

CITY OF FRANKLIN
PLAN COMMISSION MEETING*
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA
THURSDAY, JULY 7, 2016, 7:00 P.M.

- A. **Call to Order and Roll Call**
- B. **Approval of Minutes**
 - 1. Approval of regular meeting of June 23, 2016.
- C. **Public Hearing Business Matters** (action may be taken on all matters following the respective Public Hearing thereon)
- D. **Business Matters** (no Public Hearing is required upon the following matters; action may be taken on all matters)
 - 1. **UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT RELATED TO RELIGIOUS ORGANIZATIONS USES.** Unified Development Ordinance Text Amendment application by Root River Church Inc., to amend the Unified Development Ordinance text at Table 15-3.0603 Standard Industrial Classification Title No. 8661 “Religious organizations” to allow for such Use as a Permitted Use City-wide in the B-3 Community Business District. [SUBJECT MATTER CONTINUED FROM THE JUNE 23, 2016 MEETING]
 - 2. **TUCKAWAY PINES CONDOMINIUM DEVELOPMENT.** Special Use Amendment application by Wayne E. Foster, Butler Creek Properties, LLC, for construction of 6 two-unit buildings within the Tuckaway Pines Condominium development (Buildings 0, 1, 2, 5, 10 and 11). Most recent Special Use approval was granted for 44 units. 23 units have been constructed and applicant is proposing construction of 12 additional units for a total of 35 units, a reduction of 9 units, upon property zoned R-8 Multiple-Family Residence District, addresses and Tax Key Nos. as follows:
7556, 7558, 7560 West Tuckaway Pines Circle (Building 0), 7550, 7552, 7554 West Tuckaway Pines Circle (Building 1), 7530, 7532, 7534 West Tuckaway Pines Circle (Building 2), 7501, 7503, 7505 West Tuckaway Pines Circle (Building 5), 7543, 7545, 7547 West Tuckaway Pines Circle (Buildings 10) and 7542, 7544, 7546 West Tuckaway Pines Circle (Building 11); 804-0087-000, 804-0066-000, 804-9999-005 and 804-0075-000.
[SUBJECT MATTER CONTINUED FROM THE JUNE 23, 2016 MEETING]
 - 3. **TORBENSON SHOWS LLC HOLIDAY CRAFT AND GIFT EXPO AT THE MILWAUKEE COUNTY SPORTS COMPLEX.** Temporary Use application by

Franklin Plan Commission Agenda

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James C. Torbenson/Torbenson Shows LLC, for a holiday craft and gift expo at the Milwaukee County Sports Complex located at 6000 West Ryan Road, on November 25, 2016, from 9:00 a.m. to 5:00 p.m., November 26, 2016 from 9:00 a.m. to 5:00 p.m. and November 27, 2016 from 10:00 a.m. to 4:00 p.m., on property zoned P-1 Park District, FC Floodplain Conservancy District and FW Floodway District; Tax Key Nos. 852-9999-001 and 882-9987-001.

E. Adjournment

*Supporting documentation and details of these agenda items are available at City hall during normal business hours.

**Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per *State ex rel. Badke v. Greendale Village Board*, even though the Common Council will not take formal action at this meeting.

[Note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, contact the City Clerk's office at (414) 425-7500.]

REMINDERS:

Next Regular Plan Commission Meeting: July 21, 2016

**City of Franklin
Plan Commission Meeting
June 23, 2016
Minutes**

unapproved

Call to Order and Roll Call

- A. Mayor Steve Olson called the June 23, 2016 Regular Plan Commission meeting to order at 7:00 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were, Alderman Mark Dandrea and Commissioners Kevin Haley, Patricia Hogan and Assist. City Engineer Ron Romeis. Excused were Commissioner David Fowler and City Engineer Glen Morrow. Also present were Principal Planner Nick Fuchs and Planning Manager Joel Dietl.

Approval of Minutes

Regular Meeting of June 9, 2016

- B.
1. Commissioner Haley moved and Alderman Mark Dandrea seconded approval of the June 9, 2016 minutes of the regular meeting of the Plan Commission as presented. On voice vote, all voted 'aye'. Motion carried (4-0-0).

Public Hearing Business Matters

**UNIFIED DEVELOPMENT
ORDINANCE TEXT AMENDMENT
RELATED TO RELIGIOUS
ORGANIZATIONS USES.** Unified Development Ordinance Text Amendment application by Root River Church Inc., to amend the Unified Development Ordinance text at Table 15-3.0603 Standard Industrial Classification Title No. 8661 "Religious organizations" to allow for such Use as a Permitted Use City-wide in the B-3 Community Business District.

- C.
1. Planning Manager Joel Dietl presented the request by Root River Church for a Unified Development Ordinance Text Amendment related to religious organizations uses.

The Official Notice of Public Hearing for the UDO Text Amendment request was read in to the record by Principal Planner Fuchs and the Public Hearing was opened at 7:05 p.m. and closed at 7:22 p.m.

Alderman Dandrea moved and Commissioner Hogan seconded a motion to table approval of an ordinance to amend the Unified Development Ordinance text at Table 15-3.0603 standard industrial classification title No. 8661 "Religious Organizations" to allow for such use as a permitted use in the B-3 community business district to the July 7, 2016 Plan Commission meeting. On voice vote, all voted 'aye'. Motion carried (4-0-0).

TUCKAWAY PINES ONDOMINIUM DEVELOPMENT.

Special Use Amendment application by Wayne E. Foster, Butler Creek Properties, LLC, for construction of 6 two-unit buildings within the Tuckaway Pines Condominium development (Buildings 0, 1, 2, 5, 10 and 11). Most recent Special Use approval was granted for 44 units. 23 units have been constructed and applicant is proposing construction of 12 additional units for a total of 35 units, a reduction of 9 units, upon property zoned R-8 Multiple-Family Residence District, addresses and Tax Key Nos. as follows: 7556, 7558, 7560 West Tuckaway Pines Circle (Building 0), 7550, 7552, 7554 West Tuckaway Pines Circle (Building 1), 7530, 7532, 7534 West Tuckaway Pines Circle (Building 2), 7501, 7503, 7505 West Tuckaway Pines Circle (Building 5), 7543, 7545, 7547 West Tuckaway Pines Circle (Buildings 10) and 7542, 7544, 7546 West Tuckaway Pines Circle (Building 11); 804-0087-000, 804-0066-000, 804-9999-005 and 804-0075-000.

Business Matters

(no Public Hearing is required upon the following matters; action may be taken on all matters)

Adjournment

2. Planning Manager Joel Dietl presented the request by Wayne Foster, Butler Creek Properties, LLC for construction of 6 two-unit buildings within the Tuckaway Pines Condominium development.

The Official Notice of Public Hearing for the Special Use Amendment application was read in to the record by Principal Planner Fuchs and the Public Hearing was opened at 7:42 p.m. and closed at 8:09 p.m.

Alderman Dandrea moved to table approval of a resolution to amend resolution Nos. 2001-5145, 2001-5317, 2005-5865 and 2006-6091 imposing conditions and restrictions for the approval of a special use for a 44 unit residential community use located at West Tuckaway Pines Circle to allow for construction of six two-unit buildings within the Tuckaway Pines Condominium Development to the July 7, 2016 Plan Commission meeting. Seconded by Commissioner Haley. On voice vote, all voted 'aye'. Motion carried (4-0-0).

