APPROVAL Slw	REQUEST FOR COUNCIL ACTION	MEETING DATE 02/21/17
REPORTS & RECOMMENDATIONS	STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF INDIAN COMMUNITY SCHOOL OF MILWUAKEE, INC., FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE	ITEM NUMBER

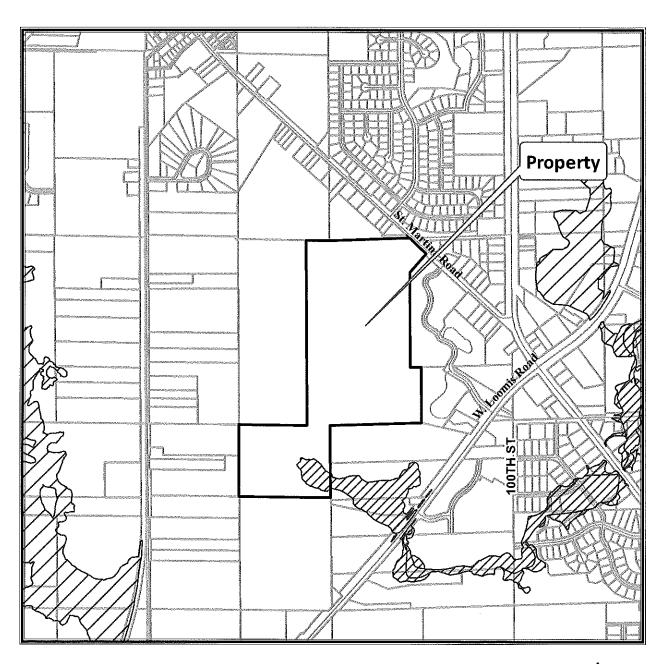
At their meeting on January 25, 2017, the Environmental Commission recommended approval of a Special Exception for Indian Community School of Milwaukee, Inc., with a suggestion for allowing access to the proposed improvements to local public schools for educational purposes and exploring the possibility of limited public access. The Environmental Commission's Special Exception Application Review and Recommendation form, dated February 2, 2017, is attached.

At the regular meeting of the Plan Commission on February 9, 2017, following a properly noticed public hearing, the following action was approved: move to recommend to the Common Council approval of the Indian Community School of Milwaukee, Inc. Natural Resource Features Special Exception pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council consideration of the Environmental Commission recommendation.

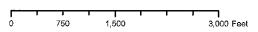
# **COUNCIL ACTION REQUESTED**

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of Indian Community School of Milwaukee, Inc., for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance, to approve the application.

10405 W. St. Martins Road TKN: 841 9985 001



Planning Department (414) 425-4024



NORTH 2016 Aerial Photo

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

## Standards, Findings and Decision

of the City of Franklin Common Council upon the Application of Indian Community School of Milwaukee, Inc. for a Special Exception to Certain Natural Resource Provisions of the City of Franklin Unified Development Ordinance

Whereas, Indian Community School of Milwaukee, Inc., property owner having filed an application dated November 23, 2016, 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 February 2, 2017 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 February 9, 2017 being annexed hereto and incorporated herein as Exhibit C; and

Whereas, the property which is the subject of the application for a Special Exception is located at 10405 West St. Martins Road, zoned I-1 Institutional 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 November 23, 2016, by Indian Community School of Milwaukee, Inc., property owner, 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): The project site was chosen due to its proximity to the adjacent school building, which maximizes accessibility for students. Also, the poor existing condition of the wetland as a monotypic stand of invasive Narrow-leaved cattail provided an opportunity for enhancements to the resource feature and thus opportunities for scientific study.
- 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: An Alternative Analysis was presented to the WDNR as part of their Permit Application process. The proposed project is Alternative 1 and was the preferred alternative of the WDNR. This alternative meets the basic project goals and will have a minimal adverse environmental impact.
- 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 circumstances surrounding this project are unique to the Indian Community School. The requested special exception will not undermine the City's ability to apply or enforce natural resource protection requirements 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: *The requested special exception will result in minimal environmental impacts and enhance a degraded wetland, while providing significant benefit to the community; 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 proposed wildlife scrapes and enhancement plantings will enhance the functional values of the wetland. Impacts to the wetland buffer and setback are minimal, thus the functional values of these features will be preserved.

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: *This project will meet all other zoning and site planning requirements*.
- 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 Indian Community School is an extraordinary facility, which was designed by world famous architect Antoine Predock. The building's design seamlessly integrates interior and exterior spaces and the surrounding environment. There is a connection between learning spaces and the exterior environment. The proposed improvements will further enhance this relationship.
- 3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The proposed improvements will enhance the Indian Community School's ability to provide environmental education to its students.*
- 4. Aesthetics: Aesthetics will be enhanced through the creation of four (4) wildlife scrapes around the perimeter of Wetland 1. The scrapes will create open water areas within this wetland, which is currently choked out by invasive Narrow-leaved cattail.
- 5. Degree of noncompliance with the requirement allowed by the Special Exception:
  - Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);
  - Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
  - Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
  - Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.

- Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.
- 6. Proximity to and character of surrounding property: The Indian Community School has single-family residences and areas of natural resources to the north, recreational and areas of natural resources to the south, multiple-family residential to the east and agricultural land and areas of natural resources to the west.
- 7. Zoning of the area in which property is located and neighboring area: The Indian Community School's property is zoned I-1 Institutional District. Properties to the north are zoned R-3 Suburban/Estate Single-Family Residence District, C-1 Conservancy District and I-1 Institutional District. The properties to the south are zoned P-1 Park District, I-1 Institutional District and C-1 Conservancy District. The properties to the east are zoned Planned Development District No. 26 and the property to the west is zoned R-3 Suburban/Estate Single-Family Residence District and C-1 Conservancy District.
- 8. Any negative affect upon adjoining property: No negative affect upon adjoining property is perceived.
- 9. Natural features of the property: *The property contains wetlands and associated buffers and setbacks and mature woodlands.*

# 10. Environmental impacts:

- Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);
- Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
- Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
- Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.
- Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.
- 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 February 2, 2017 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 upon the property to be developed be protected by a perpetual conservation easement to be approved by the Common Council prior to any development within the areas for which the Special Exception is granted; 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 Indian Community School of Milwaukee, Inc. and all other applicable provisions of the Unified Development Ordinance. The duration of this grant of Special Exception is permanent.

Introdu	iced at	a regular	meeting	of the	Common Council	of the City of
Franklin this _		day of			, 2017.	
_					<del></del>	
Passed	and add	opted at a r	egular me	eting of	the Common Counc	cil of the City of
Franklin this _		-	-	_		
Trankim timb_		_ duy 01			, 2017.	
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					Stephen R. Olson, M	 Aavor
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# **Exhibit A**

# Natural Resource Special Exception Question and Answer Form.

# Questions to be answered by the Applicant

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

	ation of the section(s) of the UDO for which a Special Exception is requested
when <u>A s</u> with	ment regarding the Special Exception requested, giving distances and dimensions e appropriate.  Decial exception is requested to construct a boardwalk and scrape in and immediately adjacent to wetlands within the northerly part of property as shown on the plans in the submission.
Obj	ment of the reason(s) for the request.  ectives include education and awareness of wetlands, associated efits and potential diversity of plant and animal species.
Exce prop Ordi unus inter	ment of the reasons why the particular request is an appropriate case for a Special ption, together with any proposed conditions or safeguards, and the reasons why the osed Special Exception is in harmony with the general purpose and intent of the nance. In addition, the statement shall address any exceptional, extraordinary, or ual circumstances or conditions applying to the lot or parcel, structure, use, or ded use that do not apply generally to other properties or uses in the same district, ding a practicable alternative analysis as follows:
Bacl	ground and Purpose of the Project.
(a)	Describe the project and its purpose in detail. Include any pertinent construction plans.  The project comprises 625ft+ lineal ft of 8ft wide "boardwalk",  225lf+ lineal ft of earthen trail and 0.96 ac of scrape area, all as depicted on the attached plans
(b)	State whether the project is an expansion of an existing work or new construction.  This work is in addition to other work previously completed on the site.

	(c)	State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose.  The walkways and trails are required for accessibility. The scrape is required to enhance the diversity of the wetland.
2)	Possi	ble Alternatives.
	(a)	State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed.  There are no other practical solutions for provding accessibility into the interior of this cattail stand.
	(b)	State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.  The proposed boardwalk has minimal if any impact with respect to concerns noted in this question. The scrape is deemed to be a net enhancement. Minor fill area has been minimized. WDNR review has concluded that the design as presented here is the best altenat
	(c)	State how the project may be made smaller while still meeting the project's needs.  Traversing the wetland and linking walking paths cannot be accomplished in a desireable manner via an smaller layout.  Minimization of the at grade / fill walkway component was acheived through the WDNR review process.
	(d)	State what geographic areas were searched for alternative sites.  ICS property adjacent to the school building.
	(e)	State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.  N/A (No, the programatic objectives are specific to this wetland)

State what will occur if the project does not proceed.  Objectives will not be met.  Students and ICS community will not fully benefit from the potential of the subject wetland area.
parison of Alternatives.
State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal and consider and document the cost of the resource loss to the community.  See alternative's analysis attached hereto.
State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.  See alternative's analysis attached hereto.
State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.  See alternative's analysis attached hereto.
State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.  See alternative's analysis attached hereto.
ice of Project Plan.  why the project should proceed instead of any of the possible alternatives listed r sub.2., above, which would avoid stream or other navigable water, shore buffer and, wetland buffer, and/or wetland setback impacts.  alternative's analysis attached hereto.

buffer topogn to the wetlar	ibe in detail the stream or other naver, and/or wetland setback at the straphy, plants, wildlife, hydrology, soil stream or other navigable water, shad setback.  Plans & Description attached	ite which will be aff s and any other salient in	ected, including nformation perta
	m or Other Navigable Water, Sho and Setback Impacts.	re Buffer, Wetland, V	Vetland Buffer,
a)	Diversity of flora including State endangered species.	and/or Federal designat	ted threatened a
b)	Storm and flood water storage.	Not Applicable	☐ Applicable
c)	Hydrologic functions.	Not Applicable	☐ Applicable
d)	Water quality protection including or toxic substances.	filtration and storage of Not Applicable	f sediments, nut
e)	Shoreline protection against erosion	. Not Applicable	☐ Applicable
f)	Habitat for aquatic organisms.	Not Applicable	☐ Applicable
g)	Habitat for wildlife.	Not Applicable	☐ Applicable
h)	Human use functional value.	☐ Not Applicable	Applicable
i)	Groundwater recharge/discharge pro	otection.	
		Not Applicable	☐ Applicable
j)	Aesthetic appeal, recreation, educati	on, and science value.	
		☐ Not Applicable	Applicable
k)	Specify any State or Federal desi species of special concern.	gnated threatened or en	ndangered speci Applicable
1)	Existence within a Shoreland.	☐ Not Applicable	Applicable
m)	Existence within a Primary or Sec Isolated Natural Area, as those are Southeastern Wisconsin Regional P	as are defined and curr	ently mapped b
		Not Applicable	☐ Applicable
Descr navig Acce	Isolated Natural Area, as those are	as are defined and currelanning Commission fro  Not Applicable  ve functional values of and buffer, and/or wetlase aesthetic apeal, r	ently m tir f the nd se ecre

7)	Water Quality Protection.				
	Describe how the project protects the public interest in the waters of the State of Wisconsin.				
	Provide / improve environmental education and awareness.				

Indian Community School of Milwaukee, Inc.
Natural Resources Special Exception Question and Answer Form
City of Franklin, WI
November 22, 2016
Supplement D
Page 1 of 1

### Question "D"

Statement of the reasons why the particular request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

After meeting with, and at the advice of, City of Franklin Officials, the applicant understands that the proposed work appropriately requires a Special Exception under Franklins UDO. ICS believes the proposed work and associated use is consistent with use and site development parameters previously approved namely education and a professionally designed and managed property. ICS has retained the services of a qualified consultant to prepare detailed plans that have been approved by the State of Wisconsin and the US Army Corps of Engineers.

This project is consistent with other environmentally positive work on the site to date such as:

Prairie maintenance

Buckthorn removal

To the extent the City of Franklin may view such environmentally positive work as "mitigation" if committed to for 5 or more years, as described within its ordinance, ICS is willing to continue such work for a period of 5 years if the City grants the requested exception and its approval of the plans submitted with this application.

# **Alternative Analysis**

2.1 Alternative 1 – Construct the 590 +/- linear foot boardwalk with 210+/- linear foot of earthen trail in wetland crossing area with a total of wetland disturbance area of approximately 6,900 square feet; maintaining wetland hydrology and minimizing environmental Impacts (Preferred Alternative)

This alternative includes a 590+/- linear foot, 8 foot wide metal frame structure with synthetic decking and 210+/- linear foot of earthen trail in wetland crossing area. This alternative was selected, because it will meet the basic project goals and will have a minimal adverse environmental impact. This alternative will maintain the existing wetland hydrology to allow the wetlands to function as they do in the present day. The trail is located where the wetland width is minimal to reduce the overall wetland impacts. The overall wetland impact is approximately 6,900 square feet.

Probable Construction Cost: \$448,188.13

This alternative meets all criteria of the Wisconsin DNR General Permit (WDNR-GP4-2013); therefore, this is the preferred alternative.

### 2.2 Alternative 2 – Elevated Boardwalk Spanning Wetland

This alternative includes placing an 800 linear foot, 6 foot wide metal frame structure with synthetic decking elevated boardwalk above the wetland to span the wetland surface. This alternative reduces the surface area disturbed within the wetland. Due to the expense of the boardwalk as compared to Alternative 1 this alternative was eliminated. The project will not proceed because of project budget constraints.

