engineering companies, academia, marketing forums, and partners in the community. After contracting customers, the brewery will be used to train operators on all aspects of its technology while it develops their final recipes and produces its initial beer production.

The Brewery will include the following equipment:

1. Steam generator
2. Compressed Air: (currently installed)
3. Milling room: to pulverize grain into flour
4. Brewhouse
5. Fermentation vessels
6. Bulk packaging equipment
7. Venting equipment, through roof penetration.
8. Carbon Dioxide vessel
9. Cold storage
10. Glycol cooler
11. Dried distiller grains removal
12. Increased floor drainage, septic tank, and sewer connections

The food processing laboratory will include:

1. Bulk mixing vessel
2. Pump
3. Variety of Direct Steam Injection skids
4. Hold tube or processing equipment like heat exchangers
5. Bulk finish storage tank
6. Disposal totes

Future Development Plans

The brewery is intended to be used as demonstration location and produce initial batches of beer for its customers. In the future, we hope to build at another location a contract brewery, nearby, that is designed for larger and longer production runs. Stay tuned, but this is our dream.

At this location, the only expected expansion is to increase of the number of fermenters installed from two and a bright tank to possibly add up to six additional small batch fermenters to allow for the hold times necessary to age and varieties of beer.

Technology sampling of new components using a variety of other equipment like pumps or sensors are of course possible, but yet to be identified or planned.

External modification

There is no modification to the building or the property except for the following

1. Signage: per code we expect to modify existing signs to identify our company per code and lease agreement.
2. Roof top ventilation will be added adjacent to existing HVAC equipment which is mounted on the roof.
3. A Carbon Dioxide vessel will be installed on south facing wall of the building, immediately adjacent to the delivery docks. This will be a five-foot diameter vessel, fifteen feet tall and painted white. It will be mounted on a new concrete pad.
4. There is a possibility, based on the needs of (Brookfield) wastewater treatment that for future needs, that we add a septic system to reduce solids discharge to their system. In that case, we would add an approximate 5000gal septic tank, to allow time for solid water separation. (Not on drawing – as this detail is yet to be even considered)

Business Impact:

It is the intention of Hydro-Thermal to expand its business three-fold. Currently we employ about 100 employees, but we know that we will be hiring at least a dozen employees on the Brewing Team in the next year.

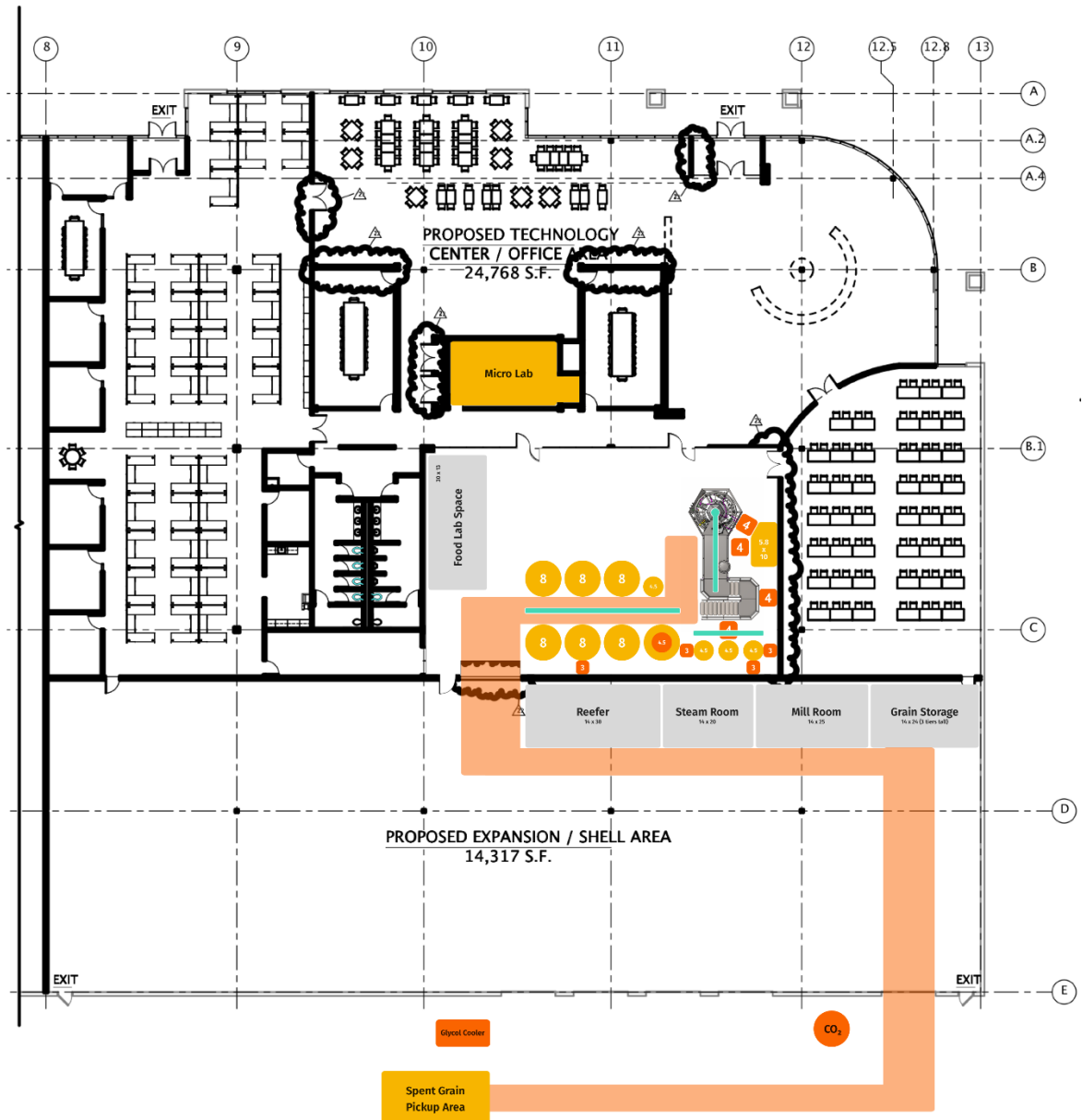
Once the technology is proven, we know we will hire a dozen service techs, electrical and controls engineers, chemical engineers, and brewing experts. The business aspects will require a couple more. In total, we hope the team is 30 strong in the next 5-years. The business should increase revenues upwards of \$20 to 40million.

In the area, we will be hosting academia and customers to experience the brewery and its technology. We expect multiple training days where participants will use local hotels and restaurants. Our intent is that a thriving economy will “lift all ships in the harbor”.

Drawings:

Laboratory

- layout
- Utility supply
-



Current Laboratory picture... CNC lab, to become brewery



**A COVENANT
REGARDING THE ISSUANCE OF A
CONDITIONAL USE PERMIT
BY THE
CITY OF PEWAUKEE**

**TAX KEY NUMBER(S)
OR PARCEL(S) INVOLVED:** **CONDITIONAL USE
PERMIT:
NO. CUP-22-8-2**

PWC 0954994

LEGAL DESCRIPTION:

PARCEL 2 CERT SURV 8185 VOL 71/174 PT NW1/4 SEC 23 &
SW1/4 SEC 14 T7N R19E (AKA PT RIDGEVIEW CORPORATE
PARK WEST) DOC# 3099210 & DOC# 4008766 & DOC# 4008767

**PERSON(S), AGENT(S) OR CORPORATION(S) PETITIONING
FOR PERMIT:**

Hydro-Thermal Corporation

Recording area

Name & Return Address

City of Pewaukee
W240N3065 Pewaukee Rd
Pewaukee, WI 53072

WHEREAS, It is understood by all parties to this covenant that Section 62.23 of WIS. Statutes prescribes the legal basis for the granting of a conditional use permit by a City and Chapter 17 of the City Codes and Ordinances provides for the issuance of such permits as well as the standards by which all such uses will be measured; and,

WHEREAS, The City Plan Commission has held a meeting on August 18, 2022; has reviewed the various elements of the petitioner's proposal; and has recommended that a Conditional Use Permit be granted to the above-named petitioner for the property/parcel identified above; and,

WHEREAS, The City Common Council held a public hearing meeting on September 19, 2022.

NOW, THEREFORE, let it be known that the City Common Council, by its action on September 19, 2022 has, hereby, granted a Conditional Use Permit for the following use(s):

Constructing a demonstration brewery.

