CITY OF FRANKLIN PLAN COMMISSION MEETING* FRANKLIN CITY HALL COUNCIL CHAMBERS 9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN AGENDA THURSDAY, JUNE 22, 2017, 7:00 P.M.

A. Call to Order and Roll Call

- B. Approval of Minutes
 - 1. Approval of regular meeting of June 8, 2017.
- C. **Public Hearing Business Matters** (action may be taken on all matters following the respective Public Hearing thereon)
 - UNITED STATES CELLULAR OPERATING COMPANY LLC INSTALLATION OF A TELECOMMUNICATIONS TOWER MONOPOLE AT FAITH PRESBYTERIAN CHURCH. Special Use application by United States Cellular Operating Company LLC, to allow for the installation of a 120 foot monopole tower at Faith Presbyterian Church. The lease area will consist of a gravel surface and will include a chain-link fence, the tower and ground equipment, and a gravel turnaround area is also proposed adjacent to the lease area located at 3800-3830 West Rawson Avenue, property zoned I-1 Institutional District, bearing Tax Key No. 739-9997-001. A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THIS MATTER.
 - 2. MILLS HOTEL WYOMING, LLC SINGLE-FAMILY RESIDENTIAL DEVELOPMENT. Special Use application by Mills Hotel Wyoming, LLC, to allow for a single-family residential development (up to three single-family homes) upon property zoned R-8 Multiple-Family Residence District and C-1 Conservancy District, located at 11906-11908 West Loomis Road (on the south side of West Ryan Road approximately 1100 feet west of the intersection of Loomis Road and West Ryan Road); part of Tax Key No. 891-9989-001. A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THIS MATTER.
 - 3. **FOREST PARK MIDDLE SCHOOL NEW BUILDING AND ASSOCIATED PARKING LOT CONSTRUCTION.** Natural Resource Features Special Exception and Site Plan applications by Franklin Public Schools, for the purpose of allowing for filling and removing approximately 9,950 square feet of wetlands, approximately 35,400 square feet of wetland buffers and approximately 34,750 square feet of wetland setbacks, as well as mitigation of the proposed natural resource impacts through construction of a new 17,150 square

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> foot wetland and identification of a new 54,300 square foot wetland buffer (currently identified as a mature woodland), with a majority of the natural resource impacts and all of the mitigation areas being located in the southeastern corner of the subject property located at 8225 West Forest Hill Avenue, and a Site Plan for construction of a new 198,000 square foot, two story, 1,350 student capacity Forest Park Middle School building and associated parking lots adjacent to (northeast of) the existing school in Phase 1 (June 2017 through January 2019), demolition of the existing school in phase 2 (early 2019) and completion of grading, parking lot, playfields, etc. in Phase 3 (spring 2019), such property being zoned I-1 Institutional District; Tax Key No. 838-9978-000. A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THE NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION OF THIS MATTER.

- 4. FRANKLIN LIONS CLUB PRIVATE PARK USE AND STORAGE GARAGE MOVE. Special Use and Building Move applications by Franklin Lions Foundation, Inc., to operate a private park for the Franklin Lions Club at 10961 West St. Martins Road, with the principal use of the park being temporary parking for the annual St. Martins Fair event as a fundraiser for the Lions Club, along with an application for a Building Move to move an approximately 24 foot by 24 foot storage garage from City of Franklin property located at approximately 9600 South 80th Street to the Franklin Lions Club property located at 10961 West St. Martins Road, such property is zoned P-1 Park District; Tax Key No. 799-9989-007. A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THE SPECIAL USE APPLICATION OF THIS MATTER.
- D. **Business Matters** (no Public Hearing is required upon the following matters; action may be taken on all matters)
 - 1. **FRONT YARD SOLID WOOD FENCE INSTALLATION.** Miscellaneous application by Ronald Paap and Debra K. Paap, to allow for the installation of a solid wood privacy fence (six feet high, extending to approximately 40 feet west from the front property line) to replace an existing damaged chain-link fence within the front yard of property located at 9621 South 76th Street (along the south property line, adjacent to five parking spaces at the northeast corner of the Hideaway Pub & Eatery parking lot), zoned M-1 Limited Industrial District; Tax Key No. 896-9993-000.
 - 2. **CITY OF FRANKLIN SALT STORAGE FACILITY CONSTRUCTION AND DEPARTMENT OF PUBLIC WORKS STORAGE YARD EXPANSION.** Site Plan Amendment application by the City of Franklin, for the construction of a new approximately 54 foot high, 90 foot diameter circular salt storage facility within the central portion of the existing Department of Public Works storage yard, expansion of the Department of Public Works storage yard by approximately 0.5 acres to the southwest,

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which would include relocation of a portion of the existing gravel parking lot in that area immediately to the south, and removal of the existing 2-car storage facility/shed utilized by the Lions Club, for property zoned I-1 Institutional District, located at 7979 West Ryan Road; Tax Key No. 896-9990-001.

E. Adjournment

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

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

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

REMINDERS: Next Regular Plan Commission Meeting: July 6, 2017

Unapproved

City of Franklin Plan Commission Meeting June 8, 2017 Minutes

A. Call to Order and Roll Call

Alderman Mark Dandrea called the June 8, 2017 Regular Plan Commission meeting to order at 7:00 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Commissioners Patricia Hogan and Kevin Haley and City Engineer Glen Morrow. Excused were members Patrick Leon, David Fowler and Mayor Olson. Also present was Associate Planner Orrin Sumwalt and Planning Manager Joel Dietl.

B. Approval of Minutes

1. Regular Meeting of May 18, 2017.

. Commissioner Hogan moved and Commissioner Haley seconded approval of the May 18, 2017 minutes of the regular meeting of the Plan Commission. On voice vote, all voted 'aye'. Motion carried (4-0-0).

C. Public Hearing Business Matters

1. GAZEBO PARK APARTMENT COMPLEX ACCESSORY BUILDING

CONSTRUCTION. Special Use Amendment application by GPark LLC, for construction of an accessory building (5 car detached garage) which will replace exterior parking spaces just south of the northernmost building on the Gazebo Park Apartment Complex property located at approximately 6300-6346 South 35th Street, zoned R-8 Multiple-Family Residence District; Tax Key No. 714-9990-004. Planning Manager Joel Dietl presented the request by GPark LLC, for construction of an accessory building (5 car detached garage) which will replace exterior parking spaces just south of the northernmost building on the Gazebo Park Apartment Complex property located at approximately 6300-6346 South 35th Street.

The Official Notice of Public Hearing was read in to the record by Associate Planner Sumwalt and the Public Hearing was opened at 7:03 p.m. and closed at 7:04 p.m.

Commissioner Hogan moved and Commissioner Haley seconded a motion to recommend approval of a Resolution to amend Resolution Nos. 79-1562, 83-2091, 85-2581, 2009-6579, 2012-6812 and 2014-7007 imposing conditions and restrictions for the approval of a Special Use for the Gazebo Park Apartment Complex property located at approximately 6300-6346 South 35th Street to allow for the construction of an accessory building. On voice vote, all voted 'aye'. Motion carried (4-0-0).

2. NUMBER OF BUILDINGS ON A RESIDENTIAL ZONING DISTRICT LOT UNIFIED DEVELOPMENT

Planning Manager Joel Dietl presented the request by the City of Franklin to amend Section 15-2.0206 [and such other sections as determined necessary to be consistent with the purposes of the proposed amendment] to allow a single-family

ORDINANCE TEXT AMENDMENT.

Unified Development Ordinance Text Amendment application by the City of Franklin to amend Section 15-2.0206 [and such other sections as determined necessary to be consistent with the purposes of the proposed amendment] to allow a single-family residence structure to temporarily remain upon a lot during the construction of a replacement singlefamily residential structure. [Section 15-2.0206 of the Unified Development Ordinance requires in part that in all residential zoning districts excepting the R-1E District, only one principal building may be located, erected, or moved onto a lot.]

D. Business Matters

1. THE ROCK SPORTS COMPLEX SPRECHER BEER CAFÉ.

Unified Development Ordinance §15-3.0442 Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons) Minor Amendment application by Michael E. Zimmerman, owner, The Rock Sports Complex, LLC, to allow for placement of a Sprecher Beer Café at The Rock Sports Complex, within the four fields located on the north end of the site located at 7900 West Crystal Ridge Drive, property zoned Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons) and FW Floodway District; Tax Key No. 744-8980-001.

2. EXTRA SPACE STORAGE

SIGNAGE. Sign plans submitted by Innovative Signs, Inc. as required by Condition No. 10 of Resolution No. 2016-7208, to allow for the installation of five signs consisting of three wall signs, a monument/directional sign and a tenant residence structure to temporarily remain upon a lot during the construction of a replacement single-family residential structure.

The Official Notice of Public Hearing was read in to the record by Associate Planner Sumwalt and the Public Hearing was opened at 7:07 p.m. and closed at 7:11 p.m.

City Engineer Morrow moved and Commissioner Haley seconded a motion to recommend approval of an Ordinance to amend the Unified Development Ordinance text to amend Section 15-2.0206 to allow a single-family residence structure to temporarily remain upon a lot during the construction of a replacement single-family residential structure with the City Attorney's added language and replacing "City Engineer" with "Building Inspector." On voice vote, all voted 'aye'. Motion carried (4-0-0).

Planning Manager Joel Dietl presented the request by Michael E. Zimmerman, owner, The Rock Sports Complex, LLC, to allow for placement of a Sprecher Beer Café at The Rock Sports Complex, within the four fields located on the north end of the site located at 7900 West Crystal Ridge Drive.

