

## AGENDA FOR THE PLAN COMMISSION

Members noticed must notify the person who prepared agenda (see below) at least 24 hours before the meeting as to whether they will not be able to attend this meeting.

**Date and Time:** Tuesday, July 17, 2018, **5:15 PM**  
**Location:** Council Chambers, Municipal Building, 101 South Blvd., Baraboo, Wisconsin  
**Plan Comm Notices:** Mayor Palm, P. Wedekind, D. Thurow, R. Franzen, P. Liston, J. O'Neill, T. Kolb, K. Fitzwilliams  
**Others Noticed:** T. Pinion, E. Geick, E. Truman, Craig Hendricks, Anita LaCoursiere, Ruanne Schoonover, Greg Hammel, Carol Bassett, Bruce Braithwaite, Tim Cummings, William McDonough, Greg Held, Chuck Bongard, Library, and Media.

### **PETITIONERS OR REPRESENTATIVES MUST BE PRESENT OR SUBJECT WILL NOT BE HEARD BY THE COMMISSION!**

#### **1. Call to Order**

- a. Note compliance with the Open Meeting Law.
- b. Approve agenda.
- c. Approve June 19, 2018 meeting minutes.

#### **2. Public Invited to Speak** (Any citizen has the right to speak on any item of business that is on the agenda for Commission action if recognized by the presiding officer.)

#### **3. Public Hearing**

- a. Public Hearing to Consider the request of Wisconsin Power & Light (Owner) and American Transmission Company (Applicant) for a Conditional Use Permit to allow the expansion of the existing substation and the construction a new self-contained control house in a B-1 Central Business zoning district, located at their Lynn Street substation on the south side of the Baraboo River between Vine and Walnut Streets, 125 Vine Street, City of Baraboo.
- b. Public Hearing to Consider the request of Linda Porter and Ruanne Schoonover for a Conditional Use Permit to convert the existing two-unit condominium to two Side-by-Side single-family residential dwellings in an R-1A Single-Family Residential zoning district, located at 421/423 10<sup>th</sup> Avenue, City of Baraboo.
- c. Public Hearing to Consider the request of Greg Hammel for a Conditional Use Permit to convert the existing two-unit residential dwelling on Lot 1 of Springbrook Hills to two side-by-side single-family residential dwellings in an R-1A Single-Family Residential zoning district, located at 1410/1412 Lake Street, City of Baraboo.

#### **4. New Business**

- a. Consideration of Wisconsin Power & Light's (Owner) and American Transmission Company's (Applicant) request for a Conditional Use Permit to allow the expansion of the existing substation and the construction a new self-contained control house in a B-1 Central Business zoning district, located at their Lynn Street substation on the south side of the Baraboo River between Vine and Walnut Streets, 125 Vine Street, City of Baraboo.
- b. Consideration of Linda Porter and Ruanne Schoonover's request for a Conditional Use Permit to convert the existing two-unit condominium to two Side-by-Side single-family residential dwellings in an R-1A Single-Family Residential zoning district, located at 421/423 10<sup>th</sup> Avenue, City of Baraboo.
- c. Review and approve a two-lot Certified Survey Map for to convert the two-unit 10<sup>th</sup> Avenue Condominium No. 1 to side-by-side single-family residential attached dwellings at 421/423 10<sup>th</sup> Avenue.

- d. Consideration of Greg Hammel’s request for a Conditional Use Permit to convert the existing two-unit residential dwelling on Lot 1 of Springbrook Hills to two side-by-side single-family residential dwellings in an R-1A Single-Family Residential zoning district, located at 1410/1412 Lake Street, City of Baraboo.
- e. Review and approve a two-lot Certified Survey Map for to convert the existing two-unit residential dwelling on Lot 10 in Springbrook Hill subdivision to side-by-side single-family residential attached dwellings at 1410/1412 Lake Street.
- f. Consideration of Request to vacate Outlot 4 of the First Addition to Pleasant View Subdivision – a 20-foot wide unimproved pedestrian path right-of-way on the east side of Manassas Drive between Lots 25 and 26 of the First Addition to Pleasant View Subdivision.
- g. Consideration of a Request from Bruce Braithwaite to rezone the 5.3-acre parcel on the north side of South Blvd in the SE ¼ of the NW ¼ of Section 3, T11N, R6E, located at 1420 South Blvd and formerly occupied by the Honey Boy Mobile Home Park, from MH-P, Mobile Home Park to a B-3, Highway Oriented Business zoning classification by Bruce Braithwaite.
- h. Consideration of a Request by Capitol Housing III, LLC to review the SIP in accordance with Step 4 of the Planned Development process to construct a 70-unit multi-family residential complex, located at 325 Lynn Street, in a B-1 Central Business zoning district.
- i. Discussion of Wisconsin Act 67 and its effect on local zoning authority.

**5. Adjournment**

Phil Wedekind, Mayor Designee  
Agenda prepared by Kris Jackson, 355-2730, Ext. 309  
Agenda Posted by Kris Jackson on July 13, 2018

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**PLEASE TAKE NOTICE**, that any person who has a qualifying as defined by the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format, should contact the Municipal Clerk, 101 south Blvd., or phone 355-2700, during regular business hours at least 48 hours before the meeting so that reasonable arrangements can be made to accommodate each request.

It is possible that members of, and possibly a quorum of members of, other governmental bodies of the City of Baraboo who are not members of the above Council, committee, commission or board may be in attendance at the above stated meeting to gather information. However, no formal action will be taken by any governmental body at the above stated meeting, **other than the Council, committee, commission, or board identified in the caption of this notice.**

**FOR INFORMATION ONLY, NOT A NOTICE TO PUBLISH.**

## Minutes of Plan Commission Meeting June 19, 2018

**Call to Order** – Phil Wedekind called the meeting of the Commission to order at 5:15 PM.

**Roll Call** – Present were Phil Wedekind, Roy Franzen, Pat Liston, Jim O’Neill, and Kate Fitzwilliams. Dennis Thurow and Tom Kolb were absent.

Also in attendance were Mayor Palm, Administrator Geick, Attorney Truman, Engineer Pinion, David Deppe, Ryan, Devine, Bill Devine, Amy Devine, Kerry Zimmerman, Tim Cummings, Russ Will, Matt Boegner, Scott Treul, Tim Deppe, Bill McDonough, Greg Held, Amy Orvis, and Pat Kozel.

### **Call to Order**

- a. Note compliance with the Open Meeting Law. Wedekind noted compliance with the Open Meeting Law.
- b. Agenda Approval: It was moved by Liston seconded by O’Neill to approve the agenda as posted. Motion carried unanimously.
- c. Minutes Approval: It was moved by Franzen, seconded by O’Neill to approve the minutes of the May 15, 2018 meeting. Motion carried unanimously.

**Public Invited to Speak** (*Any citizen has the right to speak on any item of business that is on the agenda for Commission action if recognized by the presiding officer.*) – There were no speakers.

### **Public Hearing**

- a. Public Hearing to consider the request of William and Ryan Devine, d/b/a Devine Customer Truck & Auto Repair, LLC, to amend the current Conditional Use Permit to allow the sale of used automobiles at 712 South Blvd. in a B-3 Highway Oriented Business zoning district – Pat Kozel, 812 Vine Street addressed the Commission. He said that he was born and raised in Baraboo and as long as he can remember there has always been cars being worked on and cars being sold at this address and doesn’t understand why it can’t continue. He feels it is the responsibility of the government to help small businesses and enable them to do so. He said that the building looks better than it has in the past and he feels that a thriving business is a beautiful doormat to this City. David Deppe and that he and his son own the building and he is also pleased with the improvements that he and the Devine’s have made and he feels granting the conditional use would give them the opportunity to expand their business and the things they are doing a fine job in making it a good entrance to the City and supports their application. Amy Orvis, employee of Devine Custom Trucks & Auto Repair said that it isn’t just selling vehicles, they would like to be able to loan out vehicles if needed and if someone came in that could not afford to fix their vehicle, they could put a for sale sign in it. She then gave a copy of documentation from their insurance to the Commission. There being no further testimony, the hearing was declared closed.

### **New Business**

- a. Consideration of William and Ryan Devine, d/b/a Devine Custom Truck & Auto Repair, LLC, request to amend the current Conditional Use Permit to allow the sale of used automobiles at 712 South Blvd., in a B-3 Highway Oriented Business zoning district – Pinion gave the property background to the Commission. He said the original CUP was issued to T&D Properties for a shop and office in June 2015. Subsequently the building has been leased or rented out to Devine Custom Truck & Auto, and is a similar use with a shop and office area. He said that the addition of used car sales is what triggers the need to amend the CUP. He said this is an allowable use under the B-3 zoning district; however, this is in the City’s Conditional Use Overlay District, and every new use requires regulation as a Conditional Use. Ryan Devine addressed the Commission. He said that he and his brother started the business in hopes to help people quality, honest, and fair repairs. He said they offer free vehicle inspections for customers and local people. He said they feel that with the ability to be able to help those people a little further by selling their cars and getting them into something decent would positively affect the community. Liston questioned the number of vehicles that are at this location on a regular basis. Devine assured the Commission that cars are not being sold there. O’Neill asked Deppe why he never stored his trucks at this location and he stated that there was an offer on his existing property, but it never materialized. Liston stated that this is at least the fourth or fifth that has come before the Commission to sell cars along this corridor and everyone was denied. He said that this is the Gateway to the City and he is opposed to auto repair shops selling cars along this corridor. Devine asked if there was a way that the property could be

grandfathered because there was used car sales in the past. Pinion said that because that use was discontinued for more 12 consecutive months, any resumption of that use requires a conditional use. It was moved by Liston to deny the request to allow the sale of used automobiles at 712 South Blvd. O'Neill seconded the motion. Both the motion and second were withdrawn. O'Neill revised the motion to approve the request for a conditional use permit to sell used automobiles at 712 South Blvd. Liston seconded the revised motion. One roll call vote for the motion Ayes- Franzen, and Fitzwilliams. Nay – Liston, O'Neill, and Wedekind. The Motion failed 3-2.

- b. Review and approve a one-lot CSM for Tim May, the prospective buyer of land in the City's Extraterritorial Plat Approval Jurisdiction, located on the west side of CTH A, north of Trap Shoot Road, being part of the SE<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub>, and SE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 23, T12N, R6E, Town of Baraboo, Sauk County, Wisconsin – Pinion presented the request to the Commission. He said from the City's regulations, the CSM complies with the minimum lot size for both the new lot and the remnant. This also complies with the County regulations. He believes that the Town of Baraboo has favorably reviewed this. Kerry Zimmerman, MSA Professional Services said that this could be contentious. He said that he is representing Mr. May who is interested in buying the 25-acre parcel. He said in talking with Brad Boettcher, who is the Town of Baraboo's Engineer there may be an issue because of the easement to get into this proposed property. He said the Township requires that a person own 50-feet abutting a public road. He is requesting tentative approval from the Commission tonight. He said there won't be any significant changes in the configuration of the lot, it is just a matter of the Town is going to require to be done as far as access off of Highway A. Pinion asked if he has met with the County Conservation Planning and Zoning. Zimmerman said that he has a verbal from Brian Simmert and the County has no problem with it. Zimmerman said that the Town Plan Commission is meeting on June 28. Pinion said that it is customary that the Plan Commission review this after Town approval. It was moved, by O'Neill, seconded by Liston to postpone the CSM review until the July 17 meeting. On roll call vote for the motion, Ayes – Liston, O'Neill, Fitzwilliams, Wedekind, and Franzen. Nay – 0, motion carried 5-0.
- c. Review and approve Site Plan and Architectural Renderings for Harrington Holdings, LLC, d/b/a Balanced Rock Winery, for Phase I of the approved SIP to construct a winery and plant a vineyard on Lot 1 of CSM #5675, a 22-acre parcel at 1065 Walnut Street located in the SE<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of Section 2, T11N, R6E and the NE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 11, T11N, R6E, City of Baraboo, Sauk County, Wisconsin – Matt Boegner, 1411 19<sup>th</sup> Street, and Scott Treul, Friede & Associates introduced themselves to the Commission. Pinion presented the background for the project. This is before the Commission for the review of the site plan and building renderings. Treul gave a detailed presentation of site plan, elevations, building layout, and renderings to the Commission. The building is 6,000 sq. feet. Liston said that from Walnut Street the building looks like a pole barn, he would like to see it dressed up. He said that this is the entrance to Devil's Lake. He would like to see better landscaping also. Fitzwilliams said that she likes the design. Boegner said that that part of his vision was to have a place where people to go and sit and enjoy themselves. He said most winerys are very much set up for wine tasting, buy a bottle of wine and go. Mayor Palm spoke on Tom Kolb's behalf stating that he expressed concern regarding the amount of white that was uninterrupted. After a lengthy discussion, O'Neill moved to approve the site plan and architectural renderings for the Balanced Rock Winery, contingent the Plan Commission approving the landscape plan. Franzen seconded the motion. On roll call vote for the motion, Ayes – O'Neill, Fitzwilliams, Wedekind, Franzen. Nay – Liston. Motion carried 4 to 1.
- d. Consideration of a Request by Capitol Housing II, LLC to review a combined GDP/SIP in accordance with Steps 3 & 4 of the Planned Development process to construct a 70-unit multi-family residential complex, located at 325 Lynn Street, in a B-1 Central Business zoning district – Tim Cummings introduced himself to the Commission. He said that Knothe & Bruce Architects is a company that he and his partner, Bill McDonough have been working with since the 70's. He said the lot was a bit challenging with the slope and the existing condition. He said he was drawn to the lot because of history. Greg Held, Knothe & Bruce Architects addressed the Commission. Held gave a detailed presentation of the floor plans. He said that they are trying to pump up the ratio of the larger apartments on the riverside. He said that north side of the building is narrower and the building widens out moving south. He said that the exterior walls, angled walls, trying to get views to the riverfront from as many units as possible, which makes it unique. He the north side of the building is four stories, and the south side on Lynn Street is only two stories. He then gave a detailed explanation of how they will deal with the slope of the lot. He explained the proposed parking plan. A question was raised asking the space between the building and river and will it sidewalk for the public to use or restricted to tenants. It was stated that there is an easement along there. Pinion said that there is a sanitary sewer easement, but he does not have a distance on that. Held thinks that east of the parking area there will be some significant stormwater feature, obviously landscaped, but there will be some place on this site, being this close to the river, the stormwater will have to be treated, and MSA has been engaged to work with designing that. Stormwater

Management was then discussed. Liston said he has a problem combining the GDP and SIP, he feels they should be separate, he wants to see a color rendering of what the building is going to look like, he wants to see the landscaping, and the materials being used on the building. Liston moved to approve the GDP as presented. Franzen seconded the motion. On roll call vote for the motion, Ayes – Fitzwilliams, Wedekind, Franzen, Liston, and O’Neill. Nay – 0, motion carried 5-0.

- e. Review and approve a one-lot CSM for the property at 325 Lynn Street, being Lots 1, 2 and 3 of the Original Plat of the Village of Baraboo, now the City of Baraboo and lands located in the fractional NW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub> of Section 1 and the fraction NE<sup>1</sup>/<sub>4</sub> of the NE<sup>1</sup>/<sub>4</sub> of Section 2, T11N, R6E, City of Baraboo, Sauk County, Wisconsin – It was moved by Liston to approve the CSM as presented. Franzen seconded the motion. On roll call vote for the motion, Ayes – Wedekind, Franzen, Liston, O’Neill, and Fitzwilliams. Nay – 0. Motion carried 5-0.

**Adjournment** - It was moved by Liston, seconded by Franzen to adjourn at 6:30 p.m. The motion carried unanimously.

Phil Wedekind, Mayor Designee

**PLAN COMMISSION ITEM SUMMARY  
JULY 17, 2018**

**SUBJECT: CONSIDERATION OF WISCONSIN POWER & LIGHT'S (OWNER) AND AMERICAN TRANSMISSION COMPANY'S (APPLICANT) REQUEST FOR A CONDITIONAL USE PERMIT TO ALLOW THE EXPANSION OF THE EXISTING SUBSTATION AND THE CONSTRUCTION A NEW SELF-CONTAINED CONTROL HOUSE IN A B-1 CENTRAL BUSINESS ZONING DISTRICT, LOCATED AT THEIR LYNN STREET SUBSTATION ON THE SOUTH SIDE OF THE BARABOO RIVER BETWEEN VINE AND WALNUT STREETS, 125 VINE STREET, CITY OF BARABOO.**

**SUMMARY OF ITEM A:** American Transmission Company (applicant), on behalf of Wisconsin Power & Light (owner), has requested a Conditional Use Permit to upgrade and expand their existing substation on the south side of the Baraboo River, between Walnut and Vine Streets. Arguably a substation falls under the definition of an Essential Service, as defined in our Zoning Code. As such, it is a permitted use in all zoning districts. However, since this substation is located in the City's Conditional Use Overlay District, all uses are regulated as a Conditional Use so the upgrade and expansion triggers the need for a CUP. Included in the packet are drawings of ATC's proposed project.

**COMPLIANCE/NONCOMPLIANCE:**

Pursuant to Section 17.37 – *Conditional Use Review and Approval*, I have found the application to be complete and have reviewed it for compliance with the ordinance.

**ACTION: Approve / Deny Conditional Use Permit (with certain conditions?)**

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**SUBJECT: CONSIDERATION OF LINDA PORTER AND RUANNE SCHOONOVER'S REQUEST FOR A CONDITIONAL USE PERMIT TO CONVERT THE EXISTING TWO-UNIT CONDOMINIUM TO TWO SIDE-BY-SIDE SINGLE-FAMILY RESIDENTIAL DWELLINGS IN AN R-1A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT, LOCATED AT 421/423 10<sup>TH</sup> AVENUE, CITY OF BARABOO.**

**SUMMARY OF ITEMS B & C:** The owners of 421 and 423 10<sup>th</sup> Avenue would like to convert the 2-unit condominium to two side-by-side single-family attached dwellings so they can be sold separately. This request was previously considered by the Plan Commission in December 2010 and the attached documents were considered at that time; however, the Condominium was not dissolved and neither the Covenants nor the CSM were ever recorded.