- D. None.

- E. Commissioner Hogan moved and Commissioner Haley seconded to adjourn the Plan Commission meeting of June 23, 2016 at 8:34 p.m. All voted 'aye'. Motion carried. (4-0-0).

Item D.1.

Item C.1., Unified Development Ordinance Text Amendment Related to Religious Organizations Uses, was tabled at the June 23rd Plan Commission meeting. Please utilize the same packet materials for the July 7th Plan Commission meeting. Please contact Department of City Development staff if new materials are needed.

Wesolowski, Reidenbach & Sajdak, S.C.
Attorneys at Law
11402 West Church Street
Franklin, Wisconsin 53132

Jesse A. Wesolowski
Frederick E. Reidenbach 1919-2002
Brian C. Sajdak
Christopher R. Smith

TELEPHONE (414) 529-8900
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Jane C. Kassis,
Legal Secretary

June 30, 2016

TO: City Attorney
FROM: Chris Smith, ACA
RE: RLUIPA

Introduction

This memo addresses the obligations a municipality has when presented with a request from a religious institution to operate within the B-3 zoning district.

More specifically, Root River Church (Root River) has applied to amend the Unified Development Ordinance (UDO) of to allow religious organizations a permitted use in the B-3 community business district. The UDO does not permit religious organizations in the B-3 zoning district.

Root River argues that the Religious Land Use and Institutionalized Persons Act (RLUIPA) compels the City to allow Root River into the B-3 zoning district because other similar non-religious organizations would be permitted under the UDO.

Legal Standards

To prevail in its argument, Root River must prove one of the following: (1) the UDO violates RLUIPA's prohibition of unreasonably and **completely excluding** religious exercise (42 U.S.C. § 2000cc(b)(1)), or (2) that the UDO violates RLUIPA's prohibition of treating religious assemblies and institutions on less than **Equal Terms** than non-religious assemblies and institutions. (42 U.S.C. § 2000cc(b)(3)(A)-(B)).

The allegation here is rooted in an Equal Terms argument. Because of that, and because any claim that the City has violated number (1), above, is meritless¹, I will focus on the equal terms allegation.

¹ Franklin has at least five zoning districts available to religious organizations.

Analysis

A zoning regulation will violate the Equal Terms provision only if it treats religious assemblies or institutions less well than secular assemblies or institutions that are similarly situated as to the stated zoning criteria. *River of Life Kingdom Ministries v. Village of Hazel Crest, Ill.*, 611 F.3d 367 (7th Cir. 2010). Put another way, the Equal Terms provision will only be violated when it can be shown that associations similar to a religious organization are given preferential treatment under circumstances where there is no practical difference between the two *as it relates to the zoning criteria*.

Here, the zoning criteria for the B-3 district is generally to support and accommodate retail establishments and commerce. Various for-profit establishments are permitted within the B-3 district, which are easy to distinguish from a church as they relate to the zoning criteria. All generally keep normal business hours and engage in or promote retail commerce within the district with their employees and the public coming and going.

More difficult to distinguish are various “membership organizations” that are permitted within the B-3 district. These include:

- Business Associations
- Professional Organizations
- Labor Organizations
- Civic and Social Organizations
- Membership Organizations, not otherwise classified

Unlike the other entities mentioned above, these do not generally include sales -retail or otherwise- to the public. Nonetheless, the expectation is that these organizations would have regular business hours and staff that would add the retail commerce of the district.

The organization with which Root River compares itself in making the Equal Terms argument is “civic and social organizations,” identified in the UDO under SIC 8641. *See* UDO Section 15-3.0603. The SIC description for “civic and social organizations” is:

Alumni associations and club, bars and restaurants owned and operated for members of booster clubs, business persons, clubs, civic and social citizens' unions, civic associations, community membership clubs, other than amusement and recreation, condominium associations, fraternal associations, other than insurance offices, fraternal lodges, fraternities and sororities, homeowner associations, parent-teacher associations, singing societies, social club, membership taxpayers' associations, tenant associations, university club, veterans' organizations, youth associations.

<http://siccode.com/en/siccodes/8641/civic-social-and-fraternal-association>

While it can still be maintained that civic and social organizations are more likely to have staff during regular business hours when compared to a church, that argument is tenuous, especially focusing on parent-teacher associations and homeowner associations (organizations that generally do not meet during regular business hours, or keep a staff employed). “Should a municipality create what purports to be a pure commercial district and then allow other uses, a church would have an easy victory if the municipality kept it out.” *River of Life*, 611 F.3d at 374.

To be clear, the Equal Terms test does not require the objector to show that exclusion would result in any burden, substantial or otherwise. It matters not that there are other districts that the church may operate in, even if the other organizations named above are excluded from those other districts. The only test is described above: whether a religious institution is treated less well than similar associations as it relates to the zoning criteria.

Recommendations

While an argument can be made that civic and social associations meet the B-3 zoning criteria better than a religious organization, it would likely fail.

Because of that, my recommendation is to do one or both of the following:

- Approve Root River Church’s application
- Amend the UDO to remove some or all of the “Membership Organizations” as permitted use in the B-3 district, especially “Civic and Social Organizations.”

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Smith". The signature is stylized with a large, looped initial "C" and a distinct "S".

Chris Smith

Assistant City Attorney

City of Franklin



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of July 7, 2016

Special Use Amendment

RECOMMENDATION: Department of City Development staff recommends approval of the Special Use Amendment, subject to the conditions in the draft resolution.

| | |
|---------------------------------------|--|
| Project Name: | Tuckaway Pines Condominiums Special Use Amendment |
| Project Address: | 7556, 7558, 7560 West Tuckaway Pines Circle (Building 0), 7550, 7552, 7554 West Tuckaway Pines Circle (Building 1), 7530, 7532, 7534 West Tuckaway Pines Circle (Building 2), 7501, 7503, 7505 West Tuckaway Pines Circle (Building 5), 7543, 7545, 7547 West Tuckaway Pines Circle (Buildings 10) and 7542, 7544, 7546 West Tuckaway Pines Circle (Building 11) |
| Applicant: | Wayne Foster, Butler Creek LLC |
| Property Owner: | North Shore Bank FSB |
| Current Zoning: | R-8 Multiple-Family Residence District |
| 2025 Comprehensive Plan | Residential – Multi-Family |
| Use of Surrounding Properties: | Recreational and Residential |
| Applicant Action Requested: | Approval of the Special Use Amendment Application for the proposed building additions |

Introduction

Please note:

- Staff recommendations are underlined, in italics and are included in the draft resolution.

At the June 23, 2016 meeting, the Plan Commission tabled the subject Special Use Amendment Application for the Tuckaway Pines Condominium development. Following that meeting, the applicant met with members of the Condominium Association and Alderman Dandrea to further discuss the proposed development.

It is staff's understanding that the focus of that meeting was related to the architecture of Building No. 5. The applicant has agreed to widen that building, add dens to either side and add a quoin feature to the front and side elevations.

