



PLAN COMMISSION AGENDA

August 14, 2025 – 6:00 pm
Village Hall
235 Hickory Street, Pewaukee, WI 53072

To view the meeting: <https://www.youtube.com/watch?v=4EIXaznrz58>

1. Call to Order, Roll Call, Pledge of Allegiance, & Moment of Silence.
2. Public Hearings.
 - a. Conditional Use Grant request of applicant Llazar Konda d/b/a Drita's Deli, LLC, to develop a restaurant. A restaurant use is only permissible through the issuance of a Conditional Use Grant (Section 40.265(2)). This request is located at 115 Main Street PWV 0899958, is zoned B-2 Downtown Business District. Property owner is Tollefsen Enterprises, LLC and Applicant is Llazar Konda d/b/a Drita's Deli, LLC – **After receipt of any comments, the public hearing will be adjourned for a continued hearing at the September 11, 2025 Plan Commission Meeting.**
 - b. Conditional Use Grant request of applicant Jill Felch, to construct a 574 sq. ft. attached garage. The accessory structure is proposed at 29.82 feet from the Burrough's Drive setback which is permissible only through the issuance of a Conditional Use Grant on a legal non-conforming lot (Section 40.210(4)a). This 0.29-acre parcel, located at 360 Evergreen Lane / PWV 0893053, is zoned R-5 Residential Detached District. Property Owner/Applicant is Jill Felch
3. Citizen Comments: *This is an opportunity for citizens to share their opinions with Commission Members on any topic they choose. However, due to Wisconsin Open Meeting laws, the Commission is not able to answer questions or respond to your comments. All comments should be directed to the Commission. Comments are limited to 3 minutes per speaker. Speakers are asked to use the podium and state their name and address.*
4. Approval of the Minutes:
 - a. Special Plan Commission Meeting – July 1, 2025
5. Old Business.
 - a. None
6. New Business.
 - a. Review, discussion, and possible action on Conditional Use Grant request of applicant Jill Felch, to construct a 574 sq. ft. attached garage. The accessory structure is proposed at 29.82 feet from the Burrough's Drive setback which is permissible only through the issuance of a Conditional Use Grant on a legal non-conforming lot (Section 40.210(4)a). This 0.29-acre parcel, located at 360 Evergreen Lane / PWV 0893053, is zoned R-5 Residential Detached District. Property Owner/Applicant is Jill Felch.

- b. Review, discussion, and possible action on the appeal of the denial for a Chicken Keeping Permit located at 434 Park Avenue. This 0.155-acre parcel, located at 434 Park Avenue / PWV 0896106, is zoned R-5 Residential Detached District. The property Owner/Applicant is Kory Fons.
 - c. Review, discussion, and consultative feedback to applicant Pewaukee Self Storage LLC regarding a concept to amend the previously approved PUD for climate-controlled storage at 227 Sussex Street PWV 0898999001. The proposed development would be part of this 16.194-acre, B-5 Light Industrial District with a Planned Unit Development Overlay, owned by Pewaukee Self Storage LLC.
 - d. Review and discussion regarding the Conditional Use Grant (CUG) review Process Post 2017 Wisconsin Act 67.
7. Citizen Comments. – *This is an opportunity for citizens to share their opinions with Commission Members on any topic they choose. However, due to Wisconsin Open Meeting laws, the Commission is not able to answer questions or respond to your comments. All comments should be directed to the Commission. Comments are limited to 3 minutes per speaker. Speakers are asked to use the podium and state their name and address.*
8. Adjournment

Note: It is possible that members and/or possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; action will not be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in the notice. Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. To request such assistance, contact the Village Clerk at 262-691-5660.

Dated: July 17, 2025

**Plan Commission Meeting - Special
July 1, 2025 – 5:00 pm
Village Hall
235 Hickory Street, Pewaukee, WI 53072**

https://www.youtube.com/watch?v=_S8iOFc6PXU

1. Call to Order and Roll Call, Pledge of Allegiance, & Moment of Silence

President Knutson called the meeting to order at approximately 5:00 p.m.

Plan Commission members present: Comm. Mark Grabowski; Comm. Brian Belt; Trustee Bob Rohde; and President Jeff Knutson.

Excused: Comm. Theresa Hoff; Comm. Katie Jelacic and Comm. Sam Liebert.

Also present: Village Attorney, Matt Gralinski; Village Planner, Mark Lyons; Village Administrator, Matt Heiser; Director of Public Works/Village Engineer, Dave Buechl; and Deputy Clerk, Mackenzie Quigley.

2. Public Hearings –

- a. **Conditional Use Grant request of applicant Kasey Seiske d/b/a CrossFit Rohkeus, to develop a CrossFit gym. A health club use is only permissible through the issuance of a Conditional Use Grant (Section 40.316(1)). This request is located at 1343 E. Wisconsin Avenue, Suite 100 & 101/ PWV 0921996006 & 0921996005, is zoned B-5 Light Industrial District. Property owner is Smart Asset Management, LLC and Applicant is Kasey Seiske.**

3. Citizen Comments – No comments.

4. Approval of the Minutes

- a. **Regular Plan Commission Meeting – June 12, 2025.**

Comm. Belt motioned/seconded by Trustee Rohde to approve the June 12, 2025, Regular Plan Commission Meeting minutes as presented.

Motion carried 4-0.

5. Old Business

- a. **None**

6. New Business

- a. **Review, discussion, and possible action on a Conditional Use Grant request of applicant Kasey Seiske d/b/a CrossFit Rohkeus, to develop a CrossFit gym. A health club use is only permissible through the issuance of a Conditional Use Grant (Section 40.316(1)). This request is located at 1343 E. Wisconsin Avenue, Suite 100 & 101/ PWV 0921996006 & 0921996005, is zoned B-5 Light Industrial District. Property owner is Smart Asset Management, LLC and Applicant is Kasey Seiske.**

Lyons gave a brief overview.

Village Planner Recommendations:

The Village of Pewaukee Plan Commission Approves the Conditional Use Grant Request and Business Plan of Operation for CrossFit Rohkeus for the property located at 1343 E. Wisconsin Avenue, Suite 100 & 101, subject to the following conditions:

1. That all conditions made by the Plan Commission at their meeting of July 1, 2025 are met.
2. This approval is subject to the Petitioner complying at all times with the plans and documents presented to the Village of Pewaukee Plan Commission.
3. The Petitioner shall satisfy all comments, conditions, and concerns of the Village of Pewaukee Plan Commission and Board, Village Engineer and Village Planner for the site plan, and other documentation.
4. Building Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Village Building Inspector (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Village Building Inspector, if granted, shall be solely for the benefit of the Village of Pewaukee, and shall not be relied upon by the petitioner or others as proof of structural integrity or safety of any structure on the property, or as proof of compliance with any particular construction standard that would apply to new construction. The petitioner shall independently determine the suitability of all structures on the property for the petitioner's intended uses.
5. Fire Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Village of Pewaukee Fire Department Chief (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Village of Pewaukee Fire Department Chief (or designee), if granted, shall be solely for the benefit of the Village of Pewaukee, and shall not be relied upon by the petitioner or others as proof of fire safety of any structure on the property, or as proof of compliance with any particular fire safety standard that would apply to new construction. The petitioner shall independently determine the fire safety and suitability of all structures on the property for the petitioner's intended uses.
6. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new Business Site Plan approval with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, noise, dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.
7. The Property Owner shall keep the exterior condition of the premises in a neat and orderly condition at all times so the premises will not detract from neighboring premises. There shall be no outside storage of junk, debris, construction material, or other refuse materials within the property and all such materials shall be disposed of promptly and properly.
8. The Property Owner shall allow Village of Pewaukee representatives to inspect the premises following a 24-hour notice for the purposes of determining compliance with this approval.
9. The Petitioner and/or Property Owner shall obtain the appropriate permits from the Village of Pewaukee.
10. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of Pewaukee for all costs and expenses of any type incurred by the Village in connection with the review and

approval of this application, including, but not limited to, the cost of professional services incurred by the Village for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions.

Trustee Rohde motioned/seconded by Comm. Grabowski to approve the Conditional Use Grant request and Business Plan of Operation for CrossFit Rohkeus, subject to staff recommendations.

Motion Carried 4-0.

- b. Review, discussion and recommendation to the Village Board for the vacation of an approximately 11' x 55' section of Quinlan Drive located on the east side of Quinlan Drive approximately 128' north of the intersection of Quinlan Drive and West Wisconsin Avenue. This 605 sq. ft section of Right-of-Way owned by the Village of Pewaukee.**

Lyons gave a brief overview.

Rohde asked for confirmation: the houses that currently exist would be closer than the proposed location would be. Lyons confirmed.

Dave Buechl, Department of Public Works Director/Village Engineer – shared the Department of Public Works comments and gave an overview of the multiple options available.

Discussion was held amongst the Commission and Staff.

Village Engineer Recommendations:

Per the discretion of the Plan Commission. The Wisconsin State Statutes should be taken into consideration regarding the decision of the proposed right-of-way vacation at Outlot 2 of the Glen at Pewaukee Lake.

Village Planner Recommendations:

The Village of Pewaukee Plan Commission Recommends Approval to Village Board for the vacation of right-of-way located on the east side of Quinlan Drive approximately 128' north of the intersection of Quinlan Drive.

Department of Public Works Recommendations:

1. A typical right of way width is 60 feet. The existing width of street pavement and width of right of way in this location is more narrow than preferred. The existing right of way width is 49 feet. No parking is allowed on the west side of Quinlan Drive in this narrow section. No parking is allowed in the first 25 feet from W. Wisconsin Avenue on the east side of Quinlan Drive. The narrow width causes compromised two way traffic when vehicles park on the east side of Quinlan Drive street. Due to the narrow nature of the pavement, eliminating additional on street parking on east side of Quinlan Drive here could be a possibility in future if safety concerns develop from the public. As the lot lines currently exist, the street width cannot be widened without more right of way being obtained from several other lots but this lot would be a start.
2. A 60 foot right of way would be needed instead of 49 foot width. In future if safety concerns develop, if each side of the street gave up 5.5 feet, then the street could be widened, and each side of street

would contribute some right of way. Thus, if the Village released a width of 11 ft – 5.5 ft = 5.5 feet, then the possibility of widening the street in the future still remains a possibility. If the Village releases the full 11 foot strip of land, then the street cannot be widened in the future.

3. At a minimum concession, if the new right of way line is 1 foot behind the existing sidewalk which is releasing 10 feet of the 11 feet of width, then that will be adequate for future sidewalk removal and replacement. Also, the 1 foot separation allows enough separation so that the lot corners are not removed when sidewalk removals are completed.
4. If any land is released by the Village, a Certified Survey Map should be required to split the existing parcel and combine the new parcel with the adjoining lands.

Trustee Rohde motioned/seconded by Comm. Grabowski to recommend to the Village Board that we release 6.5 feet of right-of-way to the adjoining property owner.

Motion Carried 4-0.

c. Review, discussion and possible action to cancel the July 10, 2025 Plan Commission meeting.

Lyons shared that the only item originally on the agenda for July 10 was the right-of-way on Quinlan Dr., which was moved to today's meeting.

Comm. Grabowski motioned/seconded by Comm. Belt to cancel the July 10, 2025 Plan Commission meeting.

Motion carried 4-0.

7. Citizen Comments – No comments.

8. Adjournment

Trustee Rohde motioned/seconded by Comm. Grabowski to adjourn the July 1, 2025, Special Plan Commission meeting at approximately 5:26 p.m.

Motion carried 4-0.

