

## PLAN COMMISSION

**Monday, December 17, 2018**

**7:00 PM**

**McFarland Municipal Center**  
*Community Room*

### AGENDA

1. CALL TO ORDER
2. PUBLIC APPEARANCES.
3. APPROVAL OF MINUTES.
  - a. Review and possible approval of draft minutes from the November 19, 2018 Plan Commission meeting .
4. BUSINESS.
  - a. Review and possible action on a request by Lou Cheramy (Bizy-Lou LLC) for a 2-Lot Certified Survey Map (CSM), to create a zero lot line duplex at 5764 and 5774 Lexington St., McFarland, WI. The properties are zoned R-2, Single & Two Family Residence.
  - b. Discussion only - potential changes to the Municipal Code relating to conditional uses.
  - c. Retirement - Community Development Director
5. STAFF REPORTS
  - a. Highlights and updates
  - b. Property maintenance report
6. SCHEDULE NEXT MEETING DATE.
7. ADJOURNMENT.

This meeting notice constitutes an official meeting of the above referenced group and was posted in accordance with all applicable laws related to Open Meetings Law. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals. For additional information or to request this service, contact the McFarland Municipal Center at (608) 838-3153 or [cassandra.suettinger@mcfarland.wi.us](mailto:cassandra.suettinger@mcfarland.wi.us).

## **Working Draft Minutes**

### **Plan Commission**

### **Meeting**

**November 19, 2018**

**Members Present:** Bruce Fischer, Peter Bloechl-Anderson, Brad Czebotar, Dan Kolk, Cathy Kirby, Tom Rogers  
**Members Absent:** Jeff Sorenson  
**Staff Present:** Pauline Boness, Marty Pilger, Dan Evans, Karen Knoll

#### **1. CALL TO ORDER**

Czebotar called the meeting to order at 7:00 p.m.

#### **2. PUBLIC APPEARANCES**

None

#### **3. APPROVAL OF MINUTES**

- a. Review and approval of draft Minutes from the October 15, 2018 Plan Commission meeting.  
Czebotar called the minutes approved by unanimous consent.

#### **4. BUSINESS:**

- a. Public Hearing Review and possible recommendation to the Village Board regarding Ordinance No. 2018-15 an Ordinance amending the Historic Preservation zoning code to qualify for the Certified Local Government Historic Preservation program.

Czebotar opened the public hearing at 7:10 p.m.; with no one wishing to speak, closed the public hearing at 7:10 p.m.

Boness indicated this is only a minor change regarding the voting as outlined in your packets.

Kirby moved to recommend to the Village Board approval Ordinance No. 2018-15 an Ordinance amending the Historic Preservation zoning code to qualify for the Certified Local Government Historic Preservation program. Rogers seconded the motion. Motion carried 6-0.

- b. Review and possible action on a request by Beachhouse LLC to extend the deadline of a temporary CUP No. 274 regarding parking and staging of construction materials from November 15, 2018 to January 1, 2019.

Aaron Ruengpinyophum representing Beachhouse Properties, 1 Matson Court. – When they made the request in June 2018 they felt they would be able to meet their deadline. They have had some construction and scheduling delays, and are waiting for striping on the lower level. There will still be cars on the site but contractors will be phasing out. This is why they are making the request for an extension of four to six weeks. Czebotar pointed out he has been receiving complaints in regards to the parking lot; and while it is being dealt with, is he going to continue to receive complaints? Ruengpinyophum stated they would be moving items they do not need to warehouses, and in a week or two putting some of the materials into the unsold parking stalls, but at this point, he does not see much change for the next few weeks.

Kolk asked for a realistic date when this will be done. Ruengpinyophum replied they have some closings coming up; their hard deadline is December 14. Kirby asked if it is realistic to ask by January 1, 2019 will everything be gone, including the trailer. Ruengpinyophum replied he does feel the materials and cars will be gone, they do not have a plan for the trailer yet, but he can put one in place.

Ruengpinyophum advised at the end of December, when they are done with most everything and the only ones left at the site are Harmony Construction and a few cars, he does not see any reason why they cannot have the vacant lot clear. Kirby asked does that mean they will have all cars off the street, other than visitors. Could staff use the parking lot of the building rather than the street? Ruengpinyophum did not see any reason why not. Beachhouse LLC pays rent on the vacant lot monthly, Ruengpinyophum felt they would not need the lot after the end of December, the last thing he sees as an issue would be the trailer, and Beachhouse LLC would need to arrange to prepare it to be moved.

Kolk moved to approve an extended deadline of CUP #274 regarding parking and staging of construction materials from November 15, 2018 to January 1, 2019. Kirby seconded the motion. Motion carried 6-0.

- c. Discussion only Driveway location at Risen Savior Church, 5001 Holscher Road.

Czebotar indicated there were a number of people in attendance for this agenda item and if no objections would like to move this item to be first on the agenda. With no objections, Czebotar moved to Agenda item C.

Marty Pilger, Building Inspector indicated he would be presenting this as Boness has a conflict due to her spouse serving on the church building committee. The church was built in 2009, Holscher Road was not improved and the Veridian development was in the early planning stages. Early plans were to have the church have a driveway that exited out into the subdivision. Veridian did not move forward

with their plans for economic reasons. The Plan Commission allowed the church to install a temporary driveway accessing Holscher Road, with the driveway altered to access through the subdivision onto Lodgecliffe Lane once the subdivision was completed. In 2009, there was discussion of no driveways accessing onto Holscher Road, which was why the driveway would only be temporary.

Since then, Gannon Construction and Veridian final plats were both approved with driveways onto Holscher Road. Risen Savior Church would like to get an opinion from Commissioners as to whether they can permanently keep what was once a temporary driveway and abandon the original location.

Czebotar inquired if Pilger had spoken with the Police and Fire Departments to see if they had any concerns. Pilger responded Chris Dennis, Fire Chief indicated in the past 9 years he could not recall any issues at that intersection due to the driveway location. Pilger advised he spoke the Village Engineer, Brian Berquist, who indicated the Village's opinions on driveways on Holscher Road had changed quite a bit over the past nine years and he did not see any problem with leaving it where it is. Czebotar asked for clarification as to the location where the original driveway would have been. Pilger indicated the driveway would exit onto Lodgecliffe Lane, then Red Oak Trail and then onto Siggelkow Road. There is currently only the Holscher Road access to the property.

Peter Palmer – 5025 E. Buckeye Road, Madison – Palmer is a parish member and tends the property. Palmer indicated he did not feel it would be a good idea at this time to have two entrances to the church. They also do not feel having the access moved to the Lodgecliffe Lane as their architect indicated the grade going down would be up to 15%, which would make it quite steep, requiring rock walls to match the elevation Veridian has established. Pilger confirmed there is quite a bit of elevation difference between the church property and the new road in the Veridian subdivision.

Kirby concurred; historically the idea was to only have a temporary access, as Veridian was not planning to have driveways accessing Holscher. As Veridian changed their plat design, and due to the grade difference, she feels this is a moot point. Palmer indicated if they are able to keep the present driveway there would be a sign by the street stating “no thoroughfare”.

Czebotar indicated as this is not an action item, merely for discussion purposes, it does not appear there are any major concerns in regards to this potential proposal.

- d. Discussion and possible recommendation to the Village Board regarding annual review of fees in lieu of parkland dedication Sec. 56176 of the Village of McFarland Municipal code.

