

<b>APPROVAL</b>  <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  <b>04/16/19</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ZONING MAP) TO REZONE TWO PARCELS OF LAND FROM R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY DISTRICT TO R-6 SUBURBAN SINGLE- FAMILY RESIDENCE DISTRICT FOR THE PROPERTY LOCATED AT 8547 AND 8567 SOUTH 76TH STREET (APPROXIMATELY 0.48 ACRES) (2 MIKE'S LLC, APPLICANT)</b>	<b>ITEM NUMBER</b>  <i>G.9.</i>

At their April 4, 2019 meeting, following a properly noticed public hearing, the Plan Commission recommended approval of an ordinance to amend the Unified Development Ordinance (Zoning Map) to rezone Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin as follows: from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District (20,763 square feet (0.48 acres) (2 Mike's, LLC, Applicant).

#### **COUNCIL ACTION REQUESTED**

A motion to adopt Ordinance 2019-\_\_\_\_\_, an ordinance to amend the Unified Development Ordinance (Zoning Map) to rezone Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin as follows: from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District (20,763 square feet (0.48 acres) (2 Mike's, LLC, Applicant).

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

ORDINANCE NO. 2019-\_\_\_\_\_

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT  
ORDINANCE (ZONING MAP) TO REZONE TWO PARCELS OF LAND FROM R-6  
SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY  
DISTRICT TO R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT FOR THE  
PROPERTY LOCATED AT 8547 AND 8567 SOUTH 76TH STREET  
(APPROXIMATELY 0.48 ACRES)  
(2 MIKE'S LLC, APPLICANT)

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WHEREAS, 2 Mike's LLC having petitioned for the rezoning of two parcels of land from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District, such land being located at 8547 and 8567 South 76th Street; and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 4th day of April, 2019, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1:           §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for the property described below be changed from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District:

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East along the east line of said

Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning;

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°26'06" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 24°13'19" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 18°37'09" West, 36.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning. Containing in all 20,763 square feet (0.48 acres) of lands, more or less. Tax Key Nos. 838-9984-000 and 838-9985-000.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ORDINANCE NO. 2019-\_\_\_\_\_

Page 3

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_





# CITY OF FRANKLIN

## REPORT TO THE PLAN COMMISSION

Meeting of April 4, 2019

### Rezoning and Certified Survey Map

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**RECOMMENDATION:** City Development staff recommends approval of the Rezoning and Certified Survey Map upon property located at 8547 and 8567 S. 76<sup>th</sup> Street, subject to the conditions of approval in the attached draft resolution.

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<b>Project Name:</b>	2 Mike's, LLC Rezoning and Certified Survey Map (CSM)
<b>Project Address:</b>	8547 and 8567 S. 76 <sup>th</sup> Street
<b>Applicants:</b>	Mike Hurst, 2 Mike's LLC
<b>Owner (property):</b>	2 Mike's LLC
<b>Current Zoning:</b>	R-6, Suburban Single-Family Residence District with C-1, Conservation Overlay
<b>2025 Comprehensive Master Plan</b>	Residential and Areas of Natural Resource Features
<b>Use of Surrounding Properties:</b>	Residential to the North, East, West and South.
<b>Applicant Action Requested:</b>	Recommendation of approval for the proposed Rezoning and Certified Survey Map.

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#### **PROJECT DESCRIPTION/ANALYSIS**

Please note:

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

On August 16, 2018, the applicant filed a Certified Survey Map (CSM) Application requesting approval of a 4 Lot CSM to subdivide the two existing properties located at 8547 and 8567 South 76<sup>th</sup> Street into four separate lots. On January 31, 2019, the applicant revised their plans and submitted plans to propose a three lot CSM to subdivide the two existing properties into two lots and one large Outlot to the west of the proposed single family home lots fronting on 76<sup>th</sup> Street.

The property is currently zoned R-6 Suburban Single-Family Residence District and C-1 Conservancy District and is designated as Residential and Areas of Natural Resource Features on the City's 2025 Future Land Use Map.

On February 22, 2019, the applicant filed a Rezoning Application requesting the rezoning of the property from R-6 and C-1 to R-6, as the City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements.

#### **REZONING ANALYSIS**

Staff has reviewed the rezoning application and has received all of the necessary items to process the request.

The rezoning request will serve to provide for removing the now defunct C-1 Conservancy district and amend the zoning district designation to reflect the current R-6 designation for the area for the subject properties.

### **CERTIFIED SURVEY MAP ANALYSIS**

Lot 1 and Lot 2 consist of the existing homes abutting South 76<sup>th</sup> Street. Outlot 1 will have access from Old Orchard Lane and from Clayton Court.

Lot 1 and Lot 2 will each have at least one acre, with Lot 1 having 44,930 square feet and Lot 2 having 46,808 square feet, which meets the R-6 District minimum lot area of 11,000 square feet. The home on Lot 2 does not meet the 40-foot front yard setback from South 76<sup>th</sup> Street; therefore, it is a legal nonconforming structure. Note that this is an existing nonconformity, which is not becoming greater due to the land division. Otherwise, all lots comply with the Development Standards of the R-6 District.

Outlot 1 has an area of 327,112 square feet (about 7.51 acres). Staff is not aware of any development plans for this lot. As an Outlot designation, construction is not permitted until such time the Outlot designation is removed by the City through a new CSM or subdivision plat.

#### **Sewer and Water**

Public sewer and water is available to the proposed lots. Development of any homes in the future will be required to connect to these facilities.

#### **Natural Resource Protection Plan:**

The subject property contains a wetland as illustrated on the CSM. Wisconsin Department of Natural Resources mapping also shows an intermittent stream on the property.

Staff is recommending the following conditions related to natural resources:

- A conservation easement protecting the stream, shore buffer, wetland and 30-foot wetland buffer shall be submitted for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds at the time of recording the CSM.
- The conservation easement boundary shall be labeled on the CSM.
- Upon future development of Outlot 1, signage, boulders or other demarcation method, as may be approved by the Planning Manager, shall be utilized to mark the location of the conservation easement boundary on the property of these lots or any future individual lots that may be created.

### **STAFF RECOMMENDATION**

City Development staff recommends approval of the Rezoning and Certified Survey Map, subject to the conditions of approval in the attached draft resolution and draft ordinance.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

[Draft 3-29-19 revised]

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION CONDITIONALLY APPROVING A 3 LOT  
CERTIFIED SURVEY MAP, BEING A PART OF THE SOUTHEAST  
1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH,  
RANGE 21 EAST, LOCATED IN THE CITY OF FRANKLIN,  
MILWAUKEE COUNTY, WISCONSIN  
(2 MIKE'S LLC, APPLICANT)  
(8547 AND 8567 SOUTH 76TH STREET)

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WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, located in the City Of Franklin, Milwaukee County, Wisconsin, more specifically, of the properties located at 8547 and 8567 South 76th Street, bearing Tax Key Nos. 838-9984-000 and 838-9985-000, 2 Mike's LLC, applicant; said certified survey map having been reviewed by the City Plan Commission and the Plan Commission having recommended approval thereof pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed certified survey map is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Certified Survey Map submitted by 2 Mike's LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, prior to recording.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9. of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.
3. Each and any easement shown on the Certified Survey Map shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form

2 MIKE'S LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2019-\_\_\_\_\_

Page 2

and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Certified Survey Map.

4. 2 Mike's LLC, successors and assigns, and any developer of the 2 Mike's LLC 3 lot certified survey map project, 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 consults to the City of Franklin, 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.
5. The approval granted hereunder is conditional upon 2 Mike's LLC and the 3 lot certified survey map project for the properties located at 8547 and 8567 South 76th Street: (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.
6. The applicant shall prepare a conservation easement protecting the stream, shore buffer, wetland, and 30-foot wetland setback for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds Office at the time of recording of the Certified Survey Map.
7. The applicant shall include the conservation easement boundary on the Certified Survey Map, for review and approval by the Department of City Development prior to recording with the Milwaukee County Register of Deeds Office.
8. Upon future development of Outlot 1, the applicant shall install signage, boulders, or other demarcation method, as may be approved by the Planning Manager, to mark the location of the conservation easement boundary on the subject outlot property.
9. [other conditions, etc.]

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owner, 2 Mike's LLC, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.

2 MIKE'S LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2019-\_\_\_\_\_

Page 3

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a certified survey map, the City Clerk is hereby directed to obtain the recording of the Certified Survey Map, certified by owner, 2 Mike's LLC, with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY  
[Draft 3-18-19]

ORDINANCE NO. 2019-\_\_\_\_

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT  
ORDINANCE (ZONING MAP) TO REZONE TWO PARCELS OF LAND FROM R-6  
SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY  
DISTRICT TO R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT FOR THE  
PROPERTY LOCATED AT 8547 AND 8567 SOUTH 76TH STREET  
(APPROXIMATELY 0.48 ACRES)  
(2 MIKE'S LLC, APPLICANT)

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WHEREAS, 2 Mike's LLC having petitioned for the rezoning of two parcels of land from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District, such land being located at 8547 and 8567 South 76th Street; and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 4th day of April, 2019, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1:        §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for the property described below be changed from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District:

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East along the east line of said

Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning;

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°26'06" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 24°13'19" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 18°37'09" West, 36.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning. Containing in all 20,763 square feet (0.48 acres) of lands, more or less. Tax Key Nos. 838-9984-000 and 838-9985-000.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ORDINANCE NO. 2019-\_\_\_\_  
Page 3

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_



**City of Franklin**  
**Department of City Development**

Date: March 5, 2019

To: Michael Hurst, owner, 2 Mike's LLC

From: Department of City Development Staff – Ben Kohout

RE: 2 Mike's, LLC Rezoning – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Re Zoning Application submitted by Michael Hurst and date stamped by the City of Franklin on January 31, 2019.

**Department of City Development Staff Comments**

1. Please indicate the amount of land being rezoned with the included description (in acres). 0.48 ACRE
2. Please resubmit 12 collated copies of all submittal items, folded into 8.5" x 11" packets by Monday, March 11, 2019, to meet public hearing guidelines, for the Thursday, April 4, 2019 Planning Commission meeting. ✓

**Police Department Comments**

3. No comments.

**Fire Department Comments**

4. No comments.

**Engineering Department Comments**

5. No comments.

Franklin  
MAR 08 2019  
City Development

## **City of Franklin**

### **Department of City Development**

Date: March 5, 2019

To: Rizal Iskandarsjach, JSD Professional Services, Inc.

From: Department of City Development Staff – Ben Kohout

RE: 2 Mike's, LLC Certified Survey Map – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Certified Survey Map Application submitted by Rizal Iskandarsjach and date stamped by the City of Franklin on January 31, 2019.

#### **Department of City Development Staff Comments**

1. A conservation easement is required to protect the wetland and 30-foot wetland buffer. The wetland buffer boundary must be labeled as the 30-foot wetland buffer and Conservation Easement. The City's conservation easement template is attached. Note that the Conservation Easement must be reviewed and approved by the Common Council and recorded with the Milwaukee County Register of Deeds. **Please change page 3 signature line to reflect: Nicholas Fuchs change to "Benjamin Kohout".**
2. Milwaukee County comments will be forwarded to you as soon as they are received.

#### **Engineering Department Comments**

3. Engineering has no comments on this proposal. Engineering will recommend its approval based on the review comments from Milwaukee County.

#### **Police Department Comments**

4. No comments.

#### **Fire Department Comments**

5. No comments.

## **City of Franklin**

### **Department of City Development**

Date: August 30, 2018

To: Rizal Iskandarsjach, JSD Professional Services, Inc.

From: Department of City Development Staff

RE: 2 Mike's, LLC Certified Survey Map – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Certified Survey Map Application submitted by Rizal Iskandarsjach and date stamped by the City of Franklin on August 16, 2018.

#### **Department of City Development Staff Comments**

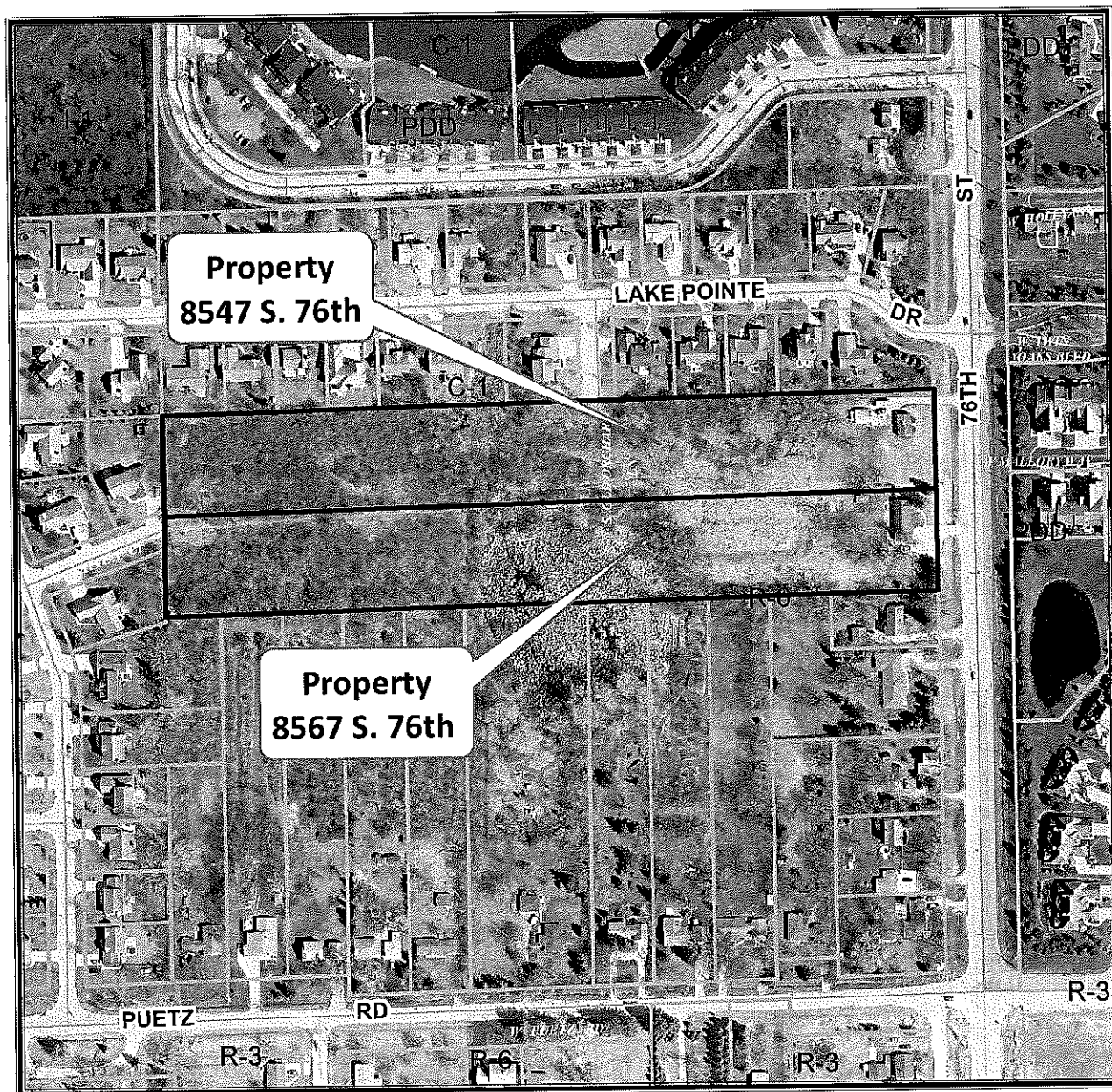
1. The CSM must illustrate the 30-foot wetland buffer and 50-foot wetland setback in addition to the wetland boundary.
2. A conservation easement is required to protect the wetland and 30-foot wetland buffer. The wetland buffer boundary must be labeled as the 30-foot wetland buffer and Conservation Easement. The City's conservation easement template is attached. Note that the Conservation Easement must be reviewed and approved by the Common Council and recorded with the Milwaukee County Register of Deeds.
3. A navigability determination is required. Please contact the Wisconsin Department of Natural Resources. The intermittent stream on the property must be shown and protected as part of the conservation easement as well as the 75-foot shore buffer.
4. Staff recommends rezoning the C-1 District portion of the property to R-6 Suburban Single-Family Residence District. The City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements. A Rezoning Application is attached.
5. Please complete and submit the attached Site Intensity and Capacity Calculation Worksheets.
6. Please be aware that the 40-foot front yard setback from S. 76<sup>th</sup> Street for the existing home on Lot 2 is not met; therefore, that home is legal nonconforming structure.
7. Please delete "Overlay" in the zoning note on Sheet 1 for the C-1 Conservancy District.
8. Please label the rear yard setbacks on Sheet 3 for all structures. Note a 30-foot minimum rear yard setback is required.
9. Please label the pool deck setbacks. Note a minimum 10-foot side yard setback is required.
10. Staff recommends a note be added to the CSM stating that upon further land division or development upon Lot 3 and Lot 4, a complete Natural Resource Protection Plan in compliance with Division 15-7.0200 of the Unified

Development Ordinance shall be submitted to the Department of City Development for review and approval. Alternatively, a Natural Resource Protection Plan may be submitted prior to the recording of the Certified Survey Map or a letter provided stating that no other protected resources exist onsite other than the wetlands depicted on the CSM.

11. Please add that the property is served by public water to the sewer note on Sheet 2 of the CSM.
12. Staff anticipates recommending, as a condition of approval, that no direct driveway access shall be allowed to Clayton Court and Old Orchard Lane.
13. As no development is planned at this time, staff recommends that Lot 3 and Lot 4 be revised to Outlot 3 and Outlot 4.
14. Please be aware that upon development of Lots 3 and 4, staff may recommend that signage, boulders or other demarcation method, as may be approved by the Planning Manager, be utilized to mark the location of the conservation easement boundary on the property of these lots or any future individual lots that may be created.
15. Please provide a line table for the wetland delineation.
16. Milwaukee County comments will be forwarded to you as soon as they are received.



8547 & 8567 S. 76th Street  
TKN: 838 9984 000  
838 9985 000



Planning Department  
(414) 425-4024

0 155 310 620 Feet

*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.*



2016 Aerial Photo



8547 & 8567 S. 76th Street  
TKN: 838 9984 000  
838 9985 000



Planning Department  
(414) 425-4024

0 155 310 620 Feet



2016 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.*

**Project Summary for Rezoning Request**  
**from R-6 and C-1 to R-6:**

The rezoning request is part of the proposed land division for the 2 Mike's LLC properties. City Staff advised the rezoning of the C-1 District portion of the property to R-6 Suburban Single-Family Residence District. The City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements. A Rezoning was needed. The land division plan is to divide the property of the 8547 and 8567 South 76th Street residential Lots for the sales of the smaller Lots. The remaining Outlot, where the rezoning land is located, may be further develop in the future. Any future development will be submitted to the City at that time.

**Legal Description for Property seeking  
Rezoning Request from R-6 and C-1 to R-6:**

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning;

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°26'06" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 24°13'19" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 18°37'09" West, 36.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning.

Containing in all 20,763 square feet (0.48 acres) of lands, more or less.

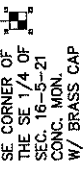


**ISD** Professional Services, Inc.  
Engineers • Surveyors • Planners

"BUILDING RELATIONSHIPS WITH A COMMITMENT TO CLIENTS' SATISFACTION AND THE INTEGRITY OF THE PROFESSION"

CIVIL ENGINEERING & MAPPING  
SURVEYING  
CONSTRUCTION SERVICES  
WATER RESOURCES  
PLANNING & DEVELOPMENT  
TRANSPORTATION ENGINEERING  
LANDSCAPE ARCHITECTURE

MILWAUKEE REGIONAL OFFICE  
1000 W. WISCONSIN ROAD, SUITE 400  
MILWAUKEE, WI 53233-4018  
262.543.0600 PHONE 1-262-543.1222 FAX  
KENSHAW • APPLETON



**REZONING LEGAL DESCRIPTION:**

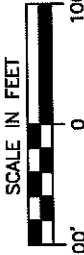
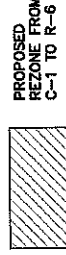
Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S08°34'47"E	32.82'
L2	S11°43'18"E	33.50'
L3	S09°54'01"E	39.59'
L4	S28°52'54"E	41.00'
L5	S22°38'07"E	31.73'
L6	S34°49'15"E	34.40'
L7	S27°32'34"E	31.85'
L8	S27°15'06"E	45.58'
L9	S24°26'06"E	29.67'
L10	S13°25'57"E	34.41'
L11	S88°29'22"W	65.71'
L12	N21°59'03"W	14.10'

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East, along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West, along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Orchard Subdivision, thence continuing South 88°31'22" West, along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning.

[illegible]

Containing in all 20.763 square feet (0.48 acres) of lands, more or less.



CS-01

# PLAT OF SURVEY

**Call 811 or (800) 242-6811**  
Missouri Ave (262) 432-7910  
Hearing Impaired TDD (800) 542-2265  
**[www.DiggerAlert.com](http://www.DiggerAlert.com)**

[illegible]

## CONSERVATION EASEMENT

Outlot 1 CSM No. \_\_\_\_\_

This Conservation easement is made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "Grantee," and 2 Mike's, LLC, Inc., a Limited Liability Corporation, hereinafter referred to as "Grantor," and shall become effective upon the recording of this Grant of Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes.

### WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within the City of Franklin, Milwaukee County, Wisconsin, Southeast 1/4 of the Southeast of Section 16, Township 5 North, Range 21 East, described in Exhibit A attached hereto and hereby made a part hereof (protected property); and

WHEREAS, the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, mature woodlands, young woodlands, wetland buffers, wetlands and shoreland wetlands, and refer to Natural Resource Investigation by JSD Professional Services, dated April 11, 2018, which is located in the office of the Department of City Development, be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems; and

WHEREAS, Grantee is a "holder", as contemplated by §700.41(1)(b)1. of the Wisconsin Statutes, whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under §62.23 and §236.45 of the Wisconsin Statutes, the conservation of land, natural areas, open space, and water areas; and

WHEREAS, the Grantor and Grantee, by the conveyance to the Grantee of the conservation easement on, over, and across the protected property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this conservation easement; and

WHEREAS, the Grantee is willing to accept this conservation easement subject to the reservations and to the covenants, terms, conditions, and restrictions set out herein and imposed hereby;

WHEREAS, **TRI CITY BANK**, mortgagee of the Protected Property ("Mortgagee"), consents to the grant of this Easement by Grantor to Grantee and Mortgagee's consent is attached hereto and identified as "Mortgage Holder Consent".

NOW, THEREFORE, the Grantor, for and in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions subsequently contained, and as an absolute and unconditional dedication, does hereby grant and convey unto the Grantee a conservation easement in perpetuity on, over, and across the protected property.

Grantee's rights hereunder shall consist solely of the following:

1. To view the protected property in its natural, scenic, and open condition;
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and
3. To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the Grantor is complying with the covenants and conditions of this grant.

And in furtherance of the foregoing affirmative rights of the Grantee, the Grantor makes the following covenants which shall run with and bind the protected property in perpetuity, namely, that, on, over, or across the protected property, the Grantor, without the prior consent of the Grantee, shall not:

1. Construct or place buildings or any structure;

2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage, and the like;
3. Excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for the removal of dead or diseased trees;
4. Conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;
5. Plant any vegetation not native to the protected property or not typical wetland vegetation;
6. Operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles.

To have and to hold this conservation easement unto the Grantee forever. Except as expressly limited herein, the Grantor reserves all rights as owner of the protected property, including, but not limited to, the right to use the protected property for all purposes not inconsistent with this grant. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the protected property pursuant to law.

The covenants, terms, conditions, and restrictions set forth in this grant shall be binding upon the Grantor and the Grantee and their respective agents, personal representatives, heirs, successors, and assigns, and shall constitute servitudes running with the protected property in perpetuity. This grant may not be amended, except by a writing executed and delivered by Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns. Notices to the parties shall be personally delivered or mailed by U.S. Mail registered mail, return receipt requested, as follows:

To Grantor:  
2 Mike's LLC  
Attn: Michael Hurst  
12900 W. National Ave.  
New Berlin, WI 53157

To Grantee:  
City of Franklin  
Office of the City Clerk  
9229 W. Loomis Road  
Franklin, WI 53132

In witness whereof, the grantor has set its hand and seals this on this date of \_\_\_\_\_, 20\_\_.

2 Mike's LLC

By: \_\_\_\_\_

Michael Hurst, managing member

STATE OF WISCONSIN       )  
  ) ss  
COUNTY OF MILWAUKEE    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_ by

Michael Hurst as managing member of 2 Mike's LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said limited liability company,

\_\_\_\_\_  
Notary Public

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

**Acceptance**

The undersigned does hereby consent to and accepts the Conservation Easement granted and conveyed to it under and pursuant to the foregoing Grant of Conservation Easement. In consideration of the making of such Grant Of Conservation Easement, the undersigned agrees that this acceptance shall be binding upon the undersigned and its successors and assigns and that the restrictions imposed upon the protected property may only be released or waived in writing by the Common Council of the City of Franklin, as contemplated by §236.293 of the Wisconsin Statutes.

In witness whereof, the undersigned has executed and delivered this acceptance on the \_\_\_\_ day of \_\_\_\_\_, A.D.20\_\_\_\_.

CITY OF FRANKLIN

By: \_\_\_\_\_  
Stephen R. Olson, Mayor

By: \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN       )  
  ) ss  
COUNTY OF MILWAUKEE    )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_, the above named Stephen R. Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority and pursuant to Resolution No. \_\_\_\_\_, adopted by its Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

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

This instrument was drafted by the City of Franklin.

Approved as to contents:

\_\_\_\_\_  
Benjamin Kohout, Principal Planner  
Department of City Development

\_\_\_\_\_  
Date

Approved as to form only:

\_\_\_\_\_  
Jesse A. Wesolowski  
City Attorney

\_\_\_\_\_  
Date

### MORTGAGE HOLDER CONSENT

The undersigned, Tri City Bank, a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on \_\_\_\_\_, 20\_\_\_\_, as Document No. \_\_\_\_\_, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Property.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers, and its corporate seal to be hereunto affixed, as of the day and year first above written.

Name of Mortgagee

Tri City Bank, a Wisconsin Banking Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN       )  
  )ss  
COUNTY OF MILWAUKEE    )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_ (name), the \_\_\_\_\_ (title) of Tri City Bank, a Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

Name: \_\_\_\_\_

Notary Public, State of Wisconsin

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

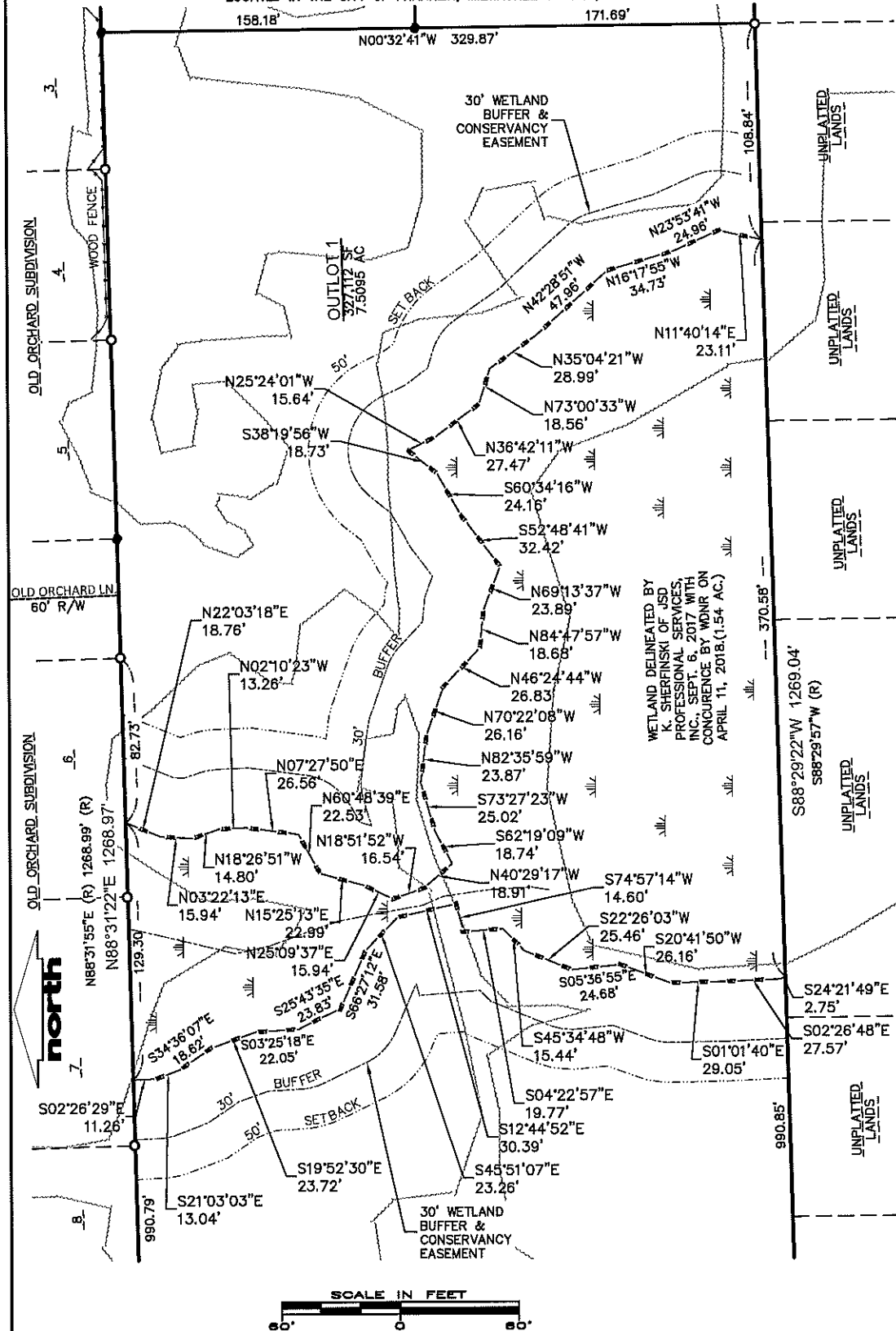
**Exhibit A**

Outlot 1 of Certified Survey Map No. \_\_\_\_\_, recorded in Milwaukee County Register of Deeds Office on \_\_\_\_ day of \_\_\_\_\_, 2019 as Document No. \_\_\_\_\_, being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, township 5 North, Range 21 East, located in the City of Franklin, Milwaukee County, Wisconsin.



# CERTIFIED SURVEY MAP No. \_\_\_\_\_

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.



DATED THIS \_\_\_\_\_ DAY OF MARCH, 2019  
THIS INSTRUMENT WAS DRAFTED BY RIZAL W. ISKANDARSJACH, S-2738

SHEET 2 OF 7

E:\2017\177832 Anderson Franklin\DWG\17-7932 CSK.dwg



# CERTIFIED SURVEY MAP No. \_\_\_\_\_

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

NE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

SE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

S 76TH ST. 120' R/W 80'  
E. LINE SE 1/4 SEC 16-5-21 N00°32'41"W 2637.83' (TOTAL)

S00°32'41"E 329.76'

164.88' 164.88' 278.15' 278.15'

158.18' 171.69'

N00°32'41"W 329.87'

30' WETLAND BUFFER & CONSERVANCY EASEMENT

WETLAND DELINEATED BY K. SHERFINSKI OF USD PROFESSIONAL SERVICES, INC. SEPT. 6, 2017 WITH CONCURRENCE BY WDNR ON APRIL 11, 2018 (1.54 AC.)

30' BUFFER 50' SETBACK

30' WETLAND BUFFER & CONSERVANCY EASEMENT

30' WETLAND BUFFER & CONSERVANCY EASEMENT

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30' WETLAND BUFFER & CONSERVANCY EASEMENT

## LEGEND:

- 1" IRON REBAR FOUND & ACCEPTED (OR SIZE AS NOTED)
- 1"X18" IRON PIPE SET WT. 1.13 LBS/LIN. FT.
- TREE LINE PER 2018 COUNTY AERIAL

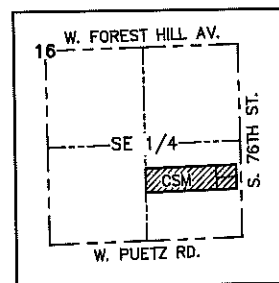
## NOTES:

CONTOUR BASED ON MILWAUKEE COUNTY GIS MAP  
SEE SHEET 4 OF 7 FOR LOT 1 AND LOT 2 DETAILS

LANDS SERVED BY PUBLIC WATER AND SANITARY SEWER

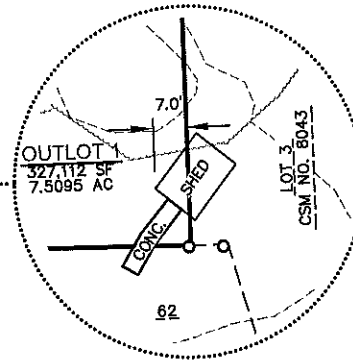
UPON FURTHER LAND DIVISION OR DEVELOPMENT OF OUTLOT 1, A COMPLETE NATURAL RESOURCE PROTECTION PLAN IN COMPLIANCE WITH DIVISION 15-7.0200 OF THE UNIFIED DEVELOPMENT ORDINANCE SHALL BE SUBMITTED TO THE DEPARTMENT OF CITY DEVELOPMENT FOR REVIEW AND APPROVAL

INTERMITTENT STREAM THAT RUNS THROUGH OUTLOT 1 WAS DETERMINED TO BE NON-NAVIGABLE BY ANDREA STERN, WATER MANAGEMENT SPECIALIST WITH WDNR ON SEPT. 12, 2018



## VICINITY MAP

SE 1/4 SEC 16-5-21  
SCALE: 1"=2000'



## ENCROACHMENT DETAIL

1" = 30'

DATED THIS \_\_\_\_\_ DAY OF MARCH, 2019  
THIS INSTRUMENT WAS DRAFTED BY RIZAL W. ISKANDARSJACH, S-2738

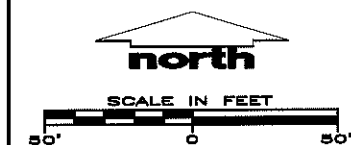
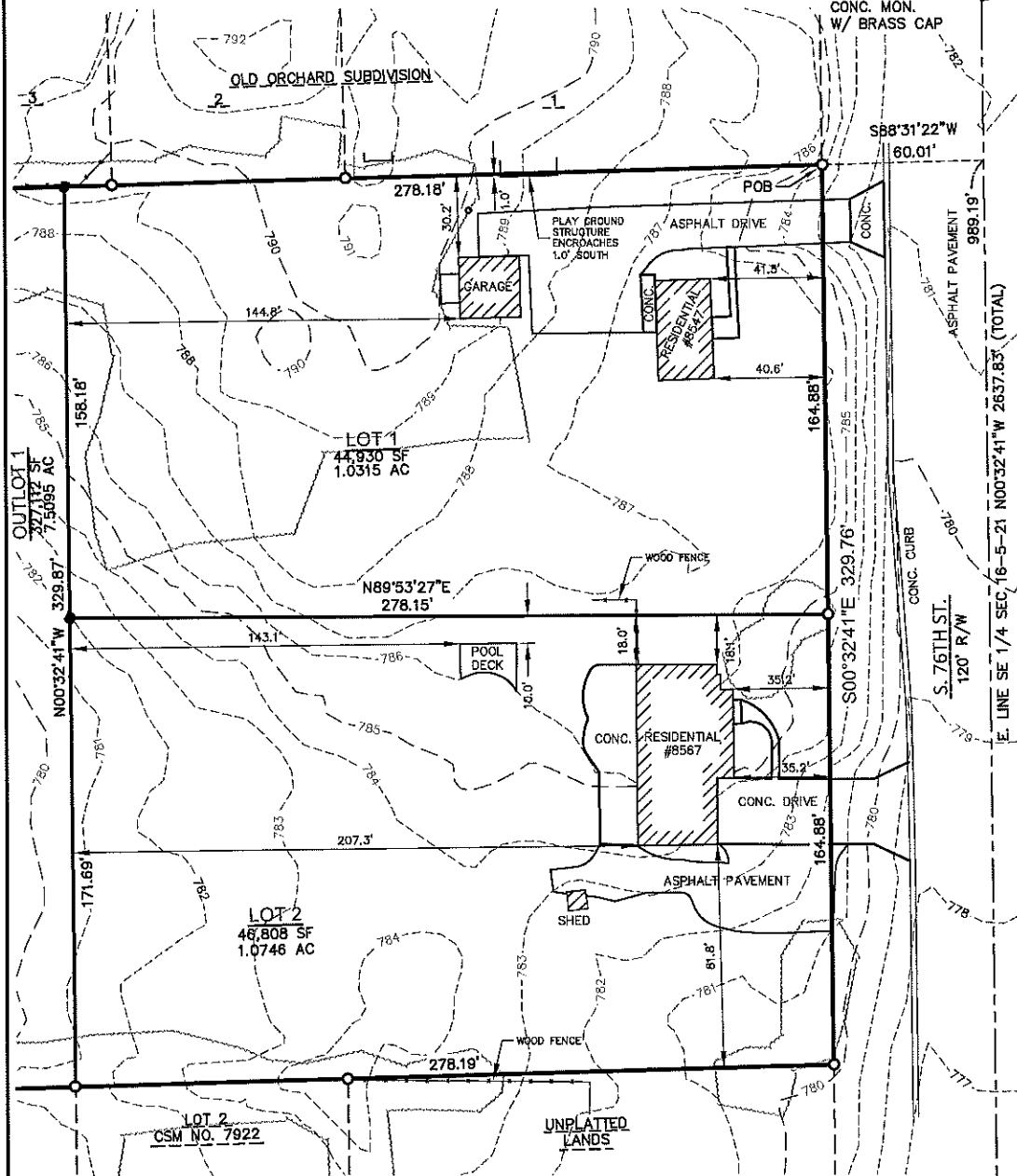
SHEET 3 OF 7

R:\2017\17832 Anderson Franklin DWG\17-7832 CSM.dwg

# CERTIFIED SURVEY MAP No. \_\_\_\_\_

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

NE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP



SE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

**CERTIFIED SURVEY MAP No. \_\_\_\_\_**

**BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.**

**SURVEYOR'S CERTIFICATE:**

State of Wisconsin )  
                                  ) SS  
Milwaukee County )

I, Rizal W. Iskandarsjach, Professional Land Surveyor, do hereby certify that I have surveyed, divided and mapped a part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" West along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, and the point of beginning;

Thence South 00°32'41" East along said west line of South 76th Street, 329.76 feet; thence South 88°29'22" West partially along the north line of Certified Survey Map No. 7922, partially along the north line of Certified Survey Map No. 4876, and partially along the north line of Certified Survey Map No. 8043, 1269.04 feet to the east line of Lot 62 of Old Orchard Addition No. 1 Subdivision; thence North 00°32'10" West along the east line of said Old Orchard Addition No. 1 Subdivision, 330.51 feet; to the southwest corner of Lot 12 of said Old Orchard Subdivision; thence North 88°31'22" East along the south line of said Old Orchard Subdivision, 1268.97 feet to the point of beginning.

Containing in all 418,886 square feet (9.6163 acres) of lands, more or less.

All subject to easements and restrictions of record, if any.

That I have made such survey, land division and map by the direction of 2 MIKE'S, LLC, owner of said land.

That such map is a correct representation of all exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the City of Franklin Unified Development Ordinance in surveying, dividing, dedicating and mapping the same.

DATED THIS \_\_\_\_ DAY OF MARCH, 2019

\_\_\_\_\_  
Rizal W. Iskandarsjach, P.L.S.  
Professional Land Surveyor, S-2738

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

2 MIKE'S, LLC, a Wisconsin limited liability company, as owner, does hereby certify that said company caused the land described in the foregoing affidavit of Rizal W. Iskandarsjach, to be surveyed, divided and mapped as represented on this map, in accordance with the provisions of Chapter 236 of the Wisconsin Statutes and the City of Franklin Unified Development Ordinance in surveying, dividing, dedicating and mapping.

\_\_\_\_\_(title)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the above named \_\_\_\_\_ of the above named company, to me known to be such \_\_\_\_\_ of said company, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

**CONSENT OF CORPORATE MORTGAGEE CERTIFICATE**

In witness hereof, the said Tri City Bank has caused these presents to be signed this \_\_\_\_\_ day of 2019.

(title)

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the above named \_\_\_\_\_ of the above named company, to me known to be such \_\_\_\_\_ of said company, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

DATED THIS \_\_\_\_ DAY OF MARCH, 2019  
THIS INSTRUMENT WAS DRAFTED BY RIZAL W. ISKANDARSJACH, S-2738

**DWP ASD / 7-15 PM / 0600**

**CERTIFIED SURVEY MAP No. \_\_\_\_\_**

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

**CITY OF FRANKLIN COMMON COUNCIL APPROVAL**

This Certified Survey Map is hereby approved by the Common Council of the City of Franklin on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

\_\_\_\_\_  
STEPHEN OLSON  
Mayor

\_\_\_\_\_  
(date)

\_\_\_\_\_  
SANDRA L. WESOLOWSKI  
City Clerk

\_\_\_\_\_  
(date)

**CITY OF FRANKLIN****REPORT TO THE PLAN COMMISSION**

Meeting of April 4, 2019

**Rezoning and Certified Survey Map**


---

**RECOMMENDATION:** City Development staff recommends approval of the Rezoning and Certified Survey Map upon property located at 8547 and 8567 S. 76<sup>th</sup> Street, subject to the conditions of approval in the attached draft resolution.

---

<b>Project Name:</b>	2 Mike's, LLC Rezoning and Certified Survey Map (CSM)
<b>Project Address:</b>	8547 and 8567 S. 76 <sup>th</sup> Street
<b>Applicants:</b>	Mike Hurst, 2 Mike's LLC
<b>Owner (property):</b>	2 Mike's LLC
<b>Current Zoning:</b>	R-6, Suburban Single-Family Residence District with C-1, Conservation Overlay
<b>2025 Comprehensive Master Plan</b>	Residential and Areas of Natural Resource Features
<b>Use of Surrounding Properties:</b>	Residential to the North, East, West and South.
<b>Applicant Action Requested:</b>	Recommendation of approval for the proposed Rezoning and Certified Survey Map.

---

**PROJECT DESCRIPTION/ANALYSIS**

Please note:

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

On August 16, 2018, the applicant filed a Certified Survey Map (CSM) Application requesting approval of a 4 Lot CSM to subdivide the two existing properties located at 8547 and 8567 South 76<sup>th</sup> Street into four separate lots. On January 31, 2019, the applicant revised their plans and submitted plans to propose a three lot CSM to subdivide the two existing properties into two lots and one large Outlot to the west of the proposed single family home lots fronting on 76<sup>th</sup> Street.

The property is currently zoned R-6 Suburban Single-Family Residence District and C-1 Conservancy District and is designated as Residential and Areas of Natural Resource Features on the City's 2025 Future Land Use Map.

On February 22, 2019, the applicant filed a Rezoning Application requesting the rezoning of the property from R-6 and C-1 to R-6, as the City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements.

**REZONING ANALYSIS**

Staff has reviewed the rezoning application and has received all of the necessary items to process the request.