Respectfully submitted,

Mackenzie Quigley
Deputy Clerk

TO: Village of Pewaukee Plan Commission
CC: Matt Heiser – Village Administrator, Jenna Peter - Clerk
FROM: Mark Lyons, Planning Consultant
RPT DATE: August 7, 2025
MTG DATE: August 14, 2025
RE: Attached Garage –Conditional Use Request

BACKGROUND:

1. Petitioner: Jill Felch
2. Property Owner: Jill Felch
3. Location/Address: 360 Evergreen Lane
4. Tax Key Number: PWV 0893053
5. Area: ~0.29 AC
6. Existing Zoning: R-5 Residential Detached District
7. Proposed Zoning: N/A
8. Future Land Use: Single Family Residential

OVERVIEW:

The Petitioners are requesting approval of a Conditional Use Grant on a legal non-conforming lot to construct an attached two garage/structure on the south side of the existing home. Section 40.209(b) allows for the reduction in a setback with the issuance of a Conditional Use Grant on a nonconforming lot.

SUBMITTAL:

The enclosed submittal includes the Conditional Use Grant application, GIS map and supplemental information for the project.

PLANNER COMMENTS:

In reviewing the subject site, it was determined that the current property constitutes legal non-conforming and there is eligible to seek a Conditional Use for a setback reduction within the B-5 District. The B-5 District require a minimum building setback of 35'. The applicant is seeking a CUG to reduce the minimum building setback on the south property line to 29.28'.

As noted, the R-5 Single-Family Residential zoning district, Section 40.209(b) allows a legal non-conforming property to seek a conditional use to reduce the minimum building setback through the Plan Commission. Technically this parcel is conforming to width and size. However, required offsets do not meet the code requirements, thus having the conditional use approval for the reduction in the 29.28' is warranted.

Per the submitted aerial map and petitioner narrative an existing one-car garage is not sufficient for modern vehicle sizes and is requesting to be allowed to construct an addition to allow a new two stall attached garage. Reviewing the surrounding area, the reduction to 29.28' would not be out of the character with the surrounding area. Several other structures existing with 35' along Burroughs Drive within the immediate area. The requested placement of the attached garage doesn't seem to affect any surrounding properties.

The CUG is also subject to any engineering needs/comments pertaining to drainage.

STAFF RECOMMENDATION:

Depending on confirmation by the Village of Pewaukee Plan Commission of the above-described comments, the Village of Pewaukee Plan Commission may take the following actions listed below.

The Village of Pewaukee Plan Commission Approves the Conditional Use Grant Request Jill Felch for the property located at **360 Evergreen Lane**, subject to the following conditions:

1. That all conditions made by the Plan Commission at their meeting of August 14, 2025 are met.
2. That this conditional use allows a new attached garage on the above referenced property to be as close as 29.28' feet from the South property line.
3. This approval is subject to the Petitioner complying at all times with the plans and documents presented to the Village of Pewaukee Plan Commission.
4. The Petitioner shall satisfy all comments, conditions, and concerns of the Village of Pewaukee Plan Commission, Village Engineer and Village Planner for the site plan, and other documentation.
5. Building Inspection. The Petitioner and/or Property Owner shall comply with any and all recommendations by the Village Building Inspector (or designee) prior to the issuance of an occupancy & use permit for the subject property. Approval by the Village Building Inspector, if granted, shall be solely for the benefit of the Village of Pewaukee, and shall not be relied upon by the petitioner or others as proof of structural integrity or safety of any structure on the property, or as proof of compliance with any particular construction standard that would apply to new construction. The petitioner shall independently determine the suitability of all structures on the property for the petitioner's intended uses.
6. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new conditional use approval with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, noise, dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.
7. The Property Owner shall allow Village of Pewaukee representatives to inspect the premises following a 24-hour notice for the purposes of determining compliance with this approval.
8. The Petitioner and/or Property Owner shall obtain the appropriate permits from the Village of Pewaukee.
9. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of Pewaukee for all costs and expenses of any type incurred by the Village in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions.

EXHIBIT:

- A. GIS Property Location Map
- B. Petitioner Application



360 Evergreen Drive



SEWRPC, Waukesha County Land Information Office

0 30 60
ft
Scale: 1 in. = 98 ft.
1 : 1180



DISCLAIMER: The Village of Pewaukee does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.

Village of Pewaukee
235 Hickory Street
Pewaukee, WI 53072
262-691-5660

Notes



RECEIVED

JUN 24 2025

CONDITIONAL USE GRANT APPLICATION FORM

235 Hickory St, Pewaukee WI 53072—villagehall@villageofpewaukee.gov— 262-691-5660

PROPERTY / PROPERTY OWNER INFORMATION

☐

Property Address: 360 EVERGREEN LANE Tax Key: PWV 0893 053

Property Owner Name: JILL D FELCH Zoning of Property: R-5

APPLICANT INFORMATION

☐

Applicant Name: JILL D FELCH Applicant Phone #:

Applicant Address: 360 EVERGREEN LANE Applicant Email: (SEE BELOW)

Applicant Email:

DESCRIPTION OF REQUEST (Please be thorough and attach additional pages if needed)

☐

Business Name, if applicable: N/A

FEIN, if applicable: _____

Description of Proposed Use (Restaurant/Retail/Office) _____

DIRECTIONS / NOTES—See page 4 for specific items required

☐

NOTE: As this is for consultative purposes only, an engineering review will not take place at this time. An engineering review will take place if/when a formal application for approval is submitted.

Please include the following required items with this application:

- ☒ 1. One paper copy of the submittal, including plans/drawings/applicable attachments in a size 11x17 page size or less. Also provide one full size scale copy if larger than 11x17.
- ☒ 2. One digital copy of the submittal, including plans/drawings/applicable attachments. (USB/Email)
- ☒ 3. Completed Professional Services Reimbursement Form
- ☒ 4. Signatures on page 3
- ☒ 5. Conditional Use for Restaurant/Night Club must be attached if applicable N/A

For Office Use Only

Staff Initials: _____

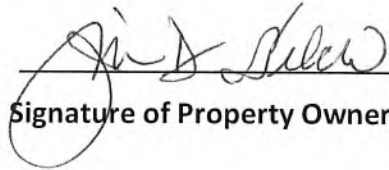
Date/Time Received: _____

Provide detailed information with your application that addresses the following:

1. Development Plans of the proposed use in sufficient detail to enable the Commission to evaluate your application such as architectural & landscape treatment, proper placement of the building(s) on the lot, traffic generation & circulation, provision for parking, site grading and drainage, exterior lighting, dumpster location and screening, outside storage of any sort, and manner of control devices (when necessary) to eliminate noise, dust, odor, smoke or other objectionable operating conditions & ensure general compatibility of the proposed use within its surroundings.
2. It is the responsibility of the applicant/owner to ensure that the proposed project complies with the Village's Land Development Code. It is also highly recommended that the applicant/owner review the Village's adopted Land Use Plan to ensure a proper understanding of the Village's future vision for the area in question.

JILL D FELCH

Property Owner Printed Name



Signature of Property Owner

The application will not be processed without the Owner's Signature regardless of who is listed as the Applicant. This signature authorizes the Village of Pewaukee to process the Conditional Use Approval Application proposed for my property and further authorizes the Village or its representatives to conduct reasonable and routine inspections of my property for the purposes of evaluating this application.

JILL D FELCH

Applicant's Printed Name



Signature of Applicant

Return the completed application forms along with the required attachments, **\$190** application fee, and a digital copy of the submittal (plus paper copies if required) to Pewaukee Village Hall, 235 Hickory Street, Pewaukee, WI 53072.

If you have any questions, please call Village Hall at (262) 691-5660.



PROFESSIONAL SERVICES REIMBURSEMENT AGREEMENT

235 Hickory St, Pewaukee WI 53072—villagehall@villageofpewaukee.gov—262-691-5660

PROPERTY INFORMATION ☐

Property Address: 360 EVERGREEN LANE Tax Key: PWV 08893 053
 Property Owner's Name: JILL D FELCH Phone Number:

RESPONSIBLE PARTY INFORMATION - All invoices will be mailed to this address. ☐

Business Name: N/A FEIN: N/A
 Person Responsible for Payment / Business Contact Name: JILL D FELCH
 Mailing Address: 360 EVERGREEN LANE, PEWAUKEE WI 53072
 Responsible Party / Contact Phone Number:
 Responsible Party / Contact Email Address:

AGREEMENT / SIGNATURES - Property Owner signature is required. ☐

Pursuant to the Village of Pewaukee Code of Ordinances Sec 40.116(b), the Village Board has determined that whenever the services of the Village Attorney, Village Engineer, Village Planner, or any other of the Village's professional staff or other expert consultants are retained by the Village in order to complete a proper project review results in a charge to the Village for that professional's time and services and such service is not a service supplied to the Village as a whole, the Village Treasurer shall charge those service fees incurred by the Village to the applicant/property owner. Also, be advised that pursuant to the Village of Pewaukee Code of Ordinances, certain other fees, costs, and charges are the responsibility of the property owner or responsible party.

By signing this form, I, the undersigned, have been advised that pursuant to the Village of Pewaukee Code of Ordinances, if the Village Attorney, Village Engineer, Village Planner, or any other Village professional staff or other expert consultants retained by the Village in order to complete a proper project review provides services to the Village because of my activities, whether at my request or at the request of the Village, I shall be responsible for the fees incurred. In addition, I have been advised that pursuant to the Village of Pewaukee Code of Ordinances, certain other fees, costs, and charges are my responsibility.

The Village will place fees from unpaid invoices on the real estate tax bill of the property that corresponds to the incurred services.

Property Owner Signature: Jill D Felch Printed Name: JILL D FELCH Date: 6/24/2025

Applicant Signature: Jill D Felch Printed Name: JILL D FELCH Date: 6/24/2025

For Office Use Only

Staff Initials: _____

Date Received: _____

June 24, 2025

Jill Felch
360 Evergreen Lane
Pewaukee, WI 53072



Subject: Request for Conditional Use Grant

Dear Pewaukee Village Planning Commission,

I am requesting a Conditional Use Grant (CUG) for a modification to the front yard (South) setback requirement to allow for an addition of an attached two-car garage/structure to the existing residential home, located at 360 Evergreen Lane, (R-5, Plat No. PS Pewaukee-3292) Village of Pewaukee, built in 1934. I kindly ask for a positive recommendation and approval to do so.

Working with our builder, D&G Remodeling of Pewaukee (Mark Walmer, Remodeling Specialist) and subsequently with Mark Lyons and Matt Heiser on 6/4/25, it was determined that current configuration of my property does not meet current ordinance standards and therefore it has been determined that the lot is legal non-conforming. (pictures in Appendix C, Page 3).

Enclosed are plans/renderings of the potential addition with a proposed 29'.28" ft. front yard (south) setback. (Appendix A). The resulting updated Plat of Survey is included for your review as well (Appendix B).

My property has a unique location, with Evergreen Ln. on the north side of our property (front yard setback) and Burroughs Drive (functionally our "rear" yard) on the south side, both "front" and "rear" yards are considered "front" yards because of the street location relative to the property. Due to this, the property by code requires a 35' ft. "front" setback on the Burroughs side of the property. We are requesting a 29.28' ft. setback on the "front" (functional rear of property, or south lot line) Burroughs Drive side of the property, for the addition.

The existing one-car attached garage cannot readily accommodate modern vehicle sizes in width or height as its door opening is 94" W x 79" H (total size 23'L x 12'W, 276 sq ft). It has

no firewall, no fire door, nor insulation. The addition of the proposed two-car garage will greatly improve the usability of the property, while also bringing the structure up to the minimum garage size code requirements for a new home construction (24'x 24', 576 sq. ft.). This would allow for contemporary automobile accommodation and is more suitable for a three-bedroom home of this size.

To experience the current look and feel of the Burroughs Drive neighborhood, included are pictures of my current home and immediately neighboring properties, showing the existing setbacks of homes and their accessory structures.