The applicant also met with Department of City Development Staff and has agreed to staff's architectural recommendations, except for Condition No. 7.f., which recommends providing covered decks and brick clad deck posts. The revised resolution has amended Condition 7.a. to replace the soldier coursing feature with the quoin features. If the Plan Commission wishes to not

require the covered decks and brick clad deck posts, then any motion to approve must specifically include the removal of Condition No. 7.f.

Although the applicant has agreed to the architectural conditions, staff has not removed those conditions from the draft resolution as architectural elevations still have not been provided. Those elevations will better detail these architectural features and allow staff to ensure compliance with those conditions. Furthermore, the window treatments were not added to the attached renderings of Building No. 5.

Lastly, staff added the two conditions listed below.

- *The applicant shall submit a revised Site Plan illustrating the footprint change to Building No. 5.*
- *Mailboxes shall match the existing mailboxes and be uniform in appearance throughout the development.*

Additional project details can be found in the June 23rd Plan Commission Staff Report previously distributed.

Staff Recommendation

Department of City Development staff recommends approval of the Special Use Amendment, subject to the conditions in the draft resolution.

RESOLUTION NO. 2016-_____

A RESOLUTION TO AMEND RESOLUTION NOS. 2001-5145, 2001-5317, 2005-5865 AND 2006-6091 IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR A 44 UNIT RESIDENTIAL COMMUNITY USE LOCATED AT WEST TUCKAWAY PINES CIRCLE TO ALLOW FOR CONSTRUCTION OF SIX TWO-UNIT BUILDINGS (BUILDINGS 0, 1, 2, 5, 10 AND 11) WITHIN THE TUCKAWAY PINES CONDOMINIUM DEVELOPMENT TO BE LOCATED AT 7556, 7558, 7560 WEST TUCKAWAY PINES CIRCLE (BUILDING 0), 7550, 7552, 7554 WEST TUCKAWAY PINES CIRCLE (BUILDING 1), 7530, 7532, 7534 WEST TUCKAWAY PINES CIRCLE (BUILDING 2), 7501, 7503, 7505 WEST TUCKAWAY PINES CIRCLE (BUILDING 5), 7543, 7545, 7547 WEST TUCKAWAY PINES CIRCLE (BUILDING 10) AND 7542, 7544, 7546 WEST TUCKAWAY PINES CIRCLE (BUILDING 11)
(BUTLER CREEK PROPERTIES, LLC, APPLICANT)

WHEREAS, Butler Creek Properties, LLC having petitioned the City of Franklin for the approval of an amendment to Resolution Nos. 2001-5145, 2001-5317, 2005-5865 and 2006-6091, conditionally approving a Special Use to allow for a 44 unit residential community use, upon property located at West Tuckaway Pines Circle, such property being zoned R-8 Multiple-Family Residence District, more particularly described as follows:

Buildings 0, 1, 2, 5, 10 and 11 of the Third Addendum to Tuckaway Pines Condominium Plat, Parcel 1 of Certified Survey Map No. 7110, recorded as Document No. 8309116, Milwaukee County Register of Deeds, being all that part of the Northwest Quarter (NW 1/4) and the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of Section 15, Town 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, being more particularly described as follows: Commencing at the northwest corner of said Northwest Quarter (NW 1/4); thence South 00°29'52" East along the west line of said Northwest Quarter (NW 1/4) 897.375 (RECORDED AS 897.310) feet; thence North 89°26'25" East 60.000 feet to the east right-of-way line of South 76th Street and the place of beginning of the lands hereinafter described; thence continuing North 89°26'25" East 805.561 feet; thence South 03°19'57" West 324.763 feet; thence South 33°43'05" West 364.331 feet to the north line of COUNTRY CLUB ESTATES, being a subdivision of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) of said Section 15; thence South 89°26'55" West along said north line 579.000 feet to said east right-of-way line; thence North 00°29'52" West along said east line 624.984 feet to the place of beginning; and

BUTLER CREEK PROPERTIES, LLC – AMENDMENT TO SPECIAL USE
RESOLUTION NO. 2016-_____

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WHEREAS, such proposed amendment being for the purpose of constructing 6 two-unit buildings within the Tuckaway Pines Condominium development (Buildings 0, 1, 2, 5, 10 and 11) (Initial Special Use approval was granted for 44 units, with 23 units having been constructed. Applicant is proposing construction of 12 additional units for a total of 35 units, a reduction of 9 units.), addresses and Tax Key Nos. as follows: 7556, 7558, 7560 West Tuckaway Pines Circle (Building 0), 7550, 7552, 7554 West Tuckaway Pines Circle (Building 1), 7530, 7532, 7534 West Tuckaway Pines Circle (Building 2), 7501, 7503, 7505 West Tuckaway Pines Circle (Building 5), 7543, 7545, 7547 West Tuckaway Pines Circle (Building 10) and 7542, 7544, 7546 West Tuckaway Pines Circle (Building 11); 804-0087-000, 804-0066-000, 804-9999-005 and 804-0075-000; and

WHEREAS, such petition having been duly referred to the Plan Commission of the City of Franklin for a public hearing, pursuant to the requirements of §15-9.0103D. of the Unified Development Ordinance, and a public hearing having been held before the Plan Commission on the 23rd day of June, 2016, and the Plan Commission thereafter having determined to recommend that the proposed amendment to Special Use be approved, subject to certain conditions, and the Plan Commission further finding that the proposed amendment to Special Use upon such conditions, pursuant to §15-3.0701 of the Unified Development Ordinance, will be in harmony with the purposes of the Unified Development Ordinance and the Comprehensive Master Plan; that it will not have an undue adverse impact upon adjoining property; that it will not interfere with the development of neighboring property; that it will be served adequately by essential public facilities and services; that it will not cause undue traffic congestion; and that it will not result in damage to property of significant importance to nature, history or the like; and

WHEREAS, the Common Council having received such Plan Commission recommendations and also having found that the proposed amendment to Special Use, subject to conditions, meets the standards set forth under §15-3.0701 of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the petition of Butler Creek Properties, LLC for the approval of an amendment to Special Use for the property particularly described in the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and restrictions:

1. That this amendment to Special Use is approved only for the use of the subject property by Butler Creek Properties, LLC, successors and assigns, for the Tuckaway Pines Condominium development building construction, which shall be developed in substantial compliance with and constructed, operated and maintained by Butler

BUTLER CREEK PROPERTIES, LLC – AMENDMENT TO SPECIAL USE
RESOLUTION NO. 2016-_____

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Creek Properties, LLC, pursuant to those plans City file-stamped June 15, 2016 and June 30, 2016 and annexed hereto and incorporated herein as Exhibit A.