City Engineer Morrow moved and Commissioner Haley seconded a motion determining the proposed amendment to be a Minor Amendment. On voice vote, all voted 'aye'. Motion carried (4-0-0).

Commissioner Haley moved and City Engineer Morrow seconded a motion to recommend approval of an Ordinance to amend Section 15-3.0442 of the Unified Development Ordinance Planned Development District No. 37 (The Rock Sports Complex/Ballpark Commons) to allow for placement of a Sprecher Beer Café at The Rock Sports Complex together with a description, to be drafted by staff, that the subject concession stand is unique and that Condition Nos. 2 and 3 of Section 1 be struck from the draft ordinance. On voice vote, all voted 'aye'. Motion carried (4-0-0).

Planning Manager Dietl presented the request by Innovative Signs, Inc. as required by Condition No. 10 of Resolution No. 2016-7208, to allow for the installation of five signs consisting of three wall signs, a monument/directional sign and a tenant panel on the existing monument sign shared with Hobby Lobby for property located at 6805 South 27th Street. City Engineer Morrow moved and Commissioner Hogan panel on the existing monument sign shared with Hobby Lobby (178.74 square foot wall sign on the south elevation of the existing building that reads "ExtraSpaceStorage", 45.45 square foot wall sign above the entrance on the north elevation of the existing building that reads "OFFICE", 35.4 square foot wall sign at the top of the east elevation of Building A that reads "ExtraSpaceStorage", 20.22 square foot single-sided monument sign located adjacent to the ingress/egress from South 27th Street that reads "ExtraSpaceStorage" and a 55 square foot double-sided tenant panel on the existing monument sign that reads "ExtraSpaceStorage"), located at 6805 South 27th Street

E. Adjournment

seconded a motion to approve a Resolution approving signage for Extra Space Storage facility. On voice vote, all voted 'aye'. Motion carried (4-0-0).

Commissioner Hogan moved and Commissioner Haley seconded to adjourn the Plan Commission meeting of June 8, 2017 at 8:02 p.m. All voted 'aye'; motion carried. (4-0-0).

🎜 CITY OF FRANKLIN 🏼 🎜

REPORT TO THE PLAN COMMISSION

Meeting of April 20, 2017

Special Use

RECOMMENDATION: City Development Staff recommends approval of the proposed Special Use Application, subject to the conditions in the draft resolution.

Project Name:	United States Cellular Operating Co., LLC
Project Address:	3800-3830 W. Rawson Avenue
Applicant:	Randy Mattson, United States Cellular Operating Co., LLC
Owners (property):	Faith Presbyterian Church
Current Zoning:	I-1 Institutional District
Applicant Action Requested:	Recommendation of approval of the Special Use Application

Introduction:

Please note:

- Staff recommendations are *<u>underlined</u>, in <i>italics* and are included in the draft resolution.
- Staff suggestions are underlined and are not included in the draft resolution.

On April 26, 2017, the applicant filed a Special Use Application requesting to install a monopole tower at the Faith Presbyterian Church property located at 3800-3830 W. Rawson Avenue.

an application for a Special Use to locate a 120-foot monopole tower at Faith Presbyterian Church, 3800-3830 West Rawson Avenue. The lease area for US Cellular is 50' x 50' (2,500 square feet) and will consist of a gravel surface. The lease area will include a chain-link fence, the tower, and ground equipment. A gravel turnaround area is also proposed adjacent to the lease area.

Project Description/Analysis:

same speed and performance of fiber optic networks. This process is typically referred to as "backhaul."

The proposed monopoles are 90-feet in height (93-foot overall height with appurtenances). The base diameter is approximately 22-inches (33" diameter foot print in the right-of-way). All equipment is either contained within the pole or directly mounted to the pole. For comparison purposes, it can be noted that telephone poles and street lights within the City's public road right-of-ways rarely exceed 40' in height.

In regard to Site 1 (the location adjacent to the Garden Plaza shopping center outlot):

- <u>Staff recommends that the applicant relocate the proposed transport site to either the</u> <u>right-of-way at the east end of Venture Drive, or to the existing cell tower located at 6321</u> <u>S. 108th Street</u>.
 - It can be noted that the adjacent business and light industrial land uses at these two locations are more conducive to the presence of such infrastructure, and that the proposed monopole would be less disruptive to such uses, as compared to the commercial/retail uses at the location proposed by the applicant.
- Please be aware that staff has identified these preferred locations subsequent to the provision of staff comments to the applicant, therefore, they have not yet been discussed with the applicant.
- If approved adjacent to the outlot as requested by the applicant, <u>staff recommends that the</u> monopole be moved slightly to the east to be centered between the Garden Plaza access and the possible future access of the outlot, as opposed to directly adjacent to the future access as currently shown.
 - The applicant has indicated that they will look into the feasibility of adjusting that location.

In regard to Site 2 (the location on Elm Road), staff has no concerns with the proposed location.

In regard to Site 3 (the location on W. Airways Avenue):

- <u>Staff recommends that the pole across the street from the City's sewer and water building</u> <u>at 5550 W. Airways Avenue be relocated to the north side of the City's property adjacent</u> <u>to another tower already located on that site</u>.
 - The applicant has indicated that they prefer to maintain the current location within the right-of-way.

If approved, staff recommends the following conditions in addition to those noted above.

- 1. <u>The applicant shall receive approval of a Building Permit prior to the commencement of</u> <u>any work. All applicable City and State building and electrical codes shall be met.</u>
- 2. <u>The applicant shall stakeout the exact location of the three proposed monopoles for staff</u> <u>review and approval prior to issuance of a Building Permit. The poles shall be located</u> <u>away from any existing utilities, such as public water and sanitary sewer, street lights,</u> <u>stop signs or anything that will obstruct the vision for public safety signage as well as not</u> <u>interfere with municipal police and fire services</u>
- 3. <u>The applicant shall submit a complete set of design plans stamped by a Structural</u> <u>Engineer for staff review and approval prior to issuance of a Building Permit.</u>

- 4. <u>The applicant shall submit documentation evaluating fall zones of the poles related to</u> <u>adjacent buildings and parking lots, for staff review and approval prior to issuance of a</u> <u>Building Permit.</u>
- 5. <u>Upon the event of a pole no longer serving the special use as described herein, the applicant shall remove the pole within 90 days.</u>
- 6. <u>The applicant shall submit an alternative analysis for each monopole location that</u> <u>demonstrates collocation on any existing tower, buildings or any other structures in the</u> <u>vicinity of the proposed location is not feasible, for staff review and approval prior to</u> <u>issuance of a Building Permit.</u>
- 7. <u>The applicant shall submit a structural analysis, which shall demonstrate the strength of</u> <u>the pole to support the current equipment proposed as well as demonstrate the feasibility</u> <u>of future collocation, for staff review and approval prior to issuance of a Building</u> <u>Permit.</u>
- 8. <u>The applicant shall submit details related to ice shedding and ice throw risk as well as</u> <u>mitigation measures, for staff review and approval prior to issuance of a Building</u> <u>Permit.</u>
- 9. <u>The applicant shall submit an erosion control plan for each site for Engineering</u> <u>Department review and approval prior to issuance of a Building Permit, unless the area</u> <u>to be disturbed will be restored within 24 hours.</u>
- 10. <u>The applicant shall comply with the Wisconsin Manual on Uniform Traffic Control</u> <u>Devices.</u>
- 11. <u>The applicant shall restore the right-of-way back to its original condition within ten days</u> of completion of work onsite.
- 12. If a monopole collapses for any reason, the applicant shall remove the pole from the site within 12 hours. In cases of emergency where the City must move or relocate a fallen pole, the applicant is responsible for all related costs.
- 13. <u>The applicant shall submit a maintenance plan, detailing when and how the pole will be</u> maintained. The applicant shall be responsible for all maintenance and repairs to the pole.
- 14. <u>Cabinet enclosures shall not be mounted on the side of the poles facing the streets in</u> order to ensure safer and better accessibility and to ensure that access to cabinets and equipment will not interfere with traffic.
- 15. The applicant shall be liable for any and all incidents involving any of the monopoles.
- 16. <u>The monopoles shall be subject to all City and State regulations related to utilities within</u> <u>rights-of-way.</u>
- 17. <u>The applicant shall maintain throughout the life of the monopoles liability insurance,</u> insuring the City and applicant in the minimum amount of: 1) For property damage per claimant: \$1,000,000; 2) For property damage per occurrence: \$2,000,000; 3) For personal injury damages per person: \$3,000,000 and 4) For personal injury damages per occurrence: \$10,000,000.
- 18. <u>Disclaimer of liability.</u> The City shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of the applicant's system and due to the act or omission of any person or entity other than the City or those persons or entities for which the City is legally liable as a matter of law.
- 19. <u>Indemnification</u>. <u>The applicant shall, at its sole cost and expense, defend, indemnify and hold harmless the City, and its respective officers, boards, commissions, employees,</u>

agents, attorneys and contractors (hereinafter referred to as "Indemnities"), from and against:

- a. <u>Any and all liability, obligation, damages, penalties, claims, liens, costs, charges,</u> <u>losses and expense (including, without limitation, reasonable fees and expenses of</u> <u>attorneys, expert witnesses and consultants), which may be imposed upon,</u> <u>incurred by or be asserted against the Indemnities by reason of any act or</u> <u>omission of the applicant, its personnel, employees, agents, contractors or</u> <u>subcontractors, resulting in personal injury, bodily injury, sickness, disease or</u> <u>death to any person or damage to, loss of, loss of use of or destruction of tangible</u> <u>or intangible property, libel, slander, invasion of privacy and unauthorized use of</u> <u>any trademark, trade name, copyright, patent, service mark or any other right of</u> <u>any person, firm or corporation, which may arise out of or be in any way</u> <u>connected with the construction, installation, operation, maintenance or condition</u> <u>of the applicant's system or products or services or agents or the applicant's</u> <u>failure to comply with any federal, state or local statute, ordinance, rule, order or</u> <u>regulation.</u>
- b. <u>Any and all liabilities, obligations, damages penalties, claims, liens, costs,</u> <u>charges, losses and expenses (including, without limitation, reasonable fees and</u> <u>expenses of attorneys, expert witnesses and other consultants), which are imposed</u> <u>upon, incurred by or asserted against the Indemnities by reason of any claim or</u> <u>lien arising out of work, labor, materials or supplies provided or supplied to the</u> <u>applicant, its contractors or subcontractors, for the installation, construction,</u> <u>operation or maintenance of the system.</u>
- c. <u>Any and all liability, obligation, damages, penalties, claims, liens, costs, charges,</u> <u>losses and expenses (including, without limitation, reasonable fees and expenses</u> <u>of attorneys, expert witnesses and consultants), which may be imposed upon,</u> <u>incurred by or be asserted against the Indemnities by reason of any financing or</u> <u>securities offering by the applicant for violations of the common law or any laws,</u> <u>statutes or regulations of the State of Wisconsin or United States, including those</u> <u>of the Federal Securities and Exchange Commission, whether by the applicant or</u> <u>otherwise.</u>
- 20. <u>Assumption of risk. The applicant undertakes and assumes for its officers, agents,</u> contractors and subcontractors and employees, all risk of dangerous conditions, if any, on or about any City owned or controlled property, including public rights-of-way, and the applicant hereby agrees to indemnify, defend and hold harmless the Indemnities against and from any claim asserted or liability imposed upon the Indemnities for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the system or the applicant's failure to comply with any federal, state or local statute, ordinance or regulation.
- 21. <u>Defense of indemnities</u>. In the event that any action or proceeding shall be brought against the Indemnities by reason of any matter for which the indemnities are indemnified hereunder, the applicant shall, upon notice from any of the Indemnities, at the applicant's sole cost and expense, resist and defend the same with legal counsel mutually acceptable to the City and applicant, provided that the applicant shall not admit liability in any such matter on behalf of the Indemnities without the written consent of the <u>City</u>.

- 22. Notice cooperation and expenses. The City shall give the applicant prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of Condition No. 27 above. Nothing herein shall be deemed to prevent the City from cooperating with the applicant and participating in the defense of any litigation by the City's own counsel. The applicant shall pay all reasonable expenses incurred by the City in defending itself with regard to any such actions, suits or proceedings. These expenses shall include all attorney fees and shall also include the actual expenses of the City's agents, employees or expert witnesses, and disbursements and liabilities assumed by the City in connection with such suits, actions or proceedings. No withdrawal by the City of any sum under the letter of credit or security deposit shall limit the liability of the applicant to the City under the terms of this section, except that any sum so withdrawn by the City shall be deducted from any recovery which the City might have against the applicant under the terms of this section.
- 23. <u>Nonwaiver of statutory limits</u>. Nothing in this approval shall be construed to in any way <u>limit or waive the provisions of § 893.80</u>, Wis. Stats., as amended from time to time.
- 24. <u>Interference with persons and improvements</u>. The applicant's system, poles and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives or safety of persons or interfere with the rights or reasonable convenience of property owners who adjoin any of the streets or interfere with any improvements the City may deem proper to make, or hinder or obstruct the free use of the streets, bridges, easements or public property.
- 25. <u>Restoration to prior condition. In case of any disturbance of pavement, sidewalk,</u> <u>landscaping, driveway or other surfacing, the applicant shall, at its own cost and expense</u> <u>and in a manner approved by the City, replace and restore all paving, sidewalk,</u> <u>driveway, landscaping or surface of any street or property disturbed in as good condition</u> <u>as before the work was commenced and in accordance with standards for such work set</u> <u>by the City.</u>
- 26. Erection, removal and common uses of poles.
 - a. <u>No poles shall be erected by the applicant without prior approval of the City with</u> regard to location, height, types and any other pertinent aspect. However, no location of any pole structure of the applicant shall create any vested right or interest accruing to the applicant, and such poles or structures shall be removed or modified by the applicant at its own expense whenever the City determines that the public convenience would be enhanced or served thereby.
 - b. Where poles or other wire-holding structures already existing and installed by a public utility for use in serving the City are available for use by the applicant, but the applicant does not make arrangements or obtain permission from the public utility for such use, the City may require the applicant to use such poles and structures if it determines that the public convenience would be enhanced or served thereby and the terms of the use available to the applicant are reasonable.
 - c. In the absence of any governing federal or state statute, where the City or a public utility serving the City desires to make use of the poles of the applicant, but agreement thereof with the applicant cannot be reached, the City may require the applicant to permit such use for such consideration and upon such terms as the City shall determine to be just and reasonable, if the City determines that such use would enhance or serve the public convenience and would not unduly interfere with the applicant's operations.

- 27. <u>Relocation of system facilities</u>. If at any time the City shall lawfully elect to in any way alter any street or change the grade of any street, the applicant, upon reasonable notice by the City, shall remove or relocate as necessary its poles and other fixtures at its own expense.
- 28. <u>The applicant shall install, keep and maintain all parts of the system in good and proper</u><u>operating condition.</u>
- 29. <u>The applicant shall maintain and operate the system in full compliance with the laws,</u> <u>statutes, orders, rules and regulations of the Federal Communication Commission, the</u> <u>United States Congress or the State of Wisconsin. [Amended 12-15-1998 by Ord. No. 98-1526]</u>

Staff Recommendation:

City Development Staff recommends approval of the proposed Certified Survey Map, subject to the conditions in the draft resolution.



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

New Law Relating to Local Regulation of Cell Phone Transmission Towers

The 2013 Biennial Budget Act modified the regulatory powers of local governments in regard to cell phone towers. The new law specifies the manner in which a political subdivision can use zoning to regulate cell phone towers and lists specific regulations that a political subdivision may not apply.

OVERVIEW

The primary tool used by political subdivisions of the state to regulate the siting and construction of cell phone transmission towers, and other land uses, is zoning. Zoning serves to separate incompatible land uses by segregating them in zones, such as residential, commercial, and industrial zones. A typical zoning ordinance identifies land uses that are prohibited in a particular zone, those that are permitted, and those that are permitted subject to a conditional use permit. For example, cell phone towers are a land use that, under prior law, might have been prohibited in a residential zone but allowed, subject to a conditional use permit, in other zones. Note that not all political subdivisions have zoning ordinances, and those with zoning ordinances vary considerably in how they regulate various land uses.

Two other tools available to political subdivisions to regulate cell phone towers are building codes and other, non-zoning police-power regulations, such as license requirements. Again, not all political subdivisions require building permits; it is not known how many have enacted other police-power regulations, but it is presumed to be very few.

The new law created in 2013 Act 20 states specifically that a political subdivision may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and standards a political subdivision must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a political subdivision may not impose on the construction or modification of a tower. Significant among these, it specifies that a political subdivision may not prohibit the placement of cell phone towers in particular locations within the political subdivision, meaning essentially that it may not designate cell phone towers as a prohibited use in any zone.

The new law does not disturb existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law, and building codes.

<u>APPLICABILITY</u>

The new law applies to local regulation of three types of projects, all for the installation of various types of cell phone transmission facilities:

- Projects requiring construction of a new tower.
- Projects requiring substantial modification of an existing tower and facilities, but not construction of a new tower. Projects of this type are referred to as "class 1 collocations."
- Projects requiring neither construction of a new tower nor substantial modification of an existing tower and facilities. Projects of this type are referred to as "class 2 collocations."

The new law defines "substantial modification" as a project that does any of the following:

- For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
- For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10% or more.
- Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
- Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

The law defines **"permit"** as **"a permit, other than a building permit, or other approval required by a political subdivision"** for one of these types of projects. It defines **"political subdivision"** as a city, village, town, or county.

The new law specifies that a county ordinance to regulate the construction of a new tower or a class 1 collocation applies only in the unincorporated areas of the county, but not in any town that has such an ordinance in effect. It does not include a parallel provision regarding the applicability of county ordinances regulating class 2 collocations.

PERMITTED REGULATIONS AND REQUIRED PROCESSES

The new law specifies the regulations a political subdivision may impose on cell phone transmission towers and facilities, and the process a political subdivision must follow in reviewing an application for a permit.

PROJECTS REQUIRING NEW CONSTRUCTION OR SUBSTANTIAL MODIFICATIONS

The new law treats a project requiring substantial modification of an existing tower and facilities the same as a project requiring construction of a new tower.

Permitted Regulations

The new law specifies that a political subdivision may enact a zoning ordinance to regulate any of the following:

• The construction of cell phone towers.

• The substantial modification of existing towers and facilities (class 1 collocations).

However, it specifies that a political subdivision may only regulate these activities as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to the activities and may not be enforced against them.¹

Required Processes

The new law requires that an ordinance prescribe the application process for obtaining a permit or approval. The ordinance must require that an application include all of the following:

- The name and business address of, and the contact individual for, the applicant.
- The location of the proposed or affected tower.
- The location of the proposed facilities.
- A construction plan that describes the proposed new tower and facilities or the proposed modifications to the existing tower and facilities.
- If an application is to construct a new tower, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement attesting to one of the following regarding collocation within the area in which the applicant needs to site the new facilities (termed the **applicant's "search ring"):**
 - Collocation would not result in the same mobile service functionality, coverage, and capacity.
 - o Collocation is technically infeasible.
 - Collocation is economically burdensome to the mobile service provider.