**COMPLIANCE/NONCOMPLIANCE:**

Pursuant to Section 17.37 – *Conditional Use Review and Approval*, I have found the application to be complete and have reviewed it for compliance with the ordinance. The proposed side-by-side dwellings satisfy the six requisite conditions of Section 17.37(9)(a), which includes a requirement for the corresponding CSM.

**ACTION: Approve / Deny Conditional Use Permit (with certain conditions?)**

**ACTION: Approve / Conditionally Approve / Deny CSM**

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**SUBJECT: CONSIDERATION OF GREG HAMMEL'S REQUEST FOR A CONDITIONAL USE PERMIT TO CONVERT THE EXISTING TWO-UNIT RESIDENTIAL DWELLING ON LOT 1 OF SPRINGBROOK HILLS TO TWO SIDE-BY-SIDE SINGLE-FAMILY RESIDENTIAL DWELLINGS IN AN R-1A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT, LOCATED AT 1410/1412 LAKE STREET, CITY OF BARABOO.**

**SUMMARY OF ITEMS D & E:** The owner of the existing duplex on this lot would like to convert it to two side-by-side single-family attached dwellings so they can be sold separately. Also included in the packet is a draft of the Certified Survey Map for your review and approval.

**COMPLIANCE/NONCOMPLIANCE:**

Pursuant to Section 17.37 – *Conditional Use Review and Approval*, I have found the application to be complete and have reviewed it for compliance with the ordinance. The proposed side-by-side dwellings satisfy the six requisite conditions of Section 17.37(9)(a), which includes a requirement for the corresponding CSM.

**ACTION:** Approve / Deny Conditional Use Permit (with certain conditions?)

**ACTION:** Approve / Conditionally Approve / Deny CSM

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**SUBJECT:** CONSIDERATION OF REQUEST TO VACATE OUTLOT 4 OF THE FIRST ADDITION TO PLEASANT VIEW SUBDIVISION – A 20-FOOT WIDE UNIMPROVED PEDESTRIAN PATH RIGHT-OF-WAY ON THE EAST SIDE OF MANASSAS DRIVE BETWEEN LOTS 25 AND 26 OF THE FIRST ADDITION TO PLEASANT VIEW SUBDIVISION.

**SUMMARY OF ITEM F:** Carol Bassett and Karen Allend, the owners of the properties on either side of this stub-end right-of-way, have requested that it be vacated. The Preliminary Plat of Pleasant View subdivision provided for an extension of Outlot as part of a future addition to Pleasant View subdivision. The original developer did not proceed with this future phase and Baraboo State Bank ended up with this property – a 15-acre parcel of undeveloped land, the only remaining property that was included within the boundary of the original Preliminary Plat. The property was subsequently sold and 15 acres was subdivided into two lots. The CSM did not include any provision to extend said Outlot 4. Outlot 4 provides a connection to Outlots 3 and 5, which are part of an environmental corridor along the easterly boundary of the 1<sup>st</sup> Addition to Pleasant View. These two Outlots are owned by Baraboo State Bank so the City has no reason to retain ownership of Outlot 4.

I have attached a copy of the Final Plat of the First Addition to Pleasant View as well as an excerpt from the City's parcel mapping highlighting the affected right-of-way.

**COMPLIANCE/NONCOMPLIANCE:** N/A

**ACTION:** Provide recommendation to the Common Council.

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**SUBJECT:** CONSIDERATION OF A REQUEST FROM BRUCE BRAITHWAITE TO REZONE THE 5.3-ACRE PARCEL ON THE NORTH SIDE OF SOUTH BLVD IN THE SE ¼ OF THE NW ¼ OF SECTION 3, T11N, R6E, LOCATED AT 1420 SOUTH BLVD AND FORMERLY OCCUPIED BY THE HONEY BOY MOBILE HOME PARK, FROM MH-P, MOBILE HOME PARK TO A B-3, HIGHWAY ORIENTED BUSINESS ZONING CLASSIFICATION BY BRUCE BRAITHWAITE.

**SUMMARY OF ITEM G:** The owners of the former Honey Boy Mobile Home Park at 1420 South Blvd have closed the park and have listed the property for sale. They are requesting the underlying property be rezoned to a B-3 Highway Oriented Business district, which is the same zoning classification as the surrounding property.

**ACTION:** Forward to Common Council for a Public Hearing on the Re-Zoning with a recommendation to Approve/Conditionally Approve/or Deny the Proposed Re-Zoning to a B-3 Highway-Oriented Business zoning classification.

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**SUBJECT:** CONSIDERATION OF A REQUEST BY CAPITOL HOUSING III, LLC TO REVIEW THE SIP IN ACCORDANCE WITH STEP 4 OF THE PLANNED DEVELOPMENT PROCESS TO CONSTRUCT A 70-UNIT MULTI-FAMILY RESIDENTIAL COMPLEX, LOCATED AT 325 LYNN STREET, IN A B-1 CENTRAL BUSINESS ZONING DISTRICT.

**SUMMARY OF ITEM H:** Tim Cummings and William McDonough, d/b/a as Capitol Housing III, LLC, are in the process of purchasing this property from the City of Baraboo. At your request, the GDP and SIP were split and the Commission favorably reviewed the General Development Plan last month and asked that the developer provide additional details on the color(s) and materials for building exterior as well as a landscape plan. Included in the packet is their Specific Implementation Plan submittal that includes updated site and building plans as well as a landscaping plan. They will bring colored renderings and samples of the proposed building materials to the meeting.

The Storm Water Management and Site Lighting plans will be submitted for my review and approval at a future date.

**COMPLIANCE/NONCOMPLIANCE:**

Pursuant to Section 17.36B – *Planned Unit Developments*, I have found the application to be complete and have reviewed it for compliance with the ordinance.

**ACTION:** Approve/Conditionally Approve/Deny the SIP. (subject to the City Engineer’s review and approval of the Storm Water Management and Site Lighting plans?)

**ACTION:** Forward to Common Council for a Public Hearing on the Re-Zoning with a recommendation to Approve the SIP.

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**SUBJECT: DISCUSSION OF WISCONSIN ACT 67 AND ITS EFFECT ON LOCAL ZONING AUTHORITY.**

**SUMMARY OF ITEM I:** Historically, the City has had a broad latitude in the use of CUPs. However, in 2017, Wisconsin Act 67 changed the way a municipality can regulate private property, including the use of CUP regulations.<sup>1</sup> State statute now requires that a municipality issue a CUP whenever an applicant “meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board.”<sup>2</sup>

The law also requires:

- That any requirements or conditions imposed “be related to the purpose of the ordinance and be based on substantial evidence,” where “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,” and
- That any requirements or conditions be “reasonable and, to the extent practicable, measurable.”<sup>3</sup>

For example, the City’s stated purpose of the B-3 Zoning District, where the Property is located, is “to provide for sewer commercial activities oriented toward regional markets requiring highway exposure to the highway user or intended to service vehicles.”<sup>4</sup> The Property is also located in the City’s Conditional Use Overlay district, meaning any and all uses of the Property requires a CUP. The intent is to ensure the City has control over any “undesirable impacts on nearby properties, the environment, [or] the community as a whole” and “to promote the public health, safety, and general welfare of the community.”<sup>5,6</sup> The City’s Code does not specify any requirements or conditions that must be met or agreed to by the applicant for the Property prior to the issuance of the amended CUP. Therefore, any requirements or conditions mandated by the City prior to the issuance of the amended CUP must be independently analyzed within the context of the updated state statute, and must be: related to the purpose of the ordinance, based on substantial evidence, reasonable and, if possible, measurable. One condition that would meet the new standard would be to require there are no code or statute violations occurring on or at the Property relating to the sale of used vehicles for the duration of the CUP.

<sup>1</sup> For a discussion of the changes to the law, see the LWM article included in the packet.

<sup>2</sup> §62.23(7)(de)2.a, Wis. Stat. 28

<sup>3</sup> Id.

<sup>4</sup> §17.29, City Code.

<sup>5</sup> §17.37(1)(c), City Code.

<sup>6</sup> §17.37(5)(a), City Code

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For Office Use:	Date		Date
<input type="checkbox"/> Application given by _____	_____	<input type="checkbox"/> Referred to Council	_____
<input type="checkbox"/> Received by Bldg. Inspector	_____	<input type="checkbox"/> Public Hearing Set	_____
<input type="checkbox"/> Fee received by Treasurer	_____	<input type="checkbox"/> Date Notices Mailed	_____
<input type="checkbox"/> Building Insp. Certified	_____	<input type="checkbox"/> Public Hearing Published	_____
<input type="checkbox"/> Filed with City Clerk	_____	<input type="checkbox"/> Public Hearing Held	_____
<input type="checkbox"/> Referred for Staff Review	_____	<input type="checkbox"/> Plan Meeting Action	_____

**City of Baraboo**  
 135 4th Street  
 Baraboo, WI 53913  
 (608) 355-2730 phone  
 608 355-2719 fax

**APPLICATION FOR CONDITIONAL USE PERMIT**

(A non-refundable \$250 fee must accompany this application upon filing.)

<b>FOR TREASURER USE ONLY</b>
Receipt # _____
Account # 100-22-4440

Date of Petition: \_\_\_\_\_

The undersigned, being all the owners of the real property covered by this conditional use request hereby petition the City of Baraboo Plan Commission as follows:

- Name and address of each owner: (Please attach additional pages as necessary.)  
 Attn: Craig Hendricks (608) 458-8184  
 \_\_\_\_\_  
 Wisconsin Power & Light Company  
 \_\_\_\_\_  
 4902 N Biltmore  
 \_\_\_\_\_  
 Madison, WI 53718-2418  
 \_\_\_\_\_
- Name and address of applicant if not an owner. Describe interest in site (if tenancy, attach copy of current lease):  
 American Transmission Company, LLC 5303 Fen Oak Drive, Madison, WI 53718  
 \_\_\_\_\_  
 Anita LaCoursiere (608) 877-3539  
 \_\_\_\_\_
- Address of site: 125 Vine Street, Baraboo, WI 53913  
 \_\_\_\_\_
- Tax parcel number of site: 206-0936-00000  
 \_\_\_\_\_
- Accurate legal description of site (state lot, block and recorded subdivision or metes and bounds description) (Attach copy of owner's deed):  
SEE ATTACHED LEGAL DESCRIPTION.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- Present zoning classification: B-1  
 \_\_\_\_\_
- Requested conditional use: Install a no cut, no climb 10 ft fence (ATC standards) on a 50 ft section of fencing for expansion at the existing substation. Add a new pre-fabricated, self-contained control house to the existing substation.  
 \_\_\_\_\_  
 \_\_\_\_\_
- Brief description of each structure presently existing on site:  
Various transformers, breakers,  
 \_\_\_\_\_  
 \_\_\_\_\_
- Brief description of present use of site and each structure on site:

Has always been used as a substation.

10. Brief description of any proposed change in use of structures if request for conditional use is granted: (include change in number of employees on site)

A prefabricated, self-contained control house will be placed on the site. The house contains relay panels with breakers and other associated items needed to operate the substation.

11. The following arrangements have been made for serving the site with municipal sewer and water:

No sewer or water will be on-site.

12. Name, address, and tax parcel number of the owners of each parcel immediately adjacent to the boundaries of the site and each parcel within 200 feet including street and alley right-of-way of each exterior boundary of the site (see section 17.37(3)(a) of City Code.)

Brooke A. Hill, Walnut St., Tax # 206-0937-00000 City of Baraboo, Vine St., Tax # 206-0938-00000, 206-1769-10000 and 206-0934-00000 Allan O & Mary A Mueller, 105 Vine St., Tax # 206-0935-00000

13. A scale map or survey map must be attached showing the following: (Note: This section is not required for home occupation requests; skip to 14.) (see section 17.37(2)(a) of City Code.)

- a. Location, boundaries, dimensions, uses, and size of the site and structures and its relationship to adjoining lands.
- b. The approximate location of existing structures on the site, easements, streets, alleys, off street parking, loading areas and driveways, highway access and access restrictions, existing street, side and rear yards, proposed surface drainage, grade elevations.

14. State in detail, the evidence indicating proof that the proposed conditional use shall conform to each of the standards for conditional uses set forth in section 17.37(2)(b) of the City Zoning Code.

Site is presently a substation and is zoned B-1. This is considered an accessory use according to zoning.

The conditional use permit is needed because the site is located in a revitalization area. The site will continue to be used as a substation with the addition of the smaller sized control building.

WHEREFORE, the undersigned property owners hereby state that the foregoing information and all attachments to this Petition are true and correct to the best of our knowledge.

Notice to Property Owner: Conditional use permits, if granted, are subject to a 10 day appeal waiting time.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

American Transmission Company, LLC as agent for  
Wisconsin Power and Light Company

\_\_\_\_\_  
Property owner AGENT

\_\_\_\_\_  
Property owner

I certify that that I have reviewed this application for completeness.

Date: \_\_\_\_\_ Zoning Administrator: \_\_\_\_\_

## EXHIBIT A

### SUBSTATION LEGAL DESCRIPTION

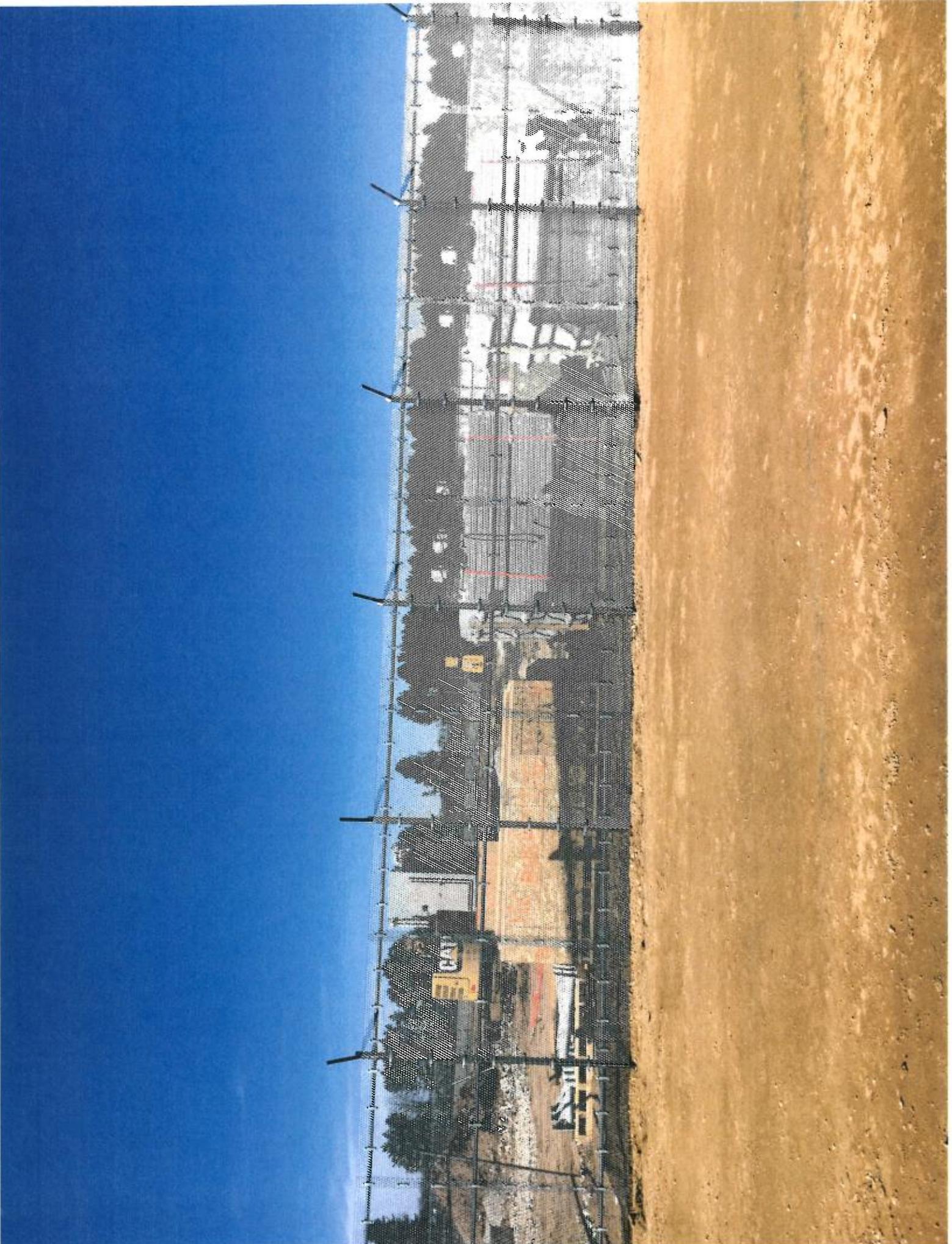
#### **Grantor's Property Description and Easement Area are described as follows:**