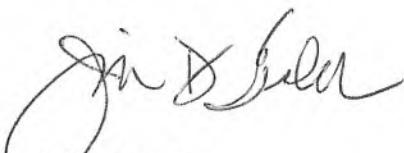
Directly across the street from my house on Evergreen Drive is "The Glen at Pewaukee" Residential Infill Overlay District. Homes built in this subdivision have 25 ft. front yard setbacks, with 20 ft. rear yard offsets. My request would fall within the guidelines established for this new addition to our neighborhood. The compatibility of this addition with other residential homes in the immediate area will not be compromised, as our neighbors on both Evergreen Lane and Burroughs Drive, and the new homes built in The Glen at Pewaukee have a variety of structures and setbacks that fall within our request. (See Appendix C).

Architecturally, the proposed addition has been thoughtfully styled to blend with the contemporary elements used by The Glen of Pewaukee while not changing the charm of my existing 1934 home. The use of Board and Batton exterior siding on the face of the new addition, along with extended soffits, and custom cedar soffit brackets, gives the neighborhood cohesiveness and updated styling, tastefully integrated on older home stock in the area (See Appendix A for renderings).

I believe this addition would add value to our neighborhood and tax registers, while setting an example for a tasteful and functional improvement to an older, existing property. I have strived to make progress in updating and improving the building and grounds since moving into the neighborhood, and our neighbors are delighted that this previously abandoned property is finally being given the attention it deserves.

Thank you for your time and consideration, it is much appreciated.

Respectfully,



Jill D. Felch



WEST ELEVATION

SCALE: 3/16" = 1'-0"



EAST ELEVATION

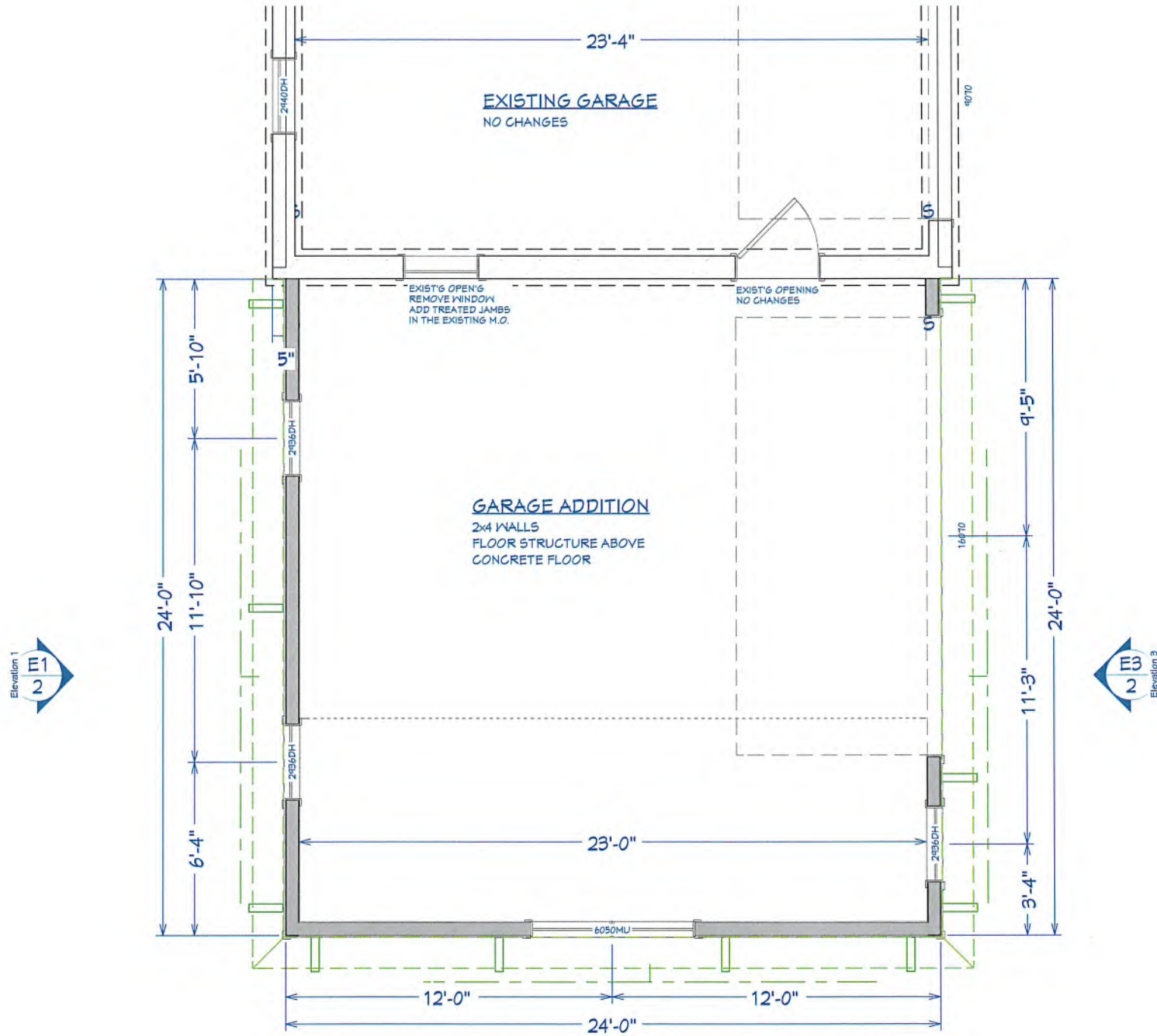
SCALE: 3/16" = 1'-0"



SOUTH ELEVATION

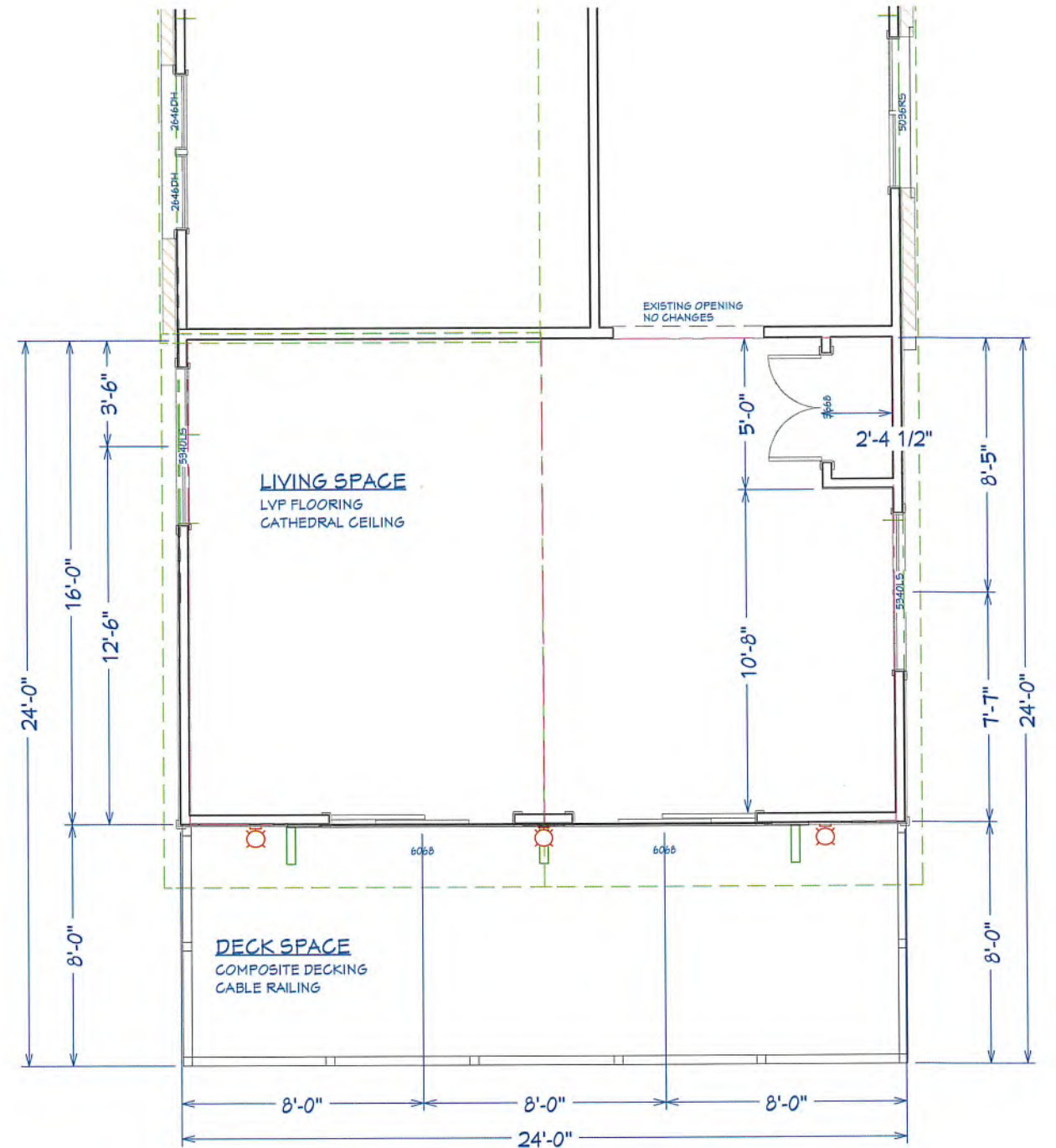
SCALE: 3/16" = 1'-0"

**GARAGE ADDITION WITH
LIVING SPACE ABOVE**



GARAGE PLAN

SCALE: 3/16" = 1'-0"



UPPER FLOOR PLAN

SCALE: 1/4" = 1'-0"



Plat of Survey
JAHNKE & JAHNKE ASSOCIATES INC.

Consultants in Engineering, Planning, Subdivisions and Surveying
 711 W. MORELAND BLVD. WAUKESHA, WISCONSIN 53188
 TELEPHONE (262) 542-5797 FAX (262) 542-7698

SCALE 1" = 40'



FOR: WALTER SCHULZ

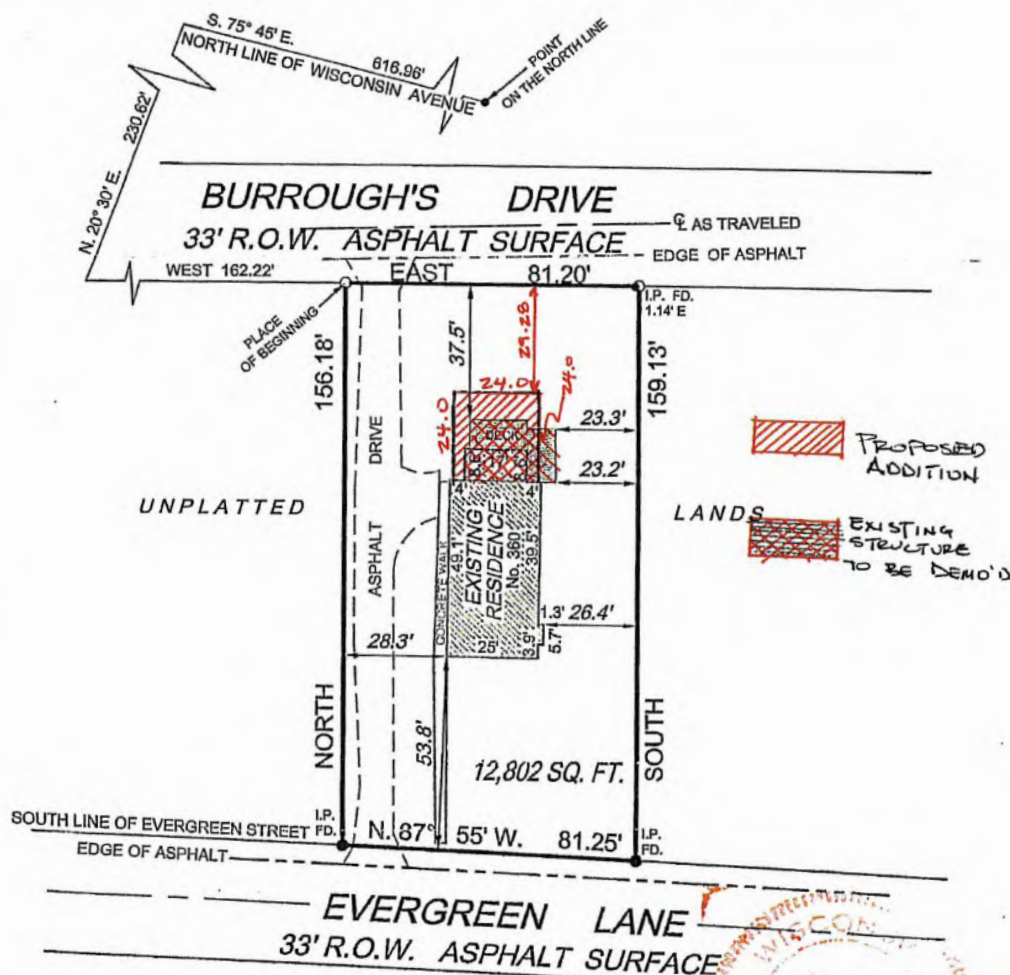
LEGAL DESCRIPTION: All that part of the Northeast One-quarter (1/4) of Section Eight (8), in Township Seven (7) North, of Range Nineteen (19) East, in the Village of Pewaukee, Waukesha County, Wisconsin; bounded and described as follows: Starting at a point on the North line of Wisconsin Avenue in the Village of Pewaukee, said point being South 75°45' East of and 616.96 feet distant from the Southeast corner of Quinlan's Addition in said Village; thence North 20°30' East 230.62 feet; thence West 162.22 feet to the place of beginning of the parcel hereinafter described; thence North 156.18 feet to the South line of Evergreen Street; thence North 87°55' West along the South line of said Street 81.25 feet; thence South 159.13 feet; thence East 81.20 feet to the place of beginning.