The new law specifies that an application is complete if it contains all the information described above; by implication, a political subdivision may not require any additional information from an applicant. If a political subdivision does not believe that an application is complete, it must notify the applicant of this in writing, within 10 days of receiving the application. The notice must specify in detail the information that was lacking from the application. The applicant may refile the application as many times as is needed to complete it.

Within 90 days of receiving a complete application, a political subdivision must do all of the following:

- Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in the new law, zoning ordinances.
- Make a final decision whether to approve or disapprove the application.

¹ The law appears to contemplate that a political subdivision will require a person engaging in one of these activities to obtain a conditional use permit, since the language does not allow treating them as prohibited uses. However, a political subdivision could elect to treat them as permitted uses.

- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence that supports the decision.

If the political subdivision fails to comply with these requirements by the 90-day deadline, the application is considered approved, except that the political subdivision and the applicant may agree to extend the deadline.

A political subdivision may disapprove an application if the applicant refuses to evaluate the **feasibility of collocation within its "search ring" and to provide the sworn statement required in** the application.

A party that is aggrieved by the political subdivision's final decision may appeal the decision to the circuit court for the county in which the project was proposed. This appears to allow the aggrieved party to appeal to circuit court without first exhausting administrative reviews at the level of the political subdivision.

Limitations

The new law specifies that a zoning ordinance does not apply to a particular structure if the applicant provides the political subdivision with an engineering certification showing that the structure is designed to collapse in a smaller area than the setback or fall zone area required in the ordinance. However, the political subdivision may apply the ordinance to the structure if it provides the applicant with substantial evidence that the engineering certification is flawed.

PROJECTS REQUIRING NEITHER NEW CONSTRUCTION NOR SUBSTANTIAL MODIFICATIONS

As noted earlier, the new law refers to projects that involve neither new construction nor substantial modifications of towers as "class 2 collocations."

Permitted Regulations

The new law specifies that a class 2 collocation is a permitted use under a zoning ordinance. It also provides that class 2 collocations are subject to the same building permit requirements as other commercial development or land use development.² Again, the law specifies that a political subdivision may only regulate class 2 collocations as provided in the law, and that any ordinance in effect on the effective date of the law that is inconsistent with the law does not apply to class 2 collocations and may not be enforced against them.

Required Processes

The new law specifies a process for the review of "an application for a permit to engage in a class 2 collocation."³ The process is a simplified version of the process for other projects, described above. It differs from that process in the following ways:

² The provisions of the new law relating to construction of a new tower or a class 1 collocation do not include a similar statement, but the review process does require the political subdivision to determine whether the proposed project complies with its building code.

³ As noted above, a class 2 collocation is a permitted use under a zoning ordinance, so there can be no conditional **use permit to apply for. Further, building permits are excluded from the definition of "permit," so the procedures** described here do not apply to a building permit application. Consequently, it appears that the new law contemplates that a political subdivision may require a person engaging in a class 2 collocation to apply for a

- Only the first three items of information (identifying the business and the location of the project) are required for an application.
- The political subdivision must inform the applicant of deficiencies in the application within five days of receiving the application, rather than 10 days.
- The political subdivision must complete its actions within 45 days of receiving a complete application as opposed to 90 days, and the list of actions it must complete is slightly different:
 - Make a final decision whether to approve or disapprove the application.
 - Notify the applicant, in writing, of its final decision.
 - If the decision is to approve the application, issue the applicant the relevant permit.
 - If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- The application is not considered automatically approved if the political subdivision does not take final action within the specified time frame.

LIMITATIONS ON POLITICAL SUBDIVISIONS' ACTIONS

Under the new law, a political subdivision may not do any of the following with regard to the construction of a new cell phone tower or a class 1 or class 2 collocation:

- Impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- Enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities.
- Enact an ordinance prohibiting the placement of a cell phone tower in particular locations within the political subdivision.
- Charge a cell phone service provider a fee in excess of one of the following amounts:
 - For a permit for a class 2 collocation, the lesser of \$500 or the amount charged by the political subdivision for a building permit for any other type of commercial development or land use development.
 - For a permit for construction of a new tower or a class 1 collocation, \$3,000.
- Charge a cell phone service provider any recurring fee for a project covered by the law.
- Permit third-party consultants to charge the applicant for any travel expenses incurred in the consultant's review of cell phone service permits or applications.

determination that the activity is, in fact, a class 2 collocation; that is to say, a determination that the political subdivision will not require a conditional use permit for the activity. This Information Memorandum assumes that it is an application for this type of approval to which the process described here applies.

- Disapprove an application based solely on aesthetic concerns.
- Enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- Impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation.
- Prohibit the placement of emergency power systems.
- Require that a cell phone tower be placed on property owned by the political subdivision.
- Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- Condition approval of such activities on the agreement of the owner of the facilities to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.
- Limit the duration of any permit that is granted.
- Require an applicant to construct a distributed antenna system instead of either constructing a new tower or using collocation.
- Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.
- Require that a mobile cell phone tower or facilities have or be connected to backup battery power.
- Impose a setback or fall zone requirement for a cell phone tower that is different from a requirement that is imposed on other types of commercial structures.
- Consider a project to be a substantial modification if the project adds more than 20 feet to the height of a tower that is not more than 200 feet tall but the greater height is necessary to avoid interference with an existing antenna.
- Consider a project to be a substantial modification if the project adds 20 feet or more to the diameter of the tower but the greater diameter is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
- Limit the height of a cell phone tower to under 200 feet.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.
- Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the

applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by David L. Lovell, Principal Analyst, on December 9, 2013.

WISCONSIN LEGISLATIVE COUNCIL One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536 Telephone: (608) 266-1304 • Fax: (608) 266-3830 Email: leg.council@legis.wisconsin.gov http://www.legis.wisconisn.gov/lc

CITY OF FRANKLIN

RESOLUTION NO. 2017-

A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE TO ALLOW FOR THE INSTALLATION OF A 120 FOOT TELECOMMUNICATIONS TOWER MONOPOLE AT FAITH PRESBYTERIAN CHURCH PROPERTY LOCATED AT 3800-3830 WEST RAWSON AVENUE, BEARING TAX KEY NO. 739-9997-001 (UNITED STATES CELLULAR OPERATING COMPANY LLC, APPLICANT)

WHEREAS, United States Cellular Operating Company LLC having petitioned the City of Franklin for the approval of a Special Use under in part, §15-3.0805 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS, subs. G. Special Uses, and §15-3.0701 GENERAL STANDARDS FOR SPECIAL USES, of the City of Franklin Unified Development Ordinance, to allow for the installation of a 120 foot telecommunications tower monopole and ground equipment in a 50 foot by 50 foot (2,500 square feet) leased area consisting of a gravel surface, surrounded by a chain link fence, with a gravel turnaround area adjacent to the lease area, at Faith Presbyterian Church located at 3800-3830 West Rawson Avenue, property zoned I-1 Institutional District, more particularly described as follows:

UNITED STATES CELLULAR OPERATING COMPANY LLC LEASE PARCEL

A part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section One (1) Township Five (5) North, Range Twenty-One (21) East, City of Franklin, Milwaukee County, Wisconsin containing 2,500 square feet (0.057 acres) of land and being described by:

Commencing at the Southwest Corner of said Section 1; thence N87°-41′-00″E 1407.69 feet along the South line of the SW1/4 of said Section 1; thence N02°-19′-00″W 382.50 feet to the point of beginning, thence S87°-41′-02″ 50.00 feet; thence N02°-18′-58″W 50.00 feet; thence N87°-41′-02″E 50.00 feet; thence S02°-18′-58″E 50.00 feet to the point of beginning, being subject to any and all easements and restrictions of record.

30' WIDE UTILITY AND INGRESS/EGRESS EASEMENT

A part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section One (1) Township Five (5) North, Range Twenty-One (21) East, City of Franklin, Milwaukee County, Wisconsin containing 15,389 square feet (0.353 acres) of land and being Fifteen (15) feet each side of and parallel to the following described line:

Commencing at the Southwest Corner of said Section 1; thence N87°-41'-00"E 1407.69 feet along the South line of the SW1/4 of said Section 1; thence N02°-19'-00"W 382.50 feet; thence S87°-41'-02"W 50.00 feet; thence N02°-18'-58"W 50.00 feet; thence N87°-41'-02"E 50.00 feet; thence N72°-45'-09"E 15.52 feet to

Page 2

the point of beginning; thence $S02^{\circ}-18'-58''E$ 73.41 feet; thence $N87^{\circ}-41'-02''E$ 143.74 feet; thence $S02^{\circ}-18'-58''E$ 295.83 feet to a point on the North line of W. Rawson Avenue and the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the North line of W. Rawson Avenue.

10' WIDE UTILITY EASEMENT

A part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section One (1) Township Five (5) North, Range Twenty-One (21) East, City of Franklin, Milwaukee County, Wisconsin containing 3,171 square feet (0.073 acres) of land and being Five (5) feet each side of and parallel to the following described line:

Commencing at the Southwest Corner of said Section 1; thence N87°-41'-00"E 1407.69 feet along the South line of the SW1/4 of said Section 1; thence N02°-19'-00"W 382.50 feet; thence S87°-41'-02"W 48.29 feet to the point of beginning; thence S00°-28'-28"W 170.13 feet; thence S21°-19'-37"E 26.93 feet; thence S00°-28'-28"W 120.00 feet to a point on the North line of W. Rawson Avenue and the point of termination. The side lot lines of said easement shall be shortened or lengthened to terminate on the North line of W. Rawson Avenue and on the South line of the afore described Lease Parcel.