2. Butler Creek Properties, LLC, successors and assigns, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consultants to the City of Franklin, for the Tuckaway Pines Condominium development building construction project, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof and §1-19. of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.
3. The approval granted hereunder is conditional upon Butler Creek Properties, LLC and the Tuckaway Pines Condominium development building construction project for the properties located at 7556, 7558, 7560 West Tuckaway Pines Circle (Building 0), 7550, 7552, 7554 West Tuckaway Pines Circle (Building 1), 7530, 7532, 7534 West Tuckaway Pines Circle (Building 2), 7501, 7503, 7505 West Tuckaway Pines Circle (Building 5), 7543, 7545, 7547 West Tuckaway Pines Circle (Building 10) and 7542, 7544, 7546 West Tuckaway Pines Circle (Building 11): (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
4. A Condominium Plat shall be approved by the City of Franklin per Division 15-7.0600 of the Unified Development Ordinance and recorded with the Milwaukee County Register of Deeds, prior to the issuance of a Building Permit.
5. The applicant shall submit a grading, erosion control and utility plan for review and approval by the Engineering Department, prior to the issuance of a Building Permit.
6. The area that was previously right-of-way, vacated in 2005 via Resolution No. 2005-5973, shall be recorded as a utility easement to connect to the existing utility easements along West Tuckaway Pines Circle. Furthermore, the applicant shall show this area as a utility easement on the future Condominium Plat and record a separate written easement document with the Milwaukee County Register of Deeds prior to the issuance of a Building Permit.
7. The applicant shall submit revised elevations for review and approval by Department of City Development staff that incorporates the following architectural enhancements:
 - a. A quoin feature~~Soldier coursing~~ shall be provided upon Building No. 5 as illustrated in the renderings bearing City of Franklin date-stamp June 30, 2016 at the base of the building to match existing buildings and at top of brick.

BUTLER CREEK PROPERTIES, LLC – AMENDMENT TO SPECIAL USE
RESOLUTION NO. 2016-_____

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- b. Brick shall extend half way up the building on the rear elevation to match existing buildings.
 - c. Window treatments shall be added to match the existing buildings.
 - d. All siding other than those portions in brick or stone shall be a fiber cement siding product to match the existing buildings.
 - e. Elevations shall be revised to add decorative louvers similar to the existing buildings.
 - f. Decks shall be covered and include brick clad deck posts.
 - g. The garage doors shall match that of the existing buildings.
8. Architectural elevations shall be provided for all building elevations to be reviewed and approved by Department of City Development staff, prior to the issuance of a Building Permit.
 9. The applicant shall submit a Landscape Plan for review and approval by the Plan Commission, prior to the issuance of a Building Permit.
 10. The applicant shall submit an updated Natural Resource Protection Plan to verify that all protected natural resource features, including but not limited to wetlands, continue to be entirely located within the existing Conservation Easements. Furthermore, the northwest corner of the site shall be delineated and placed within a Conservation Easement or a letter be provided from the Wisconsin Department of Natural Resources stating that the wetland is exempt from natural resource protection requirements.
 11. The applicant and/or Condominium Association shall provide the Engineering Department with revised storm water calculations and the existing storm water ponds shall be certified and surveyed for approval by the Engineering Department, prior to the issuance of a Building Permit.
 12. Water features within retention ponds shall be subject to review and approval by the Engineering Department.
 13. The applicant shall submit a revised Site Plan illustrating the footprint change to Building No. 5.
 - ~~12.~~14. Mailboxes shall match the existing mailboxes and be uniform in appearance throughout the development.

BE IT FURTHER RESOLVED, that in the event Butler Creek Properties, LLC, successors or assigns, or any owner of the subject property, does not comply with one or any of the conditions and restrictions of this amendment to Special Use Resolution, following a ten (10) day notice to cure, and failure to comply within such time period, the Common

BUTLER CREEK PROPERTIES, LLC – AMENDMENT TO SPECIAL USE
RESOLUTION NO. 2016-_____

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Council, upon notice and hearing, may revoke the additional Special Use permission granted under this Resolution.

BE IT FURTHER RESOLVED, that any violation of any term, condition or restriction of this Resolution is hereby deemed to be, and therefore shall be, a violation of the Unified Development Ordinance, and pursuant to §15-9.0502 thereof and §1-19. of the Municipal Code, the penalty for such violation shall be a forfeiture of no more than \$2,500.00, or such other maximum amount and together with such other costs and terms as may be specified therein from time to time. Each day that such violation continues shall be a separate violation. Failure of the City to enforce any such violation shall not be a waiver of that or any other violation.

BE IT FURTHER RESOLVED, that this Resolution shall be construed to be an amendment to such Special Use Permit as is contemplated by §15-9.0103 of the Unified Development Ordinance, and that all of the terms and conditions of Resolution Nos. 2001-5145, 2001-5317, 2005-5865 and 2006-6091, not specifically and expressly amended by or in direct conflict with this Resolution, shall remain in full force and effect.

BE IT FURTHER RESOLVED, pursuant to §15-9.0103G. of the Unified Development Ordinance, that the Special Use permission granted under this Resolution shall be null and void upon the expiration of one year from the date of adoption of this Resolution, unless the Special Use has been established by way of completion of the construction of the accessory building.

BE IT FINALLY RESOLVED, that the City Clerk be and is hereby directed to obtain the recording of a certified copy of this Resolution in the Office of the Register of Deeds for Milwaukee County, Wisconsin.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2016.

APPROVED:

Stephen R. Olson, Mayor

BUTLER CREEK PROPERTIES, LLC – AMENDMENT TO SPECIAL USE
RESOLUTION NO. 2016-_____

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ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Franklin