Also known as Lot Seven (7), of Burrough's unrecorded Plat in the Village of Pewaukee, Waukesha County, Wisconsin.

• Iron pipes found. No pipes set as part of survey.

No Title Policy Furnished.

REFERENCE BEARING: North line of Wisconsin Avenue (S75°45'E) per description.



STATE OF WISCONSIN }
 COUNTY OF WAUKESHA }

WE, JAHNKE & JAHNKE ASSOCIATES INC., DO HEREBY CERTIFY THAT WE HAVE MADE THIS SURVEY AND THAT THE INFORMATION AS SHOWN ON THE ABOVE PLAT OF SURVEY IS TRUE AND CORRECT REPRESENTATION THEREOF.

DATED THIS 13th DAY OF MAY, 2004

PLAT No. PS PEWAUKEE-3292 BOOK No. PEW-153 PAGE No. 15-16

JOHN W. JAHNKE - Wis. Reg. No. S - 917

360 EVERGREEN LANE, PEWAUKEE

PICTURES FOR CONDITIONAL USE GRANT REQUEST

APPENDIX C

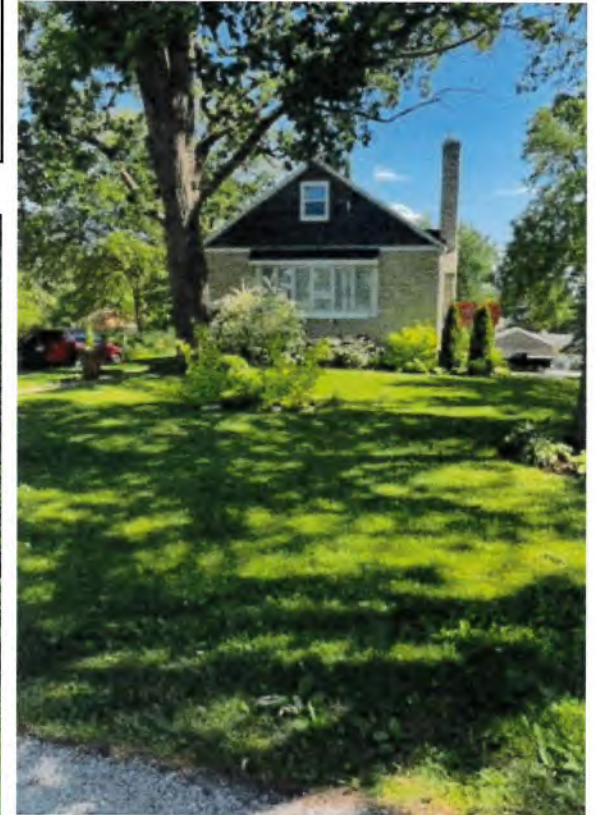
Jill Felch



**360 Evergreen
Lane – Current
Home**

Back Side facing Burroughs Drive.

Front Side facing Evergreen Lane



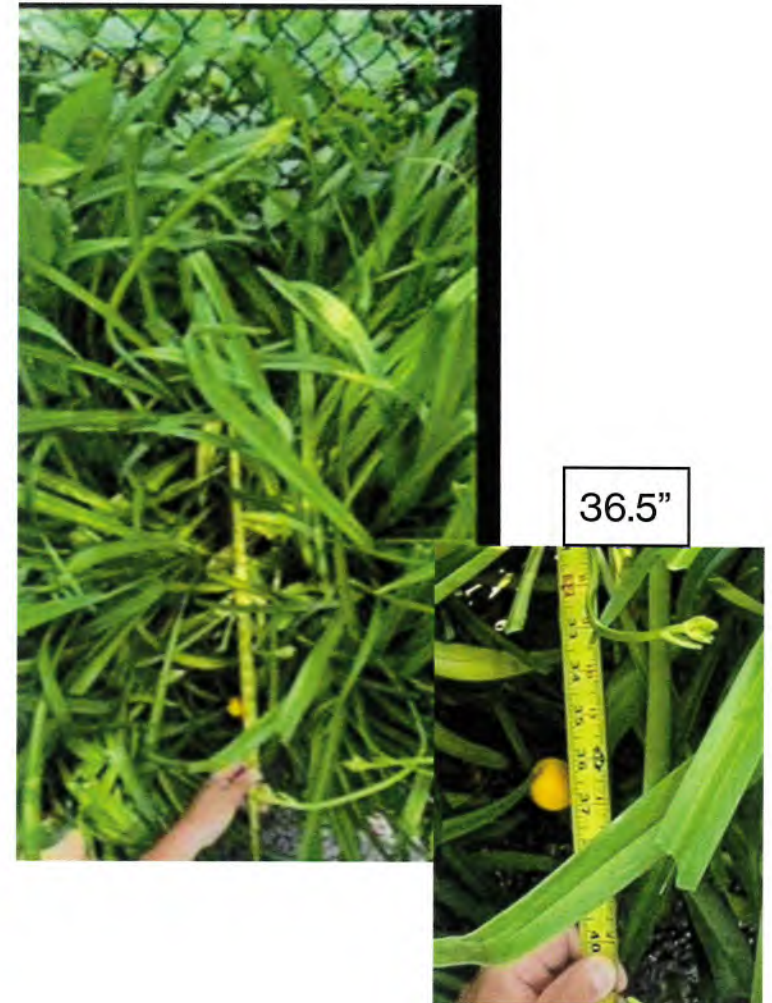
Driveway from Fence/ Lot Line

Green fence is lot line.
Yellow marker is edge of
driveway.

44.5"



36.5"



Aerial View of Burroughs Drive

Homes referenced:

344 Evergreen Ln

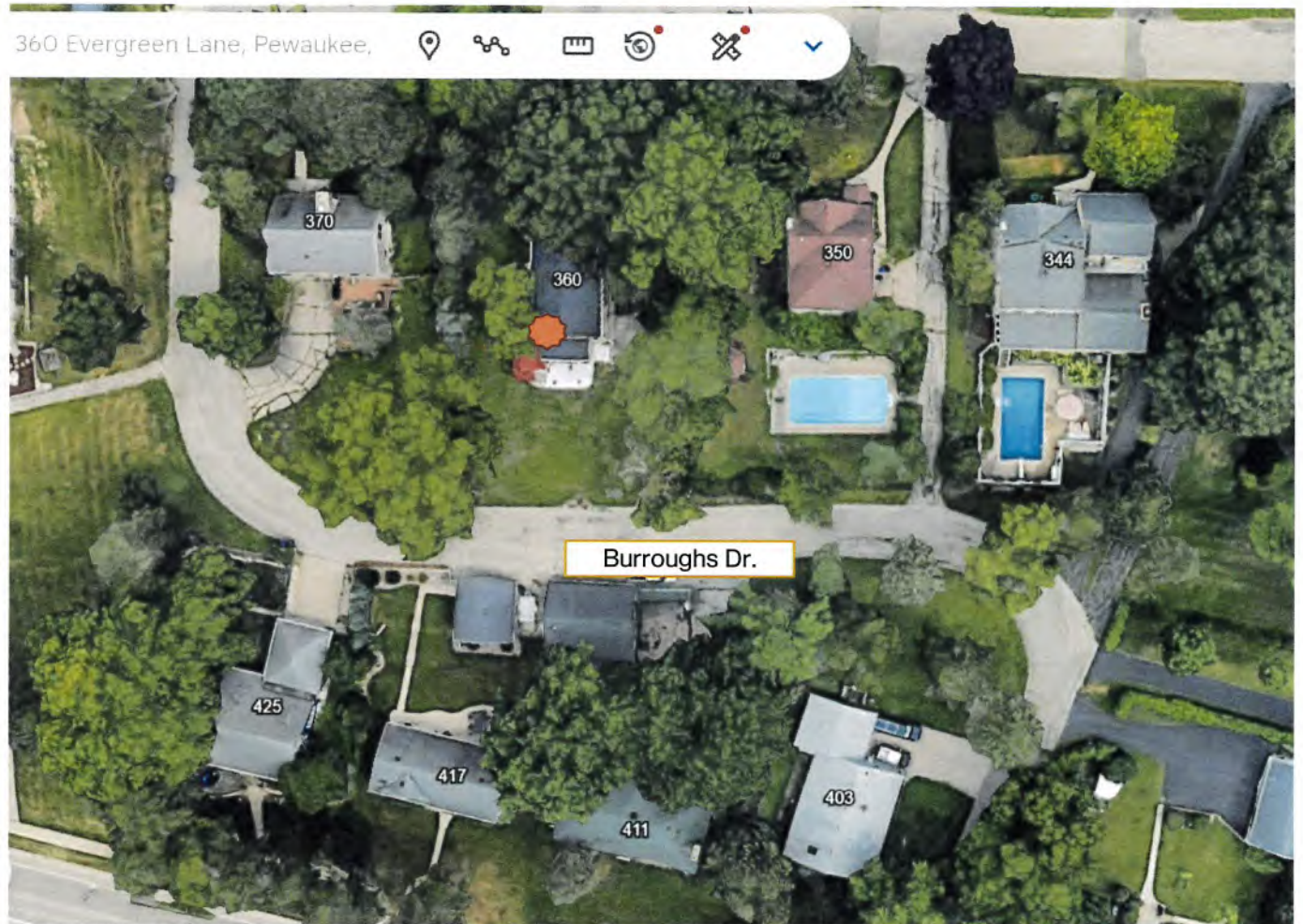
350 Evergreen Ln

411 W. Wisconsin Ave

417 W. Wisconsin Ave

425 W. Wisconsin Ave

🌻 360 Evergreen Ln



**Rear Setback
View from
Burroughs Drive**

Forefront is my rear yard.

411 W. Wisconsin Ave

417 W. Wisconsin Ave

425 W. Wisconsin Ave



**Rear Setbacks
from
Burroughs Drive**

411 W. Wisconsin Ave

417 W. Wisconsin Ave



**Rear Setbacks
from
Burroughs Drive**

425 W. Wisconsin Ave



**Rear setback
view from
Burroughs Drive**

344 Evergreen Ln

350 Evergreen Ln

View from my driveway.