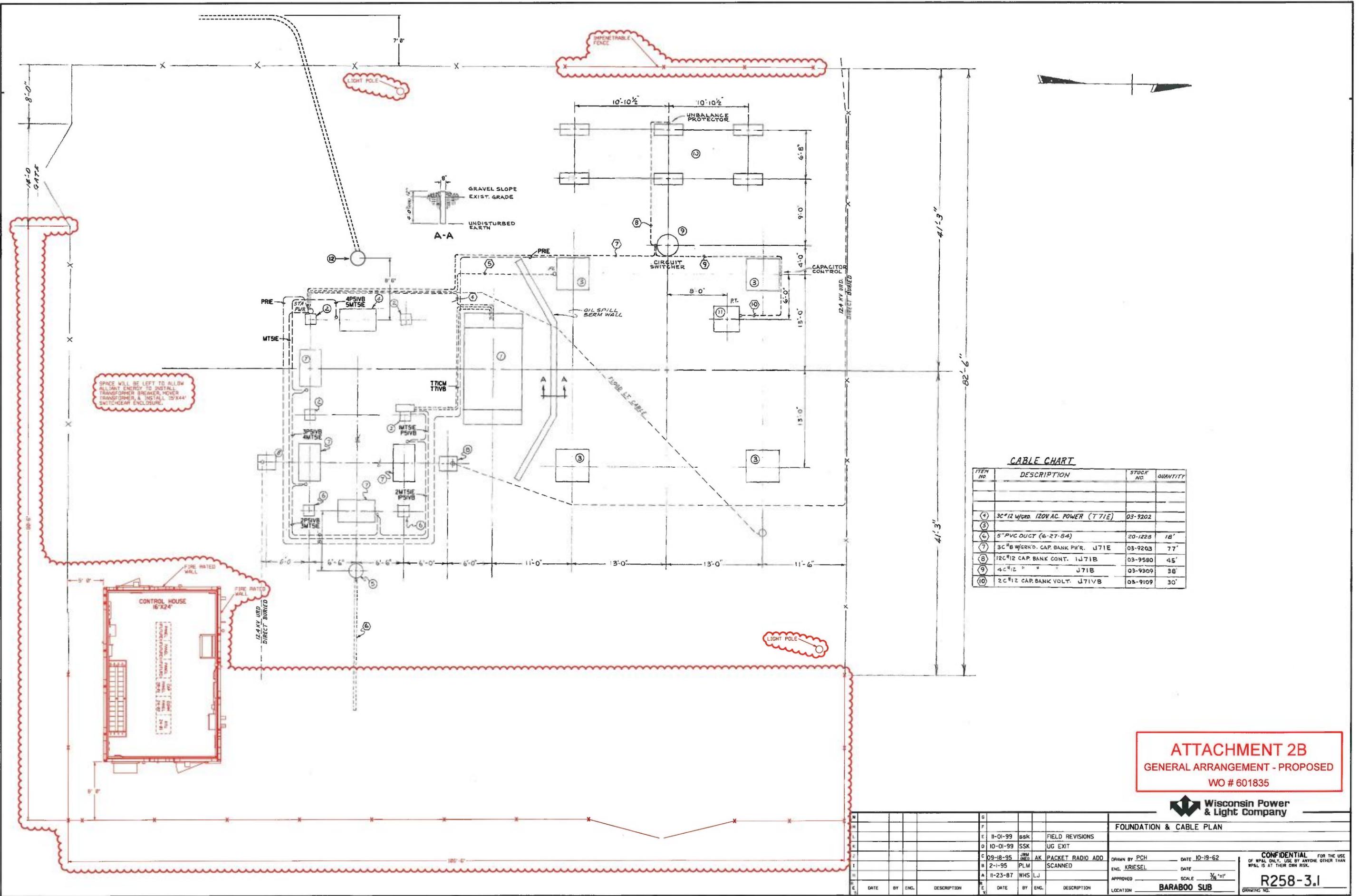
**Parcel 6:** All that part of the Mill Reserve of the Plat of the Village of Baraboo, now City of Baraboo, Sauk County, Wisconsin, as recorded in Volume 1 of Plats on Page 2, described as follows:

Commencing at the point of intersection of the east line of Vine Street and the north line of the alley connecting Vine Street and Walnut Street; thence East along the north line of the alley, 104.6 feet to an iron pipe, which shall be the place of beginning of this description; thence continuing East along the north line of said alley, 92.5 feet to an iron pipe; thence North at right angles to the north line of said alley, 148 feet, more or less, to the south edge of the Baraboo River; thence Westerly along the south edge of the Baraboo River to a point due North of the place of beginning; thence South 150 feet, more or less to the place of beginning, being part of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 2, T11N – R6E, in Sauk County, Wisconsin.

**Parcel 8:** All that part of the Mill Reserve of the Plat of the Village of Baraboo, now City of Baraboo, Sauk County, Wisconsin, as recorded in Volume 1 of Plats on Page 2, described as follows:

Commencing at the point of intersection of the east line of Vine Street and the north line of the alley connecting Vine Street and Walnut Street; thence East along the north line of the alley, 197.1 to an iron pipe, which shall be the point of beginning for this description; thence continuing East along the north line of said alley approximately 86.5 feet or to the east property line of Grantor; thence North along the east property line of Grantor to the Baraboo River; thence West along the Baraboo River to a point North of the point of beginning; thence South to the point of beginning.





SPACE WILL BE LEFT TO ALLOW ALL PART ENERGY TO INSTALL TRANSFORMER BREAKER, HOVER TRANSFORMER & INSTALL 20X44 SWITCHGEAR ENCLOSURE.

**CABLE CHART**

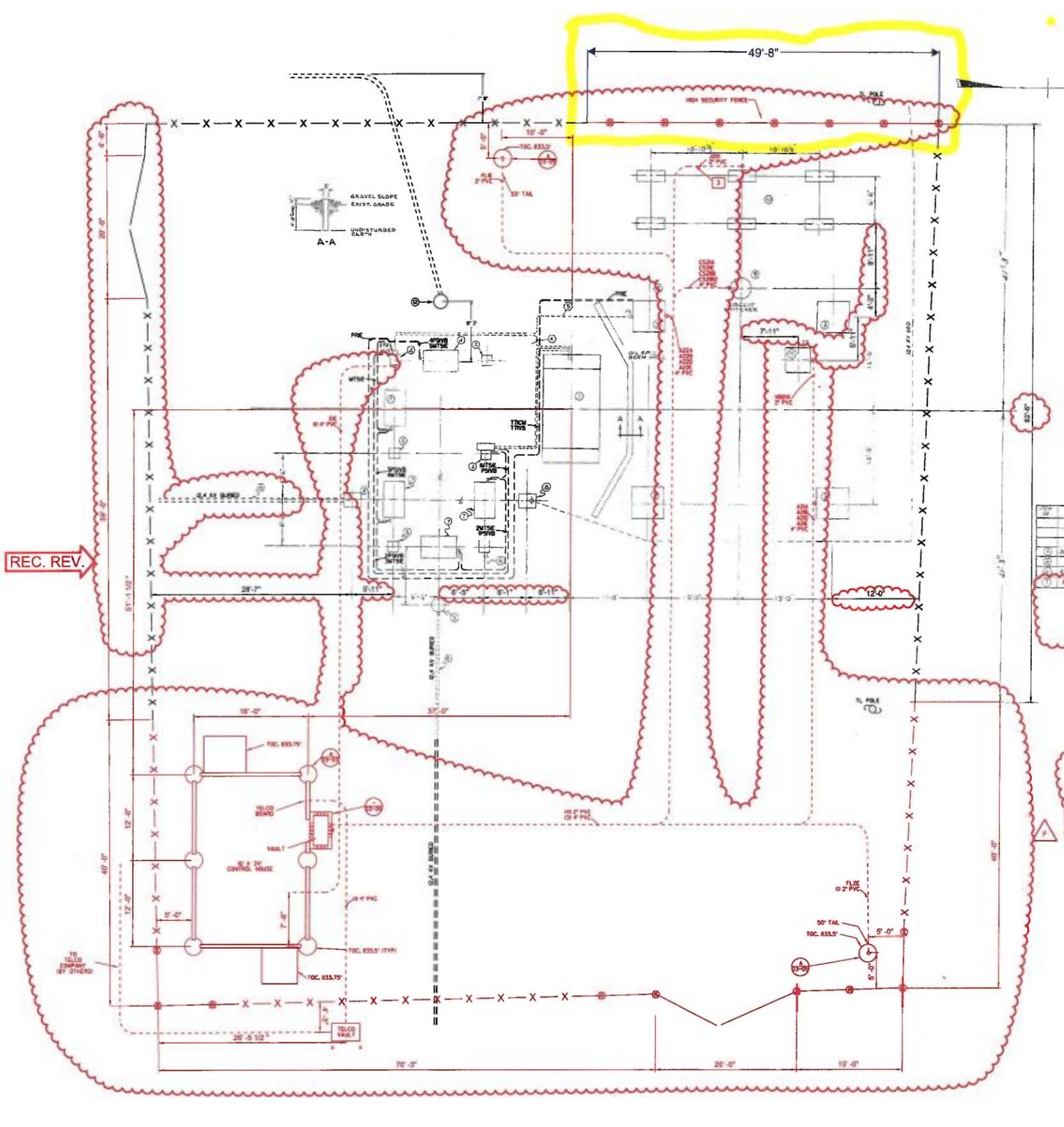
ITEM NO.	DESCRIPTION	STOCK NO.	QUANTITY
4	3C #12 W/GND. 120V AC. POWER (T71E)	03-9202	
5			
6	5" PVC DUCT (6-27-84)	20-1228	18'
7	3C #8 W/GND. CAP. BANK PWR. J71E	03-9203	77'
8	12C #12 CAP. BANK CONT. J71B	03-9580	45'
9	4C #12 " " " " J71B	03-9309	38'
10	2C #12 CAP. BANK VOLT. J71V	03-9109	30'

**ATTACHMENT 2B**  
**GENERAL ARRANGEMENT - PROPOSED**  
 WO # 601835



FOUNDATION & CABLE PLAN		DRAWN BY PCH DATE 10-19-62	
E 11-01-99 SSK FIELD REVISIONS		ENG. KRIESEL DATE	
D 10-01-99 SSK UG EXIT		APPROVED SCALE 3/8"=1'	
C 09-18-95 JWM AK PACKET RADIO ADD		LOCATION BARABOO SUB	
B 2-1-95 PLM SCANNED		CONFIDENTIAL FOR THE USE OF WPL ONLY. USE BY ANYONE OTHER THAN WPL IS AT THEIR OWN RISK.	
A 11-23-87 WHS LJ		<b>R258-3.1</b>	
E DATE BY ENG. DESCRIPTION		DRAWING NO.	

REC. REV.



LEGEND

(Symbol)	INDICATES DETAIL NO. INDICATES DRAWING ON WHICH DETAIL APPEARS
(Symbol)	CONDUIT NUMBER (NOTE 1)
(Symbol)	FOUNDATION DETAIL (NOTE 2)
(Symbol)	5" PVC DUCT
(Symbol)	2 OR 4" PVC CONDUIT - AS INDICATED
(Symbol)	EXISTING FENCE
(Symbol)	PROPOSED FENCE (NOTE 3)
(Symbol)	PROPOSED FENCE FOUNDATIONS (NOTE 3)
(Symbol)	FOUNDATION ORIENTATION MARK

- NOTES
- SEE DWG 03-06 FOR CONDUIT VAULT DETAILS AND CONDUIT ENTRANCE ASSIGNMENTS.
  - SEE DWGS 3.3 AND 3.4 FOR FOUNDATION DETAILS.
  - SEE DWGS 02-04 AND 02-05 FOR STANDARD AND HIGH SECURITY FENCE DETAILS.
  - SEE EXTERIOR CABLE CHART DWG 4.1 FOR CABLE LENGTHS.

- CONSTRUCTION NOTES
- ALL CABLE TAIL LENGTHS SHALL BE 25' AT THE CONDUIT VAULT AND EQUIPMENT UNLESS OTHERWISE NOTED.
  - RASTER DIMENSION UPDATES REPRESENT RECORD REVISIONS. DIMENSIONS ARE NOT TO SCALE. SEE 02-01A FOR SURVEYED LOCATIONS.

CABLE CHART

NO.	DESCRIPTION	TYPE	AMOUNT
1	2" PVC CONDUIT		
2	4" PVC CONDUIT		
3	5" PVC DUCT		
4	ABANDONED IN PLACE		

ITEM	DESCRIPTION OF MATERIAL	MANUFACTURER	CATALOG #	ATO STOCK #	QUANTITY
K219	CONDUIT, 2" SCHEDULE 40 PVC, W/BELL, 10' LENGTH (ORDER BY FEET)	CHARLTON	UNV000-01C	025382	8
K219	ELBOW, CONDUIT, 2" SCHEDULE 40 PVC, 90 DEG., 24" RADIUS, ONE BELLED END	CHARLTON	UNV000-01C	025382	8
K223	END CAP, 2" PVC	CHARLTON	UNV000-01C	025382	8
K420	CONDUIT, 4" SCHEDULE 40 PVC, W/BELL, 10' LENGTH (ORDER BY FEET)	CHARLTON	UNV000-01C	025382	8
K420	ELBOW, CONDUIT, 4" SCHEDULE 40 PVC, 90 DEG., 24" RADIUS, BELLED END	CHARLTON	UNV000-01C	025382	8
K424	END CAP, 4" PVC	CHARLTON	UNV000-01C	025382	8

REQUIRED W0\* 60835

DRAWING APPROVAL  
PLEASE CIRCULATE DRAWING(S)  
IN ORDER SHOWN BELOW:

Comments are needed by : 01-26-18

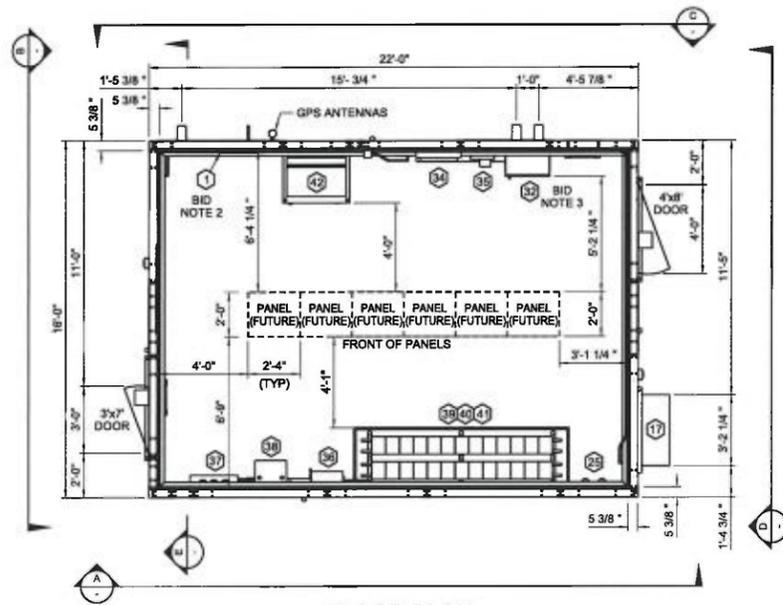
Name	Initial	Code
PLN		
OPS		
PROT		
SCADA		
MAINT		
DE		
PM		
OTHER		

Codes: A = Approved for final  
B = Approved with comments  
C = Revise and resubmit

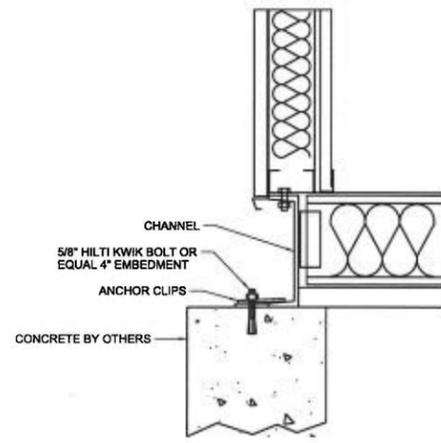


DATE		BY	ENG.	DESCRIPTION	DATE	BY	ENG.	DESCRIPTION	LOCATION	SCALE	DATE	BY	ENG.	DESCRIPTION
									BARABOO SUB	1/8"=1'-0"	10-19-02	PCH		FOUNDATION & CABLE PLAN

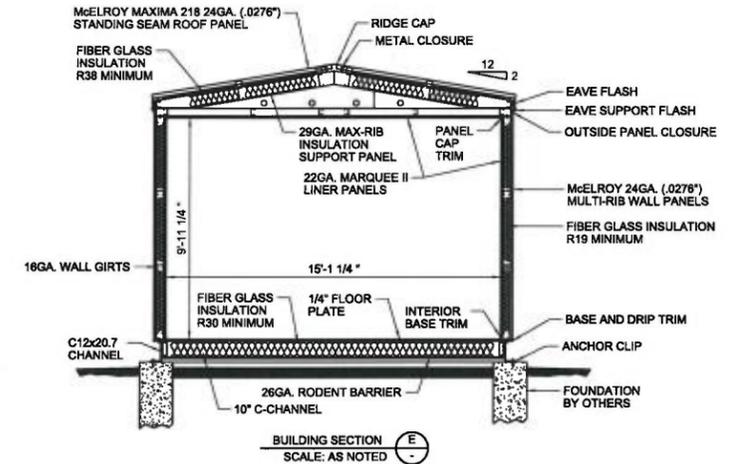
CONFIDENTIAL FOR THE USE OF WPL ONLY. USE BY ANYONE OTHER THAN WPL IS AT THEIR OWN RISK.  
**R258-3.1**  
DRAWING NO.