FAITH PRESBYTERIAN CHURCH PROPERTY

Tax Key No. 739-9997-001

All that part of the Southeast 1/4 of the Southwest 1/4 of Section 1, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin, which is bounded and described as follows: Commencing at the southeast corner of said 1/4 Section; thence South 87°41'00" West along the south line of said 1/4 Section 930.87 feet to a point; thence North 00°28'28" East 67.34 feet to the point of beginning of the lands to be described, said point also being in the north line of West Rawson Avenue; thence South 87°41'00" West along the said north line 399.99 feet to a point; said point also being in the east line of Lot No. 172 of Hidden Lakes Addition No. 3 a subdivision of record; thence North 00°28'28" East continuing along said subdivision line 514.64 feet to the southeast corner of Lot No. 176 of said subdivision; thence North 45°24'26" East continuing along the said subdivision line 106.06 feet to the southwest comer of Lot No. 178 of said subdivision; thence North 87°41′00″ East continuing along said subdivision line 200.00 feet to a point in the south line of Lot No. 180 of said subdivision; thence South 38°30'54" East continuing along said subdivision line 198.43 feet to the southeast corner of Lot No. 182 of said subdivision; thence South 00°28'28" West continuing along said subdivision line and its southerly extension 425.75 feet to the point of beginning of this description. Said lands contain 5.0841 acres of land; and

WHEREAS, such petition having been duly referred to the Plan Commission of the City of Franklin for a public hearing, pursuant to the requirements of §15-3.0805 and §15-9.0103D. of the Unified Development Ordinance, and a public hearing having been held before the Plan Commission on the 22nd day of June, 2017, and the Plan Commission thereafter having determined to recommend that the proposed Special Use be approved, subject to certain conditions, and the Plan Commission further finding that the proposed Special Use upon such conditions, pursuant to §15-3.0701 of the Unified Development Ordinance, will be in harmony with the purposes of the Unified Development Ordinance and the Comprehensive Master Plan; that it will not have an undue adverse impact upon adjoining property; that it will not interfere with the development of neighboring property; that it will not result in damage to property of significant importance to nature, history or the like; and

WHEREAS, the Common Council having received such Plan Commission recommendation and also having found that the proposed Special Use, subject to conditions, meets the standards set forth under §15-3.0805 and §15-3.0701 of the Unified Development Ordinance; recognizing, that in part, §15-3.0805 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS, and §15-3.0701 GENERAL STANDARDS FOR SPECIAL USES, of the City of Franklin Unified Development Ordinance, include terms and provisions thereof which have been preempted by Wis. Stat. § 66.0404 Mobile tower siting regulations, as they pertain to the subject application. Wis. Stat. § 66.0404(4) Limitations, provides in part: "[w]ith regard to an activity described... [mobile tower installation], a political subdivision *may not* do any of the following: ***

(c) Enact an ordinance prohibiting the placement of a mobile service support structure in particular locations within the political subdivision. ***

(g) Disapprove an application to conduct an activity described... [mobile tower installation] based solely on aesthetic concerns. ***

(L) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting. ***

(p) Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity. ***

(r) Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures. ***

(u) Limit the height of a mobile service support structure to under 200 feet. ****"; and that such terms and provisions which have been preempted have not been applied to the subject application review and approval.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the petition of United States Cellular Operating Company LLC, for the approval of a Special Use for the property particularly described in

the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and restrictions:

- 1. That this Special Use is approved only for the use of the subject property by United States Cellular Operating Company LLC (d/b/a US Cellular), successors and assigns, for the telecommunications tower monopole installation use, which shall be developed in substantial compliance with, and operated and maintained by United States Cellular Operating Company LLC (d/b/a US Cellular), pursuant to those plans City file-stamped ______, 2017 and annexed hereto and incorporated herein as Exhibit A.
- 2. United States Cellular Operating Company LLC (d/b/a US Cellular), successors and assigns, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the United States Cellular Operating Company LLC (d/b/a US Cellular) telecommunications tower monopole installation use, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to §15-9.0502 thereof and §1-19. of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.
- 3. The approval granted hereunder is conditional upon the United States Cellular Operating Company LLC (d/b/a US Cellular) telecommunications tower monopole installation use, for the property located as set forth above: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
- 4. The applicant shall receive approval of a Building Permit prior to the commencement of any work. All applicable City and State building and electrical codes shall be met.
- 5. The applicant shall submit a complete set of design plans stamped by a Structural Engineer for staff review and approval prior to the issuance of a Building Permit.
- 6. The applicant shall submit documentation evaluating fall zones of the poles related to adjacent buildings and parking lots, for staff review and approval prior to the issuance of a Building Permit.
- 7. Upon the event of a pole no longer serving the special use as described herein, the applicant shall remove the pole within 90 days.
- 8. The applicant shall submit an alternative analysis that demonstrates collocation on

any existing tower, buildings or any other structures in the vicinity of the proposed location is not feasible, for staff review and approval prior to the issuance of a Building Permit.

- 9. The applicant shall submit a structural analysis, which shall demonstrate the strength of the pole to support the current equipment proposed as well as demonstrate the feasibility of future collocation, for staff review and approval prior to the issuance of a Building Permit.
- 10. The applicant shall submit details related to ice shedding and ice throw risk as well as mitigation measures, for staff review and approval prior to the issuance of a Building Permit.
- 11. The applicant shall submit an erosion control plan for each site for Engineering Department review and approval prior to the issuance of a Building Permit, unless the area to be disturbed will be restored within 24 hours.
- 12. If the monopole collapses for any reason, the applicant shall remove the pole from the site within 12 hours. In cases of emergency where the City must move or relocate a fallen pole, the applicant is responsible for all related costs.
- 13. The applicant shall submit a maintenance plan, detailing when and how the pole will be maintained. The applicant shall be responsible for all maintenance and repairs to the pole.
- 14. The applicant shall install, keep and maintain all parts of the system in good and proper operating condition.
- 15. The applicant shall maintain and operate the system in full compliance with the laws, statutes, orders, rules and regulations of the Federal Communication Commission, the United States Congress or the State of Wisconsin. [Amended 12-15-1998 by Ord. No. 98-1526]

BE IT FURTHER RESOLVED, that in the event United States Cellular Operating Company LLC, successors or assigns, or any owner of the subject property, does not comply with one or any of the conditions and restrictions of this Special Use Resolution, following a ten (10) day notice to cure, and failure to comply within such time period, the Common Council, upon notice and hearing, may revoke the Special Use permission granted under this Resolution.

BE IT FURTHER RESOLVED, that any violation of any term, condition or restriction of this Resolution is hereby deemed to be, and therefore shall be, a violation of the Unified Development Ordinance, and pursuant to §15-9.0502 thereof and §1-19. of the Municipal Code, the penalty for such violation shall be a forfeiture of no more than

\$2,500.00, or such other maximum amount and together with such other costs and terms as may be specified therein from time to time. Each day that such violation continues shall be a separate violation. Failure of the City to enforce any such violation shall not be a waiver of that or any other violation.

BE IT FURTHER RESOLVED, that this Resolution shall be construed to be such Special Use Permit as is contemplated by §15-9.0103 of the Unified Development Ordinance.

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

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

Introduced at a regular meeting of the Common Council of the City of Franklin this ______, 2017.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this ______ day of ______, 2017.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____



3800-3830 W. Rawson Ave. TKN: 739 9997 001



Planning Department (414) 425-4024



NORTH 2017 Aerial Photo

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



or surveying purposes.

From:	Bill Wucherer
To:	Nick Fuchs
Subject:	RE: US Cellular proposed monopole, 3800-3830 W. Rawson Avenue
Date:	Tuesday, March 14, 2017 3:54:20 PM
Attachments:	Cellphone Cancer Epidemiology - None found - Australia 29 year study.pdf

Nick, I have spoken with Charles Adams from the State of Wisconsin Radiation Protection Section about health risks associated with cell towers.

Mr. Adams was quick to reference the Telecommunication Act of 1996 Section 704 that states: "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

[Sources : <u>http://wireless.fcc.gov/siting/FCC_LSGAC_RF_Guide.pdf</u> (A Local Government Official's Guide to Transmitting Antenna RF Emission Safety) and <u>https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/radio-frequency-safety/faq/rf-safety</u> (FCC FAQ on this subject.)

He also provided me with a few studies from Sweden, World Health Organization, and Australia (attachment):

http://www.stralsakerhetsmyndigheten.se/In-English/About-the-Swedish-Radiation-Safety-Authority1/Magnetic-fields-and-wireless-technology/Wireless-technology/ (Swedish Government site with good data on reference values for wireless devices); http://www.who.int/peh-emf/publications/facts/fs296/en/ and http://www.who.int/mediacentre/factsheets/fs193/en/ are a pair of WHO factsheets that cover general EMF and cell phones respectively.

While there are conflicting studies and controversy about the health effects, if any, associated with cell tower and use of handheld cell phones, the scientific evidence does not support a human health hazard concern at this time. I have included Mr. Adams contact information in the event additional information is requested. Please keep me posted on additional questions related to the "health risks of cell towers."