**Rear setback
view of The Glen
from our front
yard on
Evergreen Ln**

This home is the edge of The
Glen of Pewaukee subdivision.
The foreground is our front yard.



**— THANK YOU FOR YOUR
TIME AND CONSIDERATION!**

**YOUR NEIGHBOR,
JILL**

Summer 2025



To: Jeff Knutson, President
Members of the Village Plan Commission

From: Matt Heiser
Village Administrator

Date: July 29, 2025

Re: August 14, 2025 Plan Commission Meeting Agenda Item 6(c)
Review, discussion and possible action on appeal of the denial for a Chicken Keeping Permit located at 434 Park Avenue. This 0.155-acre parcel, located at 434 Park Avenue / PWV 0896106, is zoned R-5 Residential Detached District. Property Owner/Applicant is Kory Fons

BACKGROUND

Village staff received an application for a chicken permit from Kory Fons at 434 Park Avenue on July 8, 2025. Municipal code Chapter 40.427.10 (a) requires a minimum lot size of .25 acres to obtain a permit. 434 Park Avenue is listed by Waukesha County as having a lot size of .155 acres.

Municipal code allows applicants to appeal a denial to the Plan Commission.

ACTION REQUESTED

There is no action requested for this appeal. The applicant does meet the set-back requirements in Municipal Code Chapter 40.427.10 (m) (50 feet from principal residence of neighbor, 5 feet from rear and side property lines and minimum of 5 feet from principal residence of property having the coop) for the location of the coop despite the lot size being below minimum.

ANALYSIS

The Village received an e-mail from the applicant's neighbor, Paul Schmidt of 432 Park Avenue, supporting a chicken permit for 434 Park Ave.

Attachments:

1. Application for chicken permit from 434 Park Ave.
2. Written request for an appeal of denied chicken permit
3. Aerial photo showing compliance with distance requirements
4. E-mail from 432 Park Ave in support of chicken permit

Permit denied. 7/8/25 ~~11/17~~. Code requires minimum .25 acre lot. 434 Park Ave is .155 acres.

Re: Chicken Permit Application 434 Park Ave - Denied

From Kory Fons < >

Date Tue 7/8/2025 1:29 PM

To Matt Heiser <VillageAdmin@villageofpewaukee.gov>

Cc Jenna Peter <jpeter@villageofpewaukee.gov>; Lyons, Mark A <Mark.Lyons@foth.com>; Mackenzie Quigley <MQUIGLEY@villageofpewaukee.gov>; Matt Gralinski <mgralinski@hrblawfirm.com>

Sir,

I was denied a chicken permit due to my lot size requirement. I am respectfully requesting an appeal and consideration for the permit from the planning commission.

Thank you,
Kory Fons


434 Park Av

[Sent from AT&T Yahoo Mail for iPhone](#)

On Tuesday, July 8, 2025, 1:22 PM, Matt Heiser <VillageAdmin@villageofpewaukee.gov> wrote:

Hi Kory,

Please find attached a denial notice from me regarding your chicken permit application. The ordinance requires a minimum lot size of .25 acre and your lot is listed as .155 acre on the Waukesha County on-line tax system.

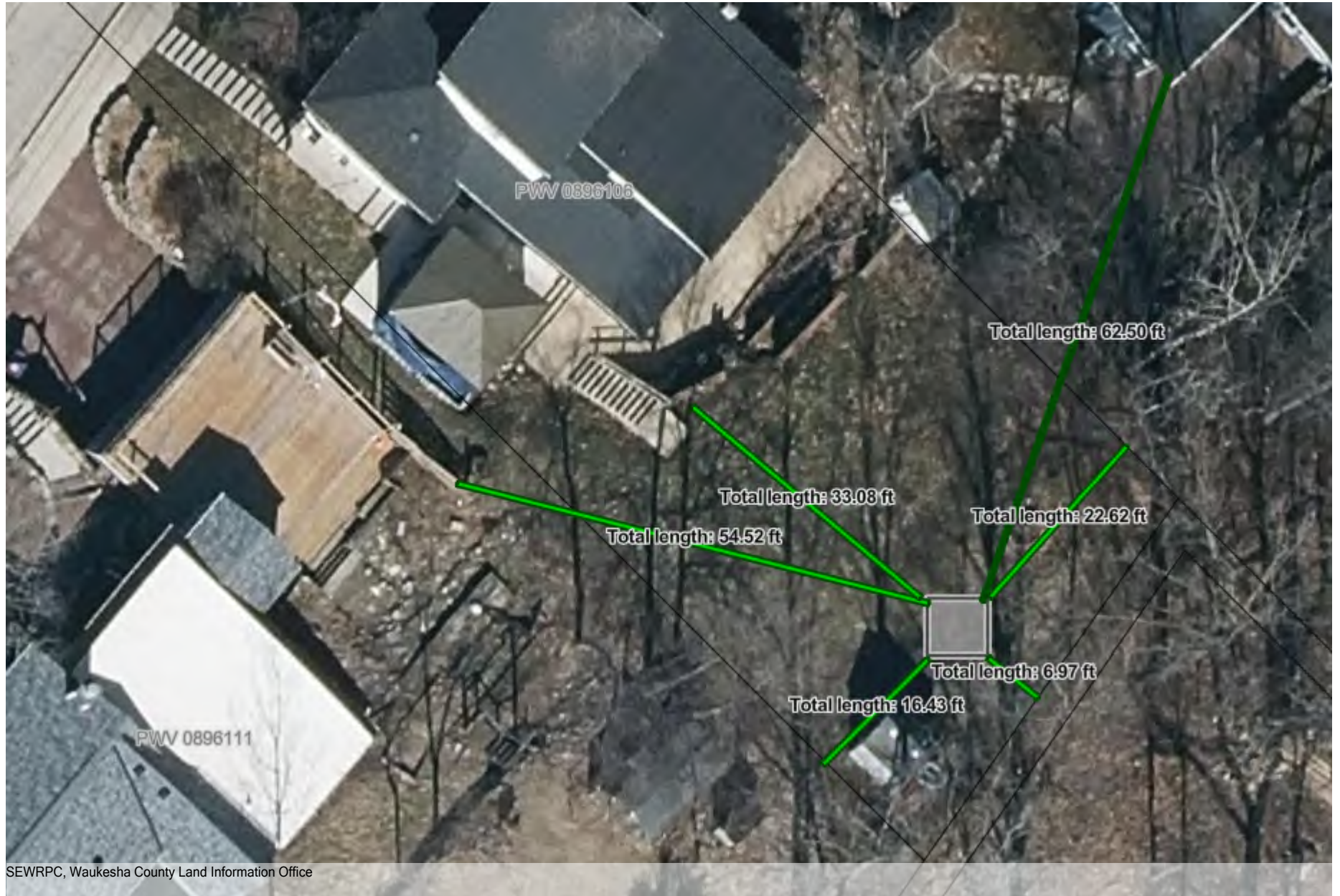
You have the option to appeal the denial before the Plan Commission. If you wish to do so I must receive a written request from you (e-mail is fine) within 30 days of this denial notice. The next Plan Commission meeting will be August 14.

Thanks,
--Matt.

Matt Heiser
Village Administrator
Village of Pewaukee
235 Hickory Str.
Pewaukee, WI 53072
P: 262.691.5660 (ext. 222)
F: 262.691.5664
www.villageofpewaukee.com



Map Title



0 5 10
ft
Scale: 1 in. = 21 ft.
1 : 255



DISCLAIMER: The Village of Pewaukee does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.

Village of Pewaukee
235 Hickory Street
Pewaukee, WI 53072
262-691-5660

Notes

support for request for chicken coop

From Paul Schmidt < >

Date Sun 7/13/2025 10:46 PM

To Matt Heiser <VillageAdmin@villageofpewaukee.gov>

Mr. Heiser,

My name is Paul Schmidt. I live at 432 Park Avenue. I am writing in support of my neighbor, Kory Fons, and his request to have chickens on his property at 434 Park Avenue. I have no objections to his having chickens and I believe they would be a nice addition to the neighborhood. If you have any additional questions for me, please let me know.

Sincerely,

Paul Schmidt

Ballpark Commons Office Building
7044 South Ballpark Drive, Suite 200
Franklin, WI 53132
(414) 336-7900
foth.com

August 7, 2025

TO: Village of Pewaukee Plan Commission

CC: Matt Heiser – Village Administrator, Matt Gralinski- Village Attorney, Jenna Peters – Village Clerk

FR: Mark Lyons – Village Planner

Review, discussion, and consultative feedback to applicant Pewaukee Self Storage LLC regarding a concept to amend the previously approved PUD for climate-controlled storage at 227 Sussex Street PWV 0898999001. The proposed development would be part of this 16.194-acre, B-5 Light Industrial District with a Planned Unit Development Overlay, owned by Pewaukee Self Storage LLC.

Zoning requirements for automobile service facilities

The August 14, 2025 Plan Commission meeting includes the above referenced item. The following is the applicable zoning overview and requirements should the project move forward.

The subject parcel is presently zoned B-5 Light Industrial District with a Planned Unit Development Overlay. The original PUD overlay was established in 2022 via ordinance 2022-04 to establish a personal storage development. As part of the PUD the applicant was granted several site requirement modifications. The PUD also limited the allowed use on the property to Cold, Dry, Personal Indoor Storage Uses and prohibited any outdoor storage. The applicant completed Phase 1 of the development but never constructed any of the units located in the southwest corner of the site. The applicant is now proposing concepts which would not be consist with the original PUD approval and is seeking to discuss alternatives with Plan Commission. Per the Villages PUD requirements, modifications to the site will require both Plan Commission and Village Board approval.

Possible Development alternatives

Option 1 - Climate controlled drive-up storage:

- As the original PUD only allowed Cold, Dry Indoor storage and PUD amendment would be required to change the personal storage units to climate controlled.
- This would likely not result in any changes to the physical appearance of the proposed development.

Option 2- Boat & RV Exterior Storage:

- The original PUD prohibited outdoor of any kind. Therefore, a PUD amendment would be required to make outdoor storage an allowed use.
- Once potential concern with allowing outdoor storage is the presence of single family residential uses immediately south of the subject site.

Attachments

- 1) Zoning Map
- 2) Concept application & site plans



PLAN COMMISSION CONSULTATION APPLICATION

No Application Fee for Consultative Services
Application due approx. 4 weeks prior to meeting.

235 Hickory St, Pewaukee WI 53072 - villagehall@villageofpewaukee.gov — 262-691-5660

PROPERTY / PROPERTY OWNER INFORMATION

Property Address: _____ Tax Key: PWV _____
Zoning of Property: _____ Property Owner Name: _____
Property Owner Email: [REDACTED] _____ Property Owner Phone #: _____

APPLICANT INFORMATION

Applicant Name: _____ Applicant Phone #: _____
Applicant Address: _____
Applicant Email: [REDACTED] _____

PROPOSED USE OF PROPERTY

Business Name, If applicable: _____
FEIN, if applicable: _____
Description of Proposed Use (Restaurant/Retail/Office): _____

SIGNATURES

Application will not be processed without the signature of the current property owner.

This signature authorizes the Village of Pewaukee to process the consultation application proposed for my property and further authorizes the Village or its representatives to conduct reasonable and routine inspections of my property for the purposes of evaluating this application.

Signature of Current Property Owner: _____ Date: **7/17/25**

Signature of Applicant: *Michael Mazur* _____ Date: _____

DIRECTIONS / NOTES - See Page 2 for Specific Items Required

NOTE: As this is for consultative purposes only, an engineering review will not take place at this time. An engineering review will take place if/when a formal application for approval is submitted.