Probable Construction Costs: \$600,000

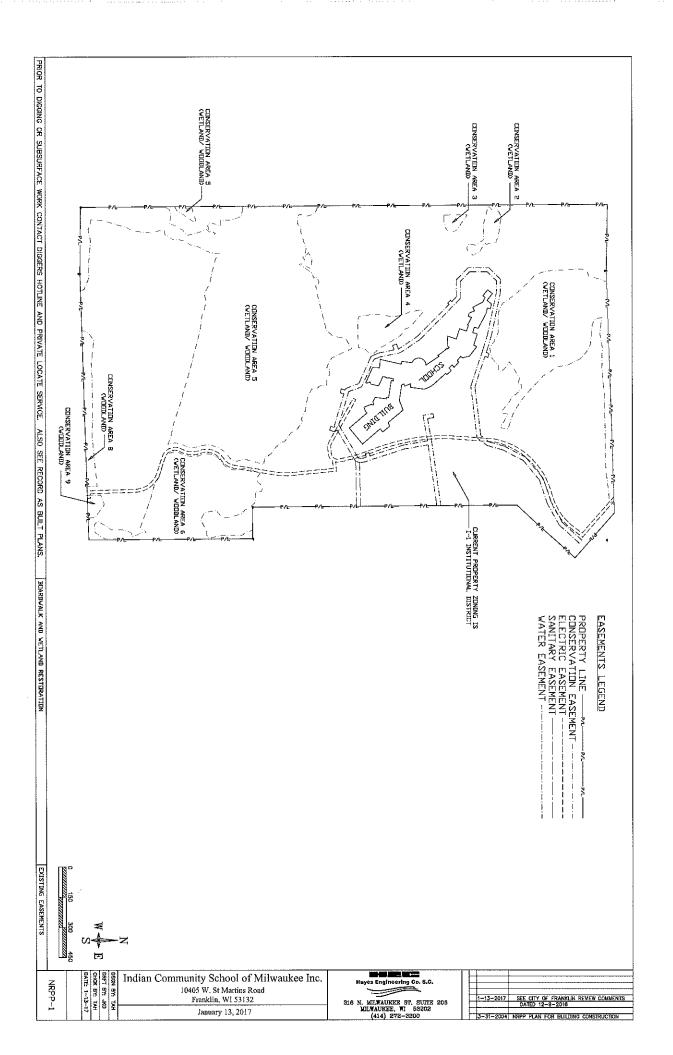
This alternative meets all criteria of the Wisconsin DNR General Permit (WDNR-GP4-2013), but this is not the preferred alternative.

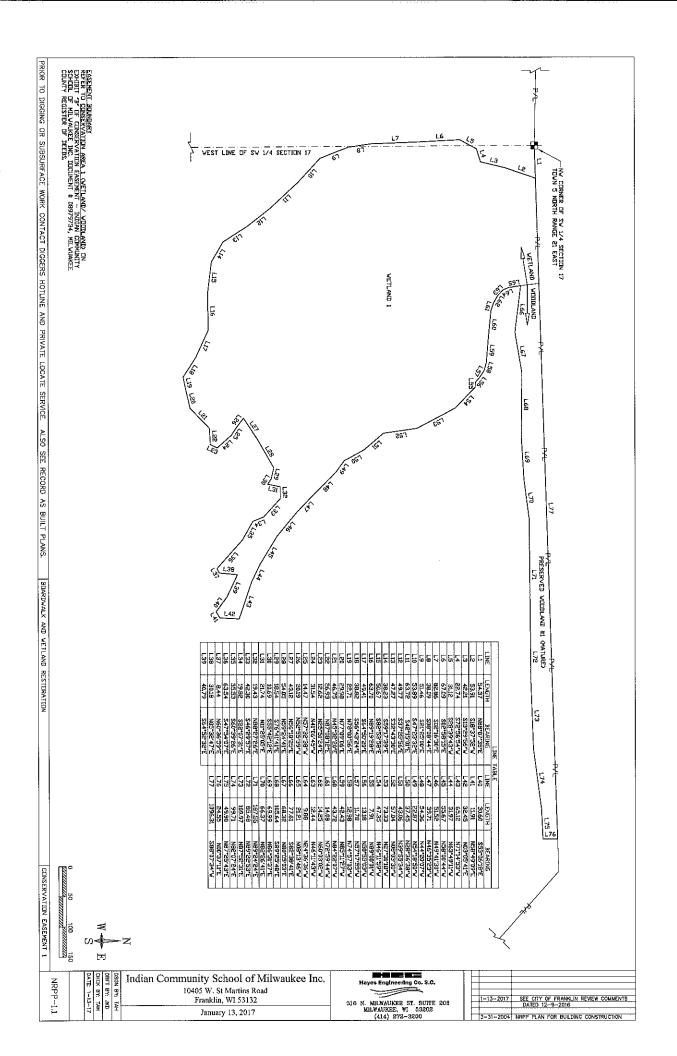
### 2.5 Alternative 3 - Do Nothing

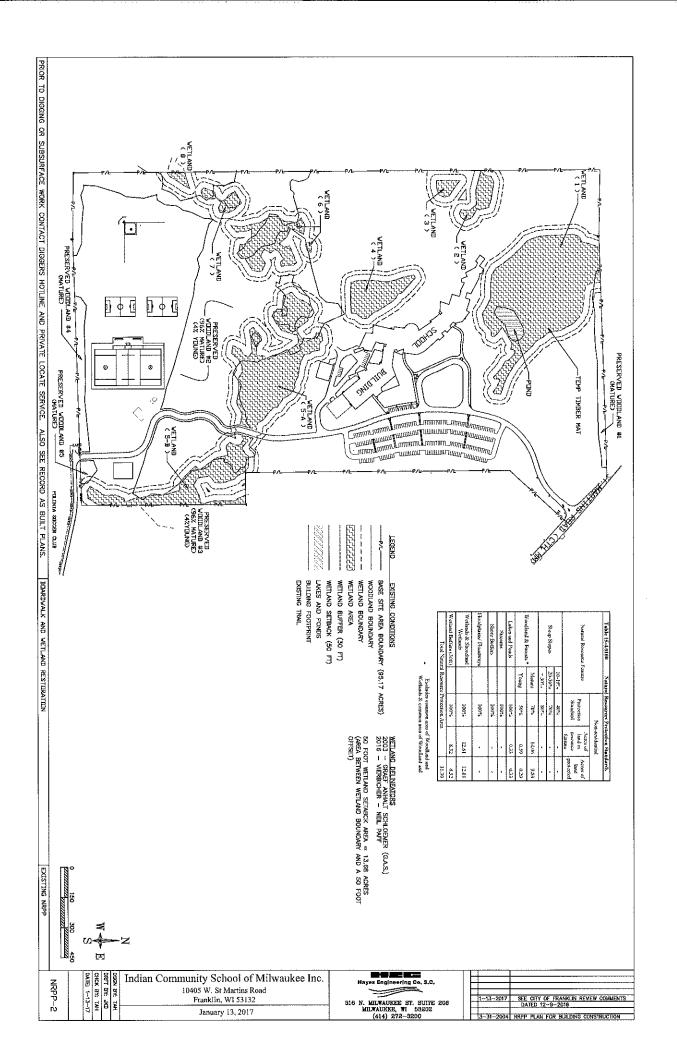
This alternative will have no direct impacts on wetlands. However, this alternative will have the greatest social impact, due to not allowing the construction of the recreational trail to serve the City of Franklin community.

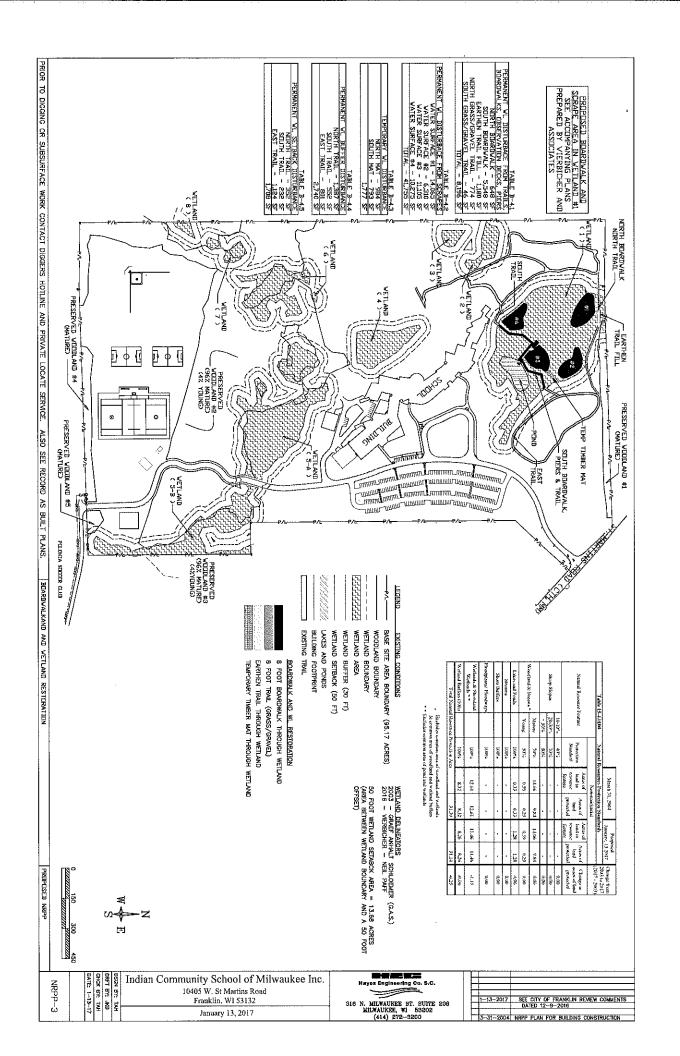
This alternative does not meet the basic needs of the project; therefore, this alternative was eliminated.

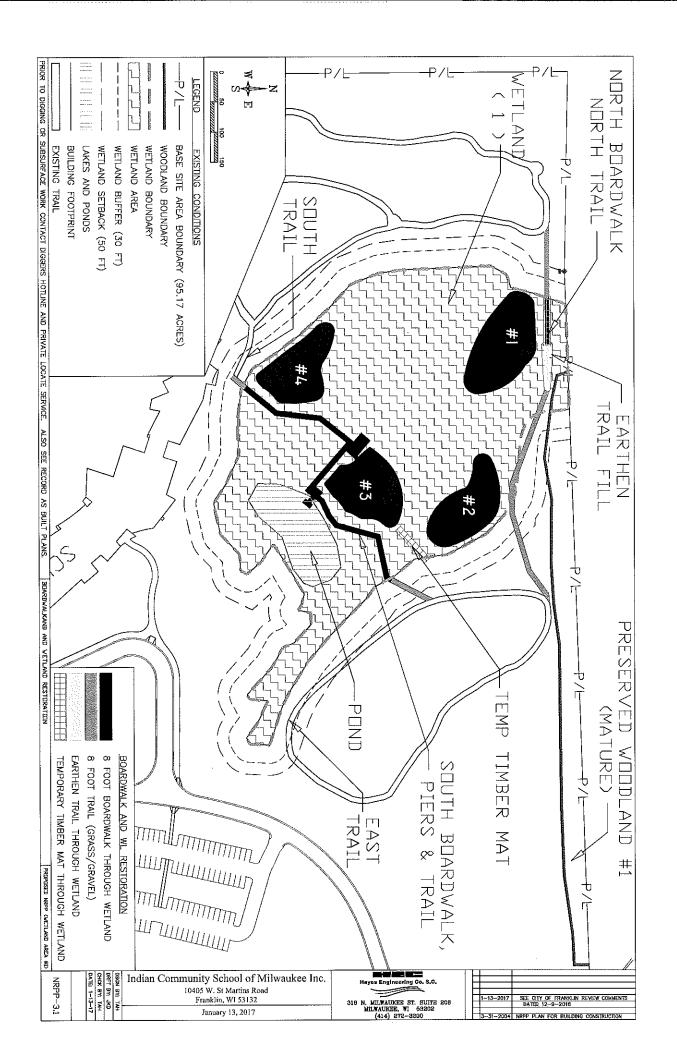


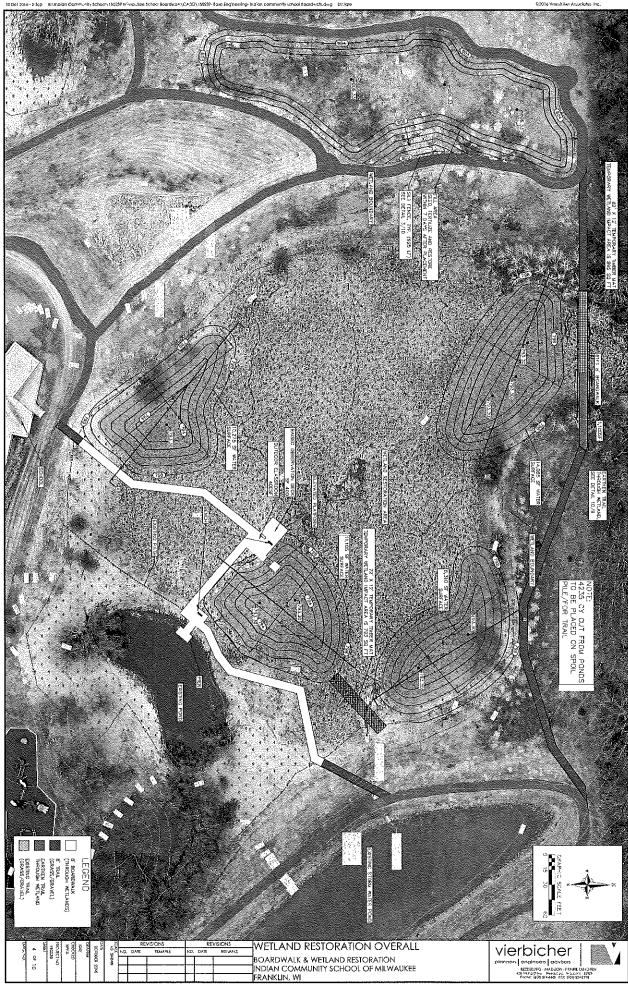












January 13, 2017

Indian Community School of Milwaukee, Inc. ("ICS") Proposed Boardwalk

### Mitigation

Plans submitted January 13, 2017 for review by the City of Franklin Environmental Commission depict the following enhancements:

- 1) Four (4) wildlife scrapes located in a wetland.
- 2) An elevated Boardwalk located in a wetland.
- 3) At / on grade walking paths located inside and outside a wetland.
- 4) Wetland plantings adjacent to the wildlife scrapes.
- 5) Walking paths consisting of mowed grass surface that provide access to the wetland area.