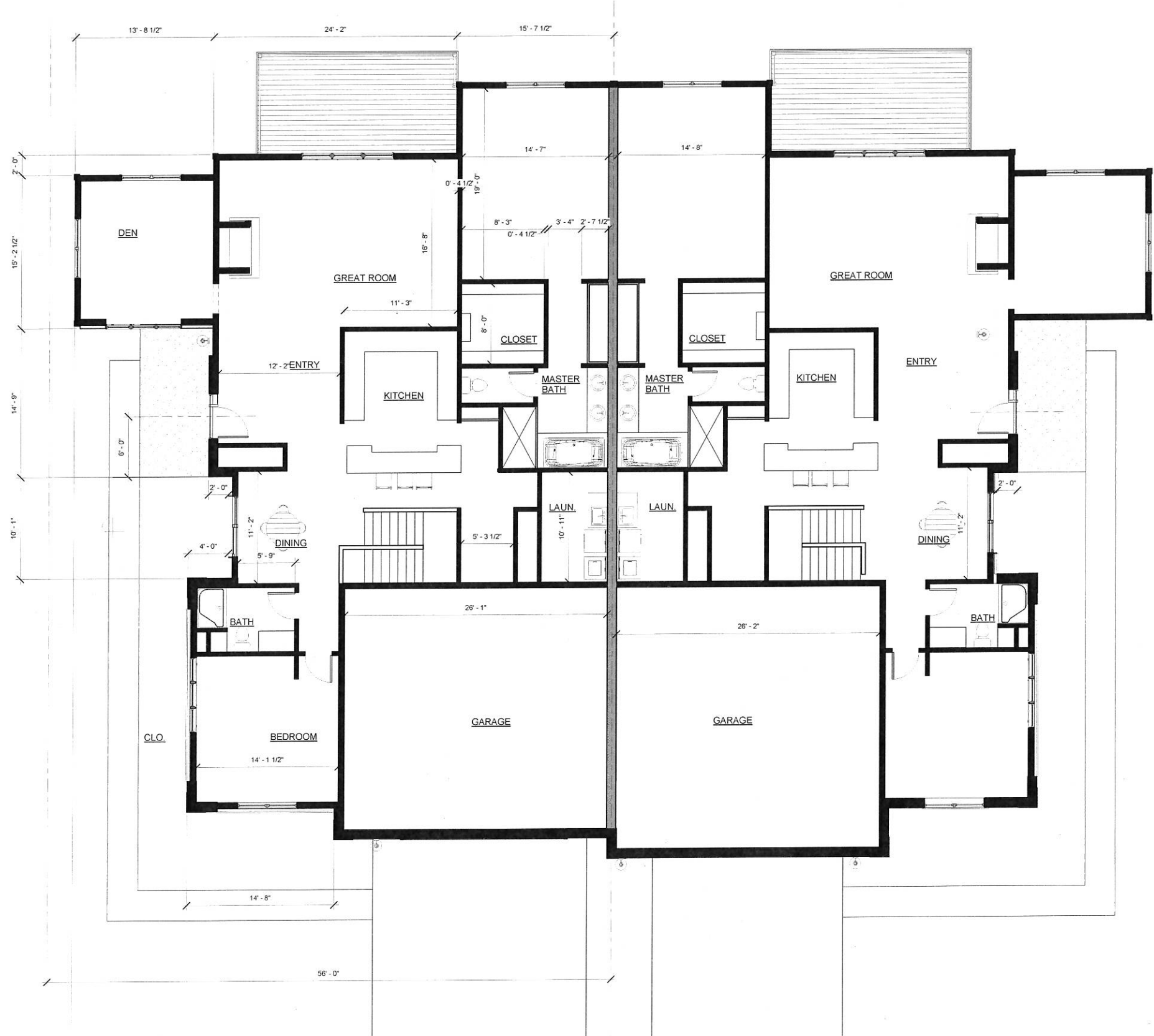
JUN 30 2016

City Development









1 FIRST FLOOR PLAN
3/16" = 1'-0"

Timothy E. Seidel
Architect
530 Cymric Court
Wales, WI 53183-9423
(262) 988-6580
(262) 988-6581 fax
seidelarchitect@wi.rr.com

These Plans are the
property of Timothy
Seidel / Architect, L.L.C.
Any unauthorized use or
violation of the Copy
Protection Act of 1990.

TUCKAWAY PINES
2 FAMILY

| No. | Description | Date |
|-----|-------------|------|
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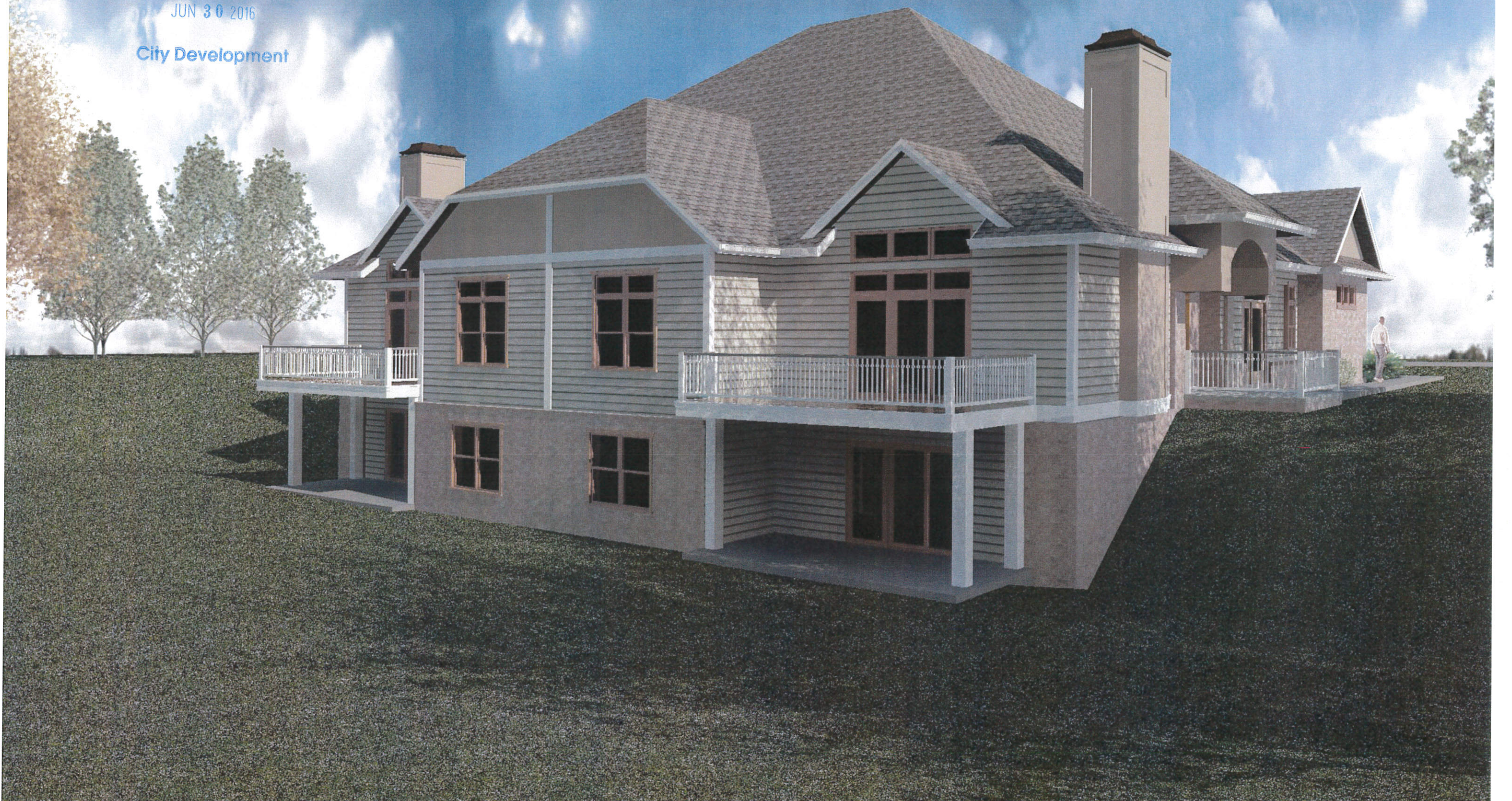
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Franklin

JUN 30 2016

City Development





CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of July 7, 2016

Temporary Use

RECOMMENDATION: City Development Staff recommends approval of a Temporary Use for the Holiday Craft & Gift Exposition, to be held November 25 – November 27, 2016 at the Milwaukee County Sports Complex, located at 6000 West Ryan Road.

| | |
|---------------------------------------|--|
| Project Name: | Holiday Craft & Gift Exposition |
| Project Address: | 6000 West Ryan Road |
| Property Owner: | Milwaukee County |
| Applicant: | Torbenson Shows, LLC |
| Agent: | Jim Torbenson |
| Zoning: | P-1 Park District; FW Floodway District, FC Floodplain Conservancy District; |
| Use of Surrounding Properties: | Agriculture and recreational uses to the north and east, residential uses to the south and east, and floodplain and open space uses to the west. |
| Comprehensive Plan: | Park District |
| Applicant Action Requested: | Approval of a Temporary Use for the Holiday Craft & Gift Exposition to be held at the Milwaukee County Sports Complex November 25 – November 27, 2016. |

INTRODUCTION:

Please note:

- Staff recommendations are underlined and in *italics* and are included in the draft resolution.