FURTHER, such approved use of the above designated parcel(s) are hereby allowed based on the following conditions being continually met:

1. This Conditional Use Permit is personal to Hydro-Thermal Corporation, does not run with the land, and is not transferrable.
2. Conditional Use approval is subject to annual review by the Plan Commission and Common Council as may be initiated by the City Planner or Alderperson in case of frequent odor complaints.
3. Brewing operations that may produce odors emanating outside of the building shall be limited to between 8:00 a.m. and 6:00 p.m. Monday through Friday. Brewing shall not occur Saturday and Sunday.
4. Rooftop equipment shall be fully screened from public view.
5. Applicant shall obtain the State Fermented Malt Beverages Permit as may be required, or any other applicable permits and licenses.

The parties hereto, namely the City of Pewaukee and the Equitable Owner of the property for which this conditional use has been sought, set their signatures or the signatures of their representatives below, thereby agreeing to the provisions and conditions set forth in this covenant.

Attest:

Signature of equitable owner

Date

Kelly Tarczewski
City Clerk

Steve Bierce
Mayor, City of Pewaukee

Date

State of Wisconsin
County of Waukesha

Signed or attested before me on _____, 2022 by Steve Bierce, Mayor and Kelly Tarczewski, Clerk.

(Seal)

Ami Hurd
My Commission expires _____

This instrument was drafted by Ami Hurd, Deputy Clerk

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 4.**

DATE: August 18, 2022

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action and Public Hearing Regarding Changes Related to Accessory and Temporary Uses and Structures Within the Zoning District Standards, Sections 17.0208, 17.0209, 17.0902, and 17.1400

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Accessory Uses and Structures staff report 8.18.22

Accessory Uses and Structures summary

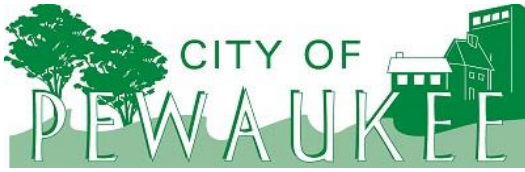
17.0208 - all markup

Accessory Uses and Structures - clean

Accessory Uses and Structures - all markup

Accessory Uses and Structures definitions - final draft

Waukesha County boathouse regulations



Office of the Planner & Community Development

W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770

Fax (262) 691-1798

REPORT TO THE PLAN COMMISSION

Meeting of August 18, 2022

Date: August 11, 2022

Project Name: Zoning Code Re-Write Project: Section 17.0209, Accessory Uses and Temporary Uses or Structures

Project Address/Tax Key No.: City-wide

Applicant: City of Pewaukee

Project Description

Based upon feedback given at the May 19, 2022 Plan Commission meeting and at the June 6, 2022 Common Council meeting, the revised Accessory Uses and Structures Section amendments attached and described below are being brought forward for adoption as part of the Zoning Code Re-Write Project that the Planning & Community Development Department has undertaken.

The attached includes the following:

- A summary of the proposed amendments
- A tracked change version of changes related to 17.0208
- A clean and tracked change version of changes related to 17.0209 and 17.0902
- A tracked change version of changes to definitions

Through this re-write, staff aimed to generally keep the same standards as the existing code, with a few exceptions, while better identifying and detailing standards for specific uses and structures. The intent is not to create nonconforming structures or situations, but to better clarify standards and uses and correct any discrepancies that currently exist within these sections.

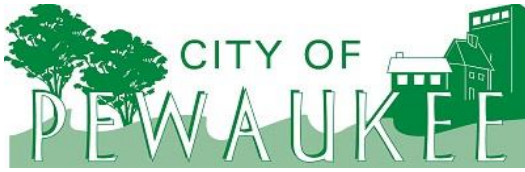
The following are changes staff made given the feedback previously provided:

- Re: Section b.(2)(a), (e) and (f)

The Plan Commission discussed requiring pools, decks, patios, and any like impervious surface being a minimum of 15-feet from the side and rear property lines.

Following Plan Commission and Common Council review, staff found that the Rs-6 and Rs-7 District side yard setback for principal structures conflict with this 15-foot standard. These districts allow principal structures to be closer than 15-feet, so it would seem reasonable to allow other structures closer as well.

As such, staff added “or as otherwise required within the underlying zoning district, whichever is least restrictive” where applicable for pools, decks, and patios.



Office of the Planner & Community Development

W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770

Fax (262) 691-1798

As a reminder, the current standard is 15-foot from rear yard and the district setback for side yard.

- The current code does not specify a maximum size for boathouses. Boathouses are either held at a certain size based upon lot coverage and setback requirements or limited to 1,200 square feet as a “detached garage.” The initial proposed amendment limited boathouses to a maximum size of 800 square feet. Staff revised this amendment, so it now limits boathouses to a maximum size of 600 square feet.

For comparison, Waukesha County limits boathouses to a minimum of 200 square feet and maximum area of 450 square feet. The County further restricts size by stating that a boathouse shall not exceed 15-feet in width, measured parallel to the shore.

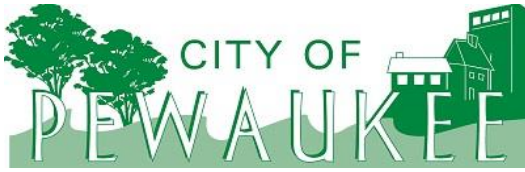
The County also limits the height of a boathouse to a maximum between 11-feet and 15-feet depending on the slope of the roof. The City’s maximum height for accessory structures is 18-feet.

Regarding location, the County setback is 5-feet from the ordinary high water mark, but their code also states that a boathouse shall not be located further than 35-feet from the ordinary high water mark. A boathouse is also not allowed within the floodplain.

The Waukesha County boathouse regulations are attached for review.

Note the current draft amendment includes the following restrictions for boathouses. If the Plan Commission would like to include any other standards, those should be specifically included in any motion recommending approval.

- i. Shall be setback a minimum of five (5) feet from the ordinary high water mark of a lake or stream.
- ii. Shall be setback a minimum of ten (10) feet from the side property line. For properties zoned Rs-7 District, the minimum side yard setback shall conform to the same required setback as the principal structure based upon lot width and setback requirements of Section 17.0411.
- iii. Shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a)
- iv. Shall not exceed six hundred (600) square feet in area.
- v. Shall not exceed fifteen (15) feet in height.
- vi. Decks located upon flat roofs are permitted and shall have railing between thirty (30) and thirty-eight (38) inches. Railings shall be exempt from the maximum height allowed under sub v. above.
- vii. Shall have a maximum width of twenty (20) feet along the shore lot line.
- viii. Shall have a maximum distance from the shore lot line to the rear of the



Office of the Planner & Community Development

W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770

Fax (262) 691-1798

boathouse structure shall be thirty-five (35) feet.

- Parking of trailers and recreational vehicles

Currently the zoning code only allows temporary parking of trailers and recreational vehicles for a maximum of 45 days on a property. The initial proposed amendment continued to allow temporary parking of trailers and RVs for a maximum of 30 days; however, it also provided parameters to allow for parking or storing them on a property permanently.

Staff revised the temporary uses amendment back to the current maximum of 45 days on a property per calendar year. Staff also completely removed the recreational vehicle and mobile homes detailed standards from the accessory uses and structures section.

After further consideration of comments at Plan Commission and Common Council, staff changed the draft to 60 days as that seemed to best fit with the intent discussed, which was to allow some storage of these types of vehicles during the summer.

Staff will look for direction from the Plan Commission whether to keep the allowance at 60 days or revise the ordinance back to 45 days.

Staff is also proposing additional text to Section 17.0208 to clarify specific exceptions to setback requirements, such as allowing chimneys and eaves to encroach into setback areas by no more than three feet.

Recommendation

Staff recommends approval of the proposed text amendments to Section 17.0208, 17.0209, 17.0902, and 17.1400 related to accessory and temporary uses and structures.

New Accessory Uses & Structures Ordinance Summary

Major Changes

Quantity. Each residential lot shall be allowed no more than:

- One accessory structure 200 square feet or less in area
- One accessory structure up to a maximum of 1, 200 square feet on a lot less than 2.5 acres. A residential lot 2.5 acres or greater shall be allowed two accessory structures up to 1,200 square feet or one accessory structure no more than 2,400 square feet
- The total area of all permitted accessory structures as listed within the ordinance shall not occupy more than 40% of the rear yard
- In ground swimming pools, boat houses, and children play structures and tree houses will not count toward the maximum quantity of structures allowed

Detail standards exist for: swimming pools, pool houses and cabanas, fences, home use residential gardens, decks, patios and other paved or graveled areas, porches, boathouses, children play structures and tree houses, solar panels, and home occupation

Minor Changes

Call out that accessory structures attached to a principal structure by breezeway or other like structures are not considered attached

Lean-tos and other roofed projections, exceeding 3ft shall be included in area calculations

Setbacks.