The rezoning request will serve to provide for removing the now defunct C-1 Conservancy district and amend the zoning district designation to reflect the current R-6 designation for the area for the subject properties.

### **CERTIFIED SURVEY MAP ANALYSIS**

Lot 1 and Lot 2 consist of the existing homes abutting South 76<sup>th</sup> Street. Outlot 1 will have access from Old Orchard Lane and from Clayton Court.

Lot 1 and Lot 2 will each have at least one acre, with Lot 1 having 44,930 square feet and Lot 2 having 46,808 square feet, which meets the R-6 District minimum lot area of 11,000 square feet. The home on Lot 2 does not meet the 40-foot front yard setback from South 76<sup>th</sup> Street; therefore, it is a legal nonconforming structure. Note that this is an existing nonconformity, which is not becoming greater due to the land division. Otherwise, all lots comply with the Development Standards of the R-6 District.

Outlot 1 has an area of 327,112 square feet (about 7.51 acres). Staff is not aware of any development plans for this lot. As an Outlot designation, construction is not permitted until such time the Outlot designation is removed by the City through a new CSM or subdivision plat.

#### **Sewer and Water**

Public sewer and water is available to the proposed lots. Development of any homes in the future will be required to connect to these facilities.

#### **Natural Resource Protection Plan:**

The subject property contains a wetland as illustrated on the CSM. Wisconsin Department of Natural Resources mapping also shows an intermittent stream on the property.

Staff is recommending the following conditions related to natural resources:

- *A conservation easement protecting the stream, shore buffer, wetland and 30-foot wetland buffer shall be submitted for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds at the time of recording the CSM.*
- *The conservation easement boundary shall be labeled on the CSM.*
- *Upon future development of Outlot 1, signage, boulders or other demarcation method, as may be approved by the Planning Manager, shall be utilized to mark the location of the conservation easement boundary on the property of these lots or any future individual lots that may be created.*

### **STAFF RECOMMENDATION**

City Development staff recommends approval of the Rezoning and Certified Survey Map, subject to the conditions of approval in the attached draft resolution and draft ordinance.

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 4/16/19
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>A RESOLUTION CONDITIONALLY APPROVING A 3 LOT CERTIFIED SURVEY MAP, BEING A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST, LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN (2 MIKE'S LLC, APPLICANT) (8547 AND 8567 SOUTH 76TH STREET)</b>	<b>ITEM NUMBER</b> <i>G. 10.</i>

At its April 4, 2019, meeting the Plan Commission recommended approval of a resolution conditionally approving a 3-lot certified survey map, such map being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, located in the City Of Franklin, Milwaukee County, Wisconsin, more specifically, of the properties located at 8547 and 8567 South 76th Street, bearing Tax Key Nos. 838-9984-000 and 838-9985-000. (2 Mike's LLC, Applicant) (8547 and 8567 South 76<sup>th</sup> Street).

#### **COUNCIL ACTION REQUESTED**

A motion to adopt Resolution No. 2019-\_\_\_\_\_, a resolution conditionally approving a 3-lot certified survey map, such map being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, located in the City Of Franklin, Milwaukee County, Wisconsin (2 Mike's, LLC, Applicant) (8547 and 8567 South 76<sup>th</sup> Street).

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION CONDITIONALLY APPROVING A 3 LOT  
CERTIFIED SURVEY MAP, BEING A PART OF THE SOUTHEAST  
1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH,  
RANGE 21 EAST, LOCATED IN THE CITY OF FRANKLIN,  
MILWAUKEE COUNTY, WISCONSIN  
(2 MIKE'S LLC, APPLICANT)  
(8547 AND 8567 SOUTH 76TH STREET)

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WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, located in the City Of Franklin, Milwaukee County, Wisconsin, more specifically, of the properties located at 8547 and 8567 South 76th Street, bearing Tax Key Nos. 838-9984-000 and 838-9985-000, 2 Mike's LLC, applicant; said certified survey map having been reviewed by the City Plan Commission and the Plan Commission having recommended approval thereof pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed certified survey map is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Certified Survey Map submitted by 2 Mike's LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, prior to recording.
  2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9, of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.
  3. Each and any easement shown on the Certified Survey Map shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form
- 2 MIKE'S LLC – CERTIFIED SURVEY MAP

and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Certified Survey Map.

4. 2 Mike's LLC, successors and assigns, and any developer of the 2 Mike's LLC 3 lot certified survey map project, 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 consults to the City of Franklin, 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.
5. The approval granted hereunder is conditional upon 2 Mike's LLC and the 3 lot certified survey map project for the properties located at 8547 and 8567 South 76th Street: (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.
6. The applicant shall prepare a conservation easement protecting the stream, shore buffer, wetland, and 30-foot wetland setback for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds Office at the time of recording of the Certified Survey Map.
7. The applicant shall include the conservation easement boundary on the Certified Survey Map, for review and approval by the Department of City Development prior to recording with the Milwaukee County Register of Deeds Office.
8. Upon future development of Outlot 1, the applicant shall install signage, boulders, or other demarcation method, as may be approved by the Planning Manager, to mark the location of the conservation easement boundary on the subject outlot property.

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owner, 2 Mike's LLC, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a certified survey map, the City Clerk is hereby directed to obtain the recording of the Certified Survey Map, certified by owner, 2 Mike's LLC, with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this 16<sup>th</sup> day of April, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 16<sup>th</sup> day of April, 2019.

APPROVED:

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Stephen R. Olson, Mayor

ATTEST:

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Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**CITY OF FRANKLIN****REPORT TO THE PLAN COMMISSION**

Meeting of April 4, 2019

**Rezoning and Certified Survey Map**


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**RECOMMENDATION:** City Development staff recommends approval of the Rezoning and Certified Survey Map upon property located at 8547 and 8567 S. 76<sup>th</sup> Street, subject to the conditions of approval in the attached draft resolution.

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<b>Project Name:</b>	2 Mike's, LLC Rezoning and Certified Survey Map (CSM)
<b>Project Address:</b>	8547 and 8567 S. 76 <sup>th</sup> Street
<b>Applicants:</b>	Mike Hurst, 2 Mike's LLC
<b>Owner (property):</b>	2 Mike's LLC
<b>Current Zoning:</b>	R-6, Suburban Single-Family Residence District with C-1, Conservation Overlay
<b>2025 Comprehensive Master Plan</b>	Residential and Areas of Natural Resource Features
<b>Use of Surrounding Properties:</b>	Residential to the North, East, West and South.
<b>Applicant Action Requested:</b>	Recommendation of approval for the proposed Rezoning and Certified Survey Map.

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**PROJECT DESCRIPTION/ANALYSIS**

Please note:

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

On August 16, 2018, the applicant filed a Certified Survey Map (CSM) Application requesting approval of a 4 Lot CSM to subdivide the two existing properties located at 8547 and 8567 South 76<sup>th</sup> Street into four separate lots. On January 31, 2019, the applicant revised their plans and submitted plans to propose a three lot CSM to subdivide the two existing properties into two lots and one large Outlot to the west of the proposed single family home lots fronting on 76<sup>th</sup> Street.

The property is currently zoned R-6 Suburban Single-Family Residence District and C-1 Conservancy District and is designated as Residential and Areas of Natural Resource Features on the City's 2025 Future Land Use Map.

On February 22, 2019, the applicant filed a Rezoning Application requesting the rezoning of the property from R-6 and C-1 to R-6, as the City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements.

**REZONING ANALYSIS**

Staff has reviewed the rezoning application and has received all of the necessary items to process the request.

The rezoning request will serve to provide for removing the now defunct C-1 Conservancy district and amend the zoning district designation to reflect the current R-6 designation for the area for the subject properties.

### **CERTIFIED SURVEY MAP ANALYSIS**

Lot 1 and Lot 2 consist of the existing homes abutting South 76<sup>th</sup> Street. Outlot 1 will have access from Old Orchard Lane and from Clayton Court.

Lot 1 and Lot 2 will each have at least one acre, with Lot 1 having 44,930 square feet and Lot 2 having 46,808 square feet, which meets the R-6 District minimum lot area of 11,000 square feet. The home on Lot 2 does not meet the 40-foot front yard setback from South 76<sup>th</sup> Street; therefore, it is a legal nonconforming structure. Note that this is an existing nonconformity, which is not becoming greater due to the land division. Otherwise, all lots comply with the Development Standards of the R-6 District.

Outlot 1 has an area of 327,112 square feet (about 7.51 acres). Staff is not aware of any development plans for this lot. As an Outlot designation, construction is not permitted until such time the Outlot designation is removed by the City through a new CSM or subdivision plat.

#### **Sewer and Water**

Public sewer and water is available to the proposed lots. Development of any homes in the future will be required to connect to these facilities.

#### **Natural Resource Protection Plan:**

The subject property contains a wetland as illustrated on the CSM. Wisconsin Department of Natural Resources mapping also shows an intermittent stream on the property.

Staff is recommending the following conditions related to natural resources:

- A conservation easement protecting the stream, shore buffer, wetland and 30-foot wetland buffer shall be submitted for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds at the time of recording the CSM.
- The conservation easement boundary shall be labeled on the CSM.
- Upon future development of Outlot 1, signage, boulders or other demarcation method, as may be approved by the Planning Manager, shall be utilized to mark the location of the conservation easement boundary on the property of these lots or any future individual lots that may be created.

### **STAFF RECOMMENDATION**

City Development staff recommends approval of the Rezoning and Certified Survey Map, subject to the conditions of approval in the attached draft resolution and draft ordinance.

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY  
[Draft 3-29-19 revised]

RESOLUTION NO. 2019-\_\_\_\_\_

A RESOLUTION CONDITIONALLY APPROVING A 3 LOT  
CERTIFIED SURVEY MAP, BEING A PART OF THE SOUTHEAST  
1/4 OF THE SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH,  
RANGE 21 EAST, LOCATED IN THE CITY OF FRANKLIN,  
MILWAUKEE COUNTY, WISCONSIN  
(2 MIKE'S LLC, APPLICANT)  
(8547 AND 8567 SOUTH 76TH STREET)

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WHEREAS, the City of Franklin, Wisconsin, having received an application for approval of a certified survey map, such map being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, located in the City Of Franklin, Milwaukee County, Wisconsin, more specifically, of the properties located at 8547 and 8567 South 76th Street, bearing Tax Key Nos. 838-9984-000 and 838-9985-000, 2 Mike's LLC, applicant; said certified survey map having been reviewed by the City Plan Commission and the Plan Commission having recommended approval thereof pursuant to certain conditions; and

WHEREAS, the Common Council having reviewed such application and Plan Commission recommendation and the Common Council having determined that such proposed certified survey map is appropriate for approval pursuant to law upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the Certified Survey Map submitted by 2 Mike's LLC, as described above, be and the same is hereby approved, subject to the following conditions:

1. That any and all objections made and corrections required by the City of Franklin, by Milwaukee County, and by any and all reviewing agencies, shall be satisfied and made by the applicant, prior to recording.
2. That all land development and building construction permitted or resulting under this Resolution shall be subject to impact fees imposed pursuant to §92-9. of the Municipal Code or development fees imposed pursuant to §15-5.0110 of the Unified Development Ordinance, both such provisions being applicable to the development and building permitted or resulting hereunder as it occurs from time to time, as such Code and Ordinance provisions may be amended from time to time.
3. Each and any easement shown on the Certified Survey Map shall be the subject of separate written grant of easement instrument, in such form as provided within the *City of Franklin Design Standards and Construction Specifications* and such form

2 MIKE'S LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2019-\_\_\_\_\_

Page 2

and content as may otherwise be reasonably required by the City Engineer or designee to further and secure the purpose of the easement, and all being subject to the approval of the Common Council, prior to the recording of the Certified Survey Map.

4. 2 Mike's LLC, successors and assigns, and any developer of the 2 Mike's LLC 3 lot certified survey map project, 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 consults to the City of Franklin, 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.
5. The approval granted hereunder is conditional upon 2 Mike's LLC and the 3 lot certified survey map project for the properties located at 8547 and 8567 South 76th Street: (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.
6. The applicant shall prepare a conservation easement protecting the stream, shore buffer, wetland, and 30-foot wetland setback for review and approval by the Common Council and recording with the Milwaukee County Register of Deeds Office at the time of recording of the Certified Survey Map.
7. The applicant shall include the conservation easement boundary on the Certified Survey Map, for review and approval by the Department of City Development prior to recording with the Milwaukee County Register of Deeds Office.
8. Upon future development of Outlot 1, the applicant shall install signage, boulders, or other demarcation method, as may be approved by the Planning Manager, to mark the location of the conservation easement boundary on the subject outlot property.
9. [other conditions, etc.]

BE IT FURTHER RESOLVED, that the Certified Survey Map, certified by owner, 2 Mike's LLC, be and the same is hereby rejected without final approval and without any further action of the Common Council, if any one, or more than one of the above conditions is or are not met and satisfied within 180 days from the date of adoption of this Resolution.



2 MIKE'S LLC – CERTIFIED SURVEY MAP  
RESOLUTION NO. 2019-\_\_\_\_\_

Page 3

BE IT FINALLY RESOLVED, that upon the satisfaction of the above conditions within 180 days of the date of adoption of this Resolution, same constituting final approval, and pursuant to all applicable statutes and ordinances and lawful requirements and procedures for the recording of a certified survey map, the City Clerk is hereby directed to obtain the recording of the Certified Survey Map, certified by owner, 2 Mike's LLC, with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

STATE OF WISCONSIN

CITY OF FRANKLIN

MILWAUKEE COUNTY  
[Draft 3-18-19]

ORDINANCE NO. 2019-\_\_\_\_\_

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT  
ORDINANCE (ZONING MAP) TO REZONE TWO PARCELS OF LAND FROM R-6  
SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT AND C-1 CONSERVANCY  
DISTRICT TO R-6 SUBURBAN SINGLE-FAMILY RESIDENCE DISTRICT FOR THE  
PROPERTY LOCATED AT 8547 AND 8567 SOUTH 76TH STREET  
(APPROXIMATELY 0.48 ACRES)  
(2 MIKE'S LLC, APPLICANT)

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WHEREAS, 2 Mike's LLC having petitioned for the rezoning of two parcels of land from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District, such land being located at 8547 and 8567 South 76th Street; and

WHEREAS, a public hearing was held before the City of Franklin Plan Commission on the 4th day of April, 2019, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the 2025 Comprehensive Master Plan of the City of Franklin, Wisconsin and would promote the health, safety and welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1:           §15-3.0102 (Zoning Map) of the Unified Development Ordinance of the City of Franklin, Wisconsin, is hereby amended to provide that the zoning district designation for the property described below be changed from R-6 Suburban Single-Family Residence District and C-1 Conservancy District to R-6 Suburban Single-Family Residence District:

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East along the east line of said

Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning;

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°26'06" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 24°13'19" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 18°37'09" West, 36.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning. Containing in all 20,763 square feet (0.48 acres) of lands, more or less. Tax Key Nos. 838-9984-000 and 838-9985-000.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Alderman \_\_\_\_\_.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ORDINANCE NO. 2019-\_\_\_\_\_

Page 3

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

**City of Franklin**  
**Department of City Development**

Date: March 5, 2019

To: Michael Hurst, owner, 2 Mike's LLC

From: Department of City Development Staff – Ben Kohout

RE: 2 Mike's, LLC Rezoning – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Re Zoning Application submitted by Michael Hurst and date stamped by the City of Franklin on January 31, 2019.

**Department of City Development Staff Comments**

1. Please indicate the amount of land being rezoned with the included description (in acres). 0.48 ACRE
2. Please resubmit 12 collated copies of all submittal items, folded into 8.5" x 11" packets by Monday, March 11, 2019, to meet public hearing guidelines, for the Thursday, April 4, 2019 Planning Commission meeting. ✓

**Police Department Comments**

3. No comments.

**Fire Department Comments**

4. No comments.

**Engineering Department Comments**

5. No comments.

Franklin  
MAR 08 2019  
City Development

## **City of Franklin Department of City Development**

Date: March 5, 2019

To: Rizal Iskandarsjach, JSD Professional Services, Inc.

From: Department of City Development Staff – Ben Kohout

RE: 2 Mike's, LLC Certified Survey Map – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Certified Survey Map Application submitted by Rizal Iskandarsjach and date stamped by the City of Franklin on January 31, 2019.

### **Department of City Development Staff Comments**

1. A conservation easement is required to protect the wetland and 30-foot wetland buffer. The wetland buffer boundary must be labeled as the 30-foot wetland buffer and Conservation Easement. The City's conservation easement template is attached. Note that the Conservation Easement must be reviewed and approved by the Common Council and recorded with the Milwaukee County Register of Deeds. *Please change page 3 signature line to reflect: Nicholas Fuchs change to "Benjamin Kohout".*
2. Milwaukee County comments will be forwarded to you as soon as they are received.

### **Engineering Department Comments**

3. Engineering has no comments on this proposal. Engineering will recommend its approval based on the review comments from Milwaukee County.

### **Police Department Comments**

4. No comments.

### **Fire Department Comments**

5. No comments.

**City of Franklin**  
**Department of City Development**

Date: August 30, 2018

To: Rizal Iskandarsjach, JSD Professional Services, Inc.

From: Department of City Development Staff

RE: 2 Mike's, LLC Certified Survey Map – Staff Comments

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Please be advised that City Staff has reviewed the above application for the property located at 8547 and 8567 South 76<sup>th</sup> Street. Department comments are as follows for the Certified Survey Map Application submitted by Rizal Iskandarsjach and date stamped by the City of Franklin on August 16, 2018.

**Department of City Development Staff Comments**

1. The CSM must illustrate the 30-foot wetland buffer and 50-foot wetland setback in addition to the wetland boundary.
2. A conservation easement is required to protect the wetland and 30-foot wetland buffer. The wetland buffer boundary must be labeled as the 30-foot wetland buffer and Conservation Easement. The City's conservation easement template is attached. Note that the Conservation Easement must be reviewed and approved by the Common Council and recorded with the Milwaukee County Register of Deeds.
3. A navigability determination is required. Please contact the Wisconsin Department of Natural Resources. The intermittent stream on the property must be shown and protected as part of the conservation easement as well as the 75-foot shore buffer.
4. Staff recommends rezoning the C-1 District portion of the property to R-6 Suburban Single-Family Residence District. The City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements. A Rezoning Application is attached.
5. Please complete and submit the attached Site Intensity and Capacity Calculation Worksheets.
6. Please be aware that the 40-foot front yard setback from S. 76<sup>th</sup> Street for the existing home on Lot 2 is not met; therefore, that home is legal nonconforming structure.
7. Please delete "Overlay" in the zoning note on Sheet 1 for the C-1 Conservancy District.
8. Please label the rear yard setbacks on Sheet 3 for all structures. Note a 30-foot minimum rear yard setback is required.
9. Please label the pool deck setbacks. Note a minimum 10-foot side yard setback is required.
10. Staff recommends a note be added to the CSM stating that upon further land division or development upon Lot 3 and Lot 4, a complete Natural Resource Protection Plan in compliance with Division 15-7.0200 of the Unified

Development Ordinance shall be submitted to the Department of City Development for review and approval. Alternatively, a Natural Resource Protection Plan may be submitted prior to the recording of the Certified Survey Map or a letter provided stating that no other protected resources exist onsite other than the wetlands depicted on the CSM.

11. Please add that the property is served by public water to the sewer note on Sheet 2 of the CSM.
12. Staff anticipates recommending, as a condition of approval, that no direct driveway access shall be allowed to Clayton Court and Old Orchard Lane.
13. As no development is planned at this time, staff recommends that Lot 3 and Lot 4 be revised to Outlot 3 and Outlot 4.
14. Please be aware that upon development of Lots 3 and 4, staff may recommend that signage, boulders or other demarcation method, as may be approved by the Planning Manager, be utilized to mark the location of the conservation easement boundary on the property of these lots or any future individual lots that may be created.
15. Please provide a line table for the wetland delineation.
16. Milwaukee County comments will be forwarded to you as soon as they are received.