On September 8, 2016, Mr. Jim Torbenson filed a Temporary Use Application with the Department of City Development, requesting approval to use the Milwaukee County Sports Complex located at 6000 West Ryan Road for a Holiday Craft & Gift Exposition. The applicant is proposing to hold the event from 9:00 AM to 5:00 PM on Friday, November 25; from 9:00 A.M. to 5:00 P.M. on Saturday, November 26; and from 10 A.M. to 4:00 P.M. on Sunday, November 27. Setup is scheduled from 6:00 A.M. to 8:00 P.M. on Wednesday, November 23 and from 7:00 A.M. to 7:00 P.M. Take down is scheduled from 4:00 P.M. to 9:00 P.M. on Sunday, November 29.

According to the applicant, the Holiday Craft & Gift Exposition offers unique crafts made and sold by vendors, along with holiday-themed gifts. The Holiday Craft & Gift Exposition was held for thirty-five consecutive years during the same weekend at the Wisconsin State Fair grounds until it moved to the Milwaukee County Sports Complex 2012. According to the applicant, the 2015 event at the Milwaukee County Sports Complex was well advertised and well attended.

HISTORY:

The City of Franklin previously worked with Milwaukee County on a Memorandum of Understanding regarding authorized uses available on the subject property and a more efficient process for the governmental review of applications for such uses. Non-sports related or “miscellaneous” events are currently subject to obtaining an Extraordinary Entertainment and Special Event License, if required by the City Clerk’s office, and/or a Temporary Use Permit. The Plan Commission has previously granted Temporary Use approvals for several events proposed at the Milwaukee County Sports Complex, including the following: Wisconsin Grandsons of Liberty “Tea Party” Program, Ahmadiyya Movement in Islam Annual Retreat, the Shee Yee Community Festival, IMS Barter event and Milwaukee Hmong New Year Celebration.

CURRENT POLICY:

Section 15-3.0804 of the Unified Development Ordinance (UDO) states “A Temporary Use is an activity that is short-term in nature, will be conducted for only a specified limited period of time, and for a specific use that is not the permanent use of the property, and which use though not already expressly authorized to be an actual use on the property, is incidental to or accessory to and compatible with and will not adversely affect adjoining properties.” This section further states, “The Zoning Administrator and designees of the City Planning Department may refer any application for a Temporary Use Permit to the Plan Commission for review and approval, where the Zoning Administrator or designee of the City Planning Department determines that the application involves an issue of interpretation as to whether the proposed temporary use is incidental or accessory to the existing use of the property, or is a use which is compatible, as required herein, or that there is a question as to whether the proposed temporary use may adversely affect adjoining property due to the nature of, size or area of, noise, debris, lighting, or the like or other resultant from the proposed temporary use. Plan Commission review and approval is required for any proposed temporary use of a type not specifically listed below.”

The subject use is not a listed temporary use within Section 15-3.0804 of the UDO. In addition, the existing Special Use for the Milwaukee County Sports Complex only permits an indoor multi-purpose recreational and soccer facility, offices for the Wisconsin Soccer Association, outdoor fields, accessory parking, and park and concession facilities. Therefore, staff has determined that the request requires Plan Commission review and approval.

ANALYSIS:

As previously mentioned, the show will offer unique crafts made and sold by vendors, along with holiday-themed gifts. The applicant expects approximately 250 exhibitors and approximately 7,500 patrons over the course of the three-day event.

Parking/Circulation:

The Milwaukee County Sports Complex completed a parking lot reconstruction project in 2012. The Sports Complex now has approximately 551 standard-size striped parking spaces and fourteen (14) ADA accessible striped spaces. According to previous applications, Milwaukee County can provide space for an additional 150 parking spaces on site and along the road, for a total of 700 spaces. In 2013 a portion of South 60th Street was transferred from Milwaukee County to the City after it was reconstructed. After speaking with the Police Department and Department of Public Works on the subject of parking along the City’s portion of South 60th Street, *Staff recommends the Franklin Police*

Department post the east side of South 60th Street from Ryan Road to approximately 300 feet north of Forest View Court with “Temporary No Parking” signs for the duration of the November 27th -29th, 2015, Holiday Craft & Gift Exposition.

According to the applicant, parking at least year’s event was adequate and there were no issues with traffic congestion during the three day event. However, Staff recommends the applicant contact the Milwaukee County Sheriff’s Department if parking demand exceeds parking capacity, or if vehicle stacking on the access driveway becomes congested and blocks emergency access to the facility.

STAFF RECOMMENDATION:

City Development Staff recommends approval of a Temporary Use for the Holiday Craft & Gift Exposition, to be held November 25 – November 27, 2016 at the Milwaukee County Sports Complex, located at 6000 West Ryan Road.

RESOLUTION NO. 2016-_____

A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE
APPROVAL OF A TEMPORARY USE FOR A HOLIDAY CRAFT AND GIFT EXPO
FOR PROPERTY LOCATED AT 6000 WEST RYAN ROAD
(MILWAUKEE COUNTY SPORTS COMPLEX)
(JAMES C. TORBENSON/TORBENSON SHOWS LLC, APPLICANT)

WHEREAS, James C. Torbenson/Torbenson Shows LLC having petitioned the City of Franklin for the approval of a Temporary Use to allow for a holiday craft and gift expo, upon property located at 6000 West Ryan Road (Milwaukee County Sports Complex), for the dates of November 25, 2016, from 9:00 a.m. to 5:00 p.m., November 26, 2016, from 9:00 a.m. to 5:00 p.m. and November 27, 2016, from 10:00 a.m. to 4:00 p.m.(setup will take place on November 23 2016 from 12:00 p.m. to 8:00 p.m. and set removal will take place on November 27, 2016, from 4:00 p.m. to 9:00 p.m.); and

WHEREAS, the Plan Commission having found that the proposed Temporary Use, subject to conditions, meets the standards set forth under §15-3.0804 of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Plan Commission of the City of Franklin, Wisconsin, that the petition of James C. Torbenson/Torbenson Shows LLC for the approval of a Temporary Use to allow for a holiday craft and gift expo, for the property particularly described in the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and restrictions:

1. The approval granted hereunder shall allow for such use on November 25, 2016, from 9:00 a.m. to 5:00 p.m., November 26, 2016, from 9:00 a.m. to 5:00 p.m. and November 27, 2016, from 10:00 a.m. to 4:00 p.m. (setup will take place on November 23, 2016 from 12:00 p.m. to 8:00 p.m. and set removal will take place on November 27, 2016, from 4:00 p.m. to 9:00 p.m.), and all approvals granted hereunder expiring at 4:00 p.m. on November 27, 2016.
2. The Franklin Police Department shall post the east side of South 60th Street from Ryan Road to approximately 300 feet north of Forest View Court with temporary “No Parking” signs for the duration of the November 25th – 27th, 2016, Holiday Craft & Gift Exposition.
3. The applicant shall contact the Milwaukee County Sherriff’s Department if parking demand exceeds parking capacity, or if vehicle stacking on the access driveway becomes congested and blocks emergency access to the facility.

JAMES C. TORBENSON/TORBENSON SHOWS LLC – TEMPORARY USE
RESOLUTION NO. 2016-_____

Page 2

Introduced at a regular meeting of the Plan Commission of the City of Franklin this _____ day of _____, 2016.

Passed and adopted at a regular meeting of the Plan Commission of the City of Franklin this _____ day of _____, 2016.

