

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;">05/19/2020</p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF MILLS HOTEL WYOMING, LLC, APPLICANT, FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>G.6.</i></p>

At their meeting on March 25, 2020 the Environmental Commission recommended approval of the subject Special Exception to certain natural resource provisions of the Unified Development Ordinance with conditions as proposed at their meeting and as set forth in the attached final draft City of Franklin Environmental Commission document.

At the regular meeting of the Plan Commission on May 7, 2020, following a properly noticed public hearing, the following action was approved: motion to recommend approval of the Mills Hotel Wyoming, LLC Natural Resource Features Special Exception pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council Consideration of staff recommendations as presented at this meeting; and to review the Environmental Commission recommendations.

Upon review, the Environmental Commission recommendation to accept wetland restoration in lieu of mitigation is not permissible by the UDO, Staff therefor recommended that the application provide required wetland mitigation as part of a wetland in the same subwatershed. The Plan Commission's recommendation to include the Department of City Development recommendations has been reflected in the Decision section of the attached draft Standards, Findings, and Decision document.

Please note that residents spoke during the public hearing with concerns about how the proposed development for the site would impact the watershed, and how nonpoint pollution and runoff would be managed by that development.

**COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Mills Hotel Wyoming, LLC, applicant, for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance.

*Redraft 05/13/2020*

**Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Mills Hotel  
Wyoming, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance**

Whereas, Mills Hotel Wyoming, LLC, applicant, having filed an application dated January 22, 2020, 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 25, 2020 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 May 7, 2020 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 generally located at West Loomis Road and West Ryan Road (Lot 84 in Ryan Meadows Subdivision), zoned R-2 Estate/Single-Family Residence District, C-1 Conservancy District and R-8 Multiple-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 January 22, 2020, by Mills Hotel Wyoming, LLC, 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, are not self-imposed and are inherent to the site.*

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: *The strict application of natural resource protection to this area, including wetland preservation, buffers and setbacks would render the parcel unusable; and*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives: *Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and occur in areas of degraded, farmed wetland. There are no reasonable alternatives for development of the property.*

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

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. Other properties seeking the same relief would need to meet similar standards; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for; 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 applicant understands and agrees to place Conservation Easements on other natural resource features within the site, including any areas of mitigation.*

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: *The proposed improvements which cause the need for the NRSE include grading, roadways, underground utilities and lot grading. The improvements will not negatively affect surrounding properties.*

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 exceptional, extraordinary or unusual circumstance is that the resource being impacted has been designated as low quality and is orientated in a way that prevents practical development on the remaining land.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property has been affirmed through recent zoning and Certified Survey Map. The future improvements will be permanent.*

4. Aesthetics: *There will be no negative impact to aesthetics.*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The NRSE is not over-reaching. Applicant represents that the specific situation is what the NRSE was intended for.*

6. Proximity to and character of surrounding property: *Applicant owns the adjacent property to the east and west. The property to the South of the site (Zoned residential) is owned by the current owner of the parcel subject to the NRSE, and has granted permission for development of the parcel and this NRSE request, prior to the property sale. Bear Development or its partners own the other surrounding properties as part of their development project for this part of Franklin.*

7. Zoning of the area in which property is located and neighboring area: *Manufacturing and residential.*

8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived.*

9. Natural features of the property: *The wetland resource that will be impacted consists primarily of low-quality, farmed vegetation.*
10. Environmental impacts: *There are no other environmental impacts associated with the NRSE with exception to the reduction of approximately 10,000 square feet of farmed wetland. The applicant proposes mitigation by enhancing an existing wetland that is part of the same watershed.*
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 25, 2020 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 properties 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 Mills Hotel Wyoming, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance.*

4) *Mitigation is provided by the applicant be in compliance with the standards of §15-4.0103.B.4. Mitigation may be provided off-site, within the same subwatershed.*

*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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

**City of Franklin Environmental Commission**

TO: Common Council  
DATE: March 25, 2020  
RE: Special Exception application review and recommendation  
APPLICATION: Mills Hotel Wyoming, LLC, Applicant, dated: January 22, 2020  
(generally West Loomis Road and West Ryan Road (Lot 84 in  
Ryan Meadows 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: *The applicant is requesting an exception from §15-4.0101 Natural Resource Protection Standards, and §15-4.0102 Natural Resource Features Determination which require that identified natural resources features be protected from impacts of development.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *The applicant is requesting to impact 9,969 square feet of farmed wetland, 19,268 square feet of wetland buffer, and a setback area totaling 34,002 square feet including the buffer (14,734 square feet of setback outside the buffer). The wetland area exists as a linear shaped swale that has been continuously farmed since at least 1937.*
3. Applicant's reason for request: *The farmed wetland is shaped and located in such a way that it bisects the site. The orientation prevents the property from being practically developed. Because the wetland is farmed and devoid of vegetation, the applicant believes it has a very low functional value.*

*Federal and State Permits for the proposed wetland impact have been secured.*

4. Applicant's reason why request appropriate for Special Exception: *The City of Franklin Plan Commission and City Council has approved a zoning reclassification and Certified Survey Map for this property. The intended use of the property is an extension of manufacturing use.*

*The property in question is currently actively farmed for traditional row crops. The applicant completed a wetland delineation, as required by the CSM and discovered that it includes a farmed wetland which bisects the property. The swale feature, which was classified as "low-quality" wetland, is not vegetated except for seasonal row crops. Without the Natural Resource Exception, the property cannot be developed.*

*Upon review, both the Wisconsin Department of Natural Resources and the Army Corps of Engineers granted permits for the proposed wetland impact based on the low-quality characteristics of the wetland and the fact that the property cannot be developed without the requested impact.*

*The remaining wetlands on site will be perpetually protected by a Conservation Easement.*

## **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: *Soybeans/Corn.*
2. Storm and flood water storage: *The property is not in a designated floodplain or floodway.*
3. Hydrologic functions: *The wetland is overland drainage swale.*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The wetland is not vegetated year-round. Runoff and sediment are not trapped or filtered by this feature.*
5. Shoreline protection against erosion: *The wetland is not adjacent to a body of water.*
6. Habitat for aquatic organisms: *The wetland is not adjacent to a body of water.*
7. Habitat for wildlife: *The wetland is not vegetated. It is actively tilled for row crop production.*
8. Human use functional value: *The proposed areas of impacts are not being used for any type of human use other than agriculture.*
9. Groundwater recharge/discharge protection: *The swale is a natural depressional area which leads to a functional wetland. Groundwater and surface water will continue to drain to the peripheral wetlands.*

10. Aesthetic appeal, recreation, education, and science value: *There is no educational or scientific function to the impacted areas. There is no aesthetic appeal.*
11. State or Federal designated threatened or endangered species or species of special concern: *Owners are not aware of any State or Federal designated threatened or endangered species on our site.*
12. Existence within a Shoreland: *The wetland is not adjacent to a body of water.*
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: *The property in question does not include any land designated as Primary or Secondary Environmental Corridor as defined by SEWRPC.*

**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 condition is not 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: *The strict application of natural resource protection to this area, including wetland preservation, buffers and setbacks would render the parcel unusable.*
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and occur in areas of degraded, farmed wetland. There are no reasonable alternatives for development of the property.*
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *The proposed impacts and resulting development will be consistent with the neighborhood, and consistent with the existing zoning and Comprehensive Plan.*

- b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. Other properties seeking the same relief would need to meet similar standards.*
- c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for.*
- 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 applicant understands and agrees to place Conservation Easements on other natural resource features within the site, including any areas of mitigation.*

**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: *The proposed improvements which cause the need for the NRSE include grading, roadways, underground utilities and lot grading. The improvements will not negatively affect surrounding properties.*
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 exceptional, extraordinary or unusual circumstance is that the resource being impacted has been designated as low quality and is orientated in a way that prevents practical development on the remaining land.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property has been affirmed through recent zoning and Certified Survey Map. The future improvements will be permanent.*
4. Aesthetics: *There will be no negative impact to aesthetics.*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *The NRSE is not over-reaching. Applicant represents that the specific situation is what the NRSE was intended for.*

6. Proximity to and character of surrounding property: *Applicant owns the adjacent property to the east and west. The property to the South of the site (Zoned residential) is owned by the current owner of the parcel subject to the NRSE, and has granted permission for development of the parcel and this NRSE request, prior to the property sale. Bear Development or its partners own the other surrounding properties as part of their development project for this part of Franklin.*

7. Zoning of the area in which property is located and neighboring area: *Current zoning types are a mix of residential and manufacturing, with conservation areas. The development plans for this area identify this and other parcels for rezoning to manufacturing uses.*

8. Any negative effect upon adjoining property: *There are no negative effects to the surrounding property.*

9. Natural features of the property: *The wetland resource that will be impacted consists primarily of low-quality, farmed vegetation.*

10. Environmental impacts: *There are no other environmental impacts associated with the NRSE with exception to the reduction of approximately 10,000 square feet of farmed wetland. The applicant proposes mitigation by enhancing an existing wetland that is part of the same watershed.*

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

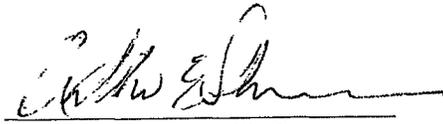
The Environmental Commission has reviewed the subject Application pursuant to §15-10.0208B. of the Unified Development Ordinance and makes the following recommendation:

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 Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a. Review by the Plan Commission of revised site intensity calculations to clarify the quantity of steep slopes;
  - b. Mitigation by the applicant be in the form of wetland enhancement to the existing wetlands on site;

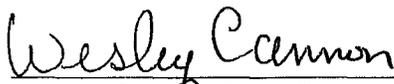
- c. The applicant shall obtain approval of conservation easements for those existing natural resources to be protected prior to approval of any site plan;
- d. Land upon which the mitigation is to take place shall be protected by a conservation easement as permanent natural resource features. Applicant shall obtain approval of the required easement prior to approval of any site plan.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 25<sup>th</sup> day of MARCH, 2020.

Dated this 17 day of APRIL, 2020.

  
Arthur Skowron, Chairman

Attest:

  
Wesley Cannon, Vice-Chairman

**CITY OF FRANKLIN****REPORT TO THE PLAN COMMISSION****Meeting of April 9, 2020****Natural Resource Special Exception**


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<b>Project Name:</b>	Mills Hotel Wyoming, LLC, (Franklin Mills/ Bear Development) Natural Resource Special Exception (NRSE)
<b>Project Address/Tax Key:</b>	Not Assigned: Tax Key No. 939-9994-000, and 939-9995-000
<b>Property Owner:</b>	Mathson, Daniel L & Virginia K (Mathson, Robert ET AL) (939-9994-000)
<b>Applicant:</b>	Mills Hotel Wyoming, LLC
<b>Current Zoning:</b>	R-2 Estate Single-Family Residence District [939-9994-000 previously received approval to be rezoned to M-2 General Industrial District; however, the CSM creating the M-2 parcel has not yet been recorded]
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Applicant's Action Requested:</b>	Recommendation to the Environmental Commission, Plan Commission, and Common Council for approval of the proposed Natural Resource Special Exception (NRSE)

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**INTRODUCTION:**

On January 24, 2020, the applicant submitted an application for a Special Exception to Natural Resource Feature Provisions to the Department of City Development. The applicant is requesting approval to impact wetlands, wetland buffers, and wetland setbacks in order to develop on the subject land. Applications to rezone the parcel, and a site plan for the development of Copart, Inc., a global online vehicle auction company specializing in asset liquidation are currently seeking approval.

Pursuant to Section 15-10.0208 of the UDO, all requests for a Natural Resource Special Exception (NRSE) shall be provided to the Environmental Commission for its review and recommendation. The Commission recommended approval of the NRSE, subject to the conditions in the Special Exception application review and recommendation.

**PROJECT DESCRIPTION:**

The applicant has submitted an application for an NRSE for property bearing Tax Key No. 939 9994 000. The subject property contains several wetlands and areas of steep slopes. No impacts are proposed to the steep slopes. Staff notes that two different figures have been provided for the quantity of steep slopes: 0.11 acres is listed on the Natural Resource Protection Plan (NRPP); 0.8 was used for site intensity calculations in the Environmental Commission submittal materials. Revised calculations were not provided as of this writing. *Staff recommends that the applicant clarify the amount of steep slopes on site and revise the NRPP/ Site Intensity calculations accordingly.*

The wetland delineations were completed in April 2019, identifying several wetlands on the property. The applicant obtained letters from the Wisconsin Department of Natural Resources (DNR) dated January 8, 2020 (permit EXE-SE-2020-41-00039) and the Army Corps of Engineers (ACE) likewise dated January 8, 2020 designating two wetland area, W-1 and W-4, of the delineation report for the Mathson property as not regulated. These artificial wetlands meet the standards of §15-4.0102.J to be exempted from natural resource measurement requirements; they are therefore not subject to regulations. No impacts are proposed to W-3 on this part of the property.

The applicant's request is to impact just under 10,000 square feet of wetland identified as W-2 in the Mathson property delineation. Under separate cover on January 8, 2020, (GP-SE-2020-41-00037) the DNR granted permission to fill this wetland. The January 8 letter from the ACE likewise issues a general permit to fill this wetland.

Specifically, the exception is requested for impacts to:

- 9,969 square feet of wetland
- 19,268 square feet of wetland buffer
- 34,002 square feet of wetland a setback area including the buffer (14,734 square feet of setback outside the buffer)

The impacted wetland is part of the Ryan Creek subwatershed of the Root River (Figure 1).

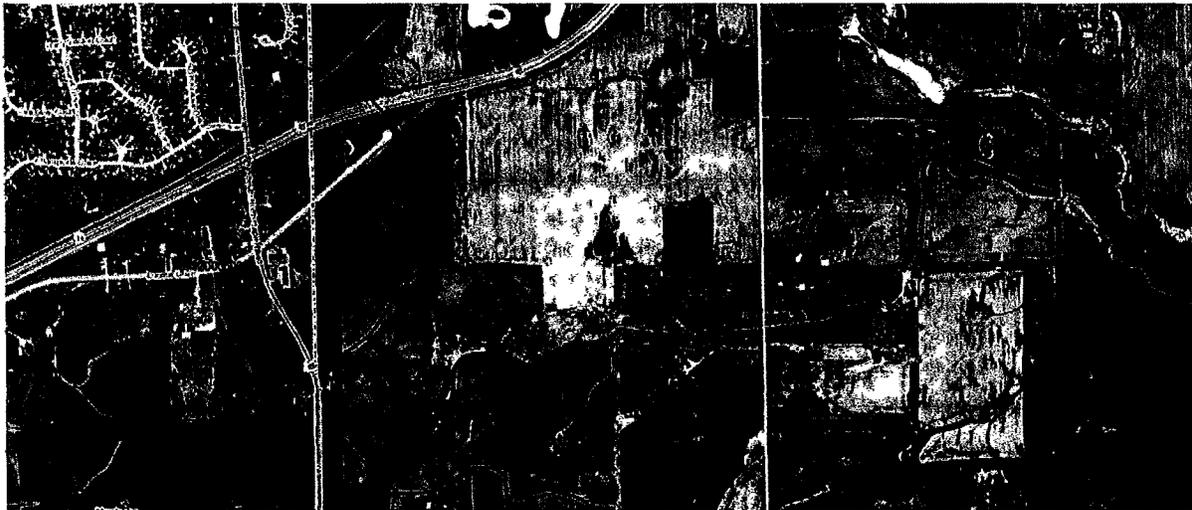


Figure 1 Watershed Boundary

The standard for mitigation of wetland (§15-4.0103.B.4) and wetland buffer (§15-4.0103.B.5) requires a mitigation area of 1.5 acres of mitigation provided to every one (1) acre of impact. Plant species and soils employed must be of superior quality to the existing wetland, meaning that the applicant must choose optimal plants regardless of the quality of vegetation being replaced. The UDO further requires that the mitigation be provided on the same parcel or site for which the exception is being made. Plan Commission may allow off site mitigation within the same watershed (§15-4.0103.C).

The applicant has proposed mitigation by expanding existing wetlands elsewhere on property currently being developed by Franklin Mills/Bear, as expansion of wetlands on the subject property would render it undevelopable. During the meeting of the Environmental Commission, the applicant proposed that

remediation or enhancement of existing wetlands would be a more beneficial approach for the watershed and natural features in the area, and requested this be considered in lieu of mitigation. Upon review, the Environmental commission recommended this approach, provided the enhancement take place on the subject property. This recommendation is reflected in their review and recommendation document. Staff recommends that the applicant provide mitigation, and that said mitigation be protected by a conservation easement Staff further recommends that areas of existing natural resources be similarly protected by easements.

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

- The wetland delineation was prepared by an Assured Delineator.
- Required permits from other units of government have been obtained.
- Conservation easements materials for existing natural resources to be preserved have been provided and are under review by the Planning Department.
- The applicant is proposing restoration of existing wetlands in lieu of mitigation, the details of which have not been fully defined yet. Submitted materials for Plan Commission detail off-site mitigation of wetlands only.
- Conservation easements for mitigation areas will need to be submitted once a proposal has been identified.

#### **CONCLUSION:**

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review. *Also attached is a document titled, "City of Franklin Environmental Commission" that the Environmental Commission must complete and 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.

At its March 25, 2020 meeting, the Environmental Commission recommended approval of the NRSE as presented at their meeting, with conditions as set forth in Section V. of the City of Franklin Environmental Commission Special Exception application review and recommendation memo.

#### **CONCLUSION:**

The Environmental Commission recommendations are contained in the decisions section of the attached draft Standards, Findings and Decision of the City of Franklin document.

Staff recommends approval of the NRSE, subject to a number of conditions such as:

- Revision of the Site Intensity Calculations to clarify the quantity of steep slopes;
- Provision of mitigation by the applicant; and
- Recording of Conservation Easements.

*Draft 4/9/20*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Mills Hotel  
Wyoming, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Mills Hotel Wyoming, LLC, applicant, having filed an application dated January 22, 2020, 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 25, 2020 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 9, 2020 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 generally located at West Loomis Road and West Ryan Road (Lot 84 in Ryan Meadows Subdivision), zoned R-2 Estate/Single-Family Residence District, C-1 Conservancy District and R-8 Multiple-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 January 22, 2020, by Mills Hotel Wyoming, LLC, 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*, \_\_\_\_\_.
  
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: \_\_\_\_\_.
  
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*
  
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: \_\_\_\_\_; *and*
  
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: \_\_\_\_\_; *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: \_\_\_\_\_.
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: \_\_\_\_\_.
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: \_\_\_\_\_.
4. Aesthetics: \_\_\_\_\_.
5. Degree of noncompliance with the requirement allowed by the Special Exception: \_\_\_\_\_.
6. Proximity to and character of surrounding property: \_\_\_\_\_.
7. Zoning of the area in which property is located and neighboring area: *Residential*.
8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived.*
9. Natural features of the property: \_\_\_\_\_.
10. Environmental impacts: \_\_\_\_\_.
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 \_\_\_\_\_ 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 properties 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 Mills Hotel Wyoming, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance.*
- 4) that the applicant provide revised site intensity calculations to clarify the quantity of steep slopes prior to any land disturbing activities; and,*
- 5) Mitigation is provided by the applicant be in the form of wetland enhancement to the existing wetlands on site.*

*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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

**City of Franklin Environmental Commission**

TO: Common Council  
DATE: March 25, 2020  
RE: Special Exception application review and recommendation  
APPLICATION: Mills Hotel Wyoming, LLC, Applicant, dated: January 22, 2020  
(generally West Loomis Road and West Ryan Road (Lot 84 in Ryan Meadows 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: *The applicant is requesting an exception from §15-4.0101 Natural Resource Protection Standards, and §15-4.0102 Natural Resource Features Determination which require that identified natural resources features be protected from impacts of development.*
2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions): *The applicant is requesting to impact 9,969 square feet of farmed wetland, 19,268 square feet of wetland buffer, and a setback area totaling 34,002 square feet including the buffer (14,734 square feet of setback outside the buffer). The wetland area exists as a linear shaped swale that has been continuously farmed since at least 1937.*
3. Applicant's reason for request: *The farmed wetland is shaped and located in such a way that it bisects the site. The orientation prevents the property from being practically developed. Because the wetland is farmed and devoid of vegetation, the applicant believes it has a very low functional value.*

*Federal and State Permits for the proposed wetland impact have been secured.*

4. Applicant's reason why request appropriate for Special Exception: *The City of Franklin Plan Commission and City Council has approved a zoning reclassification and Certified Survey Map for this property. The intended use of the property is an extension of manufacturing use.*

*The property in question is currently actively farmed for traditional row crops. The applicant completed a wetland delineation, as required by the CSM and discovered that it includes a farmed wetland which bisects the property. The swale feature, which was classified as "low-quality" wetland, is not vegetated except for seasonal row crops. Without the Natural Resource Exception, the property cannot be developed.*

*Upon review, both the Wisconsin Department of Natural Resources and the Army Corps of Engineers granted permits for the proposed wetland impact based on the low-quality characteristics of the wetland and the fact that the property cannot be developed without the requested impact.*

*The remaining wetlands on site will be perpetually protected by a Conservation Easement.*

**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: *Soybeans/Corn.*
2. Storm and flood water storage: *The property is not in a designated floodplain or floodway.*
3. Hydrologic functions: *The wetland is overland drainage swale.*
4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances: *The wetland is not vegetated year-round. Runoff and sediment are not trapped or filtered by this feature.*
5. Shoreline protection against erosion: *The wetland is not adjacent to a body of water.*
6. Habitat for aquatic organisms: *The wetland is not adjacent to a body of water.*
7. Habitat for wildlife: *The wetland is not vegetated. It is actively tilled for row crop production.*
8. Human use functional value: *The proposed areas of impacts are not being used for any type of human use other than agriculture.*
9. Groundwater recharge/discharge protection: *The swale is a natural depressional area which leads to a functional wetland. Groundwater and surface water will continue to drain to the peripheral wetlands.*

10. Aesthetic appeal, recreation, education, and science value: *There is no educational or scientific function to the impacted areas. There is no aesthetic appeal.*
11. State or Federal designated threatened or endangered species or species of special concern: *Owners are not aware of any State or Federal designated threatened or endangered species on our site.*
12. Existence within a Shoreland: *The wetland is not adjacent to a body of water.*
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: *The property in question does not include any land designated as Primary or Secondary Environmental Corridor as defined by SEWRPC.*

**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 condition is not 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: *The strict application of natural resource protection to this area, including wetland preservation, buffers and setbacks would render the parcel unusable.*
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives: *Applicant represents that the denial of the NRSE would be unreasonable and negatively impact the applicants proposed use of the property based on the fact that the impacts are minimal and occur in areas of degraded, farmed wetland. There are no reasonable alternatives for development of the property.*
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *The proposed impacts and resulting development will be consistent with the neighborhood, and consistent with the existing zoning and Comprehensive Plan.*

- b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *The situation and conditions related to this project are unique. Other properties seeking the same relief would need to meet similar standards.*
- c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *Applicant represents that the unique circumstances involved with this request is what the NRSE process was intended for.*
- 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 applicant understands and agrees to place Conservation Easements on other natural resource features within the site, including any areas of mitigation.*

**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: *The proposed improvements which cause the need for the NRSE include grading, roadways, underground utilities and lot grading. The improvements will not negatively affect surrounding properties.*
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 exceptional, extraordinary or unusual circumstance is that the resource being impacted has been designated as low quality and is orientated in a way that prevents practical development on the remaining land.*
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The future use of the property has been affirmed through recent zoning and Certified Survey Map. The future improvements will be permanent.*
4. Aesthetics: *There will be no negative impact to aesthetics.*
5. Degree of noncompliance with the requirement allowed by the Special Exception: *The NRSE is not over-reaching. Applicant represents that the specific situation is what the NRSE was intended for.*

6. Proximity to and character of surrounding property: *Applicant owns the adjacent property to the east and west. The property to the South of the site (Zoned residential) is owned by the current owner of the parcel subject to the NRSE, and has granted permission for development of the parcel and this NRSE request, prior to the property sale. Bear Development or its partners own the other surrounding properties as part of their development project for this part of Franklin.*

7. Zoning of the area in which property is located and neighboring area: *Current zoning types are a mix of residential and manufacturing, with conservation areas. The development plans for this area identify this and other parcels for rezoning to manufacturing uses.*

8. Any negative effect upon adjoining property: *There are no negative effects to the surrounding property.*

9. Natural features of the property: *The wetland resource that will be impacted consists primarily of low-quality, farmed vegetation.*

10. Environmental impacts: *There are no other environmental impacts associated with the NRSE with exception to the reduction of approximately 10,000 square feet of farmed wetland. The applicant proposes mitigation by enhancing an existing wetland that is part of the same watershed.*

#### **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 Commission recommends that should the Common Council approve the Application, that such approval be subject to the following conditions:
  - a. Review by the Plan Commission of revised site intensity calculations to clarify the quantity of steep slopes;
  - b. Mitigation by the applicant be in the form of wetland enhancement to the existing wetlands on site;

- c. The applicant shall obtain approval of conservation easements for those existing natural resources to be protected prior to approval of any site plan;
- d. Land upon which the mitigation is to take place shall be protected by a conservation easement as permanent natural resource features. Applicant shall obtain approval of the required easement prior to approval of any site plan.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Arthur Skowron, Chairman

Attest:

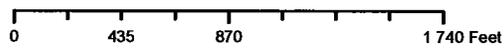
\_\_\_\_\_  
Wesley Cannon, Vice-Chairman



10082 S. 124th Street  
TKN: 939 9994 000



Planning Department  
(414) 425-4024

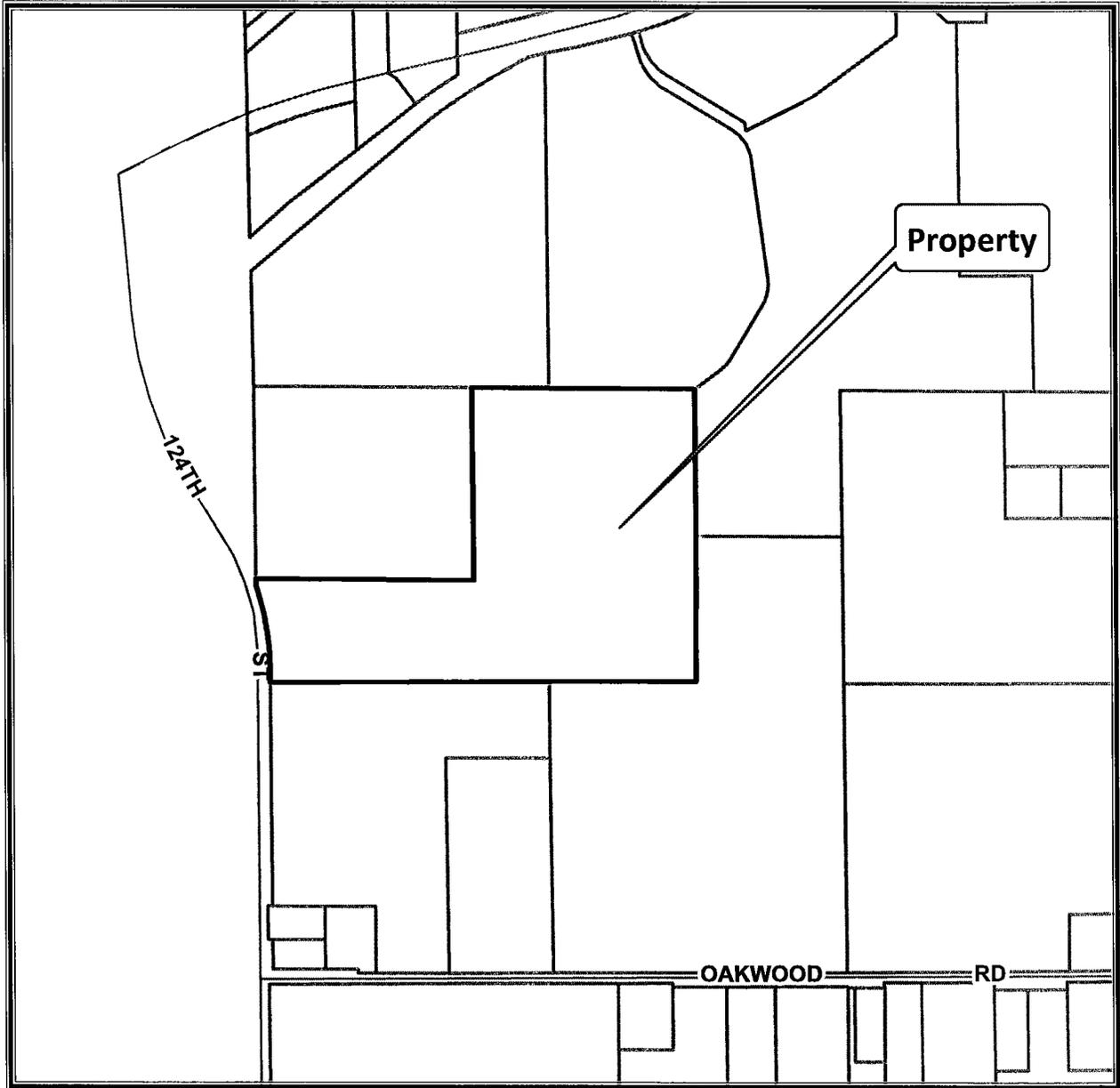


2017 Aerial Photo

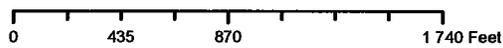
*This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal engineering or surveying purposes.*



10082 S. 124th Street  
TKN: 939 9994 000



Planning Department  
(414) 425-4024



2017 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.*

**BEAR**  
**DEVELOPMENT**  
4011 80<sup>th</sup> Street, Kenosha, WI 53142  
Phone: (262) 842-0556 Fax: (262) 842-0557

**March 16, 2020**

Ms. Marion Ecks  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

**Re: Mills Hotel Wyoming – Natural Resource Special Exception**

Dear Ms. Ecks:

Bear Development is pleased to submit this letter and the enclosed submittal materials as formal application for a Natural Resource Special Exception. Bear Development is acting on behalf and with authorization of the owner of record, the Mathson Family.