- Accessory structures 120 square feet or less shall be located a minimum of five (5) feet from the side and rear property lines.
- Accessory structures between 121 and 200 square feet shall be located a minimum of ten (10) feet from the side and rear property lines.
- Accessory structures exceeding 200 square feet shall meet the same minimum setbacks as principal buildings of the zoning district.
- In no case shall an accessory structure be required to meet a greater setback than required for the principal structure

Design. Accessory structures shall be constructed of the same or complementary exterior materials as the principal structure on the parcel. In no case shall metal be utilized as a primary building material.

Detailed Standards.

- Concrete, decking and any other impervious surface surrounding the pool shall

be a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.

- All structures, including but not limited to fences and pool houses, shall be a minimum of four (4) feet from the edge of the pool.
- Fences shall be setback a minimum of 2 ft from property line to allow for maintenance of the fence
- Boathouses shall be setback a minimum of ten (10) feet from the side property line. For properties zoned Rs-7 District, the minimum side yard setback shall conform to the same required setback as the principal structure based upon the lot width and setback requirements of Section 17.0411.
- Boathouses shall not exceed six hundred (600) square feet in area
- Roof mounted solar panels shall not extend more than 3ft greater than the maximum height allowed for the structure in accordance with the zoning district

No Changes

Lot Coverage. All principal accessory structures shall not occupy more than the maximum permitted lot coverage allowed within the applicable zoning district.

Location.

- No detached accessory structure shall be located within the street yard, front yard, or a corner side yard
- Accessory structures are allowed within the arterial street side of double frontage lots
- Lots abutting Pewaukee Lake or its tributaries shall be considered double frontage lots and accessory structures shall be allowed on the street and water side of said lots
- Accessory structures shall be oriented so as not to block all view of water bodies and/or other common private or public open space from existing principal residences located on adjacent parcels.

Setbacks.

- Accessory structures, regardless of size, shall be located a minimum of:
 - Five (5) feet from any public easement
 - Ten (10) feet from any other structures (principal or accessory)
 - Twenty-five (25) feet from a wetland
 - Seventy-five (75) feet from a 100-year floodplain boundary or Ordinary High Water Mark of a navigable waterway, unless otherwise allowed in this ordinance.

Height. An accessory structure shall have a maximum height of 18 ft

Use. Residential accessory uses shall be subordinate to the residential use and shall not include a separate residential dwelling unit or involve the conduct of any business, trade, or industry except approved home occupations and home offices as defined in this ordinance.

Accessory structures 35 sq. ft. or less and mechanical equipment are allowed without issuance of a permit

17.0208

SITE RESTRICTIONS

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the City and its inhabitants. The City Engineer, or any other official acting on behalf of the City, in applying the provisions of this section, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for a certain use and/or structure. The applicant shall have an opportunity to present evidence to the Plan Commission contesting such determination of unsuitability. Thereafter the Plan Commission may affirm, modify or withdraw the determination of unsuitability. In any event, the following requirements must be met:

- a. All lots or parcels shall abut upon a public street, road, or highway for a minimum frontage width of 33 feet or as otherwise required in the City Land Division Ordinance (Chapter 18), if more restrictive. In hardship circumstances related to parcels of land existing prior to August 1982, the Plan Commission may, at their discretion, allow one (1) or two (2) residential principal uses on separate parcels to have access to a public street via a common easement as long as such easement is at least 33 feet in width and is wholly contained within one parcel.
- b. All Principal Structures shall be located on a lot or building space; and only one (1) principal structure shall be located, erected, or moved onto a lot or building space in a single-family residential district, with the exception of a condominium arrangement in which two or more single-family houses are located on a parcel of land held in common by all the owners of the individual single-family houses as a conditional use and the net density (dwelling unit to land ratio) of the condominium development is no greater than allowed under the zoning classification of the parcel. Construction of accessory structures on a lot with no principal use will not be permitted. The Plan Commission may permit more than one principal structure per lot in districts where more than one structure is either needed or suitable for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, open space or landscaping requirements, or parking requirements, or require a larger minimum separation distance between principal structures.

c. Permitted Projections in Required Yards.

- (1) Landscaping and Vegetation are exempt from the yard requirements of this ordinance except that such vegetation shall not block traffic vision.
- (2) Structures and Vegetation used for landscaping and decorating may be placed in all yards, including the required street yard and side yards. Permitted structures and vegetation include flagpoles, ornamental light

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- standards, lawn furniture, sundials, birdbaths, decorative fences not exceeding three (3) feet in height, and trees, shrubs, and flowers.
- (3) Architectural Projections such as chimneys, flues, sills, eaves, belt courses, bay windows, canopies, awnings, roofs and architectural ornamentation may project into any required yard, but not more than three (3) feet.
- (4) Essential Services such as utilities, and electric power and communication transmission lines are exempt from the yard and distance requirements of this ordinance.
- (5) Off-street Parking is not permitted in front yards in residential districts except on established paved driveway and such parking shall not protrude beyond the street curb or over an established sidewalk.
- (6) Uncovered stairs, landings, and fire escapes may project not more than five (5) feet into any yard and may not be closer than five (5) feet from any property line. ▲

~~e-d.~~ No Building or Zoning Permit shall be issued for a lot or parcel which abuts a public street dedicated to only a portion of its proposed right-of-way width and is located on that side of the proposed street from which the required dedicated right-of-way has not been secured.

~~e-e.~~ Lots Abutting More Restrictive zoning districts shall provide side and rear yard setbacks not less than those required in the more restrictive abutting district. If the boundary of the more restrictive district is encompassed within railroad or street right-of-way, the more restrictive yard requirements may be waived by the City Planner.

~~e-f.~~ No River or Stream shall be Altered or Relocated until such alteration has been applied for and granted in accordance with the requirements of Section 17.1100 of this ordinance, federal agencies, Wisconsin statutes and codes and regulations or other codes and ordinances of the City. **(Also see sub-sections 17.0435 and 17.0436 of this ordinance)**

~~f-g.~~ Structures or plantings proposed to be located within the defined "Horizontal Area of Solar Detriment" of an existing use having an operational active solar system may not be placed so as to intrude into the defined "Vertical Area of Solar Detriment" of the existing use. **(Please see sub-section 17.0909).**

~~g-h.~~ Soil Limitations: Certain soil types within the City as shown on the operational soil survey maps prepared by the U.S.D.A., Soil Conservation Service (SCS) in cooperation with the Southeastern Wisconsin Regional Planning Commission, have severe or very severe limitations for onsite soil absorption sanitary sewage disposal facilities due to one or more of the following reasons: high or fluctuating water table, flooding, groundwater contamination, silting, slow permeability, steep slopes, or proximity to bedrock. Such soil data will be considered by the Plan Commission when development requiring onsite soil absorption sanitary sewage disposal

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facilities are proposed on those soil types which have the above characteristics.

h.i. No Topsoil or Subsoil shall be removed from any land development site or from individual agricultural, commercial, industrial, institutional, or recreation sites or from land within the designated 100 year base flood floodplain without the proper review and approval of an application for such removal by the Plan Commission. If topsoil removal is permitted by the Plan Commission, enough topsoil must be retained on the site to provide a minimum of six (6) inches of topsoil to be spread over all future grassed or landscaped areas on the site. Screening, sifting or other processing of topsoil will not be allowed without permission of the Plan Commission. Likewise, no land, water or wetland area of the City shall be filled, ditched, drained or inundated without the approval of the Plan Commission and/or Common Council pursuant to this or other City Ordinances. No lands within the designated 100 year base flood floodplain may be filled, ditched, drained or inundated with the exception of the construction of required public utility and transportation facilities which would require adherence to regulations as set forth in this sub-section and by FEMA and NR116. **(Also see sub-sections 17.0435 and 17.0436).**

i.i. No trees or shrubs shall be removed from any land development site encompassing two or more dwelling unit parcels or encompassing more than four acres unless and until a plan is prepared by the owner or developer and approved by the Plan Commission or City Planner showing the location, type and size of all such wood growth and indicating which such growth will be removed and where and how it will be replaced or substituted for on the final development plan. Such plan must be submitted to the City Planner for review and recommendation to the Plan Commission. Any site or building plan approval is contingent upon such a 'wood growth' plan being submitted and approved. If wood growth is removed without such approved plan, the owner or developer will be required to replace such wood growth on the basis of three specimens for each one removed.

j.k. Any area of a development or construction site on which bare earth has been exposed to the elements and which will not be included within the building or structure envelope shall be seeded or sodded at the direction of the City Planner, City Engineer or Zoning Administrator so as to reduce erosion of soil on and off the site. All permanent stormwater facilities or improvements will be accomplished in accordance with the City stormwater management plan and plan implementation measures. **(See Chapter 19 of the Municipal Code).**

- b. Accessory Uses and Structures are permitted in any district, but not until their principal use and/or structure is present or under construction and a building or zoning permit is obtained. No accessory structures shall contain or constitute a separate dwelling or residential unit. Accessory structures attached to a principal structure by a breezeway or other like structure are not considered attached for the purpose of this section. Lean-tos and other roofed projections, exceeding (3) feet shall be included in area calculations.