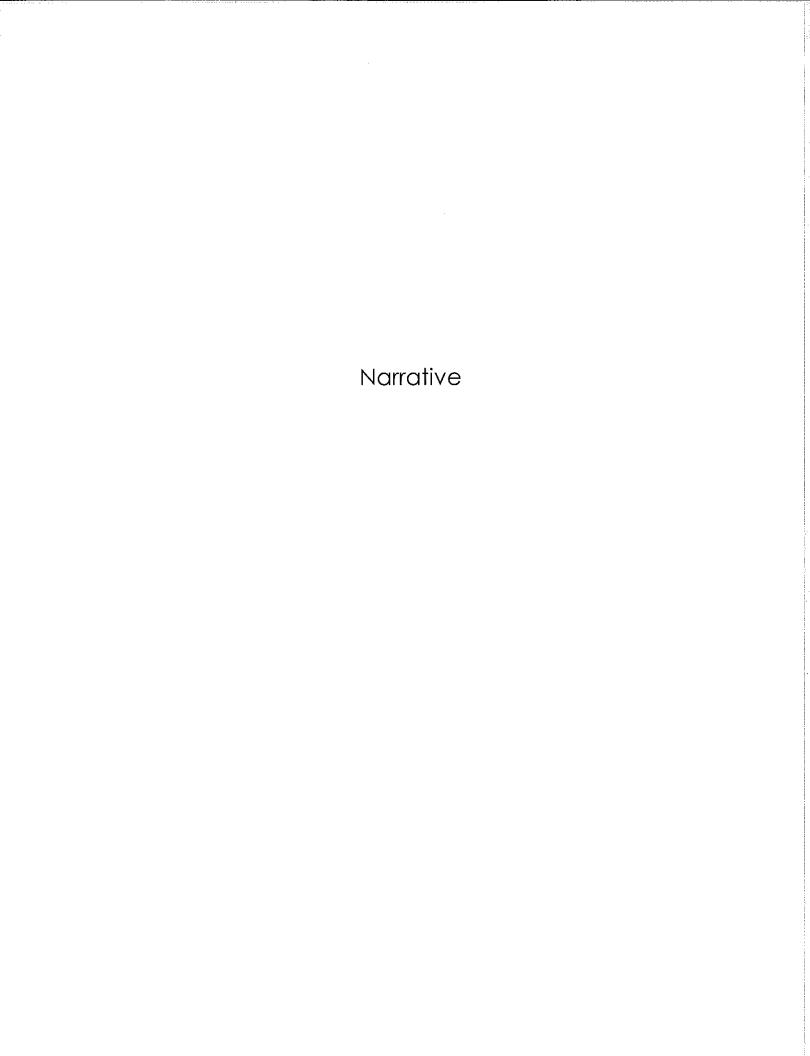
The Wisconsin DNR and US Army Corps of Engineers has reviewed, approved and issued permits for the work. Note that the attached Wetland Restoration Planting Schedule was not submitted to the DNR or USACOE. Their approvals are not conditioned on implementing the Planting Schedule. Their approvals do not require any mitigation. In addition to the work shown on the Planting Schedule, restoration of other areas disturbed by the project will include seeding with native plantings.

I addition to WDNR and USACOE approvals, ICS has informally discussed the project with representatives of South Eastern Regional Planning Commission ("SEWRPC"). It is their opinion that the access provided to the resource, i.e. the wetland, results in a net benefit. SEWRPC does not see any issues of concern from its perspective regarding the project.

ICS is not offering mitigation per say for the following reasons.

- 1) Mitigation is not a requirement for permitting at the State or Federal level. (Franklin defines and administers mitigation in a manner different than that of WDNR and USACOE.)
- 2) The project in and of its self represents, in ICS's opinion and others (i.e. SEWRPC, ICS's consultants, etc.), a net benefit. It is ICS's opinion that Franklin could under its ordinances apply such benefits in lieu of its compensatory requirements referred to as "mitigation" within Franklins UDO.
- 3) In addition to providing access to the resource, the proposed project will improve and diversify the plant and animal community within an area currently predominated by a monotype non-native stand of narrow leaf cat tail. Another net benefit provided by the project.
- 4) ICS commits considerable resources to maintaining existing unusual areas on its property such as the maintenance of its prairie and woodland areas. Prairie weeding and buckthorn removal are two examples. This maintenance averages well into five figures, i.e. \$10,000+ per year, and is addition to usual landscape maintenance such as grass cutting, weeding and up keep of planting beds, planting and maintenance of trees and shrubs, etc. These are net benefits as well that ICS has provided.

ICS will be glad to discuss the project with any of the City of Franklin committees and officials. It is very proud of its campus and believes this project will further enhance the property.



### NARRATIVE

### 1.1 Introduction

Indian Community School of Milwaukee is proposing to construct a recreational / educational boardwalk within the western portion of the City of Franklin. The project is south of the W. St Martins Rd and west of S. Deerwood Ln. (NW ¼ SW ¼ Sec. 17 T05N R21E Milwaukee County, WI).

Indian Community School of Milwaukee would like to enhance the wetlands that currently consist of a mono-type stand of narrow leaf cattails. The wetland enhancement goal is to enhance diversification within the plant community and enhance habitat for both aquatic and terrestrial animals. The trail will include access to an overlook dock which is proposed as part of this project and the boardwalk will include an outdoor learning platform (400 sf +/-) with bench seating.

As a part of the project development there will be four ponds designed in the project area. Each pond is design to be maximum five feet deep with approximate water surface level at 797.3' which is based on the existing water surface elevation at the spillway on the north side of the project site. All four ponds designed to have four to one slope below water surface with a 10' wide safety shelf with 10:1 slope. It will provide vegetation growing in these edges and will increase the amount of habitat. Based upon the design we believe the selected proposal meets all the criteria of the Wisconsin General Permit for Wetland Conservation Activities.

### 1.2 Cultural/Historical and Endangered Resources

There are no known cultural/historical or endangered resources within the project area. On behalf of the Indian Community School of Milwaukee, Vierbicher Associates carefully reviewed the U.S. Fish and Wildlife technical assistance website on April 21, 2016 for federally listed threatened and endangered species. According to the website, two species are listed and may be present in Milwaukee County including Red Knot and Northern Long-Eared Bat.

The proposed project area does not provide habitat for the species listed on the U.S. Fish and Wildlife technical assistance website. For these reasons, we conclude the Indian Community School Boardwalk & Wetland Restoration project will have "no effect" on the listed species, their habitats, or proposed or designated critical habitat.

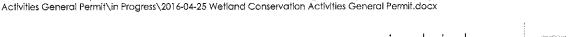
### 1.3 Permit Applications

Permit application forms include:

- Wetland Conservation Activities General Permit Checklist
- Form 3500-053 Water Resources Application For Project Permits

# 1.4 Permit Application Fees

A \$500 check made payable to Wisconsin Department of Natural Resources is Included.





R:\Indian Community School\150239 Milwaukee School Boardwalk\Design Development\Permitting\WDNR\Wetland Conservation

# State of Wisconsin **DEPARTMENT OF NATURAL RESOURCES** Waukesha Service Center 141 NW Barstow, Room 180

Waukesha, WI 53188

Scott Walker, Governor Cathy Stepp, Secretary Telephone 608-266-2621 Toll Free 1-888-936-7463 TTY Access via relay - 711



October 19, 2016

GP-SE-2016-41-01501

Mr. Thomas Oechler Indian Community School of Milwaukee 10405 W Saint Martins Rd Franklin, WI 53132

RE: Coverage under the wetland statewide general permit for wetland fill or disturbance for recreational development, located in the City of Franklin, Milwaukee County, also described as being in the NW1/4 of the SW1/4 of Section 17, Township 5 North, Range 21 East.

Dear Mr. Oechler:

Thank you for submitting an application for coverage under the wetland statewide general permit for wetland fill for recreational development, s. 281.36, Wis. Stats. Note this coverage does not authorize the wetland impact for the creation of the wildlife scrapes. The wetland restoration permit for the construction of four wildlife scrapes is issued under separate cover GP-SE-16-41-01501.

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 0.0270 acres of wetlands for the development of a recreational trail. 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-GP4-2013 (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, Geri Radermacher at (262) 574-2137 or email Geri.Radermacher@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.

For project details, maps, and plans related to this decision, please see application number on the Department's permit tracking website at

We are committed to service excellence.

Visit our survey at http://dnr.wi.gov/customersurvey to evaluate how I did.



https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx.

If you have any questions, please call me at (262) 574-2137 or email Geri.Radermacher@wisconsin.gov.

Sincerely,

Geri Radermacher

Water Management Specialist

Deu Radermacher

CC:

Marie Kopka, U.S. Army Corps of Engineers

City of Franklin

Conservation Warden

# WDNR-GP4-2013 Permit Conditions - Recreational Development

You agree to comply with the following conditions:

- 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-GP4-2013 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.
- 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-GP4-2013
- 5. Expiration. This WDNR-GP4-2013 expires on July 19, 2018. The time limit for completing work authorized by the provisions of WDNR-GP4-2013 ends 5 years after the date on which the discharge is considered to be authorized under WDNR-GP4-2013 or until the discharge is completed, whichever occurs first.
- Other Permit Requirements. You are responsible for obtaining any other permit or approval that may be required for your project by local zoning ordinances, floodplain ordinance, 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.
- 8. **Project Start**. You shall notify the Department before starting construction.
- 9. Permit Posting. You must post a copy of this permit coverage letter at a conspicuous location on the project site prior to the execution of the permitted activity, and remaining at least five days after stabilization of the area of permitted activity. You must also have a copy of the permit coverage letter and approved plan available at the project site at all times until the project is complete.
- 10. Permit Compliance. The department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any applicable conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
- 11. **Construction Timing**. Construction should take place during frozen or dry conditions where practicable.
- 12. **Construction**. No other portion of the wetland may be disturbed beyond the area designated in the submitted plans.
- 13. Project Completion. Within one week of completion of the regulated activity, you shall submit to the Department a statement certifying the project is in compliance with all the terms and conditions of this permit, and photographs of the activities authorized by this permit. This statement must reference the Department-issued docket number, and be submitted to the Department staff member that authorized coverage.
- 14. Proper Maintenance. You must maintain the activity authorized by WDNR-GP4-2013 in good condition and in conformance with the terms and conditions of this permit utilizing best management practices. Any structure or fill authorized shall be properly maintained to ensure no additional impacts to the remaining wetlands.
- 15. **Site Access**. Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance with the terms and conditions of WDNR-GP4-2013 and applicable laws.
- 16. **Erosion and siltation controls**. The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to wetlands as outlined in NR 151.11 and 151.12, Wis. Adm. Code.
- 17. **Equipment use**. All equipment used for the project will be designed and properly sized to minimize the amount of disturbance to the wetland.
- 18. **Invasive Species**. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing best management practices to avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. For more information, refer to http://dnr.wi.gov/topic/Invasives/bmp.html.

- 19. Federal and State Threatened and Endangered Species. WDNR-GP4-2013 does not affect the DNR's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats and applicable State Laws. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
- 20. Special Concern Species. If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable action to prevent significant adverse impacts to the species of concern.
- 21. Historic Properties and Cultural Resources. WDNR-GP4-2013 does not affect the DNR's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.
- 22. **Preventive Measures**. Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.
- 23. **Suitable fill material.** All fill authorized under this permit shall be free from hazardous substances as defined by s. 289.01(11), Wis. Stats., free from solid waste as defined by s. 289.01(11) and (33), Wis. Stats., and any fill must consist of clean, suitable soil material as defined by s. NR 500.03(214), Wis. Admin. Code.
- 24. Standard for Coverage. Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
- 25. Projects that impact wetland must comply with the wetland water quality standards outlined in Wis. Stat. s. 281.36(3g)(d) and Wis. Admin. Code NR 103, including the submission of a narrative describing avoidance and minimization of wetlands.
- 26. **Transfers**. Coverage under this permit is transferable to any person upon prior written approval of the transfer by the Department.
- 27. **Limits of State Liability**. In authorizing work, the State Government does not assume any liability, including for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this WDNR-GP4-2013.
- 28. **Reevaluation of Decision**. The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:
  - a. The applicant fails to comply with the terms and conditions of WDNR-GP4-2013.
  - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
  - c. Significant new information surfaces which was not available at the time of the application that this office did not consider in reaching the original decision.

# State of Wisconsin DEPARTMENT OF NATURAL RESOURCES Waukesha Service Center 141 NW Barstow, Room 180 Waukesha, WI 53188

Scott Walker, Governor Cathy Stepp, Secretary Telephone 608-266-2621 Toll Free 1-888-936-7463 TTY Access via relay - 711



October 19, 2016

GP-SE-2016-41-01501

Thomas Oechler Indian Community School of Milwaukee 10405 W Saint Martins Rd Franklin, WI 53132

RE: Coverage under the wetland statewide general permit for wetland fill or disturbance for wetland conservation, located in the City of Franklin, Milwaukee County, also described as being in the NW1/4 of the SW1/4 of Section 17, Township 5 North, Range 21 East.