Charles W. Adams III Radiological Emergency Preparedness Specialist

State of Wisconsin Department of Health Services Radiation Protection Section 1 West Wilson Street Room B157 P.O. Box 2659 Madison, Wisconsin 53701-2659

(608) 267-4794 (Office) (608) 572-0916 (Work Cell) (608) 267-3695 Fax

William M. Wucherer RN/Health Officer Director of Health & Social Services bwucherer@franklinwi.gov

(414) 425-9101

From: Nick Fuchs
Sent: Thursday, March 02, 2017 1:23 PM
To: Bill Wucherer
Cc: Angela Beyer; Joel Dietl
Subject: FW: US Cellular proposed monopole, 3800-3830 W. Rawson Avenue

Bill,

Attached is a letter regarding a proposed cell tower at 3800-3830 W. Rawson Avenue. They have not submitted to the City yet, but I spoke with Alderwoman Wilhelm and she mentioned wanting a recommendation from the Health Department regarding health risks of cell towers. The issue recently came up in <u>Greendale</u>. Also <u>Mequon</u>. I'm not sure how this project will proceed at this point, but just wanted to give you a heads up that the Alderperson may be looking for an opinion from you. Give me a call if you want to discuss. Thanks.

Nick Fuchs Principal Planner Department of City Development 9229 W. Loomis Road, Franklin, WI 53132 Phone: (414) 425-4024 Fax: (414) 427-7691

From: Nick Fuchs
Sent: Wednesday, March 01, 2017 10:48 AM
To: Kristen Wilhelm
Cc: Kristen Wilhelm (External)
Subject: US Cellular proposed monopole, 3800-3830 W. Rawson Avenue

Ald. Wilhelm,

Planning staff received the attached letter regarding a proposal to install a new 120' monopole at 3800-3830 W. Rawson Avenue, Faith Presbyterian Church. Feel free to give me a call if you would like to discuss. Thanks.

Nick Fuchs Principal Planner Department of City Development 9229 W. Loomis Road, Franklin, WI 53132 Phone: (414) 425-4024 Fax: (414) 427-7691



Contents lists available at ScienceDirect

Cancer Epidemiology

The International Journal of Cancer Epidemiology, Detection, and Prevention



journal homepage: www.cancerepidemiology.net

Has the incidence of brain cancer risen in Australia since the introduction of mobile phones 29 years ago? $\stackrel{\star}{\sim}$



Simon Chapman^{a,*}, Lamiae Azizi^a, Qingwei Luo^{a,b}, Freddy Sitas^{a,c}

^a School of Public Health, University of Sydney, Australia

^b Cancer Council NSW, Sydney, Australia

^c School of Public Health and Community Medicine, University of New South Wales, Australia

ARTICLE INFO

Article history: Received 17 February 2016 Received in revised form 19 April 2016 Accepted 19 April 2016 Available online 5 May 2016

Keywords: Mobile phone Cell phone EMF Radiofrequency radiation Brain cancer Trends Incidence

ABSTRACT

Background: Mobile phone use in Australia has increased rapidly since its introduction in 1987 with whole population usage being 94% by 2014. We explored the popularly hypothesised association between brain cancer incidence and mobile phone use.

Study methods: Using national cancer registration data, we examined age and gender specific incidence rates of 19,858 male and 14,222 females diagnosed with brain cancer in Australia between 1982 and 2012, and mobile phone usage data from 1987 to 2012. We modelled expected age specific rates (20–39, 40–59, 60–69, 70–84 years), based on published reports of relative risks (RR) of 1.5 in ever-users of mobile phones, and RR of 2.5 in a proportion of 'heavy users' (19% of all users), assuming a 10-year lag period between use and incidence.

Summary answers: Age adjusted brain cancer incidence rates (20–84 years, per 100,000) have risen slightly in males (p < 0.05) but were stable over 30 years in females (p > 0.05) and are higher in males 8.7 (CI=8.1–9.3) than in females, 5.8 (CI=5.3–6.3). Assuming a causal RR of 1.5 and 10-year lag period, the expected incidence rate in males in 2012 would be 11.7 (11–12.4) and in females 7.7 (CI=7.2–8.3), both p < 0.01; 1434 cases observed in 2012, vs. 1867 expected. Significant increases in brain cancer incidence were observed (in keeping with modelled rates) only in those aged \geq 70 years (both sexes), but the increase in incidence rates were higher in all age groups in comparison to what was observed. Assuming a causal RR of 2.5 among 'heavy users' gave 2038 expected cases in all age groups.

Limitations: This is an ecological trends analysis, with no data on individual mobile phone use and outcome.

What this study adds: The observed stability of brain cancer incidence in Australia between 1982 and 2012 in all age groups except in those over 70 years compared to increasing modelled expected estimates, suggests that the observed increases in brain cancer incidence in the older age group are unlikely to be related to mobile phone use. Rather, we hypothesize that the observed increases in brain cancer incidence in Australia are related to the advent of improved diagnostic procedures when computed tomography and related imaging technologies were introduced in the early 1980s.

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1. Introduction

The first call made on a mobile phone in Australia occurred on February 23, 1987. In the 29 years since, usage has grown rapidly, with over 90% of all Australians using the devices today. In 2011 the

Corresponding author.

http://dx.doi.org/10.1016/j.canep.2016.04.010 1877-7821/© 2016 Elsevier Ltd. All rights reserved. International Agency for Research on Cancer Working Group classified radiofrequency (RF) electromagnetic waves as 'possibly carcinogenic to humans'. Radiofrequency waves are emitted by electronic devices including radar, TV, radio, WiFi, Bluetooth, microwave and cordless devices and mobile phones. IARC issued a classification score of 2B for radio frequency electromagnetic radiation, which is defined as "A positive association has been observed between exposure to the agent and cancer for which a causal interpretation is considered by the Working Group to be credible, but chance, bias or confounding could not be ruled out with reasonable confidence". The Working Group identified several methodological issues regarding measurement of RF from mobile phones and

 $[\]Rightarrow$ Dr. Freddy Sitas, a co-author of this paper, is an Associate Editor of Cancer Epidemiology. The Editor-in-Chief of Cancer Epidemiology managed the editorial process for this manuscript independently from Dr. Sitas and the manuscript was subject to the Journal's usual peer-review process.

E-mail address: simon.chapman@sydney.edu.au (S. Chapman).



Fig. 1. Percentage of Australians with mobile phone accounts.

noted the inconsistency and poor replicability of most laboratory studies [1].

This view was strengthened by several independent national environmental health agencies. For example, a 2012 UK report of the Independent Advisory group on non-ionising radiation [2] and a 2015 review by the European Union's Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR) [3] both found no evidence of health effects of mobile phones to humans at current EMF dosage levels. In addition, a number of groups in several countries have documented a stable or declining incidence of brain cancers [4–8]. In the USA [8] and the Nordic countries [7] several risk and latency scenarios about mobile phone use and brain cancers were investigated with the findings being consistent with a null effect or longer latency periods. However, Morgan et al. [9] recently argued that risks of mobile phone use are higher than previously thought, with relative risks in relation to a 'decade long mobile phone use' said to be between 1.8 and 7.8 (Ref. [9], Table 1). By contrast cohort studies in Denmark and the UK published after the IARC report [10,11] found a null effect.

Given these uncertainties, and continuing prominent media coverage of predictions of an eventual increasing incidence of mobile phone caused brain cancers, we investigated the association between mobile use coverage and brain cancer incidence in Australia using an ecological study design.

2. Methods

We obtained data on the percentage of all Australians with mobile phone accounts¹ from the Australian Mobile Telephone Association (AMTA) and the Australian Communications and Media Authority (ACMA) annual reports (see Fig. 1). Data on account holders for 1987–1990 and 1992–1997 were missing and were estimated by linear interpolation. Data by age and gender were unavailable.

These data refer to "accounts", not individuals. In 2014 there were 31.01 mobile phone million accounts in a population of some 23.86 million [12]. In 2009 (latest available data) nearly one in three children aged 5–14 and 76% of 12–14 years old had their own mobile phone [13]. The exact number of individuals using mobile

phones in Australia is unknown but estimated to be approximately 90% of all people.

Reporting of incident invasive cancer is mandatory in all Australian states and territories, which send data to the Australian Institute of Health and Welfare (AIHW) for national reporting. We used AIHW national tabulated incidence data from 1982 to 2012 (the latest data available) for brain cancer [14] (80% of which are gliomas) to calculate (3-year smoothed) age-adjusted incidence rates (per 100,000) overall and for four age groups (20–39, 40–59, 60–69, 70–84 years). Data become unreliable after 84 years because they are combined into one category of 85 years and over.

To illustrate the purported effect of mobile phones on brain cancer incidence, we assumed a 10-year lag period between exposure to mobile phones, and estimated expected rates per age group over 20 years (R_E) assuming prevalence/use to be spread evenly across all age groups (due to lack of age specific usage data) (P _{mob}), by multiplying the pre-mobile phone baseline rate in 1982-1987 (R_{1982–1987}) by a (conservative) relative risk (RR_{mob}) of 1.5, the RR found for 'ever-users' of mobile phones, estimated by Hardell et al. [15], used by Little et al. [8] using the formula for each age group: $R_E = (R_{1982-1987} \times P_{mob} \times RR_{mob}) + (R_{1982-1987} \times (1 - P_{mob}))$, and then obtaining the all-age rate by summation of the age specific groups. Using a recent paper [9] we also modelled brain cancer incidence using a RR of 2.5, among heavy users (>896 h cumulative use), and assumed that 19% of the Australian population falls in this top category, based on data from the INTERPHONE study [16], an international pooled analysis of studies on the association between mobile phone use and brain cancer (which defines heavy users slightly differently, as being those with >735 h cumulative use). Confidence intervals and statistical significance of observed and expected incidence rates were calculated using formulas in Jensen et al. [17].

3. Results

Fig. 1 shows mobile phone use in Australia from 1987 to 2014 increasing from 0% in 1987 to 94% in 2014.