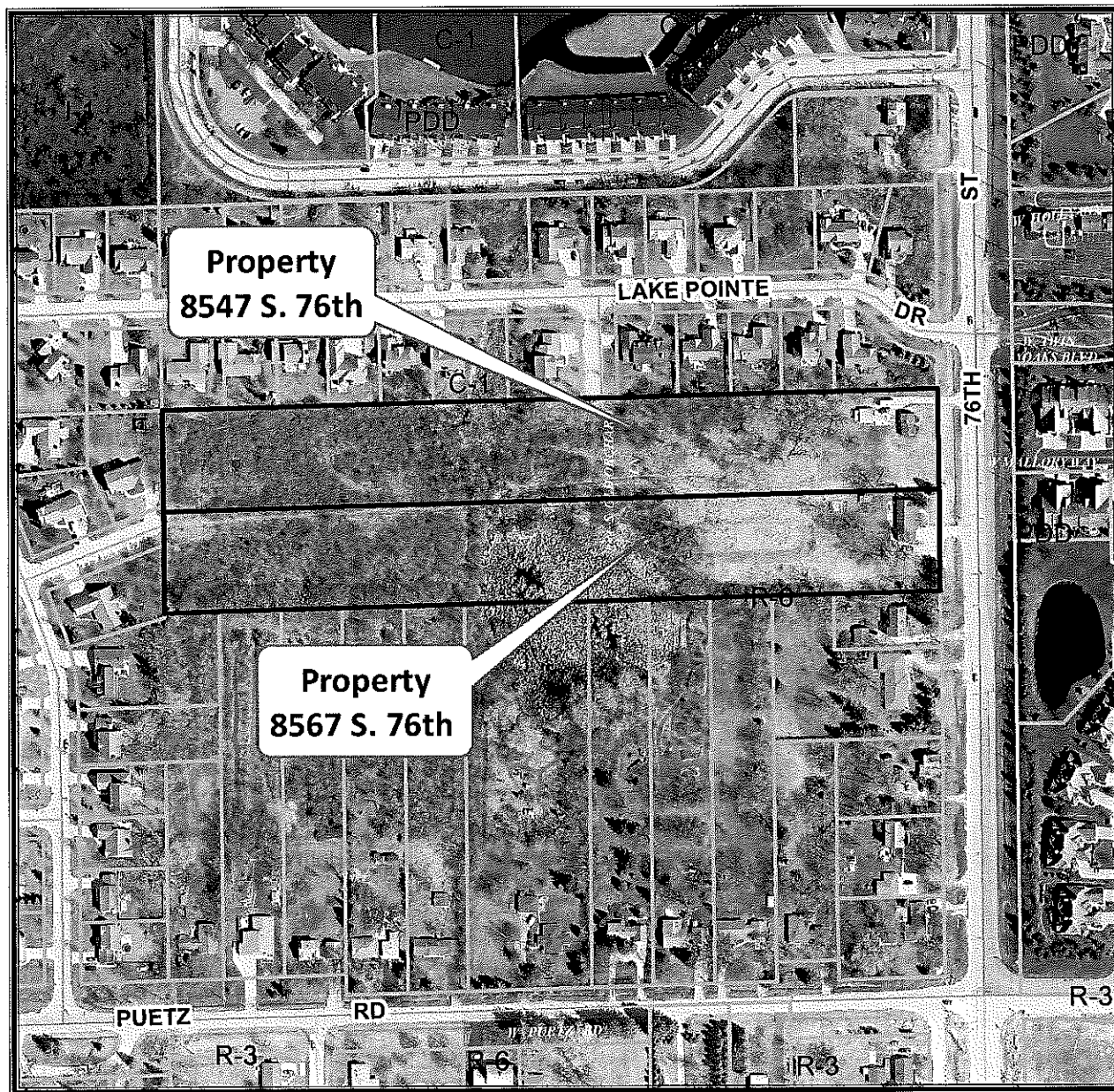




8547 & 8567 S. 76th Street

TKN: 838 9984 000

838 9985 000



Planning Department  
(414) 425-4024

0 155 310 620 Feet

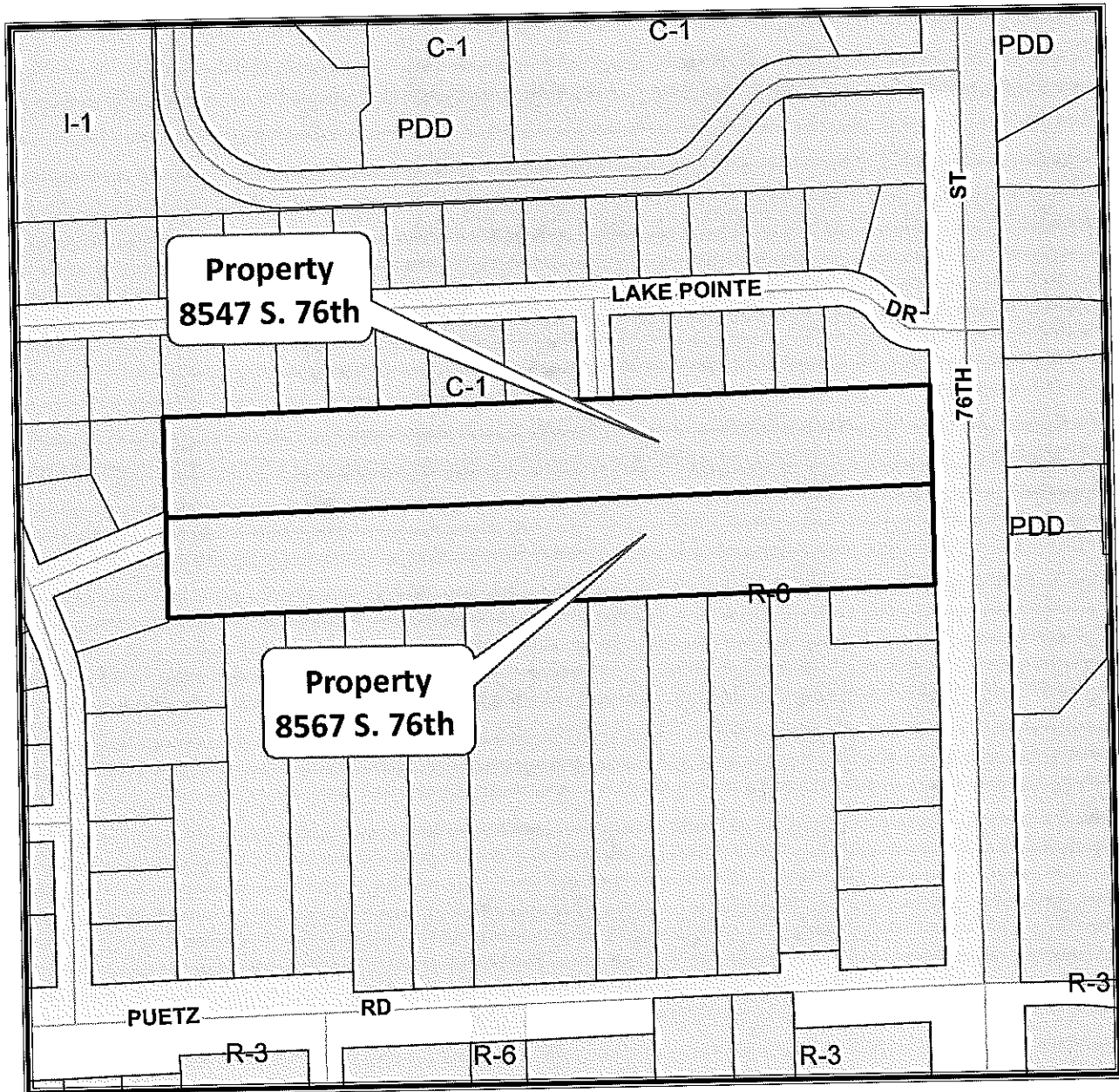


2016 Aerial Photo

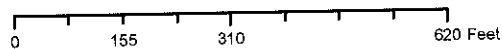
*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.*



8547 & 8567 S. 76th Street  
TKN: 838 9984 000  
838 9985 000



Planning Department  
(414) 425-4024



*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.*



2016 Aerial Photo

**Project Summary for Rezoning Request**  
**from R-6 and C-1 to R-6:**

The rezoning request is part of the proposed land division for the 2 Mike's LLC properties. City Staff advised the rezoning of the C-1 District portion of the property to R-6 Suburban Single-Family Residence District. The City no longer utilizes the C-1 zoning and natural resources are now required to be protected within conservation easements. A Rezoning was needed. The land division plan is to divide the property of the 8547 and 8567 South 76th Street residential Lots for the sales of the smaller Lots. The remaining Outlot, where the rezoning land is located, may be further develop in the future. Any future development will be submitted to the City at that time.

**Legal Description for Property seeking  
Rezoning Request from R-6 and C-1 to R-6:**

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" East along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning;

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°26'06" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 24°13'19" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 18°37'09" West, 36.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning.

Containing in all 20,763 square feet (0.48 acres) of lands, more or less.

**JSD** Professional Services, Inc.  
Engineers • Planners • Planners

18500 W. NATIONAL AVE.  
NEW BERLIN, WI 53151  
TEL: 262.573.8888 FAX: 262.573.8889  
WWW.JSD-ENGINEERS.COM

**2 MIKE'S, LLC.**  
18500 W. NATIONAL AVE.  
NEW BERLIN, WI 53151

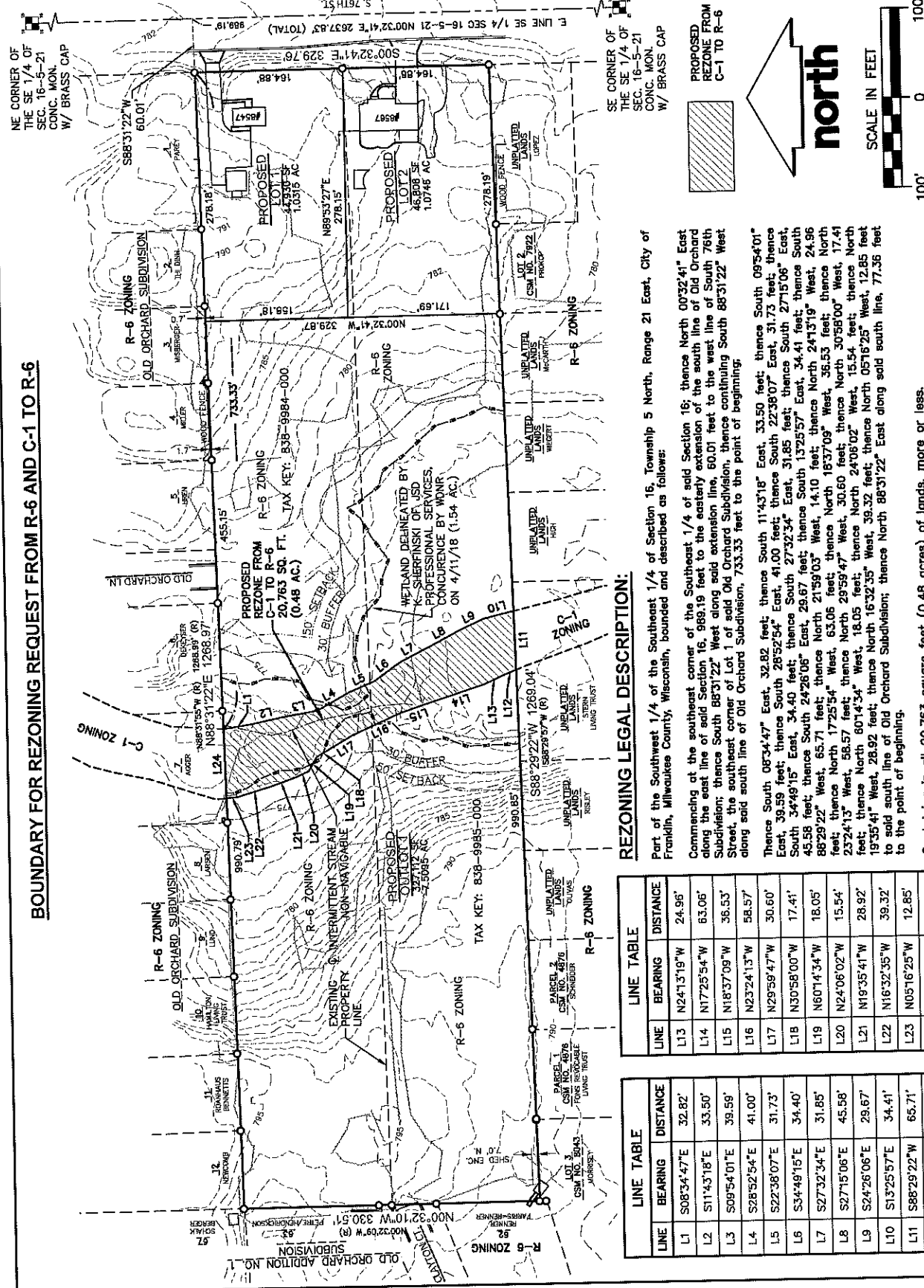
**2 MIKE'S, LLC.**  
CSM  
PROJECT ADDRESS:  
MILWAUKEE COUNTY, WI

**17-7352**  
DATE: 11-17-2022

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. THIS DOCUMENT IS THE PROPERTY OF JSD PROFESSIONAL SERVICES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

**PLAT OF SURVEY**  
SHEET TITLE:  
DATE:  
DRAWN BY:  
CHECKED BY:  
DATE:

**CS-01**



**REZONING LEGAL DESCRIPTION:**

Part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 09°32'41" East along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, thence continuing South 88°31'22" West along said south line of Old Orchard Subdivision, 733.33 feet to the point of beginning.

Thence South 08°34'47" East, 32.82 feet; thence South 11°43'18" East, 33.50 feet; thence South 09°54'01" East, 39.59 feet; thence South 28°52'54" East, 41.00 feet; thence South 22°38'07" East, 31.73 feet; thence South 34°49'15" East, 34.40 feet; thence South 27°32'34" East, 31.85 feet; thence South 27°15'06" East, 45.58 feet; thence South 24°28'08" East, 29.67 feet; thence South 13°25'57" East, 34.41 feet; thence South 88°29'22" West, 65.71 feet; thence North 21°59'03" West, 14.10 feet; thence North 13°25'57" West, 24.96 feet; thence North 17°25'54" West, 63.06 feet; thence North 15°37'09" West, 35.53 feet; thence North 23°24'13" West, 58.57 feet; thence North 29°59'47" West, 30.60 feet; thence North 30°58'00" West, 17.41 feet; thence North 60°14'34" West, 18.05 feet; thence North 24°13'19" West, 17.41 feet; thence North 80°14'34" West, 18.05 feet; thence North 24°06'02" West, 15.54 feet; thence North 19°35'41" West, 28.92 feet; thence North 16°32'35" West, 39.32 feet; thence North 05°16'25" West, 12.85 feet to said south line of Old Orchard Subdivision; thence North 88°31'22" East along said south line, 77.36 feet to the point of beginning.

Containing in all 20,763 square feet (0.48 acres) of lands, more or less.

LINE TABLE		
LINE	BEARING	DISTANCE
L13	N24°13'19"W	24.96'
L14	N17°25'54"W	63.06'
L15	N18°37'09"W	36.53'
L16	N23°24'13"W	58.57'
L17	N29°59'47"W	30.60'
L18	N30°58'00"W	17.41'
L19	N60°14'34"W	18.05'
L20	N24°06'02"W	15.54'
L21	N19°35'41"W	28.92'
L22	N16°32'35"W	39.32'
L23	N05°16'25"W	12.85'
L24	N88°31'22"E	77.36'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S08°34'47"E	32.82'
L2	S11°43'18"E	33.50'
L3	S09°54'01"E	39.59'
L4	S28°52'54"E	41.00'
L5	S22°38'07"E	31.73'
L6	S34°49'15"E	34.40'
L7	S27°32'34"E	31.85'
L8	S27°15'06"E	45.58'
L9	S24°26'06"E	29.67'
L10	S13°25'57"E	34.41'
L11	S88°29'22"W	65.71'
L12	N21°59'03"W	14.10'

## CONSERVATION EASEMENT

Outlot 1 CSM No. \_\_\_\_\_

This Conservation easement is made by and between the CITY OF FRANKLIN, a municipal corporation of the State of Wisconsin, hereinafter referred to as "Grantee," and 2 Mike's, LLC, Inc., a Limited Liability Corporation, hereinafter referred to as "Grantor," and shall become effective upon the recording of this Grant of Conservation Easement, together with the Acceptance following, with the Office of the Register of Deeds for Milwaukee County, pursuant to §700.40(2)(b) of the Wisconsin Statutes.

### WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property, located within the City of Franklin, Milwaukee County, Wisconsin, Southeast 1/4 of the Southeast of Section 16, Township 5 North, Range 21 East, described in Exhibit A attached hereto and hereby made a part hereof (protected property); and

WHEREAS, the Grantor desires and intends that the natural elements and the ecological and aesthetic values of the protected property including, without limitation, mature woodlands, young woodlands, wetland buffers, wetlands and shoreland wetlands, and refer to Natural Resource Investigation by JSD Professional Services, dated April 11, 2018, which is located in the office of the Department of City Development, be preserved and maintained by the continuation of land use that will not interfere with or substantially disrupt the natural elements or the workings of natural systems; and

WHEREAS, Grantee is a "holder", as contemplated by §700.41(1)(b)1. of the Wisconsin Statutes, whose purposes include, while exercising regulatory authority granted to it, *inter alia*, under §62.23 and §236.45 of the Wisconsin Statutes, the conservation of land, natural areas, open space, and water areas; and

WHEREAS, the Grantor and Grantee, by the conveyance to the Grantee of the conservation easement on, over, and across the protected property, desire to conserve the natural values thereof and prevent the use or development of the protected property for any purpose or in any manner inconsistent with the terms of this conservation easement; and

WHEREAS, the Grantee is willing to accept this conservation easement subject to the reservations and to the covenants, terms, conditions, and restrictions set out herein and imposed hereby;

WHEREAS, **TRI CITY BANK**, mortgagee of the Protected Property ("Mortgagee"), consents to the grant of this Easement by Grantor to Grantee and Mortgagee's consent is attached hereto and identified as "Mortgage Holder Consent".

NOW, THEREFORE, the Grantor, for and in consideration of the foregoing recitations and of the mutual covenants, terms, conditions, and restrictions subsequently contained, and as an absolute and unconditional dedication, does hereby grant and convey unto the Grantee a conservation easement in perpetuity on, over, and across the protected property.

Grantee's rights hereunder shall consist solely of the following:

1. To view the protected property in its natural, scenic, and open condition;
2. To enforce by proceeding at law or in equity the covenants subsequently set forth, including, and in addition to all other enforcement proceedings, proceedings to obtain all penalties and remedies set forth under Division 15-9.0500 of the Unified Development Ordinance of the City of Franklin, as amended from time to time, any violation of the covenants subsequently set forth being and constituting a violation of such Unified Development Ordinance, as amended from time to time, or such local applicable ordinance as may be later adopted or in effect to enforce such covenants or the purposes for which they are made, it being agreed that there shall be no waiver or forfeiture of the Grantee's right to insure compliance with the covenants and conditions of this grant by reason of any prior failure to act; and
3. To enter the protected property at all reasonable times for the purpose of inspecting the protected property to determine if the Grantor is complying with the covenants and conditions of this grant.

And in furtherance of the foregoing affirmative rights of the Grantee, the Grantor makes the following covenants which shall run with and bind the protected property in perpetuity, namely, that, on, over, or across the protected property, the Grantor, without the prior consent of the Grantee, shall not:

1. Construct or place buildings or any structure;

2. Construct or make any improvements, unless, notwithstanding Covenant 1 above, the improvement is specifically and previously approved by the Common Council of the City of Franklin, upon the advice of such other persons, entities, and agencies as it may elect; such improvements as may be so approved being intended to enhance the resource value of the protected property to the environment or the public and including, but not limited to animal and bird feeding stations, park benches, the removal of animal blockage of natural drainage or other occurring blockage of natural drainage, and the like;
3. Excavate, dredge, grade, mine, drill, or change the topography of the land or its natural condition in any manner, including any cutting or removal of vegetation, except for the removal of dead or diseased trees;
4. Conduct any filling, dumping, or depositing of any material whatsoever, including, but not limited to soil, yard waste, or other landscape materials, ashes, garbage, or debris;
5. Plant any vegetation not native to the protected property or not typical wetland vegetation;
6. Operate snowmobiles, dune buggies, motorcycles, all-terrain vehicles or any other types of motorized vehicles.

To have and to hold this conservation easement unto the Grantee forever. Except as expressly limited herein, the Grantor reserves all rights as owner of the protected property, including, but not limited to, the right to use the protected property for all purposes not inconsistent with this grant. Grantor shall be responsible for the payment of all general property taxes levied, assessed, or accruing against the protected property pursuant to law.

The covenants, terms, conditions, and restrictions set forth in this grant shall be binding upon the Grantor and the Grantee and their respective agents, personal representatives, heirs, successors, and assigns, and shall constitute servitudes running with the protected property in perpetuity. This grant may not be amended, except by a writing executed and delivered by Grantor and Grantee or their respective personal representatives, heirs, successors, and assigns. Notices to the parties shall be personally delivered or mailed by U.S. Mail registered mail, return receipt requested, as follows:

To Grantor:  
2 Mike's LLC  
Attn: Michael Hurst  
12900 W. National Ave.  
New Berlin, WI 53157

To Grantee:  
City of Franklin  
Office of the City Clerk  
9229 W. Loomis Road  
Franklin, WI 53132

In witness whereof, the grantor has set its hand and seals this on this date of \_\_\_\_\_, 20\_\_.

2 Mike's LLC

By: \_\_\_\_\_  
Michael Hurst, managing member

STATE OF WISCONSIN       )  
                                      ) ss  
COUNTY OF MILWAUKEE    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_ by

Michael Hurst as managing member of 2 Mike's LLC

To me known to be the person(s) who executed the foregoing Easement and acknowledged the same as the voluntary act and deed of said limited liability company,

\_\_\_\_\_  
Notary Public

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

**Acceptance**

The undersigned does hereby consent to and accepts the Conservation Easement granted and conveyed to it under and pursuant to the foregoing Grant of Conservation Easement. In consideration of the making of such Grant Of Conservation Easement, the undersigned agrees that this acceptance shall be binding upon the undersigned and its successors and assigns and that the restrictions imposed upon the protected property may only be released or waived in writing by the Common Council of the City of Franklin, as contemplated by §236.293 of the Wisconsin Statutes.

In witness whereof, the undersigned has executed and delivered this acceptance on the \_\_\_\_ day of \_\_\_\_\_, A.D.20\_\_.

CITY OF FRANKLIN

By: \_\_\_\_\_  
Stephen R. Olson, Mayor

By: \_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

STATE OF WISCONSIN        )  
                                      ) ss  
COUNTY OF MILWAUKEE    )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_, the above named Stephen R. Olson, Mayor and Sandra L. Wesolowski, City Clerk, of the above named municipal corporation, City of Franklin, to me known to be such Mayor and City Clerk of said municipal corporation, and acknowledged that they executed the foregoing instrument as such officers as the Deed of said municipal corporation by its authority and pursuant to Resolution No. \_\_\_\_\_, adopted by its Common Council on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

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

This instrument was drafted by the City of Franklin.