**Property Information**

Bear Development, LLC is the contract purchaser owner of approximately thirteen (13) acres of vacant land in the City of Franklin. The land is located directly south, and adjacent to, the Ryan Meadows /Loomis Business Park development.

The property in question is included in a Certified Survey Map and zoning reclassification which was approved by the City Council on December 17, 2019. The property is planned for further Industrial development.

The property subject to the Natural Resource Special Exception is part of Tax Key 939-9994-000. The property is vacant and actively farmed for traditional row crops. According to historical air photos, the subject property has been continuously farmed since at least 1937.

**Specific Request**

Bear Development, LLC is requesting approval of a Natural Resource Special Exception to impact 10,000 square feet of wetland.

Enclosed as part of this submittal, are the following permits which have been secured for the area in question:

- U. S. Army Corps of Engineers- Nationwide Permit
- Wisconsin Department of Natural Resources - General

**Natural Resource Protection Plan**

As part of our due diligence, a wetland delineation was completed on the subject property. Heartland Ecological Group identified the specific area as wetland.

**Existing Conditions**

The specific area exists as a actively farmed wetland. It exhibits depressional topography and acts as an overland drainage course. The wetland does not include natural vegetation or habitat.

**Other Natural Resource Features**

The subject property does include other wetland features on site. The Assured Wetland Delineation was submitted to the Army Corps of Engineers for a jurisdictional determination. It was determined that the identified wetlands are not waters of the United States and therefore are exempt from ACOE regulation. Because the wetlands are less than 10,000 square feet in size and are not jurisdictional, they are considered exempt from State of Wisconsin regulation and are treated the same as artificial wetland. Copies of the Jurisdictional Determination, wetlands exemptions, WDNR General Permit and Federal Nationwide Permits have been provided to City Staff.

**Proposed Use**

Bear Development, LLC has secured a Certified Survey Map and M-2 zoning on the subject property. The property is proposed as an extension of industrial commercial uses which are proposed within the Loomis Business Park and those uses existing along STH 45.

Because of the shape, size and orientation of the farmed wetland. This property cannot be practically or economically developed without the Natural Resources Special Exception.

The particular wetland has been evaluated and analyzed by both the U.S. Army Corps of Engineers and the Wisconsin Department of Natural Resources. Both agencies have granted permits to impact the wetland.

We appreciate your time and consideration of this matter and respectfully request approval of the Natural Resource Exception to disturb the identified feature on the project site. Please note that our project includes the permanent preservation of significant open space including Conservation and Landsscape Bufferyard Easements which will be recorded with the approved Certified Survey Map.

Should you have any questions regarding this request, please do not hesitate to contact me. I can be reached at (262) 842-0556 or by email, [dan@beardevelopment.com](mailto:dan@beardevelopment.com)

Thank you for your time and consideration.

Respectfully,

Daniel Szczap  
Bear Development, LLC

**City of Franklin  
Department of City Development**

Date: March 6, 2020

To: Franklin Mills, LLC

From: City Development Staff

RE: Bear Franklin Natural Resource Special Exception – Staff Comments

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Please be advised that staff has reviewed the above referenced materials. Department comments are as follows for the Natural Resource Special Exception (NRSE) materials submitted by Mr. Daniel Szczap of Bear Development LLC, on behalf of Franklin Mills, LLC date stamped by the City of Franklin on January 24, 2020.

**Unified Development Ordinance (UDO) Requirements:**

**Natural Resources**

1. Clearly illustrate and enumerate all natural resource features as required by §15-4.0102 and §15-7.0201.I. If a category of natural resource is not present, indicate that in the table on the map.  
Included in the resubmittal is a revised Natural Resource Protection Plan which identifies all natural resource features.
2. In accordance with §15-40102.K and §15-3.0501.B, and §15-7.0201.N, please provide site intensity calculations using the methodology described in Division 15-3.0500 Site Intensity Calculations are provided.
3. Pursuant to §15-4.0102.K and §15-7.0201.J of the UDO, please clearly indicate the amount and type of natural resource features to be impacted.
  - a. Pursuant to §15-4.0102.I of the UDO, please indicate the amount of *wetland*, and *wetland setbacks* and *buffers*, both total and to be impacted.

Wetland:	9,969 SF
Wetland Buffer:	19,628 SF
Wetland Setback:	34,002 SF
  - b. Any areas of temporary disturbance (construction access, staging areas, etc.) should be noted separately.  
N/A
  - c. Calculations should include information about all wetlands to be impacted. Wetlands that have been designated as artificial do not need to be included.  
Completed.

4. Pursuant to §15-4.0102.K. of the UDO, please clearly indicate the amount and type of any areas of overlapping natural resource features.  
There are no overlapping natural resources.
5. Pursuant to §15-4.0102.K. of the UDO, please indicate the amount of each natural resource feature to be protected by a conservation easement.  
A Conservation Easement Exhibit has been provided.
6. Pursuant to §15-4.0103 and §15-10.0208.B.3.b., please describe the mitigation you will provide for the natural resource impacts. Note that, as required by §15- 4.0103.B.1.d, land upon which the mitigation is to take place shall be protected by a conservation easement as permanent natural resource features. Please submit the required easement and exhibits.
  - a. Note that the standard for wetland mitigation is 1.5 acres of compensation for each 1 acre of impact.  
A narrative and map regarding potential mitigation areas has been provided.

**Natural Resource Protection Plan (NRPP)**

7. As required by §15-7.0201.C, please names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property and of the designer of the plan shall be shown on the plan.  
Completed.
8. In accordance with §15-7.0201.F and §15-7.0201.K, please show the location of any current or proposed easements on the subject property on the NRPP. Likewise, in accordance with §15-7.0201.H indicate the location and dimensions of all permanent easements on the subject property boundary lines and adjacent to the site.  
Please see attached Conservation Easement Exhibit.
9. Conservation easements are required for those natural resources to be protected, pursuant to §15-7.0201.K. of the UDO. Staff notes that a conservation easement has been submitted for the remaining wetland areas and is under review. Easements for mitigation areas need to be submitted.  
The easement for the mitigation area will be provided when the mitigatoion area has been identified.

**Natural Resource Special Exception (NRSE)**

10. Pursuant to §15-9.0110.A. of the UDO, please indicate the name and address of all abutting property owners.  
Provided.
11. As required by §15-9.0110.B, please provide an electronic copy of the Plat of Survey for the portion of the subject property owned by Franklin Mills LLC  
Provided.

12. Pursuant to §15-9.0110.C.5, please provide the date of any previous application or request for a Special Exception pertinent to the subject property, and the disposition of that previous application or request.

N/A.

#### **Additional Staff Recommendations**

13. Staff recommends that the Project Summary be revised to include information about all the natural resources on the property, including those which have received exemptions from other units of government.

Provided.

14. Staff recommends that the applicant provide a copy of the proposed future site plan with the NRSE.

Provided.

#### **Engineering Department Comments**

Lot 84 of Ryan Meadows does not exist yet. See the address W. Loomis Rd & W. Ryan Rd, 10082 South 124th Street.

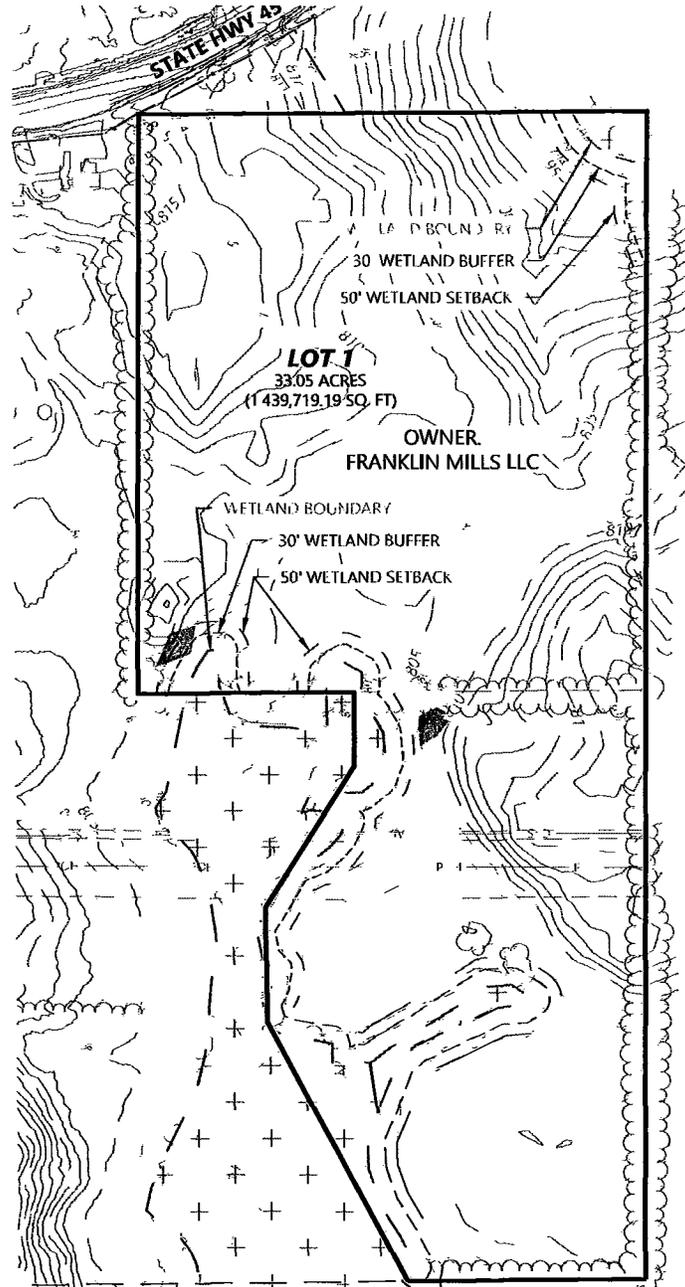
N/A

#### **Police Department Comments**

The Franklin Police Department has reviewed the Natural Resource Exception Application for Lot 84 Ryan Meadows. The Police Department has no issues with this request.

#### **Fire Department Comments**

The fire department has no position on the NRSE at this location.



**LOT 1**  
33.05 ACRES  
(1,439,719.19 SQ. FT.)

OWNER  
FRANKLIN MILLS LLC

NATURAL RESOURCE FEATURE AREAS	
RESOURCE TYPE	LOT 1
STEEP SLOPES (10%-20%)	0.11 AC (4,748 SF)
STEEP SLOPES (20%-30%)	0 AC (0 SF)
STEEP SLOPES (30%+)	0 AC (0 SF)
DELINEATED WETLAND*	1.62 AC (70,687 SF)
DELINEATED WETLAND BUFFER (30' OFFSET)	2.29 AC (99,539 SF)
DELINEATED WETLAND SETBACK (50' OFFSET)	3.99 AC (174,009 SF)
MATURE WOODLAND***	0 AC (0 SF)

NATURAL RESOURCE FEATURE AREAS	
RESOURCE TYPE	LOT 1
LAKES & PONDS	0 AC (0 SF)
STREAMS	0 AC (0 SF)
SHORE BUFFERS	0 AC (0 SF)
FLOODPLAINS/FLOODWAYS	0 AC (0 SF)
OVERLAPPING RESOURCES	.03 AC (1,300 SF)

\*BASED ON FIELD DELINEATION COMPLETED BY HEARTLAND ECOLOGICAL GROUP, INC. ON 11/8/18 & 11/9/18. SEE ASSURED WETLAND DELINEATION REPORT DATED 4/24/19.  
 \*\*BASED ON NATIONAL WETLAND INVENTORY DATABASE, ACCESSED ON 7/1/19.  
 \*\*\*BASED ON AERIAL PHOTOGRAPHY AND TO BE VERIFIED WITH FUTURE DEVELOPMENT PROPOSAL.



N:\0023687.00\DWG\CONCEPTS & EXHIBITS\0023687\K05-LOT 1 ONLY.DWG

FRANKLIN PROPERTY

**FRANKLIN PROPERTY**  
FRANKLIN WI

**Westwood**

Phone (320) 259-9495 3701 12th Street North, Suite 206  
 Fax (320) 258-2001 St. Cloud MN 56303  
 Toll Free (800) 270-9495 [Westwoodps.com](http://Westwoodps.com)  
 Westwood Professional Services, Inc.

NATURAL RESOURCES PROTECTION PLAN - LOT 1

SHEET NUMBER.

1 OF 1

DATE: 03/11/2020

0023687.00

**Table 15-3.0502**

<b>Worksheet for the Calculation of Base Site Area for Both Residential and Nonresidential Development</b>		
<b>STEP 1:</b>	Indicate the total gross site area (in acres) as determined by an actual on-site boundary survey of the property.	33.05 acres
<b>STEP 2:</b>	Subtract (-) land which constitutes any existing dedicated public street rights-of-way, land located within the ultimate road rights-of-way of existing roads, the rights-of-way of major utilities, and any dedicated public park and/or school site area.	1.6 acres
<b>STEP 3:</b>	Subtract (-) land which, as a part of a previously approved development or land division, was reserved for open space.	0 acres
<b>STEP 4:</b>	In the case of "Site Intensity and Capacity Calculations" for a proposed residential use, subtract (-) the land proposed for nonresidential uses; or In the case of "Site Intensity and Capacity Calculations" for a proposed nonresidential use, subtract (-) the land proposed for residential uses.	0 acres
<b>STEP 5:</b>	Equals "Base Site Area"	31.45 acres

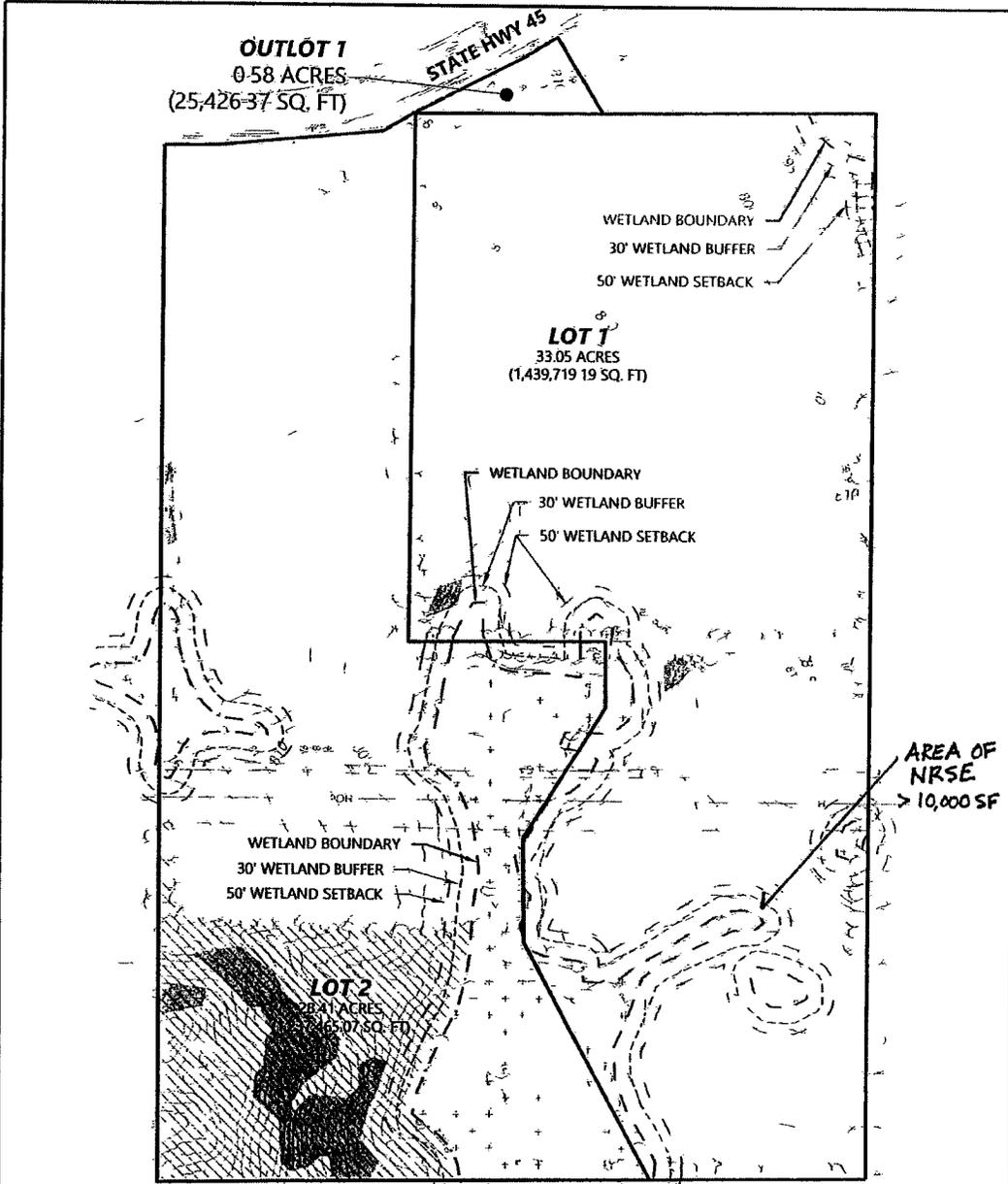
Table 15-3.0503

Worksheet for the Calculation of Resource Protection Land

Natural Resource Feature	Protection Standard Based Upon Zoning District Type			Acres of Land in Resource Feature
	Agricultural	Residential	Non-Residential	
<b>Steep Slopes:</b>				
10-19%	0.00	0.60	0.40	.40x.08= 0.03
20-30%	0.65	0.75	0.70	-
+30%	0.90	0.85	0.80	-
<b>Woodlands &amp; Forests:</b>				
Mature	0.70	0.70	0.70	-
Young	0.50	0.50	0.50	-
Lakes & Ponds	1.00	1.00	1.00	-
Streams	1.00	1.00	1.00	-
Shore Buffer	1.00	1.00	1.00	-
Floodplains	1.00	1.00	1.00	-
Wetland Buffers	1.00	1.00	1.00	1x2.29 2.29
Wetlands & Shoreland	1.00	1.00	1.00	1x1.62 1.62
<b>Total Resource Protection Land</b>				<b>3.94 Acres</b>

**Table 15-3.0505**

<b>Worksheet for the Calculation of Site Intensity and Capacity for Nonresidential Development</b>		
<b>STEP 1:</b>	Calculate minimum required landscape surface: Base Site Area x Landscape Surface Ratio = <b>Minimum Required On-Site Landscape Surface</b>	11.01 acres
<b>STEP 2:</b>	Calculate Net Buildable Site Area: Base Site Area - Total Resource Protection Land or Min. Required Landscape Surface = <b>Net Buildable Site Area</b>	20.44 acres
<b>STEP 3:</b>	Calculate Maximum Net Floor Area Yield of Site: Net Buildable Site Area x NFAR = <b>Maximum Net Floor Area Yield of Site</b>	17.38 acres
<b>STEP 4:</b>	Calculate Maximum Gross Floor Area Yield of Site: Base Site Area x GFAR = <b>Maximum Gross Floor Area Yield of Site</b>	17.30 acres
<b>STEP 5:</b>	<b>Determine Maximum Permitted Floor Area of Site: Lowest of MNFAY/MGFAY x 43,560</b>	17.30 acres



NATURAL RESOURCE FEATURE AREAS		
RESOURCE TYPE	LOT 1	LOT 2
STEEP SLOPES (10%-20%)	0.11 AC (4,748 SF)	1.48 AC (64,629 SF)
DELINEATED WETLAND*	1.62 AC (70,687 SF)	0 AC (0 SF)
DELINEATED WETLAND BUFFER (30' OFFSET)	2.29 AC (99,539 SF)	0 AC (0 SF)
DELINEATED WETLAND SETBACK (50' OFFSET)	3.99 AC (174,009 SF)	0 AC (0 SF)
NWI WETLAND**	0 AC (0 SF)	5.46 AC (237,966 SF)
NWI WETLAND BUFFER (30' OFFSET)	0 AC (0 SF)	1.43 AC (62,387 SF)
NWI WETLAND SETBACK (50' OFFSET)	0 AC (0 SF)	2.34 AC (102,019 SF)
MATURE WOODLAND***	0 AC (0 SF)	5.93 AC (258,211 SF)

\*BASED ON FIELD DELINEATION COMPLETED BY HEARTLAND ECOLOGICAL GROUP, INC. ON 11/6/18 @ 11/9/18. SEE "ASSURED WETLAND DELINEATION REPORT" DATED 4/24/19.  
 \*\*BASED ON NATIONAL WETLAND INVENTORY DATABASE, ACCESSED ON 7/1/19.  
 \*\*\*BASED ON AERIAL PHOTOGRAPHY AND TO BE VERIFIED WITH FUTURE DEVELOPMENT PROPOSAL.



N:\023687.DWG\CONCEPTS & EXHIBITS\023687S05.DWG

FRANKLIN PROPERTY

<b>FRANKLIN PROPERTY</b> FRANKLIN, WI	<p>Phone (320) 255-9495 3701 12th Street North, Suite 206                  Fax (320) 255-2091 BL Cloud, MN 55803                  Toll Free (800) 270-9495 westwoodps.com                  Westwood Professional Services, Inc.</p>	NATURAL RESOURCES PROTECTION PLAN	SHEET NUMBER <b>1</b> OF <b>1</b>
			DATE: 10/03/19

0023687.00

January 22, 2020

Regulo Martinez-Montilva  
Associate Planner-Department of City Development  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

Re Franklin Mills – Natural Resource Special Exception Application

Dear Mr. Martinez-Montilva:

Please accept this letter as authorization for Daniel Szczap of Bear Development, LLC to make application for a Natural Resources Special Exception application for the property identified as Tax Key No 939-9994-000. The property is owned by the Mathson Family and is currently under contract to purchase with Bear Development, LLC.

The application submitted by Bear Development; LLC is fully supported by the Mathson Family. We understand that the Natural Resource Special Exception is related to a portion of land which was delineated as a wetland by the Wisconsin Department of Natural Resources and the Army Corps of Engineers.

The subject property has been continually farmed during the period in which the Mathson family has owned the property. It exists and remains as a farmed portion of our property. The size, shape and orientation of this "wetland" is an impediment to future development potential for the property. As such, we support the application and urge the Environmental Commission, Plan Commission and Common Council to approve the Natural Resource Exception as proposed.

Thank you for your initial review and comment related to the required Landscape Bufferyard Easements proposed.

Should you have any questions or concerns, please contact me. I can be reached at (262) 370-3850.

Respectfully,



Rob Mathson

## **Abutting Property Owners**

891-9007-000

Strauss Investments, LLC  
5129 N. Franklin Drive  
Franklin, WI 53132

891-9999-000

Franklin One, LLC  
333 Bishop's Way #160  
Brookfield, WI 53005

939-9994-000

Daniel & Virginia Mathson  
19370 Killarney Way  
Brookfield, WI 53045

891-9010-000

Mills Hotel Wyoming, LLC  
4015 80<sup>th</sup> Street  
Kenosha, WI 53142

MSKC2260998001

Bethlehem Evangelical Lutheran Church  
W124 S9995 North Cape  
Muskego, WI 53150

D&J and Sons, LLC

S95 W14509 Ryan Drive  
Muskego, WI 53150-4717

## **Franklin Mills Natural Resources Special Exception**

### **Mitigation Proposal**

Franklin Mills, LLC is proposing to impact 9,969 square feet of wetland.

The wetland buffer associated with the impacted wetland is 19,268 square feet.

Per City of Franklin requirements Franklin Mills will work to provide the following to off-set the impacted wetland:

**Wetland:** 9969 SF x 1.5= 14,953 SF of wetland

**Wetland Buffer:** 19,268 x1.5 = 28,902 of wetland buffer

A total area of 43,855 of land must be included in a Conservation Area to compensate for the 9,969 square feet of impact.

We have identified areas located on our property within Franklin and within the watershed that may be suitable for mitigation. The most effective areas to evaluate for mitigation are areas directly adjacent to existing wetlands that can be manipulated to increase the footprint and hydrology of the wetland resource. Another alternative, if acceptable to the City, would be wetland enhancement, by which a degraded or farmed wetland is enhanced to provide an ecological lift to a given resource.

Please note that the wetland we propose to impact is a highly degraded farmed wetland, which lacks native vegetation. Therefore, it has a very low ecological value. This wetland has been evaluated by the Army Corps of Engineers and Wisconsin Department of Natural Resources. Both agencies have granted wetland impact permits without any mitigation requirements.

While we understand the intent of the City of Franklin to require wetland mitigation, the process and requirements are not well-defined. When required by the ACOE or WDNR to mitigate wetlands, wetland credits are purchased from an approved commercial wetland mitigation bank. This does not appear to be an option provided by the UDO.

Wetland mitigation is a mix of science and art and requires the ideal situation to be successful near and long term. It will take significant time, study and resources to perform wetland mitigation on a site this small and in the limited area in which to establish an artificial wetland. The City may consider accepting a bond or other surety until a suitable site can be identified.