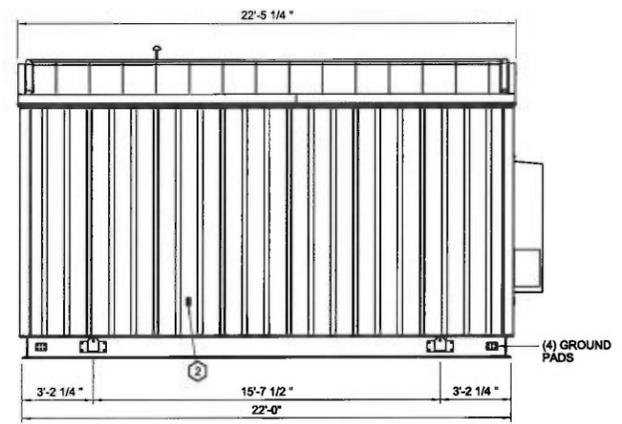
FLOOR PLAN



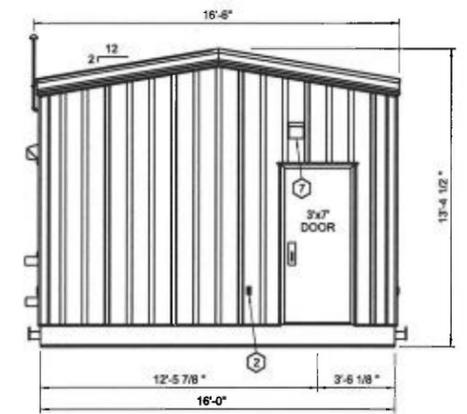
ANCHOR DETAIL  
SCALE: 1 1/2"=1'-0"



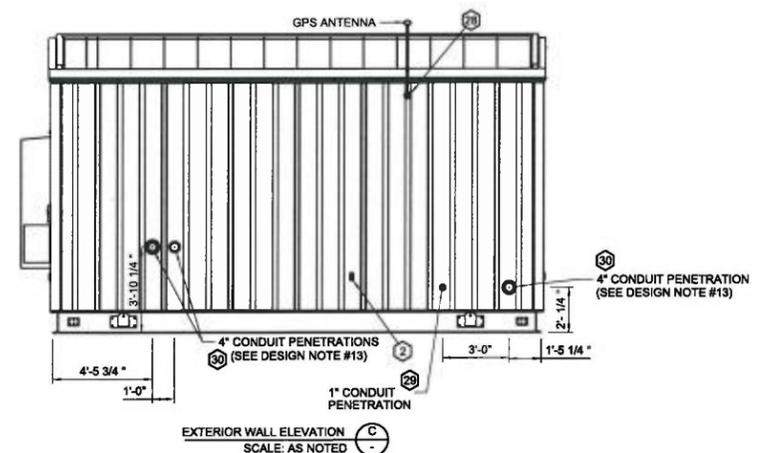
BUILDING SECTION E  
SCALE: AS NOTED



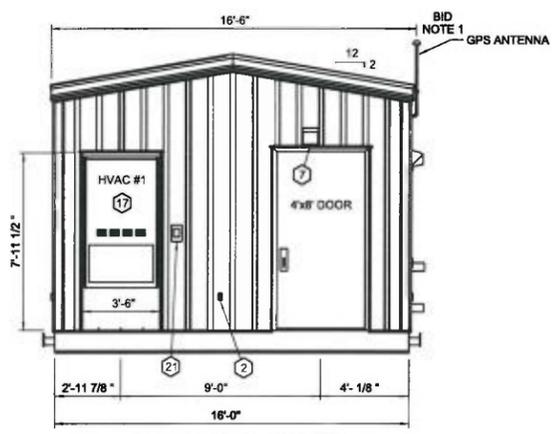
EXTERIOR WALL ELEVATION A  
SCALE: AS NOTED



EXTERIOR WALL ELEVATION B  
SCALE: AS NOTED



EXTERIOR WALL ELEVATION C  
SCALE: AS NOTED



EXTERIOR WALL ELEVATION D  
SCALE: AS NOTED

EQUIPMENT SCHEDULE

ITEM	DESCRIPTION	QTY
1	4' x 10' TELECOMMUNICATIONS BOARD	1
2	GFCI DUPLEX RECEPTACLE, 125V, 20A, WEATHER RESISTANT	4
3	FLOURESCENT LIGHT FIXTURE, 4 LAMP, LITHONIA, 32W	8
4	SWITCH, 3-WAY, HEAVY DUTY, 120/277V, 20A	4
5	SQUARE BOX, 4"x 4"x 2 1/8" DEEP, W/(11) 1/2" K.O.'s	4
6	EMERGENCY/EEXIT LIGHT - WALL MOUNTED, LITHONIA	2
7	ENTRY LIGHT, RAB HPS, 120V, 70W, W/PHOTOCELL	2
8	LIGHT SWITCH, HEAVY DUTY, 120/277V, 20A	2
9	RECEPTACLE, 3-WIRE, 125V, 20A	6
10	RECEPTACLE, DUPLEX, 120V, 20A, ISOLATED GROUND, ORANGE	2
11	HIGH TEMP CONTROL, HONEYWELL - T631C1020, 70° - 140° F RANGE	1
12	LOW TEMP CONTROL, HONEYWELL - T631C1103, 30° - 100° F RANGE	1
13	SMOKE DETECTOR, KIDDE - I12060, BATTERY BACKUP	2
14	HEAT DETECTOR, FYRNETICS - HD135F, BATTERY BACKUP	2
15	RELAY, KIDDE - SM-120X	1
16	FUNCTIONAL DEVICES RELAY, 20A, CONTINUOUS DUTY COIL	2
17	HVAC UNITS, BARD	1
18	SQUARE BOX, 4"x 4"x 2 1/8" DEEP, W/(8) 1/2" K.O.'s AND (4) 3/4" K.O.'s	4
19	HANDY BOX, 4"x 2 1/8"x 2 1/8", 3/4" K.O.'s	2
20	LEAD LAG CONTROLLER, BARD - MC4000B	1
21	HVAC DISC, SQ. D - Q0200TR	1
22	J-BOX, 8"x 8"x 4" DEEP, W/O KNOCKOUTS, GALVANIZED COVER	6
23	WIREWAY, TYPE 1, 4"x 4"x 80", W/O KNOCKOUTS	1
24	WIREWAY, TYPE 1, 6"x 6"x 96", W/O KNOCKOUTS	2
25	EYE WASH SALINE STATION, DBL 32 OZ	1
26	TELEPHONE JACK, ACCEPTS RJ-11 MODULE PLUG	1
27	"NO SMOKING" SIGN, 10"x 14", ALUMINUM	1
28	PIPE FLASHING, MINI DEKTITE, 1/4" - 1 1/8"	1
29	PIPE FLASHING, MINI DEKTITE, 1/4" - 2"	1
30	PIPE FLASHING, MINI DEKTITE, 1/4" - 5"	3
31	J-BOX, 18"x 18"x 6" DEEP, W/O KNOCKOUTS, NEMA 1	1
32	AUTOMATIC TRANSFER SWITCH, ASCO W/ 18B & 18G	1
33	J-BOX, 24"x 24"x 12", W/O KNOCKOUTS, NEMA 1	1
34	AC PANEL BOARD, SQ. D, NQ MB, 20" WIDE	1
35	METER BASE, MILBANK, SINGLE PHASE, 320A	1
36	DC DISCONNECT SWITCH, SQ. D, 240 VAC, 250 VDC, 200A	1
37	PANEL BOARD, MAIN LUG, SQ. D, I-LINE MLO, 83"x 28"x 6 1/2" DEEP	1
38	BATTERY CHARGER, HINDLE (OR EQUAL)	1
39	STATION BATTERY, ENERSYS (OR EQUAL)	1
40	BATTERY RACK, TWO STEP, 9 FT LONG	1
41	SPILL CONTAINMENT KIT, 32"x 116"	1
42	CABLE TERMINATION CABINET, 36"x 28"x 90"	1

BID NOTES

- PROVIDE PENETRATION ON WALL FOR GPS ANTENNA.
- ONE (1) 4" CONDUIT AND ONE (1) 1" CONDUIT SHALL BE PROVIDED THROUGH THE WALL TO THE TELCO BOARD. CONDUITS SHALL BE APPROXIMATELY 12" ABOVE THE FLOOR AND EXTEND A MINIMUM OF 8" BEYOND EXTERIOR WALL.
- ONE (1) 4" CONDUIT INTO EACH AC DISCONNECT SWITCH SHALL BE PROVIDED THROUGH THE WALL AND SHALL EXTEND A MINIMUM OF 8" BEYOND EXTERIOR WALL.

GENERAL NOTES

- THIS DRAWING CREATED FROM ATC STANDARD DRAWING SSST-05-63A REV. 2.
- FOR DESIGN NOTES SEE DRAWING BAR-05-01B.

FOR BID ONLY

				16' X 22' CONTROL HOUSE FLOOR PLAN, EXTERIOR ELEVATION, SECTION BARBOO SUBSTATION			
0	MM-DD-YY	601835	RECONDUCTOR BUS - W/O# 601835 - FOR BID ONLY	ALG	LSJ	MEE	ECI
REV	DATE	W.O.#	DESCRIPTION	DRAWN	CHKD	APPD	CMPT
						SCALE: 1/4"=1'-0" DRAWING NO. BAR - 05 - 01	



For Office Use:	Date		Date
<input type="checkbox"/> Application given by _____	_____	<input type="checkbox"/> Referred to Council	_____
<input type="checkbox"/> Received by Bldg. Inspector _____	_____	<input type="checkbox"/> Public Hearing Set	_____
<input type="checkbox"/> Fee received by Treasurer _____	_____	<input type="checkbox"/> Date Notices Mailed	_____
<input type="checkbox"/> Building Insp. Certified _____	_____	<input type="checkbox"/> Public Hearing Published	_____
<input type="checkbox"/> Filed with City Clerk _____	_____	<input type="checkbox"/> Public Hearing Held	_____
<input type="checkbox"/> Referred for Staff Review _____	_____	<input type="checkbox"/> Plan Meeting Action	_____

**City of Baraboo**  
 101 South Blvd.  
 Baraboo, WI 53913  
 (608) 355-2730 phone  
 608 355-2719 fax

**APPLICATION FOR CONDITIONAL USE PERMIT**

(A non-refundable fee must accompany this application upon filing. -\$250 if public hearing required, or \$100 if no public hearing required.)

<b>FOR TREASURER USE ONLY</b>
Receipt # <u>2001130</u>
Account # 100-22-4440

Date of Petition: 6/22/18

**PAID**  
**JUN 22 2018**  
**CITY OF BARABOO**

The undersigned, being all the owners of the real property covered by this conditional use request hereby petition the City of Baraboo Plan Commission as follows:

1. Name and address of each owner: (Please attach additional pages as necessary.)

421 10th Ave, Baraboo, WI Linda Porter  
423 10th Ave, Baraboo, WI Ruanne Schoonover

2. Name and address of applicant if not an owner. Describe interest in site (if tenancy, attach copy of current lease):

n/a, same as above

3. Address of site: 421/423 10th Ave, Baraboo, WI 53913

4. Tax parcel number of site: (421) 206-3631-00000, (423) 206-3630-00000

Accurate legal description of site (state lot, block and recorded subdivision or metes and bounds description) (Attach copy of owner's deed): \_\_\_\_\_

Present zoning classification: \_\_\_\_\_

7. Requested conditional use: Separate single family homes (from condo)  
Zero-lot line

8. Brief description of each structure presently existing on site:  
Single family homes - 2 units, 3 floors

9. Brief description of present use of site and each structure on site:

Single family homes

10. Brief description of any proposed change in use of structures if request for conditional use is granted: (include change in number of employees on site)

no change to use

11. The following arrangements have been made for serving the site with municipal sewer and water:

Sewer + water already connected

Name, address, and tax parcel number of the owners of each parcel immediately adjacent to the boundaries of the site and each parcel within 200 feet including street and alley right-of-way of each exterior boundary of the site (see section 17.37(3)(a) of City Code.)

\_\_\_\_\_

A scale map or survey map must be attached showing the following: (Note: This section is not required for home occupation requests; skip to 14.) (see section 17.37(2)(a) of City Code.)

- a. Location, boundaries, dimensions, uses, and size of the site and structures and its relationship to adjoining lands.
- b. The approximate location of existing structures on the site, easements, streets, alleys, off street parking, loading areas and driveways, highway access and access restrictions, existing street, side and rear yards, proposed surface drainage, grade elevations.

14. State in detail, the evidence indicating proof that the proposed conditional use shall conform to each of the standards for conditional uses set forth in section 17.37(2)(b) of the City Zoning Code.

See attached

WHEREFORE, the undersigned property owners hereby state that the foregoing information and all attachments to this Petition are true and correct to the best of our knowledge.

Notice to Property Owner: Conditional use permits, if granted, are subject to a 10 day appeal waiting time.

Dated this 22 day of June, 2018.

Linda M. Poulter  
Property owner  
[Signature]  
Property owner

608-393-3675

I certify that that I have reviewed this application for completeness.  
Date: \_\_\_\_\_ Zoning Administrator: \_\_\_\_\_

COPY

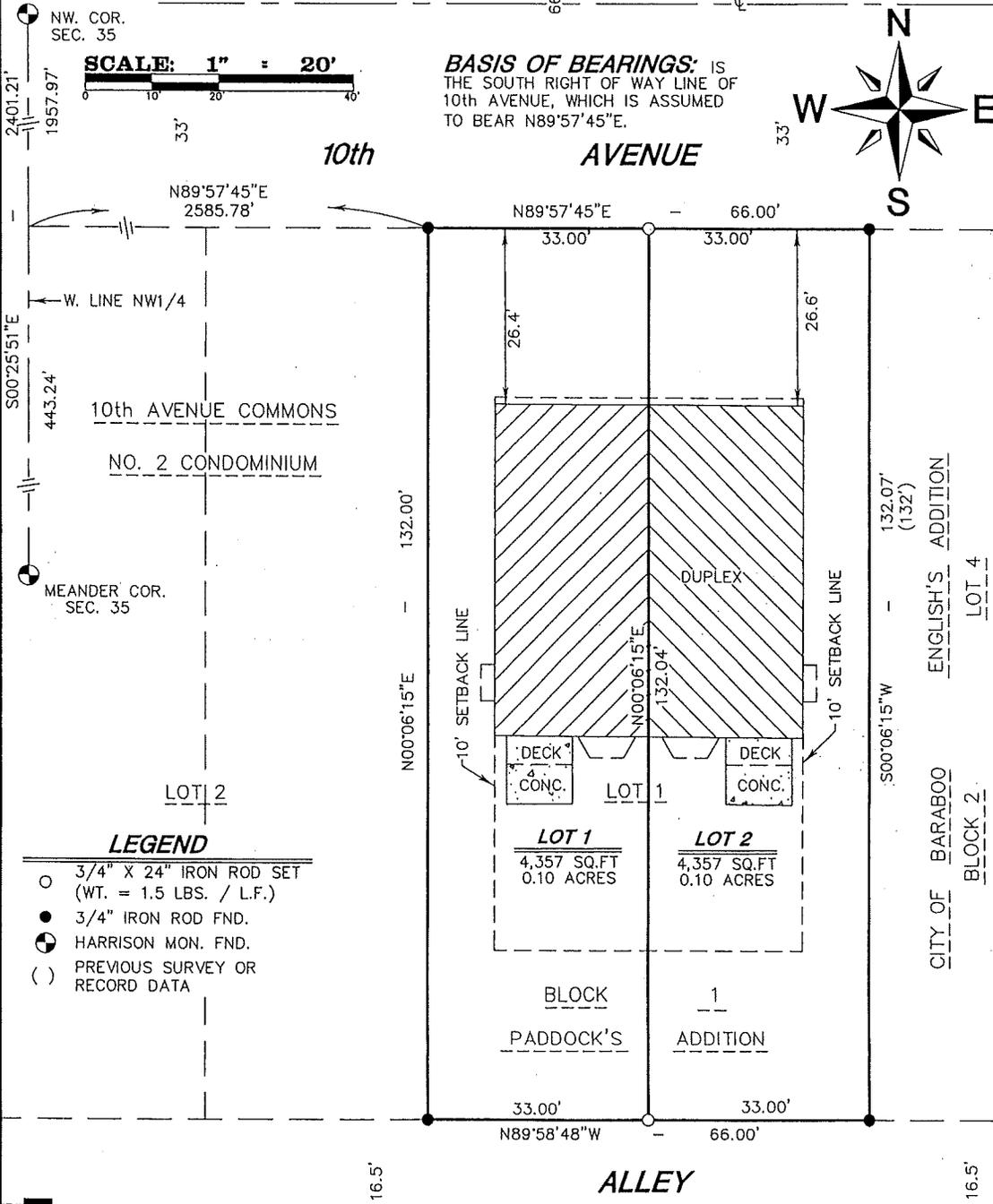
As prepared by:  
**GROTHMAN & ASSOCIATES, S.C.**  
**LAND SURVEYORS**  
 PO BOX 373 PORTAGE, WI 53901  
 Phone Portage (608) 742-7788  
 Phone Sauk (608) 644-8877  
 Fax (608) 742-0434  
 e-mail [surveying@grothman.com](mailto:surveying@grothman.com)

**G & A FILE NO. 607-427**  
 DRAFTED BY: J. ABEGGLEN  
 CHECKED BY: J.R.G.  
 PROJ. 306-192  
 DWG. 607427\_CSM SHEET 1 OF 2

SEAL:

THOMAS L. GREVE  
 S-2226  
 BARABOO  
 WI  
 LAND SURVEYOR  
 GENERAL LOCATION

**SAUK COUNTY CERTIFIED SURVEY MAP NO.**  
 BEING LOT 1, BLOCK 1, PADDOCK'S ADDITION, LOCATED IN THE SE 1/4 OF THE NW 1/4,  
 SECTION 35, T. 12 N, R. 6 E, CITY OF BARABOO, SAUK COUNTY, WISCONSIN.  
 CONTAINING: 8,714 SQ. FT. - 0.20 ACRES



**OWNER:**  
 PRAIRIE HILL HOMES  
 W12618 PLEASANT VIEW PARK RD  
 LODI, WI 53555

**CLIENT:**  
 PRAIRIE HILL HOMES  
 W12618 PLEASANT VIEW PARK RD  
 LODI, WI 53555

COPY

SURVEYOR'S CERTIFICATE

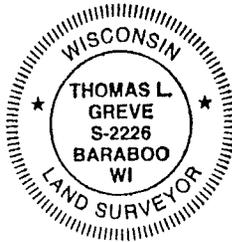
I, THOMAS L. GREVE, Registered Land Surveyor, do hereby certify that by the order of Prairie Hill Homes, I have surveyed, monumented, mapped and divided Lot 1, Block 1, Paddock's Addition, Located in the Southeast Quarter of the Northwest Quarter of Section 35, Town 12 North, Range 6 East, City of Baraboo, Sauk County, Wisconsin, described as follows:

Commencing at the northwest corner of said Section 35;  
thence South 00°25'51" East along the west line of the Northwest Quarter of said Section 35, 1,957.97 feet;  
thence North 89°57'45" East, 2,585.78 feet to the northwest corner of Lot 1, Block 1, Paddock's Addition and the point of beginning.  
thence continuing North 89°57'45" East along the north line of said Lot 1 and the south right-of-way line of Tenth Avenue, 66.00 feet;  
thence South 00°06'15" West along the east line of said Lot 1, 132.07 feet;  
thence North 89°58'48" West along the south line of said Lot 1, 66.00 feet;  
thence North 00°06'15" East along the west line of said Lot 1, 132.00 to the point of beginning.  
Containing 8,714 square feet, (0.20 acres), more or less. And being subject to servitudes and easements of use or record, if any.