Approved as to contents:

\_\_\_\_\_  
Benjamin Kohout, Principal Planner        Date  
Department of City Development

Approved as to form only:

\_\_\_\_\_  
Jesse A. Wesolowski                        Date  
City Attorney



### MORTGAGE HOLDER CONSENT

The undersigned, Tri City Bank, a Wisconsin banking corporation ("Mortgagee"), as Mortgagee under that certain Mortgage encumbering encumbering the Property and recorded in the Office of the Register of Deeds for Milwaukee County, Wisconsin, on \_\_\_\_\_, 20\_\_\_\_, as Document No. \_\_\_\_\_, hereby consents to the execution of the foregoing easement and its addition as an encumbrance title to the Property.

IN WITNESS WHEREOF, Mortgagee has caused these presents to be signed by its duly authorized officers, and its corporate seal to be hereunto affixed, as of the day and year first above written.

Name of Mortgagee

Tri City Bank, a Wisconsin Banking Corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF WISCONSIN       )  
  )ss  
COUNTY OF MILWAUKEE    )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, personally appeared \_\_\_\_\_ (name), the \_\_\_\_\_ (title) of Tri City Bank, a Wisconsin banking corporation, and acknowledged that (s)he executed the foregoing instrument on behalf of said corporation, by its authority and for the purposes therein contained.

Name: \_\_\_\_\_

Notary Public, State of Wisconsin

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

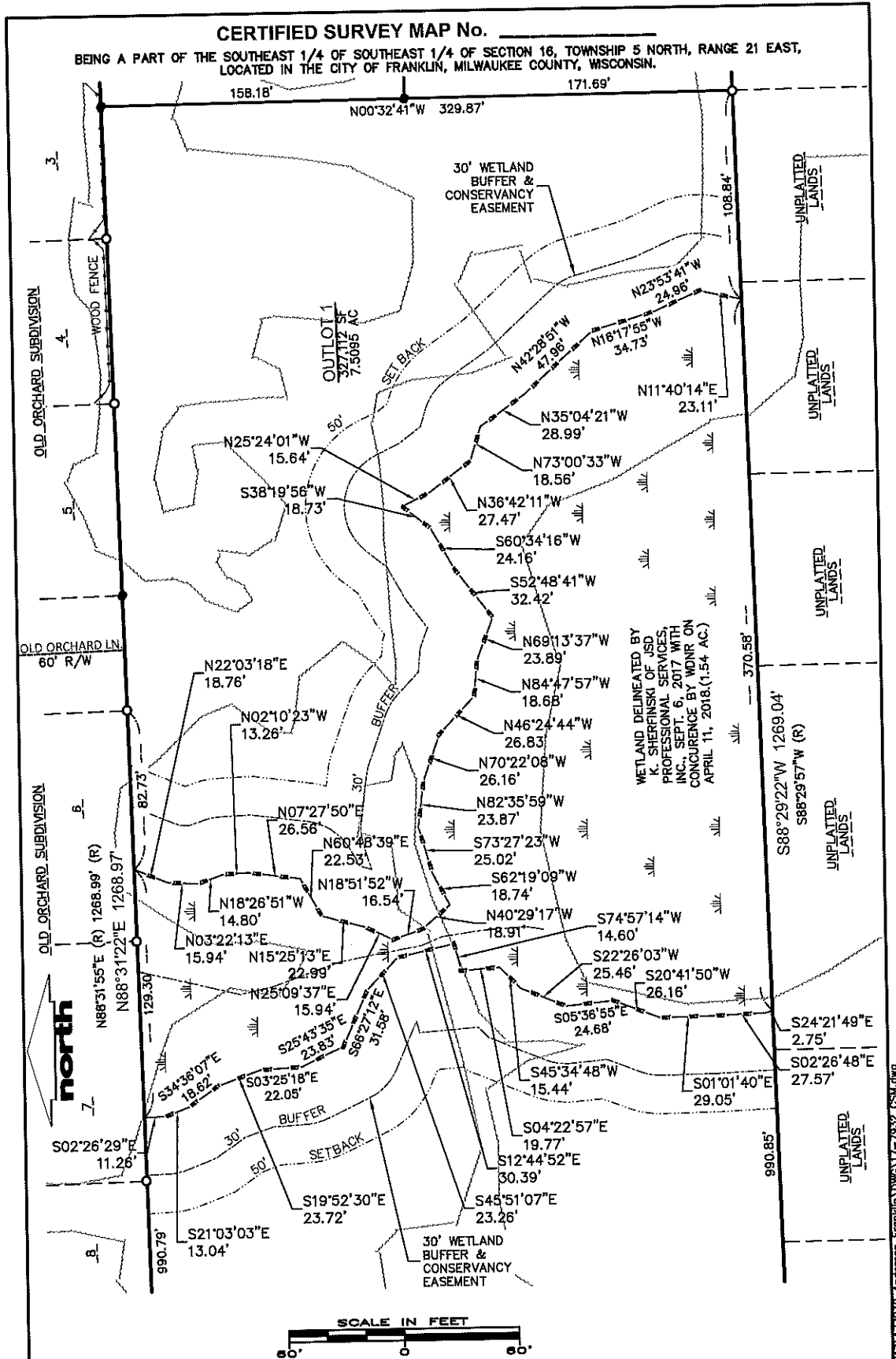
**Exhibit A**

Outlot 1 of Certified Survey Map No. \_\_\_\_\_, recorded in Milwaukee County Register of Deeds Office on \_\_\_\_ day of \_\_\_\_\_, 2019 as Document No. \_\_\_\_\_, being a part of the Southeast 1/4 of the Southeast 1/4 of Section 16, township 5 North, Range 21 East, located in the City of Franklin, Milwaukee County, Wisconsin.



**CERTIFIED SURVEY MAP No.**

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.



DATED THIS \_\_\_\_ DAY OF MARCH, 2019  
THIS INSTRUMENT WAS DRAFTED BY RIZAL W. ISKANDARSJACH, S-2738

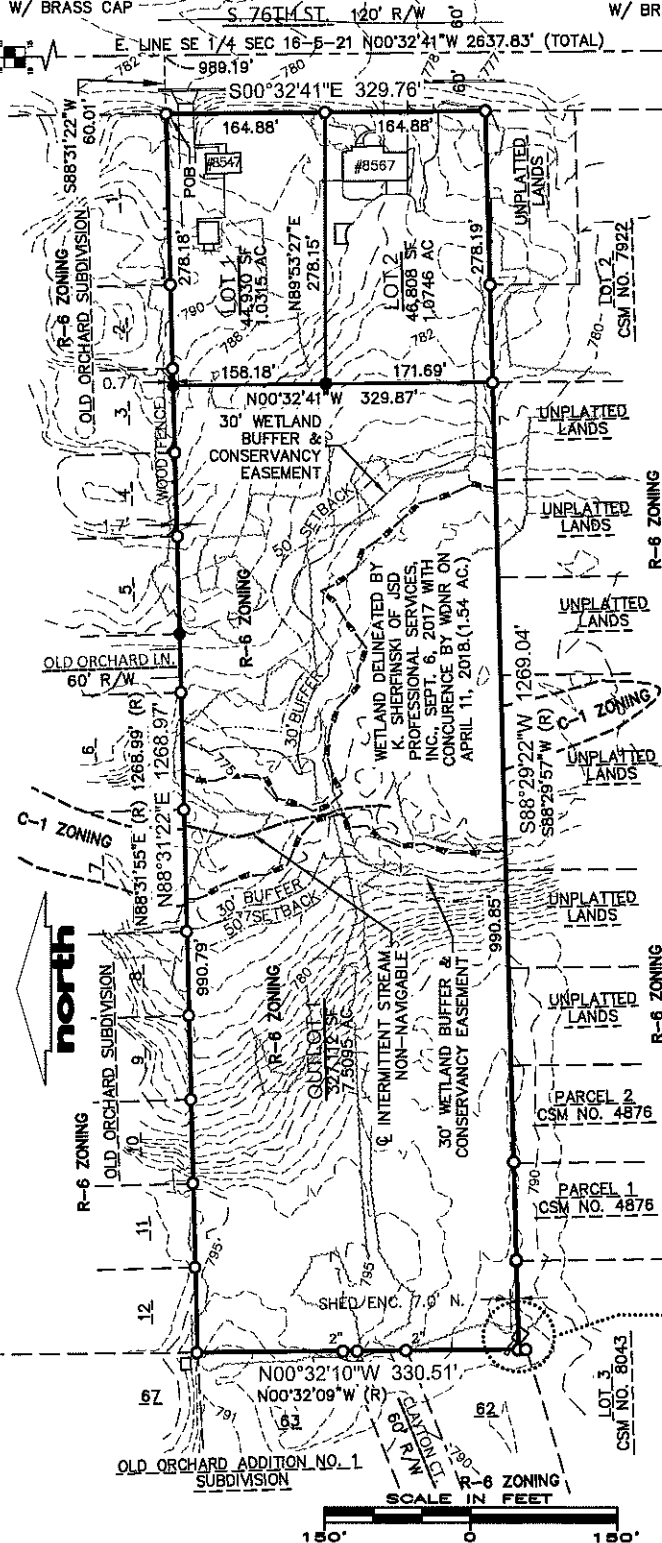
**SHEET 2 OF 7**

# CERTIFIED SURVEY MAP No. \_\_\_\_\_

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

NE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

SE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

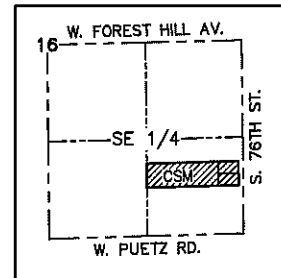


## LEGEND:

- 1" IRON REBAR  
FOUND & ACCEPTED  
(OR SIZE AS NOTED)
- 1"x18" IRON PIPE SET  
WT. 1.13 LBS/LIN. FT.
- TREE LINE PER  
2018 COUNTY AERIAL

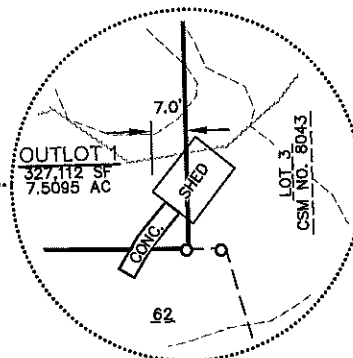
## NOTES:

CONTOUR BASED ON MILWAUKEE COUNTY GIS MAP  
SEE SHEET 4 OF 7 FOR LOT 1 AND LOT 2  
DETAILS  
LANDS SERVED BY PUBLIC WATER AND SANITARY  
SEWER  
UPON FURTHER LAND DIVISION OR DEVELOPMENT  
OF OUTLOT 1, A COMPLETE NATURAL RESOURCE  
PROTECTION PLAN IN COMPLIANCE WITH DIVISION  
15-7.0200 OF THE UNIFIED DEVELOPMENT  
ORDINANCE SHALL BE SUBMITTED TO THE  
DEPARTMENT OF CITY DEVELOPMENT FOR REVIEW  
AND APPROVAL  
INTERMITTENT STREAM THAT RUNS THROUGH  
OUTLOT 1 WAS DETERMINED TO BE  
NON-NAVIGABLE BY ANDREA STERN, WATER  
MANAGEMENT SPECIALIST WITH WDNR ON SEPT.  
12, 2018



## VICINITY MAP

SE 1/4 SEC 16-5-21  
SCALE: 1"=2000'



## ENCROACHMENT DETAIL

1" = 30'

DATED THIS \_\_\_\_\_ DAY OF MARCH, 2019  
THIS INSTRUMENT WAS DRAFTED BY RIZAL W. ISKANDARSJACH, S-2738

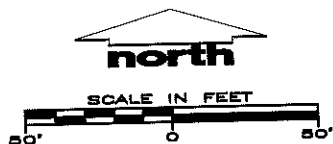
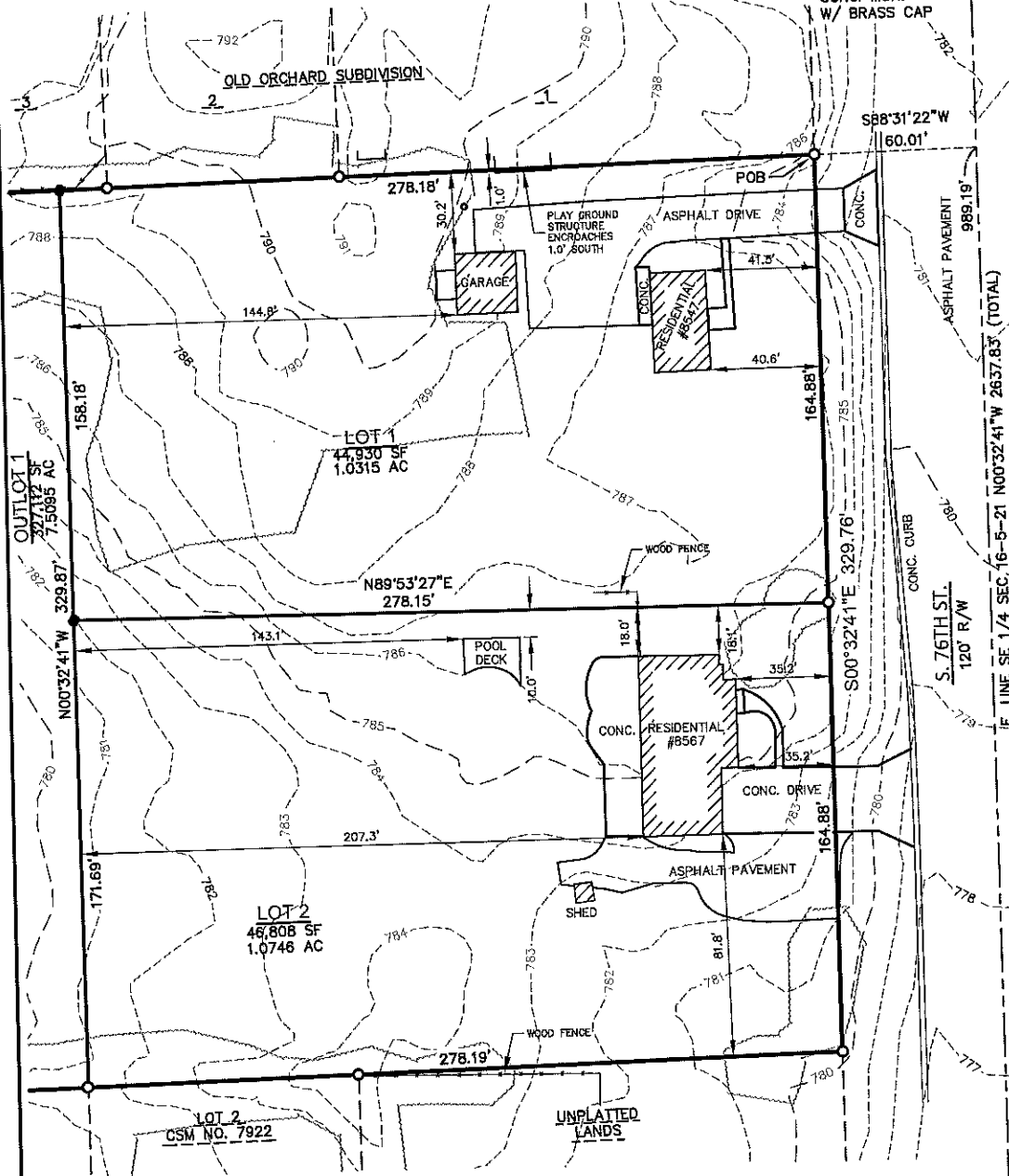
SHEET 3 OF 7

E:\2019\77932 Anderson Franklin DWG\17-7932 CSM.dwg

# CERTIFIED SURVEY MAP No. \_\_\_\_\_

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

NE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP



SE CORNER OF  
THE SE 1/4 OF  
SEC. 16-5-21  
CONC. MON.  
W/ BRASS CAP

**CERTIFIED SURVEY MAP No. \_\_\_\_\_**

**BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.**

**SURVEYOR'S CERTIFICATE:**

State of Wisconsin    )  
                              ) SS  
Milwaukee County    )

I, Rizal W. Iskandarsjach, Professional Land Surveyor, do hereby certify that I have surveyed, divided and mapped a part of the Southwest 1/4 of the Southeast 1/4 of Section 16, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the southeast corner of the Southeast 1/4 of said Section 16; thence North 00°32'41" West along the east line of said Section 16, 989.19 feet to the easterly extension of the south line of Old Orchard Subdivision; thence South 88°31'22" West along said extension line, 60.01 feet to the west line of South 76th Street, the southeast corner of Lot 1 of said Old Orchard Subdivision, and the point of beginning;

Thence South 00°32'41" East along said west line of South 76th Street, 329.76 feet; thence South 88°29'22" West partially along the north line of Certified Survey Map No. 7922, partially along the north line of Certified Survey Map No. 4876, and partially along the north line of Certified Survey Map No. 8043, 1269.04 feet to the east line of Lot 62 of Old Orchard Addition No. 1 Subdivision; thence North 00°32'10" West along the east line of said Old Orchard Addition No. 1 Subdivision, 330.51 feet; to the southwest corner of Lot 12 of said Old Orchard Subdivision; thence North 88°31'22" East along the south line of said Old Orchard Subdivision, 1268.97 feet to the point of beginning.

Containing in all 418,886 square feet (9.6163 acres) of lands, more or less.

All subject to easements and restrictions of record, if any.

That I have made such survey, land division and map by the direction of 2 MIKE'S, LLC, owner of said land.

That such map is a correct representation of all exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the City of Franklin Unified Development Ordinance in surveying, dividing, dedicating and mapping the same.

DATED THIS \_\_\_\_ DAY OF MARCH, 2019

\_\_\_\_\_  
Rizal W. Iskandarsjach, P.L.S.  
Professional Land Surveyor, S-2738

**CERTIFIED SURVEY MAP No. \_\_\_\_\_**

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

**OWNER'S CERTIFICATE**

2 MIKE'S, LLC, a Wisconsin limited liability company, as owner, does hereby certify that said company caused the land described in the foregoing affidavit of Rizal W. Iskandarsjach, to be surveyed, divided and mapped as represented on this map, in accordance with the provisions of Chapter 236 of the Wisconsin Statutes and the City of Franklin Unified Development Ordinance in surveying, dividing, dedicating and mapping.

\_\_\_\_\_(sign) \_\_\_\_\_(date)

\_\_\_\_\_(print)

\_\_\_\_\_(title)

State of Wisconsin )  
                                  ) SS  
Milwaukee County )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the above named \_\_\_\_\_ of the above named company, to me known to be such \_\_\_\_\_ of said company, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

**CONSENT OF CORPORATE MORTGAGEE CERTIFICATE**

Tri City Bank, a corporation duly organized and existing under and virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, mapping, and dedication of the land described on this CSM, and does hereby consent to the above certificate of \_\_\_\_\_(name), \_\_\_\_\_(title) of 2 MIKE'S, LLC.

In witness hereof, the said Tri City Bank has caused these presents to be signed this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

\_\_\_\_\_(sign) \_\_\_\_\_(date)

\_\_\_\_\_(print)

\_\_\_\_\_(title)

State of Wisconsin )  
                                  ) SS  
Milwaukee County )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the above named \_\_\_\_\_ of the above named company, to me known to be such \_\_\_\_\_ of said company, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.

Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



**CERTIFIED SURVEY MAP No. \_\_\_\_\_**

BEING A PART OF THE SOUTHEAST 1/4 OF SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 21 EAST,  
LOCATED IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

**CITY OF FRANKLIN COMMON COUNCIL APPROVAL**

This Certified Survey Map is hereby approved by the Common Council of the City of Franklin on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

\_\_\_\_\_  
STEPHEN OLSON  
Mayor

\_\_\_\_\_  
(date)

\_\_\_\_\_  
SANDRA L. WESOLOWSKI  
City Clerk

\_\_\_\_\_  
(date)

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<b>APPROVAL</b> <i>Slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 04/16/19
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF FRED ARBANELLA, ARBANELLA/CARMODY HOMES, APPLICANT, FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</b>	<b>ITEM NUMBER</b> <i>G.11.</i>
<p>At their meeting on March 27, 2019, the Environmental Commission recommended approval of the subject Special Exception to certain natural resource provisions of the Unified Development Ordinance with conditions as presented at their meeting.</p> <p>At the regular meeting of the Plan Commission on April 4, 2019, following a properly noticed public hearing, the following action was approved: move to recommend approval of the Fred Arbanella, Arbanella/Carmody Homes (Oak Ridge of Franklin Subdivision) Natural Resource Features Special Exception pursuant to the Standards, Findings and Decision recommended by the Plan Commission, and Common Council consideration of the Environmental Commission recommendations.</p> <p style="text-align: center;"><b>COUNCIL ACTION REQUESTED</b></p> <p>Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Fred Arbanella, Arbanella/Carmody Homes (Oak Ridge of Franklin Subdivision), for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.</p>		

Department of City Development: JED

*Revised Draft 4/5/19*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Fred  
Arbanella, Arbanella/Carmody Homes, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Fred Arbanella, Arbanella/Carmody Homes, applicant, having filed an application dated February 20, 2019, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission having made its recommendation upon the application, a copy of said recommendation dated March 27, 2019 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated April 4, 2019 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at approximately 7475 South 49th Street, zoned R-6 Suburban Single-Family Residence District, and such property is more particularly described upon Exhibit D annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: "The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant."