Accessory uses and structures include, but are not limited to: storage structures, parking structures and areas, gardening use and structures, private swimming pools, pool houses, cabanas, private emergency shelters, children play structures, greenhouses, sheds, decks, patios, gazebos, porches, boathouses, solar panels, fences, compost bins, sport courts, and animal shelters.

(1) All accessory structures in Single-Family and Two-Family Residential Districts shall comply with the following standards, unless otherwise specified under Section 17.0209(2) detailed standards for specific uses and structures.

- (a) Quantity. Each residential lot shall be allowed no more than:
- i. One accessory structure 200 square feet or less in area
 - ii. One accessory structure up to a maximum of 1,200 square feet on a lot less than 2.5 acres. A residential lot 2.5 acres or greater shall be allowed two accessory structures up to 1,200 square feet or one accessory structure no more than 2,400 square feet
 - iii. The total area of all permitted accessory buildings and structures as listed within this ordinance shall not occupy more than 40% of the side and rear yards.
- (b) Lot Coverage. All principal and accessory buildings shall not occupy more than the maximum permitted lot coverage allowed within the applicable zoning district.
- (c) Location. No detached accessory structure shall be located within the street yard, front yard or a corner side yard. Accessory structures are allowed within the arterial street side of double frontage lots. Lots abutting Pewaukee Lake or its tributaries shall be considered double frontage lots and accessory structures shall be allowed on the street and water side of said lots. Accessory structures shall be oriented so as not to block all view of water bodies and/or other common private or public open space from existing principal residences located on adjacent parcels.
- (d) Setbacks.
- i. Accessory structures 120 square feet or less shall be located a minimum of five (5) feet from the side and rear property lines.

- ii. Accessory structures between 121 and 200 square feet shall be located a minimum of ten (10) feet from the side and rear property lines.
- iii. Accessory structures exceeding 200 square feet shall meet the same minimum setbacks as principal buildings of the zoning district.
- iv. Accessory structures, regardless of size, shall be located a minimum of:
 - 1. Five (5) feet from any public easement
 - 2. Ten (10) feet from any other structures (principal or accessory)
 - 3. Twenty-five (25) feet from a wetland
 - 4. Seventy-five (75) feet from a 100-year floodplain boundary or Ordinary High Water Mark of a navigable waterway, unless otherwise allowed in this ordinance.
- v. In no case shall an accessory structure be required to meet a greater setback than required for the principal structure.
- (e) Height. An accessory structure shall have a maximum height of eighteen (18) feet.
- (f) Use. Residential accessory uses shall be subordinate to the residential use and shall not include a separate residential dwelling unit or involve the conduct of any business, trade, or industry except approved home occupations and home offices as defined in this ordinance.
- (g) Design. Accessory structures shall be constructed of the same or complementary exterior materials as the principal structure on the parcel. In no case shall metal be utilized as a primary building material.

(2) Detailed Standards for certain residential accessory structures and uses.

- (a) Swimming Pools (Also see Section 14.30 of the City's Municipal Code)
 - i. All swimming pools (in-ground or above ground) shall be a minimum of eighteen (18) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
 - ii. All swimming pools (in-ground or above ground) shall be a minimum of eight (8) feet from any public easement, as measured from the edge of the pool.
 - iii. Concrete, decking and any other impervious surface surrounding the pool shall be a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.

- iv. All structures, including but not limited to fences and pool houses, shall be a minimum of four (4) feet from the edge of the pool.
 - v. In-ground swimming pools shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a).
- (b) Pool houses and cabanas
- i. Shall be setback in accordance with Subsection (1)(d) above.
 - ii. Shall count towards the maximum quantity of structures allowed under 17.0209(1)(a).
 - iii. Shall not be used, rented, or leased as a dwelling or residential unit or for overnight habitation.
- (c) Fences
- i. Shall not exceed a height of six (6) feet as measured from grade
 - ii. Shall be ornamental and not exceed a height of three (3) feet when placed on the street side of a residence within the front yard.
 - iii. Shall not be located within a vision clearance triangle or within five (5) feet from a street property line when abutting a street.
 - iv. Shall be setback a minimum of five (5) feet from the right-of-way line on a corner lot or two (2) feet on a double frontage lot.
 - v. Shall be setback a minimum of two (2) feet from the property line to allow for maintenance of the fence.
 - vi. No barbed wire, chicken wire, or electrically charged fences shall be allowed as permanent fencing in residential zoning districts.
- (d) Home Use Residential Gardens
- i. Temporary style fencing, four (4) feet or less in height, immediately surrounding a home use residential garden shall be allowed.
- (e) Decks
- i. Attached and detached decks shall be setback a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- (f) Patios and other paved or graveled areas (See Section 17.0604 for driveway, access and parking standards)
- i. Shall be setback a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- (g) Porches
- i. Shall be attached and considered part of the

principal structure. As such, all porches shall comply with the minimum setbacks of the applicable zoning district.

(h) Boathouses (See Section 17.0436)

- i. Shall be setback a minimum of five (5) feet from the ordinary high water mark of a lake or stream.
- ii. Shall be setback a minimum of ten (10) feet from the side property line. For properties zoned Rs-7 District, the minimum side yard setback shall conform to the same required setback as the principal structure based upon lot width and setback requirements of Section 17.0411.
- iii. Shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a)
- iv. Shall not exceed six hundred (600) square feet in area.
- v. Shall not exceed fifteen (15) feet in height.
- vi. Decks located upon flat roofs are permitted and shall have railing between thirty (30) and thirty-eight (38) inches. Railings shall be exempt from the maximum height allowed under sub v. above.
- vii. Shall have a maximum width of twenty (20) feet along the shore lot line.
- viii. Shall have a maximum distance from the shore lot line to the rear of the boathouse structure shall be thirty-five (35) feet.

(i) Children play structures and tree houses

- i. Must be located a minimum of five (5) feet from the side and rear property lines.
- ii. Shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a).

(j) Solar panels (Also see Section 17.0909a.2.)

- i. Roof Mounted Systems
 1. Shall be permissible on principal and accessory structures
 2. Shall be flush mounted whenever possible
 3. Shall not extend above the highest peak of a pitched roof
 4. Shall not extend more than three (3) feet greater than the maximum height allowed for the structure in accordance with the zoning district
- ii. Ground Mounted Systems
 1. Shall be considered impervious and adhere to the general accessory structure requirements of Section 17.0209b.(1) above.
 2. The minimum clearance between the lowest point of the system and the surface on

which the system is mounted shall be twelve (12) inches

3. All parts of the free-standing system shall be located a minimum of fifteen (15) feet from the side and rear property lines.

(k) Home Occupation

- i. Home occupations may be conducted within single-family and multi-family dwellings.
- ii. The home occupation shall be conducted entirely within the dwelling and the total floor space required or used for such home occupation shall not be greater than twenty (20) percent of the total floor area of any floor within the residence and shall not be conducted within any accessory building
- iii. The home occupation shall not create noise, odor or electrical disturbance which can be detected outside the residence.
- iv. There can be no more than one (1) employee that does not live in the home.
- v. There shall be no customer traffic, no parking or servicing of vehicles not licensed to the homeowner, no parking outside a garage of more than one vehicle used in the business and no non-residential solid waste shall be stored outside.
- vi. There shall be no visible evidence from outside the residence that the residence is being used for home occupation purposes, and there shall be no signage displayed.

(3) The following accessory structures are allowed without the issuance of a building or zoning permit, subject to compliance with all standards of Section 17.0209b.(1).