Please include the following required items with this application:

- One paper copy of the submittal, including plans/drawings/applicable attachments in a size 11x17 page size or less. Also provide one full size scale copy if larger than 11x17.
- One digital copy of the submittal, including plans/drawings/applicable attachments. (USB/Email)
- Completed Professional Services Reimbursement Form
- Reverse of this form completed

For Office Use Only

Staff Initials: _____

Date/Time Received: _____

DETAILED SITE PLAN - Identify/Illustrate the following on plan, if applicable

- | | | |
|--|---|---|
| ☐ Engineer Scale | ☐ Easements | ☐ Site acreage |
| ☐ Location/Vicinity Map | ☐ Setback and offset dimensions | ☐ Sidewalks/pedestrian walkways |
| ☐ North Arrow | ☐ Pond/detention locations | ☐ Dumpster/recycling area location |
| ☐ Footprint of dimensioned property lines | ☐ Floodplain and/or wetland boundary | ☐ Ground HVAC and/or utility installations |
| ☐ Existing and proposed buildings | ☐ Sign location | ☐ Fence location |
| ☐ Footprint of adjacent buildings | ☐ Exterior light location | |
| ☐ Driveway location | ☐ Phasing lines | |
| ☐ Parking stalls | ☐ Floor area ratio | |
| ☐ Adjacent public streets | ☐ Open space ratio | |

DETAILED ARCHITECTURAL PLAN - Identify/Illustrate the following on plan, if applicable

- | | | |
|--|---|---|
| ☐ Architectural scale | ☐ Exterior building materials/colors | ☐ Exposed HVAC equipment |
| ☐ All building views/elevations | ☐ Colored rendering | ☐ Dumpster/recycling area location |
| ☐ Building height dimensions | ☐ Dimensioned building façade sign | ☐ Samples of building materials |
| ☐ General floor plan dimensions | ☐ Exterior utility boxes | ☐ Building mounted lighting fixtures |

DETAILED LANDSCAPING PLAN - Identify/Illustrate the following on plan, if applicable

- | | |
|--|---|
| ☐ Location of existing/proposed landscaping | ☐ Species of plantings |
| ☐ Size of plantings at installation | ☐ Dumpster/recycling area location |
| ☐ Calculation confirming Zoning Code compliance | ☐ Conformance with tree preservation policy manual |

GRADING AND DRAINAGE PLAN - Identify/Illustrate the following on plan, if applicable

- ☐ Existing/proposed two-foot contour lines at local datum (floodplain property should be identified at USGS datum)
- ☐ Pond/detention location
- ☐ Storm-water and erosion control devices

NOTE: Meet with Village Engineer for further direction

SIGNAGE PLAN - Identify/Illustrate the following on plan, if applicable

- ☐ Scaled design drawing of freestanding and/or façade signs
- ☐ Sign specifications and colors (wattage, materials, dimensions)

EXTERIOR LIGHTING PLAN - Identify/Illustrate the following on plan, if applicable

- ☐ Light fixture design and specifications
- ☐ Iso foot-candle lighting dispersion plan (recommended)



PROFESSIONAL SERVICES REIMBURSEMENT AGREEMENT

235 Hickory St, Pewaukee WI 53072—villagehall@villageofpewaukeewi.gov—262-691-5660

PROPERTY INFORMATION

Property Address: _____ Tax Key: PWV _____
 Property Owner's Name: _____ Phone Number: _____

RESPONSIBLE PARTY INFORMATION - All invoices will be mailed to this address.

Business Name: _____ FEIN: _____
 Person Responsible for Payment / Business Contact Name: _____
 Mailing Address: _____
 Responsible Party / Contact Phone Number: _____
 Responsible Party / Contact Email Address: _____

AGREEMENT / SIGNATURES - Property Owner signature is required.

Pursuant to the Village of Pewaukee [Code of Ordinances Sec 40.116\(b\)](#), the Village Board has determined that whenever the services of the Village Attorney, Village Engineer, Village Planner, or any other of the Village's professional staff or other expert consultants are retained by the Village in order to complete a proper project review results in a charge to the Village for that professional's time and services and such service is not a service supplied to the Village as a whole, the Village Treasurer shall charge those service fees incurred by the Village to the applicant/property owner. Also, be advised that pursuant to the Village of Pewaukee Code of Ordinances, certain other fees, costs, and charges are the responsibility of the property owner or responsible party.

By signing this form, I, the undersigned, have been advised that pursuant to the Village of Pewaukee Code of Ordinances, if the Village Attorney, Village Engineer, Village Planner, or any other Village professional staff or other expert consultants retained by the Village in order to complete a proper project review provides services to the Village because of my activities, whether at my request or at the request of the Village, I shall be responsible for the fees incurred. In addition, I have been advised that pursuant to the Village of Pewaukee Code of Ordinances, certain other fees, costs, and charges are my responsibility.

The Village will place fees from unpaid invoices on the real estate tax bill of the property that corresponds to the incurred services.

Property Owner Signature: _____ Printed Name: Nick Wellenstein Date: 7/17/25

Applicant Signature: Michael Mazur Printed Name: _____ Date: _____

For Office Use Only

Staff Initials: _____

Date Received: _____

July 18, 2025

Pewaukee Planning Commission

Re: 229 Sussex St., Pewaukee, WI 53072 (Pewaukee Self Storage LLC)

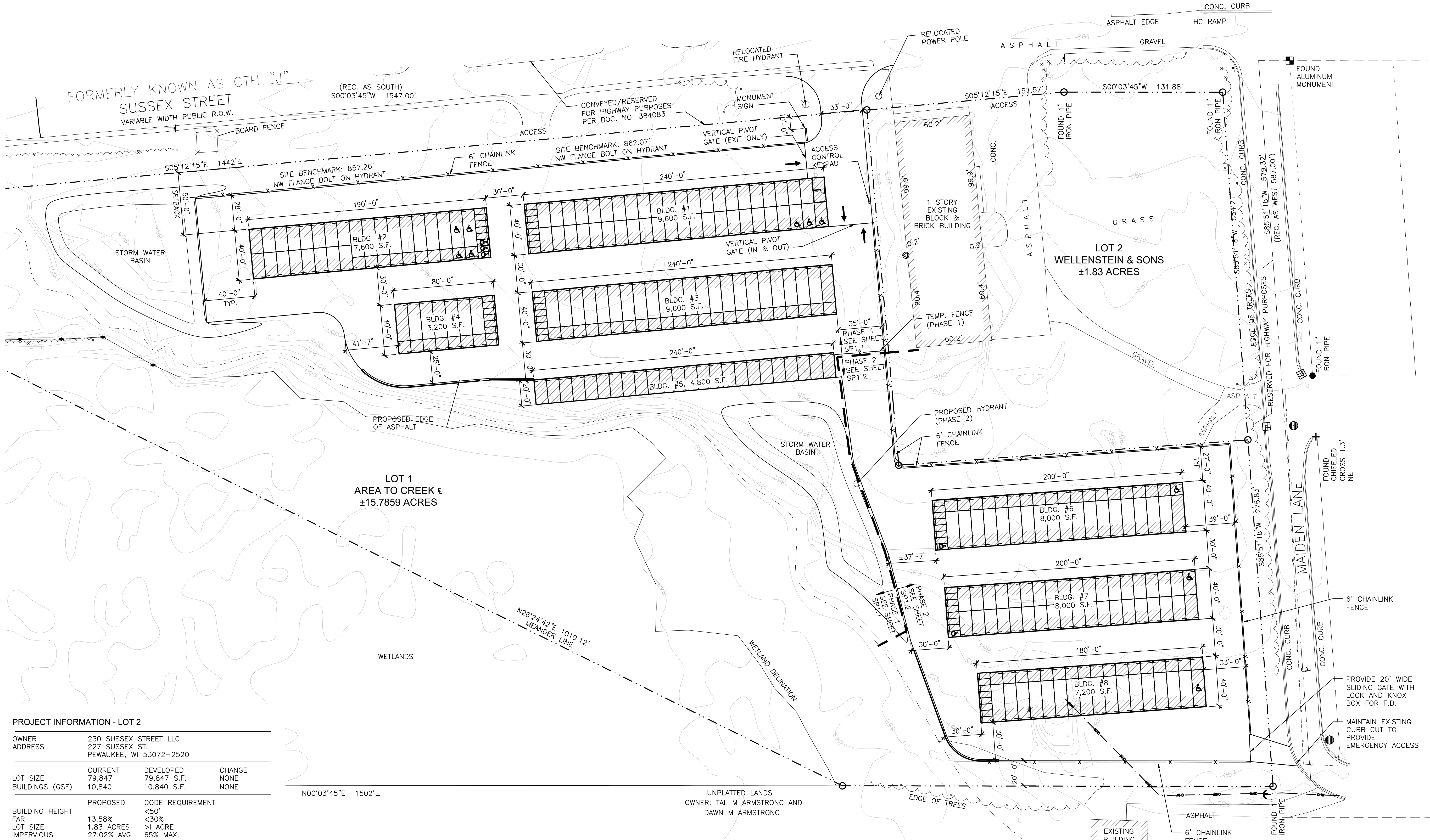
To whom it may concern:

We are requesting a review of the above property regarding the existing PUD. Below are the topics that we would like to address.

Topic of discussion: Existing PUD alterations

- Climate controlled drive-up storage:
 - Future expansion calls for dry drive-up storage
 - Request to alter PUD
 - Allow drive-up climate controlled self-storage within the same footprint of the existing building footprint outlined in the PUD.
- Boat & RV Exterior Storage:
 - Future expansion calls for drive-up storage
 - Request to alter PUD
 - Allow Boat and RV parking:
 - Allow Boat & RV Storage until time it makes business sense to expand to the (3) building design that is requested above to include climate controlled drive-up storage in the dimensions and that have already been granted within the PUD.

Patrick McGill
Construction Director
248-250-1151

PROJECT INFORMATION - LOT 2

OWNER ADDRESS	230 SUSSEX STREET LLC 227 SUSSEX ST. PEWAUKEE, WI 53072-2520
---------------	--

LOT SIZE BUILDINGS (GSF)	CURRENT 79,847 10,840	DEVELOPED 79,847 S.F. 10,840 S.F.	CHANGE NONE NONE
BUILDING HEIGHT FAR	PROPOSED 13.58%	CODE REQUIREMENT <50' <30%	
LOT SIZE	1.83 ACRES	>1 ACRE	
IMPERVIOUS GREEN SPACE	27.02% AVG. 72.98% AVG.	65% MAX. 35% MIN.	