A total of 19,858 males and 14,222 females aged 20–84 were diagnosed with brain cancer between 1982 and 2012. Brain cancer ranks as the 12th most common cancer in Australia, representing 1.4% of all newly diagnosed cancers [14].

Fig. 2 and Supplementary Tables S1 and S2 show the (3-year smoothed) observed and modelled expected rates per 100,000 population for brain cancer incidence for this period.

¹ Mobile phone plans are only available in Australia for people aged 18 or older, but many children have them supplied by parents.



Fig. 2. Observed and expected brain cancer incidence rate in Australia (age standardised, World) assuming a RR of 1.5 for mobile users and RR of 2.5 for heavy users compared to non-users with a 10-year lag time.

Age adjusted brain cancer incidence rates rose slightly over time in males (p < 0.05) but not in females (p > 0.05). In 2012, rates were about 50% higher in males (8.7 per 100,000, 95%CI = 8.1–9.3) than in females (5.8 per 100,000, 95%CI = 5.3–6.3), p < 0.001 (Table S2). Using modelled assumptions of a 'causal' RR of 1.5 and a lag period of 10 years, expected incidences would have been significantly greater in both males and females (11.7; CI = 11.0–12.4, and 7.7; CI = 7.2–8.3, respectively), p < 0.01. Using our modelled assumptions, in 2012, 1867 cases (M&F combined) of brain cancer were expected vs. 1434 observed. Assuming a causal RR of 2.5 in 'heavy users' the expected incidences are increased further, to 2038.

Fig. 3 shows the observed and modelled expected age specific incidences of brain cancer across four age groupings, separately for males and females. In the oldest age group, 70–84 years, we observed an increase in brain cancer incidence in keeping with modelled expected incidence rates, however, this increase began from 1982 before the introduction of mobile phones. In all the remaining age groups, modelled expected incidence rates are significantly higher in comparison to what was observed.

4. Discussion

We used all the national incident brain cancer registrations available through Australia's high quality state and territory population-based cancer registration system. Registration is mandatory and histological verification rates exceed 85%. All registries conform to the International Agency for Research on Cancer's criteria for population based cancer registration, are "A" rated and have their data published in the "Cancer Incidence in Five Continents" series [18].

Publicly available Australian individual mobile phone usage data are unavailable in Australia, so of necessity, our analysis is an ecological trends analysis. Notwithstanding limitations of using subscription data to derive individual use patterns, we assumed phone use to be equal across all ages and between males and females. In Denmark in 1982-1995, for example when the prevalence of self reported use was just 19%, the predictive value of subscription data in ascertaining regular use was 56% [19]. Early mobile phones and accounts were very expensive by today's standards. Early subscribers were dominated by middle-aged working men on company mobile phone subscriptions, in Denmark and also in Australia. As costs fell dramatically, subscriptions rapidly extended throughout the population. This means that the per capita subscription rate we used would overestimate prevalence of use in males and underestimate it in females. While this may have pertained to the early years of mobile phone use in Australia, the picture changed quickly to almost full coverage of mobile phone use (Fig. 1). We had no data on the proportion of heavy users in Australia, and so assumed 19% of heavy mobile phone usage in Australia based on the INTERPHONE data [16].

Large proportions of Australians have been exposed to mobile phone and other EMR since the early 1990s and in 2012 (the latest available year for cancer incidence data), approximate adult per capita cell phone use was over 90% (Fig. 1). In the 25 years since the rapid and widespread adoption of mobile phones in Australia, the incidence of brain cancer has not risen in any age group other than those aged 70–84 years of age. However, in this age group, the increase in the incidence of brain cancer started before 1987, the advent of mobile telephony in Australia. While we have no Australian data on this, we suspect the population aged >70 would be those with the lowest prevalence of mobile phone use. Such an increase in cancer restricted to one age group is more consistent with improvements in access to diagnostic methods in older age groups over time.

The same observation was noted in other similar studies of brain tumours and cancers from New Zealand [4], Australia [5], England [6] and the Nordic countries [7]. In Australia, Dobes et al.





Fig. 3. Observed and modelled expected estimates of brain cancer incidence in Australia, in four age groups, assuming a RR = 1.5 for mobile users and RR = 2.5 for heavy users compared to non-users with a 10-year lag time.

[5] analysed 7251 histologically confirmed cases of brain cancer from all pathology and neurosurgical centres and major teaching hospitals in NSW and ACT between 2000 and 2008 and, in keeping with our data, found an increase in incidence in those aged 65 and over and a decline in Schwannomas (acoustic neuromas, not malignant and not reported by cancer registries).

In the USA, mobile phones have been available for the longest period of time (33 years, since 1983). In the 29 years of mobile







telephony in Australia, assuming a purported RR of 1.5 and a latency of 10 years we predicted a 30% increase in brain cancer incidence. Likewise, a similar modelling study of USA brain cancer incidence which assumed brain cancer risks of those who had ever

used a mobile phone would be 1.5 fold higher than those who never used them [8], predicted a 40% increase in brain cancer incidence based on a 10-year latency period, but no such increase has yet been observed in either country. We chose conservative estimates of RR 1.5 and 2.5 to model our assumptions. Higher RRs would have yielded even higher expected numbers.

The incidence of brain cancer in Australia from 1982 to 2012 in females has been consistently some 50% lower than that in males. Data on mobile phone use by gender are sparse in Australia, but in New South Wales, the most populous state (7.6 m people out of 23.5 m) 20.9% of adult males and 19.5% females are exclusive mobile users and 71% reported dual mobile and landline use [20]. If one assumes those with dual use are also approximately evenly distributed between the sexes and these results generalizable across the rest of Australia, it is difficult to reconcile this prevalence of exposure with the observed sex differences in brain cancer patterns in Australia. These have been roughly constant (in mortality) since 1969 (the earliest records available) with females having 57% lower mortality compared to males [14]. We know of no data that show that women speak for about half as long on mobile phones as men. This is a further counterfactual to the hypothesis that mobile phone EMR causes brain cancer.

As concluded by post-IARC [1] international reviews [2,3], other similar descriptive studies [4–8], and cohort studies [10,11] we hypothesize that the observed increase in brain cancer in Australia in older age groups is due to improved diagnostic acuity. Computed tomography, magnetic resonance imaging and related techniques, introduced in Australia in the late 1970s, are able to discern brain tumours which could have otherwise remained undiagnosed [21]. It has long been recognised that brain tumours mimic several seemingly unrelated symptoms in the elderly including stroke and dementia (e.g. [22]), and so we postulate that their diagnosis had been previously overlooked.

The causes of brain cancer are unknown but given current evidence it is unlikely that the modest increases in brain cancer observed in the older age groups can be attributed to the widespread use of mobile phones. Large cohort studies are underway [23], and they may shed further light on the health effects of mobile phones. Ionising radiation causes DNA damage in brain cells and it is thought that the latency between exposure and cancer is about 5 or more years [8,24]. EMF radiation is nonionising, unlikely to be causing DNA damage directly and more likely to affect cells at a later stage of carcinogenesis. For these reasons, Little et al. argue that exposure to EMF radiation is more likely to have a shorter latency [8,24], in which case the putative effects on brain cancer incidence would have happened sooner (and the number of expected cases would have been greater). Until better laboratory information is available regarding the type of damage EMF radiation actually causes in human brain cells, assumptions around latency between EMF exposure and increased risk of brain cancer remain speculative.

Morgan et al. [9] claim that "the latency reported between known causes of brain cancer and development of the disease appears to range from 10 to 50 years". However they report results of increased risks between 1 and 10 years post-use, which if true, would imply latencies between mobile phone use and brain cancer of below 10 years. Claims that insufficient years of exposure to mobile phone radiation have yet occurred for the hypothesised increases in cancer incidence to become manifest fail to account for why there has been no observed rise in brain cancer in any age group in Australia (this study and Ref. [5], nor in England [6], New Zealand [4], and the Nordic countries [7]) across 25 years other than in the most aged group, which we have discussed. Such a hypothesis would require an induction time incidence profile where there was no rise for 30 or more years, followed by a sudden rise after that time. There are no precedents in cancer epidemiology for such a profile. Induction times always will have a distribution, and a risk would be expected to increase from the minimum (earliest) induction time.

5. Conclusion

After nearly 30 years of mobile phone use in Australia among millions of people, there is no evidence of any rise in any age group that could be plausibly attributed to mobile phones.

Conflict of interest

We have no conflicts of interest to declare and confirm that we did not receive any funding for the study reported in this paper.

Authors' contribution

SC conceived the study, FS devised the study design, QL and LA performed the analyses. All the authors contributed to the manuscript and approved the final copy.

Appendix A. Supplementary data

Supplementary data associated with this article can be found, in the online version, at http://dx.doi.org/10.1016/j. canep.2016.04.010.

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Federal Communications Commission Washington, DC 20554

Informational Notice of Section 106 Filings

Date: 05/17/2017 Reference Number: 951518

Attn: Zoning/Plannin Director City of Franklin Planning Dept. 9229 W. Loomis Road Franklin, WI 53132

The following new Section 106 filing has been submitted:

FILE NUMBER: 0007772471 TCNS Number: 147996 Purpose: New Tower Submission Packet Notification Date: 7AM EST 05/12/2017 Applicant: United States Cellular Corporation Consultant: Edge Consulting Engineers, Inc. Positive Train Control Filing Subject to Expedited Treatment Under Program Comment: No Site Name: 37th & Rawson (784726) Site Address: 3800 W. RAWSON AVENUE (15359) Detailed Description of Project: Construction of 120' (130' max) monopole tower in a grassed area on the property. Equipment to be installed within fenced compound near tower base. Access provided by proposed & existing drives leading to W. Rawson Ave to south. (15359) Site Coordinates: 42-55-02.3 N. 087-57-52.7 W City: FRANKLIN County: MILWAUKEE State: WI Lead SHPO/THPO: Wisconsin Historical Society

Consultant Contact Information: Name: Jake Rieb Title: Archaeologist/Compliance Specialist PO Box: Address: 624 Water Street City: Prairie du Sac State: WI Zip: 53578 Phone: (608) 644-1449 Fax: (608) 644-1549 Email: jrieb@edgeconsult.com

Franklin

MAY 33 2017

City Development

NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE

Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.