APPROVED:

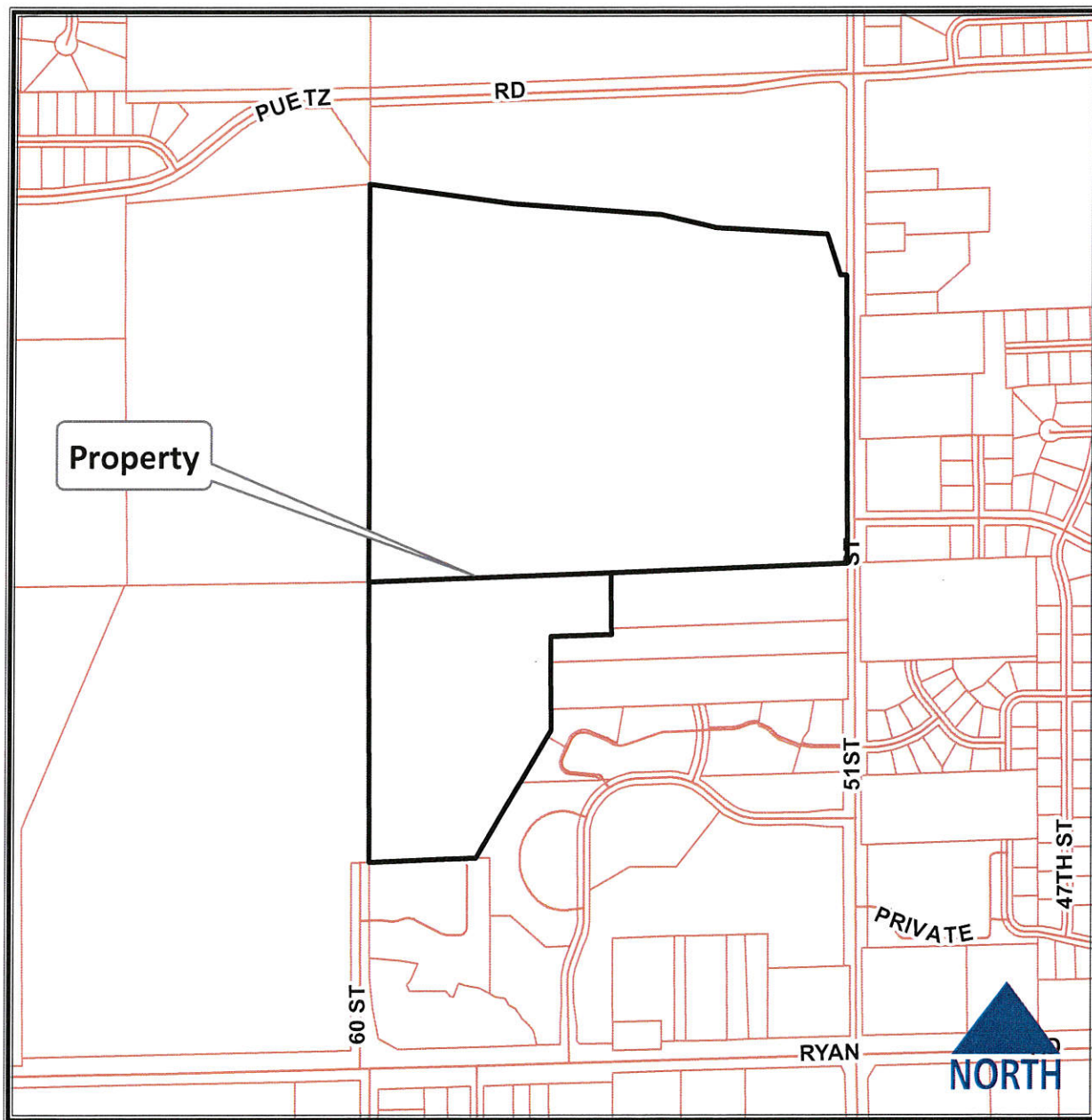
Stephen R. Olson, Chairman

ATTEST:

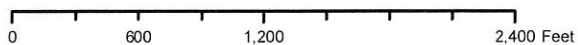
Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

6000 West Ryan Road
TKN 882-9987-001 & 852-9999-001



Planning Department
(414) 425-4024

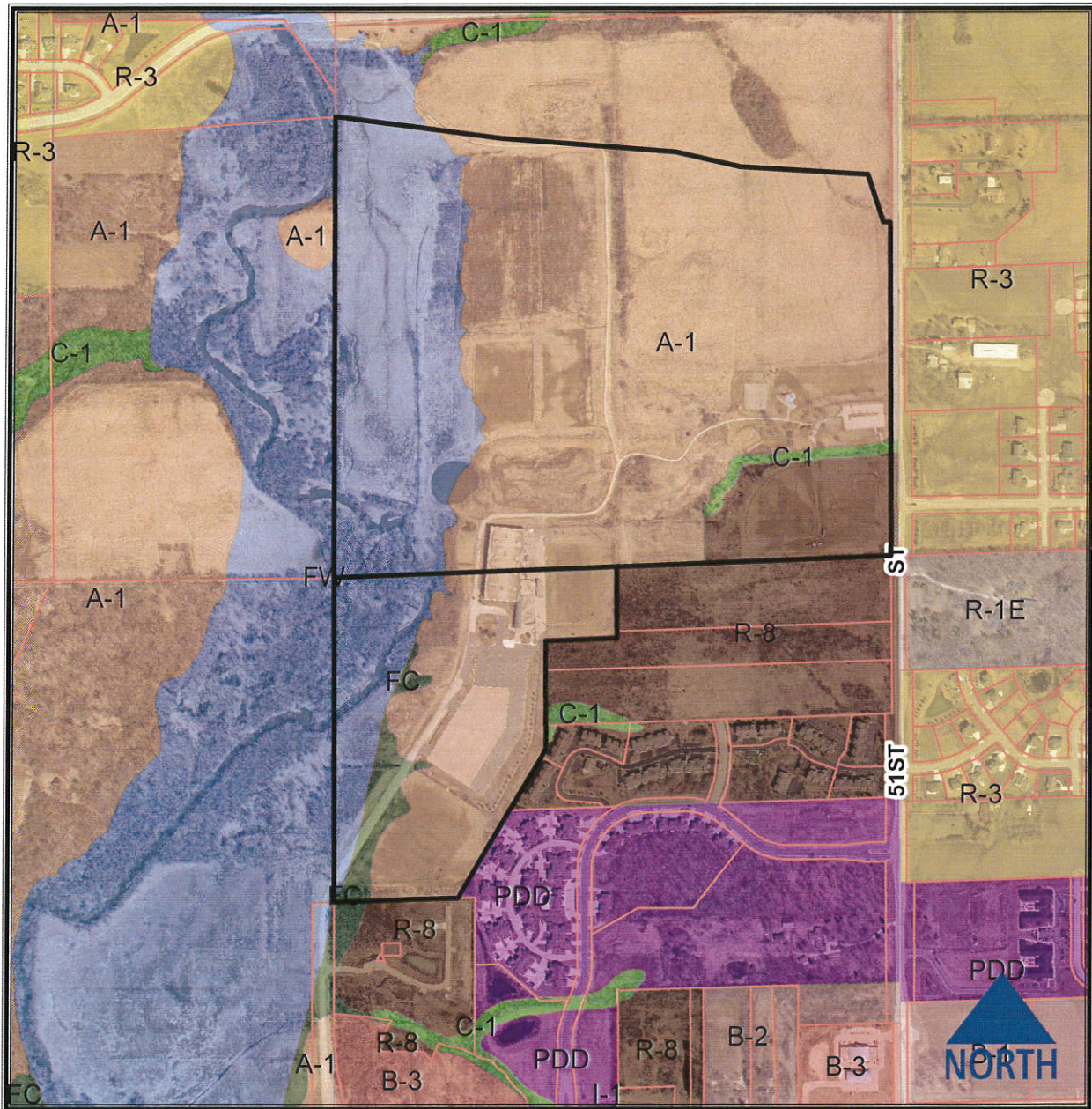


2013 Aerial Photo

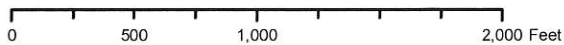
This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.