Czebotar advised this is something they go through annually. Boness stated the amounts have been stable the last couple of years, the state law however has changed and you need to do an analysis to come up with fee figures. We would need to do an update to the fees in lieu as well. Boness recommendation would be to do nothing at this time or a 2 ½% change. There is money in the budget for a consultant, namely our auditors to revisit the park impact fee and the fees in lieu value so we would be in compliance with current laws. Czebotar inquired if there would be some utility in postponing this until the review is done. Boness advised that would be her recommendation, a study would likely take place in the first quarter and recommend a new park fee and fees in lieu. Kolk asked if we could adjust the fee at any point. Boness replied yes, as that would keep us more in line with what the state statute requires. Every community will be doing something similar. Village attorney Dan Evans concurred with Boness analysis to wait. Commissioners discussed how we relate to what other communities charge, and how they too will be doing the same thing regarding their fees. Czebotar inquired if it is in the statutes for what we can use our fees park in lieu fees for. Boness replied it is in our policy, and that reflects what the state statutes have been looking at, there is also a system in place to track those fees as they have to be used within a certain amount of time, if left unused we have to actually return them. Evans confirmed the time frame is eight years; he will look into any restrictions on the usage.

Kirby moved to recommend to the Village Board postponement of the annual review of fees in lieu of parkland dedication Sec. 56176 of the Village of McFarland Municipal code until after the audit is completed. Seconded by Bloechl-Anderson. Motion carried 6-0.

- e. Discussion Only Village Attorney review latest law changes involving Conditional Uses and cell towers.

Evans reviewed his outline of changes on the Conditional Use Permits, and the need for objective standards as provided in packets. Evans discussed “substantial evidence” standard and “reasonable persons would accept in support of a conclusion.” The new law went into effect on November 17, 2017 and is known as the Landowners Bill of Rights, 2017 Wisconsin Act 67. Much of it pertains to would other reasonable persons come to the same conclusion as the Plan Commission when deciding whether to grant or deny a CUP permit. The question becomes is the information you have sufficient to come to that conclusion. You can request from an applicant certain information to make sure they meet the standards you are concerned about for a particular use. This does not mean the applicant can state, they will meet it. That does not meet the evidentiary standard you are looking for. Evans gave the example of noise, if a party advised they wouldn’t make noise to disturb neighbors, that would not be enough information; if they submit a study or information on the types of machines used and the decibel level that would be the type of information you can rely on to approve, or if the information is not there

it can be a reason to deny. When doing a condition use the things looked at often are light, noise, odors. When considering a CUP application you have to focus on the evidence submitted supporting the applicant's ability to meet requirements. Likewise, if neighbors were against a proposal they would have to submit evidence, which is more than just speculation. A real estate appraiser could speak on potential nuisance or impacts it would cause to neighboring property. If a group of neighbors come in and state at a certain time of day how the traffic is, that would be sufficient evidence as they witnessed it. It does come down to the applicant's burden to come forward and provide you with this information. If it is not met, you do have questions, or you think a specific concern is not met, you would need to make them come back and provide sufficient objective evidence to prove that condition is going to be met.

Other things needed is the municipality's decision to approve or deny the conditional use permit must be supported by substantial evidence. It is important you keep good records on how the certain conditions were met or not met. You need a clear record, which lists conditions which were met or not met and why. This is needed in case of an appeal. You need to keep copies of documents submitted by the applicant or the public, good recording and tape of the meeting. Minutes to reflect the findings of why something was approved or denied.

Evans felt it would be good to have this listed in the ordinance, the evidentiary requirements needed and it would be a good idea to make the public aware of these changes also, it would be good to have each Commissioner state for the record why they are making the decision they are. People would not necessarily have to be sworn in.

Czebotar inquired if you could still have people come in for a "discussion only" item. Evans responded if someone has a question on what issues you would be concerned about, that would not be a problem, just do not give preliminary approval or input without hearing all of the proposal and evidence. He did not feel there would be any harm with them coming in with an "idea" however; you could not tell them which way you are leaning on a decision. Just what items would be a concern and need to be addressed with a formal application. You should not have a preconceived opinion.

Czebotar asked if this would be the time to review and rewrite the Villages CUP ordinance. Evans confirmed if someone meets a requirement you would have to approve them. One option would be to have a list of approved CUPS, along with more specific requirements both in the application and in what you would consider for sufficient approval, i.e. require a traffic study, light lumens, decibel levels for machinery and how they would be met without being a nuisance etc. Evans stated he can review the ordinance, and would suggest you keep the general language of public health and welfare protections, which you already have in place. It is not clear if the court would require you to have both, he can see you keeping both. Kol

inquired about the quality of evidence; wouldn't we have to agree on what we accept? Evans stated you would have to decide what weight you would give something. Sometimes there are competing experts. Boness felt many communities would be going to less conditional uses and something would either be allowed or not allowed. Czebotar confirmed that is what he was suggesting in reviewing a list. Evans advised you would also want to look at compatibility of areas meeting up to one another. Commissioners discussed having a more set approach to what would or would not be allowed in a specific area, along with how you cannot turn something down based on speculation of what may take place. Kolk asked is this a good idea to approach this as the time to look at the CUP standards. Evans responded it is a good opportunity to look at redoing the CUP process, even if courts are going to interpret it. The statutes are still the statutes, we should follow the procedures set forth in the statutes, and as discussed having the specific details as to what you are going to expect to protect the Village going forward.

Evan's summarized what small cell facilities are, and how they are smaller and will be in our right of ways, they need more of them as they have a much shorter range. The FCC has set up limitations on the fees you can charge, approval process, maintenance fees and aesthetic requirements or restrictions. You cannot come up with standards after the fact; you will have to have them in place prior to someone applying. Evans's suggestion is to start on the standards now for a fee schedule and aesthetics, even though you are limited to what you can charge. Kolk pointed out this is something to look at as the Village spent a lot of money burying cables, and now with this they would be able to have cell dishes with cables mounted on the new light fixtures.

## **5. STAFF REPORTS**

- a. Highlights and updates – No comments
- b. Property Maintenance – No comments

## **6. ADJOURNMENT**

Kirby moved to adjourn, Kolk seconded the motion, motion carried. Meeting adjourned at 8:17 p.m.



## **PLAN COMMISSION SUMMARY SHEET**

**MEETING DATE:** Monday, December 17, 2018

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:**

**AGENDA ITEM:** Review and possible action on a request by Lou Cheramy (Bizy-Lou LLC) for a 2-Lot Certified Survey Map (CSM), to create a zero lot line duplex at 5764 and 5774 Lexington St., McFarland, WI. The properties are zoned R-2, Single & Two Family Residence.

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

**FINANCIAL/BUDGET IMPACT:**

**VILLAGE PLAN REFERENCE:**

**ORDINANCE REFERENCE:**

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

Lou Cheramy would like to split his duplex lot on Lexington Street. The property is zoned R-2.

Recommendation: Approval, the CSM has been reviewed by staff. All code requirements have been met.