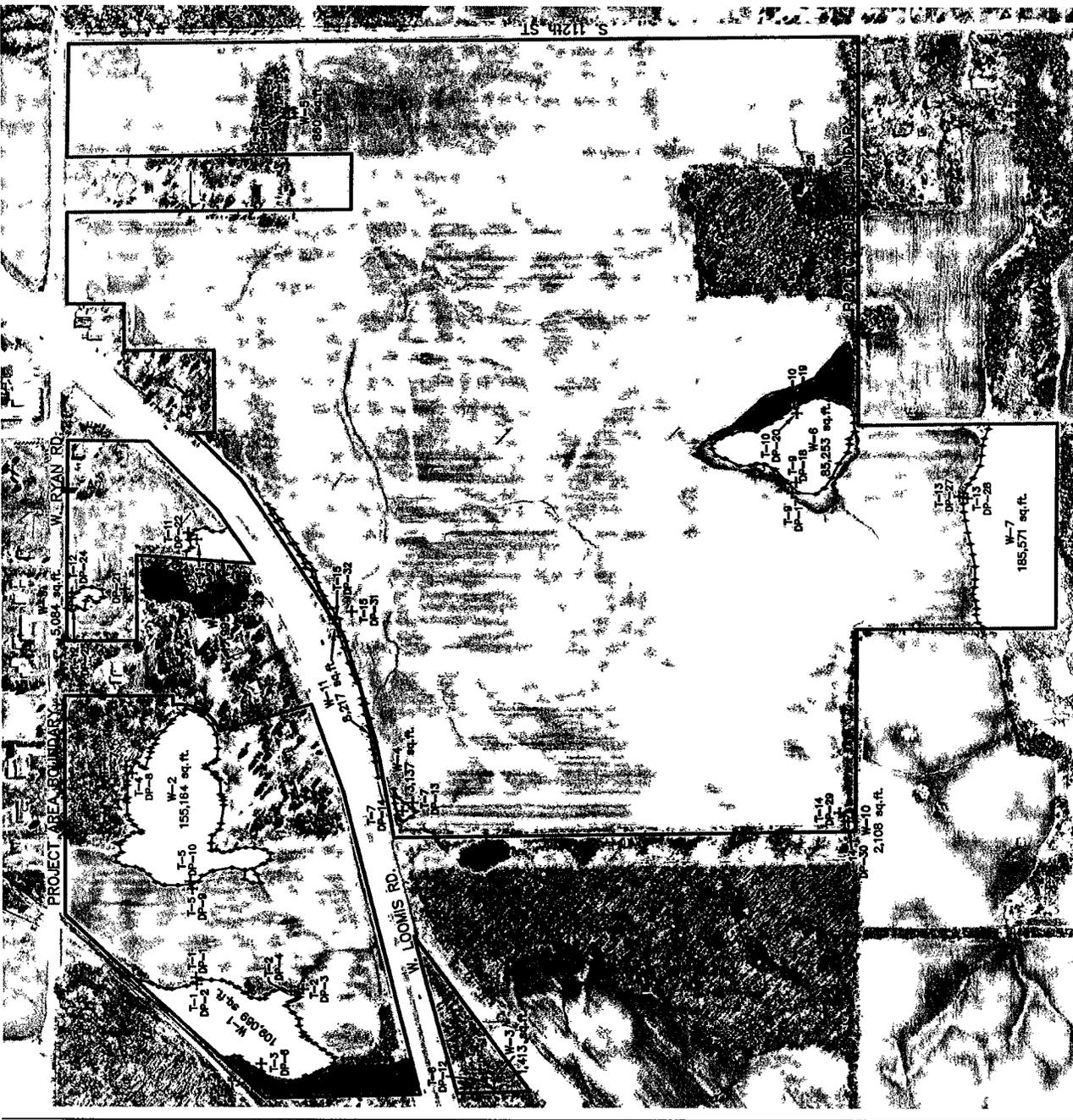
File Comment Advanced Processing Security Forms Connectors Help

Combine Files Right  
 Open File Left  
 Scan Scanner Advanced Word

Create Page Rotate

Convert  
 Excel PowerPoint Other  
 Make PDF Edit Typewriter Reduce Split Search

Tools  
 Object Search



# WETLAND BOUNDARY MAP

Situated on West Loomis Road, in the City of Franklin, Milwaukee County, Wisconsin  
 Part of the Northwest 1/4 and Northeast 1/4 of Section 30, Township 5 North Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin

December 1, 2014 Bear Development Survey No 1662226-BMJ

## LEGEND

- DP-1 DATA POINT
- WETLAND AREA
- WETLAND BOUNDARY
- PROJECT AREA BOUNDARY



FIGURE 2.  
WETLAND BOUNDARY MAP

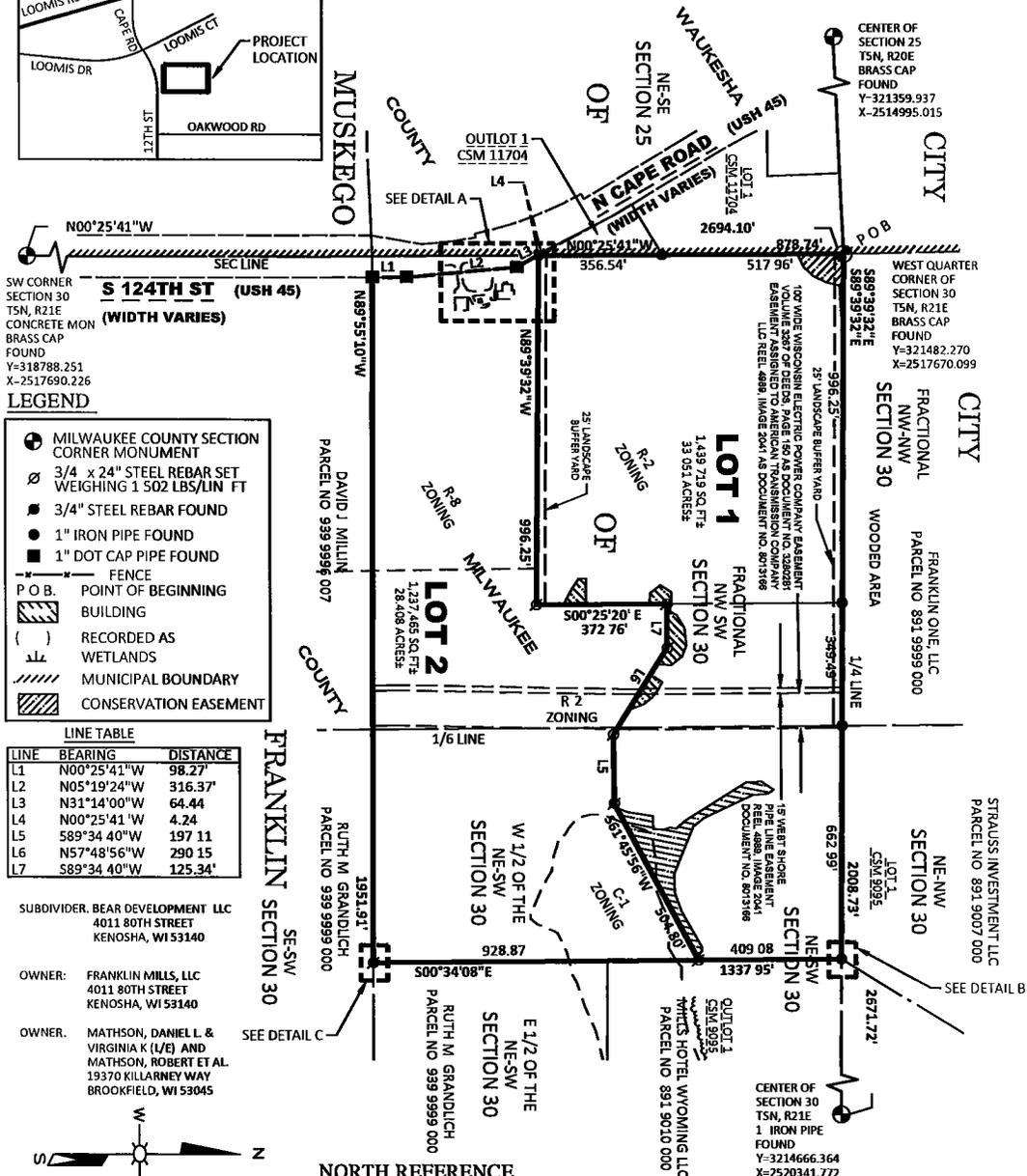
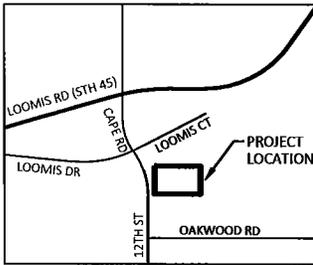
R.A. Smith National, Inc.  
*Beyond Surveying  
 and Engineering*

16745 W Bluemound Road, Brookfield WI 53005  
 262-781-1000 Fax 262-787-7373 www.rasmithnational.com  
 Appleton, WI Orange County OH Pittsburgh, PA  
 St. Louis, MO  
 W10116.W. LOOMIS RD

# CERTIFIED SURVEY MAP NUMBER

BEING PART OF THE FRACTIONAL NORTHWEST QUARTER OF THE  
SOUTHWEST QUARTER AND THE WEST HALF OF THE NORTHEAST QUARTER  
OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE  
21 EAST, CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN

## LOCATION MAP



### LEGEND

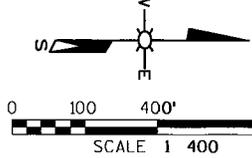
- MILWAUKEE COUNTY SECTION CORNER MONUMENT
- 3/4 x 24" STEEL REBAR SET WEIGHING 1.502 LBS/LIN FT
- 3/4" STEEL REBAR FOUND
- 1" IRON PIPE FOUND
- 1" DOT CAP PIPE FOUND
- FENCE
- P.O.B. POINT OF BEGINNING
- BUILDING
- RECORDED AS
- WETLANDS
- MUNICIPAL BOUNDARY
- CONSERVATION EASEMENT

LINE	BEARING	DISTANCE
L1	N00°25'41"W	98.27'
L2	N05°19'24"W	316.37'
L3	N31°14'00"W	64.44'
L4	N00°25'41"W	4.24'
L5	S89°34'40"W	197.11'
L6	N57°48'56"W	290.15'
L7	S89°34'40"W	125.34'

SUBDIVIDER: BEAR DEVELOPMENT LLC  
4011 80TH STREET  
KENOSHA, WI 53140

OWNER: FRANKLIN MILLS, LLC  
4011 80TH STREET  
KENOSHA, WI 53140

OWNER: MATHSON, DANIEL L. & VIRGINIA K (L/E) AND MATHSON, ROBERT ET AL.  
19370 KILLARNEY WAY  
BROOKFIELD, WI 53045



**NORTH REFERENCE**  
BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM SOUTH ZONE (NAD 27) (JAN 2016) WITH THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 30, T5N, R21E ASSUMED TO BEAR S89°39'32"E

DATE 10-8-19	DIRECTORY NO.
PROJECT NO. S3399A19	DRAFTED BY JBM
SHEET 1 OF 7	DRAWING NAME CSM

SURVEY FOR: CITY OF FRANKLIN CSM  
SECTION 30, T5N, R21E  
CITY OF FRANKLIN  
MILWAUKEE COUNTY, WISCONSIN

**CITY OF FRANKLIN****REPORT TO THE PLAN COMMISSION****Meeting of May 7, 2020****Natural Resource Special Exception**


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<b>Project Name:</b>	Mills Hotel Wyoming, LLC, (Franklin Mills/ Bear Development) Natural Resource Special Exception (NRSE)
<b>Project Address/Tax Key:</b>	Not Assigned: Tax Key No. 939-9994-000, and 939-9995-000
<b>Property Owner:</b>	Mathson, Daniel L & Virginia K (Mathson, Robert ET AL) (939-9994-000)
<b>Applicant:</b>	Mills Hotel Wyoming, LLC
<b>Current Zoning:</b>	M-2 General Industrial District
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Applicant's Action Requested:</b>	Recommendation to the Environmental Commission, Plan Commission, and Common Council for approval of the proposed Natural Resource Special Exception (NRSE)

---

**INTRODUCTION:**

On January 24, 2020, the applicant submitted an application for a Special Exception to Natural Resource Feature Provisions to the Department of City Development. The applicant is requesting approval to impact wetlands, wetland buffers, and wetland setbacks in order to develop on the subject land. Applications to rezone the parcel, and a site plan for the development of Copart, Inc., a global online vehicle auction company specializing in asset liquidation are currently seeking approval.

This item was originally scheduled to be heard at the April 9, 2020 Plan Commission, but was tabled with related items until May 7, 2020. In the interim, the applicant has submitted additional materials to address two elements of the previous Plan Commission Submittal:

- Revised site intensity calculations
- Information regarding proposed wetland enhancement in lieu of mitigation

Pursuant to Section 15-10.0208 of the Unified Development Ordinance (UDO), all requests for a Natural Resource Special Exception (NRSE) shall be provided to the Environmental Commission for its review and recommendation. The Commission recommended approval of the NRSE, subject to the conditions in the Special Exception application review and recommendation.

**PROJECT DESCRIPTION:**

The applicant has submitted an application for an NRSE for property bearing Tax Key No. 939 9994 000. The subject property contains several wetlands. Two different figures were originally provided to for the quantity of steep slopes on the property: 0.11 acres is listed on the Natural Resource Protection Plan (NRPP); 0.8 was used for site intensity calculations in the Environmental Commission submittal

materials. Revised calculations provided state that there are no areas on the site as that meet the UDO definition of steep slopes.

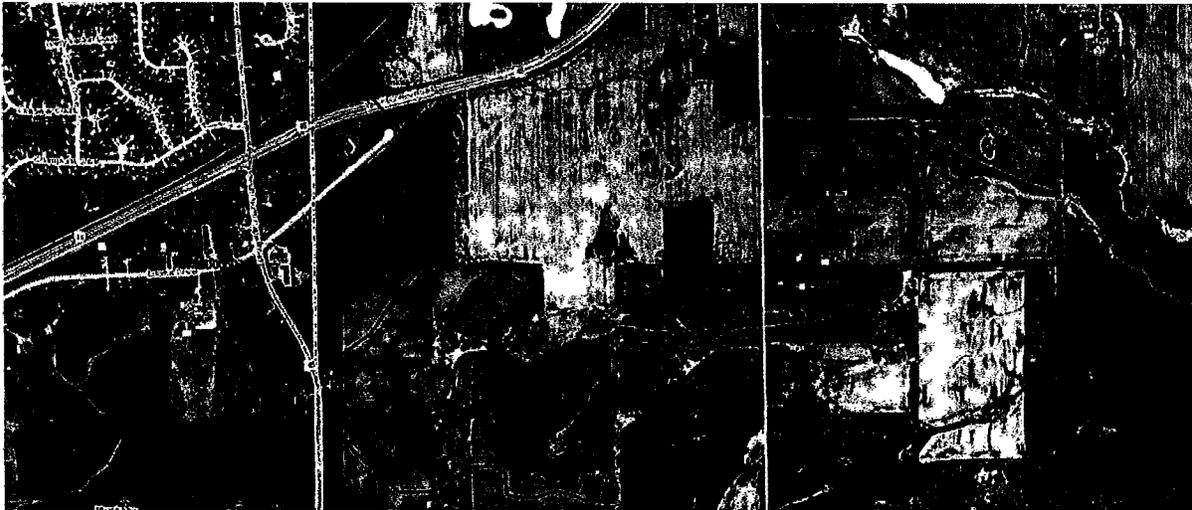
Wetland delineations were completed in April 2019, identifying several wetlands on the property. The applicant obtained letters from the Wisconsin Department of Natural Resources (DNR) dated January 8, 2020 (permit EXE-SE-2020-41-00039) and the Army Corps of Engineers (ACE) likewise dated January 8, 2020 designating two wetland area, W-1 and W-4, of the delineation report for the Mathson property as not regulated. These artificial wetlands meet the standards of §15-4.0102.J to be exempted from natural resource measurement requirements; they are therefore not subject to regulations. No impacts are proposed to W-3 on this part of the property.

The applicant's request is to impact just under 10,000 square feet of wetland identified as W-2 in the Mathson property delineation. Under separate cover on January 8, 2020, (GP-SE-2020-41-00037) the DNR granted permission to fill this wetland. The January 8 letter from the ACE likewise issues a general permit to fill this wetland.

Specifically, the exception is requested for impacts to:

- 9,969 square feet of wetland
- 19,268 square feet of wetland buffer
- 34,002 square feet of wetland a setback area including the buffer (14,734 square feet of setback outside the buffer)

The impacted wetland is part of the Ryan Creek subwatershed of the Root River (Figure 1).



*Figure 1 Watershed Boundary and wetland impact area*

The standard for mitigation of wetland (§15-4.0103.B.4) and wetland buffer (§15-4.0103.B.5) requires a mitigation area of 1.5 acres of mitigation provided to every one (1) acre of impact. Plant species and soils employed must be of superior quality to the existing wetland, meaning that the applicant must choose optimal plants regardless of the quality of vegetation being replaced. The UDO further requires that the mitigation be provided on the same parcel or site for which the exception is being made. Plan Commission may allow off site mitigation within the same watershed (§15-4.0103.C).

The applicant has proposed mitigation by expanding existing wetlands elsewhere on property currently being developed by Franklin Mills/Bear, as expansion of existing wetlands on the subject property would render it undevelopable. During the meeting of the Environmental Commission, the applicant proposed that remediation or enhancement of existing wetlands would be a more beneficial approach for the watershed and natural features in the area, and requested this be considered in lieu of mitigation. Upon review, the Environmental commission recommended this approach, provided the enhancement take place on the subject property. This recommendation is reflected in their review and recommendation document. The applicant has provided additional information with details of the proposed enhancement project. The proposal includes hand seeding, mowing, and herbicide application. Staff recommends that the applicant provide mitigation, and that said mitigation be protected by a conservation easement. Staff further recommends that areas of existing natural resources be similarly protected by easements.

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

- The wetland delineation was prepared by an Assured Delineator.
- Required permits from other units of government have been obtained.
- Conservation easements materials for existing natural resources to be preserved have been provided and are under review by the Planning Department.
- The applicant is proposing restoration of existing wetlands in lieu of mitigation, the details of which have not been fully defined yet. Submitted materials for Plan Commission detail off-site mitigation of wetlands only.
- Conservation easements for mitigation areas will need to be submitted once a proposal has been identified.

### **CONCLUSION:**

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review. *Also attached is a document titled, "City of Franklin Environmental Commission" that the Environmental Commission must complete and 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.

At its March 25, 2020 meeting, the Environmental Commission recommended approval of the NRSE as presented at their meeting, with conditions as set forth in Section V. of the City of Franklin Environmental Commission Special Exception application review and recommendation memo.

### **CONCLUSION:**

The Environmental Commission recommendations are contained in the decisions section of the attached draft Standards, Findings and Decision of the City of Franklin document.

Staff recommends approval of the NRSE, subject to a number of conditions such as:

- Provision of mitigation by the applicant; and
- Recording of Conservation Easements.

*Draft 5/7/20*

Standards, Findings and Decision  
of the City of Franklin Common Council upon the Application of Mills Hotel  
Wyoming, LLC, applicant, for a Special Exception  
to Certain Natural Resource Provisions of the City of Franklin  
Unified Development Ordinance

Whereas, Mills Hotel Wyoming, LLC, applicant, having filed an application dated January 22, 2020, 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 25, 2020 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 May 7, 2020 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 generally located at West Loomis Road and West Ryan Road (Lot 84 in Ryan Meadows Subdivision), zoned R-2 Estate/Single-Family Residence District, C-1 Conservancy District and R-8 Multiple-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 January 22, 2020, by Mills Hotel Wyoming, LLC, 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*, \_\_\_\_\_.
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: \_\_\_\_\_.
3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*
  - b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: \_\_\_\_\_; *and*
  - c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: \_\_\_\_\_; *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: \_\_\_\_\_.
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: \_\_\_\_\_.
3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: \_\_\_\_\_.
4. Aesthetics: \_\_\_\_\_.
5. Degree of noncompliance with the requirement allowed by the Special Exception: \_\_\_\_\_.
6. Proximity to and character of surrounding property: \_\_\_\_\_.
7. Zoning of the area in which property is located and neighboring area: *Residential*.
8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived.*
9. Natural features of the property: \_\_\_\_\_.
10. Environmental impacts: \_\_\_\_\_.
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 \_\_\_\_\_ 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 properties 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 Mills Hotel Wyoming, LLC, applicant, and all other applicable provisions of the Unified Development Ordinance.*
- 4) that the applicant provide revised site intensity calculations to clarify the quantity of steep slopes prior to any land disturbing activities; and,*
- 5) Mitigation is provided by the applicant be in the form of wetland enhancement to the existing wetlands on site.*

*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 \_\_\_\_\_, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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



**April 21, 2020**

Ms. Marion Ecks  
City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

**Re: Mills Hotel Wyoming – Natural Resource Special Exception**

Dear Ms. Ecks:

Bear Development is pleased to submit this letter and the enclosed materials as formal application for a Natural Resource Special Exception.

Please note that the Natural Resource Protection Plan and Site Intensity Calculations have been revised. Based on further research of the Unified Development Ordinance, we found that the property does not include Steep Slopes as defined by the UDO. The NRPP Exhibit and Site Intensity Calculations have been revised accordingly.

As discussed and recommended by the Environmental Commission, we propose to meet our mitigation obligations in the form of wetland enhancement on existing wetlands which exist on the subject property. These wetlands are already protected in the form of Conservation Easements which will be recorded with the approved Certified Survey Map.

**Wetland Enhancement**

Wet to Wet-Mesic Prairie habitat is proposed in areas on-site with more open canopy structure and consistently saturated conditions, sometimes with extended periods of above-ground inundation. Wet to Wet-Mesic Prairie rehabilitation and reestablishment is proposed in areas that remain saturated for most of the growing season. These areas will be primarily revegetated utilizing seeding by manual methods.

Areas within current agricultural fields proposed to be restored as mesic prairie will be designed to serve as upland grassland bird habitat. This graminoid-dominated landscape with minimal woody cover provides habitat for foraging, breeding and nesting purposed for birds and other wildlife that rely on this increasingly threatened habitat type.

## **Invasive Species Management**

**Mowing.** Especially during the first 2 growing seasons, planted areas shall be mowed to a height of 6-8 inches at during the early growing season and as needed to control INN species. Mowing shall take place prior to or when INN species are flowering so as to prevent seed set. Cut vegetative material will be left on-site if it does not affect the establishment of native vegetation.

**Herbicide Application.** Herbicide may be applied in a variety of methods depending on plant community composition and needs. Equipment calibration will be adjusted and the utmost care will be taken to avoid drift on non-target species during all forms of treatment.

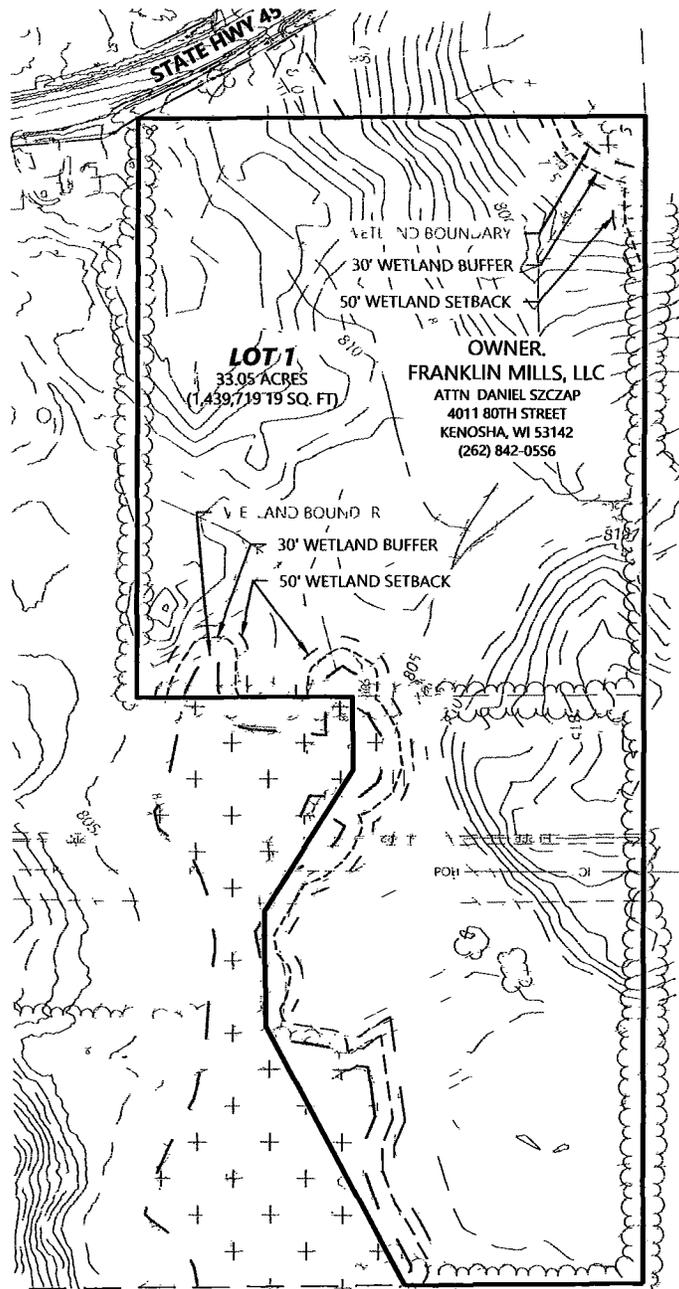
We appreciate your time and consideration of this matter and respectfully request approval of the Natural Resource Exception to disturb the identified feature on the project site. Please note that our project includes the permanent preservation of significant open space including Conservation and Landsscape Bufferyard Easements which will be recorded with the approved Certified Survey Map.

Should you have any questions regarding this request, please do not hesitate to contact me. I can be reached at (262) 842-0556 or by email, [dan@beardevelopment.com](mailto:dan@beardevelopment.com)

Thank you for your time and consideration.

Respectfully,

Daniel Szczap  
Bear Development, LLC

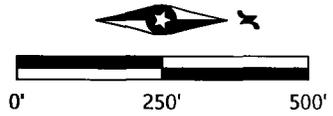


**OWNER,**  
**FRANKLIN MILLS, LLC**  
 ATTN: DANIEL SZCZAP  
 4011 80TH STREET  
 KENOSHA, WI 53142  
 (262) 842-0556

NATURAL RESOURCE FEATURE AREAS	
RESOURCE TYPE	LOT 1
STEEP SLOPES (10%-20%)	0 AC (0 SF)
STEEP SLOPES (20%-30%)	0 AC (0 SF)
STEEP SLOPES (30%+)	0 AC (0 SF)
DELINEATED WETLAND*	1.62 AC (70,687 SF)
DELINEATED WETLAND BUFFER (30' OFFSET)	2.29 AC (99,539 SF)
DELINEATED WETLAND SETBACK (50' OFFSET)	3.99 AC (174,009 SF)
MATURE WOODLAND	0 AC (0 SF)

NATURAL RESOURCE FEATURE AREAS	
RESOURCE TYPE	LOT 1
LAKES & PONDS	0 AC (0 SF)
STREAMS	0 AC (0 SF)
SHORE BUFFERS	0 AC (0 SF)
FLOODPLAINS/FLOODWAYS	0 AC (0 SF)
OVERLAPPING RESOURCES	0 AC (0 SF)

\*BASED ON FIELD DELINEATION COMPLETED BY HEARTLAND ECOLOGICAL GROUP INC. ON 11/8/18 & 11/9/18. SEE ASSURED WETLAND DELINEATION REPORT DATED 4/24/19.



N:\10023687\DWG\CONCEPTS & EXHIBITS\10023687\SK05-LOT 1 ONLY.DWG

FRANKLIN PROPERTY

<b>FRANKLIN PROPERTY</b> FRANKLIN WI	PREPARED BY: <b>Westwood</b>	NATURAL RESOURCES PROTECTION PLAN - LOT 1	SHEET NUMBER. 1 OF 1
	Phone (320) 253-9485 3701 12th Street North, Suite 206 Fax (320) 358-2001 SL Cloud, MN 56303 Toll Free (800) 270-9485 westwoodpa.com Westwood Professional Services, Inc.		DATE 04/14/2020

0023687.00

**Table 15-3.0502**

<b>Worksheet for the Calculation of Base Site Area for Both Residential and Nonresidential Development</b>		
<b>STEP 1:</b>	Indicate the total gross site area (in acres) as determined by an actual on-site boundary survey of the property.	43.56 acres
<b>STEP 2:</b>	Subtract (-) land which constitutes any existing dedicated public street rights-of-way, land located within the ultimate road rights-of-way of existing roads, the rights-of-way of major utilities, and any dedicated public park and/or school site area.	1.83 acres
<b>STEP 3:</b>	Subtract (-) land which, as a part of a previously approved development or land division, was reserved for open space.	0 acres
<b>STEP 4:</b>	In the case of "Site Intensity and Capacity Calculations" for a proposed residential use, subtract (-) the land proposed for nonresidential uses; or In the case of "Site Intensity and Capacity Calculations" for a proposed nonresidential use, subtract (-) the land proposed for residential uses.	0 acres
<b>STEP 5:</b>	Equals "Base Site Area"	41.73 acres

Table 15-3.0503

Worksheet for the Calculation of Resource Protection Land				
Natural Resource Feature	Protection Standard Based Upon Zoning District Type			Acres of Land in Resource Feature
	Agricultural	Residential	Non-Residential	
<b>Steep Slopes:</b>				
10-19%	0.00	0.60	0.40	-
20-30%	0.65	0.75	0.70	-
+30%	0.90	0.85	0.80	-
<b>Woodlands &amp; Forests:</b>				
Mature	0.70	0.70	0.70	-
Young	0.50	0.50	0.50	-
Lakes & Ponds	1.00	1.00	1.00	-
Streams	1.00	1.00	1.00	-
Shore Buffer	1.00	1.00	1.00	-
Floodplains	1.00	1.00	1.00	-
Wetland Buffers	1.00	1.00	1.00	1x2.29
Wetlands & Shoreland	1.00	1.00	1.00	1x1.62
<b>Total Resource Protection Land</b>				<b>3.91 Acres</b>

**Table 15-3.0505**

<b>Worksheet for the Calculation of Site Intensity and Capacity for Nonresidential Development</b>		
<b>STEP 1:</b>	Calculate minimum required landscape surface: Base Site Area x Landscape Surface Ratio = <b>Minimum Required On-Site Landscape Surface</b>	14.61 acres
<b>STEP 2:</b>	Calculate Net Buildable Site Area: Base Site Area - Total Resource Protection Land or Min. Required Landscape Surface = <b>Net Buildable Site Area</b>	27.12 acres
<b>STEP 3:</b>	Calculate Maximum Net Floor Area Yield of Site: Net Buildable Site Area x NFAR = <b>Maximum Net Floor Area Yield of Site</b>	23.06 acres
<b>STEP 4:</b>	Calculate Maximum Gross Floor Area Yield of Site: Base Site Area x GFAR = <b>Maximum Gross Floor Area Yield of Site</b>	22.95 acres
<b>STEP 5:</b>	Determine Maximum Permitted Floor Area of Site: Lowest of MNFAY/MGFAY x 43.560	22.95 acres

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**May 15,2020**

City of Franklin  
9229 W. Loomis Road  
Franklin, WI 53132

**Re: Natural Resource Special Exception**

Dear Members of the City of Franklin Common Council:

Please accept this letter and the enclosed information for your review and consideration. The information is being provided as further clarification of the Natural Resources Special Exception.

The Natural Resources Special Exception is limited to an area of farmed wetland approximately 9980 square feet. This area has been farmed since at least 1937. The area is not vegetated, does not provide wildlife habitat or hold standing water.

The area of request consists of a narrow, linear overland drainageway. While it is small in area, the shape and orientation of the wetland does render the entire 13-acre parcel undevelopable, regardless of future land use. The orientation of the farmed wetland essentially blocks the entire parcel.

Bear Development, LLC has secured wetland impact permits from both the Army Corps of Engineers and the Wisconsin Department of Natural Resources. The permit application process was thorough and extensive and included a Practical Alternatives Analysis. The Alternatives Analysis concluded that the area cannot be avoided under any development scenario. It was also noted that the wetland was of lower quality and did not provide the ecological benefits found in typical, adjacent wetlands. Based on extensive review, both the Army Corps and WDNR concluded that the wetland impact was permissible. The permits from both agencies are attached for your review.