I DO FURTHER CERTIFY that this is a true and correct representation of the boundaries of the land surveyed and that I fully complied with the Provisions of Chapter 236.34 of the Wisconsin State Statutes and the City of Baraboo Subdivision Ordinance to the best of my knowledge and belief.

*Thomas L. Greve*

THOMAS L. GREVE  
Registered Land Surveyor, No. 2226  
Dated: July 10, 2007  
File No.: 607-427



PLAN COMMISSION RESOLUTION

RESOLVED that the Certified Survey Map in the City of Baraboo, Sauk County, Wisconsin is hereby approved and accepted by the Plan Commission.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Engineer

\_\_\_\_\_  
Date

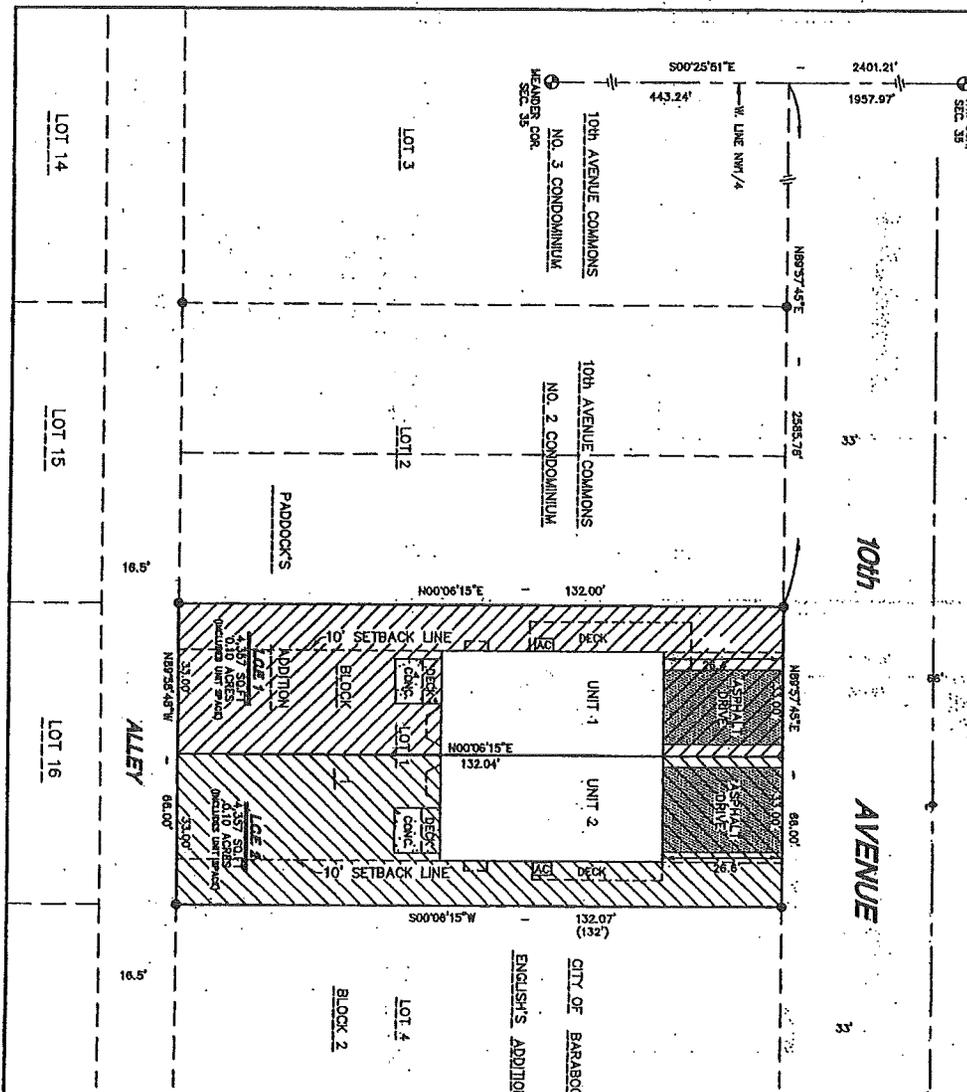
I HEREBY certify that the foregoing is a copy of a Resolution adopted by the Plan Commission of the City of Baraboo, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Date

# 10th AVENUE COMMONS NO. 1 CONDOMINIUM

BEING LOT 1, BLOCK 1, PADDOCKS ADDITION, LOCATED IN THE SE 1/4 OF THE NW 1/4, SECTION 35, T. 12 N., R. 6 E., CITY OF BARABOO, SAUK COUNTY, WISCONSIN. CONTAINING: 8,714 SQ. FT. - 0.20 ACRES



**BASIS OF BEARINGS:** IS THE SOUTH RIGHT OF WAY LINE OF 10th AVENUE. IS ASSUMED TO BE AN 1897-45'E.

**LEGEND**

- 3/4" IRON ROD FND.
- RECORDED BY
- ⊕ HARRISON NON. FND.
- ▨ LIMITED COMMON ELEMENT UNIT 1.
- ▩ LIMITED COMMON ELEMENT UNIT 2.

**SURVEYOR'S CERTIFICATE**

I, JAMES R. GROTHMAN, Registered Land Surveyor, No. 1321 of the State of Wisconsin, do hereby certify that I have surveyed and mapped according to the official records, condominiums as described and pictured herein. I further certify that this plat is a true scaled and conventional representation of the boundaries, buildings, improvements and existing encroachments, if any.

**THOMAS L. GREBE**  
Registered Land Surveyor, No. 2228  
Dated: June 28, 2007.  
794 No. 497-427

**LEGAL DESCRIPTION**

Lot 1, Block 1, Paddock's Addition located in the Southeast Quarter of the Northeast Quarter of Section 35, Town 12 North, Range 6 East, City of Baraboo, Sauk County, Wisconsin. Containing 8,714 square feet, (0.20 acres), more or less.

**CLIENT / OWNER**  
FRANKIE HALL BAKER  
WINDY PLAZA UNIT VIEW PARK, NO. 10  
LOT, W. WISCONSIN

**SURVEYOR**  
THOMAS L. GREBE  
603 E. STATE STREET  
BARABOO, WISCONSIN 53009  
PHONE: (608) 745-0404 (Cell): (608) 745-0477  
FAX: (608) 745-0454 (Cell): (608) 745-0477  
E-MAIL: [thomas@tgrebe.com](mailto:thomas@tgrebe.com)

**10th AVENUE COMMONS NO. 1 CONDOMINIUM**

**GROTHMAN & ASSOCIATES S.C.**  
LAND SURVEYORS

603 EAST STATE STREET, P.O. BOX 373, PORTAGE, WI, 53071  
PHONE: (608) 745-0404 (Cell): (608) 745-0477  
FAX: (608) 745-0454 (Cell): (608) 745-0477  
E-MAIL: [info@grothman.com](mailto:info@grothman.com)

FILE NO. 607-487      PROJ. NO. 908-158      DWG. NO. 607-487-0010

THIS INSTRUMENT DRAFTED BY JERON ABERGLEN.

SHEET 1 OF 3

**SIDE BY SIDE SINGLE FAMILY  
ATTACHED DWELLINGS**

**DECLARATION OF OPERATING AGREEMENT**

In re: Units One (1) and Two (2), 10<sup>th</sup> Avenue Commons No. 1 Condominium, declared and existing under and by virtue of the Condominium Ownership Act of the State of Wisconsin according to the Declaration of Condominium recorded July 16, 2007 as Document No. 939733; together with an appurtenant undivided interest in and to the common elements and facilities of the Condominium, together with exclusive use and right of easement in the limited common areas and facilities appurtenant to said Unit. (Located in Lot 1, Block 1, Paddock's Addition to the City of Baraboo, Sauk County, Wisconsin).

**WHEREAS**, Ruanne Schoonover is the owner of Unit 1 in 10<sup>th</sup> Avenue Commons No. 1, and Christine L. Montonna, is the owner of Unit 2 in 10<sup>th</sup> Avenue Commons No. 1 (hereinafter "Owner") of the properties described above and the improvements located thereon; and,

---

**Return to:**  
Attorney Dale A. Carlson  
Carlson Koeck Kirk & Graves Ltd.  
P.O. Box 9  
Prairie du Sac, WI 53578

---

**WHEREAS**, said improvements constitute a duplex structure and Owner desires to have same constitute side-by-side single family attached dwellings as provided for in Section 17.37(9) of the General Ordinances of the City of Baraboo, Sauk County, Wisconsin; and

**Parcel No. Part of 206/2736-00000**

**WHEREAS**, the City of Baraboo has approved a conditional use permit for the parcels described above and the improvements located thereon for such improvements to be side-by-side single family attached dwellings.

**NOW THEREFORE**, in conformity with Section 17.39(9) of the General Ordinances of the City of Baraboo, Sauk County, Wisconsin, and the conditions of said conditional use permit, Owner, for himself, herself or itself, and his, her or its successors and assigns, hereby subjects the properties described above and the improvements located thereon to be subject to and controlled by the following Declaration of Operating Agreement.

**ARTICLE 1 - DEFINITIONS**

For the purpose of this Declaration, the following terms shall have the meanings here ascribed to them:

1. "Living Unit" shall mean and refer to any portion of a residence building situated upon the Properties designed and intended for use and occupancy as a residence by a single family.
2. "Lot" shall mean and refer to any portion of land in the Properties upon which a Living Unit is situated, whether or not the same is a platted lot.
3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers and vendees, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the property by provision or operation of law.
4. "Properties" shall mean and refer to the real property hereinbefore described.
5. "Zero (0) Lot Line" means side by side single family attached dwelling.

## ARTICLE II - PARTY WALLS

1. General Rules of Law to Apply. Each wall which is built as part of the general construction of any Living Unit upon the Properties and placed on the dividing line between two Living Units shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto. Whenever improvements abut on the common boundary line between adjoining units there shall be a one-hour fire wall running from the lowest floor level, including the basement if it is the common wall, to the underside of the roof sheathing. Such basement wall, if any, shall be waterproofed masonry.
2. Shares of Repair and Maintenance. The cost of reasonable repair and maintenance of each party wall shall be shared by the Owners in equal share.
3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty or by physical deterioration, any Owner who has used the wall may restore it, and shall have an easement over the adjoining Living Unit for purposes of making such restoration, and if other Owners thereafter make use of the wall they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from other Owners under any rule of law regarding liability for negligent or willful acts of omissions.
4. Weatherproofing. Notwithstanding any other provisions of this Article, any Owner who by his or her negligent or willful act, causes any part wall to be exposed to the elements or excessive heat or cold shall bear the whole cost of furnishing the necessary protection against such elements or heat or cold, and of repairing the party wall from damages caused by such exposure.
5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.
6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provision of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Circuit Court Judge of Sauk County, Wisconsin. Arbitration shall be in accordance with the rules of the American Arbitration Association.
7. Encroachment. If any portions of a Living Unit or any Lot shall actually encroach upon any other Lot, or if any such encroachment shall hereafter arise because of settling or shifting of the building or other cause, there shall be deemed to be an easement in favor of the Owner of the encroaching Living Unit to the extent of such encroachment so long as the same shall exit.
8. Construction Liens. Each Owner of a Living Unit ("Defaulting Owner") agrees to indemnify and hold harmless the Owner of an adjoining Living Unit for any construction liens arising from work done or material supplied to make repairs or replacements for which the Defaulting Owner is responsible.

## ARTICLE III - OTHER PROVISIONS GOVERNING RELATIONSHIP AMONG OWNERS OF ADJOINING LIVING UNITS

1. Insurance - Replacement/Construction. Each Owner shall maintain fire and extended coverage insurance on his or her Living Unit, including the party wall, in the full replacement/construction thereof, and shall, in the event of damage to or destruction of his or her Living Unit, restore it to the condition in which it was prior to the damage or destruction.
2. Maintenance. Each Owner of a Living Unit shall maintain his or her Lot and the exterior of his or her Living Unit in good condition and repair and in a clean and neat condition.

3. Roof-Siding. If a portion of the roof or siding spanning more than one living unit has deteriorated to the point where the whole of that section of common roof or siding has to be replaced, then said section of common roof or siding shall be replaced and the cost thereof shall be divided by the Owners of the Living Units pro-rata based upon the number of square feet of such replacement roof or siding per Living Unit.
4. Architectural Control.
  - a. The Owner of a Living Unit may replace exterior components of his or her Living Units with similar components of the same design and color, and may paint the exterior, but he or she may not, either in the course of ordinary replacement or remodeling or restoration after damage or destruction, employ different siding or roofing material or a different color scheme, without the written consent of the Owner of the adjoining Unit.
  - b. In the event of any dispute arising concerning a change in siding or roofing material or color scheme, each party shall choose an arbitrator and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all arbitrators shall be final and conclusive of the question involved. The arbitrator's decision shall be based on their decision of whether the proposed siding or roofing material or color scheme is in harmony with the design of the adjoining Living Unit. If either party refuses or fails to promptly appoint an arbitrator, the same may be appointed by any Circuit Judge for Sauk County, Wisconsin. Arbitration shall be in accordance with the rules of the American Arbitration Association.
5. Easements for Utilities. Each Owner shall have an easement over the property of the other Owner for purposes of maintaining water, sewer, natural gas, telephone, cable TV, and other utilities that may enter the side by side single family attached dwelling from a single source and then branch into each individual family dwelling.

#### ARTICLE IV - GENERAL PROVISIONS

1. Enforcement. The Owner of any Living Unit involved shall have the right to enforce, by any proceeding at law or in equity, or both, all of the terms and provisions of this Declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. In case of such proceeding at law or in equity, the successful party shall be entitled to recover his or her costs of enforcement, including reasonable and necessary attorneys fees.
2. Severability. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
3. Amendments. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them in perpetuity unless an instrument signed by a majority of the then Owners of the Lots and the written consent of the City of Baraboo has been recorded, agreeing to change said covenants in whole or in part.
4. City. Even though this document was made a condition of a conditional use approval to the undersigned, their assignees, or heirs, absolve the City of any and all liability. Further, the undersigned understand the City of Baraboo is not an enforcing agency to any portion of this document.

Dated this 13 day of October, 2007.

  
\_\_\_\_\_  
Ruanne Schoonover

For Office Use:	Date		Date
<input type="checkbox"/> Application given by _____	_____	<input type="checkbox"/> Referred to Council	_____
<input type="checkbox"/> Received by Bldg. Inspector	_____	<input type="checkbox"/> Public Hearing Set	_____
<input type="checkbox"/> Fee received by Treasurer	_____	<input type="checkbox"/> Date Notices Mailed	_____
<input type="checkbox"/> Building Insp. Certified	_____	<input type="checkbox"/> Public Hearing Published	_____
<input type="checkbox"/> Filed with City Clerk	_____	<input type="checkbox"/> Public Hearing Held	_____
<input type="checkbox"/> Referred for Staff Review	_____	<input type="checkbox"/> Plan Meeting Action	_____

**City of Baraboo**  
 135 4th Street  
 Baraboo, WI 53913  
 (608) 355-2730 phone  
 608 355-2719 fax

**APPLICATION FOR CONDITIONAL USE PERMIT**

(A non-refundable \$250 fee must accompany this application upon filing.)

<b>FOR TREASURER USE ONLY</b>
Receipt # _____
Account # 100-22-4440

Date of Petition:         6.28.2018        

The undersigned, being all the owners of the real property covered by this conditional use request hereby petition the City of Baraboo Plan Commission as follows:

1. Name and address of each owner: (Please attach additional pages as necessary.)

        GREG J. HAMMEL          
        PO BOX 443          
        WISCONSIN DELLS, WI. 53965        

2. Name and address of applicant if not an owner, describe interest in site.

\_\_\_\_\_

3. Address of site:         1410 - 1412 Lake St. Baraboo, WI. 53913        

4. Tax parcel number of site:         206-3117-00401        

5. A proposed certified survey map of the property to be used for the duplex must accompany this application.

6. Please describe with detail the impact of the requested side by side single family attached dwelling upon the following:

The present density of the surrounding neighborhood.  
        I Believe it will Have NO impact ON The present          
        Density        

Whether the uses, values and enjoyment of other property in the neighborhood will be substantially impaired or diminished.  
        I DONT Believe it will impair or diminish The          
        uses, values and enjoyment AT all        

Whether the establishment of the conditional use will impede the normal and orderly development and improvement for uses permitted in the neighborhood.

IT will NOT impede The Normal development AND improvements  
for uses permitted in The neighborhood.

7. Name, address, and tax parcel number of the owners of each parcel immediately adjacent to the boundaries of the site and each parcel within 200 feet including street and alley right-of-way of each exterior boundary of the site (see section 17.37(2)(a) of City Code.)

\_\_\_\_\_

\_\_\_\_\_

8. A scale map or survey map must be attached showing the following:

- a. Location, boundaries, dimensions, uses, and size of the site and structures and its relationship to adjoining lands, and the present apparent use of the adjoining lands (single family residential, duplex, multifamily housing, etc.).
- b. The approximate location of existing structures on the site, easements, streets, alleys, off street parking, driveways, existing street, and side and rear yards.

WHEREFORE, the undersigned property owners hereby state that the foregoing information and all attachments to this Petition are true and correct to the best of our knowledge.

NOTICE TO PROPERTY OWNER: CONDITIONAL USE PERMITS, IF GRANTED,  
ARE SUBJECT TO A 10 DAY APPEAL WAITING TIME.

Dated : 6.28, 2018.