(a) Any accessory structure thirty-five (35) square feet or less.

(b) Mechanical equipment

- i. Mechanical equipment, such as air conditioning units, shall be setback a minimum of five (5) feet from the side and rear property lines.
- ii. Mechanical equipment located within the street, front or corner side yard shall be setback a minimum of five (5) feet from the right-of-way line and fully screened from public by a Planting Screen.

(4) Accessory structures and uses in Agricultural Districts are allowed as stated under Sections 17.0403 and 17.0404. All accessory structures shall be subject to Plan Commission approval of a Site and Building Plan Review Application, except for the following structures, which may be approved by the Zoning Administrator under review of applicable building permits.

(a) Fences, not exceeding eight (8) feet in height shall be allowed

with approval of a Building Permit. Fences greater than eight (8) feet shall be subject to Plan Commission review of a Site and Building Plan Review Application.

- (b) Roadside stands for the sale of agricultural products shall be allowed with Zoning Administrator approval of a Business Plan of Operation Application in addition to applicable building permits. Roadside stands shall have sufficient off-street parking and loading areas to accommodate the use.
- (c) Animal shelters and up to two (2) storage buildings not exceeding 2,400 square feet.

(5) All accessory structures and uses in Multi-Family Residential and Nonresidential Districts are permitted as may be allowed within each individual zoning district and with Plan Commission approval of a Site and Building Plan Review Application for any building or site improvements. Also see Section 17.0210.

- c. Temporary Uses or Structures are allowed within any zoning district as required below. Temporary uses not listed shall require Plan Commission approval of a Temporary Use Permit.
 - a. All Temporary Uses shall comply with the following standards, unless otherwise approved by the Plan Commission:
 - i. Location. No temporary structure shall encroach upon City property, City rights-of-way, neighboring property, sidewalks, or be placed in the street.
 - ii. Setbacks. Temporary structures, regardless of size, shall be located a minimum of:
 - 1. Five (5) feet from any public easement
 - 2. Ten (10) feet from any other structures (principal or accessory)
 - 3. Twenty-five (25) feet from a wetland
 - 4. Seventy-five (75) feet from a 100-year floodplain boundary or Ordinary High Water Mark of a navigable waterway.
 - iii. Height. A temporary structure shall have a maximum height of eighteen (18) feet.
 - iv. Use. Temporary Uses are not accessory uses and may not be used as permanent or temporary storage units or as signs or sign supporting structures.
 - v. Expiration. All Temporary Uses are limited to 30 days per calendar year unless otherwise specified below or as may be approved by the Plan Commission.

- b. Temporary Uses allowed without the issuance of a Temporary Use Permit.
 - i. Construction related shelters for materials and equipment, construction office trailers and other construction related uses.
 - 1. Any structure or outdoor storage area designed for the onsite storage of construction equipment and/or materials of active construction projects
 - 2. Construction related temporary structures shall be removed upon completion of the active construction phase of the project.
 - ii. Dumpsters required for construction sites
 - 1. Shall be placed on a paved or graveled surface
 - 2. Shall be removed following completion of work or as required by the Building Inspector or Zoning Administrator.
 - iii. Pre-construction sales offices
 - 1. Shall be allowed in single-family, two-family and multi-family residential zoning districts only
 - 2. The structure shall be removed upon the completion of the permanent dwelling structure(s) located onsite.
 - iv. Recreational Vehicles and Mobile Homes
 - 1. Shall be limited to one such vehicle owned by the owner of the premises and less than 30 feet in length, including draw bar or 'tounge'.
 - 2. Shall not be located within the front yard of a lot.
 - 3. Shall be allowed no more than sixty (60) consecutive days per calendar year.
 - v. Garage and Yard Sales
 - 1. Shall be allowed in single-family, two-family and multi-family residential zoning districts only.
 - 2. Shall be limited to three (3) such sales within a calendar year, each for a duration not to exceed three (3) consecutive days.
 - vi. Public Interest and Special Events
 - 1. Such events shall be allowed in all zoning districts.
 - 2. Such events shall include but not limited to outdoor food sales, outdoor

- car wash, or other gatherings for the benefit of the community, a particular service or a non-profit organization.
 - 3. Limited to no more than 6 times per year.
 - 4. Each event shall be no longer than 14 days.
- c. Temporary Uses allowed with Zoning Administrator review and approval of a Temporary Use Permit.
 - i. Movable or portable storage units
 - 1. No such storage units shall be greater than twenty (20) feet in length, ten (10) feet in width, and ten (10) feet in height.
 - 2. Storage units shall be placed on a paved or graveled surface.
 - ii. Carport or similar temporary structure
 - 1. Shall be placed on a paved or graveled surface.
 - 2. Shall not be located within the front yard of a lot.
 - iii. Outdoor seasonal sales and farmers markets
 - 1. Allowed in agricultural and nonresidential districts only.
 - 2. Limited to 90 days per calendar year.

b. Accessory Uses and structures are permitted in any district but not until their principal use and/or structure is present or under construction and a building or zoning permit is obtained. Residential accessory uses shall not involve the conduct of any business, trade, or industry except approved home occupations and home offices as defined in this ordinance, and accessory buildings shall not be used for residential purposes, except as noted below. Accessory uses also include incidental repairs to the principal structure; storage structures; parking structures and areas; home use gardening; private swimming pools; and private emergency shelters. Mobile homes and recreation vehicles designed or configured to be driven or towed are not principal or accessory structures and may not be used for habitation or storage except in approved mobile home parks and RV campgrounds or in the case of officially recognized emergencies. One such vehicle owned by the owner of the premises and less than 30 feet in length, including draw bar or 'tongue', may be temporarily stored outside within the buildable area of a residential property for no more than 45 days in a calendar year if property deed restrictions/covenants allow, but may not be used as a living unit or extra bedroom. Storage units such as dumpsters and portable on-demand (pod) storage units are not accessory structures. Watchmen quarters in industrial or commercial districts and quarters of itinerant agricultural laborers in an agricultural district may be accessory structures upon granting of a conditional use permit for such specific use by the Plan Commission. Small accessory structures or 'garden' buildings intended for the storage of yard maintenance equipment having not more than 120 square feet in floor space may be located within rear or side yard areas but not closer than ten (10) feet to a property line or other building and not within designated easements. All accessory structures larger than 120 square feet shall be constructed using the same type and color of exterior materials, including roofing, as the principal structure on the property.

- b. Accessory Uses and Structures are permitted in any district, but not until their principal use and/or structure is present or under construction and a building or zoning permit is obtained. No accessory structures shall contain or constitute a separate dwelling or residential unit. Accessory structures attached to a principal structure by a breezeway or other like structure are not considered attached for the purpose of this section. Lean-tos and other roofed projections, exceeding (3) feet shall be included in area calculations.

Accessory uses and structures include, but are not limited to: storage structures, parking structures and areas, gardening use and structures, private swimming pools, pool houses, cabanas, private emergency shelters, children play structures, greenhouses, sheds, decks, patios, gazebos, porches, boathouses, solar panels, fences, compost bins, sport courts, and animal shelters.

(1) All accessory structures in Single-Family and Two-Family Residential Districts shall comply with the following standards, unless otherwise specified under Section 17.0209(2) detailed standards for specific uses and structures.

- (a) Quantity. Each residential lot shall be allowed no more than:
i. One accessory structure 200 square feet or less in area

- ii. One accessory structure up to a maximum of 1,200 square feet on a lot less than 2.5 acres. A residential lot 2.5 acres or greater shall be allowed two accessory structures up to 1,200 square feet or one accessory structure no more than 2,400 square feet
 - iii. The total area of all permitted accessory buildings and structures as listed within this ordinance shall not occupy more than 40% of the side and rear yards.
- (b) Lot Coverage. All principal and accessory buildings shall not occupy more than the maximum permitted lot coverage allowed within the applicable zoning district.
- (c) Location. No detached accessory structure shall be located within the street yard, front yard or a corner side yard. Accessory structures are allowed within the arterial street side of double frontage lots. Lots abutting Pewaukee Lake or its tributaries shall be considered double frontage lots and accessory structures shall be allowed on the street and water side of said lots. Accessory structures shall be oriented so as not to block all view of water bodies and/or other common private or public open space from existing principal residences located on adjacent parcels.
- (d) Setbacks.
 - i. Accessory structures 120 square feet or less shall be located a minimum of five (5) feet from the side and rear property lines.
 - ii. Accessory structures between 121 and 200 square feet shall be located a minimum of ten (10) feet from the side and rear property lines.
 - iii. Accessory structures exceeding 200 square feet shall meet the same minimum setbacks as principal buildings of the zoning district.
 - iv. Accessory structures, regardless of size, shall be located a minimum of:
 - 1. Five (5) feet from any public easement
 - 2. Ten (10) feet from any other structures (principal or accessory)
 - 3. Twenty-five (25) feet from a wetland
 - 4. Seventy-five (75) feet from a 100-year floodplain boundary or Ordinary High Water Mark of a navigable waterway, unless otherwise allowed in this ordinance.
 - v. In no case shall an accessory structure be required to meet a greater setback than required for the principal structure.
- (e) Height. An accessory structure shall have a maximum height of eighteen (18) feet.
- (f) Use. Residential accessory uses shall be subordinate to the residential use and shall not include a separate residential

dwelling unit or involve the conduct of any business, trade, or industry except approved home occupations and home offices as defined in this ordinance.