Dear Mr. Oechler:

Thank you for submitting an application for coverage under the wetland statewide general permit for wetland fill or disturbance for a wetland conservation project, s. 281.36, Wis. Stats. This permit coverage authorizes the wetland disturbance to create four wildlife scrapes. The wetland fill coverage for the recreational trail development was conveyed under separate cover. See GP-SE-16-41-01529.

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 create four wildlife scrapes. 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-GP4-2013 (found at <a href="http://dnr.wi.gov/topic/waterways/construction/wetlands.html">http://dnr.wi.gov/topic/waterways/construction/wetlands.html</a>). 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, Geri Radermacher at (262) 574-2137 or email Geri.Radermacher@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.

For project details, maps, and plans related to this decision, please see application number on the Department's permit tracking website at

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Visit our survey at <a href="http://dnr.wi.gov/customersurvey">http://dnr.wi.gov/customersurvey</a> to evaluate how I did.



### https://permits.dnr.wi.gov/water/SitePages/Permit%20Search.aspx.

If you have any questions, please call me at (262) 574-2137 or email Geri.Radermacher@wisconsin.gov.

Sincerely,

Geri Radermacher

Water Management Specialist

Deu Radermacher

CC:

Marie Kopka, U.S. Army Corps of Engineers

City of Franklin

Conservation Warden

You agree to comply with the following conditions:

- 1. **Application.** You shall submit a complete Application package to the Department as outlined in 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 WRGP-2016-WI and efforts to begin work on the wetland conservation 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.
- 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 WRGP-2016-WI.
- **4. Expiration.** This WRGP-2016-WI expires on June 30, 2021. The time limit for completing work authorized by the provisions of WRGP-2016-WI ends when the work is completed.
- 5. 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 state permits and by the U.S. Army Corps of Engineers before starting your project.
- 6. Project Start. You shall notify the Department at the telephone number provided on the confirmation of coverage letter you receive before starting construction and again not more than 5 days after the project is complete.
- 7. Permit Posting. You must post a copy of this permit at a conspicuous location on the project site for at least five days prior to construction, and remaining at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

- 8. Permit Compliance. The department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to the public interest. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.
- 9. Project Completion. Within one week of project completion you shall submit to the Department a statement certifying project is in compliance with all the terms and conditions of this permit and photographs of the wetland conservation activities authorized by this permit. This information must be submitted to the same DNR office you received your coverage letter from.
- 10. Proper Maintenance. You must maintain the activity authorized by WRGP-2016-WI in good condition and in conformance with the terms and conditions of this permit. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety, and preventive actions to avoid the spread of invasive plant species. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by WRGP-2016-WI or should you desire to abandon it, you must obtain a modification of the authorization from this office, which may require restoration of the area.
- 11. Site Access. Upon reasonable notice, you shall allow access to the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance the terms and conditions of WRGP-2016-WI and applicable laws.
- 12. Wetland Fill. Any removed vegetation or soil shall be deposited on uplands (non-hydric soils) or used in other approved wetland conservation practices that include ditch fills, ditch plugs, embankments, low berms and dikes. Additionally, all fill must consist of suitable material (i.e. no trash, debris, asphalt, etc.) free from toxic pollutants in other than trace quantities (see Section 307 of the Clean Water Act).
- 13. Wetland Buffer. Project sites, whenever possible, should include an adjacent zone of vegetated upland pursuant to NRCS Field Office Technical Guide Standard Conservation Practice 657- Wetland Restoration, unless the site conditions or configuration will not accommodate such a zone.
- **14. Dam Owner Responsibilities.** For projects that result in the construction of a small dam the following conditions apply:
- All embankments shall be kept free of trees and maintained with sufficient grass cover.
- The dam cannot be altered or removed without approval from the department.
- Any sale of the dam or property containing the dam is subject to the provisions of Sections 710.11 and 31.14(4), Wis. Stats., which requires proof of financial responsibility and department approval.
- The impoundment cannot flood or adversely impact drainage of adjacent lands.
- **15. Adverse effects from impoundments.** If the project creates an impoundment of water, adverse effects on the aquatic system shall be minimized to the maximum extent practicable.

- 16. Navigation. No activity may cause more than a minimal adverse effect on navigation.
- 17. Spawning areas. Restoration activities in fish, amphibian and reptile spawning areas during spawning seasons, and wildlife nesting must be avoided to the maximum extent practicable.
- 18. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state approved published practices that meet or exceed the technical standards for erosion control approved by the DNR under subch. V of ch. NR 151, Wis. Adm. Code. Any area where topsoil is exposed during construction shall be immediately seeded and mulched or rip-rapped to stabilize disturbed areas and prevent soils from being eroded and washed into a water of the state, including wetlands.
- 19. Invasive Species. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by washing equipment or utilizing other best management practices to avoid the spread invasive species.
- **20.** Removal of temporary fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.
- 21. Federal and State Threatened and Endangered Species. WRGP-2016-WI does not affect the DNR's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats and applicable State Laws. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/ or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
- **22. Special Concern Species.** If the Wisconsin Natural Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable activities to prevent significant adverse impacts or to enhance the habitat for the species of concern.
- 23. Historic Properties and Cultural Resources. WRGP-2016-WI does not affect the DNR's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.
- 24. Preventive Measures. Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil,

and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.

**25. Drainage Districts.** Project will not occur within a Drainage District or if the project does occur within a Drainage District you have received approval from the Drainage District for the project.



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

Regulatory File No. 2016-01492-MHK

October 17, 2016

Mr. Thomas Oechler Indian Community School of Milwaukee 10405 W. St. Martins Road Franklin, Wisconsin 53132

Dear Mr. Oechler:

This letter concerns your request for Department of the Army authorization to discharge dredged material in a total of 0.96 acre of wetlands adjacent to Ryan Creek and to temporarily discharge fill material in a total of 0.03 acre of these wetlands in association with the construction of four scrapes for the purpose of wetland enhancement. The project site is in NW ¼ of the SW ¼ of Sec. 17, Township 5 North, Range 21 East, Milwaukee County, Wisconsin.

This work is authorized by the "Aquatic Habitat Restoration, Establishment, and Enhancement Activities" category 2(a)(12) of Department of the Army General Permit (GP-002-WI) provided the enclosed conditions are followed and you obtain confirmation that Clean Water Act Section 401 water quality certification (WQC) has been granted or waived for the project by the Wisconsin Department of Natural Resources (WDNR). Please note Standard Condition 9 regarding the "Removal of Temporary Fills." All GP-002-WI authorizations are provisional and require you obtain confirmation of WQC from the WDNR. If you have not already done so, you should contact Geri Radermacher of the WDNR office in Waukesha, (262) 574-2137, concerning WQC for your project.

If your project will require off-site fill material that is not obtained from a licensed commercial facility, you must notify us at least five working days before start of work. A cultural resources survey may be required if a licensed commercial facility is not used.

This General Permit is valid until July 14, 2021, unless reissued, or revoked. In general, the time limit for completing work ends on that date. For additional information regarding the time limit for completing work, please review GP-002-WI General Condition 1. It is the permittee's responsibility to remain informed of changes to the General Permit program. If this authorized work is not undertaken within the above time period, or the project specifications have changed, our office must be contacted to determine the need for further approval or re-verification.

It is your responsibility to ensure that the work complies with the terms of this letter and the enclosures. It is also your responsibility to obtain all required state and local permits and approvals before you proceed with the project.

A preliminary jurisdictional determination (JD) has been prepared for the site of your project. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps representative identified in the final paragraph of this letter. You also may provide new information for further consideration by the Corps to reevaluate the JD. If this JD is acceptable, please sign and date the Preliminary Jurisdictional Determination form and return to the address below within 15 days from the date of this letter.

# Regulatory Branch (2016-01492-MHK)

U.S. Army Corps of Engineers Attn: Marie Kopka 250 N. Sunnyslope Road, Suite 296 Brookfield, Wisconsin 53005

If you have any questions, please contact me at (651) 290-5733 or Marie.H.Kopka@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

Marie H. Kopka

Man D Kap

Senior Project Manager, Regulatory Branch

### **Enclosures**

Copy electronically furnished to: Geri Radermacher, WDNR (GP-SE-2016-41-01501) Neil Pfaff, Vierbicher Associates

#### **GENERAL INFORMATION**

In ALL cases, GP-002-WI requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Also, activities that would adversely affect federal endangered plant or animal species or certain cultural or archaeological resources, or that would impair reserved Native American tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights, are not eligible for authorization under GP-002-WI.

#### <u>Department of the Army</u> <u>General Conditions</u>:

- 1. GP-002-WI expires on July 14, 2021. Unless activities authorized under the GP-002-WI issued on July 15, 2016, have commenced construction or are under contract to commence construction by July 14, 2021, the time limit for completing work ends upon the expiration date of GP-002-WI. Activities authorized under GP-002-WI which have commenced construction or are under contract to commence construction by July 14, 2021, will have until July 13, 2022, to complete their activities under the terms and conditions of GP-002-WI. If you find that you require additional time to complete authorized activities, submit your time extension request to this office for consideration at least three months before the expiration date is reached.
- 2. You must maintain the activity authorized by GP-002-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by the reporting GP, or abandon it without a good faith transfer; you must obtain a

- modification of the Corps of Engineers (Corps) authorization, which may require restoration of the area. If you wish to transfer responsibility for project completion or maintenance, please contact this office so we may provide you with the necessary documentation to transfer the authorization.
- 3. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by GP-002-WI, you must immediately stop work and notify the Corps. The Corps will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
- 4. You must allow representatives from this office to inspect the proposed project site and the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of GP-002-WI.
- 5. If a conditioned water quality certification has been issued for your project by the Wisconsin Department of Natural Resources (WDNR), you must comply with the conditions specified in the certification as special conditions to this permit.
- 6. You must also comply with the other GP-002-WI terms and conditions specified below as well as any project specific conditions imposed by the St. Paul District.

#### Further Information:

1. Congressional Authorities: Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Work that requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through other GPs or individual permits.

- 2. Limits of this Authorization:
- a. GP-002-WI does not obviate the need to obtain other federal, state, or local authorizations required by law.
- b. GP-002-WI does not grant any property rights or exclusive privileges.
- c. GP-002-WI does not authorize any injury to the property or rights of others.
- d. GP-002-WI does not authorize interference with any existing or proposed federal project.
- Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4. Reliance on Applicant's Data. The determination by this office that an activity is not contrary to the public interest will be made in reliance on the information provided by the applicant.

- 5. Reevaluation of Decision. This office may reevaluate its decision on an authorization at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. The applicant fails to comply with the terms and conditions of this general permit.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

A reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate.

6. This office may also reevaluate its decision to issue GP-002-WI at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

**GP-002-WI Standard Conditions:** 

- 1. Discretionary Authority: The Corps retains discretionary authority to require a standard individual permit review of any activity eligible for authorization under GP-002-WI based on concern for the aquatic environment.
- 2. Federal Trust Responsibility to Indian Tribes: Projects the Corps finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments. The Tribe's views and the federal trust responsibility will be considered in the Corps evaluation. Based on treaty rights, no activity or its operation may impair reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 3. Form and Verification of Authorization: Every GP-002-WI authorization that requires submission of an application will be verified in writing by the Corps. Any verification issued may include required special conditions.
- 4. Case-by-Case Conditions: The authorized activity must comply with any special conditions that may have been added by the Corps or by a state, tribe, or the United States Environmental Protection Agency in its Section 401 Water Quality Certification or consistency determination under the Coastal Zone Management Act. Such conditions will be specifically identified in any Corps authorization.
- 5. Avoidance and Minimization: Discharges of dredged or fill material into waters of the United States must be avoided and minimized to the maximum extent practicable.
- 6. State Water Quality
  Certification and Coastal Zone
  Management (CZM) Consistency
  Determination: GP-002-WI
  authorizations are provisional and
  require that the Wisconsin

- Department of Natural Resources (WDNR) provide confirmation that the activity complies with state water quality certification. A CZM consistency determination may also be required or waived by the Wisconsin Coastal Management Program. If such a condition applies, it will be noted in the Corps authorization letter for the project.
- 7. Proper Maintenance: Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
- 8. Erosion and Siltation Controls: Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices. Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion. All nonbiodegradable erosion controls must be removed within two weeks of site stabilization unless otherwise conditioned in the Corps project confirmation letter.
- 9. Removal of Temporary Fills: Any temporary fills, including construction mats, must be removed in their entirety and the affected areas returned to their preexisting elevation. The

timeframe for completing this removal shall be:

- a. Not later than the timeframe stipulated in the activity description (unless extended in writing by our office);
- b. Not later than the timeframe stipulated in our office's verification letter; or
- c. Not longer than two weeks from the date the temporary fill was placed in waters of the United States (condition c. applies only if a timeframe is not otherwise established by applying a. or b. above).
- 10. Federal Threatened and Endangered Species: GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act (ESA).
- a. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA or which is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the Corps if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.
- b. Authorization of an activity under GP-002-WI does not authorize the take of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the United States Fish and Wildlife Service (FWS), both lethal and non-lethal takes of protected species are in violation of the ESA.

- Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS, WDNR or their internet pages.
- 11. Historic Properties, Cultural Resources: GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 106 of the National Historic Preservation Act (NHPA). No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) is authorized, until the Corps has complied with the provisions of 33 CFR Part 325, Appendix C. Project sponsors must disclose in the Corps permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the NRHP, and shall not begin the activity until notified by the Corps that the requirements of the NHPA have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office (SHPO) and the NRHP. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the SHPO must be contacted for further instruction.
- 12. Spawning Areas: Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
- 13. Obstruction of High Flows: To the maximum extent practicable, discharges must not permanently restrict or impede passage of normal or expected high flows or cause the relocation of the water

- (unless the primary purpose is to impound waters).
- 14. Adverse Effects from Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system due to the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
- 15. Waterfowl Breeding Areas: Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
- 16. Navigation: No activity may cause more than a minimal adverse effect on navigation.
- 17. Aquatic Life Movements: No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
- 18. Equipment: Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance. Where temporary construction mats are used, they must be placed in a manner that minimizes the matted area to the minimum necessary to allow safe access to work areas and operation of equipment. To prevent the introduction of invasive species, all construction mats used shall be cleaned and free of debris (excess soil and plant material) prior to delivery at the project site.
- 19. Water Quality Standards: All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable federal, state, and local water quality and effluent standards on a continuing basis.