**ATTACHMENTS:**

1. Lexington CSM

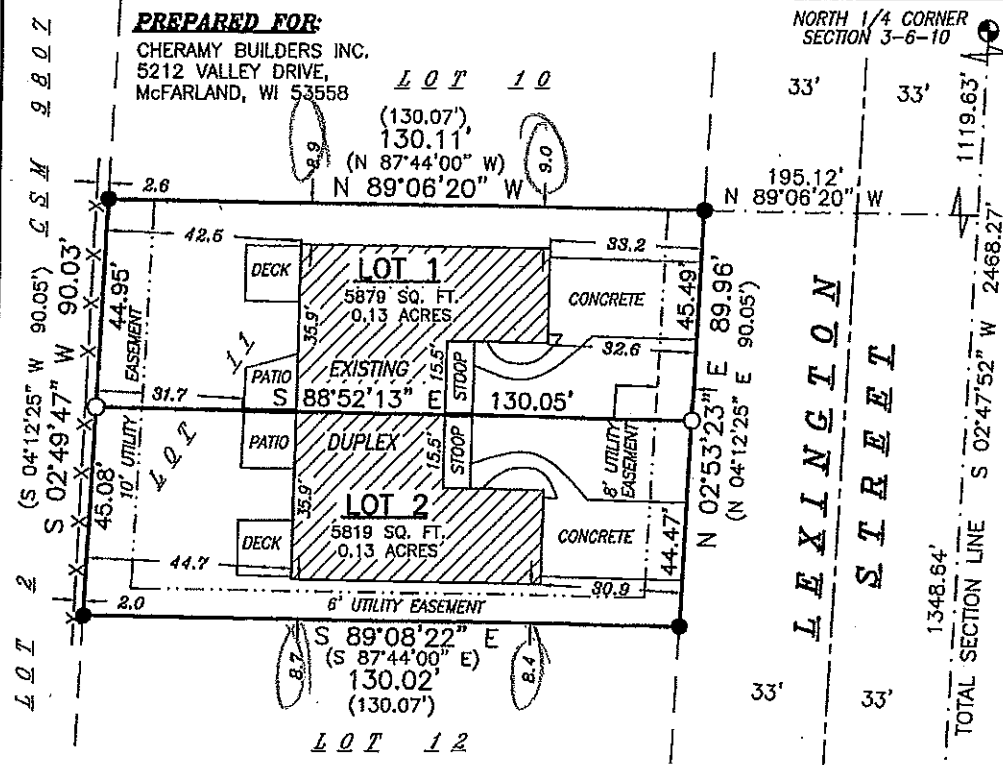


# CERTIFIED SURVEY MAP

WILLIAMSON SURVEYING AND ASSOCIATES, LLC

NOA T. PRIEVE & CHRIS W. ADAMS, PROFESSIONAL LAND SURVEYORS  
104 A WEST MAIN STREET, WAUNAKEE, WISCONSIN, 53597 PHONE: 608-255-5705

Located in the SE 1/4 of the NW 1/4 of Section 3, T6N, R10E, Village of McFarland, Dane County, Wisconsin. Being Lot 11, Woodland Commons, recorded in the Dane County Register of Deeds of Vol. 58-039B of Plats, Pg. 212 and 213, as Doc. No. 3835104.



## NOTES:

- 1.) THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT FOR THE SUBJECT TRACT OR ADJOINERS AND IS THEREFORE SUBJECT TO ANY EASEMENTS, AGREEMENTS, RESTRICTIONS AND STATEMENT OF FACTS REVEALED BY EXAMINATION OF SUCH DOCUMENTS.
- 2.) WETLANDS, IF PRESENT, HAVE NOT BEEN DELINEATED OR SHOWN.
- 3.) FLOOD PLAIN, IF PRESENT, HAS NOT BEEN LOCATED OR SHOWN.

## LEGEND

- = SET 3/4"x24" REBAR  
WT 1.5 LB PER LIN FT
  - = FOUND 3/4" REBAR
  - ⊙ = FOUND DANE COUNTY  
ALUMINUM MONUMENT
  - (#) = RECORDED AS
- SCALE 1" = 30'



DOCUMENT NO. \_\_\_\_\_

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Sheet 1 of 2

SURVEYORS SEAL

BEARINGS ARE REFERENCED TO THE EAST  
LINE OF THE NW 1/4 OF SECTION  
3-6-10. LINE TO BEAR S 02°47'52" W.

18W-353



# CERTIFIED SURVEY MAP

WILLIAMSON SURVEYING AND ASSOCIATES, LLC

NOA T. PRIEVE & CHRIS W. ADAMS, PROFESSIONAL LAND SURVEYORS  
104 A WEST MAIN STREET, WAUNAKEE, WISCONSIN, 53597 PHONE: 608-255-5705

Located in the SE 1/4 of the NW 1/4 of Section 3, T6N, R10E, Village of McFarland, Dane County, Wisconsin. Being Lot 11, Woodland Commons, recorded in the Dane County Register of Deeds of Vol. 58-039B of Plats, Pg. 212 and 213, as Doc. No. 3835104.

## SURVEYOR'S CERTIFICATE

I, Noa T. Prieve, Professional Land Surveyor hereby certify that this survey is correct to the best of the professional surveyor's knowledge and belief and is in full compliance with the provisions of Chapter A-E 7 and Chapter 236.34 Wisconsin Statutes, the subdivision regulations of the Village of McFarland, and by the direction of the owners listed below, I have surveyed, divided, and mapped a correct representation of the exterior boundaries of the land surveyed and the division of that land, being located in part of the SE 1/4 of the NW 1/4 of Section 3, T6N, R10E, Village of McFarland, Dane County, Wisconsin, being more particularly described as follows:

Lot 11, Woodland Commons, recorded in the Dane County Register of Deeds of Vol. 58-039B of Plats, Pg. 212 and 213, as Doc. No. 3835104. Located in the Village of McFarland, Dane County, Wisconsin.

Total square feet = 11,698 sq. ft.

Williamson Surveying and Associates, LLC  
by Noa T. Prieve & Chris W. Adams

Date \_\_\_\_\_

Noa T. Prieve S-2499  
Professional Land Surveyor

## OWNERS' CERTIFICATE

As owner, I hereby certify that I caused the land described on this certified survey map to be surveyed, divided and mapped as represented on the certified survey map.

WITNESS the hand seal of said owners this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DIZY-LOU LLC  
Authorized Representative

STATE OF WISCONSIN)  
DANE COUNTY)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ the above named \_\_\_\_\_ to me known to be the person who executed the foregoing instrument and acknowledge the same.

\_\_\_\_\_, County, Wisconsin.

Notary Public

My commission expires \_\_\_\_\_

Print Name

## REGISTER OF DEEDS:

Received for recording this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. and recorded in Volume \_\_\_\_\_ of Dane County Certified Surveys on pages \_\_\_\_\_ through \_\_\_\_\_.

Kristi Chlebowski  
Register of Deeds

DOCUMENT NO. \_\_\_\_\_

CERTIFIED SURVEY MAP NO. \_\_\_\_\_

Sheet 2 of 2

SURVEYORS SEAL

18W-353



## PLAN COMMISSION SUMMARY SHEET

**MEETING DATE:** Monday, December 17, 2018

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:**

**AGENDA ITEM:** Discussion only - potential changes to the Municipal Code relating to conditional uses.

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

**FINANCIAL/BUDGET IMPACT:**

**VILLAGE PLAN REFERENCE:**

**ORDINANCE REFERENCE:**

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

Attorney Dan Evans has prepared a red lined version of our current conditional use ordinance relating to changes he feels are necessary. Your packet should also include a listing of uses by zoning category from our code book. At our last meeting, members discussed reviewing these tables to identify any land uses we would like to either allow or disallow rather than address as a conditional use.

**ATTACHMENTS:**

1. Memorandum on CUP Ordinance changes pc 12-17-18
2. Cup ord draft
3. CUP zoning

**REUTER, WHITISH & EVANS, S.C.**

ATTORNEYS AT LAW  
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DANIEL J. EVANS  
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**To: McFarland Plan Commission**  
**From: Dan Evans, Assistant Village Attorney**  
**Date: December 13, 2018**  
**Re: Outline of Changes to the Zoning Code for Conditional Use Permits.**

In follow-up to the Plan Commission's request, I prepared a draft ordinance to address the new laws regarding Conditional Use Permits. The proposed changes include the following:

1. Adoption of the "*substantial evidence*" standard. The term is also referenced in the ordinance in both the applicant's requirements and the standard by which the Plan Commission considers the application.
2. Requiring the applicant to provide written documentation to address the standards set forth in sec. 62-111. The onus is on the applicant to demonstrate that the standards will be met. In addition, a provision is included requiring the applicant to produce professional reports or studies, at the applicant's expense, as may be requested by the Plan Commission. I have also included a provision allowing for the Plan Commission to consult with a third-party consultant, at applicant's expense. This may be necessary if some issue requires a professional opinion and the Plan Commission wishes to consult directly with an expert instead of relying solely on what the applicant provides in his or her application.
3. Specifically adding, as a standard, that the applicant will meet the requirements of any other applicable regulations. For example, the McFarland Municipal Code already provides restrictions on external lighting beyond the boundary of an Industrial or Commercial District, under sec. 62-282, and regulates maximum noise levels under sec. 20-77. The applicant will need to prove that his or her use will comply with these and other pertinent regulations.
4. Imposing conditions applicable to all permits under 62-114(g). This section is created with standards that will apply to all permits, including (1), that no use may violate any other provision of the municipal code or other law or regulation, and (2), that the applicant must obtain all other necessary permits and approvals from other relevant regulatory bodies. The first condition adds enforceable standards set forth elsewhere in the code (such as any applicable noise and lighting regulations) while the second condition requires the applicant to obtain all other necessary approvals (such as access approval by Wisconsin DOT if required).
5. I removed a provision requiring approval by a highway agency under 62-106 (b), as this will be required as a condition to all permits under 62-114(g).