PROJECT INFORMATION - LOT 1 (PHASE 1 & 2)

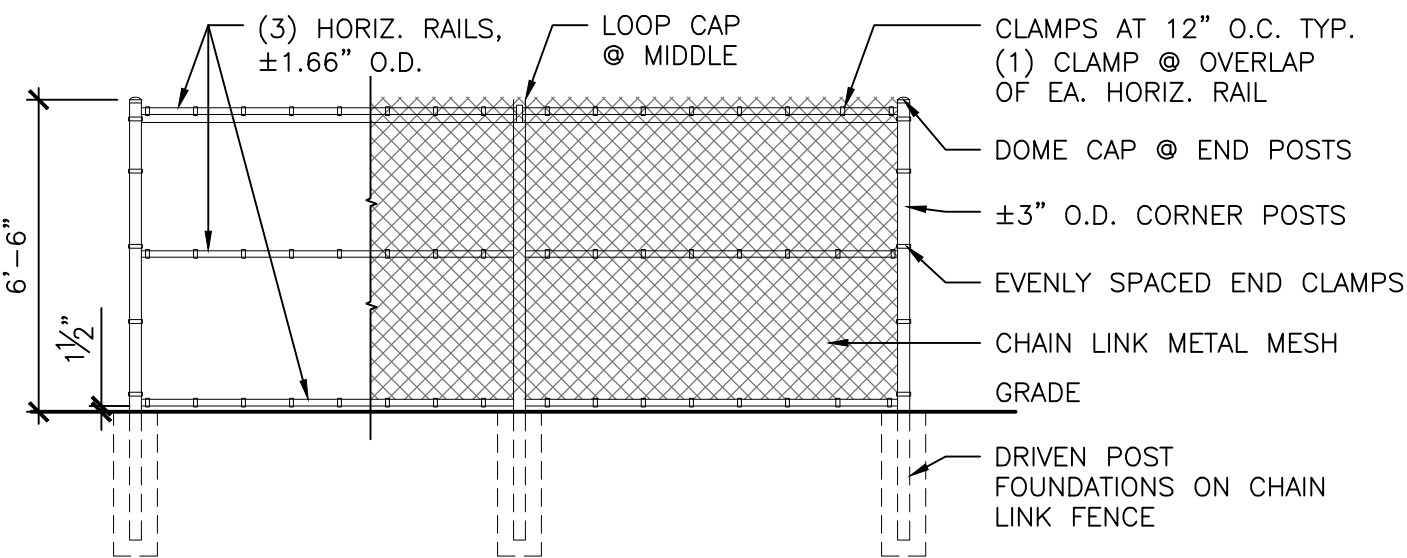
OWNER ADDRESS	230 SUSSEX STREET LLC 227 SUSSEX ST. PEWAUKEE, WI 53072-2520
---------------	--

LOT SIZE BUILDINGS (GSF)	CURRENT 687,635 1,038	DEVELOPED 687,635 S.F. 58,000	CHANGE NONE 56,962 S.F.
BUILDING HEIGHT FAR	PROPOSED <12' 8.43%	CODE REQUIREMENT <50' <30%	
LOT SIZE	15.7859 ACRES	>1 ACRE	
IMPERVIOUS GREEN SPACE	22.64% AVG. 77.36% AVG.	65% MAX. 35% MIN.	

ACCESS HOURS:
24 HOURS PER DAY, 7 DAYS PER WEEK
SECURE SITE WITH ACCESS CONTROL

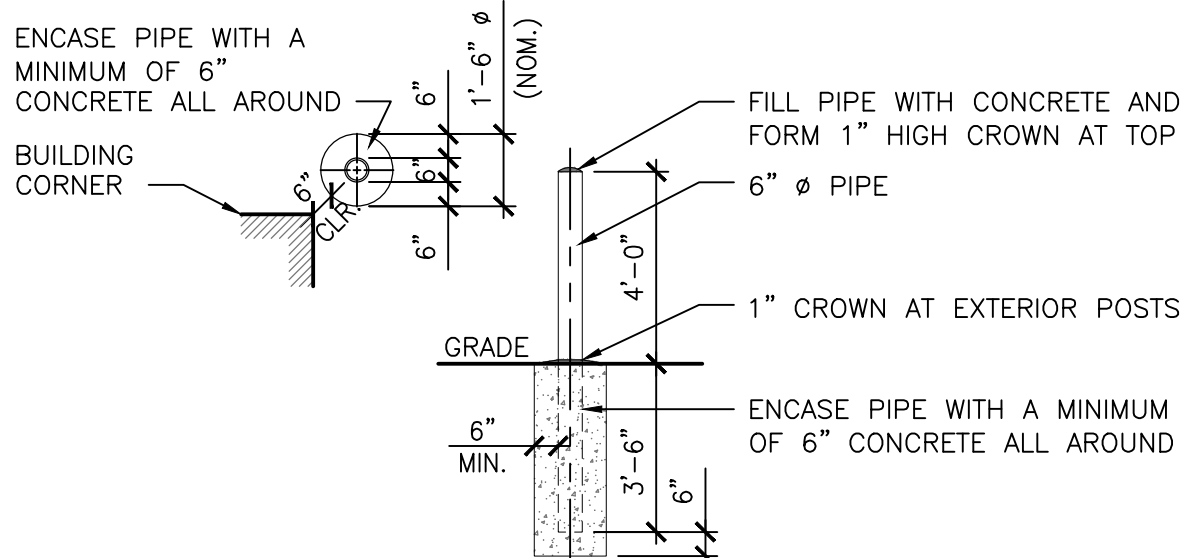
EMPLOYEES: NO FULL TIME EMPLOYEES ON SITE

PARKING: NONE (UNOCCUPIED BUILDINGS)



TYPICAL FENCE DETAIL

SCALE: 1/4"=1'-0" (22x34); 1/8"=1'-0" (11x17)



TYPICAL BOLLARD DETAIL

SCALE: 1/4"=1'-0" (22x34); 1/8"=1'-0" (11x17)

SITE PLAN

SCALE: 1"=40'-0" (22x34); 1"=80'-0" (11x17)

1



THRIVE
ARCHITECTS

Architect
259 South Street, Suite A
Waukesha, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

wellspring
CONSTRUCTION GROUP

Contractor
227 Sussex Street
Pewaukee, WI 53072
p: 262-696-4492
e: tim@wellspringcg.com

Project Info. — 21112

PEWAUKEE
SELF STORAGE

NEW CONSTRUCTION

227 Sussex Street
Pewaukee, WI 53072

Sheet Title

SITE PLAN

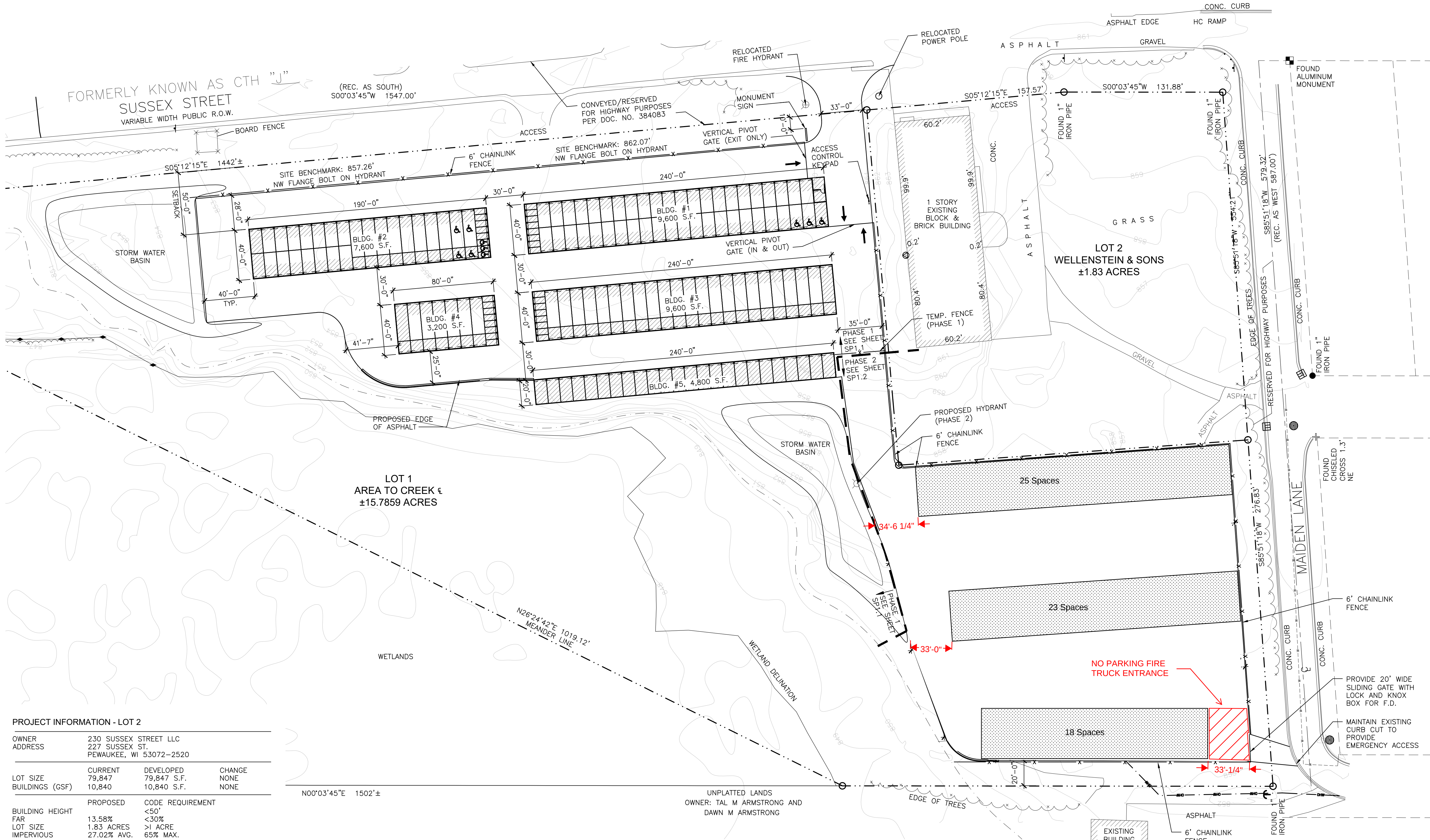
Drawn by	Checked by
AMP	ALS

Revisions		
No.	Date	Description
	03.21.22	Permit Set

Sheet No.

SP1.0

2022-03-21 PERMIT SET



PROJECT INFORMATION - LOT 2

OWNER ADDRESS	230 SUSSEX STREET LLC 227 SUSSEX ST. PEWAUKEE, WI 53072-2520		
---------------	--	--	--

LOT SIZE BUILDINGS (GSF)	CURRENT	DEVELOPED	CHANGE
	79,847	79,847 S.F.	NONE
	10,840	10,840 S.F.	NONE
BUILDING HEIGHT FAR	PROPOSED 13.58%	CODE REQUIREMENT <50'	
LOT SIZE	1.83 ACRES	<30%	
IMPERVIOUS	27.02% AVG.	>1 ACRE	
GREEN SPACE	72.98% AVG.	65% MAX.	
		35% MIN.	

PROJECT INFORMATION - LOT 1 (PHASE 1 & 2)

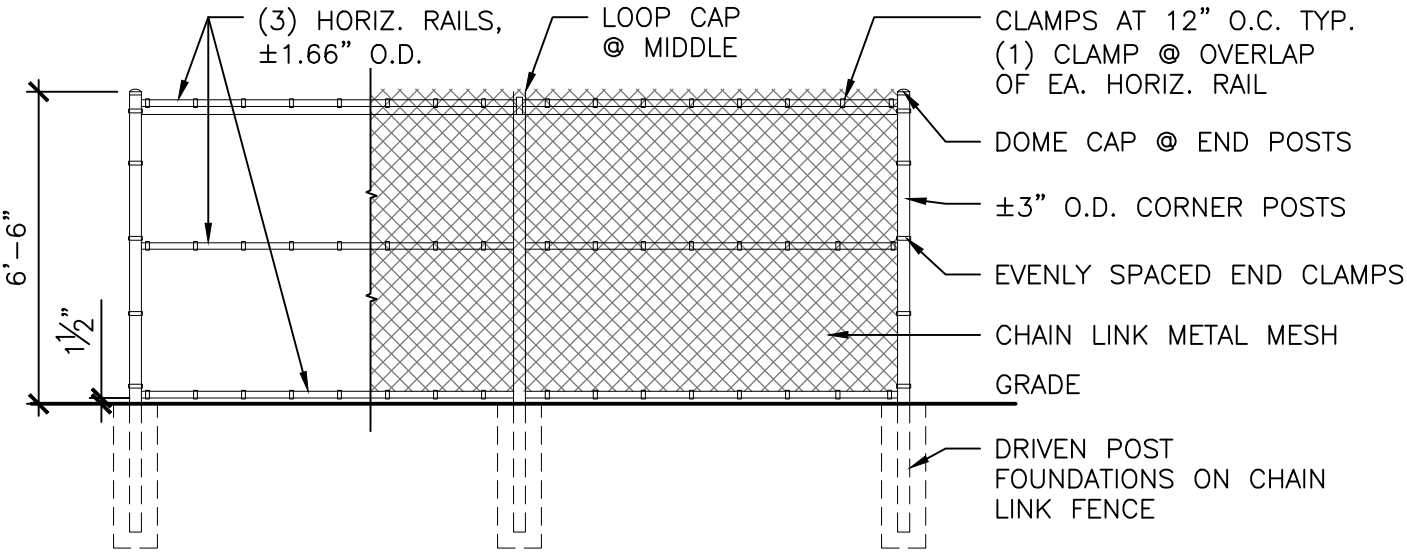
OWNER ADDRESS	230 SUSSEX STREET LLC 227 SUSSEX ST. PEWAUKEE, WI 53072-2520		
---------------	--	--	--

LOT SIZE BUILDINGS (GSF)	CURRENT	DEVELOPED	CHANGE
	687,635	687,635 S.F.	NONE
	1,038	58,000	56,962 S.F.
BUILDING HEIGHT FAR	PROPOSED <12'	CODE REQUIREMENT <50'	
LOT SIZE	8.43%	<30%	
IMPERVIOUS	15.7859 ACRES	>1 ACRE	
GREEN SPACE	22.64% AVG.	65% MAX.	
	77.36% AVG.	35% MIN.	