6000 West Ryan Road TKN 882-9987-001 & 852-9999-001



Planning Department
(414) 425-4024



2013 Aerial Photo

This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

City of Franklin
Planning Department
9229 West Loomis Road
Franklin, Wisconsin 53132

To Whom This May Concern,

Please find enclosed, my Temporary Use Application, regarding the use of the Franklin Sports Complex at 6000 West Ryan Road over the Thanksgiving weekend 2016. The dates of the Holiday Craft and Gift Expo would be November 25th, 26th, and 27th. Move-in to the building would be Wednesday November 23rd. The exposition folk will be setting up the booth floor plan from six AM on. Vendors will move into the complex from Noon to eight PM. The Complex is closed and locked down Thanksgiving Day. Our hours for the upcoming show have been somewhat adjusted: Friday November 25th 9:00 AM to 5:00 PM (shortened from seven PM). Saturday November 26th 9:00 AM to 5:00PM, and Sunday November 27th 10:00 AM to 4:00 PM. We intend to vacate the Sports Complex completely by nine PM Sunday evening November 27th.

Our first effort in 2012 was well advertised, and well attended. We appreciate the support we received from the City of Franklin services, Police and traffic control. Parking space at the Sports Complex was more than adequate to accommodate the show crowds. We also appreciate the presence of the Milwaukee County Sherriff's Department during the show weekend. We will continue to communicate with the Sherriff's office and local police should we be graced with crowd sizes that might create traffic or parking congestion. We have not faced parking or traffic issues over the last four years, unfortunately.

We continue to aggressively advertise the Holiday Craft and Gift Expo on TV, radio, and newspapers. The show is a great venue for family and hopefully for the Franklin community. We hope to continue the Holiday Craft and Gift Expo at the Sports Complex, and create a tradition that residents of Franklin, and all surrounding areas might look forward to attending. The Expo presents a number of Artists, Crafters, and Gifters from several states. Shoppers are typically those seeking unique gifts, foods, and decorations for the upcoming Christmas Holiday.

Please schedule our application for an upcoming Planning Commission meeting. I have included seven copies of the show floor plan, and six copies of this letter, our project narrative.

My check for \$50.00 is enclosed with my application.

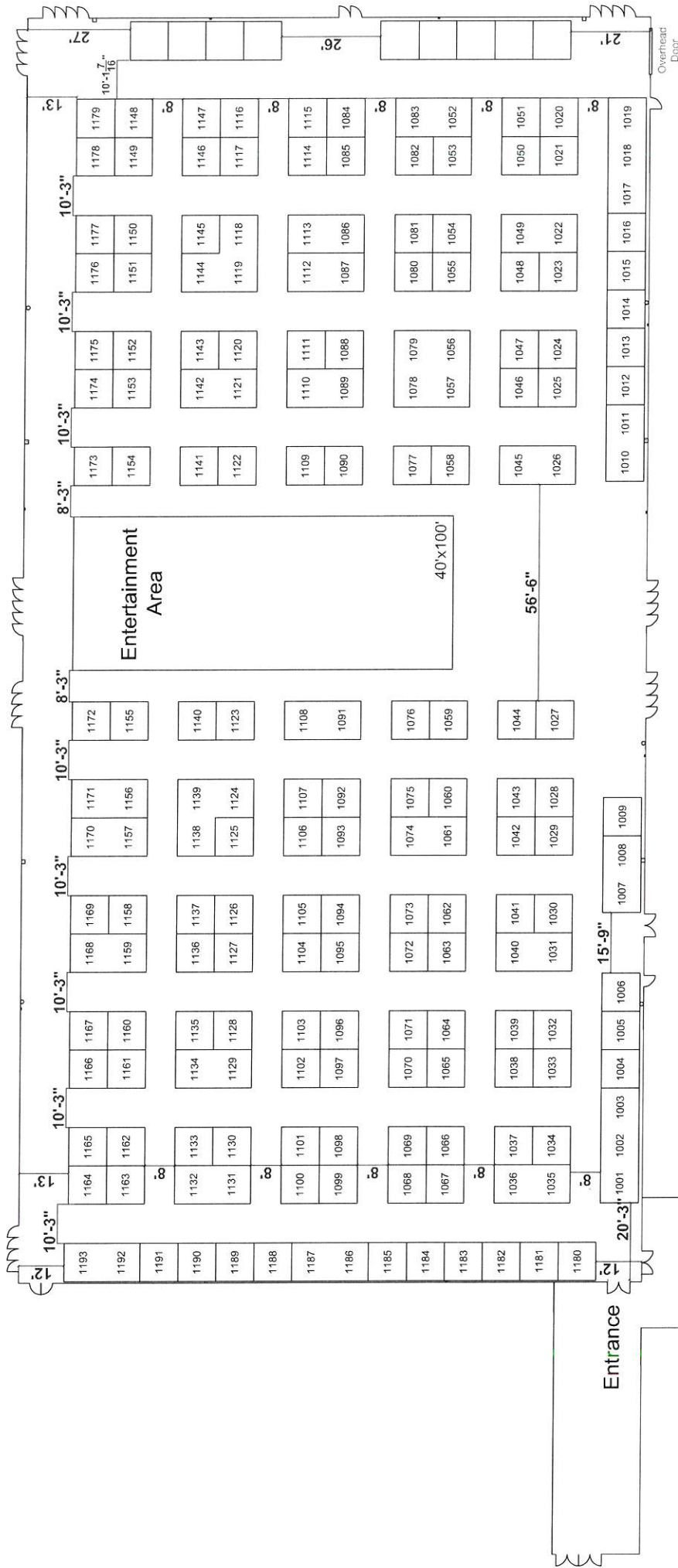
Best Regards,

Jim Torbenson
Torbenson Shows LLC
Holiday Craft and Gift Expo

Franklin

JUN 20 2016

City Development



WI Holiday Craft & Gift Expo November 28-30, 2014

| | | |
|----------------------------------|---|-------------------------------|
| Milwaukee County Sports Complex | ITEM DESCRIPTION: (202) 10' X 10' BOOTHS | SCALE IN FEET 0 5 10 15 20 |
| DRAWN BY: Wisconsin Expo Inc. | REVISED: 11-11-2014 | |

wisconsin expo inc.

Franklin

JUN 20 2016

City Development