Separately, the Plan Commission may wish to consider reviewing what conditional uses it currently permits in the Zoning Code. The draft ordinance does not address those potential changes.

Since the proposed ordinance cross references other regulations in the McFarland Municipal Code (such as reference to light, noise and nuisance regulations), it may also be beneficial to review those standards to confirm that they are sufficient for all districts. This review does not necessarily need to be completed prior to enacting the CUP ordinance, but those regulations can be revised, if needed, at a later time. Since the Code already provides certain regulatory standards, it is not necessary to repeat these regulations as part of the CUP ordinance; however, these standards could be consolidated for use by the applicant, and the Plan Commission, to aid in reviewing a CUP application.

Many standards are also set forth in the Wisconsin Administrative Code, and these are also applicable to the CUP application. For example, an application for a CUP for non-metallic mining operations would most likely involve blasting as part of that use. Frequency and vibration levels associated with blasting are regulated under the Safety and Professional Services section of the Wisconsin Administrative Code, SPS 307. It is not necessary for these regulations to be listed in the Village's ordinance, but that standard could be specifically referenced as a condition (though that standard would apply anyway since it is provided under state law).

As an additional supplement to the Code, specific standards could be listed in the Zoning Code, by cross referencing the applicable ordinance, statute or regulation, or by imposing reasonable standards that are not otherwise provided by law, or are more restrictive than those currently provided under the law. The implementation of new standards for uses, such as the amount of traffic or noise produced by a use, is a policy decision and outside the scope of this ordinance.

In conclusion, the proposed draft ordinance incorporates the evidentiary and review changes under 2017 Wisconsin Act 67, and requires an applicant to provide sufficient proof to the Plan Commission that applicable standards will be met prior to the issuance of the permit.

**ORDINANCE 2019-**

**AN ORDINANCE AMENDING THE STANDARDS FOR  
GRANTING CONDITIONAL USE PERMITS**

Purpose: Recent changes by the Wisconsin Legislature regarding Conditional Use Permits modified the standards in which permits are reviewed and granted by municipalities. Also known as the Landowner's Bill of Rights, 2017 Wisconsin Act 67 provides new requirements of applicants and authorities in the review and granting of Conditional Use Permits.

Sponsor: Community Development Director Boness

Recommended Referral: Plan Commission (Required)

Public Hearing: Required; Preceded by Class 2 Notice

**WHEREAS,** The Plan Commission has reviewed proposed changes to the process and standards under which Conditional Use Permits are granted; and,

**WHEREAS,** the Village Board accepts the recommendations of the Plan Commission and Village staff and finds that it is in the public interest to amend the McFarland Municipal Code to reflect changes in Wisconsin law with respect to Conditional Use Permits.

**NOW THEREFORE,** The Village Board of the Village of McFarland does hereby ordain as follows:

1. Sections 62-105 through 62-116 of the McFarland Municipal Code are amended to read as follows:

Sec. 62-105. - Statement of purpose; conditional uses; definitions.

(a) The development and execution of this Article is based upon the division of the Village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district, provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

(b) As used in this Subdivision, the term "substantial evidence" means facts and information other than merely personal preferences or speculation, directly pertaining to the requirements and

conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

(Code 1998, § 13-1-60; Ord. No. 2003-03, § 1(13-1-60), 3-24-2003)

Sec. 62-106. - Authority of the Plan Commission; requirements.

- (a) The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structures are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the delimiting reasons or factors which resulted in issuing limited rather than regular conditional use. Such Plan Commission resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Plan Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with. The Plan Commission's findings and decision to approve or deny a conditional use permit must be supported by substantial evidence.
- ~~(b) Any development within 500 feet of the existing or proposed rights-of-way of freeways, expressways and within one-half mile of their existing or proposed interchange or turning lane rights-of-way shall be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission shall request such review and await the highway agency's recommendation for a period not to exceed 20 days before taking final action.~~
- (cb) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.
- (dc) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses. No conditional use permit shall be issued unless the applicant provides a detailed written description and proof that all of the standards set forth in Sec. 62-111 shall be met, to the satisfaction of the Plan Commission.

(Code 1998, § 13-1-61; Ord. No. 2003-03, § 1(13-1-61), 3-24-2003)

Sec. 62-107. - Initiation of conditional use: burden.

(a) Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest that may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one or more of the conditional uses in the zoning district in which such land is located.

(b) An applicant for a conditional use permit must demonstrate and prove, by substantial evidence, that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied.

(Code 1998, § 13-1-62; Ord. No. 2003-03, § 1(13-1-62), 3-24-2003)

Sec. 62-108. - Application for conditional use.

(a) *Required application materials.* An application for a conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Zoning Administrator. Such applications shall include where applicable:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within 100 feet.
- (2) Description of the subject site by lot, block and recorded Subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.
- (4) Additional information as may be required by the Plan Commission or other authorities, boards, commissions or officers of the Village. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high-water mark and groundwater conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.

(5) A detailed written description and proof meeting the substantial evidence standard showing each of the standards set forth in Section 62-111 (a) through (h) will be satisfied, including a detailed description of how each said standard is met, and how the proposed use will comply with any applicable regulations regarding light, noise, traffic, nuisance, health, safety, welfare and environment. When any applicable law, ordinance or other regulation prohibits a certain measurable level of any activity or substance, including but not limited to noise, light, dust, particulate emissions, odor, visibility, pollution, and vibration and frequency levels, the applicant shall also demonstrate and prove how the proposed use will comply with such regulations.

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(6) Upon request by the Village Board, Plan Commission or Zoning Administrator, the applicant shall provide reports and studies, prepared by a relevant professional approved by the Village, addressing any applicable standard. The applicant is solely responsible for the reasonable cost of such reports and studies.

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(57) The fee established by the Village Board from time to time and provided in Appendix A to this Code for application for a conditional use. The applicant shall also pay all costs incurred by the Village in notifying the public and property owners pursuant to Section 62-110.

(b) *Plans.* In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:

- (1) A plan of the area showing contours, soil types, high-water mark, groundwater conditions, bedrock, slope and vegetation cover;
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
- (3) Plans for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
- (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
- (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

(c) *Third party consultants.* If necessary expertise is not available from staff or other appropriate governmental agency, the Village Board, Plan Commission or Zoning Administrator may consult with a third-party consultant to effectively evaluate the application. The Zoning Administrator will select the consultant. The applicant is solely responsible for all reasonable costs and expenses associated with such consultation. Applicants retain the right to withdraw an application if they choose not to pay consultant fees.

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(Code 1998, § 13-1-63; Ord. No. 2003-03, § 1(13-1-63), 3-24-2003; Ord. No. 2006-04, § 1, 2-13-2006)

Sec. 62-109. - Hearing on application.