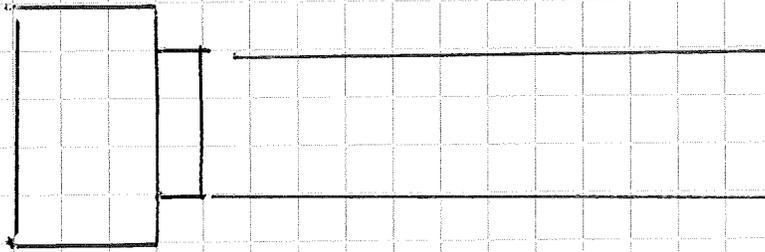
Greg J. Hammel  
Property owner  
608.963.8507

Jane G. Hammel  
Property owner

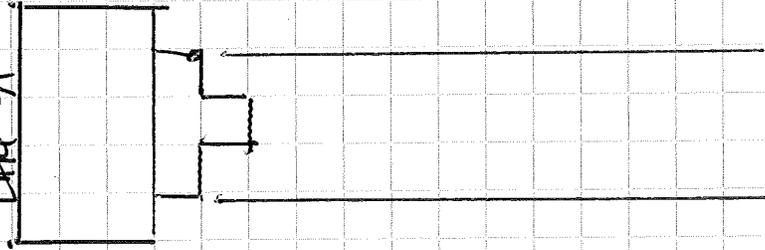
I certify that that I have reviewed this application for completeness.

Date: \_\_\_\_\_ Zoning Administrator: \_\_\_\_\_

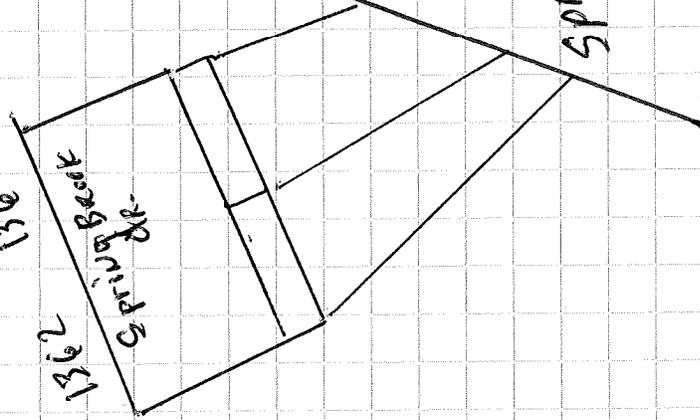
1412 1410  
LAKE ST



1402 1400  
LAKE ST



1362  
1360  
Spring Brook  
Spring Dr.



Spring Brook  
Spring Dr.

LAKE ST.

As prepared by:

# G GROTHMAN & ASSOCIATES S.C.

LAND SURVEYORS

625 EAST SLIFER STREET, P.O. BOX 373 PORTAGE, WI. 53901  
PHONE: PORTAGE: (808) 742-7788 SAUK: (808) 644-8877  
FAX: (808) 742-0434 E-MAIL: surveying@grothman.com  
(RED LOGO REPRESENTS THE ORIGINAL MAP)

G & A FILE NO. **618-381**



DRAFTED BY: LD

CHECKED BY: TG

PROJ. 113-1

DWG. 618-381

SHEET 1 OF 2

SEAL:



*Thomas L. Greve*  
7/16/18

## SAUK COUNTY CERTIFIED SURVEY MAP NO. \_\_\_\_\_ GENERAL LOCATION

Volume \_\_\_\_\_, Page \_\_\_\_\_

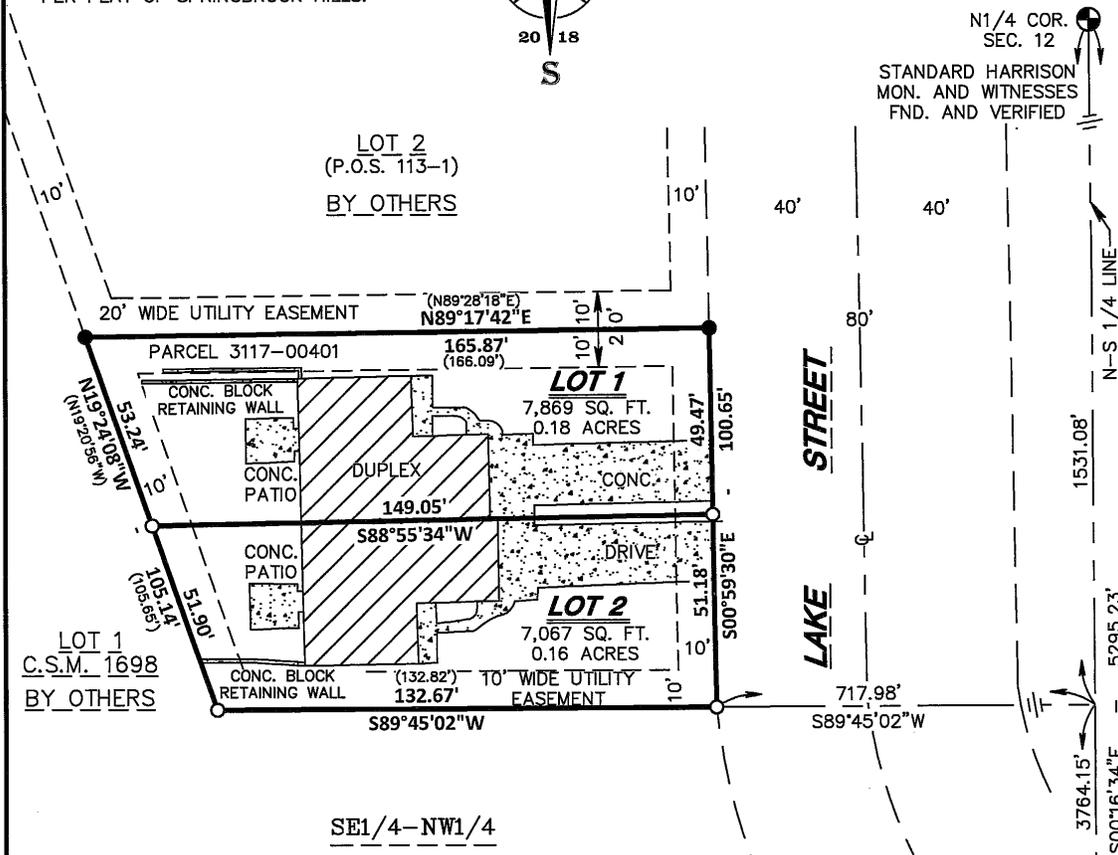
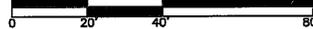
BEING LOT 1, PLAT OF SPRINGBROOK HILLS, LOCATED IN THE SE1/4 OF THE NW1/4, SECTION 12,  
T. 11 N., R. 6 E., CITY OF BARABOO, SAUK COUNTY, WISCONSIN.  
CONTAINING 14,936 SQ. FT. (0.34 ACRES)

### BASIS OF BEARINGS:

IS THE WEST RIGHT OF WAY LINE  
OF LAKE STREET WHICH IS  
RECORDED TO BEAR S00°59'30"E  
PER PLAT OF SPRINGBROOK HILLS.



SCALE: 1" = 40'



### LEGEND

- 3/4" X 24" IRON ROD SET (WT. = 1.5 LBS. / L.F.)
- 3/4" IRON ROD FND.
- ⊕ STANDARD HARRISON MON. FND.

FIELDWORK COMPLETED  
ON 7/10/2018.

STANDARD HARRISON  
MON. AND WITNESSES  
FND. AND VERIFIED

S1/4 COR.  
SEC. 12

OWNER/CLIENT: GREG J. HAMMEL  
P.O. BOX 443  
WISCONSIN DELLS, WI 53965

1723 and 1731 Manassas Dr.  
Baraboo, WI 53913

July 12, 2018

City of Baraboo  
101 South Blvd.  
Baraboo, WI 53913

To whom it may concern:

We, the undersigned property owners at 1723 and 1731 Manassas Dr., hereby petition the City of Baraboo to vacate the unimproved pathway between our properties. The pathway is a 20 foot strip to the south of parcel #2883-2351.

Thank you in advance for your consideration of our request.

Sincerely,

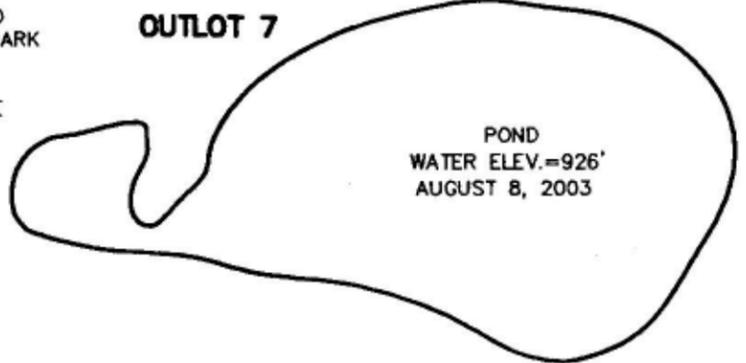
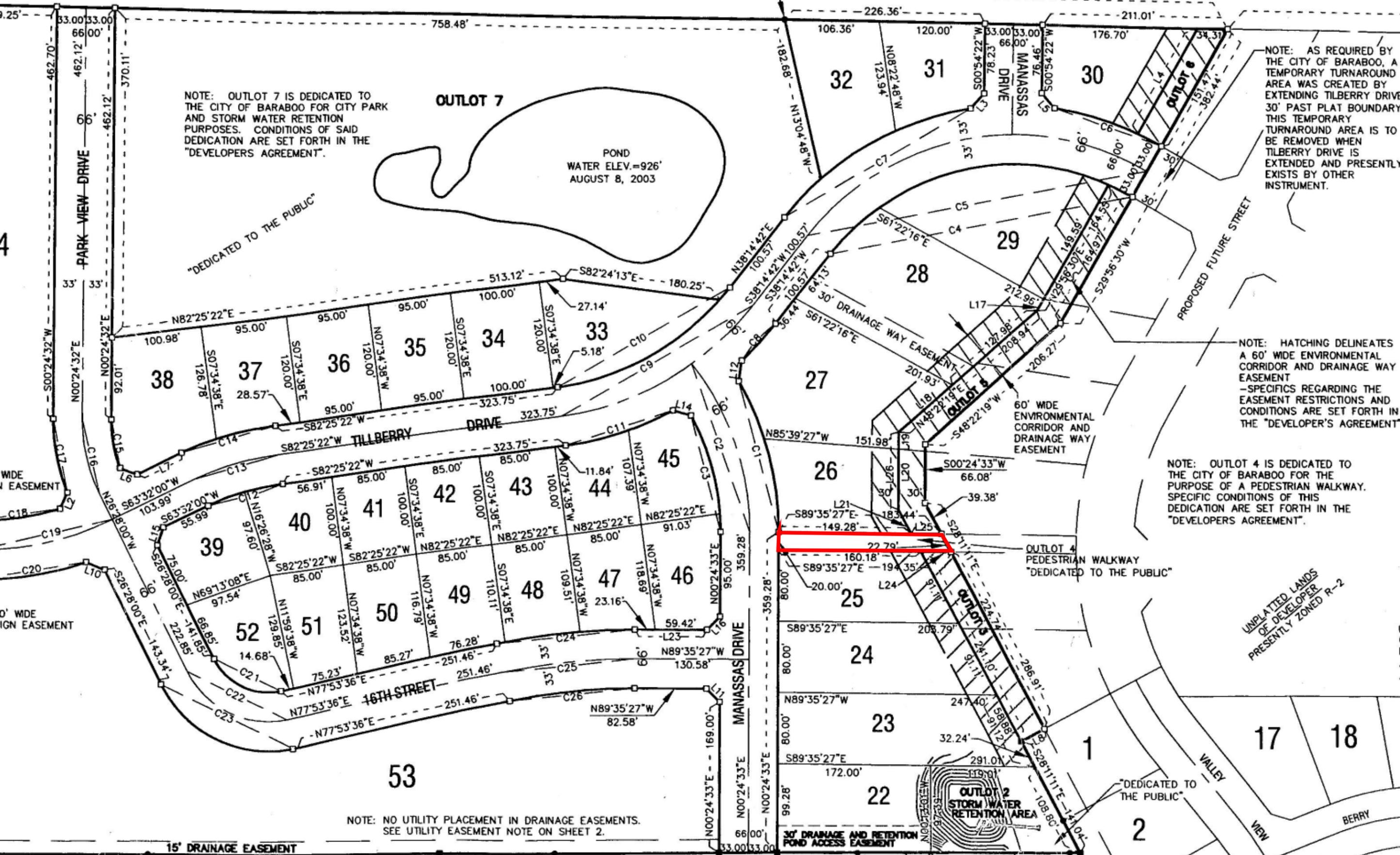


Carol A Bassett  
1731 Manassas



Karen L. Allen  
1723 Manassas

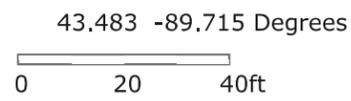
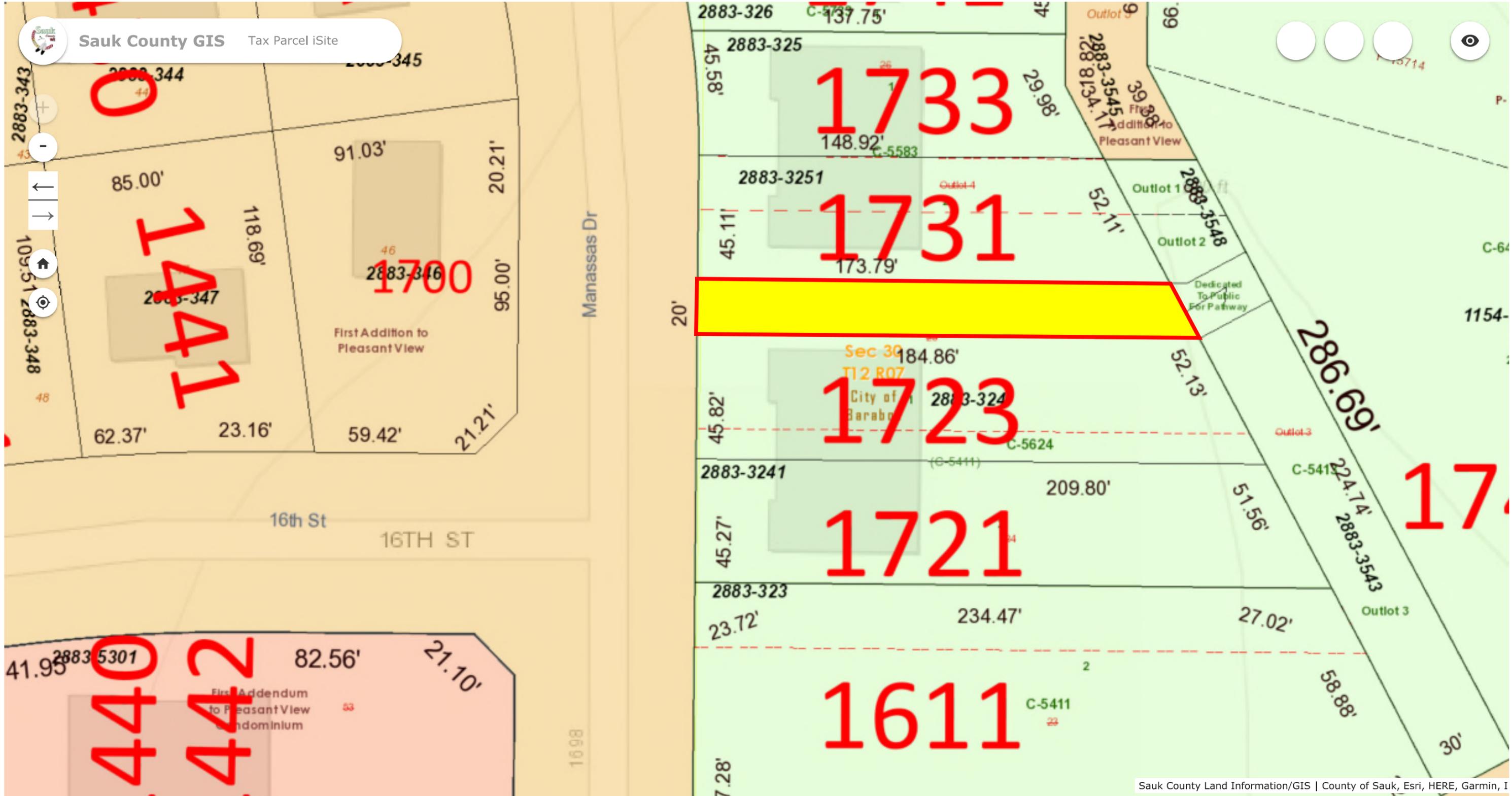




LOT AREA

LOT	SQUARE FOOTAGE
22	0.39 AC.
23	0.49 AC.
24	0.41 AC.
25	0.33 AC.
26	0.32 AC.
27	0.57 AC.
28	0.66 AC.
29	0.51 AC.
30	0.35 AC.
31	0.27 AC.
32	0.34 AC.
33	0.36 AC.
34	0.28 AC.
35	0.26 AC.
36	0.26 AC.
37	0.27 AC.
38	0.36 AC.
39	0.23 AC.
40	0.21 AC.
41	0.20 AC.
42	0.20 AC.
43	0.20 AC.
44	0.20 AC.
45	0.23 AC.
46	0.23 AC.
47	0.22 AC.
48	0.21 AC.
49	0.22 AC.
50	0.23 AC.
51	0.23 AC.
52	0.22 AC.
53	4.00 AC.
54	1.72 AC.

NOTE: OUTLOT 2 IS DEDICATED TO THE CITY OF BARABOO FOR STORM WATER RETENTION PURPOSES. CONDITIONS OF SAID DEDICATION ARE SET FORTH IN THE "DEVELOPERS AGREEMENT".



## Pinion, Tom

---

**From:** Bruce Braithwaite <bruce@drbuz.com>  
**Sent:** Tuesday, July 10, 2018 8:35 PM  
**To:** Pinion, Tom  
**Cc:** Dale Vicky Harding; 'Gary Wegner'; Bryan Braithwaite  
**Subject:** Honey Boy mobile home park

Tom,

Thanks for the suggestion.