- 20. Preventive Measures:
  Measures must be adopted to
  prevent potential pollutants from
  entering the watercourse.
  Construction materials and debris,
  including fuels, oil, and other liquid
  substances, will not be stored in
  the construction area in a way that
  allows them to enter the
  watercourse as a result of spillage,
  natural runoff, or flooding.
- 21. Disposal Sites: If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. Construction of containment areas, whether bulkhead or upland disposal site, must be complete prior to the placement of any dredged material.
- 22. Suitable Fill Material: All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g. no trash, debris, car bodies, asphalt, etc.,) free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Office (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the Corps.
- 23. Water Intakes/Activities: An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would

- take place to allow them to prepare for any changes in water quality.
- 24. Spill Contingency Plan: A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the state Emergency Management Duty Officer at 1-800-943-0003 and the National Response Center at telephone number 1-800-424-8802.
- 25. Other Permit Requirements: No GP-002-WI authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System or State Disposal System permits.
- 26. State Section 401 Certification Conditions and Limitations: All GP-002-WI authorizations are provisional, and require individual Section 401 Clean Water Act Water Quality Certification or waiver from the Wisconsin Department of Natural Resources.
- 27. Wisconsin Coastal Management Program (WCMP) Conditions: The WCPM's Federal consistency determination for GP-002-WI provides that no GP-002-WI authorization for an activity taking place in coastal wetlands identified as ridge and swale complexes and/or wetlands adjacent to the Mink River (Door County), and the Kakagon and Bad Rivers (Ashland County) will be valid unless and until a Federal consistency determination is granted or waived by the WCMP. This requirement therefore is incorporated as a permit condition of GP-002-WI. Project proponents

will be notified of this condition in the Corps' GP-002-WI verification letter for projects in these areas.



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

REPLY TO ATTENTION OF REGULATORY BRANCH

Regulatory File No. 2016-01492-MHK

October 17, 2016

Mr. Thomas Oechler Indian Community School of Milwaukee 10405 W. St. Martins Road Franklin, Wisconsin 53132

Dear Mr. Oechler:

This letter concerns your request for Department of the Army authorization to discharge fill material in 1,180 square feet of wetlands adjacent to Ryan Creek for the purpose of recreational development. The project site is in NW ¼ of the SW ¼ of Sec. 17, Township 5 North, Range 21 East, Milwaukee County, Wisconsin.

This work is authorized under Section 404 of the Clean Water Act by the "Discharges of Dredged or Fill Material" category 3(a)(3) of Department of the Army General Permit (GP-004-WI) PROVIDED THE ENCLOSED CONDITIONS ARE FOLLOWED. Projects authorized under Section 404 of the Clean Water Act by GP-004-WI are not valid unless and until SECTION 401 WATER QUALITY CERTIFICATION or waiver is received from the Wisconsin Department of Natural Resources (WDNR).

You should contact Geri Radermacher of the WDNR office in Waukesha, (262) 574-2137, concerning water quality certification and wetland permits required for your project.

If your project will require off-site fill material that is not obtained from a licensed commercial facility, you must notify us at least five working days before start of work. A cultural resources survey may be required if a licensed commercial facility is not used.

This General Permit is valid until December 31, 2017, unless reissued, or revoked. The time limit for completing the work described above ends on that date. It is the permittee's responsibility to remain informed of changes to the General Permit program. If this authorized work is not undertaken within the above time period, or the project specifications have changed, our office must be contacted to determine the need for further approval or re-verification.

It is your responsibility to ensure that the work complies with the terms of this letter and the enclosures AND TO OBTAIN ALL REQUIRED STATE AND LOCAL PERMITS AND APPROVALS BEFORE YOU PROCEED WITH YOUR PROJECT.

A preliminary jurisdictional determination (JD) has been prepared for the site of your project. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps representative identified in the final paragraph of this letter. You also may provide new information for further consideration by the Corps to reevaluate the JD. If this JD is acceptable, please sign and date the Preliminary Jurisdictional Determination form and return to the address below within 15 days from the date of this letter.

#### Regulatory Branch (2016-01492-MHK)

U.S. Army Corps of Engineers Attn: Marie Kopka 250 N. Sunnyslope Road, Suite 296 Brookfield, Wisconsin 53005

If you have any questions, please contact me at (651) 290-5733 or Marie.H.Kopka@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

Marie H. Kopka

Man D Kap

Senior Project Manager, Regulatory Branch

**Enclosures** 

Copy electronically furnished to:

Geri Radermacher, WDNR (GP-SE-2016-41-01501)

Neil Pfaff, Vierbicher Associates

#### **GENERAL CONDITIONS**

- 1. <u>Duration of Authorization.</u> GP-004-WI expires on December 31, 2017 (unless suspended, revoked or modified). Unless otherwise specified in the Corps confirmation letter, the time limit for completing work authorized by GP-004-WI ends upon the expiration, suspension, or revocation date of this GP-004-WI (2012-01421-DJM). Activities authorized under the non-reporting categories of GP-004-WI where construction has commenced or are under contract to commence construction, will remain authorized provided the activity is completed within 12 months of the date of the GP-004-WI expiration, suspension, or revocation; whichever is sooner. If you find that you require additional time to complete activities authorized, submit your time extension request to this office for consideration at least three months before the expiration date is reached.
- 2. <u>Special Conditions.</u> The Corps may impose additional conditions on a project authorized pursuant to the reporting categories of GP-004-WI that are determined necessary to avoid or minimize adverse effects on navigation or the environment to ensure that the project is in the public interest. Such conditions will be specifically identified in any Corps confirmation letter. Failure to comply with all conditions and limitations of the authorization, including special conditions incorporated into the Corps' confirmation letter, constitutes a permit violation and may subject the permittee to criminal, civil or administrative penalties, and appropriate environmental remediation (which could include restoration of the site to its pre-violation condition).
- 3. <u>Maintenance and Transfer.</u> You must maintain the activity authorized by GP-004-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain an activity authorized by a reporting category of GP-004-WI, or abandon it without a good faith transfer; you must obtain a modification of the authorization from this office, which may require restoration of the area. If you wish to transfer responsibility for completion or maintenance of the project to another entity, please contact this office so we may document the transfer of the authorization. You are not relieved of your responsibilities under this permit until the transfer has been processed and acknowledged by the Corps of Engineers.
- 4. <u>Historic Properties, Cultural Resources.</u> Project proponents for reporting GP-004-WI categories shall notify the Corps if any historic properties listed, determined eligible, or which the project proponent has reason to believe may be eligible for listing on the NRHP, might be affected or is in the vicinity of the project. Information concerning the location and existence of cultural resources may be obtained by contacting the State Historic Preservation Officer (SHPO) at (608) 264-6505, the NRHP, and the appropriate tribal government.
- (a) No activity which may affect historic properties listed, or eligible for listing, on the NRHP is authorized, until the Corps has complied with the provisions of 33 CFR 325, Appendix C.
- (b) If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the Corps, SHPO and/or Tribal Historic Preservation Office (THPO) must be contacted for further instruction. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by GP-004-WI, you must immediately stop work and notify this office of what you have found. The Corps will initiate the coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing on the NRHP.

- 5. <u>Site Access.</u> You must allow representatives from this office to inspect the proposed project site and the authorized activity at any time deemed necessary to ensure that it is being, or has been, constructed and maintained in accordance with the terms and conditions of GP-004-WI.
- 6. <u>Navigation</u>. The following conditions are part of all Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act:
- (a) No activity may cause more than a minimal adverse effect on navigation and there shall be no unreasonable interference with navigation by use of the activity authorized herein.
- (b) Any safety lights and signals prescribed by the United States Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
- 7. <u>Discretionary Authority.</u> The Corps retains discretionary authority to require a standard individual permit review of any activity eligible for authorization under GP-004-WI based on concern for navigation, the aquatic environment, or any public interest factor.
- 8. <u>Federal Responsibility to Indian Tribes.</u> Projects the Corps finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments and the Bureau of Indian Affairs as appropriate. The Tribe's views will be considered in the Corps evaluation of the project. Based on <u>treaty rights</u>, no activity or its operation may impair reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 9. <u>Form and Confirmation of Authorization.</u> Every reporting GP-004-WI authorization will be confirmed in writing by the Corps. Any confirmation issued may include special conditions which are part of this permit as it pertains to that project being authorized.
- 10. <u>Avoidance and Minimization</u>. Impacts to waters of the United States must be avoided and minimized to the maximum extent practicable (please see 1.a.9., above for a definition of practicable).
- 11. Water Quality Standards. All work or discharges to a watercourse resulting from GP-004-WI authorized construction activities, particularly hydraulic dredging, must meet applicable federal, state, and local water quality and effluent standards on a continuing basis. Water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse must be identified and sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality. Installation of intake structures that are not directly associated with an outfall structure or outfall structures that are not in compliance with regulations issued under the National Pollutant Discharge Elimination System program (Section 402 of the Clean Water Act) are not eligible for authorization under GP-004-WI.

- 12. <u>Erosion and Siltation Controls.</u> Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark shall be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices as described in NR 216 of Wisconsin Administrative Code. Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover shall be used to prevent dam erosion. All non-biodegradable erosion controls must be removed within two weeks of site stabilization unless otherwise noted in the Corps GP-004-WI reporting confirmation letter.
- 13. <u>Removal of Temporary Fills.</u> All temporary fills must be entirely removed and the affected areas returned to their preexisting elevation and hydrology. The timeframe for completing this removal shall be:
- (a) Not later than the timeframe stipulated in the activity description (unless modified in writing by our office);
- (b) Not later than the timeframe stipulated in our office's reporting GP-004-WI confirmation letter; or
- (c) Not longer than two weeks from the date the temporary fill was placed in waters of the United States (condition (c) applies only if a timeframe is not otherwise established by applying (a) or (b) above).
- 14. <u>Federal Threatened and Endangered Species</u>. Prospective permittee's for reporting GP-004-WI categories shall notify the Corps if any federal threatened or endangered (protected) species or critical habitat might be affected or is in the vicinity of the project. Information about protected species may be obtained by contacting the United States Fish and Wildlife Service (FWS) at (920) 866-1717. The Corps website (<a href="http://www.mvp.usace.army.mil/regulatory/">http://www.mvp.usace.army.mil/regulatory/</a>) also contains a link to the FWS list of protected species for each Wisconsin county.
- (a) No activity is authorized by GP-004-WI which is likely to jeopardize the continued existence of a protected species or a species proposed for such designation, as identified under the Endangered Species Act (ESA) or which is likely to destroy or adversely modify the critical habitat of such species, unless those activities are determined to comply with the applicable procedures of Section 7 of the ESA.
- (b) Authorization of an activity under GP-004-WI does not authorize the take of a protected species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the FWS, both lethal and non-lethal takes of protected species are in violation of the ESA.
- 15. <u>Spawning Areas.</u> Activities, including discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
- 16. <u>Obstruction of High Flows</u>. To the maximum extent practicable, activities authorized by GP-004-WI shall not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).
- 17. Adverse Effects from Impoundments and Diversions of Water. If the activity authorized creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable. GP-004-WI may not be used to authorize all or any portion of a

project that would divert more than 10,000 gallons/day of surface water or groundwater into or out of the Great Lakes Basin.

- 18. <u>Fills Within 100-Year Floodplains.</u> All Corps GP-004-WI authorizations shall comply with applicable FEMA approved state or local floodplain management requirements.
- 19. <u>Waterfowl Breeding Areas.</u> Impacts to breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
- 20. <u>Aquatic Life Movements.</u> No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.
- 21. <u>Equipment</u>. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 22. <u>Preventive Measures.</u> Measures must be adopted to prevent potential pollutants from entering waters of the United States. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in a way that allows them to enter the watercourse as a result of spillage, natural runoff, or flooding.
- 23. <u>Disposal Sites</u>. If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. Construction of containment areas, whether bulkhead or upland disposal site, must be complete prior to the placement of any dredged material.
- 24. <u>Suitable Fill Material.</u> All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g. no trash, debris, car bodies, asphalt, etc.,) free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
- 25. <u>Spill Contingency Plan.</u> A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the state Emergency Management Duty Officer at 1-800-943-0003 and the National Response Center at the United States Coast Guard at telephone number 1-800-424-8802.
- 26. Other Permit Requirements. A Corps GP-004-WI authorization does not eliminate the need for other local, state or federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits.
- 27. <u>State of Wisconsin Section 401 Water Quality Certification.</u> The Wisconsin Department of Natural Resources has denied blanket for water quality certification for GP-004-WI. Therefore all projects authorized by GP-004-WI and involving a discharge of dredged or fill material under Section 404 require the permittee obtain a Section 401 Water Quality Certification or waiver from the WDNR prior to starting work.
- 28. <u>Wisconsin Coastal Zone Management Program (WCMP) Conditions.</u> The WCMP's Federal consistency determination for GP-004-WI provides that no reporting (category 3.a) GP-004-WI

authorization for an activity taking place in coastal wetlands identified as ridge and swale complexes and/or wetlands adjacent to the Mink River (Door County), and the Kakagon and Bad Rivers (Ashland County) will be valid unless and until a Federal consistency determination is granted or waived by the WCMP. This requirement therefore is incorporated as a permit condition of reporting GP-004-WI. Applicants will be notified of this condition in the Corps' GP confirmation letter for projects in these areas.