ACCESS HOURS:
24 HOURS PER DAY, 7 DAYS PER WEEK
SECURE SITE WITH ACCESS CONTROL

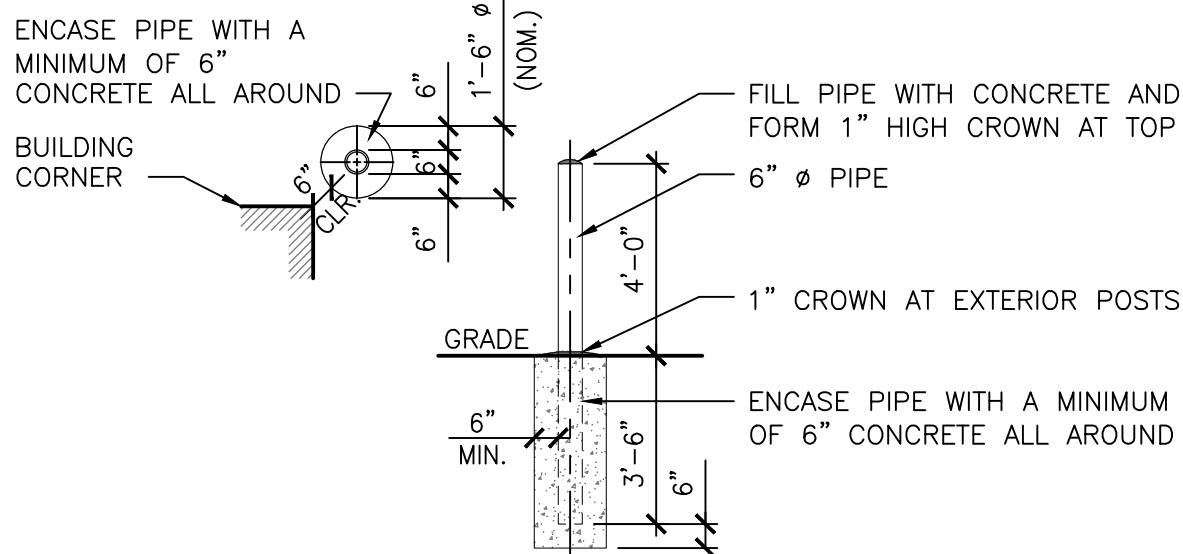
EMPLOYEES: NO FULL TIME EMPLOYEES ON SITE

PARKING: NONE (UNOCCUPIED BUILDINGS)



TYPICAL FENCE DETAIL

SCALE: 1/4"=1'-0" (22x34); 1/8"=1'-0" (11x17)



TYPICAL BOLLARD DETAIL

SCALE: 1/4"=1'-0" (22x34); 1/8"=1'-0" (11x17)

SITE PLAN

SCALE: 1"=40'-0" (22x34); 1"=80'-0" (11x17)

1



THRIVE

ARCHITECTS

Architect
259 South Street, Suite A
Waukesha, WI 53186
p: 833-380-6180
e: jdb@thrive-architects.com

wellspring

CONSTRUCTION GROUP

Contractor
227 Sussex Street
Pewaukee, WI 53072
p: 262-696-4492
e: tim@wellspringcg.com

Project Info. — 21112

PEWAUKEE
SELF STORAGE
NEW CONSTRUCTION

227 Sussex Street
Pewaukee, WI 53072

Sheet Title

SITE PLAN

Drawn by	Checked by
AMP	ALS

Revisions		
No.	Date	Description
	03.21.22	Permit Set

Sheet No.

SP1.0

2022-03-21 PERMIT SET

MEMORANDUM

TO: Members of the Plan Commission of the Village of Pewaukee
FROM: Attorney Matthew R. Gralinski
SUBJECT: 2017 Wisconsin Act 67 and Conditional Use Permits
DATE: August 14, 2025

Dear Commissioners:

This memorandum is in support of an item on the agenda for discussion at the Commission's August meeting, namely "Review and discussion regarding the Conditional Use Grant (CUG) review Process Post 2017 Wisconsin Act 67." As there are now several Commissioners that have recently been appointed to the Plan Commission, this would seem an opportune time to review the conditional use grant process generally, and especially in light of the requirements imposed on the Commission by Wisconsin statute.

As commissioners are aware, the Village's zoning code provides for certain uses in various districts which, while not permitted uses by right or uses accessory to those permitted uses, are "conditional uses." These conditional uses are uses only permitted in the applicable zoning district by conditional grant, subject to the approval of the planning commission and to such conditions as deemed appropriate. Thus, part of the Plan Commission's specific duties is review and approval of these conditional use grants when an application is made to the Village.

Beyond the Village Code, conditional use permits are also regulated by Wisconsin statute section 62.23(7)(de). A copy of this statute section is enclosed for your reference. This section was created by 2017 Wisconsin Act 67, which commissioners are likely aware of due to the repeated references to "Act 67" during Commission meetings. Section 62.23(7)(de) sets forth the following requirements for consideration of conditional use grant applications:

1. While the Village can specify requirements or conditions to issuance of a conditional use by ordinance, any requirement or condition must be "reasonable and, to the extent practicable, measurable."
2. While the Plan Commission can impose conditions on the issuance of a conditional use grant, the same requirement holds that any such condition imposed must be "reasonable and, to the extent practicable, measurable." The statute also provides an additional requirement that any condition imposed by the Plan Commission "must be **related to the purpose of the ordinance and be based on substantial evidence.**"
3. The Plan Commission's ultimate decision to approve or deny a conditional use grant "must be supported by substantial evidence."

4. If an applicant meets or agrees to meet all requirements and conditions of the ordinance, and those conditions imposed by the Plan Commission, the Plan Commission “shall” grant the conditional use. The Commission will note that use of “shall” connotes that, if an applicant otherwise satisfies the requirements of the ordinance and any other condition imposed by the Commission, the application must be granted. The Commission does not have discretion to deny a permit in that case.
5. “Substantial evidence” as used throughout this subsection is specifically defined as follows: “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.” This definition is important. It specifically states that simple objections based *only* on opinions or desires on what is best for the community should not be considered as substantial evidence to support denial of a CUG. In order to be considered in support of an imposed condition or for ultimate approval/denial of the CUG, the evidence has to be in the form of facts and information which speak directly to a condition in the ordinance or imposed by the Commission.

While there has been little Wisconsin court interpretation of this statute, there have been a couple of unpublished Wisconsin court of appeals cases which arguably provide a window into how a court would evaluate what a municipality could consider as “substantial evidence” to sustain the approval or denial of a conditional use grant. These cases are, again, unpublished and do not have precedential value. Thus, their use is limited outside of giving us an early indication of how courts may interpret this statute down the line.

Of course, neither this memorandum, nor the agenda discussion item, is directed at any one conditional use application. The Plan Commission must consider each application as it comes, on an isolated, case-by-case basis. The purpose of this memorandum is to remind the Commission of the requirements it must meet in both imposing conditions on an approval of a CUG and in ultimately considering approval or denial of the CUG.

This memorandum is for the Commission’s reference, and to facilitate discussion at the upcoming meeting. Staff will of course be available to answer any questions individual commissioners may have. Thank you for your consideration of these comments.

Respectfully submitted,

/s/: Matthew R. Gralinski

Matthew R. Gralinski

MRG/

ments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. If the proposed amendments have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the amendments or a description of the property affected by the amendments and a statement that a map may be obtained from the city council. If the council does not receive recommendations and a report from the plan commission, board of public land commissioners or plan committee within 60 days of submitting the proposed amendments, the council may hold hearings without first receiving the recommendations and report.

2m. In any city which is not located in whole or in part in a county with a population of 750,000 or more, if a proposed amendment under subd. 2. would make any change in an airport affected area, as defined under sub. (6) (am) 1. b. and the owner or operator of the airport bordered by the airport affected area protests against the amendment, the amendment shall not become effective except by the favorable vote of two-thirds of the members of the council voting on the proposed change.

3. The council may repeal or repeal and reenact the entire district plan and all zoning regulations in accordance with subd. 1. The council may repeal or repeal and reenact a part or parts of the district plan and regulations in accordance with subds. 2. and 2m.

4. The city council shall maintain a list of persons who submit a written or electronic request to receive notice of any proposed zoning action that may be taken under subd. 1. a. or b. or 2. that affects the allowable use of the person's property. Annually, the city council shall inform residents of the city that they may add their names to the list. The city council may satisfy this requirement to provide such information by any of the following means: publishing a 1st class notice under ch. 985; publishing on the city's Internet site; 1st class mail; or including the information in a mailing that is sent to all property owners. If the plan commission, the board of public land commissioners, or city plan committee of the city council completes action on any tentative recommendations that are noticed under subd. 1. a., proposed changes to a proposed district plan and regulations that are submitted under subd. 1. b., or proposed amendments that are submitted under subd. 2., and the city council is prepared to vote on the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, the city council shall send a notice, which contains a copy or summary of the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, to each person on the list whose property, the allowable use of which, may be affected by the tentative recommendations or proposed changes or amendments. The notice shall be by mail or in any reasonable form that is agreed to by the person and the city council, including electronic mail, voice mail, or text message. The city council may charge each person on the list who receives a notice by 1st class mail a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this subdivision may take effect even if the city council fails to send the notice that is required by this subdivision.

(da) *Interim zoning.* The common council of any city which has not adopted a zoning ordinance may, without referring the matter to the plan commission, enact an interim zoning ordinance to preserve existing uses while the comprehensive zoning plan is being prepared. Such ordinance may be enacted as an ordinary ordinance but shall be effective for no longer than 2 years after its enactment.

(de) *Conditional use permits.* 1. In this paragraph:

a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.

b. "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.

2. a. 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. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.

b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.

3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.

4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.

5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10.

(e) *Board of appeals.* 1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.

2. The board of appeals shall consist of 5 members appointed by the mayor subject to confirmation of the common council for terms of 3 years, except that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years. The members of the board shall serve at such compensation to be fixed by ordinance, and shall be removable by the mayor for cause upon written charges and after public hearing. The mayor shall designate one of the members as chairperson. The board may employ a secretary and other employees. Vacancies shall be filled for the unexpired terms of members whose terms become vacant. The mayor shall appoint, for staggered terms of 3 years, 2 alternate members of such board, in addition to the 5 members above provided for. Annually, the mayor shall designate one of the alternate members as 1st alternate and the other as 2nd alternate. The 1st alternate shall act, with full power, only when a member of the board refuses to vote because of interest or when a member is absent. The 2nd alternate shall so act only when the 1st alternate so refuses or is absent or when more than one member of the board so refuses or is absent. The above provisions, with regard to removal and the filling of vacancies, shall apply to such alternates.

3. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this section. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in the chairperson's absence, the acting chairperson, may administer