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon the application for a Special Exception dated February 20, 2019, by Fred Arbanella,

Arbanella/Carmody Homes, applicant, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather, The proposal to fill in wetland areas and to move wetland setbacks in this instance resulting in two additional residential home lots are typical of the lot size standard in this Zoning District.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: \_\_\_\_\_; or

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *The location of the proposed lots is determined by the location of South 50<sup>th</sup> Street, which is a connecting street between West Minnesota Avenue and the proposed Marquette Avenue.*

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *The project is new construction which will serve to connect surrounding residential areas; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *There are no other non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *The roads are placed to accommodate another proposed development and connect Pleasant View School to 51<sup>st</sup> Street via Marquette Avenue as requested by staff; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature).*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks: *There are no alternatives as previously stated if the City wants the connectivity for Marquette Avenue to Pleasant View School, 50<sup>th</sup> Street to W. Minnesota Avenue, and a proposed development to the south. The resources lost are farmed wetlands of very small size and limited habitat.*
2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *The lot locations are determined by the road connections, which are set to the north, east, and west. The south side has a proposed connecting road to a proposed development.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The project should proceed as proposed because it is the most efficient layout for the site. The City will benefit from the additional tax base provided by the developed lots. Wetland mitigation will take place at Carity Prairie in the City of Franklin. The natural resource base will be enhanced and is open to the public.*
4. Aesthetics: *One less lot would result if the remaining area on lot 14 is not allowed for the use of a home site. Hydrologic conditions sustain the wetland will no longer be present after the road grading and installation. One less lot would result if the wetland buffer and setbacks are not adjusted to allow for a buildable area on lot 7.*
5. Degree of noncompliance with the requirement allowed by the Special Exception:
  - *Proposed Lots 7 and 8 and Outlot 1. Filling of wetland (0.008 acre), wetland buffer (0.112 acre), and wetland setback (0.125 acre). Wetland setbacks are requested to be removed from this lot and be re-located to the lot line.*
  - *Filling of wetland (0.059 acres), wetland buffer (0.13 acres) and wetland setback (0.12 acres) is sought on Lot 14.*
6. Proximity to and character of surrounding property: *There is single family housing development along the North and East property lines. There are a few single-family homes to the South and West.*
7. Zoning of the area in which property is located and neighboring area: *Subject property is zoned as R-6, Suburban Single-Family Residence district, as are areas to the North, East, South and West.*

8. Any negative affect upon adjoining property: *The existing site is farmland consisting of row crops with a large portion of the land having bare soil and no restrictions for stormwater runoff. The proposed subdivision will provide ground cover the entire site, which will reduce soil loss from the site, improving downstream water quality. A wet detention basin will also improve downstream water quality as well as providing storm/flood storage for the property. The impact on the hydrological function of Wetland A will be minimized by allowing off site runoff from the east to enter the wetland as it does under existing conditions*

9. Natural features of the property: *Wetland A is a linear feature on the central portion of the site. The wetland contains a broken drain tile, creating the linear shape. This wetland is fresh wet meadow. Vegetation includes giant reed grass, reed canary grass, and some cattail. The wetland flows to the west under a culvert pipe in the S. 51<sup>st</sup> Street sidewalk. Wetland B is located in a slight depression within the farm field on the north side of the site. This wetland is scattered cattail in bare plowed soil. Soils in both wetlands met the redox dark surface hydric soil indicators. Hydrology for both included a positive FAC-neutral text & geometric position.*

10. Environmental impacts: *The proposed development will have no impact on the water quality protection provided by the wetlands. As part of the development, a wet detention basin will be constructed that will provide a higher level of water quality control than currently exists on the site.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission recommendation and its reference to the report of March 27, 2019 is incorporated herein.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation and the Environmental Commission recommendation address these factors and are incorporated herein.*

#### Decision

*Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit C, upon the conditions:*

*1) that the natural resource features and mitigation areas upon the property to be developed be protected by a perpetual conservation easement to be approved by the*

*Common Council prior to any development within the areas for which the Special Exception is granted prior to the issuance of any Occupancy Permits;*

*2) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted;*

*3) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for Fred Arbanella, Arbanella/Carmody Homes, applicant, and all other applicable provisions of the Unified Development Ordinance.*

*4) that the applicant shall submit a detailed off-site mitigation plan (for 0.46 acre of wetland and wetland buffer disturbance which amount does include the 1.5 ratio of mitigation set forth in Section 15-4.0103B. of the UDO), outlining the applicant's envisioned mitigation and restoration practices and the amount to be paid by Arbanella/Carmody Homes to the Milwaukee Area Land Conservancy for wetland creation and/or restoration efforts by the Milwaukee Area Land Conservancy, and future maintenance and management thereof, for mitigation purposes to compensate for wetland and wetland buffer impacts resulting from the proposed Oak Ridge of Franklin subdivision plat development, within the approximately 23-acre property known as the Carity Prairie adjacent to the Prairie Grass Preserve Subdivision at the west end of Prairie Grass Way in the City of Franklin, for Department of City Development review and approval, prior to the issuance of a Building Permit.*

*5) that the applicant shall submit a mitigation/landscape plan for the wetland setback impact areas to include at least two aggressive native plant species for Department of City Development review and approval prior to issuance of a Building Permit.*

*6) other*

*The duration of this grant of Special Exception is permanent.*

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVED:

\_\_\_\_\_  
Stephen R. Olson, Mayor

ATTEST:

\_\_\_\_\_  
Sandra L. Wesolowski, City Clerk

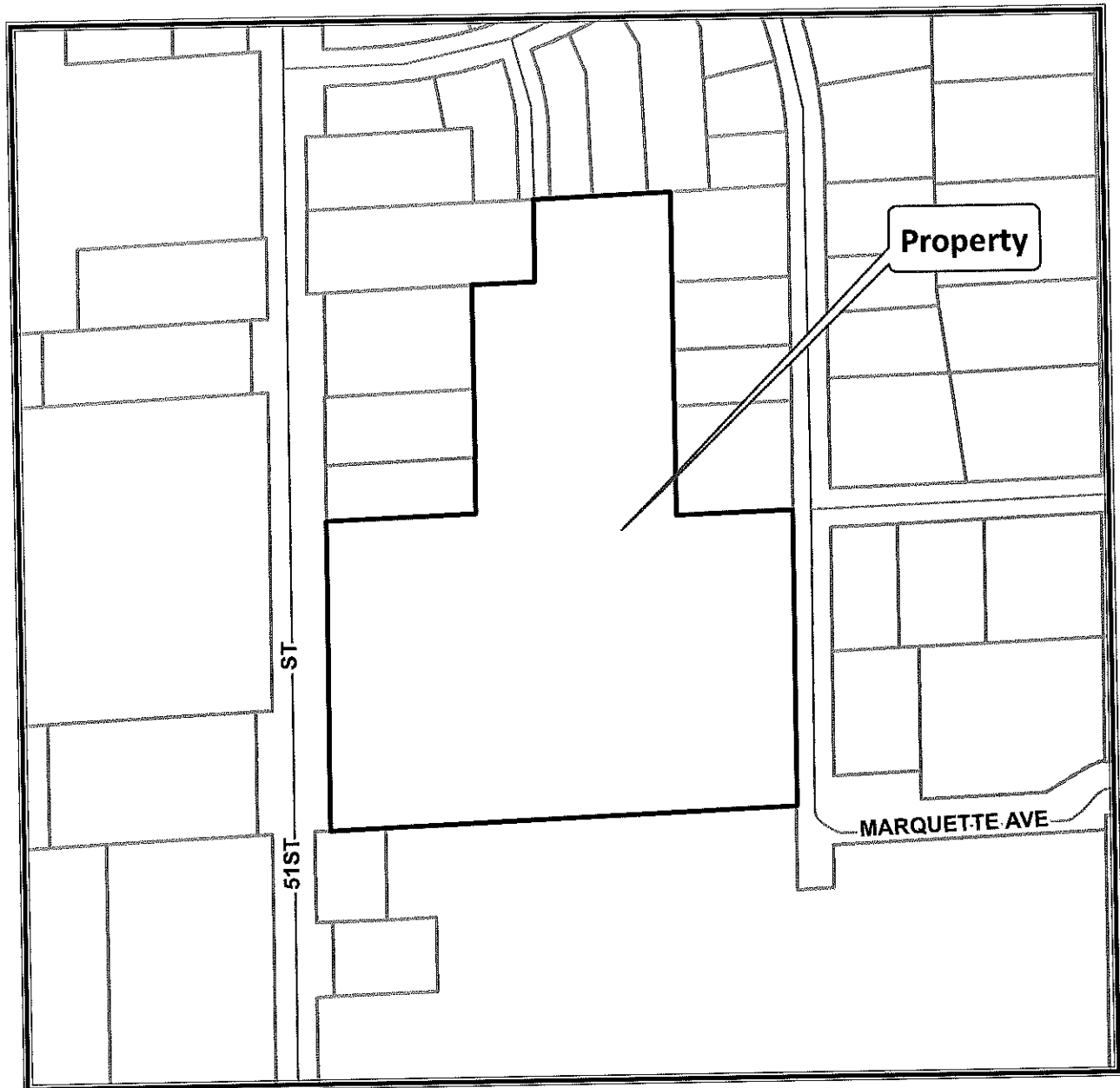
AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_





City of Franklin

7475 S. 49th Street  
TKN 759 9981 010



**Planning Department**  
**(414) 425-4024**

0 155 310 620 Feet

*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.*



2017 Aerial Photo



## CITY OF FRANKLIN



## REPORT TO THE PLAN COMMISSION

Meeting of April 4, 2019

## Natural Resource Special Exception

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**RECOMMENDATION:** City Development staff recommends approval of the Natural Resource Special Exception subject to the conditions of approval in the attached draft Standards, Findings, and Decision.

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<b>Project Name:</b>	Oak Ridge of Franklin Subdivision Natural Resource Special Exception (NRSE)
<b>Project Address:</b>	Approximately 7475 South 49 <sup>th</sup> Street
<b>Applicants:</b>	Fred Arbanella, Arbanella/Carmody Homes
<b>Property Owners:</b>	Walter Hablewitz
<b>Current Zoning:</b>	R-6 Suburban Single-Family Residence District
<b>2025 Comprehensive Plan:</b>	Residential
<b>Use of Surrounding Properties:</b>	Single family residential to the north and east, vacant developable land to the south, and quarry to the west.
<b>Applicant's Action Requested:</b>	Recommendation to the Common Council for approval of the proposed Natural Resource Special Exception.

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**INTRODUCTION:**

Mr. Fred Arbanella of Arbanella/Carmody Homes, on behalf of the subject property owner, is requesting approval to impact wetlands, wetland buffer, and wetland setback in order to construct a proposed single-family residential subdivision on the subject lands.

The applicant is also separately applying to the Common Council for permission to impact additional wetlands, wetland buffers, and wetland setbacks attributable to construction of a public road and associated sidewalk as allowed by Ordinance No. 2016-2224. *This impact has been noted within the applicant's materials, but is not part of the subject Natural Resource Special Exception.*

Pursuant to Section 15-10.0208 of the UDO, all requests for a Natural Resource Special Exception shall also be provided to the Environmental Commission for its review and recommendation.

**NATURAL RESOURCE SPECIAL EXCEPTION (NRSE):**

The applicant is proposing to impact approximately 0.554 acre of protected natural resource features, and more specifically:

- Construct a 23-lot single-family residential subdivision, and associated public streets, sidewalks, and a stormwater management pond.
- Clear, grade, fill and develop approximately 0.554 acre of protected natural resource features comprised of the following:
  - Approximately 0.067 acre of wetlands.

- Approximately 0.242 acre of wetland buffers.
- Approximately 0.245 acre of wetland setbacks.

The applicant has provided the attached Natural Resource Special Exemption Application, Project Description, Natural Resource Special Exception Question and Answer Form, and associated information. Staff would note:

- In a letter dated March 29, 2019, the applicant is now proposing off-site wetland and wetland buffer mitigation at an unspecified Milwaukee Area Land Conservancy property located within the Root River watershed, and onsite wetland setback mitigation. On the Natural Resource Protection Plan dated 3/20/2019, it is noted that 0.21 acres of mitigation will take place at the Carity Prairie site, and will be monitored for 3 years.
  - However, staff has calculated that  $0.309 \text{ acre of wetland and wetland buffer impact} \times 1.5 \text{ (mitigation ratio per UDO Section 15-4.0103B)} = 0.46 \text{ acre of mitigation}$  is required.
- The applicant has applied for, but not yet received approval of, filling/removal of the subject wetlands from the Wisconsin Department of Natural Resources. Staff has noted that similar approval will be required from the Army Corps of Engineers.
- The wetland delineation was prepared by an Assured Delineator.
- In regard to the NRSE Question and Answer Form, staff has raised a number of concerns with the applicant's responses, specifically that they are incomplete or inaccurate. Staff will likely recommend that these be corrected.

#### **ENVIRONMENTAL COMMISSION:**

Pursuant to Section 15-10.0208 of the UDO, all requests for a Natural Resource Special Exception shall be provided to the Environmental Commission for its review and recommendation. Attached is a draft, unsigned document titled, "City of Franklin Environmental Commission" that the Environmental Commission must complete and must forward to the Common Council. The questions and statements on this document correspond with the Natural Resource Special Exception (NRSE) application questions and statements that the applicant has answered and addressed.

The Environmental Commission, at its March 27, 2019 meeting, has recommended approval of the NRSE with conditions as presented at their meeting.

#### **CONCLUSION:**

City Development staff recommends approval of the Natural Resource Special Exception for the Oak Ridge of Franklin subdivision plat subject to the conditions of approval in the attached draft Standards, Findings, and Decision.

## City of Franklin Environmental Commission

TO: Common Council  
DATE: March 27, 2019  
RE: Special Exception application review and recommendation  
APPLICATION: Fred Arbanella, Arbanella/Carmody Homes, Applicant, dated:  
February 20, 2019  
(approximately 7475 South 49th Street (Oak Ridge  
Subdivision))

### **I. §15-9.0110 of the Unified Development Ordinance Special Exception to Natural Resource Feature Provisions Application information:**

1. Unified Development Ordinance Section(s) from which Special Exception is requested:  
*Section 15-4.0103B.4. and Section 15-4.0103B.5.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions):
  - *Proposed Lots 7 and 8 and Outlot 1. Filling of wetland (0.008 acre), wetland buffer (0.112 acre), and wetland setback (0.125 acre). Wetland setbacks are requested to be removed from this lot and be re-located to the lot line.*
  - *Proposed Lot 14. Filling of wetland (0.059 acres), wetland buffer (0.13 acres) and wetland setback (0.12 acres) is sought.*
3. Applicant's reason for request:
  - *Lot 7 – Removal of wetland setback and relocation of wetland buffer is to allow for another buildable lot.*
  - *Lot 14 – Wetland fill is sought to create positive drainage through the site and allow for another buildable lot.*
4. Applicant's reason why request appropriate for Special Exception:  
*Objectives include to provide for two additional lots to be created.*

### **II. Environmental Commission review of the §15-9.0110C.4.f. Natural Resource Feature impacts to functional values:**

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species:  
*Not applicable. No Federal- or State-designated Special Concern, Threatened or Endangered species will be impacted by the proposed improvements.*
2. Storm and flood water storage:  
*-Applicable, however there will be no significant impacts to storm and flood water storage as a result of the proposed improvements.*
3. Hydrologic functions:  
*Applicable, however no significant impact is anticipated.*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances:  
*Applicable, however no significant impact to water quality is anticipated. During construction activities, erosion control measures will be taken. The proposed development will have a wet detention basing that will be constructed which will provide water quality control.*
5. Shoreline protection against erosion:  
*Not applicable, No significant impact is anticipated. Proper erosion control measures will be employed.*
6. Habitat for aquatic organisms:  
*No significant impact is anticipated.*
7. Habitat for wildlife:  
*No significant impact is anticipated.*
8. Human use functional value:  
*No significant impact is anticipated.*
9. Groundwater recharge/discharge protection:  
*Not applicable - There will be no significant impact to groundwater recharge/discharge.*
10. Aesthetic appeal, recreation, education, and science value:  
*Not applicable.*
11. State or Federal designated threatened or endangered species or species of special concern:  
*Not applicable.*
12. Existence within a Shoreland:  
*Not applicable.*

13. Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time:  
*Not applicable.*

**III. Environmental Commission review of the §15-10.0208B.2.d. factors and recommendations as to findings thereon:**

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature):  
*The proposal to fill in wetland areas and to move wetland setbacks in this instance resulting in two additional residential home lots are typical of the lot size standard in this Zoning District. These conditions are self-imposed.*
2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: ; or
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives:  
*The location of the proposed lots is determined by the location of South 50<sup>th</sup> Street, which is a connecting street between West Minnesota Avenue and the proposed Marquette Avenue.*
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood:  
*The project is new construction which will serve to connect surrounding residential areas; and*
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties:  
*There are no other non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area; and*
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement:  
*The roads are placed to accommodate another proposed development and connect Pleasant View School to 51<sup>st</sup> Street via Marquette Avenue as requested by staff; and*

- d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development (*this finding only applying to an application to improve or enhance a natural resource feature*):

**IV. Environmental Commission review of the §15-10.0208B.2.a., b. and c. factors and recommendations as to findings thereon:**

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise applicable setbacks:

*There are no alternatives as previously stated if the City wants the connectivity for Marquette Avenue to Pleasant View School, 50<sup>th</sup> Street to W. Minnesota Avenue, and a proposed development to the south. The resources lost are farmed wetlands of very small size and limited habitat.*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:

*The lot locations are determined by the road connections, which are set to the north, east, and west. The south side has a proposed connecting road to a proposed development.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant:

*The project should proceed as proposed because it is the most efficient layout for the site. The City will benefit from the additional tax base provided by the developed lots. Wetland mitigation will take place at Carity Prairie in the City of Franklin. The natural resource base will be enhanced and is open to the public.*

4. Aesthetics:

*One less lot would result if the remaining area on lot 14 is not allowed for the use of a home site. Hydrologic conditions sustain the wetland will no longer be present after the road grading and installation. One less lot would result if the wetland buffer and setbacks are not adjusted to allow for a buildable area on lot 7.*

5. Degree of noncompliance with the requirement allowed by the Special Exception:

- *Proposed Lots 7 and 8 and Outlot 1. Filling of wetland (0.008 acre), wetland buffer (0.112 acre), and wetland setback (0.125 acre). Wetland setbacks are requested to be removed from this lot and be re-located to the lot line.*
- *Filling of wetland (0.059 acres), wetland buffer (0.13 acres) and wetland setback (0.12 acres) is sought on Lot 14.*

6. Proximity to and character of surrounding property:

*There is single family housing development along the North and East property lines. There are a few single-family homes to the South and West.*

7. Zoning of the area in which property is located and neighboring area:  
*Subject property is zoned as R-6, Suburban Single-Family Residence district, as are areas to the North, East, South and West.*

8. Any negative affect upon adjoining property:  
*The existing site is farmland consisting of row crops with a large portion of the land having bare soil and no restrictions for stormwater runoff. The proposed subdivision will provide ground cover the entire site, which will reduce soil loss from the site, improving downstream water quality. A wet detention basin will also improve downstream water quality as well as providing storm/flood storage for the property. The impact on the hydrological function of Wetland A will be minimized by allowing off site runoff from the east to enter the wetland as it does under existing conditions.*

9. Natural features of the property:  
*Wetland A is a linear feature on the central portion of the site. The wetland contains a broken drain tile, creating the linear shape. This wetland is fresh wet meadow. Vegetation includes giant reed grass, reed canary grass, and some cattail. The wetland flows to the west under a culvert pipe in the S. 51<sup>st</sup> Street sidewalk. Wetland B is located in a slight depression within the farm field on the north side of the site. This wetland is scattered cattail in bare plowed soil. Soils in both wetlands met the redox dark surface hydric soil indicators. Hydrology for both included a positive FAC-neutral text & geometric position.*

10. Environmental impacts:  
*The proposed development will have no impact on the water quality protection provided by the wetlands. As part of the development, a wet detention basin will be constructed that will provide a higher level of water quality control than currently exists on the site.*

#### **V. Environmental Commission Recommendation:**

The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

1. The recommendations set forth in Sections III. and IV. Above are incorporated herein.
2. The Environmental Commission recommends approval of the Application upon the aforesaid recommendations for the reasons set forth therein.
3. The Environmental Commissions recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a. That all Wisconsin Department of Natural Resources approvals are obtained.



b. That mitigation is done in conjunction with Planning Department recommendations.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 27<sup>th</sup> day of March, 2019.

Dated this 27<sup>th</sup> day of March, 2019.



Arthur Skowron, Chairman

Attest:



Wesley Cannon, Vice-Chairman



March 29, 2019

Mr. Joel Dietl, AICP  
Department of City Development  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

Re: Oak Ridge of Franklin subdivision  
NRSE mitigation

Dear Mr. Dietl,

It is our understanding that Planning staff and the Environmental Commission prefer mitigation to be completed onsite when practical. It is also our understanding that Planning staff and the Environmental Commission are recommending such on site efforts but that both recommending bodies would be open to alternative mitigation efforts.

To keep the project moving forward we are open to either option. However, we have concerns with the potential success of onsite mitigation. The onsite area that will remain in conservancy by recorded easement is a highly degraded drainage area. Without removing soil that likely has a 50 year seed bank of invasive plants, the wet drainage area is not now nor will ever become a natural resource of any significance. Maximum mitigation efforts and costs as well as dredging of the area (which would also require additional DNR permitting) would result at best in an insignificant limited plant habitat not available or open to the public.

Arbanella/Carmody Homes recently provided the Planning Department a letter from Linda Frank, an attorney and the President of the Milwaukee Area Land Conservancy (MALC). MALC has offered to provide an opportunity for enhancement mitigation at a parcel in the same watershed as our project. As you know, the Carity Prairie under MALC management is home to the most valuable and endangered natural resource habitat remaining in southeastern Wisconsin. As stated in the MALC letter, a previous mitigation was approved, funded by the developers of the Autumn Leaves development. Because of the ongoing threat from invasive non-native plant encroachment continued funding will be needed for protection of this significant ecological resource.