#### Exhibit B

#### City of Franklin Environmental Commission

TO:

Common Council

DATE:

February 2, 2017

RE:

Special Exception application review and recommendation

APPLICATION:

Indian Community School of Milwaukee, Inc., Applicant, dated:

November 23, 2016

(10405 West St. Martins Road)

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

1. Unified Development Ordinance Section(s) from which Special Exception is requested:

Section 15-4.0102 and Section 15-4.0103.

- 2. Nature of the Special Exception requested (description of resources, encroachment, distances and dimensions):
  - Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);
  - Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
  - Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
  - Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.
  - Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.

#### 3. Applicant's reason for request:

A special exception is requested to construct a boardwalk, trails and wildlife scrapes within and immediately adjacent to a wetland on the northern part of the ICS property as shown on the plans in the submission.

4. Applicant's reason why request appropriate for Special Exception:

Objectives include education and awareness of wetlands, associated benefits and potential diversity of plant and animal species.

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

1. Diversity of flora including State and/or Federal designated threatened and/or endangered species:

Not applicable — The diversity of flora within the subject wetland will be increased by the proposed enhancement plantings for the wildlife scrapes. No Federal- or State-designated Special Concern, Threatened or Endangered species will be impacted by the proposed improvements.

2. Storm and flood water storage:

Not applicable – There will be no significant impacts to storm and flood water storage as a result of the proposed improvements.

3. Hydrologic functions:

No significant impact is anticipated.

4. Water quality protection including filtration and storage of sediments, nutrients or toxic substances:

Not applicable - There will be no significant impact to water quality. During construction activities, erosion control measures will be taken.

5. Shoreline protection against erosion:

No impact is anticipated. Proper erosion control measures will be employed.

6. Habitat for aquatic organisms:

No significant impact is anticipated.

#### 7. Habitat for wildlife:

Habitat for wildlife will be enhanced through the four (4) proposed wildlife scrapes.

#### 8. Human use functional value:

The proposed improvements will make the subject wetland more accessible to students and improve the human use functional value of the property.

#### 9. Groundwater recharge/discharge protection:

Not applicable – There will be no significant impact to groundwater recharge/discharge.

### 10. Aesthetic appeal, recreation, education, and science value:

Positive impacts are anticipated for the aesthetic appeal of the property as well as the recreation, education and science value. The proposed boardwalk includes an outdoor classroom and will connect the wetland with an existing trail system on the property.

11. State or Federal designated threatened or endangered species or species of special concern:

Not applicable — The proposed improvements will not impact any State or Federal designated threatened or endangered species or species of special concern.

#### 12. Existence within a Shoreland:

The subject wetland is adjacent to Ryan Creek.

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 project area is located within a SEWRPC identified Secondary Environmental Corridor. SEWRPC standards indicate that recreational facilities are permitted uses within such Environmental Corridors.

# 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 project site was chosen due to its proximity to the adjacent school building, which maximizes accessibility for students. Also, the poor existing condition of the wetland as a monotypic stand of invasive Narrow-leaved cattail provided an opportunity for enhancements to the resource feature and thus opportunities for scientific study.

- 2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:
  - a. be unreasonably burdensome to the applicants and that there are no reasonable practicable alternatives: ; or
  - b. unreasonably and negatively impact upon the applicants' use of the property and that there are no reasonable practicable alternatives:

An Alternative Analysis was presented to the WDNR as part of their Permit Application process. The proposed project is Alternative 1 and was the preferred alternative of the WDNR. This alternative meets the basic project goals and will have a minimal adverse environmental impact.

- 3. The Special Exception, including any conditions imposed under this Section will:
  - a. be consistent with the existing character of the neighborhood: The requested special exception 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 circumstances surrounding this project are unique to the Indian Community School. The requested special exception will not undermine the City's ability to apply or enforce natural resource protection requirements 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: The requested special exception will result in minimal environmental impacts and enhance a degraded wetland, while providing significant benefit to the community; 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 proposed wildlife scrapes and enhancement plantings will enhance the functional values of the wetland. Impacts to the wetland buffer and setback are minimal, thus the functional values of these features will be preserved.

# 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:

This project will meet all other zoning and site planning requirements.

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 Indian Community School is an extraordinary facility, which was designed by world famous architect Antoine Predock. The building's design seamlessly integrates interior and exterior spaces and the surrounding environment. There is a connection between learning spaces and the exterior environment. The proposed improvements will further enhance this relationship.

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

The proposed improvements will enhance the Indian Community School's ability to provide environmental education to its students.

#### 4. Aesthetics:

Aesthetics will be enhanced through the creation of four (4) wildlife scrapes around the perimeter of Wetland 1. The scrapes will create open water areas within this wetland, which is currently choked out by invasive Narrow-leaved cattail.

- 5. Degree of noncompliance with the requirement allowed by the Special Exception:
  - Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);

- Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
- Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
- Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.
- Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.

### 6. Proximity to and character of surrounding property:

The Indian Community School has single-family residences and areas of natural resources to the north, recreational and areas of natural resources to the south, multiple-family residential to the east and agricultural land and areas of natural resources to the west.

#### 7. Zoning of the area in which property is located and neighboring area:

The Indian Community School's property is zoned I-1 Institutional District. Properties to the north are zoned R-3 Suburban/Estate Single-Family Residence District, C-1 Conservancy District and I-1 Institutional District. The properties to the south are zoned P-1 Park District, I-1 Institutional District and C-1 Conservancy District. The properties to the east are zoned Planned Development District No. 26 and the property to the west is zoned R-3 Suburban/Estate Single-Family Residence District and C-1 Conservancy District.

#### 8. Any negative affect upon adjoining property:

No significant negative affects to adjoining properties are anticipated.

#### 9. Natural features of the property:

The property contains wetlands and associated buffers and setbacks and mature woodlands.

#### 10. Environmental impacts:

• Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);

- Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
- Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
- Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.
- Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.

#### V. Environmental Commission Recommendation:

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

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

a.

b.

c.

The above review and recommendation was passed and adopted at a regular meeting of the Environmental Commission of the City of Franklin on the 25th day of January, 2017.

Dated this 2nd day of February, 2017.

Wesley Cannon, Chairman

Attest:

Orrin Sumwalt, Associate Planner (In lieu of Vice-Chairman)

### 🈘 CITY OF FRANKLIN 🥵

#### REPORT TO THE ENVIRONMENTAL COMMISSION

#### Meeting of February 9, 2017

#### Site Plan & Natural Resource Special Exception

Project Name: Indian Community School Site Plan & NRSE

**Project Address:** 10405 West St. Martins Road

**Applicant:** Indian Community School of Milwaukee, Inc.

**Property Owner:** Indian Community School of Milwaukee, Inc.

Current Zoning: I-1 Institutional District

**2025 Comprehensive Plan:** Institutional and Areas of Natural Resource Features

Use of Surrounding Properties: Single-family residential to the north and west, multi-

family residential to the east, and recreational to the south.

**Applicant's Action Requested:** Approval of the proposed Site Plan and Recommendation

to the Common Council for approval of the proposed

Natural Resource Special Exception (NRSE)

#### **INTRODUCTION:**

The Indian Community School is proposing to construct a recreational/educational boardwalk and trail in and around a wetland (Wetland 1) on the north side of their property located at 10405 West St. Martins Road. The boardwalk will include raised observation decks, an outdoor classroom, and a pier. The proposed project will result in approximately 0.19 acres of permanent wetland disturbance, approximately 0.04 acres of temporary wetland disturbance, approximately 0.06 acres of permanent wetland buffer disturbance, and approximately 0.04 acres of permanent wetland setback disturbance. The applicant is also proposing approximately 0.96 acres of permanent wetland disturbance associated with four (4) wetland wildlife scrapes intended to enhance the wetlands habitat quality.

At their meeting on January 25, 2017, the Environmental Commission recommended approval of a Special Exception for Indian Community School of Milwaukee, Inc., with a suggestion for allowing access to the proposed improvements to local public schools for educational purposes and exploring the possibility of limited public access. The Environmental Commission's Special Exception Application Review and Recommendation form, dated February 2, 2017, is attached.

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

#### PROJECT DESCRIPTION:

On November 23, 2016, the applicant submitted applications for a Site Plan and Special Exception to Natural Resource Feature Provisions to the Department of City Development. The applicant is requesting approval to construct a recreational/educational boardwalk and trail in and around a wetland (Wetland 1) on the north side of their property located at 10405 West St.

Martins Road. Specifically, the applicant is proposing approximately 625 lineal feet of 8-foot wide boardwalk, approximately 225 lineal feet of earthen trail and 0.96 acres of wildlife scrape area. The boardwalk will consist of a metal frame structure with synthetic decking.

The applicant is proposing to enhance Wetland 1 by creating four (4) wildlife scrapes around the wetland's perimeter. The applicant is also proposing Fox sedge (Carex vulpinoidea), Common spike-rush (Eleocharis palustris), Common rush (Carex effuses), and Soft-stem bulrush (Schoenoplextus tabernaemontani as enhancement plantings adjacent to the created wildlife scrapes. Wetland 1, including the proposed wetland enhancements is located within an existing Conservation Easement. In addition to the wetland enhancements, the Indian Community School has committed to ongoing prairie maintenance and buckthorn removal over the next five years.

In summary, the applicant's are requesting a special exception to affect the following natural resource features:

- Approximately 0.19 acres (8,196 square feet) of permanent wetland disturbance associated with filling grading, and/or construction of trails, boardwalks, observation deck(s), and pier(s);
- Approximately 0.96 acres (41,755 square feet) of permanent wetland disturbance associated with four (4) wetland scrapes intended to enhance the wetland and provide mitigation for the impacts associated with the subject trail, boardwalk, etc.;
- Approximately 0.04 acres (1,777 square feet) of temporary wetland disturbance associated with a temporary timber mat;
- Approximately 0.06 acres (2,740 square feet) of permanent wetland buffer disturbance associated with filling, grading, mowing, and/or construction of trails.
- Approximately 0.04 acres (1,708 square feet) of permanent wetland setback disturbance associated with filling, grading, mowing, and/or construction of trails.

The applicant has obtained permits from the Wisconsin Department of Natural Resources (WDNR) and U.S. Army Corps of Engineers (USACOE) for this proposed project. These permits are included in your packets for your review.

#### **CONCLUSION:**

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

#### Exhibit D

Tax ID: 841-9985-001

10405 St Martins Rd

The East 20 acres of the Southeast 1/4 of Section 18, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin.

Also the West 1/2 of the Southwest 1/4 of Section 17, Town 5 North, Range 21 East, and 10 acres of land in said 1/4 Section described as:

Commencing at a point in the center of St Martins Road 118.80 feet South of the Eighth Post West of the Center Post of said Section 17; running thence Southeasterly along the center of said road 330 feet; thence south 1320 feet; thence in a Northwesterly direction 330 feet; thence North 1320 feet to the Place of Beginning in the City of Franklin, County of Milwaukee, State of Wisconsin; EXCEPTING THEREFROM all that part lying Northeast of the center line of St Martins Road and further EXCEPTING THEREFROM all that part contained in the following description; that part of the Southwest 1/4 of Section 17, in Township 5 North, Range 21 East, in the City of Franklin, County of Milwaukee, State of Wisconsin, described as follows: Beginning at a point in the center of St Martins Road 1205 feet East, and 300 feet South 47-1/2° East from the 1/4 post on the West side of said Section 17; Thence running South 47- 1/2° East in the center of said highway 810 feet; Thence South 42-1/2° West 546 feet; Thence South 670 feet; Thence West 492 feet; Thence North 1331.50 feet; Thence North 42-1/2° East 390 feet to the place of beginning.

APPROVAL	REQUEST FOR COUNCIL ACTION	MEETING DATE
$Sl\omega$		02/21/17
REPORTS &	ORDINANCE TO AMEND §15-3.0439 OF THE UNIFIED DEVELOPMENT	ITEM NUMBER
RECOMMENDATIONS	ORDINANCE PLANNED DEVELOPMENT DISTRICT NO. 34 (HAMPTON INN AND	
	SUITES PLUS MIXED USE COMMERCIAL) TO ALLOW FOR THE INSTALLATION OF	6.12.
	NEW SIGNAGE, CANOPIES, BOLLARDS	
	AND RECONFIGURATION OF THE QUEUING LANES AT MISTER CAR WASH	
	#488 498 (7700 WEST RAWSON AVENUE) (DAVID HAIL, VICE PRESIDENT OF	
	RESEARCH & DEVELOPMENT AT MISTER CAR WASH, APPLICANT)	

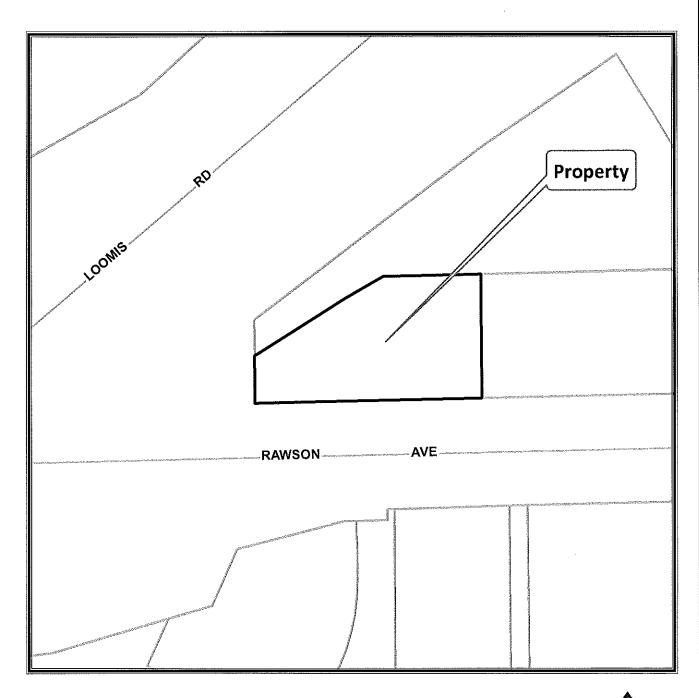
At their meeting on February 9, 2017, the Plan Commission recommended approval of an ordinance to amend Section 15-3.0439 of the Unified Development Ordinance Planned Development District No. 34 (Hampton Inn and Suites plus mixed use commercial) to allow for the installation of new signage, canopies, bollards and reconfiguration of the queuing lanes at Mister Car Wash #488 498 (7700 West Rawson Avenue) (David Hail, Vice President of Research & Development at Mister Car Wash, Applicant).