**Previous City Meetings**

The particular NRSE area was discussed extensively by the Plan Commission and Common Council in December 2019. It was recognized that the NRSE area created a unique impediment for future development of the property. Bear Development, LLC was encouraged at that time to file the necessary paperwork for a Natural Resource Special Exception to properly remove the farmed wetland from future Conservation Easements. The Certified Survey Map was approved by Council on December 17, 2019.

In March 2020, the City of Franklin Environmental Commission discussed the NRSE request and recommended approval of the NRSE with a condition that the existing wetlands on the site be enhanced. The City of Franklin Plan Commission recommended approval of the NRSE at the May 7, 2020 meeting.

Bear Development, LLC respectfully requests approval of the Natural Resource Special Exception. We feel we have met the intent and purpose of the NRSE as set forth by the City of Franklin Unified Development Ordinance. Further we have met the rigorous requirements of permit approval by both the Federal and State agencies which regulate wetland permitting.

We fully understand and respect the purpose of the City of Franklin regulations which protect natural resources. Our team has taken great effort to reduce and minimize natural resource disturbance at all our developments. However, at times, minimal impacts are impossible to avoid. The NRSE process recognizes this and offers the opportunity to mitigate these situations. We feel our request is very minimal, considering all facts relating to the specific area which is under consideration and we ask for your approval.

Should you have any questions regarding this request, please do not hesitate to contact me. I can be reached at (262) 842-0556 or by email, [dan@beardevelopment.com](mailto:dan@beardevelopment.com)

Thank you for your time and consideration.

Respectfully,

A handwritten signature in dark ink, appearing to read "Daniel Szczap", written in a cursive style.

Daniel Szczap  
Bear Development, LLC



REQUEST FOR NATURAL RESOURCE SPECIAL EXCEPTION

May 21, 2020

City of Franklin Common Council

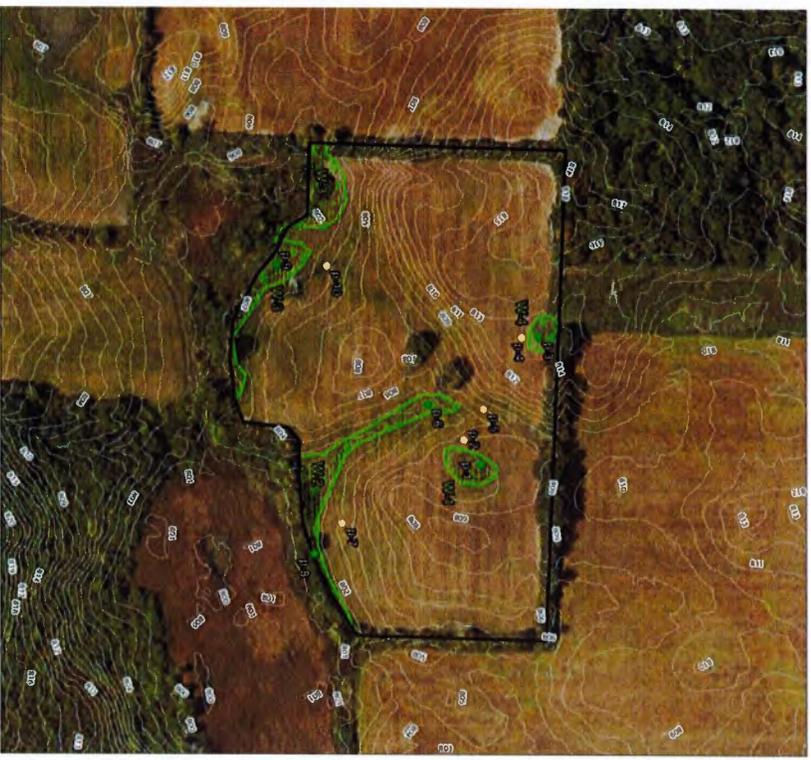
REQUEST FOR NATURAL RESOURCE SPECIAL EXCEPTION  
CITY OF FRANKLIN COMMON COUNCIL  
MAY 21, 2020

- Subject property consists of 9980 square feet of farmed wetland
  - Historically farmed since at least 1937
  - The area is devoid of vegetation, habitat or standing water
  - While small in area, the linear shape and orientation the area renders the entire parcel undevelopable, regardless of use.
- Federal and State Permits for proposed impact have been granted
  - Army Corps of Engineers Nationwide Permit dated January 8, 2020
  - Wisconsin Department of Natural Resources dated January 8, 2020
  - No Federal or State mitigation or credit purchase required
- City of Franklin Meetings
  - The wetland was discussed during the Certified Survey Map meetings:
    - Plan Commission 12/5/19. Approved.
    - Common Council 12/17/2019. Approved
    - Certified Survey Map was approved unanimously with direction to Bear Development to seek the NRSE to remove wetland.
  - Natural Resource Special Exception:
    - Environmental Commission: March 25, 2020. Approved. Wetland enhancement rather than mitigation recommended.
    - Plan Commission: May 7, 2020. Approved

# FRANKLIN MILLS & MATHSON



Franklin Mills Wetland Exhibit



Mathson Wetland Exhibit

# FRANKLIN MILLS

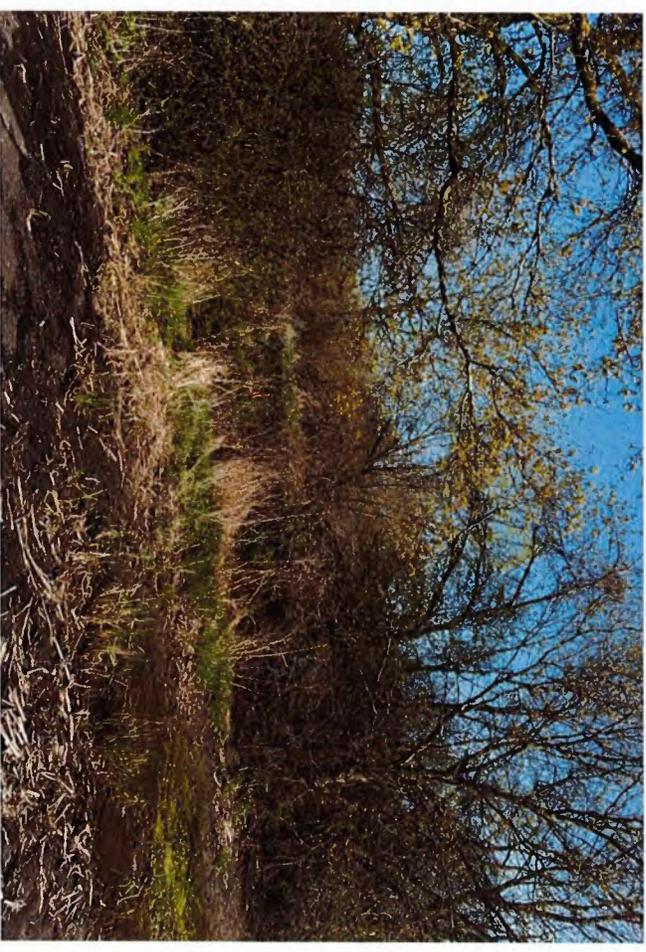


Angle 1 - Franklin Mills Wetland 1



# FRANKLIN MILLS

Angle 2 - Franklin Mills Wetland 2



# FRANKLIN MILLS



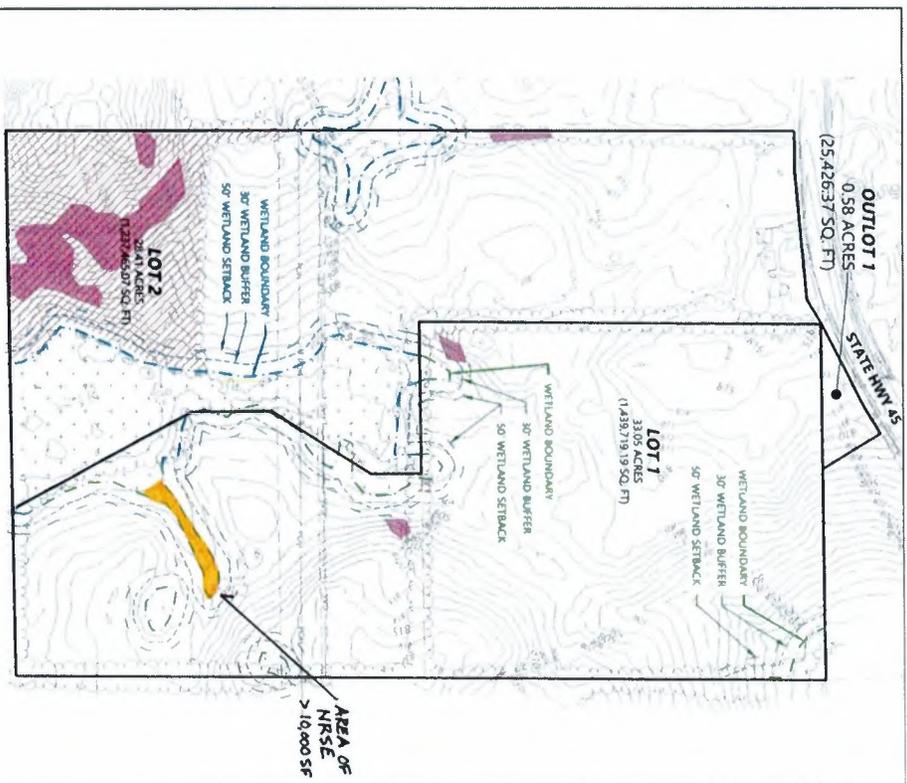
Angle 3 - Franklin Mills Wetland 3



# MATHSON

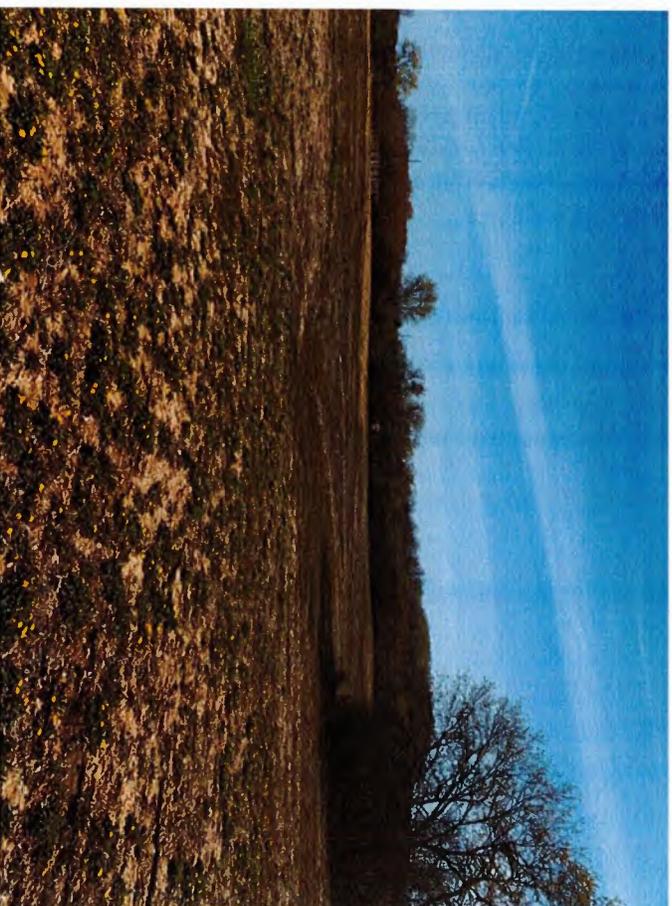


# SPECIFIC AREA OF NRSE REQUEST



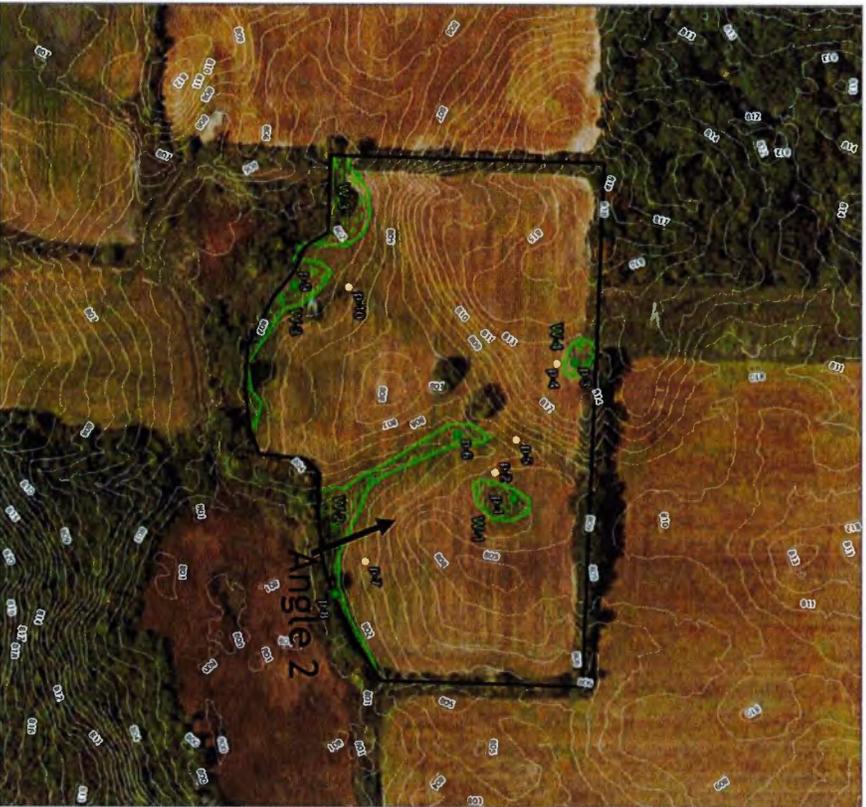
# MATHSON

Angle 1 - Wetland 2 Looking SE

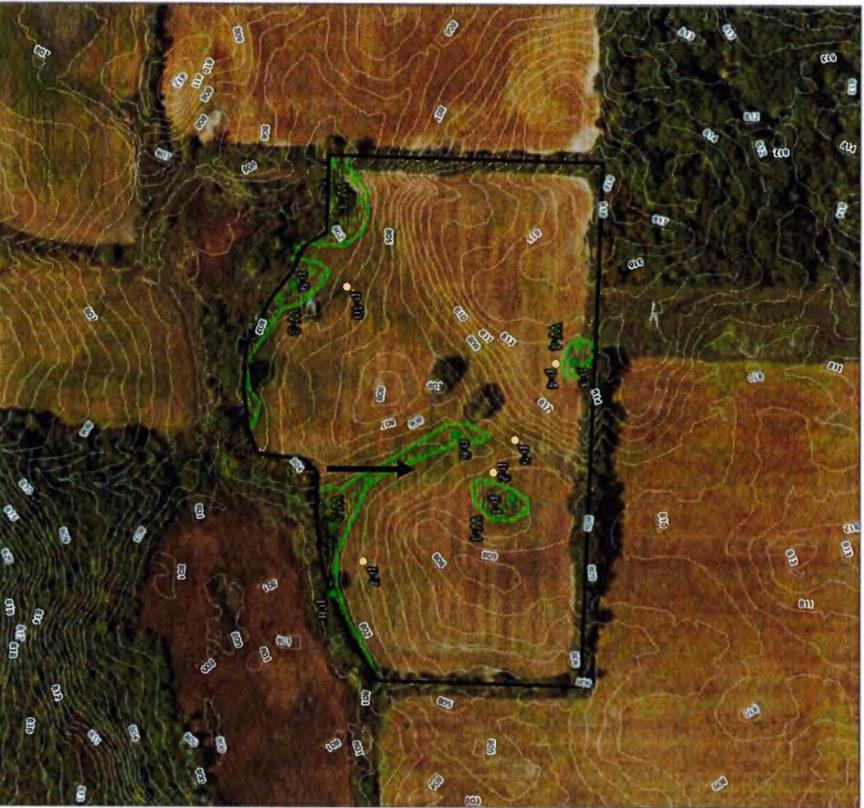


# MATHSON

Angle 2 - Wetland 2 Looking N



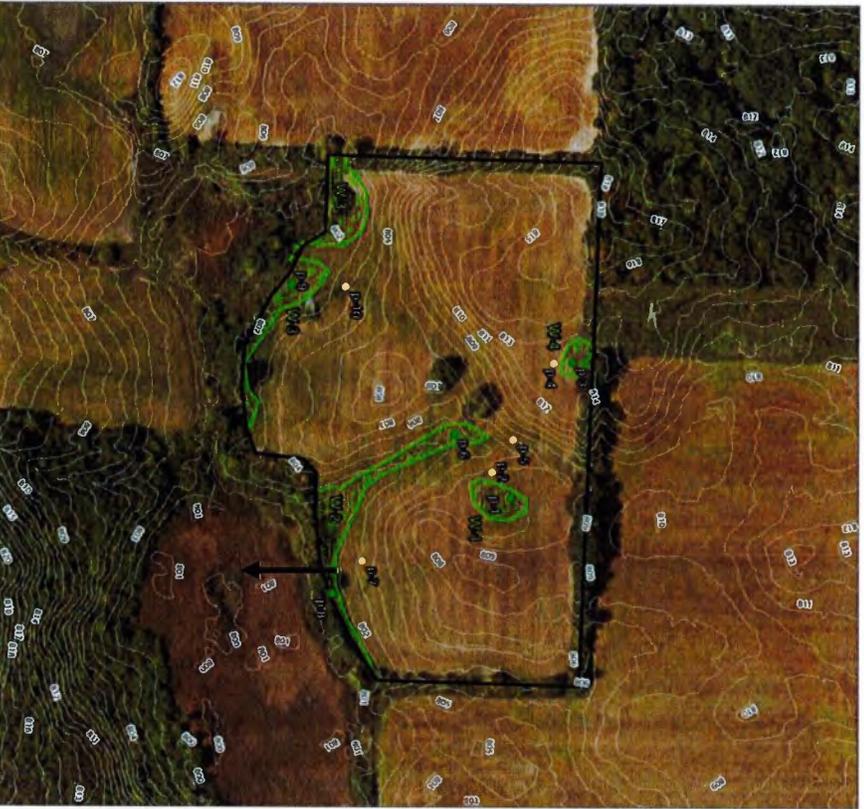
# MATHSON



Wetland 2 Ground Cover



# MATHSON

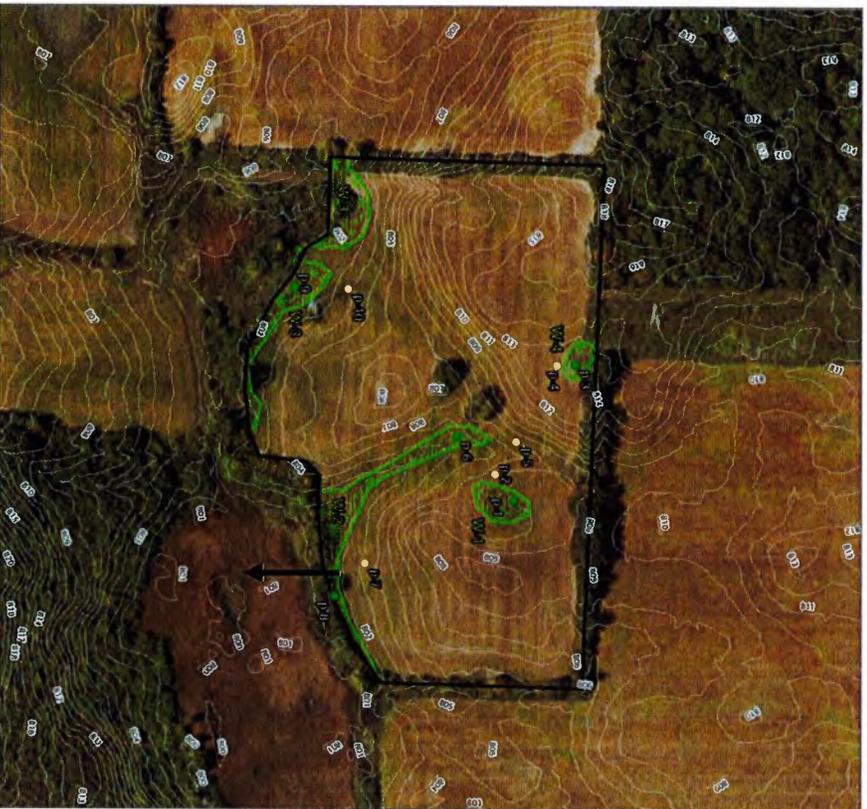


Typical Wetland Edge

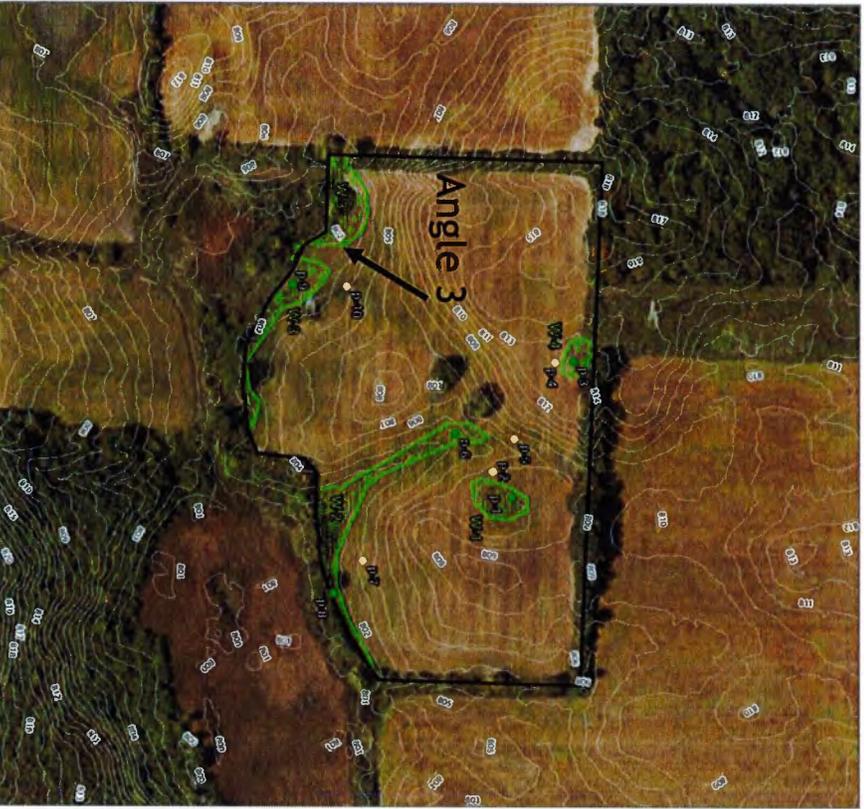


# MATHSON

Typical Wetland Complex



# MATHSON



Angle 3 - Wetland 3



# ACOE - APPROVED JD & NATIONWIDE PERMIT



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT  
180 FIFTH STREET EAST, SUITE 700  
ST. PAUL, MN 55101-1678

January 8, 2020

Regulatory File No. 2019-02880-AJK

Daniel Szczap  
Franklin Mills, LLC  
4011 80<sup>th</sup> Street  
Kenosha, WI 53142

Dear Mr. Szczap:

We are responding to your request for authorization to discharge fill material into 0.23 acres of wetland for the Franklin Mills commercial development. The proposed work is located in Section 30, Township 5 North, Range 21 East, Milwaukee County, Wisconsin.

**Project authorization:**

The regulated activities associated with this project include the discharge of fill material into 0.23 acres of wetland. We have determined that these activities are authorized by a Nationwide Permit (NWP) or a Regional General Permit (RGP), specifically, NWP 39, Commercial and Institutional Developments. This work is shown on the enclosed figures, labeled 2019-02880-AJK Figures 1-3 of 3.

# WDNR – APPROVED GENERAL PERMIT

State of Wisconsin  
DEPARTMENT OF NATURAL RESOURCES  
1155 Pilgrim Road  
Plymouth, WI 53073

Tony Evers, Governor  
Preston D. Cole, Secretary  
Telephone 608-266-2621  
Toll Free 1-888-936-7463  
TTY Access via relay - 711



January 8, 2020

GP-SE-2020-41-00037

Franklin Mills, LLC  
Daniel Szczap  
401 1 80th Street  
Kenosha, WI 53142

RE: Coverage under the wetland statewide general permit for wetland fill or disturbance for residential, commercial, or industrial development, located in the City of Franklin, Milwaukee County, also described as being in the NW1/4 of the SW1/4 of Section 30, Township 05 North, Range 21 East.

Dear Mr. Szczap:

Thank you for submitting an application for coverage under the wetland statewide general permit for wetland fill or disturbance for residential, commercial, or industrial development, s. 281.36, Wis. Stats.

You have certified that your project meets the eligibility criteria and conditions for this activity. Based upon your signed certification you may proceed with your project to fill 0.23 acres of wetlands. Please take this time to re-read the permit eligibility standards and conditions. The



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT  
180 FIFTH STREET EAST, SUITE 700  
ST. PAUL, MN 55101-1678

January 8, 2020

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Daniel Szczap  
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**Conditions of your permit:**

You must ensure the authorized work is performed in accordance with the enclosed General Permit terms, General Conditions, and St. Paul District Regional Conditions.

You are also required to complete and return the enclosed Compliance Certification form within 30 days of completing your project. Please email the completed form to the contact identified in the last paragraph.

A change in location or project plans may require re-evaluation of your project. Proposed changes should be coordinated with this office prior to construction. Failure to comply with all terms and conditions of this permit invalidates this authorization and could result in a violation of Section 301 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

**Water Quality Certification:**

You may not proceed with the work described above until you have obtained a Water Quality Certification or waiver. You are responsible for contacting the certifying agency listed below.

**Permit expiration:**

This permit is valid until March 18, 2022, unless the general permit is modified, suspended, or revoked. If the work has not been completed by that time, you should contact this office to verify that the permit is still valid. Furthermore, if you commence or are under contract to commence this activity before the date of General Permit expiration, modification, or revocation, you have 12 months to complete the activity under the present terms and conditions of the General Permit.

**Jurisdictional determination:**

An approved jurisdictional determination has been prepared and concludes that W-1 and W-4, as shown on page 2 of the enclosed figures, are not waters of the U.S. Therefore, work in those aquatic resources does not require authorization. This approved jurisdictional determination may be relied upon for five years from the date of this letter. However, we reserve the right to re-evaluate the determination in response to information that was not considered during our initial review. If you object to this approved jurisdictional determination, you may request an administrative appeal pursuant to regulations at 33 CFR 331. Enclosed you will find a Notification of Appeal Process fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination, a complete RFA form must be received by the Mississippi Valley Division Office at the address shown on the form by March 6, 2020.

**Contact Information:**

If you have any questions, please contact A.J. Kitchen in our Brookfield office at (651) 290-5729 or by email at [anthony.j.kitchen@usace.army.mil](mailto:anthony.j.kitchen@usace.army.mil).

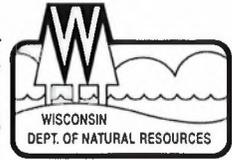
Sincerely,



Todd M. Vesperman  
Chief, Southeast Section

Enclosures

CC: Ryan Pappas, Wisconsin Department of Natural Resources



January 8, 2020

GP-SE-2020-41-00037

Franklin Mills, LLC  
Daniel Szczap  
4011 80th Street  
Kenosha, WI 53142

RE: Coverage under the wetland statewide general permit for wetland fill or disturbance for residential, commercial, or industrial development, located in the City of Franklin, Milwaukee County, also described as being in the NW1/4 of the SW1/4 of Section 30, Township 05 North, Range 21 East.

Dear Mr. Szczap:

Thank you for submitting an application for coverage under the wetland statewide general permit for wetland fill or disturbance for residential, commercial, or industrial development, s. 281.36, Wis. Stats.

You have certified that your project meets the eligibility criteria and conditions for this activity. **Based upon your signed certification you may proceed with your project to fill 0.23 acres of wetlands.** Please take this time to re-read the permit eligibility standards and conditions. The eligibility standards can be found on your application checklist or in the statewide general permit WDNR-GP1-2017 (found at <http://dnr.wi.gov/topic/waterways/construction/wetlands.html>). The permit conditions are attached to this letter. You are responsible for meeting all general permit eligibility standards and permit conditions. This includes notifying the Department before starting the project, and submitting photographs within one week of project completion. Please note your coverage is valid for 5 years from the date of the department's determination or until the activity is completed, whichever occurs first. This permit coverage constitutes the state of Wisconsin's wetland water quality certification under USCS s. 1341 (Clean Water Act s. 401).

The Department conducts routine and annual compliance monitoring inspections. Our staff may follow up and inspect your project to verify compliance with state statutes and codes. If you need to modify your project please contact your local Water Management Specialist, Ryan Pappas at (715) 492-0200 or email [Ryan.Pappas@wisconsin.gov](mailto:Ryan.Pappas@wisconsin.gov) to discuss your proposed modifications.

The Department of Natural Resources appreciates your willingness to comply with wetland regulations, which help to protect the water quality, fish and wildlife habitat, natural scenic beauty and recreational value of Wisconsin's wetland resources for future generations. Please be sure to obtain any other local, state or federal permits that are required before starting your project.

If you have any questions, please call me at (715) 492-0200 or email [Ryan.Pappas@wisconsin.gov](mailto:Ryan.Pappas@wisconsin.gov).