- (g) Design. Accessory structures shall be constructed of the same or complementary exterior materials as the principal structure on the parcel. In no case shall metal be utilized as a primary building material.

(2) Detailed Standards for certain residential accessory structures and uses.

(a) Swimming Pools (Also see Section 14.30 of the City's Municipal Code)

- i. All swimming pools (in-ground or above ground) shall be a minimum of eighteen (18) feet from the side and rear and side property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- ii. ~~and~~ All swimming pools (in-ground or above ground) shall be a minimum of eight~~five~~ (58) feet from any public easement, as measured from the edge of the pool.
- iii. Concrete, decking and any other impervious surface surrounding the pool shall be a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- iv. All structures, including but not limited to fences and pool houses, shall be a minimum of four (4) feet from the edge of the pool.
- v. In-ground swimming pools shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a).

(b) Pool houses and cabanas

- i. Shall be setback in accordance with Subsection (1)(d) above a minimum of fifteen (15) feet from the side and rear property lines.
- ii. Shall count towards the maximum quantity of structures allowed under 17.0209(1)(a).
- iii. Shall not be used, rented, or leased as a dwelling or residential unit or for overnight habitation.

(c) Fences

- i. Shall not exceed a height of six (6) feet as measured from grade
- ii. Shall be ornamental and not exceed a height of three (3) feet when placed on the street side of a residence within the front yard.
- iii. Shall not be located within a vision clearance triangle or within five (5) feet from a street property

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- line when abutting a street.
- iv. Shall be setback a minimum of five (5) feet from the right-of-way line on a corner lot or two (2) feet on a double frontage lot.
 - v. Shall be setback a minimum of two (2) feet from the property line to allow for maintenance of the fence.
 - vi. No barbed wire, chicken wire, or electrically charged fences shall be allowed as permanent fencing in residential zoning districts.
- (d) Home Use Residential Gardens
- i. Temporary style fencing, four (4) feet or less in height, immediately surrounding a home use residential garden shall be allowed.
- (e) Decks
- i. Attached and detached decks shall be setback a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- (f) Patios and other paved or graveled areas (See Section 17.0604 for driveway, access and parking standards)
- i. Shall be setback a minimum of fifteen (15) feet from the side and rear property lines or as otherwise required within the underlying zoning district, whichever is least restrictive.
- (g) Porches
- i. Shall be attached and considered part of the principal structure. As such, all porches shall comply with the minimum setbacks of the applicable zoning district.
- (h) Boathouses (See Section 17.0436)
- i. Shall be setback a minimum of five (5) feet from the ordinary high water mark of a lake or stream.
 - ii. Shall be setback a minimum of ten (10) feet from the side property line. For properties zoned Rs-7 District, the minimum side yard setback shall conform to the same required setback as the principal structure based upon lot width and setback requirements of Section 17.0411.
 - iii. Shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a)
 - iv. Shall not exceed six hundred (600) square feet in area.
 - v. Shall not exceed fifteen (15) feet in height.
 - vi. Decks located upon flat roofs are permitted and shall have railing between thirty (30) and thirty-eight (38) inches. Railings shall be exempt from the maximum height allowed under sub v. above.

- vii. Shall have a maximum width of twenty (20) feet along the shore lot line.
- viii. Shall have a maximum distance from the shore lot line to the rear of the boathouse structure shall be thirty-five (35) feet.
- (i) Children play structures and tree houses
 - i. Must be located a minimum of five (5) feet from the side and rear property lines.
 - ii. Shall not count toward the maximum quantity of structures allowed under 17.0209(1)(a).
- (j) Solar panels (Also see Section 17.0909a.2.)
 - i. Roof Mounted Systems
 - 1. Shall be permissible on principal and accessory structures
 - 2. Shall be flush mounted whenever possible
 - 3. Shall not extend above the highest peak of a pitched roof
 - 4. shall not extend more than three (3) feet greater than the maximum height allowed for the structure in accordance with the zoning district
 - ii. Ground Mounted Systems
 - 1. Shall be considered impervious and adhere to the general accessory structure requirements of Section 17.0209b.(1) above.
 - 2. The minimum clearance between the lowest point of the system and the surface on which the system is mounted shall be twelve (12) inches
 - 3. All parts of the free-standing system shall be located a minimum of fifteen (15) feet from the side and rear property lines.
- (k) Home Occupation
 - i. Home occupations may be conducted within single-family and multi-family dwellings.
 - ii. The home occupation shall be conducted entirely within the dwelling and the total floor space required or used for such home occupation shall not be greater than twenty (20) percent of the total floor area of any floor within the residence and shall not be conducted within any accessory building
 - iii. The home occupation shall not create noise, odor or electrical disturbance which can be detected outside the residence.
 - iv. There can be no more than one (1) employee that does not live in the home.
 - v. There shall be no customer traffic, no parking or

servicing of vehicles not licensed to the homeowner, no parking outside a garage of more than one vehicle used in the business and no non-residential solid waste shall be stored outside.

- vi. There shall be no visible evidence from outside the residence that the residence is being used for home occupation purposes, and there shall be no signage displayed.

(3) The following accessory structures are allowed without the issuance of a building or zoning permit, subject to compliance with all standards of Section 17.0209b.(1).

(a) Any accessory structure thirty-five (35) square feet or less.

(b) Mechanical equipment

- i. Mechanical equipment, such as air conditioning units, shall be setback a minimum of five (5) feet from the side and rear property lines.
- ii. Mechanical equipment located within the street, front or corner side yard shall be setback a minimum of five (5) feet from the right-of-way line and fully screened from public by a Planting Screen.

(4) Accessory structures and uses in Agricultural Districts are allowed as stated under Sections 17.0403 and 17.0404. All accessory structures shall be subject to Plan Commission approval of a Site and Building Plan Review Application, except for the following structures, which may be approved by the Zoning Administrator under review of applicable building permits.

- (a) Fences, not exceeding eight (8) feet in height shall be allowed with approval of a Building Permit. Fences greater than eight (8) feet shall be subject to Plan Commission review of a Site and Building Plan Review Application.
- (b) Roadside stands for the sale of agricultural products shall be allowed with Zoning Administrator approval of a Business Plan of Operation Application in addition to applicable building permits. Roadside stands shall have sufficient off-street parking and loading areas to accommodate the use.
- (c) Animal shelters and up to two (2) storage buildings not exceeding 2,400 square feet.

(5) All accessory structures and uses in Multi-Family Residential and Nonresidential Districts are permitted as may be allowed within each individual zoning district and with Plan Commission approval of a Site and Building Plan Review Application for any building or site improvements. Also see Section 17.0210.

f. Temporary Uses or Structures, such as shelters for materials and equipment or construction office trailers being used in the construction of a permanent structure, may be permitted for a period not to exceed 12 months while construction is in progress and such uses or structures must be screened from public view when physically possible to do so. Movable or portable on-demand storage (pods) units and 'dumpsters' may not be used as permanent outdoor storage facilities unless enclosed from view within a City Plan Commission approved permanent enclosure and may only be used as temporary storage in the event of an emergency or as a material and equipment shelter during moving of personal home or business items or construction of a building. All temporary structures/units shall be removed when directed by the Building Inspector or Zoning Administrator. Commercial or business trucks, truck trailers, vans, trailers, recreation vehicles or mobile homes are not accessory uses and may not be used as permanent or temporary storage units or as signs or sign supporting structures and shall not be parked in the open in residential districts. (Also see 'b', above and subsection 17.0601 and Chapter 5.00).

c. Temporary Uses or Structures are allowed within any zoning district as required below. Temporary uses not listed shall require Plan Commission approval of a Temporary Use Permit.