All requests for conditional uses shall be to the Plan Commission or the Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Upon receipt of the complete application and statement referred to in Section 62-108, the Plan Commission shall hold a public hearing on each application for a conditional use at such time

and place as shall be established by the Plan Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

(Code 1998, § 13-1-64; Ord. No. 2003-03, § 1(13-1-64), 3-24-2003)

Sec. 62-110. - Notice of hearing on application.

Notice of the time, place and purpose of such hearing shall be given by publication of a class 2 notice under the Wisconsin Statutes in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within 100 feet of the boundaries of the properties affected, said notice to be sent at least five days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(Code 1998, § 13-1-65; Ord. No. 2003-03, § 1(13-1-65), 3-24-2003)

Sec. 62-111. - Standards; conditional uses.

No application for a conditional use shall be approved by the Plan Commission or appeal granted by the Village Board unless the Plan Commission and Village Board shall find that the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (g) That the proposed use does not violate floodplain regulations governing the site.

(h) That the proposed use will not violate any applicable regulation in the McFarland Municipal Code or any other applicable law or regulation.

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(ih) That, when applying the standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.

(ji) That, in addition to passing upon a conditional use permit, the Plan Commission and Village Board shall also evaluate the effect of the proposed use upon:

- (1) The maintenance of safe and healthful conditions.
- (2) The prevention and control of water pollution including sedimentation.
- (3) Existing topographic and drainage features and vegetative cover on the site.
- (4) The location of the site with respect to floodplains and floodways of rivers and streams.
- (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
- (6) The location of the site with respect to existing or future access roads.
- (7) The need of the proposed use for a shoreland location.
- (8) Its compatibility with uses on adjacent land.
- (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

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(Code 1998, § 13-1-66; Ord. No. 2003-03, § 1(13-1-66), 3-24-2003)

#### Sec. 62-112. - Denial of application for conditional use permit.

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Plan Commission has used in determining that each standard was not met.

(Code 1998, § 13-1-67; Ord. No. 2003-03, § 1(13-1-67), 3-24-2003)

#### Sec. 62-113. - Appeals.

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Village Board, if a written request for an appeal is filed within ten days after the date of the Plan Commission's action in granting or denying the permit. Such request for appeal shall be signed by the applicant or by the owners of at least 20 percent of the land area immediately adjacent extending 100 feet therefrom or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land. The request shall be filed with the Zoning Administrator who shall submit it to the Village Board at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision. The Village Board may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon. In the event the Village Board

elects to hold a public hearing, notice thereof shall be given by mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a class 1 notice in the official newspaper at least ten days before the date of the hearing. The Village Board may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for a conditional use permit. The Village Board's decision to approve or deny the conditional use permit must be supported by substantial evidence.

(Code 1998, § 13-1-68; Ord. No. 2003-03, § 1(13-1-68), 3-24-2003)

Sec. 62-114. - Conditions and guarantees.

The following provisions shall apply to all conditional uses:

- (a) *Conditions.* Prior to the granting of any conditional use, the Plan Commission, or the Village Board on appeal, may stipulate or impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 62-111. In all cases in which conditional uses are granted, the Plan Commission or Village Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated or imposed in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:

- (1) Landscaping;
- (2) Type of construction;
- (3) Construction commencement and completion dates;
- (4) Sureties;
- (5) Lighting;
- (6) Fencing;
- (7) Operational control;
- (8) Hours of operation;
- (9) Traffic circulation;
- (10) Deed restrictions;
- (11) Access restrictions;
- (12) Setbacks and yards;
- (13) Type of shore cover;
- (14) Specified sewage disposal and water supply systems;
- (15) Planting screens;
- (16) Piers and docks;

(17) Increased parking; or

(18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.

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- (b) *Site review.* In making its decision, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Plan Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) *Alteration of conditional use.* No alteration of a conditional use shall be permitted unless approved by the Plan Commission.
- (d) *Architectural treatment.* Proposed architectural treatment will be in general harmony with surrounding uses and the landscape. To this end, the Plan Commission may require the use of certain general types of exterior construction materials and/or architectural treatment.
- (e) *Sloped sites; unsuitable soils.* Where slopes exceed six percent and/or where a use is proposed to be located on areas indicated as having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- (f) *Conditional uses to comply with other requirements.* Conditional uses shall comply with all other provisions of ~~this Chapter~~ the McFarland Municipal Code such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or possibly of accident.

(g) Provisions applicable to all conditional uses. In addition to any conditions imposed under sub. (a), *supra*, the following conditions apply to all conditional use permits:

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(1) No building or use may violate any other provision set forth in the McFarland Municipal Code, or any other applicable law or regulation.

(2) No building or use is permitted unless all necessary permits, licenses and approvals are obtained from the applicable regulatory authority, including but not limited to, approvals by the Wisconsin Department of Transportation for ingress and egress to the property, and permits issued by the Wisconsin Department of Natural Resources related to air, water, and other environmental regulations.

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(Code 1998, § 13-1-69; Ord. No. 2003-03, § 1(13-1-69), 3-24-2003)

Sec. 62-115. - Validity of conditional use permit.

Where the Plan Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 months of the date of the Plan Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately 45 days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. Extensions of up to one year each may be granted by the Plan Commission for just cause, if application is made to the Village at least 30 days before the expiration of said permit. Conditional use permits shall also expire if the use is abandoned or terminated for a period of 12 months.

(Code 1998, § 13-1-70; Ord. No. 2003-03, § 1(13-1-70), 3-24-2003)

Sec. 62-116. - Complaints regarding conditional uses.

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one or more of the standards set forth in Section 62-111, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 62-110. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance with the standards set forth in Section 62-111 or conditions previously imposed by the Plan Commission, modifying existing conditions upon such use and impose additional reasonable conditions upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in this Chapter and Section 1-16. In the event that no reasonable modification of such conditional use can be made in order to assure that Section 62-111(a) and (b) will be met, the Plan Commission may revoke the subject conditional approval and direct the Zoning Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefor. An appeal from a decision of the Plan Commission under this Section may be taken to the Village Board.

(Code 1998, § 13-1-71; Ord. No. 2003-03, § 1(13-1-71), 3-24-2003)

The above and foregoing Ordinance was duly adopted at a regular meeting of the McFarland Village Board on the \_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVED:

\_\_\_\_\_  
Brad Czebotar, Village President

ATTEST:

\_\_\_\_\_  
Cassandra Suettinger, Village Clerk-  
Treasurer

| ORDINANCE 2019 -- |         |
|-------------------|---------|
| MOTION            | SECOND  |
| ACTION            | DATE    |
| Adopted           |         |
| Referred          |         |
| Tabled            |         |
| Withdrawn         |         |
| Defeated          |         |
| Published         |         |
| INDIVIDUAL VOTING |         |
| RECORD            |         |
| Adrian            | Kolk    |
| Brassington       | Lytle   |
| Clow              | O'Hearn |
| Czebotar          |         |
| VOTING RESULTS    |         |
| Motion Carried    |         |
| Motion Defeated:  |         |

ZONING

§ 62-71

For P.C.  
MTB.  
Item  
36.