#### **COUNCIL ACTION REQUESTED**

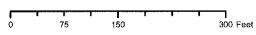
A motion to approve Ordinance No. 2017-\_\_\_\_\_\_, an ordinance to amend Section 15-3.0439 of the Unified Development Ordinance Planned Development District No. 34 (Hampton Inn and Suites plus mixed use commercial) to allow for the installation of new signage, canopies, bollards and reconfiguration of the queuing lanes at Mister Car Wash #488 498 (7700 West Rawson Avenue) (David Hail, Vice President of Research & Development at Mister Car Wash, Applicant).



7700 W. Rawson Ave. TKN: 744 1002 000



Planning Department (414) 425-4024



NORTH 2016 Aerial Photo

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

#### ORDINANCE NO. 2017-

AN ORDINANCE TO AMEND SECTION 15-3.0439 OF THE UNIFIED DEVELOPMENT ORDINANCE PLANNED DEVELOPMENT DISTRICT NO. 34 (HAMPTON INN AND SUITES PLUS MIXED USE COMMERCIAL) TO ALLOW FOR THE INSTALLATION OF NEW SIGNAGE, CANOPIES, BOLLARDS AND RECONFIGURATION OF THE QUEUING LANES AT MISTER CAR WASH #488 498 (7700 WEST RAWSON AVENUE)

(DAVID HAIL, VICE PRESIDENT OF RESEARCH & DEVELOPMENT AT MISTER CAR WASH, APPLICANT)

WHEREAS, §15-3.0439 of the Unified Development Ordinance provides for and regulates Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial), same having been created by Ordinance No. 08-1951 and later amended by Ordinance No. 12-2081, with such District primarily being located at 7700 West Rawson Avenue, bearing Tax Key No. 744-1002-000; and

WHEREAS, Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial) includes those lands legally described as follows:

Lot 2 of Certified Survey Map No. 8467, being a re-division of Parcels 1 and 3 of Certified Survey Map No. 6017 and a vacated portion of West Loomis Road (S.T.H. "36") in the Southeast 1/4 of the Southeast 1/4 of Section 4, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, David Hail, Vice President of Research & Development at Mister Car Wash having petitioned for an amendment to Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial), to allow for the installation of new signage, canopies, directional canopies, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas for Mister Car Wash #488 498, upon property located at 7700 West Rawson Avenue; and

WHEREAS, the City of Franklin Plan Commission determined that the amendment to Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial) was not a substantial change to the Plan, thus not requiring a public hearing upon the aforesaid petition, and the Plan Commission thereafter having determined that the proposed amendment would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed amendment would promote the health, safety and welfare of the Community.

ORDINANCE NO. 2017-\_\_\_\_Page 2

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

#### **SECTION 1:**

§15-3.0439 Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial), of the Unified Development Ordinance of the City of Franklin, Wisconsin, as previously amended, is hereby amended to allow for the installation of new signage, canopies, directional canopies, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas for Mister Car Wash #488 498, upon property located at 7700 West Rawson Avenue, pursuant to those plans City file-stamped January 23, 2017 and subject to the following conditions:

1. The proposed signage shall meet the requirements of Chapter 210 of the City of Franklin Municipal Code and be subject to the issuance of a Sign Permit from the City's Inspection Department.

#### **SECTION 2:**

The proposed Mister Car Wash #488 498 signage, canopy, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas installation project shall be completed within one year from the date of adoption of this Ordinance, or this Ordinance and all rights and approvals resulting therefrom shall be null and void without any further action by the City of Franklin.

#### **SECTION 3:**

David Hail, Vice President of Research & Development at Mister Car Wash, successors and assigns, shall pay to the City of Franklin all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the Mister Car Wash #488 498 signage, canopy, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas installation project. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof and §1-19. of the Municipal Code, the general penalties and remedies provisions.

ORDINANCE	NO.	201	7
Page 3			

**SECTION 4:** 

The approval granted hereunder is conditional upon David Hail, Vice President of Research & Development at Mister Car Wash and the Mister Car Wash #488 498 signage, canopy, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas installation project for the property located at 7700 West Rawson Avenue: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.

SECTION 5:

All other applicable terms and provisions of §15-3.0439 Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial) not inconsistent with the terms of this Ordinance, and the Unified Development Ordinance of the City of Franklin, as amended from time to time, shall apply to the Mister Car Wash #488 498 signage, canopy, bollards and reconfiguration of the queuing lanes for the car wash and oil lube areas installation project, and all terms and provisions of §15-3.0439 of Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial) as existing immediately prior to the adoption of this Ordinance and not amended by this Ordinance, shall remain in full force and effect.

**SECTION 6:** 

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

**SECTION 7:** 

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

**SECTION 8:** 

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

Introduce	ed at a regular	meeting of the	Common	Council	of the	City o	of Franklin	this
day of		, 2017, by <i>A</i>	Alderman <sub>-</sub>				•	

ORDINAN Page 4	ICE NO. 2017		
	_	d at a regular n	meeting of the Common Council of the City of, 2017.
			APPROVED:
ATTEST:			Stephen R. Olson, Mayor
Sandra L. V	Wesolowski, Cit	y Clerk	
AYES	NOES	ABSENT	

### 🤀 CITY OF FRANKLIN 🥵

#### REPORT TO THE PLAN COMMISSION

#### Meeting of February 9, 2017

#### **Planned Development District Amendment**

**RECOMMENDATION:** City Development Staff recommends approval of the proposed Planned Development District Amendment as a Minor Amendment for proposed building and site modifications for Realty Income Properties 6 LLC, subject to the conditions of approval in attached draft ordinance.

Project Name: Mister Car Wash PDD Amendment

**Project Address:** 7700 West Rawson Avenue

**Applicant:** David Hail, CWP West Corporation

**Property Owner:** Realty Income Properties 6, LLC

Current Zoning: Planned Development District (PDD) No. 34

**2025 Comprehensive Plan:** Commercial

Use of Surrounding Properties: Loomis Road (STH 36) to the north and west, gas station to

the east and The Franklin Centre to the south

Applicant's Action Requested: Recommendation to the Common Council for approval of

the proposed Planned Development District Amendment.

#### Please note:

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

#### **BACKGROUND & INTRODUCTION:**

On July 10, 2012, the Common Council adopted Ordinance No. 2012-2081 to amend Section 15-3.0439 of the Unified Development Ordinance Planned Development District No. 34 (Hampton Inn and Suites Plus Mixed Use Commercial) to authorize redevelopment of an existing commercial car care center at 7700 W. Rawson Avenue.

On December 27, 2016, Mr. David Hail of CWP West Corporation submitted an application for a Planned Development District (PDD) Amendment. The amendment proposes building and site modifications to the former Sudz Wash & Lube upon property located at 7700 West Rawson Avenue.

The applicant is requesting, with agreement from the Department of City Development staff, that the Plan Commission and Common Council determine the proposed amendment to be a Minor Amendment. To expedite the process, the applicant has paid the Minor Amendment Application fee of \$500. (Major PDD Amendments require a public hearing and a \$3,500 fee as opposed to a \$500 fee). Major PDD Amendments are typically reserved for changes to the exterior boundaries of a PDD, changes to uses and changes to street layouts.

#### **PROJECT DESCRIPTION & ANALYSIS:**

#### Site Plan and Architecture:

Mister Car Wash (a national chain of car washes) recently purchased the Sudz Wash & Lube southeast Wisconsin regional chain of car washes. Most of the proposed site and building changes involve rebranding from the red and yellow corporate colors of Sudz Wash and Lube to the blue and yellow corporate colors of Mister Car Wash. Mister Car Wash is proposing new signage to coincide with their national brand image, new canopies on the car wash and quick lube, directional canopies with signage in the queuing lanes, moveable bollards to help direct traffic, and new awnings for the vacuum area.

The applicant is proposing to replace the existing red canvas awnings with metal frames on the car wash and quick lube with low profile blue and yellow fabricated metal awnings. The applicant is proposing to paint the metal vacuum canopy supports from yellow to blue and replace the red canvas awnings with grey canvas awnings. Four (4) moveable decorative blue plastic bollards will be added to help direct traffic. Furthermore, two new blue metal directional canopies with signage will be added to the queuing lanes for the car wash and quick lube.

#### Parking:

The 2012 approved Site Plan for the Sudz Wash & Lube car wash included twenty (20) off-street parking spaces. The Phase 2 Site Plan for Sudz Wash & Lube, which contemplated the development of a hotel on the adjacent property, depicted ten (10) off-street parking spaces on the car wash property. However, the Phase 2 Site Plan for Sudz Wash & Lube was based on the original 2008 Site Plan for the hotel. When the Hampton Inn & Suites hotel was developed in 2014, their Site Plan changed thus eliminating the off-street parking on the Sudz Wash & Lube property. The Hampton Inn & Suites property has approximately 113 off-street parking spaces. The proposed Site Plan for Mr. Car Wash has two (2) off-street parking spaces located on the north side of the building.

According to Section 15-5.0203B(i)3. of the City of Franklin Unified Development Ordinance, parking reductions below 25% of the Standard Parking Ratio may be approved by the "approval authority" in cases of proposed shared parking by two (2) or more uses on adjoining properties subject to a shared parking agreement. Therefore, <u>Staff recommends a shared parking agreement between the owners of the Mister Car Wash Property located at 7700 West Rawson Avenue (Realty Income Properties 6, LLC) and the owners of the adjacent Hampton Inn & Suites property located at 6901 South 76<sup>th</sup> Street (FF&E, LLC) be submitted to the Department of City <u>Development for review and approval by Staff.</u></u>

#### Landscaping:

The 2012 Scrub Plus PDD Amendment approved by Ordinance No. 2012-2081, included a Phase 2 Site Plan, which contemplated the development of a hotel on the adjacent property within PDD No. 34. The Phase 2 Site Plan included a note along the north elevation of the carwash building stating, "Future planting area part of Phase 2". However, this planting area was not installed at the time of the Hampton Inn & Suites hotel development.

Staff requested this planting area be installed as part of the Mr. Car Wash PDD Amendment, and the applicant has accommodated this request. The applicant is proposing fourteen (14) evergreen trees, Holmstrup arborvitae (Thuja occidentalis 'Holmstrup'), within a new planting bed along the north elevation of the building.

#### Natural Resource Protection Plan:

When Planned Development District No. 34 was first proposed, People's Choice Corporation submitted a letter dated August 6, 2007 from Natural Resources Consulting, Inc. stating that there were no natural resources located within the subject property boundary.

#### Signage:

The applicant has depicted three (3) wall signs on the building elevations, in the same locations as the previously approved Sudz Wash and Lube wall signs. One is located on the north elevation of the car wash adjacent to West Loomis Road, one on the west elevation of the car wash adjacent to West Rawson Avenue, and the third sign is located on the south elevation of the quick lube visible from West Rawson Avenue. The proposed wall signs include illuminated channel letters with an aluminum backer panel. The applicant is also proposing two (2) new metal directional canopies with signage for the quick lube and car wash queuing lanes. The applicant is not proposing any changes to the monument sign adjacent to West Rawson Avenue near the east driveway.

While the Plan Commission may approve signage in PDD No. 34, a technical review of the proposed signage to ensure it meets the requirements of Chapter 210 Signs and Billboards of the Municipal Code has not yet taken place. Therefore, <u>Staff recommends the proposed signage meet the requirements of Chapter 210 of the City of Franklin Municipal Code and be subject to the issuance of a Sign Permit from the City's Inspection Department.</u>

#### STAFF RECOMMENDATION:

City Development Staff recommends approval of the Planned Development District Amendment subject to the conditions of approval in the attached draft ordinance.