(1) All Temporary Uses shall comply with the following standards, unless otherwise approved by the Plan Commission:

- (a) Location. No temporary structure shall encroach upon City property, City rights-of-way, neighboring property, sidewalks, or be placed in the street.
- (b) Setbacks. Temporary structures, regardless of size, shall be located a minimum of:
 - i. Five (5) feet from any public easement
 - ii. Ten (10) feet from any other structures (principal or accessory)
 - iii. Twenty-five (25) feet from a wetland
 - iv. Seventy-five (75) feet from a 100-year floodplain boundary or Ordinary High Water Mark of a navigable waterway.
- (c) Height. A temporary structure shall have a maximum height of eighteen (18) feet.
- (d) Use. Temporary Uses are not accessory uses and may not be used as permanent or temporary storage units or as signs or sign supporting structures.
- (e) Expiration. All Temporary Uses are limited

to 30 days per calendar year unless otherwise specified below or as may be approved by the Plan Commission.

(2) Temporary Uses allowed without the issuance of a Temporary Use Permit.

(a) Construction related shelters for materials and equipment, construction office trailers and other construction related uses.

- i. Any structure or outdoor storage area designed for the onsite storage of construction equipment and/or materials of active construction projects
- ii. Construction related temporary structures shall be removed upon completion of the active construction phase of the project.

(b) Dumpsters required for construction sites

- i. Shall be placed on a paved or graveled surface
- ii. Shall be removed following completion of work or as required by the Building Inspector or Zoning Administrator.

(c) Pre-construction sales offices

- i. Shall be allowed in single-family, two-family and multi-family residential zoning districts only
- ii. The structure shall be removed upon the completion of the permanent dwelling structure(s) located onsite.

(d) Recreational Vehicles and Mobile Homes

- i. Shall be limited to one such vehicle owned by the owner of the premises and less than 30 feet in length, including draw bar or 'tounge'.
- ii. Shall not be located within the front yard of a lot.
- iii. Shall be allowed no more than ~~forty-five~~60 (4560) consecutive days per calendar year.

(e) Garage and Yard Sales

- i. Shall be allowed in single-family, two-family and multi-family residential zoning districts only.
- ii. Shall be limited to three (3) such

sales within a calendar year,
each for a duration not to exceed
three (3) consecutive days.

(f) Public Interest and Special Events

- i. Such events shall be allowed in
all zoning districts.
- ~~ii.~~ Such events shall include but not
limited to outdoor food sales,
outdoor car wash, or other
gatherings for the benefit of the
community, a particular service
or a non-profit organization.
- ~~iii.~~ Limited to no more than 6 times
per year.
- ~~iv.~~ Each event shall be no longer
than 14 days.

(3) Temporary Uses allowed with Zoning Administrator
review and approval of a Temporary Use Permit.

(a) Movable or portable storage units

- i. No such storage units shall be
greater than twenty (20) feet in
length, ten (10) feet in width, and
ten (10) feet in height.
- ii. Storage units shall be placed on
a paved or graveled surface.

(b) Carport or similar temporary structure

- i. Shall be placed on a paved or
graveled surface.
- ii. Shall not be located within the
front yard of a lot.

(c) Outdoor seasonal sales and farmers
markets

- i. Allowed in agricultural and
nonresidential districts only.
- ii. Limited to 90 days per calendar
year.

Accessory Uses & Structures Definitions

5 - Accessory Use or Structure

A ~~Use or detached S~~structure that is secondary and incidental to, subordinate in area, extent or purpose to the principal building or use served or required for the principal building or use of the premises of a structure, land, or water and is located on the same zoning lot as the principal building or principal use. or parcel serving a purpose customarily incidental to the permitted principal use or the structure in which the principal use is housed. Such uses/structures include but are not limited to: a detached garage or carport; maintenance equipment or material storage shed; gazebo; cabana; child's play house or tree house; and similar walled structures not meant to be used as a living unit. (See sub-section 17.0209b).

33 - Boathouse

A permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts. designed to protect or store boats, which may be built no closer than five (5) feet from the ordinary high water mark of a lake or stream.

61 - Deck

A structure, other than a stoop or walkway, characterized by a flat open horizontal surface or platform, at least six inches above the grade of the land it covers and which may or may not be supported by posts, beams, cantilevers or by any other methods, including a roof structure, usually attached to the rear or sides of a dwelling unit and intended to be used for leisure or recreational purposes. Such structures attached to the street side of a dwelling are usually called porches and are intended to shelter the front entry of the dwelling and for leisure activity.

77 - Easement

A right given by an owner of land to another party for a specific limited use of that land or portion thereof.

89 - Farm Roadside Stand

A farm building or structure used or intended to be used for the sale of unprocessed farm products raised on said farm solely by the owner or tenant of the farm on which such building is located.

92 - Fence

Any wooden, masonry, concrete, plastic structure or a densely planted hedge or other living plant material intended to enclose an open space for purposes of security or confinement, or intended as a visual or audible screening device, or intended for aesthetic ornamentation which is at least six (6) feet in length, no more than two (2) feet in height measured at grade, the nearest street curb, and no more than six (6) feet in height in residential and agricultural districts; nor more than ten (10) feet in height in other districts unless required by the Plan Commission as a condition of approval. Retaining walls for the purpose and as part of a grading plan shall not be considered a fence.

93 - Fence, Ornamental

A fence structure, not a common or privacy fence, constructed and placed so as not to obstruct vision and intended for aesthetic purposes only. Ornamental fences ~~may not be more than five (5) feet in height and may not be placed within a vision clearance triangle or within five (5) feet from a street property line.~~ shall have a minimum opacity of fifty percent (50%) and fifty percent 50% visual obstruction provided by the fence.

110 - Front Yard (see Street Yard)

~~A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the zoning district in which such lot is located.~~

111 - Garage

Garages are enclosed accessory structures designed for the heated or cold storage of vehicles, equipment, and personal belongings. Such structures shall meet the building setback, lot coverage and design restrictions of the applicable zoning district of the City and, if residential, may not be constructed on a lot or parcel that does not already contain a permitted principal use structure. In addition, no residential garage shall be used for the conduct of a business, storage of commercial and industrial use trucks/vehicles of over 1- 1/2 ton rated load capacity, or for habitation. ~~No more than one (1) detached garage may be constructed on a single-family zoned residential parcel of less than two and one-half (2.5) acres in size, and no more than two (2) detached garages may be constructed on a single-family residential zoned parcel of two and one-half (2.5) acres or more in size. Detached garages may only be constructed on agriculture or single-family zoned parcels unless otherwise approved by the Plan Commission.~~

121 - Hobby Kennel (Rep. & Recr. 13-09)

Any premises with four (4) or more dogs five (5) or more months of age, 6 or more other animals, or a combination of 6 or more dogs and animals, as household pets or for non-commercial purposes such as raising, breeding, boarding, training, grooming, foster care and the occasional raising and selling of not more than two (2) litters of animals per year.

122 - Home Occupations

Any occupation conducted for monetary or "in-kind" gain within a ~~single or two family residence or residential unit~~ by an occupant thereof. ~~The home occupation must be conducted entirely within the dwelling and the total floor space required or used for such home occupation shall not be greater than twenty (20) percent of the total floor area of any floor within the residence and shall not be conducted within any accessory building. The home occupation shall not create noise, odor or electrical disturbance which can be detected outside the residence. There can be no more than one (1) employee that does not live in the home. There shall be no customer traffic, no parking or servicing of vehicles not licensed to the home owner, no parking outside a garage of more than one vehicle used in the business and no non-residential solid waste shall be stored outside. There shall be no visible evidence from outside the residence that the residence is being used for home occupation purposes, and there shall be no signage displayed. Home occupations may not be conducted in a multi-family residence. See Section 17.0209(I).~~

125 - Impervious Surface

Any surface on which at least 50 percent of precipitation falling thereon is not absorbed but is released from the surface to flow elsewhere as stormwater runoff, such as roofs, concrete or asphalt driveways and patios, decks, and paved or graveled parking lots and outside storage areas and stored materials and equipment.

131 - Kennel

An outdoor or indoor enclosure for the keeping of household pets as a commercial or hobby venture. (See sub-section 11.05 of City ordinances regarding dog kennels)

136 - Lot (or parcel)

For the purpose of this Ordinance a lot shall be defined as a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces; ~~provided that no such parcel be bisected by a public street or other public or private right-of-way~~ and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot size for the purposes of this Ordinance.