Sincerely,



Ryan Pappas  
Water Management Specialist

cc: A.J. Kitchen, Project Manager, U.S. Army Corps of Engineers  
Franklin Zoning Administrator  
SEWRPC  
Conservation Warden

### **WDNR-GP1-2017 Permit Conditions - Residential/Commercial/Industrial**

You agree to comply with the following conditions:

1. **Application.** You shall submit a complete application package to the Department as outlined in the application materials and section 2 of this permit. If requested, you shall furnish the Department, within a reasonable timeframe, any information the department needs to verify compliance with the terms and conditions of this permit.
2. **Certification.** Acceptance of general permit WDNR-GP1-2017 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood and have agreed to follow all terms and conditions of this general permit.
3. **Reliance on Applicant's Data.** The determination by this office that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the DNR.
4. **Project Plans.** This permit does not authorize any work other than what is specifically described in the notification package and plans submitted to the Department and you certified is in compliance with the terms and conditions of WDNR-GP1-2017
5. **Expiration.** This WDNR-GP1-2017 expires on October 31, 2022. The time limit for completing work authorized by the provisions of WDNR-GP1-2017 ends 5 years after the date on which the discharge is considered to be authorized under WDNR-GP1-2017 or until the discharge is completed, whichever occurs first.
6. **Other Permit Requirements.** You are responsible for obtaining any other permit or approval that may be required for your project by local zoning ordinances, other local authority, other state permits and by the U.S. Army Corps of Engineers before starting your project.
7. **Authorization Distribution.** You must supply a copy of the permit coverage authorization to every contractor working on the project.

<b>APPROVAL</b> <i>slu</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> 05/19/2020
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>CONCEPT REVIEW FOR A SINGLE-FAMILY RESIDENTIAL SUBDIVISION WITH 17 LOTS (9720 S 112TH STREET)</b>  <b>(KAEREK HOMES, INC., APPLICANT)</b>	<b>ITEM NUMBER</b>  <i>G.7</i>

**INTRODUCTION:**

On April 7, 2020, the applicant, Kaerek Homes, Inc., filed a Concept Review Application for a proposed single-family residential development for property located at 9720 S. 112th Street. The subject property is currently zoned R-2 Estate Single-Family Residence District and is designated as Business Park and Areas of Natural Resource Features on the City's 2025 Future Land Use Map.

**STAFF COMMENTS:**

Staff would note that the proposed subdivision would require:

- A Special Use for "Open Space Subdivision" Option 3.
- Preliminary and Final Plat approval, and associated easements.
- Comprehensive Master Plan Amendment to change the future land use of the property to Residential (single-family) and Areas of Natural Resource Features.

The following concerns arose during the review (see Memorandum dated 5-4-2020 for the full list):

- Connection or easement to the adjacent properties to the south and east is recommended for future development.
- Existing driveway along the northern property line does not comply with UDO setbacks.
- Loop streets preferred instead of cul-de-sacs.

**COUNCIL ACTION REQUESTED**

Provide direction to the applicant regarding the proposed single-family residential subdivision to be located at 9720 S 112th Street (Kaerek Homes, Inc., Applicant).



# CITY OF FRANKLIN



## REPORT TO THE COMMON COUNCIL

Meeting of May 19, 2020

### Concept Review

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**RECOMMENDATION:** Provide direction to the applicant regarding the proposed single-family residential subdivision to be located at 9720 S 112th Street (Kaerek Homes, Inc., Applicant).

---

<b>Project Name:</b>	Kaerek Homes Concept Review
<b>Project Address/Tax Key:</b>	9720 S. 112 <sup>th</sup> Street/892 9998 000
<b>Property Owner:</b>	Dean A. Rogich
<b>Applicant:</b>	Kaerek Homes, Inc.
<b>Current Zoning:</b>	R-2 Estate Single-Family Residence District
<b>2025 Comprehensive Plan:</b>	Business Park and Areas of Natural Resource Features
<b>Action Requested:</b>	No action requested

---

### Introduction

On April 7, 2020, the applicant, Kaerek Homes, Inc., filed a Concept Review Application for a proposed single-family residential development for property located at 9720 S. 112<sup>th</sup> Street. The subject property is currently zoned R-2 Estate Single-Family Residence District and is designated as Business Park and Areas of Natural Resource Features on the City’s 2025 Future Land Use Map.

The property is surrounded by R-2 District, FW Floodway District, and C-1 Conservancy District to the north and east, A-2 Prime Agricultural District to the south, and the recently approved Ryan Meadows subdivision (zoned R-6 District) to the west.

Note that the single-family property to the east is landlocked and has a driveway extending through the subject property to S. 112<sup>th</sup> Street. The applicant’s concept plan includes an access easement to allow this home’s driveway to extend to the easternmost cul-de-sac.

The applicant is proposing to retain the R-2 District zoning and develop the subdivision utilizing the Special Use “Open Space Subdivision” Option 3 Development Standards. The Unified Development Ordinance (UDO) defines an Open Space Subdivision as “A residential subdivision which provides a designated amount of open space as set forth under the requirements of Division 15-3.0200 and Section 15-3.0702(A) of this Ordinance.” The UDO also provides a specific set of Special Use requirements that must be met. See below.

#### **SECTION 15-3.0702 DETAILED STANDARDS FOR SPECIAL USES IN RESIDENTIAL DISTRICTS**

**A. Open Space Subdivision.** The following specific requirements and standards shall apply to all "Open Space Subdivision" options in the R-1, R-2, R-3, R-3E, R-4, R-5, R-6, and R-7 Districts:

1. **Must Meet District Standards.** All "Open Space Subdivisions" shall meet the applicable open space ratio, density, lot dimension, living area per dwelling unit, and height requirements for both the zoning district and "Open Space Subdivision" option selected.

2. **Conservation and/or Open Space Preservation Easements.** All "Open Space Subdivisions" shall have submitted conservation and/or open space preservation easements regulating the protection of natural resource features and/or open space in the proposed development. Such documents shall assure that all such conservation and/or open space preservation easements are held privately and in perpetuity under a Wisconsin non-profit membership corporation (homeowners' association). Said conservation and/or open space preservation easements shall cover the total required Open Space Ratio, or OSR, area of the Open Space Subdivision.

3. **Wisconsin Non-Profit Membership Corporation (Homeowners' Association).** All "Open Space Subdivisions" shall have submitted the legal instruments and rules for the creation of a Wisconsin non-profit membership corporation (homeowners' association). Said non-profit membership corporation shall be responsible for maintaining all open space areas and conservation and/or open space easements in the development.

4. **City Attorney Review.** The City Attorney shall review all conservation and/or open space easements and homeowners' associations and shall approve said instruments as to form.

5. **Minimum Required Width of Open Space When Abutting an Adjacent "Conventional Subdivision."** A minimum fifty (50) foot-wide open-space buffer shall be provided between an "Open Space Subdivision" and an abutting "Conventional Subdivision." Said open space buffer shall be protected by a conservation and/or open space preservation easement and shall count towards the total required amount of open space for the "Open Space Subdivision."

As currently proposed by the applicant, to proceed with the development a Special Use and Preliminary and Final Plat Applications are required.

An alternative process may also be considered, which is to rezone the property to R-4 Suburban Single-Family Residence District. The R-4 District Conventional Subdivision Development Standards match the R-2 Special Use Option 3 standards and would eliminate the need for open space subdivision requirements if deemed unnecessary or not applicable to the design of the subdivision. This may be better evaluated upon the delineation of natural resource features onsite.

It is also recommended that a Comprehensive Master Plan Amendment Application be submitted to amend the future land use of the property to Residential and Areas of Natural Resource Features. Note that the Areas of Natural Resource Features use would be revised to match field delineations of protected natural resources.

Related to the Comprehensive Master Plan, it can be noted that to the north of this site is planned Commercial and to the south and east is Recreational. Continuing south along S. 112<sup>th</sup> Street, the future land use transitions to residential. The proposed change in use to residential for this property is consistent with the City's recent change to allow the Ryan Meadow subdivision on the opposite side of S. 112<sup>th</sup> Street. It is also consistent and does not affect the planned land uses of the overall surrounding area.

### **Project Description/Analysis**

The subject property has an area of 20.10 acres (approximately 875,556 square feet) and is currently vacant land being used for agricultural purposes.

The Conceptual Plan illustrates ingress/egress to the subdivision from S. 112<sup>th</sup> Street that aligns with the future Meadowview Drive. Two cul-de-sacs then extend north from the entrance road.

The concept plan includes 17 single-family lots and 2 outlots. The outlots include protected natural resources, open space, and storm water management facilities. The 17 single-family lots range in size from 16,000 square feet to 23,695 square feet. The median lot size is about 17,984 square feet.

Outlot 1 has an area of 12,935 square feet and Outlot 2 is 472,334 square feet, which results in about 55.7% open space for the subdivision. The lots and roads would comprise of the remaining 44.3% of the land.

Detailed natural resource information has not yet been provided. The concept plan reflects the best available information from the City's GIS Environmental Features layer as well as the Wisconsin Department of Natural Resources Surface Water Data Viewer mapping.

The design and layout of the subdivision may be revised based upon field delineations of wetlands and any other protected natural resources onsite. Further, if feasible, it is recommended that the applicant consider developing the southeast corner of the property while considering any input from staff, the Plan Commission, and Common Council. This may necessitate the rezoning to R-4 District option as less open space would be provided.

As this is only a concept plan, compliance with UDO standards will be reviewed upon a detailed project plan submittal. With that said, it is anticipated that sidewalks, street trees, and open space amenities, such as walking trails, will be recommended.

It is also suggested that connections to the properties to the south and east be considered. The feasibility of these connections will also depend on the extent and location of natural resource features.

### **Staff Recommendation:**

It is recommended that sufficient feedback be provided to allow the applicant to determine whether to proceed or not with detailed plans for the proposed single-family residential subdivision development.

## MEMORANDUM

Date: May 4, 2020  
To: Mike Kaerek. Kaerek Homes, Inc.  
From: Department of City Development  
RE: Application for Concept Review – 9720 S. 112<sup>th</sup> Street.

---

Kaerek Homes, Inc. submitted a Concept Review application on April 7, 2020, review comments are as follows:

### **City Development Department comments**

1. The subject property is zoned R-2 Estate Single-Family Residence District and planned as Business Park and Areas of Natural Resource Features. The process to develop the proposed single-family subdivision will include:
  - a. A Special Use Application to utilize development standards under the R-2 District Special Use Open Space Option No. 3. Please review Section 15-3.0702(A) of the Unified Development Ordinance pertaining to Open Space Subdivisions.

Also, please be aware of the State requirement to provide “substantial evidence” to support your request. See below.

(de) Conditional use permits.

62.23(7)(de)1.1. In this paragraph:

- a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
  - b. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
2.
    - a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
    - b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision

to approve or deny the permit must be supported by substantial evidence.

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

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

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

- b. A Preliminary Plat Application, followed by a Final Plat Application. Please be aware that installation of streets and utilities is required prior to approval of a Final Plat (see Section 15-2.0303A. of the UDO). Alternatively, an improvement guarantee may be provided per Section 15-2.0303B of the UDO.
  - c. A Comprehensive Master Plan Amendment is also recommended to change the future land use designation from Business Park and Areas of Natural Resource Features to Residential and Areas of Natural Resource Features. The Areas of Natural Resource Features should be amended to match field delineations once completed.
2. It is suggested that an alternate process be considered, which is to rezone the property to the R-4 District and develop under the Conventional Subdivision standards. These standards are the same as the R-2 District Special Use Option No. 3 standards and would eliminate the Special Use Open Space requirements if those were deemed to not be applicable or needed with the proposed design of the subdivision.
  3. Wetland delineations should be completed as soon as possible. There may or may not be other wetlands on the property, which could affect the design and layout of the subdivision. Further, it is recommended that the southeast corner of the property be developed if reasonably accessible. Note that this may then require the rezoning option as noted above as less open space would be provided.
  4. It is recommended that a connection to the property to the south be included for access and future development of that property.
  5. It is also suggested that a road reservation be included from the cul-de-sac extending east to provide access to the parcel to the east for future development. The existing driveway could also be relocated within this area. Note that this should be looked at more closely upon the delineation of natural resource features to determine the accessibility and potential development of the lot to the east.
  6. The City's cul-de-sac standards are attached for review.
  7. It is anticipated that sidewalks will be recommended throughout the subdivision.
  8. Are any amenities planned for the subdivision, such as walking trails through the open space areas?
  9. Is the existing driveway for the home to the east graveled or is that improved with asphalt or concrete? If not already, it is recommended that the driveway be improved and setback a minimum of 6-feet from the property line.

10. Will your company build some or all of the homes within the development or will the lots be sold to builders and individual lot/home buyers?
11. Please be aware of City impact fees. The impact fee schedule can be found on the City's website at: <https://www.franklinwi.gov/Departments/Inspection-Services/Impact-Fees.htm>
12. Proposed street trees shall comply with Section 15-8.0117 of the UDO. One street tree is required for each 85-feet of lot frontage on each side of all streets. Note that separate Engineering Department standards conflicts and requires 75-feet. It is recommended to conform to the more restrictive requirement.
13. Note that a separate Lighting Plan must be provided in compliance with Division 15-5.0400 for Plan Commission review and approval. Also, see Section 15-8.0115 of the UDO.
14. Upon submittal of the Preliminary Plat Application, note that detailed plans will be required, such as the Natural Resource Protection Plan, draft conservation easements, storm water management, grading, erosion control, etc.
15. Note that a subdivision monument sign will require a separate application as well as review and approval by the Plan Commission.

### **Engineering Department comments**

16. Every lot must have a 60-ft minimum frontage measured at the right-of-way line or the arc of the curve (cul-de-sac).
17. Lots shall have a minimum lot depth of 110-ft.
18. Must have the vision triangle is shown at the intersections, 60x60 at the collector street and, 30x30 at the minor collector street.

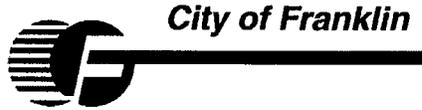
### **Mayor's comments**

19. It would be a lot better for DPW and Fire were this a loop street instead of two cul-du-sac's. This is about 45 minutes of plowing.
20. Also, the street name will probably be pretty close to a street name that I'm pretty familiar with... meadowCREEK court.

### **Police Department comments**

21. The Police department has no issues with this application.

Planning Department  
9229 West Loomis Road  
Franklin, Wisconsin 53132  
Email [generalplanning@franklinwi.gov](mailto:generalplanning@franklinwi.gov)



Phone (414) 425-4024  
Fax (414) 427-7691  
Web Site [www.franklinwi.gov](http://www.franklinwi.gov)

Date of Application: MARCH 30 2020

### CONCEPT REVIEW APPLICATION

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

<b>Applicant (Full Legal Name[s]):</b>		<b>Applicant is Represented by: (contact person)(Full Legal Name[s])</b>	
Name <u>MIKE KAEREK</u>	Company <u>KAEREK HOMES INC</u>	Name _____	Company _____
Mailing Address <u>11600 WEST LINCOLN AVENUE</u>	City / State <u>WEST ALLIS WI</u> Zip <u>53227</u>	Mailing Address _____	City / State _____ Zip _____
Phone <u>414-321-5300</u>	Email Address <u>MikeKaerek@kaerekhomes.com</u>	Phone _____	Email Address _____
<b>Project Property Information:</b>		Tax Key Nos <u>892-9998-000</u>	
Property Address <u>9720 SOUTH 112TH STREET</u>	Property Owner(s) <u>DEAN A. ROGICH</u>	Existing Zoning <u>R-2</u>	Existing Use <u>Agricultural</u>
Mailing Address <u>PO BOX 511471</u>	City / State <u>NEW BERLIN WI</u> Zip <u>53151</u>	Proposed Use <u>Single family residential</u>	CMP Land Use Identification <u>Business Park &amp; Areas of Natural Resource Features</u>
Email Address _____			

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

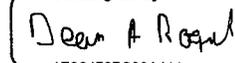
**Concept Review submittals for review must include and be accompanied by the following:**

- This Application form accurately completed with original signature(s) Facsimiles and copies will not be accepted
- Application Filing Fee, payable to City of Franklin  \$250
- Three (3) complete **collated** sets of Application materials to include
  - One (1) original and two (2) copies of a written Project Summary, including description of any new building construction and site work, interior/exterior building modifications or additions to be made to property, site improvement costs, estimate of project value and any other information that is available.
  - Three (3) 8 5 x 11 inch or 11 x 17 inch copies of the Preliminary Site/Development Plan of the subject property(ies) and immediate surroundings (i e , a scaled map identifying the subject property and immediate environs, including existing and proposed parcels, existing and proposed structures, existing and proposed land uses, existing and proposed zoning, existing and proposed infrastructure and utilities[approximate locations only], and existing and proposed site conditions/site constraints [i e approximate locations of public road access, rights-of-way, natural resources/green space and drainage issues/concerns, etc ])
  - Three colored copies (11"x17") of the building elevations, if applicable
- 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 five business days
- Concept Review requests are reviewed by the Committee of the Whole Meetings are held the first Monday of every month

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).*

  
 Signature Property Owner Dean A. Rogich  
 Name & Title (PRINT) \_\_\_\_\_  
 Date March 30, 2020  
 Signature Property Owner \_\_\_\_\_  
 Name & Title (PRINT) \_\_\_\_\_  
 Date \_\_\_\_\_

Signature Applicant Kaerek Homes Inc Mike Kaerek - President  
 Name & Title (PRINT) \_\_\_\_\_  
 Date \_\_\_\_\_  
 Signature Applicant's Representative \_\_\_\_\_  
 Name & Title (PRINT) \_\_\_\_\_  
 Date \_\_\_\_\_



**Project Summary – Concept Plan**

RE: 9720 S. 112<sup>th</sup> Street

For. Kaerek Homes Inc

Date. March 26, 2020

Kaerek Homes Inc has an offer to purchase the 20-acre property located at 9720 S 112<sup>th</sup> Street, tax key number 892-9998-000. The property is located south of Ryan Road, on the east side of S. 112<sup>th</sup> Street across from the recently approved Ryan Meadows development. The property is currently vacant and is used as agricultural land. The property is zoned R-2 residential and the 2025 Comprehensive Master Plan is business park and areas of natural resource features. Kaerek Homes is proposing to develop the property as single family residential lots meeting the R-2 zoning requirements. To develop the property as residential, Kaerek will request a change to the 2025 Comprehensive Master Plan.

The proposed concept plan is dated March 26, 2020. The subdivision is proposed to be developed as an R-2 open space subdivision per the requirements of the City of Franklin UDO. There are seventeen lots (minimum 16,000 square feet in size) with 1,130 lineal feet of new roadway. Access would be across from Meadowview Drive, which is the southernmost entrance to the Ryan Meadows development. There would be two cul-de-sacs, one that is 800' in length and the second which is 330' in length. The road cross section would be the standard City of Franklin cross section with curb and gutter. Sanitary sewer main would be extended from the adjacent MMSD MIS sewer that is located along the north property line. Water main would be extended from S. 112<sup>th</sup> Street. Open space would be in excess of 50% to preserve potential wetlands on site and to provide areas for storm water management. A wetland delineation has not yet been completed but it will be as part of the Natural Resource Protection Plan for the property. The anticipated cost of the site improvements is approximately \$960,000.

The minimum size homes in the development would be 1,600 square feet for ranch style and 2,000 square feet for two-stories. Estimated home and lot packages would be \$400,000.



APPROVAL <i>slu</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE May 19, 2020
REPORTS & RECOMMENDATIONS	Report on Expenditures related to the COVID-19 Public Health Emergency thru May 13, 2020	ITEM NUMBER <i>E.S.</i>

**Background**

On March 17, 2020 the Common Council authorized spending up to \$250,000 in response to the COVID-19 Public Health Emergency.

Thru May 14, 2020, the City has spent \$120,885 (up from \$98,099 two weeks earlier) of Labor funds, \$38,241 (up from \$36,981 two weeks earlier) in operating costs (principally \$10,000 in extra postage for absentee ballots), and \$11,587 on equipment (with an additional \$5,596 on order). Details of the expenditures are:

	Apr 29	May 14
Elections	23,606	13,878
Info Systems	451	846
Admin – postage		10,000
Finance	55	55
Muni Buildings	424	647
Police	2334	2,407
Fire	2314	2,513
Highway	5546	5,645
Parks	2251	2,251
Total	36,981	38,241

Total expenditures and encumbrances are \$176,309 (up from \$152,263 on Apr 29).

The FEMA grant will potentially cover overtime costs, which total \$67,433 currently. Very little else of these funds are recoverable under the COVID-19 FEMA grant, as they don't meet the requirements of the grant.

In addition, it appears that certain city resources are going to be negatively impacted, specifically, ambulance revenues are down \$72,000 from a year ago at the end of April, hotel tax receipts will be down, as the major hotels have been effectively shut down, Fines/Forfeitures are down \$37,506 from 2019 thru April 30, investment income on reduced interest rates (estimated to reduce annual revenues by \$80,000), the school liaison officer – approximately \$22,000 (with the school closed – the officer was not needed), and landfill siting revenues. These amounts total \$211,000 so far. It is too early to understand the total revenue shortfalls, but clearly there will be some sizable amounts.

**COUNCIL ACTION REQUESTED**

Information Only – no action requested.

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<b>APPROVAL</b> <i>SLW</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>May 19, 2020</b>
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>AUTHORIZE SOUTHEAST CONSTRUCTION LLC TO CONSTRUCT CONCRETE WALK AND PATIO AT PLEASANT VIEW PARK PAVILION (4901 W. EVERGREEN STREET) FOR \$12,600</b>	<b>ITEM NUMBER</b> <i>6.9.</i>

**BACKGROUND**

Construction of the Pleasant View Pavilion (4901 W. Evergreen Street) is essentially complete. DPW had anticipated placing the concrete work around the outside of the facility but 2020 has presented many challenges where this project cannot be completed in-house by the desired June 1 deadline.

**ANALYSIS**

Southeast Construction, LLC was a responsive contractor and known to be reputable. They submitted a quote for 2,100 square feet of sidewalk and patio for \$12,600.

Staff recommends approval to authorize Southeast Construction, LLC to perform the work.

**OPTIONS**

- A. Authorize Southeast Construction, LLC to construct a concrete sidewalk and patio surrounding the new Pleasant View Pavilion. Or
- B. Refer back to Staff with further direction.

**FISCAL NOTE**

There is \$4,271 of appropriations available for this project. Common Council could award the project using Contingency OR a portion of the \$150,000 Pleasant View Park Improvement appropriation. These funds are partly eligible for park impact fee funds.

**COUNCIL ACTION REQUESTED**

**(OPTION A) Motion to authorize Southeast Construction LLC to construct concrete walk and patio at Pleasant View Park Pavilion (4901 W. Evergreen Street) for \$12,600**



# SOUTHEAST CONSTRUCTION LLC

FULL SERVICE CONCRETE CONTRACTOR

Page 1 of 1

[www.southeastconstructionllc.com](http://www.southeastconstructionllc.com)

7835 South 66th Street • Franklin, WI 53132

Cell **414-614-7445** • Office. **414-427-9709** • Fax. **414-427-9712**

**PROPOSAL AND ACCEPTANCE**

PROPOSAL SUBMITTED TO <u>Pleasant View Park</u>	PHONE # <u>414-982-0863</u>	DATE <u>MAY 4-2020</u>
STREET <u>Evergreen</u>	JOB NAME <u>Sume</u>	
CITY STATE ZIP <u>Franklin WI 53132</u>	JOB LOCATION <u>Work</u>	
SALESMAN <u>Phil</u>	CELL # <u>#-758-3758</u>	WORK #

We hereby submit specifications and estimates for:

(Check boxes necessary for job)

- Remove Existing Concrete / Asphalt
  - Remove Existing Dirt / Gravel # of loads estimated out \_\_\_\_\_
  - 6 Bag Mix or Design Mix
  - Low Chert
  - Fiber Mesh
  - Wire Mesh
  - Grade and Stone # of loads estimated 1-2
  - Compact Gravel
  - Thickness  4"  5"  6"  7"  8"
  - Hand Tooled Joints  Picture Frame  PF Edges Only  Shed Slab
  - OR Saw Cut Joints Joints / Edges  Pattern of Stamp
  - Broom Finish  Hard Trowled Finish  Border
  - Expansion Felt  SE Swirl Finish  Border Color
  - Steel Rods  Release Color
  - Cure & Sealer  Sealer  Re Surface
- Notes \_\_\_\_\_

Driveway \_\_\_\_\_

Approach  Driveway Flares

Sidewalk  Front  Rear  Side  Flares

Patio 51 2100

Total Square Feet 2,100

We Propose to hereby furnish material and labor – complete in accordance with above specifications, for the sum of:

Payment to be made as follows

Deposit \$ \_\_\_\_\_ Date: \_\_\_\_\_ Check # \_\_\_\_\_

Half down Interim Payment when job is set-up. Balance due upon completion.

Date: \_\_\_\_\_ \$ \_\_\_\_\_ Check # \_\_\_\_\_

Balance due upon completion.

Date: \_\_\_\_\_ \$ \_\_\_\_\_ Check # \_\_\_\_\_

**PAID IN FULL**

JOB TOTAL	\$ <u>12,600.00</u>
DEPOSIT PAID	\$ -
BALANCE	\$
INTERIM PAYMENT	\$ -
NEW BALANCE	\$
CHANGE ORDER	\$ +
NEW BALANCE	\$

I have read the prices specifications and the Terms and Conditions contained on the front and back of this form carefully and I accept this proposal You are authorized to do work as specified Payment will be made on completion or otherwise stated above

Authorized Signature [Signature]

NOTE This proposal may be withdrawn by us if not accepted within 45 days.

Acceptance of Proposal – The above prices, specifications and the Terms and Conditions are satisfactory and are hereby accepted You are authorized to do the work as specified Payment will be made as outlined above

Date of Acceptance X

Signature X

Signature X

<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> May 5, 2020
<b>REPORTS &amp; RECOMMENDATIONS</b>	<b>AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE GENERAL FUND TO PROVIDE \$9,000 OF CARRYFORWARD APPROPRIATIONS FOR BUILDING MAINTENANCE AT THE POLICE ADMINISTRATION BUILDING</b>	<b>ITEM NUMBER</b> <i>G.10.</i>

**Background**

The 2019 Police Building Maintenance budget included funds to repair a exterior retaining wall. The work was delayed beyond 2019 into 2020. The Chief has requested that \$9,000 to complete the project be brought forward from the 2019 unused non-personnel appropriations to fund the project costs in 2020.

Some of the work is being completed by Highway staffing and some by Building Maintenance staffing. However materials have been purchased to supply the project. By completing the Budget Amendment, the Police Department will have the full \$40,000 compliment of 2020 appropriations to address building maintenance issues.

**Analysis**

The 2019 Police Department had \$159,000 of unused non-personnel appropriations. These unused appropriations became part of the \$1.3 million of surplus at December 31, 2019. They are therefore available to carryforward into 2020.

**Recommendation**

The Director of Finance & Treasurer recommends adoption of the proposed amendment carrying forward \$9,000 of unused 2019 Police non-personnel appropriations into 2020.

**COUNCIL ACTION REQUESTED**

Motion adopting an ordinance to amend Ordinance 2019-2398, an Ordinance adopting the 2020 annual budgets for the General Fund to provide \$9,000 of carryforward appropriations for building maintenance at the Police Administration Building

Roll Call Vote Required

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

ORDINANCE NO. 2020 \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE 2019-2398, AN ORDINANCE ADOPTING THE 2020 ANNUAL BUDGETS FOR THE GENERAL FUND TO PROVIDE APPROPRIATIONS \$9,000 OF CARRYFORWARD APPROPRIATIONS FOR BUILDING MAINTENANCE AT THE POLICE ADMINISTRATION BUILDING

WHEREAS, the Common Council of the City of Franklin adopted the 2020 Annual Budgets for the City of Franklin on November 19, 2019; and

WHEREAS, the 2019 Police non-personnel appropriations included funds for repairs on a external retaining wall at the Police Administration building; and

WHEREAS, the 2019 repair was not completed; and

WHEREAS, the Police 2019 results had more than \$159,000 of unused non-personnel services appropriations such that a portion can be carryforward to 2020 Police non-personnel appropriations.

NOW, THEREFORE, the Common Council of the City of Franklin does hereby ordain as follows:

Section 1 That a 2020 Budget for the General Fund be amended as follows:

General Fund			
Police Department	Non-personnel costs	Increase	\$9,000

Section 2 Pursuant to §65.90(5)(a), Wis. Stats., the City Clerk is directed to publish a Class 1 notice of this budget amendment within ten days of adoption of this ordinance.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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

ATTEST:

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

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

<p style="text-align: center;"><b>APPROVAL</b></p> <p style="text-align: center;"><i>slw</i></p>	<p style="text-align: center;"><b>REQUEST FOR COUNCIL ACTION</b></p>	<p style="text-align: center;"><b>MEETING DATE</b></p> <p style="text-align: center;"><b>5/19/2020</b></p>
<p style="text-align: center;"><b>REPORTS &amp; RECOMMENDATIONS</b></p>	<p style="text-align: center;"><b>Authorization to Execute ProofPoint Business Package Services as Provided Through Heartland Business Systems (HBS) for Spam Filtering &amp; Malware Prevention for all Incoming/Outgoing Email</b></p>	<p style="text-align: center;"><b>ITEM NUMBER</b></p> <p style="text-align: center;"><i>6.11.</i></p>

For the past four years, the City of Franklin has used the product Symantec Email Security.Cloud to provide spam filtering and malware prevention services for all incoming and outgoing email. This has been a cloud-based service that has not required any on-premise equipment, where the service is simply provided as an annual license. Over the course of four years, Symantec Email Security.Cloud (a.k.a Message Labs) has provided robust email filtering services, where the City has not encountered any successful ransomware attacks. For a cost-efficient service, this is quite a remarkable track record and speaks largely to the implementation of a layered security defense.