Franklin

City Development

JAN 23 2017

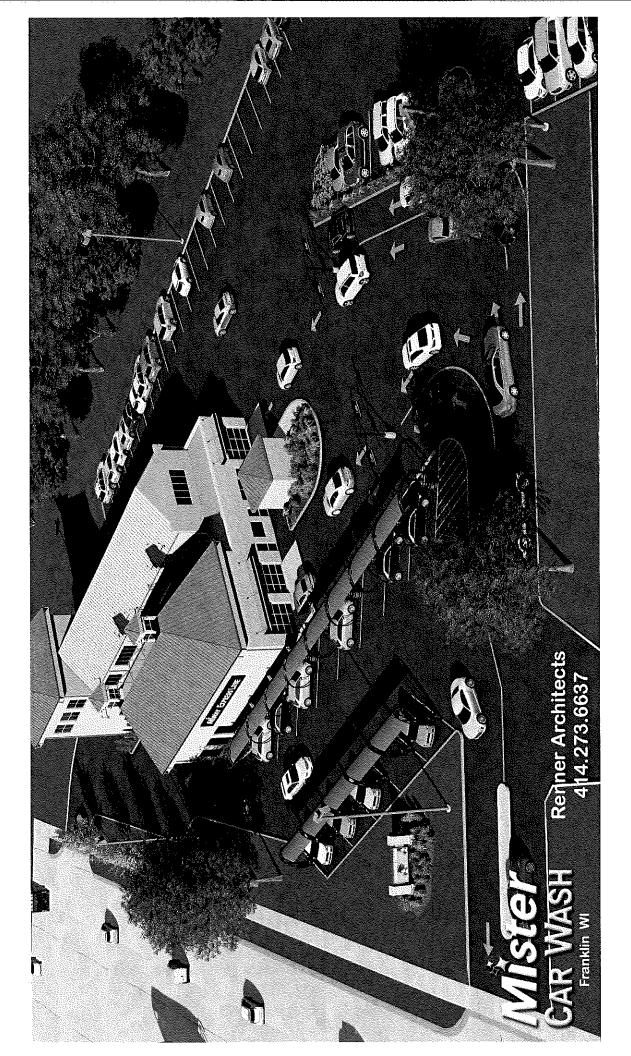
December 23, 2016 Rev January 17, 2017

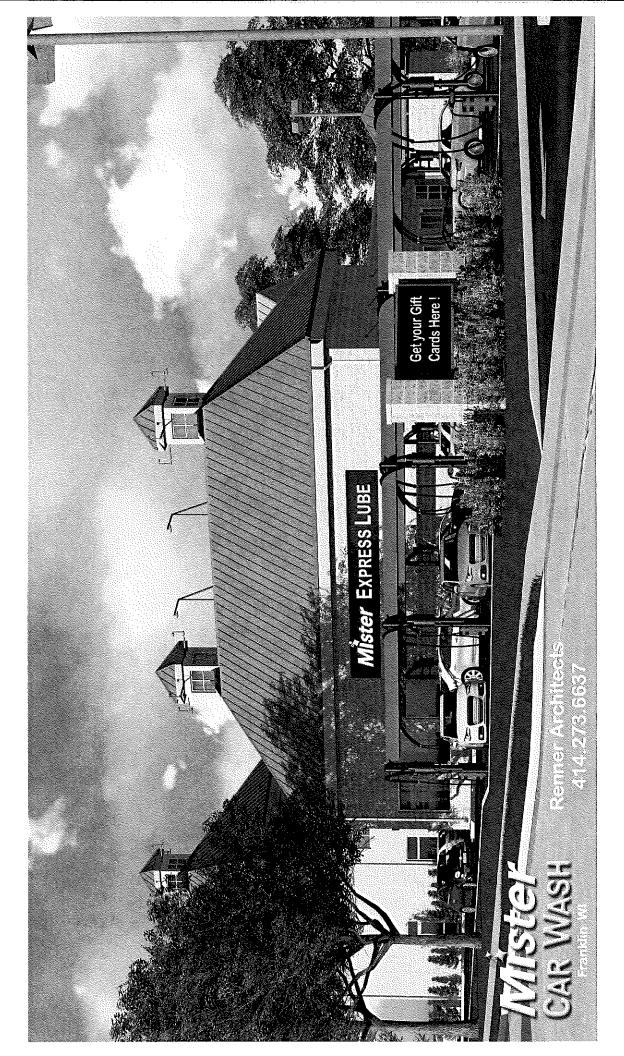
Mister Car Wash Franklin Project Description

Mister Car Wash is a national chain of car washes. They recently purchased the Sudz southeast Wisconsin regional chain of car washes. Mister Car Wash would like to change the signage to coincide with their national brand image. Also, they would like to add some express payment lanes for the car wash and the oil change.

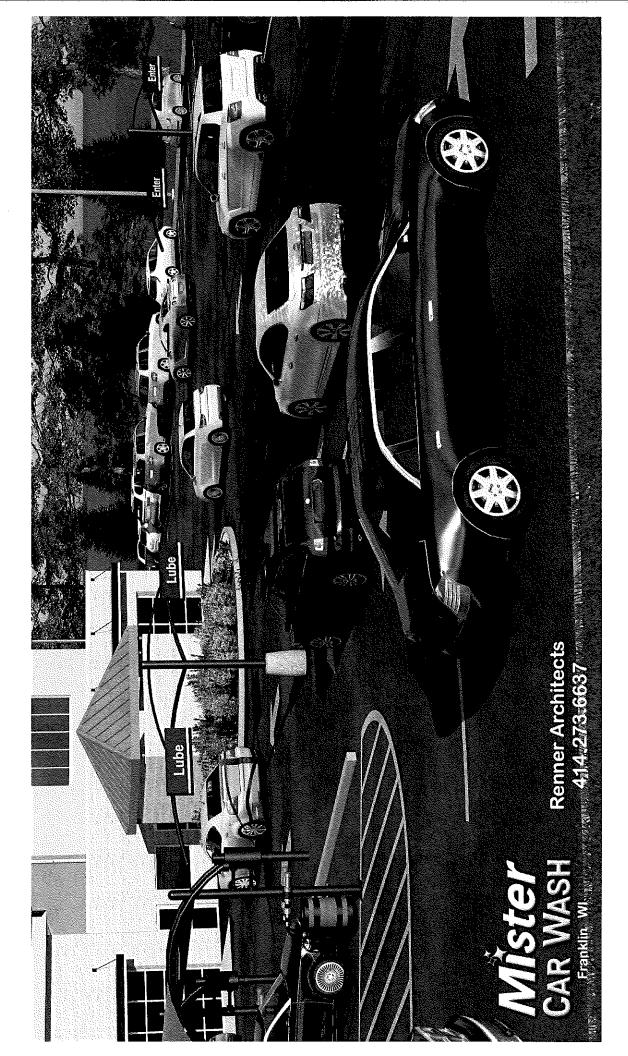
The physical changes being made will just amount to changing signage and canopies. They also want to add some small directional canopies at the approach to the car wash and oil change entrance doors. The existing red building canopies will be removed and replaced with a lower profile blue and yellow metal awning. The directional canopies will be constructed from painted metal. The vacuum canopy supports will be painted blue and the existing red canvas awnings will be replaced with grey canvas awnings.

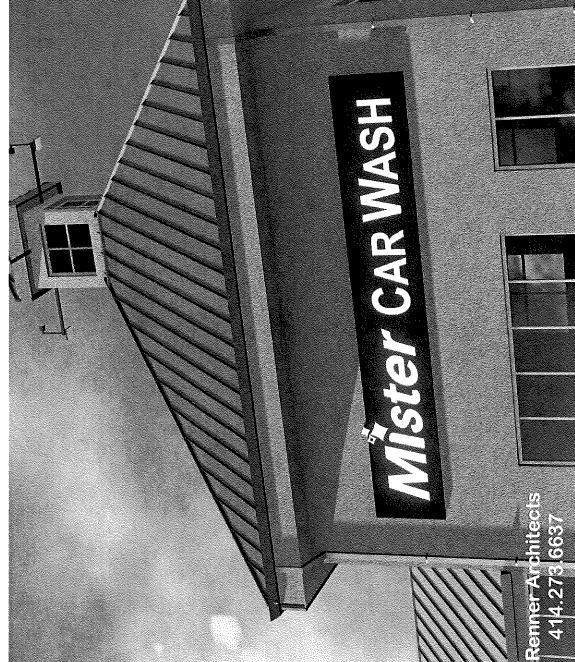
They are no longer considering the automated payment system. The payment system will be essentially the same as when Sudz owned the property, however at some time in the future they may wish to add the automated payment system which consists of a kiosk for making selections and inserting cash or credit cards with an automated gate that opens after payment is made.





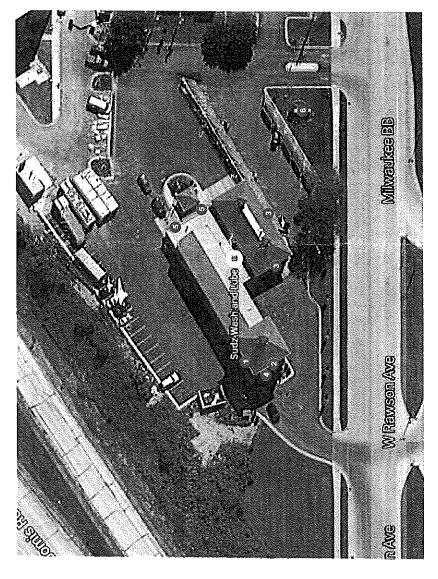






## SITEPLAN

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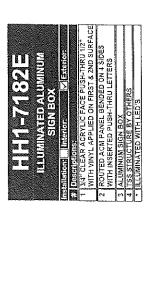
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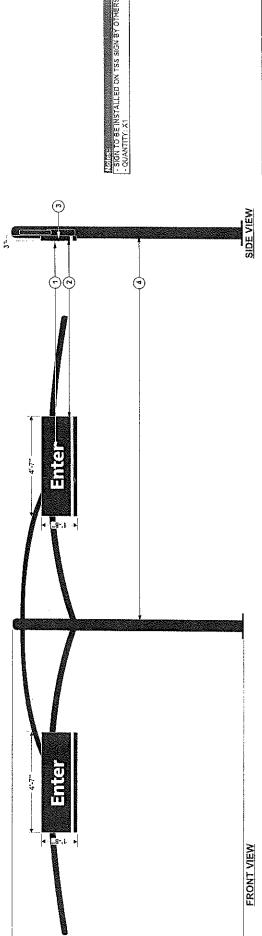
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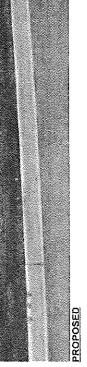
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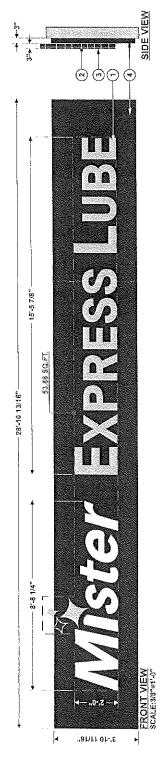


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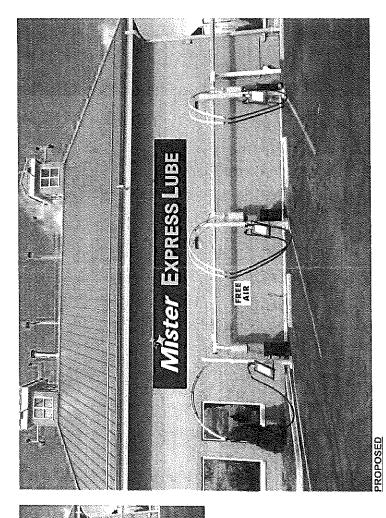
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ster Car Wash

EXISTING





Property of the Control of the Contr (B)

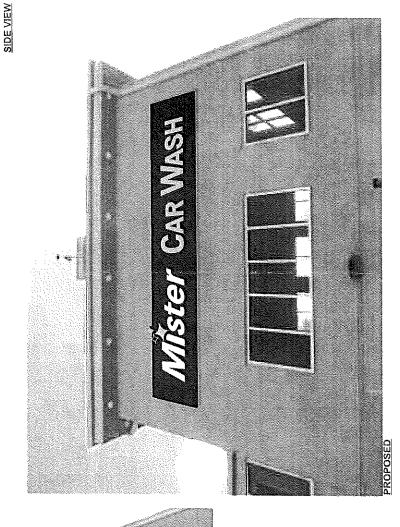
(५० १७०) ४७३६ कार्यात्स इंसर्गात

PROPOSED

30'-0" -- 10'-10 5/16" -

FRONT VIEW SCALE: 3/8"=1"-0"

..8/£ 01-,5



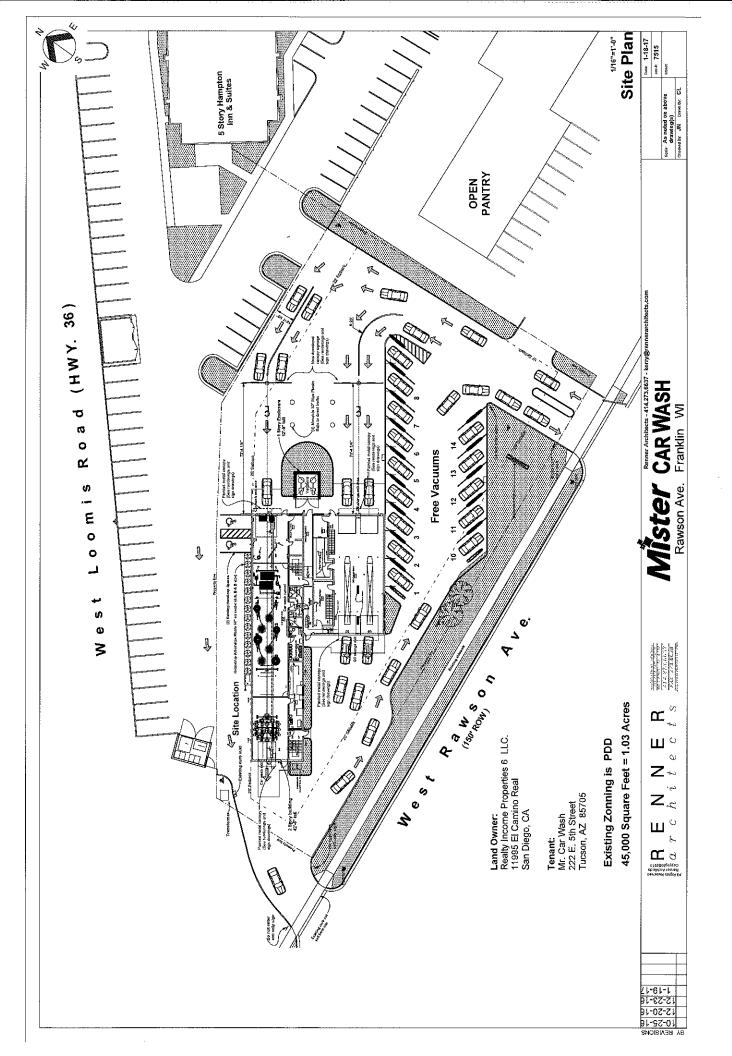
EXISTING





MISTER CAR WASH	FRANKLIN, WI	AND HELLING H. HAMMOND
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