Yes we would like to rezone the property to a B-3, Highway Oriented Business classification. Let this please be my official request to do so.

I will have Dale or Vicky Harding, the park managers drop off a check to you this week.

Thanks again for your kind assistance.

Bruce Braithwaite, owner

---

**From:** Gary Wegner <WegnerG@firstweber.com>  
**Sent:** Tuesday, July 10, 2018 4:00 PM  
**To:** Bruce Braithwaite  
**Subject:** Re: Honey Boy mobile home park

I would suggest that you seek the rezoning to B-3, Highway Oriented Business. You would never get your manufactured housing zoning back however I do not feel that is the highest and best use of your property. So unless you are hesitant to give that up, I would proceed with the more standard and practical B-3 zoning.

**Gary Wegner**  
First Weber - Wisconsin Dells  
A Berkshire Hathaway affiliate  
608-963-9915  
<http://www.garywegner.firstweber.com/>

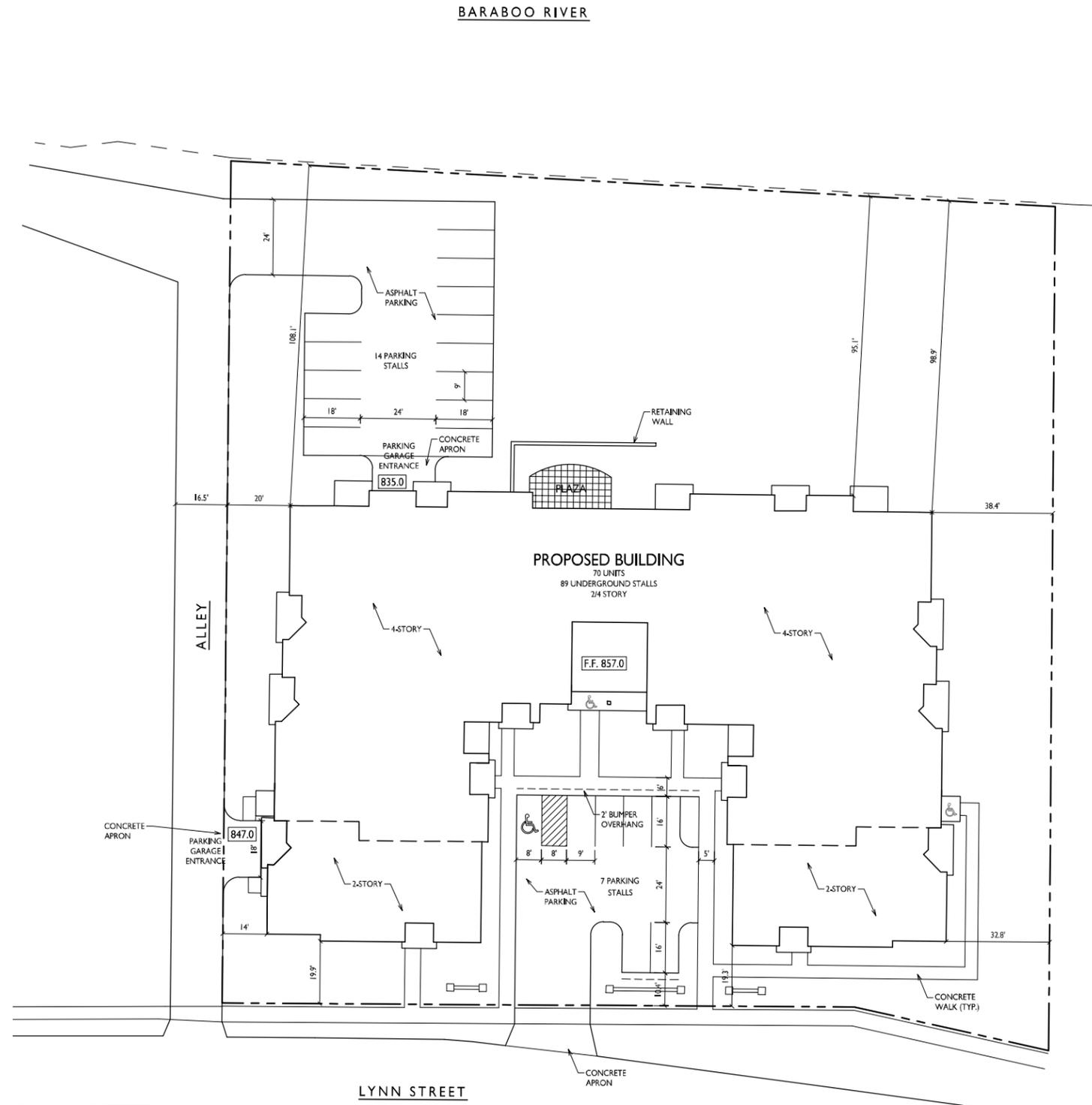


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**From:** Bruce Braithwaite <bruce@drbuz.com>  
**Sent:** Tuesday, July 10, 2018 2:05 PM  
**To:** Gary Wegner  
**Subject:** Re: Honey Boy mobile home park



SHEET INDEX	
C-1.1	SITE PLAN
C-1.2	EXISTING CONDITIONS
L-1.0	LANDSCAPE PLAN
A-L2	LOWER LEVEL 2 PLAN
A-L1	LOWER LEVEL 1 PLAN
A-1.1	FIRST FLOOR PLAN
A-1.2	SECOND FLOOR PLAN
A-1.3	THIRD FLOOR PLAN
A-1.4	FOURTH FLOOR PLAN
A-2.1	ELEVATIONS
A-2.2	ELEVATIONS



SITE DEVELOPMENT DATA		
SITE ADDRESS:	325 LYNN ST.	
CURRENT SITE ZONING:	B1	
CURRENT PLANNED USE:	PLANNED MIXED USE	
PROPOSED USE:	MULTIFAMILY RESIDENTIAL	
<b>DENSITIES</b>		
LOT AREA	68,840 S.F. / 1.58 ACRES	
DWELLING UNITS	70 DU	
LOT AREA / D.U.	983 S.F. / D.U.	
DENSITY	44 UNITS/ACRE	
BUILDING HEIGHT	2-4 STORIES	
<b>BUILDING AREAS</b>		
LL2	14,504	
LL1	24,283	
FIRST	22,732	
SECOND	22,732	
THIRD	18,334	
FOURTH	17,792	
TOTAL	120,377	
FLOOR AREA RATIO:	1.19 (FLOORS 1-4)	
LOT COVERAGE	35,772 S.F. = 52%	
<b>DWELLING UNIT MIX:</b>		
EFFICIENCY	PHASE 1	PHASE 2
ONE BEDROOM	16	20
TWO BEDROOM	15	15
TOTAL UNITS	35	35
		70 UNITS
<b>VEHICLE PARKING STALLS:</b>		
SURFACE	21	
UNDERGROUND	89	
TOTAL	110 VEHICLE STALLS	
RATIO	1.6 STALLS/UNIT	

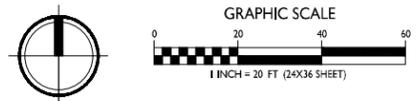
ISSUED  
Plan Commission Submittal - June 12, 2018  
Plan Commission SP Submittal - July 12, 2018

PROJECT TITLE  
**River Ridge**



325 Lynn Street  
Baraboo, WI  
SHEET TITLE  
**Site Plan**

**1** SITE PLAN  
C-1.1 1" = 20'-0"



**2** SITE LOCATION MAP  
C-1.1



**knothe bruce**  
ARCHITECTS

Phone: 7601 University Ave, Ste 201  
608.836.3690 Middleton, WI 53562

ISSUED  
Plan Commission Submittal - June 12, 2018  
Plan Commission SP Submittal - July 12, 2018

PROJECT TITLE  
**River Ridge**

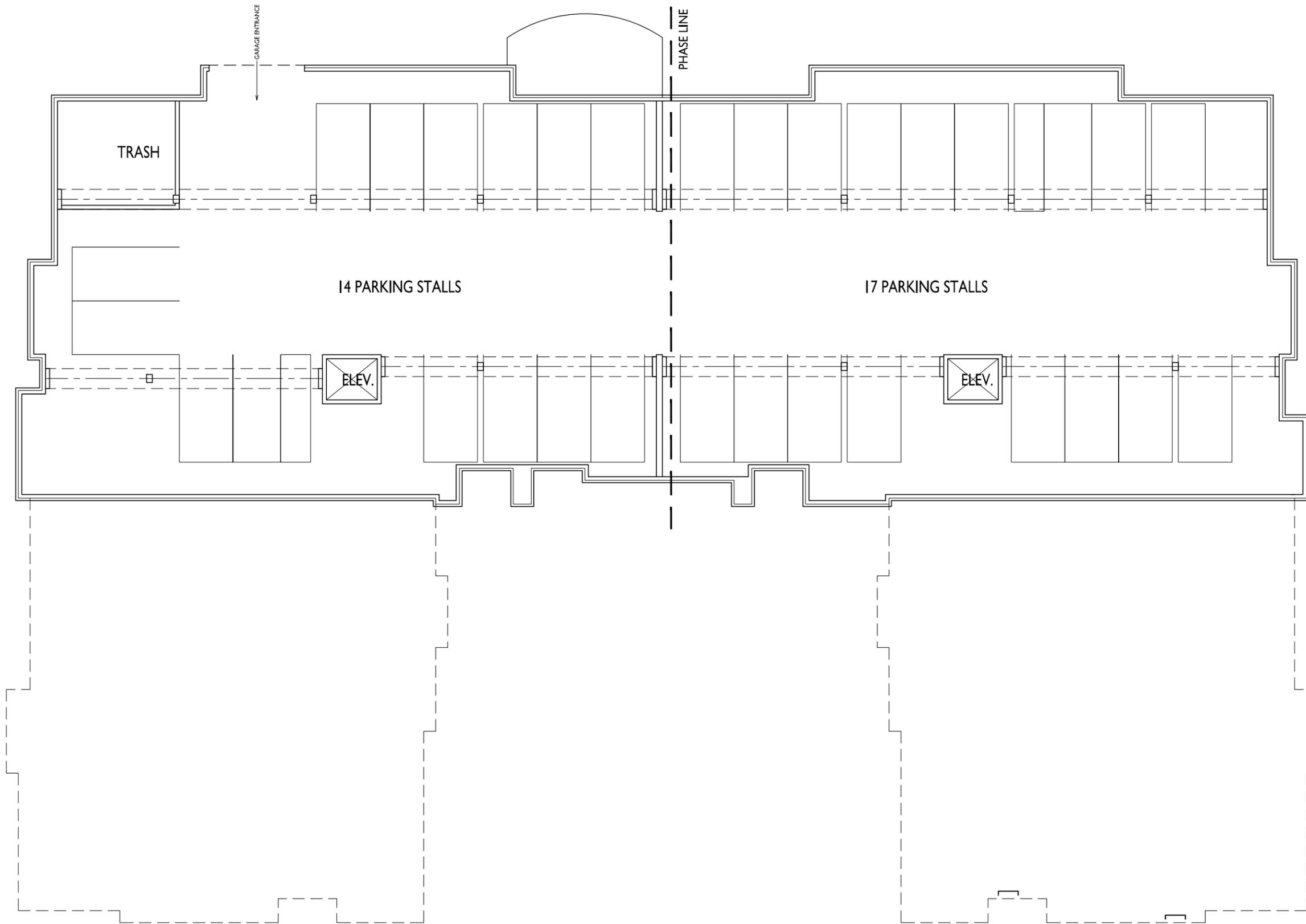
325 Lynn Street  
Baraboo, WI  
SHEET TITLE  
**Lower Level 2  
Plan**

SHEET NUMBER

**A-L.2**

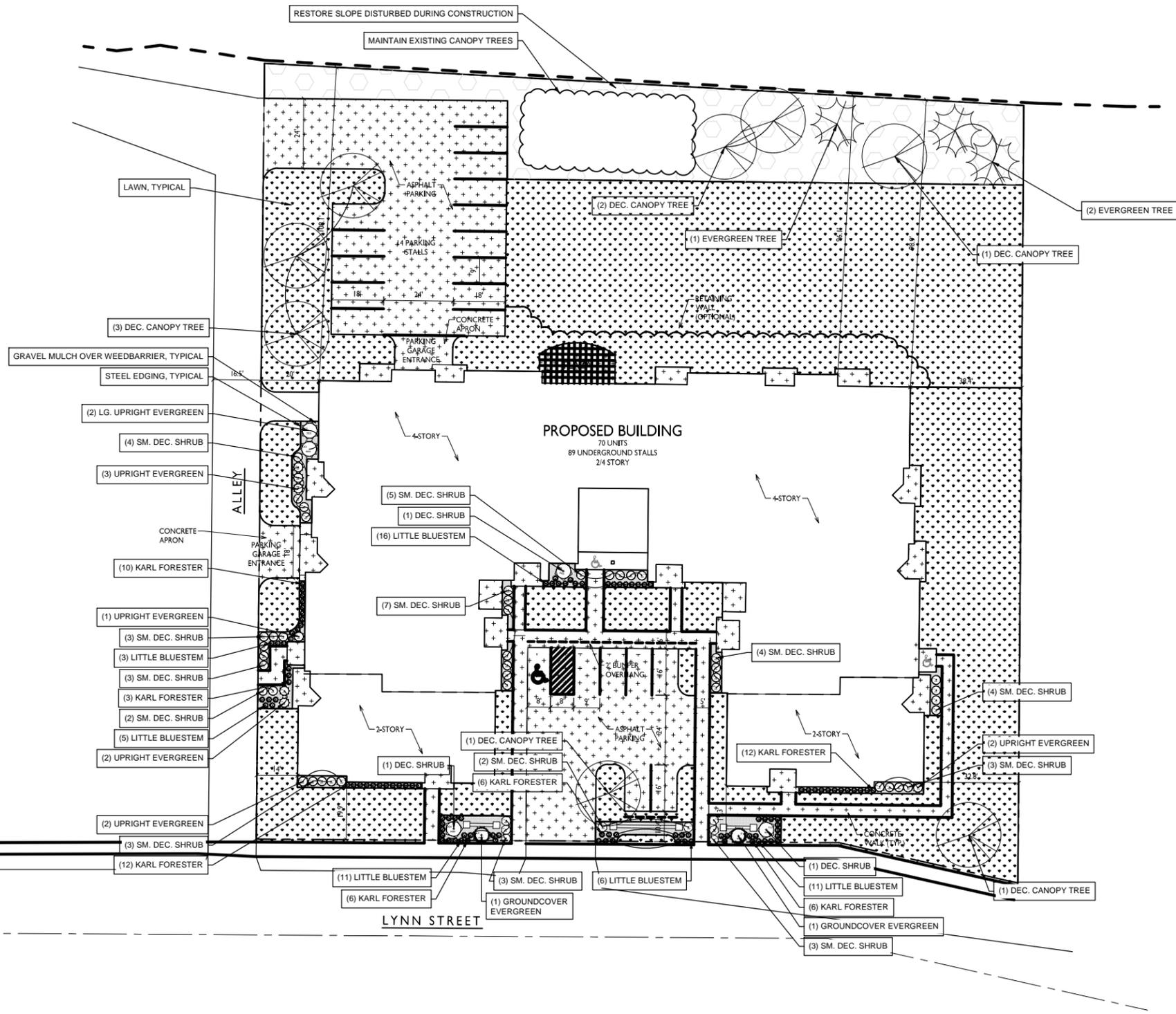
PROJECT NO. **1824**

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**1** LOWER LEVEL 2 PLAN  
A-L.2 1/8" = 1'-0"

BARABOO RIVER



ISSUED  
Issued for xyz - Month Day, Year

PROJECT TITLE

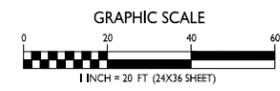
SHEET TITLE  
Landscape Plan

SHEET NUMBER

**L-1.0**

PROJECT NO.  
© Knothe & Bruce Architects, LLC

**LANDSCAPE PLAN**  
L-1.0 1" = 20'-0"





**knothe bruce**  
ARCHITECTS

Phone: 7601 University Ave, Ste 201  
608.836.3690 Middleton, WI 53562

ISSUED  
Plan Commission Submittal - June 12, 2018  
Plan Commission SP Submittal - July 12, 2018