Unfortunately, Symantec Enterprise software was purchased by Broadcom in 2019. Broadcom has frozen the purchase of any new software licenses for all Symantec Enterprise products, which has created significant problems for businesses that rely on their products along with the value-added resellers. CDW-G, one of the largest software licensing providers for State software licenses, has dropped Symantec Enterprise as a vendor due to the problems and delays in getting licenses processed and entitled. Annual software subscriptions were purchased and processed through CDW-G.

It is very questionable if Broadcom will continue to support Symantec Email Security.Cloud over the long term, as the product is not listed as a key component in their published roadmaps. Symantec Email Security.Cloud is a rebranded service from a company called Message Labs, which was not a direct part of the acquisition. Due to the significant need of reliable email spam and malware filtering services, the uncertainty of our current service platform under Broadcom has become an operational risk. Broadcom may decide to continue providing services or kill the service at any time without notification.

During the April 29, 2020 Technology Commission meeting, three new vendors were presented as a replacement for Symantec. All vendors were selected based upon being a Gartner Quadrant One technology company for email security services. The Technology Commission unanimously made a motion to recommend moving from Symantec Email Security.Cloud over to ProofPoint Business licensing. Proofpoint is an industry leader in email filtering services and has continued to be a Gartner Quadrant One innovator over the course of 5 years. Heartland Business Systems will be the value-added reseller of all licenses and will assist with the implementation and transition from Symantec to Proofpoint. Heartland Business Systems internally uses Proofpoint themselves for all of their email security needs, and has a deep level of experience for very quickly on-boarding new customers.

ProofPoint Business provides the following security services:

- Anti-virus Protection
- Spam Filtering

- Content Filtering
- Outbound Filtering
- Impostor Email Protection (Phishing)
- URL Defense (sandboxing)
- 30 Day Emergency Inbox in the Cloud (with spooling and instant replay)
- Online Reporting and Notifications

**Costs:** Currently Symantec Email Security Cloud has an annual budgeted renewal cost of \$5,382 for 265 licenses. The migration to Proofpoint via Heartland Business Systems has an annual cost \$5,472 plus a \$25 migration fee. The quote includes all costs to setup and on-board the City of Franklin within the Proofpoint portal and to swing current email connections over to the new services.

### **COUNCIL ACTION REQUESTED**

Motion to authorize the execution of ProofPoint Business Package Email Services as provided through Heartland Business Systems, per Quote 092876, and per the provisions of the Information Technology Services Agreement already in place between the City of Franklin and Heartland Business Systems, with total project costs of \$5,497 which will be funded from the 2020 Information Services Operation Outlay Budget (01-0144-5257 Software Maintenance)

**Proofpoint Spam Filter**
**Quote #092876 v1**

 Prepared For  
**Franklin, City of**  
 James Matelski  
 9229 W Loomis Road  
 Franklin WI 53132

 Prepared By  
**Milwaukee Area Office**  
 Greg Borchard  
 N28 W23050 Roundy Drive Suite 200  
 Pewaukee WI 53072

 Date Issued  
**02.04.2020**  
 Expires  
**02.25.2020**

 P: (414) 427-7645  
 E: JMatelski@franklinwi.gov

 P: 262-650-6500 ext 1222  
 E: gborchard@hbs.net

Monthly Recurring Services		Recurring	Qty	Ext. Recurring
DC-PPBUS-MO	<b>Proofpoint Business Package</b> Proofpoint Business Package per user Monthly Includes SPAM URL Defense Attachment Defense Reputation	\$1 60	285	\$456 00
<b>Recurring Subtotal</b>				<b>\$456.00</b>

Onboarding & One Time Services		Price	Qty	Ext. Price
DC-PP-SETUP	<b>One Time Proofpoint Set Up Fee</b> Heartland Business Systems Data Center Hosting - One Time Proofpoint Set Up Fee for Spam Filter and Email Encryption	\$25 00	1	\$25 00
<b>Subtotal</b>				<b>\$25.00</b>

Quote Summary	Recurring	One-Time
Monthly Recurring Services	\$456 00	\$0 00
Onboarding & One Time Services	\$0 00	\$25 00
<b>Total</b>	<b>\$0.00</b>	<b>\$25.00</b>

This quote may not include applicable sales tax shipping handling and/or delivery charges Final applicable sales tax shipping handling and/or delivery charges are calculated and applied at invoice The above prices are for hardware/software only and do not include delivery setup or installation by Heartland ( HBS ) unless otherwise noted Installation by HBS is available at our regular hourly rates or pursuant to a prepaid HBSFlex Agreement This configuration is presented for convenience only HBS is not responsible for typographical or other errors/omissions regarding prices or other information Prices and configurations are subject to change without notice HBS may modify or cancel this quote if the pricing is impacted by a tariff A 15% restocking fee will be charged on any returned part Customer is responsible for all costs associated with return of product and a \$25 00 processing fee No returns are accepted by HBS without prior written approval This quote expressly limits acceptance to the terms of this quote and HBS disclaims any additional terms By providing your E-Signature you acknowledge that your electronic signature is the legal equivalent of your manual signature and you warrant that you have express authority to execute this agreement and legally bind your organization to this proposal and all attached documents Any purchase that the customer makes from HBS is governed by HBS' Standard Terms and Conditions ( "ST&Cs" ) located at <http://www.hbs.net/standard-terms-and-conditions>, which are incorporated herein by reference The ST&Cs are subject to change When a new order is placed the ST&Cs on the above-stated website at that time shall apply If customer has signed HBS' ST&Cs version 2018 v2 0 or later or the parties have executed a current master services agreement, the signed agreement shall supersede the version on the website QT 2018 v2 4

**Acceptance**
**Milwaukee Area Office**
**Franklin, City of**

Greg Borchard

Signature / Name

02/04/2020

Date

Signature / Name

Initials

Date

Data Center Agreement

**Heartland Business Systems**  
**Master Data Center Agreement**

**THIS MASTER SERVICE AGREEMENT** (hereinafter, this "Agreement") is entered into this Date by and between Heartland Business Systems, a Wisconsin Corporation (hereinafter referred to as "Provider"), and Franklin, City of (hereinafter, "Customer") The Agreement consists of the following terms and conditions and all Service Schedules attached hereto or subsequently signed by the parties that reference this Agreement

**WITNESSETH:**

**WHEREAS**, Provider is in the business of, among other things, the provision of information technology services, solutions and related equipment, and

**WHEREAS**, Customer desires to purchase or otherwise acquire from Provider certain services and related products for its own use, and

**WHEREAS**, Provider wishes to provide such services and related equipment to Customer on the terms and conditions set forth herein

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, Provider and Customer do hereby agree as follows

**ARTICLE I**

**PROVISION OF SERVICES AND RELATED EQUIPMENT**

**Services.** Provider shall provide to Customer those services (hereinafter, the "Services") specifically identified on the attached Service Schedule(s) Unless Provider and Customer agree to the contrary, and such agreement is memorialized on the Service Schedule(s), the transmission facilities through which Provider provides the Services to Customer need not be dedicated to the provision of Services exclusively to Customer, and Provider shall be entitled to utilize such facilities for the transmission of other data, or the provision of Services to other customers, provided such other utilization of these facilities does not interfere with Customer's use and/or enjoyment of the Services Provider covenants and agrees that the Services shall be functional in all material respects and available for Customer's use on or before the date of first availability identified on the Service Schedule(s)

- 1 Bandwidth allocation will be 1 5Mbps with options to purchase more as needed

**Availability of Services.**

Provider shall use commercially reasonable efforts to ensure the continuous availability of the Services without interruption Notwithstanding, Customer acknowledges and agrees that, from time to time, the Services may be temporarily unavailable during periods of testing, maintenance, repair, or during other periods caused by events of force majeure (as defined in Article VI B, below)

Availability/Service Credit The Services are accessible 24/7, with a 99.9% targeted uptime 99.9% of the time

during any calendar month, the Services shall be available. Unavailability is a condition in which there is unavailability of the Services due to hardware failure OR sustained packet loss in excess of fifty percent within the Provider's facilities for at least two consecutive hours due to a failure of the Provider to provide Services during such period, unavailability does not include packet loss or network unavailability due to scheduled maintenance or inability of a user to connect with the Services due to Internet or telecommunications problems or any other issues outside the control of Provider. In order to receive any service credit, Customer must notify Provider within seven (7) days from the time Customer becomes eligible to receive a service credit. Failure to comply with this requirement will forfeit Customer's right to receive a service credit. The aggregate maximum number of service credits to be issued by Provider to Customer for any and all downtime periods and performance problems during any given calendar month shall not exceed one month of service. Service credits are issued as followed:

Length of Unavailability (per calendar month)	Service Credit
24 to 48 hours of aggregate unavailability below 99.9%	1 day of service fees credited (i.e. 1/30 monthly fees)
48 to 96 hours of aggregate unavailability below 99.9%	1 2 days of service fees credited (i.e. 1/15 monthly fees)

\*Each block of 96 hours of aggregate unavailability thereafter shall be credited 5 days of service fees

\*All Service Credit shall be applied to the next month's invoice

**Use of Services.**

1. Customer represents and warrants that it will not use the Services or otherwise engage in any activities
  - a. that constitute or encourage a violation of any applicable law or regulation, including, but not limited to, the sale of illegal goods, or the violation of export control or obscenity laws,
  - b. that defame, impersonate, or invade the privacy of any third party or entity,
  - c. that infringe the rights of any third party, including, but not limited to, the intellectual property, business contractual, or fiduciary rights of others, and
  - d. that are in any way connected with the transmission of "junk mail," "spam," or the unsolicited mass distribution of e-mail, or with any unethical marketing practices
  - e. that cause the reselling or transfer for value any services provided by the attached service schedule(s) unless otherwise indicated to the contrary in any of the attached service schedule(s)
  - f. that removes any copyright ownership information, or falsifies such information, on any files uploaded,

downloaded, made publicly available through, or transmitted via Provider's system

- 2 Provider reserves the right, at any time, to refuse to host or discontinue hosting any Web site or Internet connection which Provider believes, in its sole discretion
  - a offers for sale goods or services, or uses or displays materials, that are illegal, obscene, vulgar, offensive, dangerous, or are otherwise inappropriate,
  - b received a significant number of complaints for failing to be reasonably accessible to customers, or timely fulfill customer orders,
  - c has become the subject of a government complaint or investigation,
  - d has violated or is alleged to have violated any local, state, or federal law or regulation,
  - e has violated or is alleged to have violated the rights or interests of any person or entity,
  - f impairs or threatens to impair the functionality of servers owned or operated by Provider, or other Web sites hosted or maintained by Provider on its own behalf or for the benefit of other customers,
  - g has violated or threatens to violate this Agreement
- 3 Customer explicitly licenses Provider to make any copies of copyright protected materials necessary to provide Internet and related services to Customer, as well as make any necessary copies necessary to preserve and maintain Provider's system and Customer's files and electronic mail
- 4 Customer explicitly licenses Provider to make any copies, without limitation, of any copyrighted materials submitted to a public forum maintained on Provider's system, or submitted to any forum to which Provider provides access This clause cannot be modified by either party unless any modification is in writing and signed by both parties
- 5 Unattended Forms Customer is not permitted to run any programs or software which continually send data over or access Provider's system, or run any programs or software on Provider's system unattended, unless such use has been approved in advance by Provider's staff

#### Equipment.

- 1 Installation, Operation, and Maintenance of Equipment. Provider shall instruct, construct, operate, and maintain all cable, equipment, and other facilities necessary to provide the Services to Customer up to a point of demarcation identified by Provider. Unless Provider and Customer agree otherwise, and such agreement is memorialized on the Service Schedule(s), Customer shall be responsible for the installation, construction, operation, and maintenance of all cable, equipment, software, licensing and other facilities necessary to utilize the Services from and after the point of demarcation. To the extent necessary, Customer shall, at no cost to Provider, grant to Provider and its agent's access, including any necessary or required easement, to Customer's premises as may be necessary for Provider to install, construct, operate, or maintain any cable, equipment, software, licensing or other facilities, to otherwise provide the Services to Customer. Except in emergency situations (which shall be determined by Provider, in its reasonable judgment), Provider will obtain approval from Customer (not to be unreasonably withheld or delayed) before entering upon Customer's premises to engage in any of the foregoing activities.
- 2 Responsibility for Equipment. Except as may be otherwise specified in the Service Schedule(s), neither party shall be responsible for the maintenance or repair of cable, electronics, structures, equipment, or materials owned by the other party, provided, however, that each party shall be responsible to the other for any damage or harm, including damage caused by environmental conditions at a party's location, or by the negligence or willful misconduct of the other party.

Customer shall be responsible for maintaining insurance coverage adequate to cover damage to Customer's physical property whether located at Customer's premises or at Provider's premises.

- 3 Title and Control of Facilities. Title to equipment or facilities owned by Provider and used in any fashion to provide Services shall remain with Provider. Customer shall keep all such equipment and facilities located on Customer's premises free and clear of all liens, encumbrances, and security interests, and shall not tamper with or allow the same to be moved or tampered with by any person not authorized by Provider to do so. Customer shall also keep all such equipment and facilities secure and free from environmental hazards.
- 4 Access to Equipment and Facilities upon Termination or Expiration of Agreement. Customer shall grant to Provider access to all of Provider's equipment and other facilities in or about Customer's premises for purposes of removing the same during the thirty (30) days immediately following the expiration or termination of this Agreement by either party and for any reason. Such access shall be granted during normal business hours and shall afford Provider sufficient time and opportunity to remove its equipment and other facilities from Customer's premises.

**Procurement of Access Rights.** Customer shall, at its expense, procure all necessary rights of way, easements, franchises, licenses, conduit rights, building entrance rights, landlord consents, and other rights and grants of authority which are necessary or desirable for Provider to provide the Services specifically to Customer.

**Security of Transmitted Information.** When applicable, the Customer shall incorporate Secure Socket Layer ("SSL"), or substantially equivalent technology, to transmit sensitive Customer information (such as payment information, credit card information, social security numbers and medical information protected by HIPAA) over the World Wide Web. Notwithstanding the incorporation of such technology into the Services delivered to Customer, Provider shall not be liable to Customer or any third party for the failure of such technology to maintain the confidentiality of any information transmitted by, from, or to Provider pursuant to this Agreement, or in connection with the Services provided to Customer.

**Virtual Private Network Security.** Provider's VPN security is followed in accordance with NIST Publications.

<http://csrc.nist.gov/publications/nistpubs/800-52/SP800-52.pdf>

<http://csrc.nist.gov/publications/nistpubs/800-77/sp800-77.pdf>

<http://csrc.nist.gov/publications/nistpubs/800-113/SP800-113.pdf>

### Customer Responsibility of Hosted Software.

- 1 General Customer acknowledges that with respect to the Hosted Software, all the design, development, operation, support and maintenance of the Hosted Software program is their full financial responsibility

In addition, any Web site owned or operated by Customer, any telecommunication equipment and software owned or operated by Customer, all computer network hardware and software owned and operated by Customer, and all associated software licensing, services, support, maintenance, upgrades, and renewal costs of all items owned or operated by Customer is their full financial responsibility Software licensing and renewals may include but are not limited to CRM, SQL, anti-virus, etc

Further, Customer acknowledges that in respect to the Hosted Software, the Provider's only responsibility is to provide Hosting Services as outlined in this Agreement

Customer further acknowledges that no system on the Internet can be guaranteed safe from unauthorized intrusion, and therefore any confidential information stored on or transmitted through Provider's system is stored or transmitted at Customer's own risk

- 2 Hosted Software Content Customer represents and warrants that (i) Customer owns or has sufficient rights in and to Hosted Software and the Hosted Software Content, including without limitation, personal, medical and financial information contained within the Hosted Software content, in order to use, and permit use of, the Hosted Software content as contemplated in this Agreement, and (ii) the Hosted Software Content does not and shall not contain any content, materials, advertising or services that infringe on or violate any applicable law, regulation or right of a third party Customer also acknowledges that Hosted Software Content may be stored on servers located within the United States or accessed by Provider's support personnel in the United States, and hereby authorizes such access and storage Provider only provides access to the Hosted Software, Provider does not operate or control the information, services, opinions or other content of the Internet Provider does not monitor and shall have no liability or responsibility whatsoever for the Hosted Software Content of any transmissions or communications transmitted or otherwise disseminated via the Hosting Services Customer agrees that it shall make no claim whatsoever against Provider relating to the Hosted Software Content or content of the Internet or respecting any information, product, service or software ordered through or provided via the Internet, and Customer shall indemnify and hold Provider harmless from any and all claims (including claims by governmental entities seeking to impose penal sanctions) related, directly or indirectly, to such Hosted Software Content
- 3 Configuration and Support Customer agrees to maintain and update DNS records for all domains, and therefore holds all responsibility pertaining to DNS configuration Customer agrees to provide level 1 support including, but not limited to initial incoming calls and basic level troubleshooting Customer acknowledges the responsibility to reconfigure and set up all mail clients for each individual user account on each computer

## ARTICLE II

### COMPENSATION AND PAYMENT TERMS

Compensation to Provider. As compensation for the Services provided hereunder, Customer shall pay to Provider the rates and other charges identified on the Service Schedule(s) for Services provided or made available to Customer during the period identified on Provider's invoice to Customer

Taxes and Other Charges There may be added to any charges under Article II A, above, an amount equal to industry-wide surcharges and/or fees and surcharge, duty, levy, tax, or withholding, including, but not limited to, sales, property, excise and use taxes, or any tax in lieu thereof or in addition thereto, imposed by any local, state, or federal government or governmental agency with respect to the Services, or with respect to this Agreement, excepting only taxes on the income of Provider Furthermore, service order charges apply to certain services and will be charged for those services in addition to other charges

Payment. Provider shall render an invoice in accordance with Provider's usual and customary billing cycle for Services delivered or made available to Customer during each preceding month during the Term Except as set forth below, Customer shall pay each invoice in full within thirty (30) days of the date of each invoice Payments not made in full within thirty (30) days may accrue interest at the rate of one and one-half percent (1.5%) per month, or the highest rate allowable by law, whichever is lower If

Customer disputes any invoice amount in good faith, then Customer shall, within thirty (30) days of the date of such invoice

- 1 Pay to Provider the undisputed amount of the invoice, and
- 2 Provide Provider a detailed written description of the disputed amount and the basis for Customer's dispute, along with a potential resolution, and
- 3 Customer shall cooperate with Provider in resolving the disputed invoice amount and shall promptly pay the remainder of the invoice upon resolution of the dispute

### ARTICLE III

#### TERM AND TERMINATION

**Term.** This Agreement shall become effective on the later to occur of (i) the date first written above, or (ii) the date upon which both parties have executed this Agreement (hereinafter, the "Effective Date" of this Agreement) This Agreement shall remain in effect as long as any Service Schedule associated with it remains in effect unless terminated in accordance with the provisions of the Agreement. The term of each Service Schedule is stated in the Service Schedule. Provider shall utilize commercially reasonable efforts to make the Services available to Customer as soon as possible, and the Services shall be available to Customer, subject to the terms and conditions hereof, for the term identified on the Service Schedule(s), which Period shall commence on the date the Services are first made available to Customer hereinafter, that period commencing on the Effective Date and continuing until termination.

**Termination.** This Agreement shall terminate upon the occurrence of any of the following events

- 1 **Mutual Agreement** Upon the mutual written agreement of the parties detailed in the Service Schedule
- 2 **Bankruptcy/Insolvency** Upon the appointment of a receiver to take possession of all or substantially all of the assets of either party to this Agreement, or an assignment by either party to this Agreement for the benefit of creditors, or any action taken or suffered by either party to this Agreement under any insolvency, bankruptcy, or reorganization act, at the option of the other party
- 3 **Default** In the event of a default by one party, the non-defaulting party may provide written notice of the default and may terminate this Agreement at any time following the expiration of a reasonable opportunity to cure such default, provided that, if the defaulting party has cured the breach prior to the expiration of such cure period, this Agreement shall remain in effect. For purposes of this Agreement, a "reasonable opportunity to cure" shall be ten (10) days for a monetary or payment default and thirty (30) days for a non-monetary or non-payment default, unless such default cannot with reasonable diligence be cured within such period, in which case, the cure period shall be automatically extended for so long as the defaulting party, acting in good faith and with reasonable diligence, requires to cure such default
- 4 **Data Deletion** Following the termination of this Agreement, Provider shall have no obligation to retain any data provided by Customer, and Provider shall have the right to delete such data. The Customer further releases Provider from any liability whatsoever for such actions

**Changes in Legislation.** Should any changes in legislation or law require any changes to this Agreement or any services provided by Provider, Provider reserves the right to make any such changes, as are determined necessary or prudent to be compliant, at Provider's sole discretion, without giving Customer advanced notice. If such changes are made, Provider promises to send by electronic or postal mail notice of any changes in a reasonable time period. In event of such changes, Customer may terminate service without a required notice period, but is to pay for services provided to the date of the effective termination.

**Effect of Early Termination.** The termination of this Agreement for any cause shall not release either party hereto from any liability which at the time of termination has already accrued to the other party hereto, or which thereafter may accrue with respect to any act or omission prior to termination, or from any obligation which is expressly stated herein to survive termination. Termination of this Agreement in accordance with its terms shall be without prejudice to any other rights or remedies of the parties.

**ARTICLE IV**

**INDEMNIFICATION AND LIMITATION OF LIABILITY**

**Indemnification.** Customer and Provider hereby indemnifies and holds harmless each other from any and all damages, claims, actions, investigations, proceedings, losses, costs, and other related expenses (including actual attorney fees) that may arise out of (i) any material breach of this Agreement by either party, (ii) any breach of any of the representations or warranties made by either party in this Agreement, and (iii) any alleged violation of any rights of another, including, but not limited to, each party's use of any content, trademark, service mark, trade name, copyrighted or patented material, or other intellectual property of its own or of any third party. The indemnification rights granted hereby are independent of, and in addition to, such rights and remedies as either party may have at law or in equity, or otherwise, including the right to seek specific performance, rescission, or restitution.

**LIMITATION OF LIABILITY.**

1. **IN GENERAL.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, PROVIDER SHALL HAVE NO LIABILITY OR RESPONSIBILITY TO CUSTOMER OR TO ANY OTHER PERSON, FIRM, OR ENTITY WITH RESPECT TO ANY LIABILITY, LOSS, OR DAMAGE ARISING OUT OF, OR RELATING TO, THE OPERATION OR NON-OPERATION OF THE SERVICES. PROVIDER HEREBY SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THIS AGREEMENT OR PROVIDER'S PROVISION OF, OR FAILURE TO PROVIDE, THE SERVICES.
2. **NO LIABILITY FOR CONTENT.** THE CONTENT THAT CUSTOMER MAY ACCESS OR DELIVER THROUGH ANY SERVICES IS PROVIDED BY INDEPENDENT CONTENT PROVIDERS, OVER WHICH PROVIDER DOES NOT EXERCISE AND DISCLAIMS ANY CONTROL. PROVIDER NEITHER PREVIEWS CONTENT NOR EXERCISES EDITORIAL CONTROL, DOES NOT ENDORSE ANY OPINIONS OR INFORMATION ACCESSED THROUGH ANY SERVICE, AND ASSUMES NO RESPONSIBILITY FOR ON-LINE CONTENT. PROVIDER SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR THE ACCURACY OR QUALITY OF THE INFORMATION OBTAINED IN USING THE SERVICES. SUCH CONTENT OR PROGRAMS MAY INCLUDE, WITHOUT LIMITATION, PROGRAMS OR CONTENT OF AN INFRINGING, ABUSIVE, PROFANE, OR SEXUALLY OFFENSIVE NATURE. ALL CONTENT FROM OTHER PARTIES ACCESSED VIA THE SERVICES IS ACCESSED BY CUSTOMER AND THOSE USERS CUSTOMER HAS AUTHORIZED, ALL AT CUSTOMER'S OWN RISK, AND PROVIDER ASSUMES NO LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS, OR PROCEEDINGS ARISING OUT OF OR OTHERWISE RELATING TO SUCH CONTENT.
3. **DAMAGE, LOSS, OR DESTRUCTION OF SOFTWARE FILES AND/OR DATA.** PROVIDER ASSUMES NO RESPONSIBILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY OF CUSTOMER'S HARDWARE, SOFTWARE, FILES, DATA, OR PERIPHERALS WHICH MAY RESULT FROM CUSTOMER'S USE OF THE SERVICES, OR FROM THE INSTALLATION, MAINTENANCE, OR REMOVAL OF ANY SERVICE OR RELATED EQUIPMENT OR SOFTWARE. PROVIDER DOES NOT WARRANT THAT ANY DATA OR FILES SENT BY OR TO CUSTOMER WILL BE TRANSMITTED IN UNCORRUPTED FORM WITHIN ANY PERIOD OF TIME.
4. **NO CONSEQUENTIAL DAMAGES.** EXCEPT AS PROVIDED IN ARTICLE IV A, ABOVE, AND EXCEPT FOR DAMAGES RESULTING FROM GROSS NEGLIGENCE, WILLFUL MISCONDUCT, RECKLESSNESS, OR PERSONAL INJURY OR DEATH, OR DAMAGE TO PROPERTY, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, OR SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY (INCLUDING, WITHOUT LIMITATION, DAMAGE FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY SUCH OTHER PARTY), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OF ANY KIND, WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTY KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT.
5. **MAXIMUM LIABILITY.** THE SOLE AND ENTIRE MAXIMUM LIABILITY OF PROVIDER TO CUSTOMER FOR ANY AND ALL PROVEN LOSS, CLAIM, DAMAGE OR LIABILITY OF ANY KIND (INCLUDING BUT NOT LIMITED TO CONTRACT OR TORT) WITH RESPECT TO ALL SERVICES PROVIDED BY PROVIDER AND

ANY ACT OR OMISSION OF PROVIDER WILL CONSIST OF A DUTY TO REFUND NOT MORE THAN THE AMOUNTS PAID BY THE CUSTOMER TO PROVIDER DURING THE YEAR PRECEDING SUCH LOSS, CLAIM, DAMAGE OR LIABILITY IN NO EVENT WILL PROVIDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES

## ARTICLE V

### CONFIDENTIALITY AND INTELLECTUAL PROPERTY

**Definition of "Confidential Information".** For purposes of this Agreement, "Confidential Information" means information that is marked or otherwise specifically identified in writing as proprietary, confidential, or trade secret and shall include, without limitation, this Agreement

**Non-Disclosure of Confidential Information.** The disclosing party will make a good-faith effort to cause Confidential Information (i) disclosed in tangible form to be marked, and (ii) disclosed verbally to be identified verbally at the time of disclosure or promptly thereafter, as confidential Notwithstanding the foregoing, a disclosing party's failure to so mark or identify Confidential Information will not excuse a receiving party from the requirements of this Agreement if the receiving party knew or should have known that such Confidential Information was proprietary or confidential

**Disclosure of Confidential Information.** Each party will hold in strict confidence Confidential Information disclosed by the other party and shall not disclose the same to any third party, except if the information (i) was previously known by the receiving party free from any obligation to keep it confidential, (ii) is independently developed by the receiving party, (iii) becomes publicly available, (iv) is disclosed to the receiving party by a third party without breach of any confidentiality obligation, or (v) is required to be disclosed by law or legal process

**Protective Arrangements.** If either party is compelled to disclose Confidential Information in judicial or administrative proceedings, such party will give the other party the opportunity, in advance of such disclosure, to seek protective arrangements and will cooperate with the other party in that regard

**Intellectual Property.** Each party shall retain all of its intellectual property and other proprietary rights in any information and materials disclosed to the other in the course of performance of this Agreement The foregoing notwithstanding, Customer hereby grants Provider and its successors and assigns a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license in all content displayed on any Web site hosted by Provider on Customer's behalf to maintain such material and content on Provider servers during the Term of this Agreement In the event that new information or materials are created in the course of performance under this Agreement, subject to any pre-existing or independently developed intellectual property rights of a party, each party will own all intellectual property rights in its contribution to the new information or materials created Each party agrees to not translate, decompile, reverse engineer, disassemble, modify, reproduce, duplicate, remarket, or otherwise dispose of the other party's intellectual property rights

## ARTICLE VI

### MISCELLANEOUS

**Notices.** All notices permitted or required to be given under the terms of this Agreement shall be deemed to have been given when delivered personally, deposited in the United States Mail, certified, postage prepaid, or delivered by e-mail, and addressed as follows