**Sec. 62-71. Permitted or conditional uses—Commercial Districts.**

The permitted and allowable conditional uses in each district of the commercial zoning districts shall be set forth in the following table:

COMMERCIAL DISTRICT PERMITTED USES<sup>(4, 5, 6, 7)</sup>

| Land Uses <sup>(1)</sup>                    | NAICS              | C-G <sup>(2)</sup> | C-H              | C-P              | C-L | M-IC |
|---------------------------------------------|--------------------|--------------------|------------------|------------------|-----|------|
| Agricultural services and support           | 115000             | C                  | C                | C                | N   | N    |
| Mining                                      | 212000             | N                  | N                | N                | N   | C    |
| Utilities                                   | 221000             | N                  | C                | C                | N   | C    |
| Construction contractors                    | 236000             | N                  | P                | P                | N   | P    |
| Wood product manufacturing                  | 321000             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Drugs manufacturing                         | 325410             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Plastics manufacturing                      | 326100             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Printing                                    | 323000             | C                  | C                | P <sup>(7)</sup> | N   | P    |
| Fabricated metal manufacturing              | 332000             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | C    |
| Machinery & equipment                       | 333000             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Computer manufacturing                      | 334000             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Electrical manufacturing                    | 335000             | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Manufacturing not listed above              |                    | N                  | P <sup>(7)</sup> | P <sup>(7)</sup> | N   | P    |
| Retail buildings                            |                    |                    |                  |                  |     |      |
| 20,000 sq. ft. or greater                   | 44000—<br>450000   | C                  | N                | N                | N   | N    |
| Auto dealers (new and used)                 | 441100             | C                  | C                | N                | N   | N    |
| Motorcycle, boat, and other vehicle dealers | 441220 &<br>441229 | C                  | C                | N                | N   | N    |
| Furniture store                             | 442110             | P                  | N                | N                | N   | N    |
| Electronics/appliance store                 | 443100             | P                  | N                | N                | N   | N    |
| Building materials (fully enclosed only)    | 444100             | N                  | C                | C                | N   | P    |
| Hardware store                              | 444130             | P                  | C                | N                | N   | N    |
| Landscape/nursery                           | 444220             | N                  | C                | N                | N   | N    |
| Food store (except convenience)             | 445110             | P                  | C                | N                | N   | N    |
| Liquor store                                | 445310             | P                  | N                | N                | N   | N    |
| Pharmacies and drug stores                  | 446110             | P                  | P                | N                | N   | N    |
| Cosmetic and beauty supplies                | 446120             | P                  | P                | N                | N   | N    |
| Gasoline stations and convenience stores    | 447110             | C                  | C                | N                | N   | N    |
| Clothing store                              | 448100             | P                  | N                | N                | N   | N    |
| Jewelry store                               | 448310             | P                  | N                | N                | N   | N    |
| Sporting goods, hobby, book and music       | 451100             | P                  | N                | N                | N   | N    |
| Department store                            | 452110             | P                  | N                | N                | N   | N    |

| <i>Land Uses<sup>(1)</sup></i>                            | <i>NAICS</i>    | <i>C-G<sup>(2)</sup></i> | <i>C-H</i> | <i>C-P</i> | <i>C-L</i> | <i>M-IC</i> |
|-----------------------------------------------------------|-----------------|--------------------------|------------|------------|------------|-------------|
| Miscellaneous shopping                                    | 453000          | P                        | N          | N          | N          | N           |
| Mail-order houses                                         | 454113          | C                        | C          | C          | N          | P           |
| Fuel dealers                                              | 454310          | N                        | N          | N          | N          | C           |
| Rail transportation                                       | 482110          | N                        | N          | N          | N          | C           |
| Trucking                                                  | 484000          | N                        | C          | N          | N          | P           |
| Transit and ground passenger transportation               | 485000          | C                        | C          | C          | N          | C           |
| Wholesale, trade (except for petro terminals)             | 423000 & 424000 | N                        | C          | C          | N          | P           |
| Petro terminal                                            | 424710          | N                        | N          | N          | N          | C           |
| Post office                                               | 491110          | P                        | N          | N          | N          | N           |
| Warehousing & storage (fully enclosed only)               | 493110          | C                        | C          | P          | N          | P           |
| Custodial services                                        | 561720          | N                        | P          | P          | C          | C           |
| Vehicle repair and body shops                             | 811111 & 811121 | C                        | C          | N          | C          | C           |
| Car wash/oil change                                       | 811190          | C                        | P          | N          | N          | N           |
| Consumer electronics repair                               | 811211          | C                        | C          | N          | C          | C           |
| Mini-warehouses                                           | 531130          | N                        | C          | N          | C          | N           |
| Commercial banking                                        | 522110          | P                        | P          | N          | P          | N           |
| Financial services                                        | 522291          | P                        | P          | N          | P          | N           |
| Insurance                                                 | 524113          | P                        | P          | N          | P          | N           |
| Real estate offices                                       | 531210          | P                        | P          | N          | P          | N           |
| Auto leasing                                              | 532110          | C                        | C          | N          | N          | N           |
| Movies/videos                                             | 532230          | P                        | N          | N          | N          | N           |
| Commercial and industrial equipment rental <sup>(3)</sup> | 532400          | P                        | P          | P          | P          | P           |
| Legal services                                            | 541110 & 541190 | P                        | P          | P          | P          | N           |
| Accounting and tax preparation                            | 541210          | P                        | P          | P          | P          | N           |
| Architectural engineering and related services            | 541310          | P                        | P          | P          | P          | N           |
| Computer services                                         | 541510          | P                        | P          | P          | P          | N           |
| Management consulting services                            | 541610          | P                        | P          | P          | P          | N           |
| Research/testing services                                 | 541710          | N                        | P          | C          | P          | N           |
| Advertising service agencies                              | 541810          | P                        | P          | P          | P          | N           |
| Photo studios                                             | 541921          | P                        | C          | N          | P          | N           |
| Employment services                                       | 561300          | P                        | P          | P          | P          | N           |
| Business support services                                 | 561400          | P                        | P          | P          | P          | N           |
| Travel services                                           | 561510          | P                        | N          | N          | C          | N           |
| Veterinary clinics                                        | 541940          | C                        | C          | N          | N          | N           |

ZONING

§ 62-71

| <i>Land Uses<sup>(1)</sup></i>                                                 | <i>NAICS</i> | <i>C-G<sup>(2)</sup></i> | <i>C-H</i> | <i>C-P</i> | <i>C-L</i> | <i>M-IC</i> |
|--------------------------------------------------------------------------------|--------------|--------------------------|------------|------------|------------|-------------|
| Elementary and secondary schools                                               | 611110       | C                        | C          | N          | P          | N           |
| Library                                                                        | 519120       | C                        | C          | N          | P          | N           |
| Medical services and offices                                                   | 621100       | P                        | C          | P          | P          | N           |
| Medical labs                                                                   | 621500       | N                        | C          | P          | N          | N           |
| Hospitals and clinics                                                          | 622110       | C                        | C          | N          | N          | N           |
| Nursing homes                                                                  | 623110       | P                        | P          | N          | N          | N           |
| Individual and family services, and commercial day care                        | 624100       | P                        | C          | N          | P          | N           |
| Museum/gallery/historical sites                                                | 712100       | P                        | C          | N          | P          | N           |
| Bowling center                                                                 | 713950       | P                        | C          | N          | N          | N           |
| Sports and recreation instruction                                              | 611620       | P                        | C          | N          | C          | N           |
| Fitness centers                                                                | 713940       | P                        | C          | N          | C          | N           |
| Amusement arcades (except billiards)                                           | 713120       | C                        | C          | N          | C          | N           |
| Lodging                                                                        | 721110       | C                        | P          | C          | N          | N           |
| Restaurants                                                                    | 722100       | P                        | P          | N          | C          | N           |
| Limited-service restaurants, including fast food                               | 722211       | C                        | C          | N          | N          | N           |
| Taverns                                                                        | 722410       | P                        | N          | N          | C          | N           |
| Furniture repair and re-upholstery                                             | 811420       | C                        | C          | N          | C          | N           |
| Computer and office machine repair                                             | 811212       | P                        | P          | N          | N          | N           |
| Other household repair                                                         | 811490       | P                        | P          | N          | C          | N           |
| Personal care services                                                         | 812100       | P                        | N          | N          | N          | N           |
| Funeral home and services                                                      | 812210       | P                        | C          | N          | P          | N           |
| Kennels and pet boarding                                                       | 812910       | C                        | C          | N          | N          | N           |
| Laundry, coin-operated                                                         | 812310       | P                        | N          | N          | N          | N           |
| Dry cleaning and laundry (except coin-operated)                                | 812320       | C                        | N          | N          | N          | N           |
| Parking lots                                                                   | 812930       | C                        | C          | N          | N          | N           |
| Religious/civic/business/professional organizations                            | 813000       | P                        | C          | N          | P          | N           |
| Executive, legislative and other general government                            | 921100       | P                        | N          | N          | N          | N           |
| Residences permitted R-2 and R-3                                               |              | C                        | N          | N          | N          | N           |
| Adult businesses (see Section 11-261(d))                                       |              | N                        | P          | N          | N          | P           |
| Adult bookstore (see Section 11-261(c))                                        |              | P                        | P          | N          | N          | P           |
| Commercial laundry (no direct customer pickups and drop-offs, no dry cleaning) | 812331       | N                        | N          | N          | N          | C           |