Arbanella/Carmody Homes would be willing to provide mitigation per City preference. They strongly believe a more appropriate effort would include maintenance and protection of highly diverse natural resources. Restoration and enhancement mitigation of quality lands provide habitat, water quality benefits, public enjoyment and community beauty. Therefore, based on comments at the Environmental Commission, they would prefer and suggest the following:

Prior to final plat, they will provide the City of Franklin with a mitigation plan satisfactory to the Planning Department that will be carried out by consultants hired by MALC. The amount would be for the wetland fill of 0.067 acres and 0.242 acres of disturbed natural buffer as part of the NRSE allowed. For the setback which is allowed to be disturbed and seeded with lawn grass but to have no permanent hard surfaces, they would add at least two carefully selected native plant species into the remaining conservancy area. The plants would be selected as aggressive native plant species to somewhat compete or share the same space with the current non-native plants. This effort would improve water filtration in the drainage area and provide current and future residents a "splash of color" increasing the area's aesthetic appeal.

We look forward to continue to work with the City of Franklin to provide a solution that we believe will only improve the mitigation results and the process. We are pleased to bring Franklin quality homes and its resulting significant tax base while helping the community protect its most valuable resources.

Thank you for your consideration of our request.

Sincerely,

LYNCH & ASSOCIATES – ENGINEERING CONSULTANTS, LLC  
Timothy C. Lynch

ARBANELLA/CARMODY HOMES  
Dan Carmody, Fred Arbanella



# LEGEND

- 30' ASH
- 30' CYPRESS
- 30' SOUTHERN PINE
- 30' WHITE PINE
- 30' LARCH
- 30' SPRUCE
- 30' FIR
- 30' PINE
- 30' BIRCH
- 30' OAK
- 30' HICKORY
- 30' WALNUT
- 30' CHERRY
- 30' PLUM
- 30' SLOE
- 30' YEW
- 30' JUNIPER
- 30' CEDAR
- 30' REDWOOD
- 30' DOUGLASS FIR
- 30' PINE
- 30' SPRUCE
- 30' FIR
- 30' PINE
- 30' BIRCH
- 30' OAK
- 30' HICKORY
- 30' WALNUT
- 30' CHERRY
- 30' PLUM
- 30' SLOE
- 30' YEW
- 30' JUNIPER
- 30' CEDAR
- 30' REDWOOD
- 30' DOUGLASS FIR

WALTER R. HARTWITZ &  
SOUTH WISCONSIN, INC. 2012  
DANIEL GARDNER & FRED ARSENELLA  
3600 GLEN HAVEN DR  
MILWAUKEE, WI 53219  
(414) 425-4775

# OAK RIDGE OF FRANKLIN

PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, CITY 5  
NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

WISCONSIN STATE PLAT MAP COMPOSITE SYSTEM

Step	Area	Acres	Disturbance	Setback	Buffer	Disturbance	Setback	Buffer
STEP 1:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 2:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 3:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 4:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 5:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Step	Area	Acres	Disturbance	Setback	Buffer	Disturbance	Setback	Buffer
STEP 1:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 2:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 3:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 4:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00
STEP 5:	WETLANDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00

# LYNCH & ASSOCIATES

CITY OF FRANKLIN, MILWAUKEE COUNTY  
NATURAL RESOURCE PROTECTION PLAN FOR  
OAK RIDGE OF FRANKLIN



LOCATION MAP  
NOT TO SCALE

WISCONSIN STATE PLAT MAP COMPOSITE SYSTEM  
SHEET NO. 18-0002  
DATE: 10.03.18

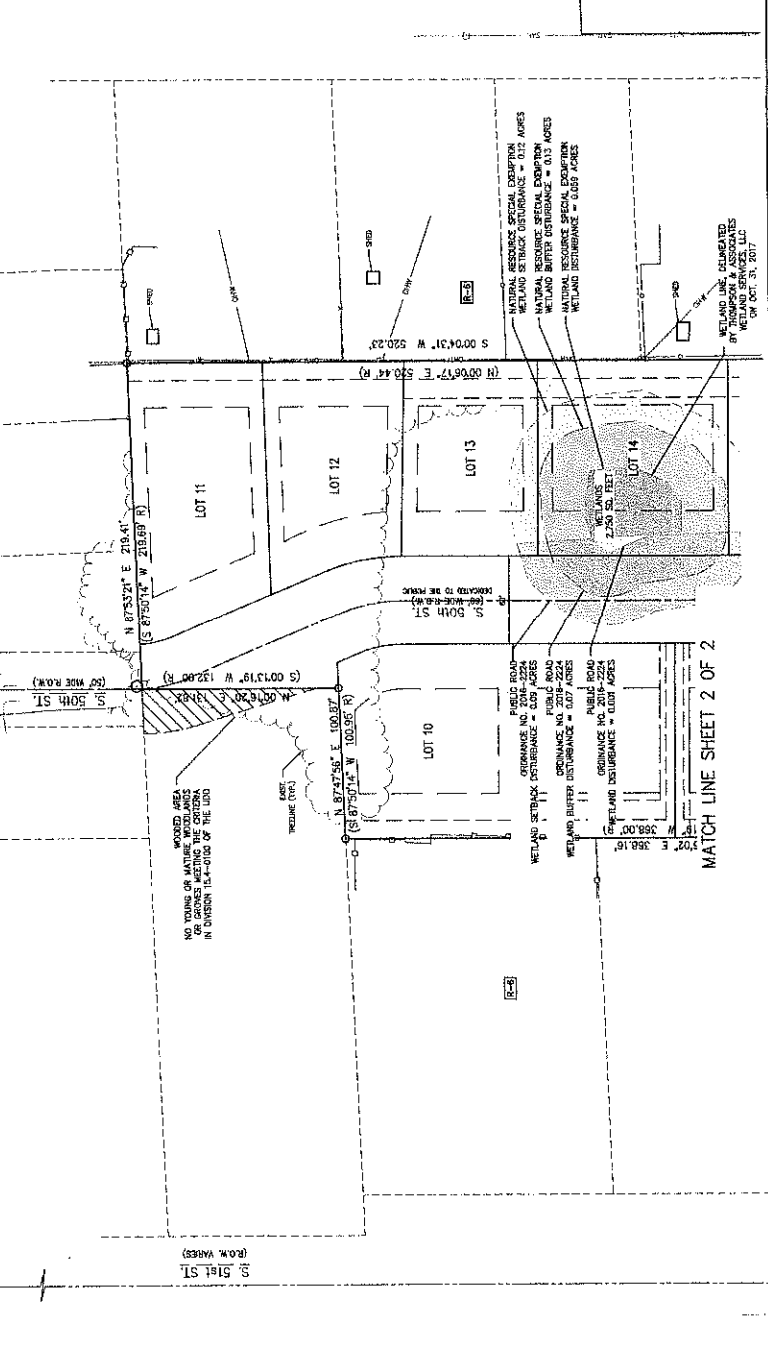


FIGURE 2  
DATE: 10.03.18  
SCALE: 1" = 40'  
PROJECT NO.: 18-0002  
SHEET NO.: 1 OF 2

Franklin  
MAY 25 2018  
City Development



OAK RIDGE OF FRANKLIN

BEING A REDIVISION OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 2153 AND PARCEL 3 OF CERTIFIED SURVEY MAP NO. 6949, IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, CITY 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

TYPE OF PLAT

SINGLE FAMILY RESIDENTIAL

SITE DATA

PROPOSED LOTS - 19  
ONE DWELLING UNIT PER LOT  
GROSS SITE AREA - 91,117 SF (1.87 AC)  
ZONING DATA  
EXISTING ZONING - R-9 SUBURBAN SINGLE FAMILY RESIDENCE  
MINIMUM LOT AREA (SF) 11,000  
MINIMUM FRONT SETBACK (FT) - 30  
MINIMUM FRONT YARD (FT) - 30  
MINIMUM REAR YARD (FT) - 30  
MINIMUM SIDE YARD (FT) - 10  
MINIMUM SIDE YARD ON CORNER (FT) - 19  
MINIMUM WETLAND SETBACK (FT) - 50

LEGAL DESCRIPTION  
A REDIVISION OF PARCEL 3 OF CERTIFIED SURVEY MAP NO. 6949, DULY RECORDED IN THE OFFICE OF THE MILWAUKEE COUNTY REGISTER OF DEEDS AND CLERK OF COURTS, IN THE SOUTHWEST 1/4 OF SECTION 11, CITY 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

DATE OF THIS PLAT: 05/14/18

REVIEWED BY: [Signature]

DATE OF REVIEW: 05/14/18

DATE OF PREPARATION: 05/14/18

DATE OF RECORDING: 05/14/18

DATE OF CLOSING: 05/14/18

DATE OF DEEDING: 05/14/18

DATE OF SETBACK: 05/14/18

DATE OF SETBACK: 05/14/18

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DATE OF SETBACK: 05/14/18

There are no objections to this plat with respect to the provisions of the Wisconsin Statutes, Chapter 235, and the provisions of the City of Franklin, Wisconsin, Ordinance No. 11.87, which require that a plat be approved by the City of Franklin, Wisconsin, before it is recorded in the Office of the Register of Deeds and Clerk of Courts.

Department of Administration

City of Franklin

City of Franklin

City of Franklin

City of Franklin

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Project Summary – Natural Resource Special Exemption  
Oak Ridge of Franklin Subdivision

The proposed development is a 23 lot subdivision located between 49<sup>th</sup> Street and 51<sup>st</sup> Street. The property to be developed is 11.87 acres in size. As part of the development, Marquette Avenue will be extended west from 49<sup>th</sup> Street to 51<sup>st</sup> Street and 50<sup>th</sup> Street will be extended south from West Minnesota Avenue to Marquette Avenue.

The subdivision lots will be single family residential, ranging in size from 0.25 acres to 0.44 acres. One outlot will be created that will contain a storm water management basin and preserve a portion of an existing wetland, wetland buffer and wetland setback. The undisturbed wetland, wetland buffer and wetland setback will be placed within a conservation easement. Zoning for this property is R-6 Suburban Single-Family Residence District.

Fill will be required in Wetland B for the creation of lot 14. The wetland setback and wetland buffer will also be filled. Wetland B consists of scattered cattail in bare plowed soil. The wetland disturbance will be 0.059 acres. The wetland buffer disturbance will be 0.13 acres. The wetland setback disturbance will be 0.12 acres.

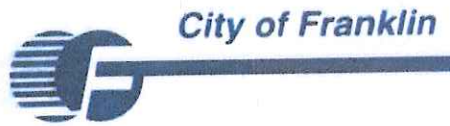
In Wetland A, a wetland disturbance of 0.008 acres will be required for the creation of lot 7. The wetland setback will be removed from lot 7 and the wetland buffer will be moved to the lot line. Disturbance will also occur in the wetland setback and wetland buffer for lot 8 and for the proposed stormwater management area. The wetland buffer disturbance in Wetland A will be 0.112 acres. The wetland setback disturbance in Wetland A will be 0.125 acres.

Wetland mitigation will be performed at the Carity Prairie site. This site has been previously approved for mitigation by the City for the Autumn Leaves Memory Care facility. Our site would provide an extension of the mitigation within this site.

Wetlands were delineated by Alice Thompson on October 31, 2017. Metropolitan Survey Service, Inc. located the wetland boundaries. Wetland A is 12,571 square feet in area and Wetland B is 2,750 square feet in area.

Franklin  
MAR 25 2019  
City Development





Date of Application: \_\_\_\_\_

## NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

Complete, accurate and specific information must be entered. Please Print.

### Applicant (Full Legal Name[s]):

Name: Fred Arbanella  
Company: \_\_\_\_\_  
Mailing Address: 5803 Glen Haven Dr  
City / State: Greendale, WI Zip: 53129  
Phone: (414) 425-4775  
Email Address: dcarmody@wi.rr.com

### Project Property Information:

Property Address: 7475 S. 49th St.  
Property Owner(s): Walter R. Hablewitz  
Mailing Address: \_\_\_\_\_  
City / State: 3408 S. Chicago Ave. Zip: 53172  
Email Address: \_\_\_\_\_

### Applicant is Represented by (contact person) (Full Legal Name[s]):

Name: Timothy C. Lynch  
Company: Lynch & Associates  
Mailing Address: 5482 S. Westridge Drive  
City / State: New Berlin Zip: 53151  
Phone: (262) 402-5040  
Email Address: tlynch@lynch-engineering.com

Tax Key Nos: 759 9981 010  
Existing Zoning: R6  
Existing Use: Agricultural  
Proposed Use: Single Family Residence  
Future Land Use Identification: \_\_\_\_\_

\*The 2025 Comprehensive Master Plan Future Land Use Map is available at: <http://www.franklinwi.gov/Home/Resources/Documents/Maps.htm>

Natural Resource Special Exception Application submittals for review must include and be accompanied by the following:

(See Section 15-10.0208 of the Unified Development Ordinance for review and approval procedures.)

<http://www.franklinwi.gov/Home/Planning/UnifiedDevelopmentOrdinanceUDO.htm>

- ☒ This Application form accurately completed with original signature(s). Facsimiles and copies will not be accepted.
- ☒ Application Filing Fee, payable to City of Franklin: ☒ \$500
- ☒ Legal Description for the subject property (WORD.doc or compatible format).
- ☒ Seven (7) complete collated sets of Application materials to include:
  - ☒ One (1) original and six (6) copies of a written Project Narrative.
  - ☒ Three (3) folded full size, drawn to scale copies (at least 24" x 36") of the Plat of Survey (as required by Section 15-9.0110(B) of the Unified Development Ordinance).
  - ☒ Three (3) folded full size, drawn to scale copies (at least 24" x 36") of the Natural Resource Protection Plan (See Sections 15-4.0102 and 15-7.0201 for information that must be denoted on or included with the NRPP).
  - ☒ Four (4) folded reduced size (11"x17") copies of the Plat of Survey and Natural Resource Protection Plan.
- ☐ Three copies of the Natural Resource Protection report, if applicable. (see Section 15-7.0103Q of the UDO).
- ☒ One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.
- ☒ Email (or CD ROM) with all plans/submittal materials. Plans must be submitted in both Adobe PDF and AutoCAD compatible format (where applicable).

- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- Natural Resource Special Exception requests require review by the Environmental Commission, public hearing at and review by the Plan Commission, and Common Council approval prior to recording with Milwaukee County Register of Deeds.

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).

Walter R. Hablewitz Jr.  
Signature - Property Owner  
Name & Title (PRINT)  
Date: 10/22/18

Walter R. Hablewitz Jr.  
Signature - Property Owner  
Name & Title (PRINT)  
Date: 10/22/18

Fred Arbanella  
Signature - Applicant  
Name & Title (PRINT)  
Date: 10/22/18

\_\_\_\_\_  
Signature - Applicant's Representative  
Name & Title (PRINT)  
Date: \_\_\_\_\_



State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

Scott Walker, Governor  
Daniel L. Meyer, Secretary  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



November 7, 2018

IP-SE-2018-41-03966

Walter Hablewitz  
3408 S. Chicago Avenue  
South Milwaukee, WI 53172

Dear Walter Hablewitz:

This acknowledges receipt of your application for wetland fill or disturbance near Root River, City of Franklin in Milwaukee County.

Our field staff are currently evaluating your proposal. Depending on the amount of information you provided and the complexity of your project, you may be asked to provide additional information so that a complete evaluation can be made. We will notify you of the final disposition of your application as soon as we complete our review.

If you have not already done so, please contact the Milwaukee County and local municipal zoning offices to determine if a local permit is also required for your project. I have forwarded a copy of your application to the U.S. Army Corps of Engineers. They will advise you directly as to whether their regulations apply to your project.

If you would like to know more about this project or would like to see the application and plans, please visit the Department's permit tracking website at <https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx> and search for WP-IP-SE-2018-41-X11-01T14-48-29.

If you have any questions, please contact your local Water Management Specialist, Joshua Wied at (262) 574-2132 or email [Joshua.Wied@wisconsin.gov](mailto:Joshua.Wied@wisconsin.gov).

Sincerely,

Kristina Femal  
Waterway and Wetland Permit Intake Specialist

cc: Joshua Wied, Water Management Specialist  
April Marcangeli, U.S. Army Corps of Engineers  
Daniel Carmody  
David Vivian, Lynch & Associates Engineering

**Franklin**

**MAR 25 2019**

**City Development**



February 19, 2019

IP-SE-2018-41-03966

Walter Hablewitz  
3408 S. Chicago Avenue  
South Milwaukee, WI 53172

Dear Mr. Hablewitz:

This letter contains important information regarding your DNR permit application for wetland fill or disturbance in Milwaukee County. Your application has reached its date of closure and is considered complete. Wisconsin law (chapters 30 and 281, Wisconsin Statutes) requires that the public be allowed an opportunity to comment on projects like yours. The next step in the individual permit review process is a Notice of Pending Application and public comment period. You have asked the Department to publish the notice on your behalf.

The enclosed document is a "Notice of Pending Application" for your project. The Department will arrange for newspaper publication of the notice and will publish the notice on our Internet website. The 30-day period to submit written public comment and the 20-day period to request a public hearing in writing will begin on the date on which the Department first publishes the notice on our Internet website. If a public hearing is held, the period to submit written public comment will end 10 days after the date the hearing is completed.

State law requires that a copy of the enclosed notice be delivered by U.S. Mail as Certified Mail - Return Receipt Requested to interested members of the public. The Department will arrange for these mailings. For your information, the Department has determined the parties listed below will be notified. You may notify others at your discretion.

Jonathan & Lisa Frey  
7404 S. 51st Street  
Franklin, WI 53132

DON & SANDRA MARTIN  
7360 S 51ST ST  
FRANKLIN WI 53132

JOHN T & NOREEN M  
PETRIE  
4939 W MINNESOTA AVE  
FRANKLIN WI 53132

DREXEL AVENUE LLC  
400 W DREXEL AVE  
OAK CREEK WI 53154

VICKI M WELCH  
7330 S 51ST ST  
FRANKLIN WI 53132

MATILDA SIMCIC  
7371 S 49TH ST  
FRANKLIN WI 53132

TODD & KRISTIE GRUNZE  
7393 S 49TH ST  
FRANKLIN WI 53132

DANIEL J KENNEDY  
5003 W MINNESOTA AVE  
FRANKLIN WI 53132

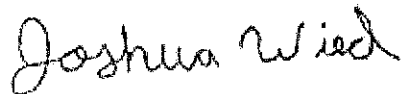
DANIEL F DISTEFANO  
4951 W MINNESOTA AVE  
FRANKLIN WI 53132

KYLE E KELLER  
7353 S 49TH ST  
FRANKLIN WI 53132

YAHIA JABER  
SHEILA BADWAN  
7388 S 51ST ST  
FRANKLIN WI 53132

Please write or call me at (262) 574-2132 or email [Joshua.Wied@wisconsin.gov](mailto:Joshua.Wied@wisconsin.gov) if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joshua Wied". The signature is written in a cursive, flowing style.

Joshua Wied  
Water Management Specialist

cc: City of Franklin  
U.S. Army Corps of Engineers  
WDNR

## Notice of Pending Application for Proposed Wetland Individual Permit

Walter Hablewitz, 3408 S. Chicago Avenue, South Milwaukee, WI 53172 has applied to the Department of Natural Resources for a permit for wetland fill or disturbance near Root River.

The project is located in the SW1/4 of the NE1/4 of Section 11, Township 05 North, Range 21 East, City of Franklin, Milwaukee County.

The Proposed Oak Ridge Subdivision impacts 0.14 acres of wetlands with the construction of a road and residential lots between 49<sup>th</sup> street and 51<sup>st</sup> street.

The Department will review the proposal provided by the applicant and any information from public comments and a public informational hearing, if requested. The Department will determine whether the proposal complies with ss. 1.11 and 281.36, 401 CWA, Stats., and ch. NR 150, Wis. Adm. Code, and ensure that the required mitigation meets the standards in s. 281.36(3r), Stats. if the project impacts wetlands.

The Department has made a tentative determination that it will issue the permit or contract for the proposed activity.

If you would like to know more about this project or would like to see the application and plans, please visit the Department's permit tracking website at <https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx> and search for WP-IP-SE-2018-41-X11-01T14-48-29.

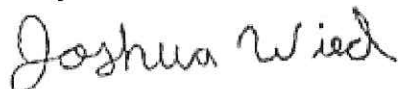
Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Any person may submit comments and/or request a public informational hearing by emailing Joshua.Wied@wisconsin.gov or writing to Joshua Wied, 141 NW Barstow St. , Room 180, Waukesha, WI 53188 by U.S. mail. If you are submitting general comments on the proposal, they must be emailed or postmarked within 30 days after the date this notice is published on the Department's website. If you are requesting a public informational hearing, the request must be emailed or postmarked within 20 days after the date this notice is published on the Department's website. A request for hearing must include the docket number or applicant name and specify the issues that the party desires to be addressed at the informational hearing.

If no hearing is requested, the Department may issue its decision without a hearing. If a public informational hearing is held, comments must be postmarked no later than 10 days following the date on which the hearing is completed.