If to Provider

Heartland Business Systems

Attn Controller

1700 Stephen Street

P O Box 347

Little Chute, WI 54140-0347

If to Customer Franklin, City of

James Matelski

JMatelski@franklinwi.gov

**B. Force Majeure.** Notwithstanding any other term or condition of this Agreement, neither party will be liable to the other party for any delay or failure of performance resulting from any cause beyond such party's reasonable control and without such party's fault or negligence, including, without limitation, unusually severe weather conditions, earthquakes, floods, nuclear accidents, acts of God, epidemics, war, terrorist acts, riots, insurrections, civil disturbances, government regulations, acts of civil or military authorities or public enemy, fuel, energy, labor, or material shortages, or an inability to procure raw materials or other inputs necessary for a party's satisfaction of its obligations arising hereunder

**C. Entire Agreement; Amendments.** This Agreement, together with all schedules and exhibits hereto, constitutes the entire agreement between Provider and Customer with respect to the subject matter hereof and supersedes all prior proposals, negotiations, communications, and agreements between Provider and Customer with respect to the subject matter hereof, whether oral or written. This Agreement shall not be amended or modified, except by a subsequent written agreement executed by duly-authorized representatives of Provider and Customer

**D. Assignment.** Neither party may assign this Agreement without the prior written approval of the other party, which approval shall not be unreasonably withheld, except that Provider may assign all or any part of this Agreement to any affiliate without obtaining Customer's consent. For purposes of this Agreement, an "affiliate" of Provider is any entity that (directly or indirectly) controls, is controlled by, or is under common control with Provider

**E. Governing Law; Consent to Jurisdiction and Venue.** This Agreement shall be governed and interpreted by and in accordance with the laws of the State of Wisconsin. Provider and Customer agree that any legal or equitable action for claims, debts, or obligations arising from any provision of this Agreement shall be brought in the state or federal courts located in the State of Wisconsin. Provider and Customer further agree that both the state and federal courts in the State of Wisconsin shall have personal jurisdiction over both parties, and venue shall be appropriate in any such court

**F. Strict Performance.** The failure of Provider or Customer to object to or to take affirmative action with respect to any conduct of the other that is in violation of the provisions of this Agreement shall not be construed as a waiver of that violation, or of any future violations of the provisions of this Agreement

**G. Relationship of Parties.** This Agreement creates only an independent contractor relationship between Provider and Customer and does not create a joint venture, partnership, or agency, express or implied, between Provider and Customer. Neither party shall act as an agent of the other for any purpose and neither shall have the authority to bind the other party

**H. Survival.** All representations, warranties, covenants, conditions, and agreements contained herein which either are expressed as surviving the expiration or termination of this Agreement or, by their nature, are to be performed or observed, in whole or in part, after the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement

**I. Headings.** The headings and captions contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement

**J. Attorney Fees.** In the event either party initiates legal action with respect to the interpretation or performance of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs as the court may award

K. **No Third-Party Rights.** Nothing contained in this Agreement shall be construed as creating or giving rise to any rights in any third parties, or any persons other than the parties hereto

L. **Advice.** No oral or written advice given by Provider, its staff or its agents shall create a warrantee except as may be outlined in attached Service Schedule(s)

M. **Conflicts.** In the event that the terms of this Agreement conflict with the terms of an attached Services Schedule, the terms of the Services Schedule shall govern

N. **Licenses.** Customer grants any permissions or licenses (including but not limited to copyright licenses), as may be required, and within Customer's power to grant, to Provider in order to provide Internet and related services to Customer, or as may be required for Provider to operate for Customer's benefit

O. **System and Service Modifications.** The services and software that may be offered in a services schedule are subject to change and limitation is at Provider's discretion, as is any month to month pricing schedule or pricing schedule not under contract Provider will notify Customer of any changes by electronic or postal mail to the agent named in this Agreement or other Customer officer, unless the change is judged by Provider to be necessary to preserve proper security or functioning of Provider's system If Customer objects to any change in service, unless the change is one Provider has determined is necessary for security purposes or to maintain proper operation of Provider's system, Customer will be entitled to cancel only the specific service affected by said change or modification Customer's continued use of the Hosting services after the effective date of such modified general terms and conditions, policies, or changes in services or software will constitute Customer's acceptance of such modified terms

# PROOFPOINT ESSENTIALS

## PROFESSIONAL PACKAGE

### THE TECHNOLOGY

- Robust Anti-spam and Multi-layered Anti-virus
- Advanced Protection against Malicious URLs and attachments
- Secure sensitive data leaving the organization
- Intelligent Content Filtering
- Search and eDiscovery Cloud Email Archive
- Redeliver any inbound email lost or deleted in the last 30 days
- Protection of Social Media properties from spam and malware
- Emergency Inbox for 24/7 Email Continuity
- Image-scanning technology to remove illicit images

### FEATURES THAT MAKES IT EVEN BETTER

- A clean, easily navigated interface
- Single login for complete admin control
- Per user controls and quarantine access
- Automated provisioning
- Multi-level management options

The Proofpoint Essentials Professional package is the ultimate email and social media protection for organizations of all sizes. This package provides cloud based enterprise-class Email and Social Media Security, Continuity, Encryption and Archiving designed specifically for SMEs and backed by Proofpoint's best-of-breed security and infrastructure.

### PROOFPOINT MLXTM MACHINE LEARNING TECHNOLOGY

Powered by Proofpoint MLX technology, Proofpoint Essentials spam and phishing detection offers maximum protection against email threats. It examines hundreds or thousands of attributes in every email to accurately detect text, image and attachment based spam or phishing emails, while automatically adapting to new threats as they appear. Proofpoint MLX technology delivers the industry's highest level of effectiveness at 99% against all types of spam email, using the latest advances in reputation and content based analysis.

### THREAT PROTECTION TECHNOLOGY

Proofpoint Essentials leverages the advanced power of Targeted Attack Protection, Proofpoint's Industry Leading email analysis solution, to provide small to mid-sized enterprises with URL Defense and Attachment Defense, the only service that effectively detects, catches and sandboxes malicious URLs and attachments targeting this market.

### AUTOMATED EMAIL ENCRYPTION

Proofpoint Essentials Email Encryption is purpose built to help small and medium enterprises reduce the potential negative impacts of data loss by automatically encrypting email. The need to secure communications that contain sensitive data has never been greater. Fines, negative publicity and loss of customer trust await companies, both large and small, who lose confidential or customer information.

### NEVER MISS AN EMAIL WITH PROOFPOINT ESSENTIALS CONTINUITY

Smaller organizations rely heavily on email to do business, but cannot justify the cost of building a highly redundant messaging infrastructure. A few minutes without email may be manageable, but what about a few hours or a few days? Keeping business email running as normal even when disaster hits is crucial to the smaller enterprise. Proofpoint Essentials' continuity features make this possible with the emergency inbox, instant replay of lost or deleted emails over the last 30 days and email pooling.

### SOCIAL MEDIA ACCOUNT PROTECTION

12% of all social media content contains security risks, including spam, malware and criminal activity. As small enterprises look to grow their business by social media engagement, mitigating this risk is of paramount importance. Proofpoint Essentials can help. Social media account protection, powered by Proofpoint Nexgate technology, provides advanced protection for branded social media accounts across all major social networks, including Facebook, Twitter, LinkedIn, Google+ and YouTube.

### CLOUD-BASED EMAIL ARCHIVE

Proofpoint integrates Microsoft Exchange our intelligent automation to copy all internal and external email. This includes the original email and sending information (such as sender, recipients, CC, BCC, and group membership). Whether you use Exchange or Office 365, simply enable journaling and direct email traffic to Proofpoint Essentials. From there, Essentials processes and stores the email according to your retention policy. Data stays under management until it is disposed according to your retention setting. Archived at rest, data is encrypted using your unique encryption keys. Essentials Email Archive helps protect you from legal liability and regulatory risks while improving email storage management and end user productivity.

### ESSENTIALS PACKAGES

Proofpoint Essentials compatible with Microsoft Office 365 is available through 4 tailored packages created to meet the varied business needs, feature requirements and budgets of smaller enterprises and channel partners.

	BEGINNER	BUSINESS	ADVANCED	PRO
<b>SECURITY</b>				
Anti Virus	✓	✓	✓	✓
Spam Filtering	✓	✓	✓	✓
Reporting	✓	✓	✓	✓
Content Filtering	✓	✓	✓	✓
Outbound Filtering	✓	✓	✓	✓
Impostor Email Protection	✓	✓	✓	✓
Data Loss Prevention		✓	✓	✓
URL Defense (Sandboxing)		✓	✓	✓
Attachment Defense (Reputation)		✓	✓	✓
Attachment Defense (Sandboxing)			✓	✓
Email Encryption			✓	✓
Social Media Account Protection			✓	✓
<b>CONTINUITY</b>				
Emergency Inbox	30 Days	30 Days	30 Days	30 Days
Email Spooling	30 Days	30 Days	30 Days	30 Days
Instant Replay		30 Days	30 Days	30 Days
<b>ARCHIVE</b>				
Tamper Proof and Offsite				✓
Search and eDiscovery				✓
Unlimited Storage (10yr Archive)				✓
<b>MANAGEMENT</b>				
Multi-level logins	✓	✓	✓	✓
Domain Management	✓	✓	✓	✓
Email Logs	✓	✓	✓	✓
Active Directory Sync	✓	✓	✓	✓

**ABOUT PROOFPOINT**

Proofpoint Inc. (Nasdaq: PEP) is a leading provider of cybersecurity solutions. Proofpoint enables organizations to protect the way their people work today from advanced threats and compliance risks. Proofpoint helps cybersecurity professionals protect their users from the advanced attacks that target them via email, mobile apps, and social media. Proofpoint helps protect the critical information people create and equips their teams with the right intelligence and tools to respond quickly when things go wrong. Leading organizations of all sizes, including over 50 percent of the Fortune 500 rely on Proofpoint solutions, which are built for today's mobile and social-enabled environments and leverage both the power of the cloud and a big data driven analytics platform to combat modern advanced threats.

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<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE May 19, 2020</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p><b>Update on Granting Selective Waiver of Interest and Penalties associated with Late Payment of the May 31, 2020 Tax Levy installment to Those Franklin Property Tax Payers Adversely Impacted by the Public Health Emergency and setting a final due date for the 2019 Tax Levy of October 1, 2020</b></p>	<p>ITEM NUMBER <i>6.12.</i></p>

**Background**

State Statute 74.12(1)(a) requires Franklin to set Real Estate tax bill installment due dates by August 15 prior to the tax levy adoption. Franklin has set installment dates of Jan 31, March 31 and May 31 for tax bills.

The Public Health Emergency, and various Governor orders has caused many residents and property taxpayers to lose employment creating financial hardships in meeting 2019 tax levy property tax payment installments. The Emergency has also adversely impacted Franklin commercial properties in a like manner.

There are 1,633 property tax accounts owing \$4,336,522 that are due May 31, 2020 under the installment method of payment. The total tax levy was \$100,160,688. Interest and penalty on those installments would be \$65,047 on the entire amount should it go past due. The City would normally keep any interest and penalty it collects, the County keeps any interest and penalty it collects for all the time the amounts are past due.

To provide some relief to adversely impacted property taxpayers, the Wisconsin Legislature in Act 185 recently signed into law provided in Section 105: (25) that:

for property taxes payable in 2020, after making a general or case-by-case finding of hardship, a taxation district may provide that an installment payment that is due and payable after April 1, 2020, and is received after its due date shall not accrue interest or penalties if the total amount due and payable in 2020 is paid on or before October 1, 2020.

A taxation district may not waive interest and penalties as provided in this subsection unless the county board of the county where the taxation district is located first adopts a resolution authorizing such waiver and establishing criteria for determining hardship, and the taxation district subsequently adopts a similar resolution.

The Director of Finance & Treasurer has received several requests for relief of interest and penalty upon the 2019 tax levy installments due March 31 and May 31. Act 185 only provides for relief for Franklin's May 31 installment on those accounts which were current on April 1, 2020.

The WI Counties Association provided an update to their members that says:

If the county adopts the authorizing resolution on May 28<sup>th</sup>, but the municipality does not adopt the corresponding resolution until June 5, any payments not made by May 31 are considered delinquent and the property taxpayer will be charged interest and penalty (as applicable) retroactive to February 1, 2020.

This is the situation for Franklin taxpayers. May 28<sup>th</sup> is a Thurs, and the opportunity to pay taxes normally end Fri May 29<sup>th</sup>. Should the taxpayer need the relief, unless the Franklin Common Council meets by Sunday May 31, after the County considers the matter on May 28<sup>th</sup>, the opportunity is lost to Franklin taxpayers.

Milwaukee County is considering legislation that will provide this relief. The Milwaukee County Board discussed the issue and referred it to their Finance Committee for further study. The Milwaukee County board next meets on May 28, 2020.

**COUNCIL ACTION REQUESTED**

Such action as the Common Council shall deem appropriate.

STATE OF WISCONSIN: CITY OF FRANKLIN: MILWAUKEE COUNTY

RESOLUTION NO. 2020-\_\_\_\_\_

A RESOLUTION GRANTING SELECTIVE WAIVER OF INTEREST AND PENALTIES  
ASSOCIATED WITH LATE PAYMENT OF THE MAY 31, 2020 TAX LEVY  
INSTALLMENT TO THOSE FRANKLIN PEROPERTY TAXPAYERS ADVERSELY  
IMPACTED BY THE PUBLIC HEALTH EMERGENCY AND SETTING A FINAL DUE  
DATE FOR THE 2019 TAX LEVY OF OCTOBER 1, 2020

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WHEREAS, the City of Franklin mailed the 2019 tax levy property tax bills in December, 2019 with installment dates of January 31, March 31 and May 31, 2020; and

WHEREAS, a Public Health Emergency was declared in March 2020 adversely impacting Franklin residents with job layoffs and other loss of income causing significant stress in making the May 31, 2020 installment; and

WHEREAS, the Public Health Emergency closed non-essential businesses and otherwise reducing revenues to Franklin businesses adversely impacting their ability to meet the May 31, 2020 installment due date of the 2019 tax levy; and

WHEREAS, the Wisconsin Legislature in April 2020 enacted Act 185 providing for relief of interest and penalties on tax accounts that are current with installment payments on April 1, 2020 for future installments extending the future installment to October 1, 2020; and

WHEREAS, there are 1,633 Franklin taxpayer accounts owing \$4,336,522 on May 31, 2020 installments of the 2019 tax levy that are potentially eligible for relief; and

WHEREAS, ACT 185 requires that the Milwaukee County Board of Supervisors to adopt a resolution providing for such relief enabling the City of Franklin to provide similar relief.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin that the Franklin Treasurer is authorized to waive interest and penalties on the May 31, 2020 property tax installment payments until October 1, 2020 to those Franklin taxpayers who provide a written statement that they were adversely impacted by the COVID-19 Public Health Emergency in such form and manner as the Treasurer shall deem sufficient or such other requirements that the Milwaukee County Board shall require. .

Introduced at a regular meeting of the Common Council of the City of Franklin this \_\_\_th day of May, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this \_\_\_th day of May, 2020.

APPROVED:

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

ATTEST:

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

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

<p>APPROVAL <i>slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE May 19, 2020</p>
<p>REPORTS &amp; RECOMMENDATIONS</p>	<p><b>Authorize Service Agreement with Associated Financial Group, LLC in a 2020 Consulting Relationship for Employee and Retiree Health Insurance Benefits Plan Design and Procuring Insurance Services</b></p>	<p>ITEM NUMBER <i>G.13.</i></p>

**Background**

The City of Franklin maintains a self-funded health insurance benefit program for active and eligible retirees. The City uses the expertise of insurance brokers to aid in evaluating health and other related insurance risk areas, compare and recommend health and related insurance coverage options, design a plan of insurance, obtain quotes for plan benefits processing and Stop Loss coverage, and procure such services and Stop Loss Coverage.

These services have been provided by Diversified Services for a number of years. Diversified Services was purchased by Associated Financial Group, LLC, doing business as Associated Benefits and Risk Consulting "ABRC". ABRC is proposing to provide similar services for an annualized fee of \$54,500

**Analysis**

The City has been well served by ABRC (and its predecessors) for a number of years, realizing reduced employer costs while maintaining competitive employee health benefits.

The agreement has been reviewed by legal services with appropriate changes incorporated.

The proposed annual is considered in the 2020 Self Insurance Fund budget.

**Recommendation**

Staff recommends execution of the attached Service Fee Agreement with ABRC for 2020.

**COUNCIL ACTION REQUESTED**

Motion authorizing a Service Agreement with Associated Financial Group, LLC in a 2020 Consulting Relationship for Employee and Retiree Health Insurance Benefits Plan Design and Procuring Insurance Services

## SERVICE FEE AGREEMENT

This Agreement is entered into effective January 1, 2020, by and between City Of Franklin, WI \_\_\_\_\_ (hereinafter "Client"), and Associated Financial Group, LLC, using the marketing name Associated Benefits and Risk Consulting (hereinafter "ABRC").

- A. ABRC is primarily engaged in the insurance brokerage business.
- B. ABRC routinely helps its clients assess their insurance risks and needs, designs plans of insurance, and obtains cost quotes based on these plans, and places insurance with insurance carriers.
- C. ABRC is typically compensated for its efforts through the commissions it receives in brokering the sale of insurance to its clients.
- D. ABRC has been discussing insurance risks and needs with Client.
  - Consulting Fee Relationship:** Client has designated ABRC to be its official Agent of Record, and has completed (or will complete) any forms necessary to do so.
  - Marketing Fee Relationship:** Although there is no formal business / insurance agency relationship between them, Client has asked ABRC to evaluate its insurance risk areas, compare and recommend insurance coverage options, design a plan of insurance (based upon discussions between the parties), obtain quotes for said plan, and procure or attempt to procure insurance suitable to Client's needs.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and conditions contained in this Agreement, the Parties agree as follows:

1. **Client's Performance:** Client will provide ABRC with, and give ABRC full access to whatever information ABRC determines is necessary to enable ABRC to perform fully and effectively under this Agreement.
2. **ABRC's Performance:** ABRC will evaluate Client's insurance risk areas, compare and recommend insurance coverage options, design a plan of insurance (based upon discussions between the parties), obtain quotes for said plan, and procure or attempt to procure insurance suitable to Client's needs.
3. **Acknowledgement:** Client acknowledges that ABRC's performance under this Agreement represents a significant investment of time, effort, and expense on the part of ABRC, and are services for which ABRC is normally compensated through the commissions it receives as a result of entering into a business/insurance agency relationship with its clients.
4. **Compensation:** Client acknowledges that ABRC shall be entitled to compensation for the efforts it makes pursuant to this agreement, according to the following terms:
  - Fees.** For the services described herein, Client shall pay ABRC fees in an annualized amount equal to \$54,500. Unless otherwise noted, the fees set forth in the previous sentence shall be paid by Client in equal monthly installments.



**Contingency Compensation.** Some carriers, vendors, or third parties may pay contingency compensation for business that ABRC may place with them. Such contingency compensation does not alter or increase the cost of the services that ABRC is brokering or performing on behalf of Client, and thus does not increase the costs that Client pays for the provision of such services. Therefore, in addition to any fees described above, ABRC shall be entitled to any contingency compensation resulting from its work on behalf of Client irrespective of any other provisions elected under this Agreement.

**Commissions.** Some carriers, vendors, or third parties may pay commissions for the types of services provided by ABRC. Any commissions paid by such entities are often already factored into the cost of the services (e.g. rates) that ABRC is brokering or performing on behalf of Client, and thus often do not increase the costs that client pays for the provision of such services. Therefore, in addition to any fees or contingency compensation described above, ABRC shall be entitled to any commissions resulting from its work on behalf of Client, unless Client and ABRC shall specifically agree to some other arrangement in writing, or unless Client checks the following box:

- Client does not want ABRC to receive commissions for **some** of the services ABRC may provide or broker under this Agreement, regardless of whether such commissions increase the cost of the services provided or brokered. If for some only, please indicate the specific limitations for accepting commissions below:

Life/AD&D, LTD

Vision

Prescription Drug

5. **Payment:** Client shall pay ABRCs' fees according to the schedule set forth above via either Direct Wire Transfer, Traditional Invoicing, or ACH (*which is the method preferred by ABRC*). In the event Client chooses to be invoiced, Client shall pay any fees invoiced by ABRC no later than 30 days after receiving an invoice from ABRC. Please identify Client's preferred payment method:
- ACH
- Direct Wire Transfer
- Traditional Invoicing
6. **Agreement Term and Termination:** ABRC is entering into a consultative relationship with Client. Unless terminated by either party, this relationship is expected to be open-ended and ongoing. As a result, at the expiration of this Agreement, this Agreement will automatically renew according to the same terms (subject to a 3% increase in the Fees described in the Compensation section above) and time period as described above, unless Client and ABRC enter into a new or amended agreement. Either Party may terminate this Agreement (or any automatically renewed agreement) by providing the other Party with at least 90 days written notice of intent to terminate. However, in the event either Party commits a material breach of this Agreement, the other Party can terminate upon 30-days' written notice.
7. **Confidentiality:** All information and advice exchanged between the Parties (including their agents and employees) shall be treated as confidential, and shall not be disclosed to third parties except: 1) as agreed upon in writing, 2) where necessary to accomplish the purposes of this Agreement, or 3) as required by law. In addition, each party agrees promptly to advise

the other party in writing of any unauthorized misappropriation, disclosure or use by any person of Confidential Information which may come to its attention, and to take all reasonable steps to limit, stop or otherwise remedy such misappropriation, disclosure or use. The confidentiality provisions contained herein shall continue and stay in effect even after the expiration of this Agreement.

- 8. **Final Agreement:** This Agreement is an independent document that contains all of the covenants and agreements between the parties, and supersedes any and all other oral or written Agreements between Client and ABRC with respect to the matters described herein.
- 9. **Disclaimer.** While knowledge of the legal, tax, and financial issues related to the products, services, and advice offered by Associated Financial Group is an important part of our expertise, the products, services, and advice themselves do not constitute, and should not be construed as providing, legal, tax, or financial advice. Client acknowledges that, in providing products, services, or advice under this Agreement, ABRC is not acting in the capacity of a fiduciary, and Client hereby waives any rights it may have to pursue any type of fiduciary claim against ABRC.

Client is seeking ABRC’s expertise and recommendations with respect to the products, services, and advice offered by ABRC under this Agreement. However, ABRC cannot control the manner in which Client may interpret or utilize the products, services, and advice offered by ABRC under this Agreement. Therefore, Client hereby agrees that any claims it may have against ABRC as a result of products, services, or advice provided under this Agreement will be limited to the annualized fee amount it was paying at the time the facts underlying the alleged claim(s) occurred. The restrictions set forth in the previous sentence do not apply to gross misconduct, intellectual property violations, or data breaches.

- 10. **Modifications:** Any modification of this Agreement shall be effective only if it is in writing, signed and dated by all parties hereto.
- 11. **Jurisdiction:** This Agreement is to be construed pursuant to Laws of the State of WI. Jurisdiction and venue for any claim arising out of this Agreement shall be made in the State of WI.

By signing this Agreement, the Parties agree to the terms as set forth above. Moreover, the individual executing this Agreement on behalf of Client hereby represents and warrants that, as of the Effective Date of this Agreement, he/she is duly authorized to execute this Agreement on behalf of Client.

**City of Franklin, WI**

**Associated Financial Group, LLC**

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

By: Elisabeth Wright/Employee Benefits

*Steve Olson, Mayor*

*Print Name/Title*

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

For Office Use Only:

Sales Manager \_\_\_\_\_



<b>APPROVAL</b>  <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b>  May 19, 2020
<b>REPORTS AND RECOMMENDATIONS</b>	<p>Potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet). The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for market competition and bargaining reasons, to deliberate and consider terms relating to potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet); and the investing of public funds and governmental actions in relation thereto and to effect such acquisitions, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate</p>	<b>ITEM NUMBER</b>  <i>G.14.</i>

**COUNCIL ACTION REQUESTED**

A motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(e), for market competition and bargaining reasons, to deliberate and consider terms relating to potential property acquisitions for the development of West Elm Road widening and public utilities public improvements for the Tax Incremental District No. 4 Franklin Corporate Park: 10627 South 27th Street, Tax Key Nos. 951-9996-002 (potential acquisition of approximately 5,969 square feet) and 951-9999-001 (potential acquisition of approximately 5,234 square feet); 3001 West Elm Road, Tax Key No. 978-9996-006 (potential acquisition of approximately 15,977 square feet); and 10613 South 27th Street, Tax Key No. 951-9996-009 (potential acquisition of approximately 24,008 square feet); and the investing of public funds and governmental actions in relation thereto and to effect such acquisitions, and to reenter open session at the same place thereafter to act on such matters discussed therein as it deems appropriate.

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<b>APPROVAL</b> <i>slw</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>5/19/20</b>
<b>LICENSES AND PERMITS</b>	<b>MISCELLANEOUS LICENSES</b>	<b>ITEM NUMBER</b> <b>H.</b>

See attached listing from meeting of May 19, 2020.