P = Permitted, C = Conditional, N = Not Allowed

- (1) The meaning of the terms shall be the same as that used in the North American Industry Classification System (NAICS), 2007 Edition or revised edition thereof, published by the U.S. Printing Office, with the number of the intended NAICS number following the land use name.
  - (2) All uses that are permitted or conditional in C-G are permitted or conditional in the C-C Central Commercial District.
  - (3) Indoor storage only. Outdoor storage allowed upon issuance of a conditional use permit.
  - (4) All businesses, servicing, processing or display of materials for rent or sale, except for off-street parking of motor vehicles in operable condition and open storage of materials accessory to a principal use shall be conducted within completely enclosed buildings. Open storage accessory to principal uses in the C-G, C-H, C-P, C-L, and C-C zoning districts may be allowed upon issuance of a conditional use permit.
  - (5) All nonenclosed areas of the site that are used for off-street parking, loading or driveways for motor vehicles shall be paved or effectively dust-proofed and measures shall exist on-site to prevent tracking of mud from the site on to public streets.
  - (6) All commercial business in the C-C, C-G, C-L or M-1C Districts that are open to the public between the hours of 2:30 a.m. and 5:30 a.m. shall require a conditional use permit.
  - (7) Light manufacturing, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, provided all manufacturing activities are contained entirely within an enclosed building, and noise, odor, smoke, heat, glare, and vibration resulting from manufacturing activity, are confined entirely within the building. Does not include industrial processing from raw materials.
- (Code 1998, § 13-1-50; Ord. No. 2003-03, § 1(13-1-50), 3-24-2003; Ord. No. 2004-02, § 1, 1-29-2004; Ord. No. 2009-16, § 1, 8-24-2009; Ord. No. 2011-03, § 1, 1-10-2011; Ord. No. 2014-07, § 1, 6-23-2014; Ord. No. 2015-03A, § 2, 4-27-2015; Ord. No. 2018-06, § 1, 5-29-2018)

#### **Sec. 62-72. Bulk standard—Commercial Districts.**

No structure or lot shall be developed, used or occupied unless it meets the minimum lot frontage, lot area, yard requirements, height limits and other dimensional standards set forth in the following table:

# ZONING

§ 62-69

## Sec. 62-69. Permitted uses.

(a) *Generally.* The permitted and allowable conditional uses in each district of the residential and noncommercial zoning districts shall be set forth in the following tab

| RESIDENTIAL DISTRICT PERMITTED USES                 |     |    |     |      |      |     |     |                |     |      |
|-----------------------------------------------------|-----|----|-----|------|------|-----|-----|----------------|-----|------|
| Description                                         | A-1 | CO | R-1 | R-1A | R-1B | R-2 | R-3 | R-MH           | R-E | RH-1 |
| <b>Residential uses</b>                             |     |    |     |      |      |     |     |                |     |      |
| Single-family detached dwellings                    | P   | N  | P   | P    | P    | P   | N   | P              | P   | P    |
| Conversion of a single-family to a two-family       | N   | N  | C   | C    | C    | C   | C   | C              | C   | C    |
| Temporary auxiliary apartment <sup>2</sup>          | N   | N  | C   | C    | C    | N   | C   | C              | C   | C    |
| Manufactured home, built after 10/74                | C   | N  | P   | P    | P    | P   | N   | P <sup>1</sup> | P   | P    |
| Two-family dwellings                                | N   | N  | N   | N    | N    | P   | P   | N              | P   | N    |
| Zero lot line dwellings                             | N   | N  | N   | N    | N    | P   | P   | N              | P   | N    |
| Multifamily dwellings, up to eight units/acre       | N   | N  | N   | N    | N    | N   | P   | N              | N   | N    |
| Multifamily dwellings, up to 15 units/acre          | N   | N  | N   | N    | N    | N   | C   | N              | N   | N    |
| Elderly occupied dwellings, up to ten units/acre    | N   | N  | N   | N    | N    | N   | N   | N              | P   | N    |
| Elderly occupied dwellings, up to 21 units/acre     | N   | N  | N   | N    | N    | N   | N   | N              | C   | N    |
| Community based residential facilities              | N   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| <b>Business uses</b>                                |     |    |     |      |      |     |     |                |     |      |
| Community living arrangements, up to eight people   | N   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| Home day care (4—8, licensed) <sup>3</sup>          | N   | N  | P   | P    | P    | P   | N   | P              | C   | P    |
| Home day care (3 or fewer, unlicensed)              | N   | N  | P   | P    | P    | P   | P   | P              | C   | P    |
| Home occupations <sup>3</sup>                       | P   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| Day care center (9 or more, licensed)               | N   | N  | N   | N    | N    | N   | C   | N              | C   | N    |
| Community living arrangements, over eight people    | N   | N  | C   | C    | C    | C   | C   | C              | C   | C    |
| Landscaping businesses on parcels 2 acres or larger | P   | N  | N   | N    | N    | N   | N   | N              | N   | C    |
| <b>Public uses</b>                                  |     |    |     |      |      |     |     |                |     |      |
| Greenways, open space, parks and pools              | P   | P  | P   | P    | P    | P   | P   | P              | P   | P    |
| Off-street parking facilities                       | N   | C  | N   | N    | N    | N   | N   | N              | N   | N    |
| Nursing homes, hospitals                            | N   | N  | N   | N    | N    | N   | P   | N              | N   | N    |
| Clubs, lodges                                       | C   | N  | N   | N    | N    | N   | P   | N              | N   | C    |
| Elementary and secondary schools                    | C   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| Public libraries                                    | N   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| Fire stations                                       | C   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| Cemeteries and mausoleums                           | C   | N  | C   | C    | C    | C   | C   | C              | C   | C    |
| Athletic facilities                                 | N   | N  | C   | C    | C    | C   | C   | C              | C   | C    |
| Houses of worship and their affiliated uses         | C   | N  | P   | P    | P    | P   | P   | P              | P   | P    |
| <b>Industrial and higher uses</b>                   |     |    |     |      |      |     |     |                |     |      |
| Sewage treatment plants                             | N   | N  | N   | N    | N    | N   | N   | N              | N   | N    |

| RESIDENTIAL DISTRICT PERMITTED USES                |   |   |   |   |   |   |   |   |   |   |
|----------------------------------------------------|---|---|---|---|---|---|---|---|---|---|
| Utility lines and pumping stations                 | P | C | P | P | P | P | P | P | P | P |
| <b>Accessory uses</b>                              |   |   |   |   |   |   |   |   |   |   |
| Private garage space                               | P | N | P | P | P | P | P | P | P | P |
| Gardening/storage sheds                            | P | C | P | P | P | P | N | N | P | P |
| Off-street parking facilities                      | P | C | P | P | P | P | P | P | P | P |
| Normal household pets, not exceeding 3 mature pets | P | N | P | P | P | P | P | P | P | P |
| Agriculture and forestry <sup>4</sup>              | P | C | N | N | N | N | N | N | N | P |

P = Permitted, C = Conditional, N = Not Allowed

<sup>1</sup> Manufactured homes placement shall comply with all of the following requirements and limitations:

- a. The home shall be doublewide of at least 24 feet in width and 36 feet in length.
- b. The home shall be installed on an approved foundation system in conformity with the uniform building code. The wheels and axles must be removed.
- c. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
- d. The home shall be covered by a roof pitched at a minimum slope of two inches in 12 inches, which is permanently covered with nonreflective material.