The final decision may be appealed as indicated in the decision document.  
Docket Number IP-SE-2018-41-03966

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES**  
For the Secretary



Joshua Wied  
Water Management Specialist

02/19/2019  
Date





Linda Frank

**Vice President**  
Howard Aprill

**Treasurer**  
Don Dorsan

**Board and  
Land Management**  
Larry Leitner  
Perry Rossa  
Paul Ryan  
John Sanborn  
Kristin Schultheis

#### ADVISORS

**Legal Counsel Advisors**  
Dennis Grzezinski  
Arthur Harrington  
Fred Klimetz  
Monica McKee  
Peter McKeever  
Steven Schmucki

**Land Use and Project  
Planning Advisors**  
Neil Luebke  
John Siepmann

## **Milwaukee Area Land Conservancy**

### **Mission Statement**

*To preserve and protect valuable land and water resources for the benefit of the public,  
as well as for the wildlife dependent on these resources, in order to maintain quality of life  
biological diversity, and natural scenic beauty for future generations.*

March 22, 2019

Timothy Lynch, P.E.  
Engineering Consultants, LLC  
5482 S. Westridge Drive  
New Berlin, WI 53151

Subject: Oak Ridge Homes Mitigation

Dear Mr. Lynch,

Thank you for your interest in Milwaukee Area Land Conservancy (MALC) to assist with local mitigation. MALC can provide restoration that supports and restore some of the most valuable ecosystems remaining in S.E. Wisconsin. MALC has decades of experience in restoration and natural area management that will lead to success in carrying out your mitigation needs.

MALC holds title to 3 ecologically significant Franklin parcels in the Root River watershed and one in the Lincoln Creek watershed in Glendale. MALC also has a conservation easement adjoining the Franklin Savanna State Natural Area containing portions of Ryan Creek. Information on these sites is available at our website, <http://www.mkeconservancy.org>

Previously, in cooperation with the City of Franklin, MALC provided mitigation following the City's Unified Development Ordinance for the Autumn Leaves development. This mitigation is taking place at our Carity Prairie located in the Root River watershed. Further mitigation opportunities are available at this site.

MALC hires a local natural area restoration company and then supervises the mitigation planning, execution, monitoring and management. To proceed with a price quote, the MALC board would require the mitigation size needed in order to assist with the details of a plan. With DNR approval, MALC may also be able to incorporate any required DNR mitigation.

There are significant benefits to the area watershed and habitat by providing mitigation locally. Once fees are paid, no further efforts are necessary on your part. The result is a local restoration that enhances a diverse and fully functional ecosystem that is available to the public.

We look forward to assisting you with meeting your mitigation needs.

Sincerely,

Linda M Frank  
President  
Milwaukee Area Land Conservancy

**Franklin**

**MAR 25 2019**

**City Development**

## Natural Resource Special Exception Question and Answer Form.

### Questions to be answered by the Applicant

Items on this application to be provided in writing by the Applicant shall include the following, as set forth by Section 15-9.0110C. of the UDO:

- A. Indication of the section(s) of the UDO for which a Special Exception is requested. \_\_\_\_\_  
15-4.0100  
\_\_\_\_\_  
\_\_\_\_\_
- B. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate.  
A special exemption is being requested for proposed lot 7. It is requested that the wetland setback be removed from this lot and that the wetland buffer be relocated to the lot line. A second special exemption is being requested for proposed lot 14. It is requested that filling be allowed to occur in the wetland, wetland buffer and wetland setback. Area of fill is 0.067 acres of wetland, 0.242 acres of wetland buffer and 0.245 acres of wetland setback.  
\_\_\_\_\_  
\_\_\_\_\_
- C. Statement of the reason(s) for the request.  
The removal of the wetland setback and relocation of the wetland buffer at proposed lot 7 is to allow a buildable lot to be created.  
The wetland fill at proposed lot 14 is needed to create positive drainage through the site and allow for the creation of a buildable lot.  
\_\_\_\_\_  
\_\_\_\_\_
- D. Statement of the reasons why the particular request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

#### 1) Background and Purpose of the Project.

- (a) Describe the project and its purpose in detail. Include any pertinent construction plans.  
The purpose of the project is the development of 23 single family lots and the extension of Marquette Avenue west to S. 51st Street and the extension of S. 50th Street south from West Minnesota Avenue to the Marquette Avenue extension.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (b) State whether the project is an expansion of an existing work or new construction.  
The project is new construction which will serve to connect surrounding residential areas.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (c) State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose.

The location of the proposed lots is determined by the location of South 50th Street, which is a connecting street between West Minnesota Avenue and the proposed Marquette Avenue extension.

2) Possible Alternatives.

- (a) State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed.

One less lot would result if the remaining area on lot 14 is not allowed for the use of a home site. Hydrologic conditions sustaining the wetland will no longer be present after the road grading and installation. One less lot would result if the wetland buffer and setbacks are not adjusted to allow for a buildable area on lot 7.

- (b) State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

South 50th Street cannot be extended to Marquette Avenue without affecting the wetlands.

- (c) State how the project may be made smaller while still meeting the project's needs.

The lots would be removed from the development, resulting in a loss of additional tax base.

- (d) State what geographic areas were searched for alternative sites.

No other geographic areas were searched for alternative sites.

- (e) State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.

There are no other non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.



- (f) State what will occur if the project does not proceed.

The property will remain undeveloped, S. 50th Street and Marquette Avenue will not be extended.

3) **Comparison of Alternatives.**

- (a) State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal and consider and document the cost of the resource loss to the community.

There are no alternatives as previously stated if the City wants the connectivity for Marquette Ave. to Pleasant View School, 50th Street to W. Minnesota Avenue and a proposed development to the south. The resources lost are farmed wetlands of very small size and limited habitat.

The cost of not filling the wetlands to develop lots 7 and 14 would be \$120,000.

- (b) State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.

The lot locations are determined by the road connections, which are set to the north, east and west. The south side has a proposed connecting road to a proposed development.

- (c) State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.

Road alignments would not match current roads.

- (d) State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.

The roads are placed to accommodate another proposed development and connect Pleasant View School to 51st Street via Marquette Avenue as requested by staff.

4) **Choice of Project Plan.**

State why the project should proceed instead of any of the possible alternatives listed under sub.2., above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts.

The project should proceed as proposed because it is the most efficient layout for the site. The City will benefit from the additional tax base provided by the developed lots.

Wetland mitigation will take place at Carly Prairie in the City of Franklin. The natural resource base will be enhanced and is open to the public.

5) **Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description.**

Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

Wetland A is a linear feature on the central portion of the site. The wetland contains a broken drain tile, creating the linear shape. This wetland is fresh wet meadow. Vegetation includes giant reed grass, reed canary grass and some cattail. The wetland flows to the west under a culvert pipe in the S. 51st Street sidewalk. Wetland B is located in a slight depression within the farm field on the north side of the site. This wetland is scattered cattail in bare plowed soil. Soils in both wetlands met the redox dark surface hydric soil indicators. Hydrology for both included a positive FAC-neutral test & geomorphic position.

6) **Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts.**

- |    |  |  |  |
|----|--|--|--|
| a) | Diversity of flora including State and/or Federal designated threatened and/or endangered species.   | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| b) | Storm and flood water storage.   | <input type="checkbox"/> Not Applicable            | <input checked="" type="checkbox"/> Applicable |
| c) | Hydrologic functions.  | <input type="checkbox"/> Not Applicable            | <input checked="" type="checkbox"/> Applicable |
| d) | Water quality protection including filtration and storage of sediments, nutrients or toxic substances.   | <input type="checkbox"/> Not Applicable            | <input checked="" type="checkbox"/> Applicable |
| e) | Shoreline protection against erosion.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| f) | Habitat for aquatic organisms.   | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| g) | Habitat for wildlife.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| h) | Human use functional value.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| i) | Groundwater recharge/discharge protection.   | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| j) | Aesthetic appeal, recreation, education, and science value.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| k) | Specify any State or Federal designated threatened or endangered species or species of special concern.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| l) | Existence within a Shoreland.  | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |
| m) | Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time. | <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Applicable            |

Describe in detail any impacts to the above functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback:

The existing site is farmland consisting of row crops with a large portion of the land having bare soil and no restrictions for stormwater runoff. The proposed subdivision will provide ground cover for the entire site, which will reduce soil loss from the site, improving downstream water quality. A wet detention basin will also improve downstream water quality as well as providing storm/flood storage for the property. The impact on the hydrological function of Wetland A will be minimized by allowing off site runoff from the east to enter the wetland as it does under existing conditions.

7) **Water Quality Protection.**

Describe how the project protects the public interest in the waters of the State of Wisconsin.

The proposed development will have no impact on the water quality protection provided by the wetlands. As part of the development, a wet detention basin will be constructed that will provide a higher level of water quality control than currently exists on the site.

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Natural Resource Protection Plan  
Oak Ridge of Franklin Subdivision

1. INTRODUCTION:

The proposed project is located on a vacant parcel of 11.87 acres in the City of Franklin, Milwaukee County, Wisconsin. The property is located south of Minnesota Ave. and extends to the future extension of Marquette Avenue, between 49<sup>th</sup> Street and 51<sup>st</sup> Street. The area contains agricultural farmland and farmed wetlands. There is one small farmed wetland and one connected drainage area that has since converted to a mono-culture wetland. Agricultural farmland has been the historic use of the property. There are no primary, or secondary environmental corridors zoned or isolated natural resources on site. The site is zoned R-6 suburban single-family.

2. METHODOLOGY:

A wetland delineation, existing conditions topographic survey and field investigation survey were completed on the property.

The wetland delineation and field investigation survey was completed on 10/31/2017 by Thompson & Associates Wetland Services, LLC.

Additional supporting information that was reviewed and utilized included input from U.S. Army Corps of Engineers, the Wisconsin Department of Natural Resources and Milwaukee County.

3. RESULTS:

Steep Slopes:

No areas on the site that meet the steep slope criteria as defined by the UDO. There are no natural vistas/features as this property has historically been in agricultural use.

Woodlands:

There are no young or mature woodland or groves on the site that meet the criteria in Division 15-4.0100 of the UDO. See attached woodland letter by certified arborist Jason Collin which states these findings.

Lakes, Ponds, Streams and Shore Buffers:

There are no lakes, ponds or streams located on the property. There are no shoreland buffers on the site.

Floodplain/Floodway:

No floodplains/floodway exist on the property.

#### Wetland, Wetland Buffers, and Wetland Setbacks:

There are two wetlands located on the site. Wetland A (0.29 acres) is located as a linear feature on the central portion of the site. The linear shape is likely due to a broken drain tile. The wetland community type is fresh wet meadow.

Wetland B (0.06 acres) is located in a slight depression within the farm field on the north side of the site. The wetland is considered a low quality farmed wetland. The wetland community type is scattered cattail in bare plowed soil.

#### 4. NATURAL RESOURCE DISTURBANCE AND PROTECTION:

The proposed site development sketch plan is shown in Figure 1. The existing agricultural drainage outside of the area for 50<sup>th</sup> Street and the sidewalk, will be maintained and protected by a permanent conservation easement. Under 15.4.0102 J-3, exemptions are allowed for actively maintained farm drainage areas. The mono-culture habitat is indicative of past farming. Regardless, the area will be protected.

Wetland disturbance to the farmed wetlands will be required for 50<sup>th</sup> Street and sidewalks. After road grading and sidewalks are installed the remaining farmed wetland on lot 14 and its associated buffers will have no resource value. The developer is anticipating staffs recognition of the value for tax base that would be created to allow disturbance of the remaining area on lot 14.

The remaining 0.2 AC will be an insignificant natural resource.

The new road location (20 feet east) will require a portion of the farmed wetlands to be filled for roadway and sidewalk.

#### 5. MITIGATION ENHANCEMENT:

To make up for the loss of the remaining small farmed wetland, the developer could enhance the drainage wetland adjacent to the storm water basin with native seed. This will provide higher water quality filtration and habitat than the current farmed wetland that will be impacted by the roadway and sidewalk.

#### 6. CONCLUSION:

The proposed development will impact farmed wetlands and part of the drainage area mainly for roadway and sidewalk. The worksheets for the site Intensity and Capacity Calculations are included in Figure 2. The calculations allow for a total of 30 lots permitted for this site. The proposed amount of lots for the subdivision is 23.

The total lot number is dependent on the use of the remaining wetland and buffer after Essential Services are installed and staff consideration as to the value of lot 14 as a resource that requires protection or for use as one additional lot.

The practical alternative analysis was applied in regard to the extension of 50<sup>th</sup> Street, which is essential to efficient road layout and traffic flow. Road adjustments were made to the development plan to have the least impact and as directed by the city staff.

The project is proposing to impact 0.14 acres of farmed wetlands, 0.46 acres of wetland buffers and 0.46 acres of wetland setbacks.

Wetland impacts to the farmed wetlands are mainly for roadway and sidewalk when the extension of 50<sup>th</sup> Street is required for efficient transportation and connectivity per ordinance no. 15-4.0100 Natural Resource Protection, streets and sidewalks shall not constitute development.

We are asking for counsel consideration to apply the ordinance that allows for the street and sidewalk area to fall under Ordinance No. 2016-2224 versus the special exception process.

As required for counsel determination to allow street and sidewalk as roadway and sidewalk permits for Army Corps of Engineers and Wisconsin Department of Natural Resources have been applied for and approved.

The remaining area of farmed wetland will be on lot 14 which the developer is requesting full use of the lot for a home-site given the remaining area is extremely insignificant and provides no Natural Resource value in terms of native plant, habitat, or water quality. If the council does not desire making use of this lot, then the tax base would be lost for the city now and in the future.

# SKETCH PLAN FOR OAK RIDGE OF FRANKLIN CITY OF FRANKLIN, MILWAUKEE COUNTY

ENGINEERING CONSULTANTS, LLC

FIGURE 1

ISSUED FOR  
REVIEW

PLAN DATE 10.02.18

DESIGNED BY JRY

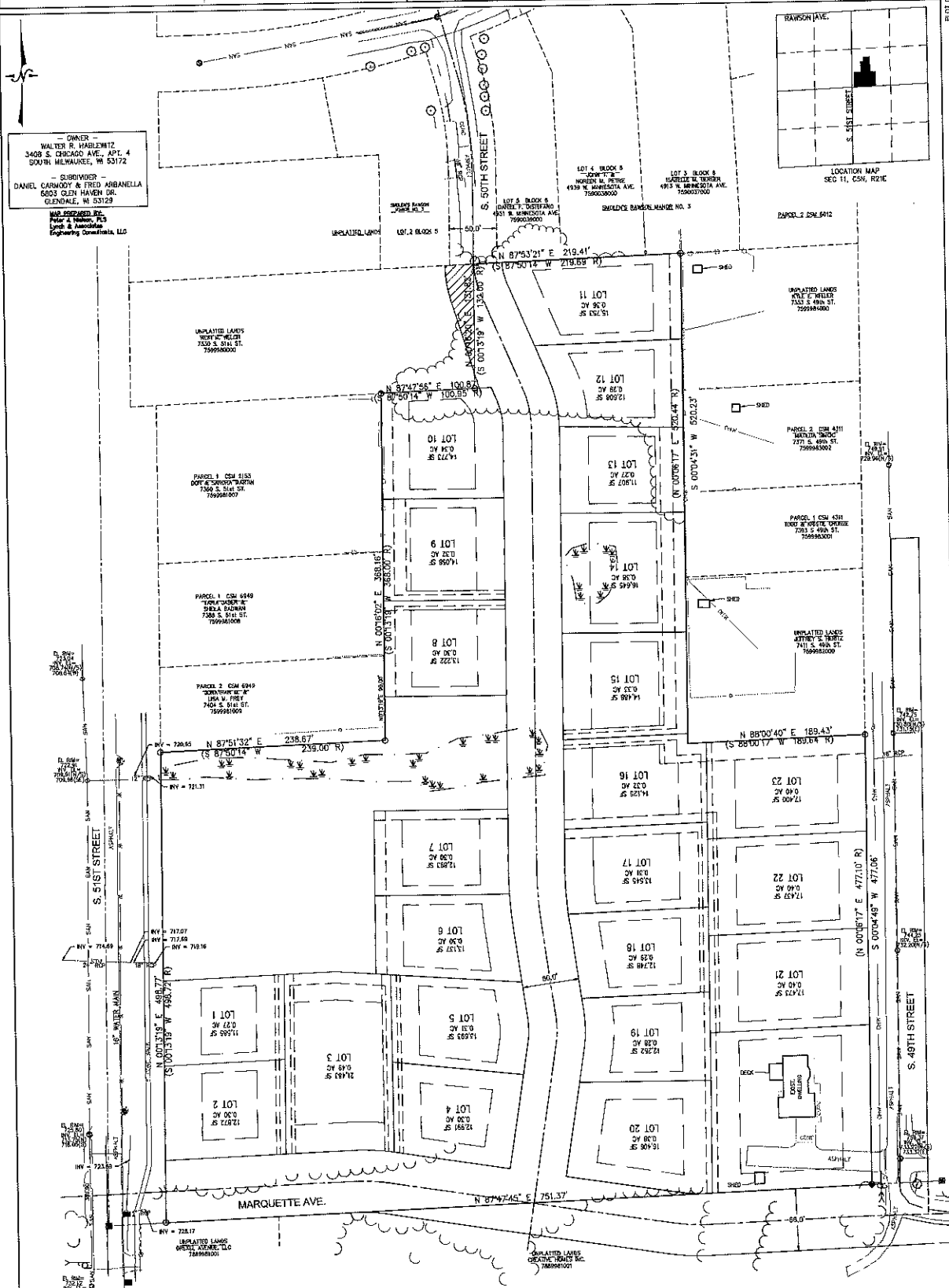
SCALE 1"=40'

PROJECT NO. 18.0002

SHEET NO.

V101

PLAT DATE 1/27/2019 4:02 PM



## LEGAL DESCRIPTION

A REDIVISION OF PARCEL 3 OF CERTIFIED SURVEY MAP NO. 6949, DULY RECORDED IN THE OFFICE OF THE MILWAUKEE COUNTY REGISTER OF DEEDS ON MAY 11TH, 2004, ALSO BEING A REDIVISION OF PARCEL 2 OF CERTIFIED SURVEY MAP NO. 2153 AND LOCATED IN THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, CITY 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

PART OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 11, CITY 5 NORTH, RANGE 21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

## USE STATEMENT

SINGLE FAMILY RESIDENTIAL  
SITE DATA  
PROPOSED NUMBER OF LOTS - 23  
ONE DWELLING UNIT PER LOT  
GROSS SITE AREA - 517,117 SF (11.631 AC)







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# A Notch Above the Rest, LLC

## WOODLAND NATURAL RESOURCE PROTECTION

**Woodlands and Forests** (mature and young) are defined in Division 15- 11.0100 of the UDO and are to be measured and graphically indicated on the "Natural Resource Protection Plan" to indicate all woodland and forest areas on the property to be developed. The definitions to determine woodland resources required for protection are made as follows:

**Woodland, Mature:** An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast height (DBH) of at least ten (10) inches; or any grove consisting of eight (8) or more individual trees having a DBH of at least twelve (12) inches whose combined canopies cover at least fifty (50) percent of the area encompassed by the grove. However, no trees planted and grown for commercial purposes should be considered mature woodland.

**Woodland, Young:** An area or stand of trees whose total combined canopy covers an area of one-half (0.50) acre or more and at least fifty (50) percent of which is composed of canopies of trees having a diameter at breast height (DBH) of at least three (3) inches.

However, no trees planted and grown for commercial purposes shall be considered young woodland.

## QUALIFIED PROFESSIONAL REVIEW

A field survey of trees for the parcel located South of West Minnesota Avenue to Marquette Avenue, South 49<sup>th</sup> Street to South 51<sup>st</sup> Street was completed on September 16, 2017 and December 18, 2018 by Jason Collins, a Certified Arborist.

Two areas were identified for woodland verification using aerial photos and on site field surveying as required by the city ordinance. Woodland areas meeting the UDO definition are required to be shown on the Natural Resource Protection Plan.

## WOODLAND ANALYSIS AND INSPECTION DETERMINATION

The following factors were used to determine any areas that would require woodland delineation and protection for depiction on the site plan and Natural Resource Protection Plan:

- Aerial photos and on-site review for the presence of trees or woodland areas
- Genus or tree type located on the parcel to be developed

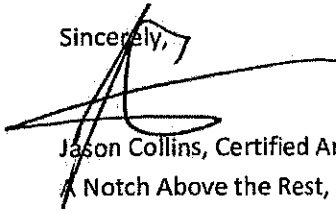
- Tree size or wooded area meeting the ordinance definition
- The health condition of trees or any woodland if present
- The general health condition of the understory vegetation

**Site Conditions:** The site was visited during both leaf on and leaf off conditions. Trees meeting the size requirements did not have sufficient canopy cover to qualify as a grove. No mature or young woodlands were present that meet the requirements for protection. Many of the larger trees were either in complete decline or declining due to Emerald Ash Borer, Dutch Elm Disease and condition of the area. The majority of the brush area had sparse declining trees and consisting mostly of common non-native and invasive buckthorn, honey suckle and a few declining apple trees and a few smaller conifer trees that would not be native plant species to the area.

The many down trees had been decaying for some time. Two larger willow trees and a few box elder trees could possibly be protected if outside of the lot grading area but add little to no value as a natural resource. Around the edge at the site there is a significant amount of edge brush piles from past dumping as well as some windblown debris. A second area on the south edge of the property had some possible young woodland qualities but also did not meet the size requirements under city ordinance. Even at stretching the determination, the 50% impact allowed for young woodlands would leave an area that would not provide a significant natural resource under the intent for resource protection.

**Conclusion:** Due to the low quality, inconsistent canopy cover, insufficient size and species identified on-site, it is my professional opinion that no groves, young or mature woodlands exist on the property, which meet the woodland definitions within the city's ordinance. Therefore, the brush outlines indicated on the plans are for informational purposes only and indicate the non-farmed areas containing some level of vegetated growth with sparse trees and non-native trees and brush.

Sincerely,



Jason Collins, Certified Arborist, WI-0726-A  
A Notch Above the Rest, LLC

**Note:** The developer states they are agreeable to the protection of any existing vegetation or quality trees that would benefit the parcel and if the city's forester determines such need. Prior to site grading protective fencing could be installed as requested by city staff

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