**COUNCIL ACTION REQUESTED**



414-425-7500

**License Committee – REVISED\*\* (Page 12)**

**Agenda\***

**Aldermen’s Room**

**May 19, 2020 – 4:00 p.m.**

1.	Call to Order & Roll Call	Time:
2.	Applicant Interviews & Decisions	
<b>License Applications Reviewed</b>		<b>Recommendations</b>

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2019-2020 New 4:30 p.m.	<b>Evans, Destanie M</b> 726 Marquette Ave #2 South Milwaukee, WI 53172 Iron Mike’s			
Operator 2019-2020 New	<b>Chahal, Sonny S</b> 3789 W Cypress Ln Franklin, WI 53132 Walgreens #05884			
Operator 2019-2020 New	<b>Khudarathullah, Vasim S</b> 13455 W Fountain Dr New Berlin, WI 53155 Andy’s On Ryan Road			
Operator 2019-2020 New	<b>Ristic, Jasmina</b> 7209 S Hillendale Dr Franklin, WI 53132 Walgreens #15020			
Operator 2019-2020 New	<b>Singh, Mahakpreet</b> 7325 S 38 <sup>th</sup> St Franklin, WI 53132 Walgreens #05884			
Operator 2019-2020 New	<b>Syed, Mariya</b> 7132 S Madison Ct Franklin, WI 53132 Walgreens #05459			
Operator 2019-2020 New	<b>Tiwana, Shubh Karman S</b> 9325 S Cobblestone Way Oak Creek, WI 53154 Walgreens #05884			
Operator 2019-2020 New	<b>Krueger, Danielle M</b> W1369 County Rd C Sharon, WI 53585 Romey’s Place			
Operator 2020-2021 Renewal	<b>Krueger, Danielle M</b> W1369 County Rd C Sharon, WI 53585 Romey’s Place			
Operator 2019-2020 New	<b>Wyman, Katlyn</b> 2250 W College Ave #1 Milwaukee, WI 53221 Iron Mike’s			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Wyman, Katlyn</b> 2250 W College Ave #1 Milwaukee, WI 53221 Iron Mike's			
Operator 2020-2021 New	<b>Anderson, Leslie</b> 504 Shelbourne Ct #66 Racine, WI 53402 On the Border			
Operator 2020-2021 New	<b>Charaim, Margarita</b> 421 Kelburn Rd Apt 214 Deerfield, IL 60015 On the Border			
Operator 2020-2021 New	<b>Detaeje, Sierra M</b> 4352 S Kinnickinnic Ave Cudahy, WI 53110 Pick 'n Save #6360			
Operator 2020-2021 New	<b>Fenelon, John Joseph</b> 8000 W Sunbury Ct Milwaukee, WI 53219 Kwik Trip #287			
Operator 2020-2021 New	<b>Manske, Thomas R</b> 5459 Olympia Dr Greendale, WI 53129 Pick 'n Save #6360			
Operator 2020-2021 New	<b>Robinson, Paul J</b> 4201 S Taylor Ave Milwaukee, WI 53207 Tuckaway Country Club			
Operator 2020-2021 New	<b>Sellner, Ashley L</b> 4945 S Heritage Dr Apt 102 Greenfield, WI 53220 Walgreens #05459			
Operator 2020-2021 New	<b>Strait, Samuel K</b> 6429 S 123 <sup>rd</sup> St Franklin, WI 53132 Kwik Trip #857			
Operator 2020-2021 Renewal	<b>Abraham, Carsen J</b> 8528 S 68 <sup>th</sup> St Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Aguilar, Jennifer M</b> 2121 W Grant Upper Milwaukee, WI 53215 Walgreens #05884			
Operator 2020-2021 Renewal	<b>Albert, Sandra A</b> 10520 S 112 <sup>th</sup> St Franklin, WI 53132 Hideaway Pub & Eatery			
Operator 2020-2021 Renewal	<b>Albrecht, Alexis A</b> 5891 Tower Rd Apt 3 Greendale, WI 53129 Walgreens #15020			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Albrecht, Matthew T</b> S103 W20703 Heather Ln Muskego, WI 53150 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Anderson, Cathy J</b> 8736 S Country Dr #201 Oak Creek, WI 53154 Tuckaway Country Club			
Operator 2020-2021 Renewal	<b>Anderson, Danielle J</b> W229 S8020 Big Bend Dr Big Bend, WI 53103 Point After Pub & Grille			
Operator 2020-2021 Renewal	<b>Arndt, Aimee M</b> 2955 W Drexel Ave #408 Franklin, WI 53132 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Balcerzak, Amy B</b> 2605 E Emily Ave Oak Creek, WI 53154 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Bartolone, Michael J</b> 3842 S Marcy St Milwaukee, WI 53220 On the Border			
Operator 2020-2021 Renewal	<b>Beierle, Wendy J</b> 9221 S 96 <sup>th</sup> St Franklin, WI 53132 Hodach Citgo			
Operator 2020-2021 Renewal	<b>Bennett, Virginia Marie</b> W140 S9287 Boxhorn Dr Muskego, WI 53150 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Bhatti, Brandon S</b> S90 W12978 Boxhorn Reserve Ct Muskego, WI 53150 Midtown Gas & Liquor			
Operator 2020-2021 Renewal	<b>Bielinski, Tanya J</b> 12343 W McShane Rd Franklin, WI 53132 Swiss Street Pub & Grill			
Operator 2020-2021 Renewal	<b>Boardman, Rick L</b> 2112 S 72 <sup>nd</sup> St West Allis, WI 53219 Hodach Citgo			
Operator 2020-2021 Renewal	<b>Braovac, John D</b> 1335 S 124 <sup>th</sup> St Brookfield, WI 53005 Croatian Park			
Operator 2020-2021 Renewal	<b>Brys, Pamela</b> 1720 W Meyer Lane # 6104 Oak Creek, WI 53154 Buckhorn Bar & Grill			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Burczyk Jr, Roger C</b> 9529 Caddy Ln Caledonia, WI 53108 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Canales, William J</b> 722 Mackinac Ave South Milwaukee, WI 53172 On the Border			
Operator 2020-2021 Renewal	<b>Clifford, Joel B</b> 3115A S Brisbane Milwaukee, WI 53207 On the Border			
Operator 2020-2021 Renewal	<b>Conley, Shannen K</b> S76 W17745 Janesville Rd Muskego, WI 53150 Romey's Place			
Operator 2020-2021 Renewal	<b>Counter, Peggy S</b> S98 W13259 Loomis Dr Muskego, WI 53150 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Cruz, Nicole M</b> 4380 S Burrell St Milwaukee, WI 53207 Mulligan's Irish Pub & Grill			
Operator 2020-2021 Renewal	<b>Deall, Rebecca L</b> 3725 S 76 <sup>th</sup> St Milwaukee, WI 53220 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>De George, Susan M</b> 2456 S 88 <sup>th</sup> St West Allis, WI 53227 Point After Pub & Grille			
Operator 2020-2021 Renewal	<b>Ewig, Christopher A</b> 6626 S 26 <sup>th</sup> St Oak Creek, WI 53154 Iron Mike's			
Operator 2020-2021 Renewal	<b>Farrell, Joshua J</b> 7417 S 36 <sup>th</sup> St Franklin, WI 53132 Discount Cigarettes & Liquor			
Operator 2020-2021 Renewal	<b>Fenninger, Kristen N</b> 9750 S 31 <sup>st</sup> St Franklin, WI 53132 Bowery Bar & Grill			
Operator 2020-2021 Renewal	<b>Flowers, Katelynn M</b> 5829 S New York Ave Cudahy, WI 53110 Discount Cigarettes & Liquor			
Operator 2020-2021 Renewal	<b>Gagliano, Eric M</b> 3723 Meadow Rose Ct Franklin, WI 53132 Bowery Bar & Grill			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Galipo, Kathleen</b> 7984 S 60 <sup>th</sup> St Franklin, WI 53132 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Gaus, Nicole L</b> 1127 N Cass St #1B Milwaukee, WI 53202 Bowery Bar & Grill			
Operator 2020-2021 Renewal	<b>Grochowski, Halina</b> 1111 W Rosewood Trl Oak Creek, WI 53154 Buckhorn Bar & Grill			
Operator 2020-2021 Renewal	<b>Haese, Jeremy J</b> 6818 S 118 <sup>th</sup> St Franklin, WI 53132 Discount Cigarettes & Liquor			
Operator 2020-2021 Renewal	<b>Hansen, Jo Ann M</b> 2300 Raymond Ave Franksville, WI 53216 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Harvey, Nicholas A</b> W6538 N Lakeshore Dr Elkhorn, WI 53121 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Heup, Joseph W</b> 7606 W Norwood Ln Oak Creek, WI 53154 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Holtz, Thomas A</b> 1303 E Golden Ln Oak Creek, WI 53154 Andy's on Ryan Rd			
Operator 2020-2021 Renewal	<b>Hutts, Lisa M</b> 5612 Euston St Greendale, WI 53129 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Jaskie, Shane R</b> 7811 W Winston Way Franklin, WI 53132 Iron Mike's			
Operator 2020-2021 Renewal	<b>Jenders, Jennifer</b> 1085 Tanglewood Ct Brookfield, WI 53005 Chili's Grill & Bar			
Operator 2020-2021 Renewal	<b>Jensen, Ellen L</b> 2415 W Hilltop Lane Oak Creek, WI 53154 Buckhorn Bar & Grill			
Operator 2020-2021 Renewal	<b>Jubeck, Adam J</b> 2430 W Briar Lake Way #2B Oak Creek, WI 53154 Bowery Bar & Grill			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Julian, Amanda N</b> 2811 W Acre Ave Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Kais, Kevin K</b> 3201 Pleasant View Circle Caledonia, WI 53402 Walgreens #05884			
Operator 2020-2021 Renewal	<b>Kaur, Paramjeet</b> 185 W Rainbow Ridge Dr Apt 301 Oak Creek, WI 53154 Franklin Liquor Store			
Operator 2020-2021 Renewal	<b>Klinko, Dawn</b> 6830 W Kathleen Ct #4 Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Knight, Jennifer N</b> 4536 W Hilltop Ln Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Kuklinski, Kim T</b> 7555 Parkview Rd #26 Greendale, WI 53129 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Marquardt, Shelly</b> 26011 75 <sup>th</sup> St Salem, WI 53168 Hodach Citgo			
Operator 2020-2021 Renewal	<b>Mashkina, Nadiya</b> 9667 W Forest Home Ave Apt 1 Hales Corners, WI 53130 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Mather, Lauren J</b> 12400 Mac Alister Way #103 New Berlin, WI 53151 Tuckaway Country Club			
Operator 2020-2021 Renewal	<b>Matranga, Grace M</b> 4034 W Anthony Dr Franklin, WI 53132 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Miller, Janet</b> 8995 Woodbridge Dr Greendale, WI 53129 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Mlynczak, Susan</b> 16513 50 <sup>th</sup> Rd Franksville, WI 53126 Point After Pub & Grille			
Operator 2020-2021 Renewal	<b>Mueller-Yarnell, Diane T</b> 3574 S 84 <sup>th</sup> St Milwaukee, WI 53228 Pick 'n Save #6360			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Murphy, Melissa</b> 6157 S 42 <sup>nd</sup> St Greenfield, WI 53221 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Olszewski, Derek J</b> 7009 Ernest Dr Franklin, WI 53132 On the Border			
Operator 2020-2021 Renewal	<b>Ottman, Jason J</b> 9619 W 5 Mile Rd Franksville, WI 53216 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Page, Andrew M</b> 4642 W Crawford Ave Greenfield, WI 53220 Point After Pub & Grille			
Operator 2020-2021 Renewal	<b>Page, Sarah J</b> 1227 Williams Ave South Milwaukee, WI 53172 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Paul, Kayla M</b> 7850 S Ridgewood Dr Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Pelzek, Alexandria P</b> 5553 Root River Dr Greendale, WI 53129 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Pollack, Joseph M</b> 10165 W Coldspring Rd Apt 106 Greenfield, WI 53228 On the Border			
Operator 2020-2021 Renewal	<b>Popp, Denise K</b> W182S7715 Valley Dr Muskego, WI 53150 Romey's Place			
Operator 2020-2021 Renewal	<b>Reikowski, Mark A</b> W125 S8317 North Cape Rd Muskego, WI 53150 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Rinke, Kristen</b> S97 W12719 Champions Dr Muskego, WI 53150 Hideaway Pub & Eatery			
Operator 2020-2021 Renewal	<b>Rogers, Laura J</b> 6823 W Bennett Ave Milwaukee, WI 53219 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Rogers, Tori M</b> 4750 W Marquette Ave Franklin, WI 53132 Tuckaway Country Club			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Schappel, Timothy D</b> 2202 Landings Ln Delavan, WI 53115 On the Border			
Operator 2020-2021 Renewal	<b>Schauer, Joseph M</b> 8520 W Euclid Ave Milwaukee, WI 53227 Croatian Park			
Operator 2020-2021 Renewal	<b>Schultz, Kimberly A</b> 4040 S KK Ave #15 St. Francis, WI 53235 Sendik's Food Market			
Operator 2020-2021 Renewal	<b>Shallow, Rebekah L</b> 6125 S Martin Rd New Berlin, WI 53146 Root River Center			
Operator 2020-2021 Renewal	<b>Sibila, Candice</b> 4362 S Nicholson Ave St. Francis, WI 53235 Point After Pub & Grille			
Operator 2020-2021 Renewal	<b>Smith, Hollie C</b> 6873 S 35 <sup>th</sup> St Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Steffes, Mark R</b> 5344 Sutton Place South Greenfield, WI 53221 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Stork, Nadine A</b> 8636 W Marshfield Ct Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Trippler, Stacie L</b> 5331 N 37 <sup>th</sup> St Milwaukee, WI 53209 On the Border			
Operator 2020-2021 Renewal	<b>Van Erden, Susan C</b> 4899 W Maple Leaf Circle Greenfield, WI 53220 Pick 'n Save #6360			
Operator 2020-2021 Renewal	<b>Varga, Kathleen A</b> 3739 S Packard Ave #120 St. Francis, WI 53235 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Villwock, Mallory K</b> 8026 S 47 <sup>th</sup> St Franklin, WI 53132 Walgreens #15020			
Operator 2020-2021 Renewal	<b>Widenski, Denise</b> 7335 S Quincy Ave Oak Creek, WI 53154 Kwik Trip #287			

Type/ Time	Applicant Information	Approve	Hold	Deny
Operator 2020-2021 Renewal	<b>Williams, Laken L</b> 7409 S 46 <sup>th</sup> St Franklin, WI 53132 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Willing, Tyler D</b> 2700 Sussex Ln Waukesha, WI 53188 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Wist, Veronica M</b> 8322 W Forest Hill Ave Franklin, WI 53132 Sendik's Food Market			
Operator 2020-2021 Renewal	<b>Wolff, Pamela J</b> 7515 W Drexel Ave #108 Franklin, WI 53132 Walgreens #05884			
Operator 2020-2021 Renewal	<b>Wozney, Vanessa A</b> 1204 E Connie Ln Oak Creek, WI 53154 Kwik Trip #287			
Operator 2020-2021 Renewal	<b>Zacher, Alyssa G</b> 595 E Shepard Hill Dr Oak Creek, WI 53154 Bowery Bar & Grill			
Operator 2020-2021 Renewal	<b>Zubarik, Sally A</b> S88 W22560 Willow Ct Big Bend, WI 53103 Sendik's Food Market			
Amusement Device Operator 2020-2021	<b>Mitchell Novelty Co</b> 3506 W National Ave Milwaukee, WI 53215 Ralph H Fleege, Owner			
Amusement Device Operator 2020-2021	<b>Reggie's Amusements, LLC</b> 4918 S Packard Ave Cudahy, WI 53110 Reginald Zeniecki, Owner			
Amusement Device Operator 2020-2021	<b>Wisconsin P&amp;P Amusements</b> 12565 W Lisbon Rd Brookfield, WI 53005 Michael Weigel, Owner			
Class A Combination 2020-2021	<b>Dairyland Retail Group, LLC</b> DbA 7-Eleven 7610 W Rawson Ave Elizabeth Evans, Agent			
Class A Combination 2020-2021	<b>Ryan Fuel LLC</b> DbA Andy's on Ryan Rd 5120 W Ryan Rd Kavita Khullar, Agent			
Class A Combination 2020-2021	<b>Wisconsin CVS Pharmacy LLC</b> DbA CVS Pharmacy #5390 5220 W Rawson Ave Samantha Jo Klaphake, Agent			

Type/ Time	Applicant Information	Approve	Hold	Deny
Class A Combination 2020-2021	<b>Hodach Petroleum Inc</b> Db a Hodach Citgo 9830 W St Martins Rd Stephen Hodach, Agent			
Class A Combination 2020-2021	<b>Kwik Trip, Inc</b> Db a Kwik Trip #287 5040 W Rawson Ave Jill A Le Claire, Agent			
Class A Combination 2020-2021	<b>Kwik Trip Inc</b> Db a Kwik Trip #857 10750 W Speedway Dr Andrew P Wichmann, Agent			
Class A Combination 2020-2021	<b>Sam's East, Inc</b> Db a Sam's Club 6705 S 27 St Henry Montj, Agent			
Class A Combination 2020-2021	<b>Sendik's Franklin LLC</b> Db a Sendik's Food Markets 5200 W Rawson Ave Theodore Balistreri, Agent			
Class A Combination 2020-2021	<b>Target Corporation</b> Db a Target Store T2388 7800 S Lovers Lane Rd Daniel Olsen, Agent			
Class A Combination 2020-2021	<b>Wal-Mart Stores East, LP</b> Db a Walmart 6701 S 27 <sup>th</sup> St Veronica Wright, Agent			
Class A Combination 2020-2021	<b>Walgreen Co.</b> Db a Walgreens #15020 7130 S 76 St Jessica Nerby, Agent			
Class A Combination 2020-2021	<b>Walgreen Co.</b> Db a Walgreens #05884 9527 S 27 St Brian Hilber, Agent			
Class A Combination 2020-2021	<b>Walgreen Co.</b> Db a Walgreens #5459 9909 W Loomis Rd Danielle Peters, Agent			
Class B Combination 2020-2021	<b>The Bowery, LLC</b> Db a The Bowery Bar & Grill 3023 W Ryan Rd Roger Hein, Agent			
Class B Combination 2020-2021	<b>RLGIDI, Inc.</b> Db a Casa Di Giorgio 3137 W Rawson Ave Rex Idrizi, Agent			
Class B Combination 2020-2021	<b>Brinker Restaurant Corp.</b> Db a Chili's Bar & Grill 6439 S 27 <sup>th</sup> St Justin Pischke, Agent			

Type/ Time	Applicant Information	Approve	Hold	Deny
Class B Combination, Entertainment & Amusement, Bowling 2020-2021	<b>Country Lanes LLC</b> Dbas Country Lanes 11231 W Forest Home Ave Robert Sczerzen, Agent			
Reserve Class B Combination 2020-2021	<b>FF&amp;E, LLC</b> Dbas Hampton Inn & Suites Milwaukee/Franklin 6901 S 76 <sup>th</sup> St Teresa D'Amato, Agent			
Class B Combination, Entertainment & Amusement 2020-2021	<b>Franklin Food &amp; Beverage, LLC</b> DBA The Hideaway Pub & Eatery 9643 S 76 <sup>th</sup> St Frank J Orcholski, Agent			
Reserve Class B Combination 2020-2021	<b>Hudson Burger LLC</b> Dbas Milwaukee Burger Company 6421 S 27 <sup>th</sup> St Dallas Fitzgerald, Agent			
Class B Combination, Entertainment & Amusement 2020-2021	<b>HB&amp;H, LLC</b> Dbas On The Border 10741 S 27 <sup>th</sup> St Gerald Hay, Agent			
Class B Combination 2020-2021	<b>Romey's Place LLC</b> Dbas Romey's Place 7508 S North Cape Rd Nathan Fabry, Agent			
Class B Combination, Entertainment & Amusement 2020-2021	<b>Kriton &amp; Ermira LLC</b> Dbas Toscana Restaurant 8405 S 27 St Ermira Lazaj, Owner/Agent			
Class B Combination 2020-2021	<b>St Martins Inn, LLC</b> Dbas Wegner's St Martins Inn 11318 W St Martins Rd Dennis Wegner, Agent			
Class B Beer Class C Wine 2020-2021	<b>Dhiman LLC</b> Dbas India Palace 7107 S 76 <sup>th</sup> St Deepak Dhiman, Agent			
Class B Beer 2020-2021	<b>M-Squared Inc</b> Dbas Crossroads II Pizza & Subs 11357 W St Martins Rd Michael Falk, Agent			
Day Care 2020-2021	<b>Discovery Days Childcare III, Inc.</b> DBA Discovery Days Childcare 9758 S Airways Ct Tina Kraussel, Manager			
Day Care 2020-2021	<b>KinderCare Education LLC</b> KinderCare 6350 S 108 <sup>th</sup> St Theresa Castronovo, Manager			
Entertainment & Amusement 2020-2021	<b>Milwaukee County Parks</b> Milwaukee County Sports Complex 6000 W Ryan Rd Andrea Wallace, Agent			

Type/ Time	Applicant Information	Approve	Hold	Deny
Entertainment & Amusement 2020-2021	<b>Milwaukee County Parks</b> Oakwood Park Golf Course 3600 W Oakwood Rd Andrea Wallace, Agent			
Entertainment & Amusement 2020-2021	<b>Milwaukee County Parks</b> Whitnall Park Golf Course 6751 S 92 <sup>nd</sup> St Andrea Wallace, Agent			
<b>**REVISED</b> Extraordinary Entertainment & Special Event to Hold a Drive-In Theater	<b>The Rock Sports Complex</b> 7005 S Ballpark Dr Thomas Johns, Agent To begin 05/22/2020. Monday – Friday at 6:00 PM & 8:45 PM; Saturdays at 5:00 PM, 7:45 PM & 10:30 PM; Sundays at 3:00 PM, 6:00 PM and 8:45 PM.			
<b>**REVISED</b> Class B Combination Premise Description Change	<b>The Rock Sports Complex</b> 7005 S Ballpark Dr Thomas Johns, Agent Request to amend the premise description to include the Stadium north parking lot.			
<b>**REVISED</b> Drive-In Theater License 2019-2020 New	<b>The Rock Sports Complex (Milky Way Drive-In)</b> 7005 S Ballpark Dr Milwaukee Milkman North Parking lot Thomas Johns, Agent			
<b>**REVISED</b> Drive-In Theater License 2020-2021 Renewal	<b>The Rock Sports Complex (Milky Way Drive-In)</b> 7005 S Ballpark Dr Milwaukee Milkman North Parking lot Thomas Johns, Agent			
<b>3.</b>	<b>Adjournment</b>			
		Time		

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

H. 2.



9229 W Loomis Rd, Franklin, WI 53132-9630  
Telephone: 414-425-7500

City Clerk's Office  
Fax: 414-425-6428

**EXTRAORDINARY ENTERTAINMENT & SPECIAL EVENT  
APPLICATION**

**Application must be received a minimum of 30 working days prior to event.**

Event Location (address and full description) 7035 S. Ballpark Dr.  
Franklin WI 53132

Owner of property BPC Country Land, LLC

Purpose of Event Drive-in movie theater. Sound to be subject to  
existing sound decibel requirements.

Date(s) and Time(s) Mon thru Fri shows @ 6pm + 8:45pm; Sat shows @  
5pm, 7:45pm, 10:30pm; Sun shows @ 3pm, 6pm, 8:45pm

Setup date(s)/time(s) Setup to begin @ 2 hrs prior to showings

Breakdown date(s)/time(s) Breakdown to go on for 2 hrs after showings

Maximum number attending per day 200 ~~cars~~ cars (approx. 3 persons per car)

Maximum number of tickets to be sold (if any) per day 200

Applicant Milwaukee Milkmen Baseball, LLC

**(If corporation, attach certified copy of Articles of Incorporation together with the name, age, residence and mailing address of each person holding more than 10% of the stock.)**

Address (including City/State/Zip) 7044 S. Ballpark Dr. Suite 300 Franklin WI 53132

Home phone (414) 908-6310 Cell (414) 349-4771

E-mail tomj@rocventures.org Business phone (414) 908-6310

Fax NA Business E-Mail tomj@rocventures.org

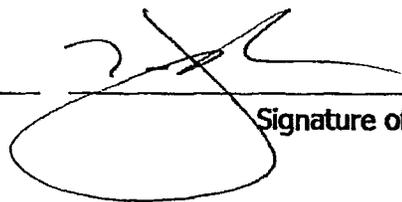
1. Provide plans to limit the maximum number of people permitted to assemble.
2. Provide plans for fencing the location of the special event and the gates contained in such fence. A detailed drawing must be submitted as part of this application.
3. Provide plans for supplying potable water, including the source, amount available and location of outlets.
4. Provide plans for providing toilet and lavatory facilities, including the source, number, location, type and means of disposing of waste.
5. Provide plans for holding, collecting & disposal of solid waste material.

6. Provide plans, if any, to illuminate the location, including sources and amounts of power and location of lamps.
7. Provide plans and description for parking vehicles, including size and location of lots, highway ingress/egress, parking lots and shuttle services.
8. Provide plans for telephone services, including source, number and location.
9. Provide plans for security, including number of guards, deployment, names, addresses, credentials and hours of availability.
10. Provide plans for fire protection, including number, type and locations of all protective devices, including alarms & extinguishers, number of emergency fire personnel available.
11. Provide plans for sound control and amplification, including numbers, locations and power of amplifiers & speakers.
12. Provide plans for food and beverage concessions and concessionaires, including names, addresses and license or permit numbers.
13. Provide plans and specific descriptions for each of any other type of vendor or provider of amusements or entertainments, including names, addresses and license or permit numbers.
14. Provide Certificate of Insurance no later than 10 days prior to the event.
15.  \$100.00 nonrefundable license & administration fee payable with application.  
 bond  letter of credit  cash deposit  
 (due no later than 10 days prior to the event, based upon anticipated cost of services)

\_\_\_\_\_ Police services  
 \_\_\_\_\_ Fire services  
 \_\_\_\_\_ Registered Sanitarian (non-staff) services, if needed  
 \_\_\_\_\_ Total estimated costs

Applicant agrees to indemnify and save harmless the City of Franklin from and against any and all liabilities, claims, demands, judgments, losses and/or all suits at law or in equity, costs and expenses, including reasonable attorney fees, for injury or death of any person or loss or damage to the property of any person, firm, organization or corporation, arising in any way as a consequence of the granting of a license for this special event. Applicant affirms that the statements contained in this application are true and correct to the best knowledge of Applicant.

Date 05/18/2020

  
 \_\_\_\_\_  
 Signature of Applicant

RECEIVED \_\_\_\_\_ REPORTED TO COUNCIL \_\_\_\_\_ LICENSE # \_\_\_\_\_ SERVICE FEE TO BE INVOICED \_\_\_\_\_

## Sandi Wesolowski

---

**Subject:** FW: applications  
**Attachments:** Drive-In Theater Renewal pdf; Drive-In Theater Permit pdf; Drive-In Event Permit.pdf;  
Liquor License Amendment Map[3] pdf

**From:** Tom Johns <tomj@rocventures.org>  
**Sent:** Monday, May 18, 2020 4:44 PM  
**To:** Sandi Wesolowski <SWesolowski@franklinwi.gov>  
**Subject:** Re: applications

Sandi

Completed applications attached; I will follow up with some of the additional info later.

In addition, we would like to request we amend our liquor license premise description to allow the sale of alcohol in the stadium north parking lot. Attached is a map that highlights the area.

Thank you in advance for your attention to this.

Best,

TJ





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City Clerk's Office  
Fax: 414-425-6428

NEW  RENEWAL

**DRIVE-IN THEATER**  
License Application  
July 1, 2019—June 30, 2020

Fee: \$250.00 plus \$1.50 per stall  
Number of stalls: 200

Date: 05/18/2020

General Description of Entertainment or Amusement: Drive-in movie theater. Music to be played prior to showings, subject to sound decibel requirements.

Location of function: Milwaukee Milwaukee north parking lot.

Trade Name: Milky Way Drive-in

Mailing Address: 7044 S. Ballpark Dr, Suite 300, Franklin WI 53132

Telephone: (414) 908-6310 Telephone: (414) 349-4771

Individual Partnership Corporation

If Corporation, list names, addresses and titles of Officers:

Name	Address	Title
<u>Michael Zimmerman</u>	<u>7241 S. 92nd Street Franklin WI 53132</u>	<u>Owner/CEO</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Person Responsible: Thomas Johns

Address: W222 N2135 Glenwood Ln, Waukesha WI 53186

Date of Birth: 08/31/1978 Place of Birth: Milwaukee, WI

Drivers License Number: VS20-8307-8311-09 State: WI

Any arrests for or convictions of any Federal, State or Local offense(s)? Yes (No)

List of offenses, dates & places of conviction(s) NA

Signature: [Handwritten Signature]

Date: 05/18/2020



9229 W Loomis Rd, Franklin, WI 53132-9630  
Telephone 414-425-7500

City Clerk's Office  
Fax 414-425-6428

NEW  RENEWAL

**DRIVE-IN THEATER**  
License Application  
July 1, 2020—June 30, 2021

Fee: \$250.00 plus \$1.50 per stall  
Number of stalls: 200

Date: 05/18/2020

General Description of Entertainment or Amusement: drive-in movie theater. Music to be played prior to showings, subject to sound

Location of function: Milwaukee's Milkmen north parking lot decibel requirements

Trade Name: Milky Way Drive-in

Mailing Address: 7077 S. Ballpark Dr., Suite 300, Franklin WI 53132

Telephone: (414) 908-6310 Telephone: (414) 349-4771

Individual Partnership Corporation

If Corporation, list names, addresses and titles of Officers:

Name	Address	Title
<u>Michael Zimmerman</u>	<u>7241 S. 92nd Street Franklin WI 53132</u>	<u>Owner/CEO</u>

Person Responsible: Thomas Johns

Address: W222 N2135 Glenwood Ln., Waukesha WI 53186

Date of Birth: 08/31/1978 Place of Birth: Milwaukee, WI

Drivers License Number: 4520-8307-8311-09 State: WI

Any arrests for or convictions of any Federal, State or Local offense(s)? Yes No

List of offenses, dates & places of conviction(s) NA

Signature: [Handwritten Signature]

Date: 05/18/2020

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<b>APPROVAL</b> <i>slw</i> <i>pp</i>	<b>REQUEST FOR COUNCIL ACTION</b>	<b>MEETING DATE</b> <b>5/19/2020</b>
<b>Bills</b>	<b>Vouchers and Payroll Approval</b>	<b>ITEM NUMBER</b> <i>I.</i>

Attached are vouchers dated May 2, 2020 through May 14, 2020 Nos. 178304 through Nos. 178464 in the amount of \$ 2,600,709.06. (Including a \$1,500,000.00 investment). Also included in this listing are EFT's Nos. 4300 through Nos. 4309, Library vouchers totaling \$ 5,168.16, Tourism vouchers totaling \$ 1,000.00, Water Utility vouchers totaling \$ 11,675.67 and Property Tax refunds totaling \$ 6,175.59.

Early release disbursements dated May 2, 2020 through May 13, 2020 in the amount of \$ 1,798,408.10 are provided on a separate listing and are also included in the complete disbursement listing. These payments have been released as authorized under Resolution 2013-6920.

The net payroll dated May 8, 2020 is \$ 390,059.69 previously estimated at \$ 405,000.00. Payroll deductions dated May 8, 2020 are \$ 227,468.15 previously estimated at \$ 238,000.00.

The estimated payroll for May 22, 2020 is \$ 385,000.00 with estimated deductions and matching payments of \$ 438,000.00.

Attached is a list of property tax disbursements Nos. 17910 through Nos. 17913 dated May 1, 2020 through May 14, 2020 in the amount of \$ 528.33. Voided checks in the amount of \$ (266.49) are separately listed.

Approval to release the below vouchers once they have been approved for payment.

Adaptor Inc	2020 Road Improvements	\$ 7,140.00
Fisco Auto Body	Repainting of Fire #E113	\$ 11,982.00
Geographical Marketing	Apr'20 GIS Services	\$ 11,719.57
Neenah Foundry	2020 Road Improvements	\$ 7,411.00
R & R Insurance	Jun'20 Workers Comp	\$ 33,146.00
R & R Insurance	Jun'20 LWMMI Policy	\$ 22,146.00
<b>TOTAL</b>		<b>\$93,544.57</b>

The Library Board has not approved May 2020 vouchers for payment as of this writing. Approval of Library vouchers will be considered at the May 18, 2020 meeting. Upon their approval, request is made to authorize the release of these payments not to exceed \$15,000.00.

**COUNCIL ACTION REQUESTED**

Motion approving the following

- City vouchers with an ending date of May 14, 2020 in the amount of \$ 2,600,709.60 and
- Payroll dated May 8, 2020 in the amount of \$ 390,059.69 and payments of the various payroll deductions in the amount of \$ 227,468.15 plus City matching payments and
- Estimated payroll dated May 22, 2020 in the amount of \$ 385,000.00 and payments of the various payroll deductions in the amount of \$ 438,000.00, plus City matching payments and
- Property tax disbursements with an ending date of May 14, 2020 in the amount of \$ 528.33 and
- Approval to release payments to miscellaneous vendors in the amount of \$ 98,544.57 and
- Approval to release Library vouchers upon approval by the Library Board not to exceed 15,000.00

**ROLL CALL VOTE NEEDED**