138 - Lot, Corner

~~A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. A lot situated at the junction of and abutting on two (2) or more intersection streets, or a lot at the point of deflection in alignment of a continuous street.~~

139 - Lot, Double Frontage

A parcel of land, other than a corner lot, with frontage on more than one (1) street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Ordinance, shall be deemed to have two (2) front yards and no rear yard, even though access is permitted on only one street.

146 – Mobile Recreational Vehicle or RV

A single chassis vehicle designed to be self-propelled, or carried or towed by a licensed light-duty vehicle; is licensed for highway use if required by local or state law; is designed for temporary or seasonal recreation use and not for permanent habitation; and, is normally less than 300 square feet but can be no more than 400 square feet in wall-to-wall area.

168 - Porch

~~A structure attached to the street side of a dwelling intended to shelter the front entry of the dwelling and for leisure activity.~~

171 - Principal Building or Structure

A building or structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning district in which it is located.

172 - Principal Use

~~The main or primary use of land, premises, buildings or structures as permitted by the regulations of the zoning district in which such use is located. Any and all of the primary uses of a property, treated as a use permitted by right or as a conditional use (rather than as an accessory use or a temporary use).~~

187 - Rear Lot Line

The lot line opposite to and most distant from the front or street lot line.

189 - Recreational Vehicle or Equipment

A vehicle or piece of equipment which can be towed, hauled, carried or driven and designed as a temporary living accommodation for recreational camping and/or travel use and including but

not limited to travel trailers, truck campers, tent trailers, camping trailers, self propelled motor homes, and boats.

205 - Setback

~~The narrowest distance permitted from a street, side, or rear property line to the required setback of the zoning district.~~

208 - Side Setback

~~The area prescribed to as the minimum side yard setback distance between the principal or access our structure and the side property boundary as set forth in the distant regulations.~~

209 - Side Yard

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. ~~Also, the area prescribed as the minimum side yard setback distance between the principal or accessory structure and the side property boundary as set forth in the district regulations.~~

213-- Solar Detriment Areas, Horizontal

~~The area adjacent to a structure upon which has been constructed or placed an operational active solar system and which is described by drawing a line 200 feet long from the easternmost corner (or side) of the structure at an angle of 15 degrees east of south measured at the point of beginning; then drawing a second line from the northernmost corner (or side) of the structure 200 feet due west, thence 200 feet due south, and thence east to an intersection with the end of the first line drawn. Such described area shall include that part or portion of the roof surface(s) that slope to the southeast, south, southwest or west. Structures built above a certain height within this area may block sunlight, during critical times of the day, from radiating on the solar energy collectors. (See Solar Detriment Area, Vertical)~~

214-- Solar Detriment Areas, Vertical

~~The area above a plane which extends outward from a structure over the entire horizontal area of solar detriment of such structure from a horizontal line on the structure measured ten (10) feet from the ground level at the southernmost corner (or side) of the structure and extended outward to the limits of the horizontal area of solar detriment and at an angle of twenty (20°) degrees above the horizontal measured from a point on or at the structure. Structures or plantings protruding above this plane may detrimentally block sunlight from the solar energy collectors or an operational active solar system.~~

222 - Street Yard or Front Yard

The area between the principal structure and the abutting street extending the full width of the lot. ~~Also, the distance between the abutting street right-of-way and the street or front building setback line as set forth in district regulations.~~

230 - Swimming Pool

Any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent which is either above or below the ground in which water of more than twenty-four (24") inches in depth is contained and which is used primarily for the purpose of bathing and swimming. This definition includes self-contained spa, spas or hot tubs. (Also see Chapter 14.30 of City codes).

246 - Wetland

An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils and/or plant material indicative of a wet condition.

Temporary Uses & Structures Definitions

169 - Portable storage container (enclosed)

A portable metal, wood or plastic storage unit or container or box of various sizes that is transported to a site similar to a solid waste dumpster and used to store goods and material. Such containers are sometimes called 'pods'.

234 - Temporary Use

A use of a building permitted by the Plan Commission to exist during periods of construction of the main building or use, or for special events.

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- B. The creation of a private drive would not adversely affect existing or future Development of the area.
- C. The private drive would insure safe and continuous access for public service vehicles, and those properties served by such easement.

(s) **Boathouses**

1. Use permitted: Boathouses, as defined by this Ordinance and in Section 30.01(1d) of the Wisconsin Statutes, are permitted in any District abutting a public or private body of water, except within a Floodplain or Wetland and are subject to the terms and the conditions set forth herein and Section 30.121 of the Wisconsin Statutes. Said Boathouse may be used for the storage of watercraft and associated materials used by the occupants of the Lot. Said Boathouse shall be placed on a permanent foundation extending below the frost line or a concrete slab and contain a garage type door.
2. Habitation prohibited: A Boathouse shall not be used for human occupancy or habitation. A Boathouse shall not contain plumbing.
3. Accessory to a principal Structure: No Boathouse is permitted unless a principal Structure is already present on the Lot. Only one (1) Boathouse per Lot is allowed.
4. Building location: A Boathouse shall comply with all of the following locational requirements:
 - A. A Boathouse shall not be located closer than five (5) feet to the Ordinary High Water Mark.
 - B. A Boathouse shall not be located further than thirty-five (35) feet from the Ordinary High Water Mark.
 - C. A Boathouse shall be located within the Access and Viewing Corridor as specified in Section 3(d)(9). The location of the Access and Viewing Corridor shall be evidenced by a deed restriction recorded in the Office of the Register of Deeds.
 - D. A Boathouse shall not be located within the Floodplain and/or Wetland.
 - E. A Boathouse shall comply with the Offset requirements set forth in Section 3(h)3 of this Ordinance.
5. Flat roofed surfaces of Boathouses may be used as a Deck but shall not be permanently enclosed. Railings and access stairs shall be considered ordinary appurtenances.
6. The Maintenance and repair of nonconforming Boathouses that extend beyond the Ordinary High Water Mark of any Navigable Waterway shall be required to comply with Section 30.121 of the Wisconsin Statutes.
7. Height: A Boathouse may not contain more than one Story According to the provisions below:
 - A. The exterior wall height shall not exceed ten (10) feet and the roof pitch shall not exceed eight to twelve (8:12) rise to run.

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- B. The exterior wall height shall not exceed eleven (11) feet provided the roof is flat and where the slope at the location at the Boathouse does not exceed three to one (3:1).
 - C. If the slope at the location of the Boathouse exceeds three to one (3:1) or thirty-three percent (33%), the exterior wall height may increase to fifteen (15) feet provided the roof is flat.
8. Size limitations: The following size limitations apply to all Boathouses:
- A. A Boathouse shall contain a minimum of two hundred (200) square feet.
 - B. A Boathouse shall contain a maximum of four hundred fifty (450) square feet.
 - C. A Boathouse shall not exceed fifteen (15) feet in width, measured parallel to the shore.
 - D. A Boathouse is limited to twenty-four inch (24") roof Overhangs and said Overhangs are not included in the above measurements.
9. Stormwater Management: All new boathouse construction requires the issuance of a Stormwater Permit from the Waukesha County Land Resources Division.

(t) **Impervious Surface Standards**

- 1. Purpose and Intent: Impervious surface standards are intended to protect water quality, fish and wildlife habitat and protect against pollution of navigable waters.
- 2. Applicability: Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any Impervious Surface that is or will be located within three hundred (300) feet of the Ordinary High Water Mark of any Navigable Waterway on any of the following:
 - A. A riparian lot or parcel, or
 - B. Any non-riparian lot or parcel that is located entirely within three hundred (300) feet of the Ordinary High Water Mark of any Navigable Waterway.
- 3. Calculation of Percentage of Impervious Surface: The percentage of Impervious Surface shall be calculated by dividing the surface area of the existing and proposed Impervious Surfaces on the Lot or parcel by the total surface area of that Lot or parcel, and multiplying by one hundred (100). The following exceptions apply:
 - A. Treated Impervious Surfaces that comply with subsection 9 are excluded from the calculation.
 - B. The following minor surfaces are excluded from the calculation: utility boxes; footings for structures such as flag poles, mailboxes, birdhouses and birdbaths, fences, and basketball hoops; turf stone surfaces that contain a majority of its surface area as a vegetated surface; and other incidental natural or manmade surfaces as