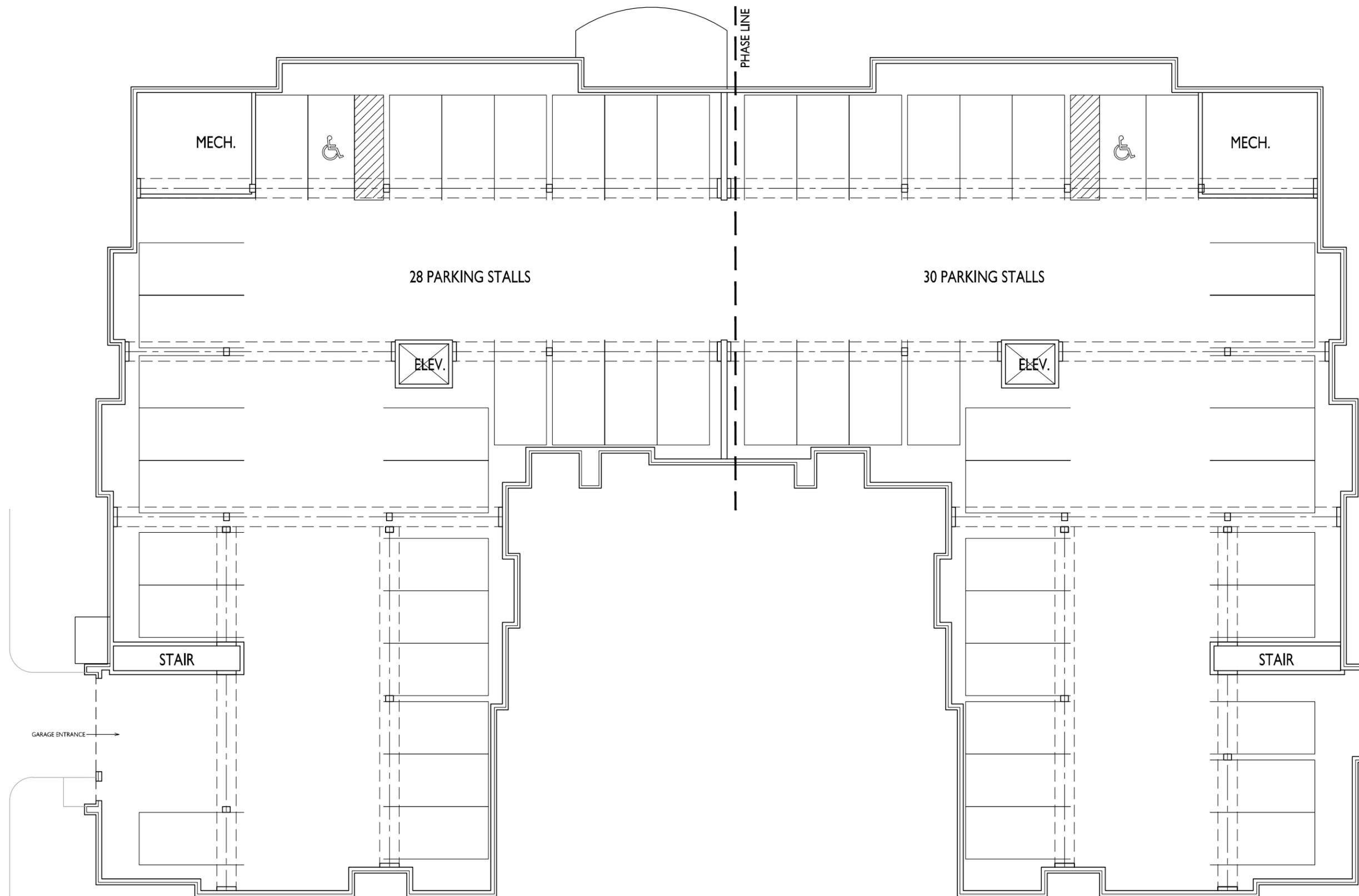
PROJECT TITLE  
River Ridge

325 Lynn Street  
Baraboo, WI  
SHEET TITLE  
Lower Level I  
Plan

SHEET NUMBER

**A-L.1**

PROJECT NO. 1824  
© Knothe & Bruce Architects, LLC



**I** LOWER LEVEL I PLAN  
A-L.1 1/8" = 1'-0"





**knothe • bruce**  
ARCHITECTS

Phone: 7601 University Ave, Ste 201  
608.836.3690 Middleton, WI 53562

ISSUED  
Plan Commission Submittal - June 12, 2018  
Plan Commission SP Submittal - July 12, 2018

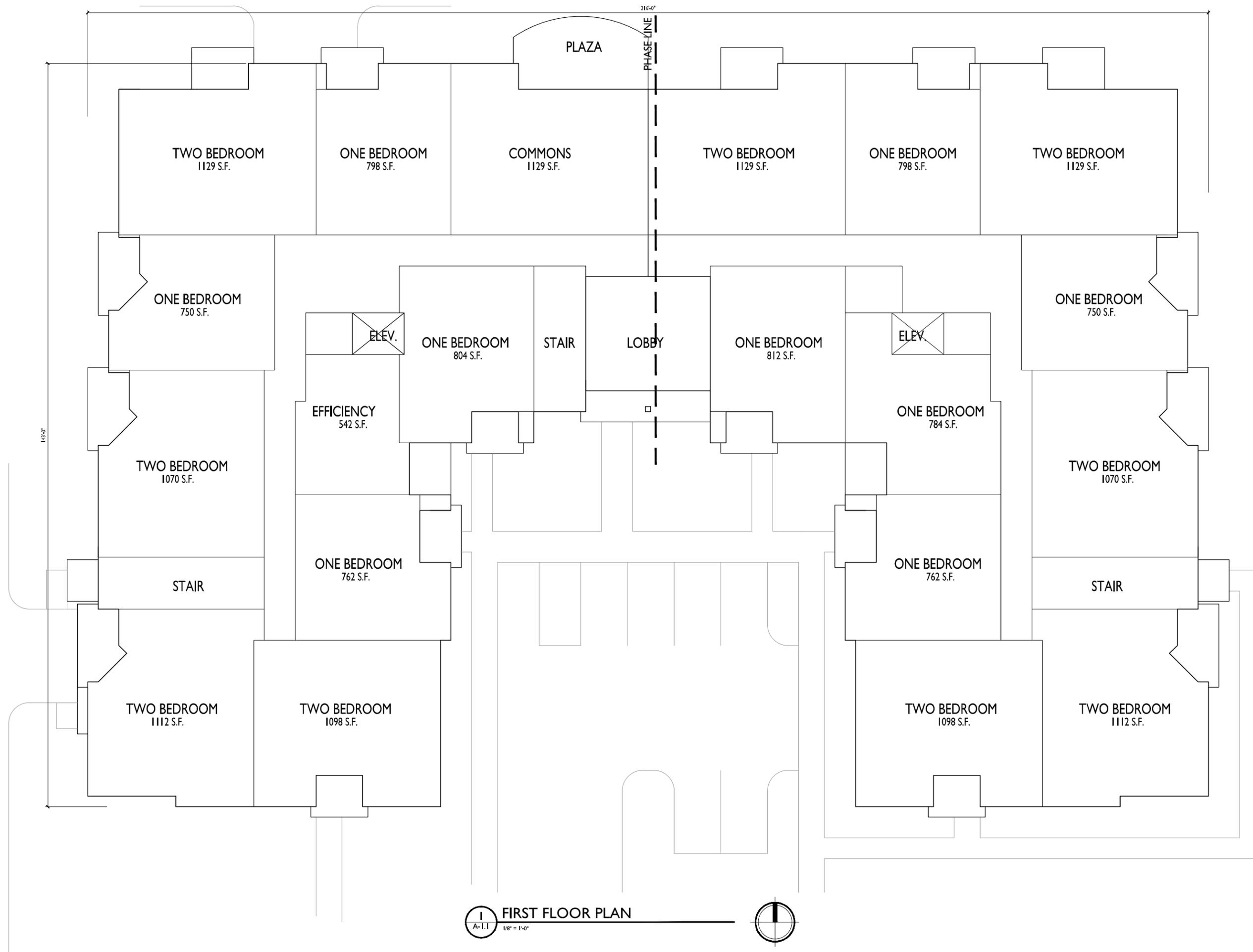
PROJECT TITLE  
River Ridge

325 Lynn Street  
Baraboo, WI  
SHEET TITLE  
First Floor Plan

SHEET NUMBER

**A-1.1**

PROJECT NO. 1824  
©Knothe & Bruce Architects, LLC



**I** FIRST FLOOR PLAN  
A-1.1 1/8" = 1'-0"



ISSUED  
 Plan Commission Submittal - June 12, 2018  
 Plan Commission SP Submittal - July 12, 2018

PROJECT TITLE  
**River Ridge**

325 Lynn Street  
 Baraboo, WI  
 SHEET TITLE  
**Second Floor Plan**

SHEET NUMBER  
**A-1.2**  
 PROJECT NO. **1824**  
 ©Knothe & Bruce Architects, LLC



**1** SECOND FLOOR PLAN  
 A-1.2 1/8" = 1'-0" 

ISSUED  
 Plan Commission Submittal - June 12, 2018  
 Plan Commission SP Submittal - July 12, 2018

PROJECT TITLE  
**River Ridge**

325 Lynn Street  
 Baraboo, WI  
 SHEET TITLE  
**Third Floor Plan**

SHEET NUMBER  
**A-1.3**  
 PROJECT NO. **1824**  
 © Knothe & Bruce Architects, LLC



**1** THIRD FLOOR PLAN  
 A-1.3 1/8" = 1'-0"

ISSUED  
 Plan Commission Submittal - June 12, 2018  
 Plan Commission SP Submittal - July 12, 2018

PROJECT TITLE  
**River Ridge**

325 Lynn Street  
 Baraboo, WI  
 SHEET TITLE  
**Fourth Floor Plan**

SHEET NUMBER

**A-1.4**

PROJECT NO. **1824**  
 © Knothe & Bruce Architects, LLC



**1** FOURTH FLOOR PLAN  
 A-1.4 1/8" = 1'-0"





**1 SOUTH ELEVATION**  
A-2.1 1/8" = 1'-0"

ISSUED  
Plan Commission Submittal - June 12, 2018  
Plan Commission SP Submittal - July 12, 2018



- TYPICAL MATERIALS
- COMPOSITE SIDING
- COMPOSITE WINDOW TRIM
- SOLDIER COURSE HEAD & CAST STONE SILL
- BRICK VENEER
- BRICK VENEER
- VERTICAL STEEL SIDING
- STEEL BALCONY TRIM
- ALUMINUM BALCONY RAILING
- CAST STONE VENEER

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SHEET TITLE  
**Elevations**

SHEET NUMBER

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# Legislature Curtails Municipal Conditional Use Permit Authority

Daniel M. Olson, Assistant Legal Counsel, League of Wisconsin Municipalities

The Wisconsin legislature enacted major changes to local zoning authority laws in 2017 that were urged and promoted by developers but described by its legislative supporters as a “homeowners” bill of rights. Nonetheless, the laws passed and the governor signed them. Significantly, the most important change to municipal land use powers included in the legislation, 2017 Wisconsin Act 67, impacts the conditional use permit (“CUP”) authority of all local governments, including cities and villages.

## Conditional Use Background

Zoning is a regulatory system designed to proactively improve the quality of land use patterns in communities and supplant the inefficient, expensive, and reactive nuisance litigation morass of the 19th century. These goals are typically accomplished by grouping compatible land use activities into zoning districts, which diminishes the negative impacts from incompatible uses.

Within the districts, certain land uses are deemed unlikely to adversely affect other uses in the district and are permitted without review. Other land use activities are only allowed as conditional uses in zoning districts even though they may be beneficial because they carry a high risk of negative external impacts on adjoining properties, neighborhoods or the whole community. These less compatible and less desirable land uses are commonly allowed only after individualized review by a zoning authority and subject to conditions designed to decrease the potential adverse impacts.

The traditional CUP system of the last 75-plus years provided cities and villages

with critical flexibility to accommodate risky land uses but protect the property values and investments of adjoining property owners, neighborhoods, and the whole community. The legislative changes to city and village CUP authority attacks that balance of interests by making the CUP decision process rigid and less able to protect other property owners and communities from the negative impacts of land uses traditionally categorized as conditional uses. A CUP system is now a much less desirable land use planning and regulation tool that cities and villages might reasonably abandon altogether.

## CUP Authority Changes

*The Municipality* published an article exploring the scope of CUP authority in 2008. See *Zoning 495*. Much of that article is still relevant and important to a full understanding of CUP authority in Wisconsin. However, the 2017 CUP law changes, a reaction to the Wisconsin Supreme Court’s 2017 decision in *AllEnergy v. Trempealeau County*, 2017 WI 52, 375 Wis. 2d 329, 895 N.W.2d 368, substantially altered CUP authority in several critical areas.

First, the law amends the zoning enabling statute to specify that any CUP “condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.” Wis. Stat. §62.23(7)(de)2.a. It also mandates that CUP requirements and conditions “must be reasonable and, to the extent practicable, measurable ....” Wis. Stat. §62.23(7)(de)2.b. These new obligations are problematic.

Prior to the change, general non-specific CUP requirements in zoning ordinances were reasonable and, thus legally permissible. Now, they must be based on substantial evidence and, where practicable, they must be measurable to be reasonable.

One challenge will be creating reasonable CUP requirements that are meaningful. Drafting an ordinance with reasonable requirements to govern the likely as well as all possible contingencies relating to a conditional use will be a very difficult task. A meaningful requirement that is legally reasonable in one circumstance may likely be unreasonable in another. That is due to the nature of conditional uses; their impacts vary based on location, which is why they were not classified as permitted uses in the first instance.

And, what should zoning officials make of the “substantial evidence” and “measurable” requirements? Must adoption or amendment of CUP ordinances be accompanied by a record that satisfies the substantial evidence threshold? Assuming we can figure out what “to the extent practicable” also means, how measurable does a CUP requirement have to be to comply with the new law? There are no answers to these questions in the statute and, the courts, through costly litigation, will likely be the only authority that might satisfy a disgruntled developer.

Second, what qualifies as substantial evidence – the information an administrative body is allowed to rely on in reaching its decision – is now defined by statute instead of case law. “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.” Wis. Stat. §62.23(7)(de)1.b.

While similar to what the substantial evidence test was, *see AllEnergy, 2017 WI 52* at ¶ 76, it is clear that the change was enacted to try and limit the type of information a zoning authority can rely on in deciding whether to grant a CUP. It must not only be facts and information instead of personal preferences or speculation, but those facts and information must “directly pertain” to the requirements and conditions in the zoning ordinance or established by the zoning board.

It will be impossible to confine public hearing testimony from citizens to

only facts and information that directly pertains to CUP requirements and conditions. Most people do not have the kind of legal training or experience to provide wholly objective testimony at an informal zoning hearing. When this happens, are members of the zoning board legally permitted to redirect the testimony of the citizen without being challenged by the applicant as impermissibly biased? That is just one impact of the substantial evidence requirement.

The language prohibiting reliance on speculation for substantial evidence is another problem area. CUPs are inherently uses with higher risks of negative impacts on other uses. But, the negative impact varies from location to location. Therefore, is evidence about decreased property values or other negative impacts associated with a similar use at a different location speculation or

non-speculation about probable impacts at the proposed location?

Third, the city and village zoning enabling statute was amended to specify that “if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city *shall* grant the conditional use permit.” Wis. Stat. §62.23(7)(de)2.a. (emphasis added). This language embraces a minority zoning legal theory the Wisconsin Supreme Court rejected in *AllEnergy* that “where a [CUP] applicant has shown that all conditions and standards, both by ordinance and as devised by the zoning committee, have been or will be met, the applicant is entitled to the issuance of a permit.” *AllEnergy, 2017 WI 52* at ¶119.

Adding this legal principle to Wisconsin zoning law shifts the legal burden from

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a CUP applicant to the municipal governmental body responsible for making the CUP decision. The municipality must establish a permit requirement or condition by ordinance or develop conditions that are based on substantial evidence provided at the hearing. The burden shifting limits the effectiveness of the entire CUP review process and moves CUPs much closer to permitted use status than might be desirable in most circumstances.

As already noted, the pre-hearing ordinance requirements are likely to be watered down and less meaningful in order to survive a reasonableness challenge since they will apply to all proposed CUPs that have highly variable impacts based on location. This will make CUP applications much harder to deny.

Public officials do not welcome zoning litigation. It is inefficient and costly. So, even assuming that they will have a solid understanding of substantial evidence, zoning board members will be very cautious with their authority to impose CUP conditions based on substantial evidence introduced at the zoning hearing. Again, the burden shifting will make CUP applications much more difficult to deny.

Could a CUP applicant preempt the entire CUP process by simply promising full compliance when he files the CUP application? Probably not because a public hearing is mandated and the zoning board is vested with some authority to impose conditions that are based on substantial evidence after the public hearing and before granting a permit. However, as long as the CUP applicant agrees to abide by all the requirements and conditions, zoning board discretion is nullified and it must grant the CUP.

### Responding to the Changes

The legislative changes did not reduce the adverse impact risks associated with conditional uses for adjoining properties, neighborhoods, or communities. The risks are still present and, absent a

municipal response, are now even greater given the reduced ability to address those negative externalities. So, cities and villages should consider their options given the new legislative restrictions on their CUP authority.

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Cities and villages can start with the knowledge that they are not legally required to have conditional uses in their zoning codes. Moreover, in most cases, the legislative decision by a city council or village board to include or not include a particular land use in a zoning district is essentially immune from legal challenge. The legislature may have severely curtailed city and village authority to deny a CUP request but it did not have any impact on city council or village board legislative discretion to classify land uses as conditional or permitted or determine how many, if any, conditional uses a city or village should have in a particular zoning district. So, one legally permissible response to the new laws might be elimination of all existing conditional uses in zoning districts or limiting them to a very select group of low-risk uses.

With the new laws, the legislature eliminated much of the prior legal authority cities and villages used to accommodate conditional uses while protecting property interests of adjoining landowners, the stability of neighborhoods, and the well-being of the whole community. Unless a city or village is willing to accept a conditional use in a zoning district – with much less ability to guide when and where it exists – then

eliminating them altogether or greatly reducing their availability is a reasonable and legally permissible response.

In addition, cities and villages will need to closely examine their existing conditional use permit requirements set by ordinance. As noted above, they must be reasonable, related to the purpose of the ordinance and, to the extent practicable, measurable. Thus, general requirements for CUPs commonly found in existing zoning ordinances are now suspect and subject to legal challenge. Instead, revised requirements should be information-based. In addition, a city or village will need to show that revised requirements are measurable, unless impracticable. And, if impracticable, they will need to be able demonstrate why.

### Conclusion

Conditional use zoning permits have been commonly used by cities and villages to allow riskier land use activities in zoning districts subject to review and conditions. 2017 Wisconsin Act 67 substantially altered the CUP review and condition authority cities and villages have used for the last 75 years. The status quo for conditional uses in Wisconsin has changed dramatically. Cities and villages must now decide how they will respond to these changes. Revisions to CUP requirements in zoning ordinances

will be necessary. A thorough review of conditional use designation and inclusion in zoning districts is also warranted.

### Zoning 523

#### About the author:

Daniel Olson is the Assistant Legal Counsel for the League. He provides legal assistance to municipal attorneys and officials through telephone inquiries, written opinions and briefs, workshop presentations, and published articles. He also assists in writing League handbooks and planning the Municipal Attorney's Institute. Daniel joined the League staff in 2001. Contact Daniel at [danolson@lwm-info.org](mailto:danolson@lwm-info.org)



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