<sup>2</sup> There must be a minimum of 800 square feet of floor area for each dwelling unit, exclusive of halls and entries, cellar and basements.

<sup>3</sup> Refer to Section 62-230.

<sup>4</sup> Keeping of chickens permitted in residential areas pursuant to subsections (d) and (e).

(b) *Overlay districts.* Permitted and conditional uses in Overlay Districts shall include the uses permitted in the underlying zoning district subject to additional compliance with the provisions of any requirements of this Section or any other applicable ordinance.

(c) *Review of building plans.* Within any Overlay District, all plans for new construction or exterior remodeling shall be reviewed and approved by the Village Plan Commission and the Fire/EMS Chief prior to the issuance of a building permit.

(d) *Keeping of chickens.* The keeping of no more than four chickens shall be allowed in the R-1, R-1A, R-1B, R-2, R-3 and RH-1 districts provided that:

- (1) The principal use is a single-family or two-family dwelling.
- (2) No person shall keep any roosters.
- (3) No person shall slaughter chickens outdoors.
- (4) Chickens shall be provided with a structure and area exclusively devoted for use as a hen house and fenced outdoor enclosure.
  - a. Chickens must be kept in the hen house or fenced outdoor enclosure at all times and shall not be allowed to run free.
  - b. The hen house shall be a covered, predator-resistant, well-ventilated structure, providing a minimum of two square feet per chicken.
  - c. The outdoor enclosure shall be adequately fenced to contain chickens and protect them from predators.



## **PLAN COMMISSION SUMMARY SHEET**

**MEETING DATE:** Monday, December 17, 2018

**SECTION:** Business

**DEPARTMENT:** Community Development

**CONTACT:**

**AGENDA ITEM:** Retirement - Community Development Director

**PREVIOUS ACTION:**

**ISSUE SUMMARY:**

**FINANCIAL/BUDGET IMPACT:**

**VILLAGE PLAN REFERENCE:**

**ORDINANCE REFERENCE:**

**BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:**

On November 30th I announced my intent to retire from the Village. My last day would be July 5, 2019. I did mention my intent to retire during one of our summer meetings. I have begun the formal process and now have submitted a date. Over the next several months, discussion and subsequent interviewing of candidates will take place. I do expect the Plan Commission, CDA, Personnel Committee and Village Board to all be involved in the process to some degree. My hope is to have someone ready to come on board in early to mid-June 2019.

**ATTACHMENTS:**

None

## Community Development Highlights

November 2018

- During the month of November 27 permits were issued, six were for new single-family homes. Thus far, we have issued 580 building permits for the year. In 2017, 527 building permits were issued for the entire year. Revenues for the month were \$23, 088.
- Received two returned request for proposals for the Farwell Street redevelopment project. We are in the process of reviewing.
- Attended budget meetings. Final budget was approved.
- Village Board approved the amended Historic Presentation Ordinance. We will be sending the amended ordinance to the State Historical Society in order for the process of certification to continue.
- Narrowing down the list of candidates to fill the building inspector position. We received 26 resumes.
- Completed employee evaluations.
- Together with Matt Schuenke, met with Tom Gannon to discuss Village acceptance of parkland at Prairie Place subdivision. I believe Tom will be appearing at the next Park Recreation and Natural Resources Committee meeting.
- The Plan Commission extended the CUP for the temporary contractor parking lot next to Walgreens until January 1, 2019.
- Christmas in the Village Committee continues to meet and wrap up last minute details regarding the December 1<sup>st</sup> event.
- Work continues updating the Outdoor Recreation and Open Space Plan.
- Marty and I are working with property owner Adam Frydenlund to complete necessary paperwork in order for Adam to secure building permits for a duplex on River Crest Drive.
- Attended the following meetings during the month of November.
  - Plan Commission
  - Village Board
  - Community Development Authority

- Chamber of Commerce

Submitted by:  
Pauline Boness  
Community Development Director



## Memorandum

TO: Plan Commission Members

FROM: John Griffith, Code Enforcement Officer

DATE: December 13, 2018

RE: November Property Maintenance Report

| <u>ADDRESS-OWNER OR<br/>TENANT OCCUPIED<br/>(OCTOBER AND PRIOR<br/>LETTERS/CONTACT)</u> | <u>VIOLATION:</u>                                                                                    | <u>STATUS</u>                                      |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------|
| 5201 Norma (Murphy)                                                                     | Bushes overgrown, blocking line of sight in street                                                   | Cut down by owner                                  |
| 5706 Wisconsin (Frisch)                                                                 | Accumulated junk, debris & unlicensed inoperable vehicles stored on property. Weeds & grass height   | Property still in compliance 11-12-18 and 12-10-18 |
| 5212 Valley (Cheramy)                                                                   | Burning leaves in the Village, no permit, not a burn weekend. Leaf burning not allowed per ordinance | Warning from Fire Dept.                            |
| 5201 Norma (Murphy)                                                                     | Building materials on site, no valid permit. Landscape rocks in road                                 | Landscape blocks moved                             |
| 5107 Falling Leaves Lane(Tschopik)                                                      | Installation of furnace without a permit                                                             | Permit fee paid                                    |
| 5403 Leanne Ln (Dziewior)                                                               | Chicken permit not picked up                                                                         | Permit paid for                                    |

|                                           |                                                                     |                                 |
|-------------------------------------------|---------------------------------------------------------------------|---------------------------------|
| 4709 Taylor Road (Howe)                   | Van stored on lawn                                                  | 2nd notice                      |
| 4016 Terminal Dr.                         | Trash stored outside on property                                    | Trash removed                   |
| 5107 Linden Parkway (Koch)                | Installation of shed without a permit                               | Permit fee paid                 |
| 5915 Exchange St. (Byrne)                 | Tuck pointing                                                       | Letter sent to owner            |
| McFarland School district new ball fields | Noxious weeds                                                       | Letter delivered to maintenance |
| 5116 Erling (Richel)                      | Garage repairs needed                                               | Letter mailed - removing garage |
| 5701 Lexington (Westerhof)                | Couch at curb                                                       | Couch removed                   |
| 6322 Exchange St (Torbleau)               | Junk at curb                                                        | Junk removed                    |
| 5102 Paulson Rd (Foskett)                 | Installation of driveway without permit                             | Permit fee paid                 |
| 6418 Lani Lane (Hussaini)                 | Concrete in road                                                    | Concrete removed by owner       |
| 6325 Erling (Harrison)                    | Junk at curb                                                        | Junk removed                    |
| 5005 Valley Dr. (Behm)                    | Storage of building materials, washer and dryer outside on property | Spoke to owner items removed    |
| 5115 Ridge Road (Bell)                    | Trailer on lawn                                                     | Trailer moved                   |
|                                           |                                                                     |                                 |
|                                           |                                                                     |                                 |

| <b><u>LETTERS /CONTACT IN NOVEMBER:</u></b> | <b><u>VIOLATION:</u></b>                       |
|---------------------------------------------|------------------------------------------------|
| 6611 Sleepy Hollow Rd. (Steuer )            | Lawn not mowed mowed by owner                  |
| 4715 Terminal Dr. ( Faust )                 | Construction materials in trees Moved by owner |
| 5905 Main St. (Schnieder )                  | 2 <sup>nd</sup> notice about repairs           |
| 5304 Bremer (Congdon )                      | New chicken coop inspected                     |