February 22, 2017

City of Franklin Planning Dept. Attn: Zoning/Planning Director 9229 W. Loomis Road Franklin, WI 53132

Phone: 414.425.4024

624 Water Street Prairie du Sac, WI 53578

608.644.1449 phone 608.644.1549 fax

Franklin

FEB 28 2017

City Development

SUBJECT: PUBLIC NOTICE POTENTIAL EFFECTS ON HISTORIC PROPERTIES U.S. CELLULAR / 37TH & RAWSON (784726)

To Whom It May Concern:

U.S. Cellular is proposing to construct a 120-foot (126 feet with appurtenances) monopole telecommunications tower located at 3800 W. Rawson Avenue in the City of Franklin, Milwaukee County, Wisconsin (approx. 42 - 55 – 02.39N, 87 - 57 – 52.70W). Maps and photos of the proposed location are attached for your reference. This notification is being completed in accordance with FCC04-222 public participation requirements, and is not associated with the local zoning and/or permitting process.

The paper of record has been identified as the Milwaukee Journal Sentinel and the FranklinNOW. Public notice shall be posted in this paper in the February 23, 2017 and March 2, 2017 editions, respectively. If additional avenues are required to satisfy the public notification provisions of the local zoning please contact our office so we can make the appropriate arrangements.

This notice is to serve as an opportunity for members of the public to comment on the proposed telecommunications project with regards to potential effects on historic properties that may be located within one-half of a mile of the proposed site. Comments regarding historic properties may be submitted to the following contact as follows: Jake Rieb, Edge Consulting Engineers, Inc., 624 Water Street, Prairie du Sac, WI 53578, Phone: 608-644-1449, Email: jrieb@edgeconsult.com. This notice is provided in accordance with the regulations of the Federal Communications Commission, 47 C.F.R. Part 1, Appendices B and C.

Sincerely,

Edge Consulting Engineers, Inc.

Jake Rieb Archaeologist & Compliance Specialist











Photo 1 - VIEW NORTH TOWARD PROPOSED LEASE SITE



Photo 2 - VIEW SOUTH FROM PROPOSED LEASE SITE

	Site	FIGURE #5 Photographs	
	Project Number:	#15359	
Consulting Engineers, Inc.	Project Info:	U.S. Cellular / 37th & Rawson (784726)	
	Project Location:	3800 W. Rawson Avenue Franklin, WI 53132	
	Photograph Date:	November 7th, 2016	



	Site	Photographs	
	Project Number:	#15359	
Consulting Engineers, Inc.	Project Info:	U.S. Cellular / 37th & Rawson (784726)	
	Project Location:	3800 W. Rawson Avenue Franklin, WI 53132	
	Photograph Date:	November 7th, 2016	

To: Nick Fuchs, Department of City Development Staff, City of Franklin, in response to staff comments dated May 10th, 2017

Response to Staff Comments:

- 1. This site was chosen due to lack of capacity in surrounding sites and lack of colocation opportunities in the area due to high demand of 4-5G-data traffic. From 2013 to 2015, the increase in data has risen from 3.3T gb. To 9.4T gb. It is anticipated that this growth will continue. RF engineering statement enclosed.
- 2. RF Engineering statement enclosed.
- 3. US Cellular does not order new towers from the manufacturer until zoning for the site is approved, thus to answer #3,and #6, we would like to provide these requests prior to the issue of a building permit. As stated, as soon as zoning is approved, USCC orders the tower from Sabre Tower Mfg., who provides all structural, foundation, etc. specifications that is required by City Engineering.
- 4. Battery back-up power is standard equipment.
- 5. USCC will provide collocation to any licensed carrier as per their master lease agreements. This tower will be ordered to accommodate two additional carriers.
- 6. Structural analysis will be furnished by the tower manufacturer prior to applying for the final building permit.
- 7. The Church property owners, desired the site to be on the west side of area due to the natural tree barrier so that the site would not be as noticeable as it would be in the center of the lot. Also, the adjacent neighbors to the west are church members, and they were not opposed to the location. If the City insists, we will relocate the tower
- 8. Barbed wire fencing will be removed.
- 9. USCC will provide vinyl coated chain link fence with vinyl slats. (color to be determined by Staff)
- 10. Other than what is shown in the plans, there is no additional landscaping of the site at this time. Typically, we will surround the area with 6'-8' arbor vida, or similar greenery.
- 11. USCC will pave any access road if required.
- 12. Ground equipment does not exceed the height of the fence.
- 13. AS noted above, USCC will provide all the required structural information when the tower is ordered. As in the past, we will comply with the City of Franklin ordinance's.
- 14. This will be supplied by the tower manufacturer prior to obtaining the building permit.
- 15. Our engineering staff will work with the City Engineering dept. to obtain and provide required erosion control plan.

Franklin

JUN 1 2 2017

City Development

SWORN STATEMENT OF ANDRE TERMANOWSKI IN SUPPORT OF NEW TOWER CONSTRUCTION PURSUANT TO WIS, STAT §66.0404

- 1. My name is Andre Termanowski.
- 2. I am a radio frequency engineer employed by United States Cellular Operating Company LLC.
- 3. My job duties include responsibility over the placement of the mobile service support structure being proposed at: 3800 West Rawson Ave, Franklin, Wisconsin.
- 4. This sworn statement is made pursuant to Wis. Stat. §66.0404(2)(b)6.
- 5. US Cellular needs additional network capacity near the intersection of 37th Street and Rawson Avenue in order to prevent customer affecting issues caused by lack of network capacity. The other US Cellular antenna sites surrounding this area are at, or nearing, their system capacity limits and an additional antenna site is required to offload capacity from those sites to keep the US Cellular network operating at acceptable efficiencies and within customer expectations. There are no existing structures in the area that could be utilized for co-location or could provide the

- necessary coverage,

Andre Termanoski, VS Cellular RF Engineer

mran Malik Witness: Signed Date:

Franklin

JUN 1 2 2017

City Development







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🎜 CITY OF FRANKLIN 🏼 🎜

REPORT TO THE PLAN COMMISSION

Meeting of June 22, 2017

Special Use

RECOMMENDATION: City Development Staff recommends approval of the proposed Special Use Application, subject to the conditions in the draft resolution.

Project Name:	Mills Hotel Wyoming LLC Special Use
Project Address:	11906 & 11908 West Loomis Road
Applicant:	Daniel Szczap, Bear Development LLC
Owners (property):	Mills Hotel Wyoming, LLC
Current Zoning:	R-8 Multiple-Family Residence District and C-1 Conservancy District
2025 Future Land Use:	Commercial, Areas of Natural Resource Features and Water
Use of Surrounding Properties:	Single-family residential to the north and east, single- family residential (zoned R-8) to the south and vacant land (zoned R-8) to the west
Applicant Action Requested:	Recommendation of approval to the Common Council of the proposed Special Use

INTRODUCTION

Please note:

• Staff recommendations are *<u>underlined</u>, in <i>italics* and are included in the draft ordinance.

On May 17, 2017, the applicant filed a Special Use Application requesting approval for a single-family residential development upon property zoned R-8 Multiple-Family Residence District. Per Table 15-3.0602 of the Unified Development Ordinance (UDO), one-family detached dwellings are allowed in the R-8 District as a Special Use.

If the special use request is approved, the applicant is anticipating submittal of an up to 3 Lot Certified Survey Map (CSM) to develop Lot 3 of CSM No. 8907, which was recently approved via Resolution No. 2017-7248.

The applicant is requesting approval of the Special Use Application and recently submitted a Rezoning Application and Comprehensive Master Plan Amendment Application as recommended by staff. Staff is recommending that the Special Use approval be contingent upon the approval of these applications:

• <u>Approval of a Rezoning Application shall be obtained, prior to the issuance of any</u> <u>Building Permits for the property, to rezone the C-1 District portion of the</u> <u>property to R-8 Multiple-Family Residence District.</u> • <u>Approval of a Comprehensive Master Plan Amendment Application shall be</u> obtained, prior to the issuance of any Building Permits for the property, to amend the future land use from Areas of Natural Resource Features and Water to Residential, Areas of Natural Resource Features and Water.

Note that the rezoning is required as noted on the recent CSM approval (see below). Staff also recommends, with agreement from the applicant, to eliminate the C-1 District from Lots 1 and 2.

"The C-1 Conservation District zoning over (either of Lot 3 to be rezoning to an appropriate zoning district with all protected natural resources being protected by Conservation Easement upon the development of Lot 3."

PROJECT DESCRIPTION/ANALYSIS

The subject property is approximately 4.55 acres and is currently vacant. The southern portion of the property is protected by an existing Conservation Easement and the remainder of the parcel is wooded.

The proposed lots vary in size. The lot furthest west is 2.17 acres, the middle lot is 1.43 acres and the easternmost lot is 0.94 acres. Note that these lot sizes may change as the applicant moves forward with the CSM Application.

Each lot will contain about 8,000 square feet of buildable area. This area will consist of the driveway, dwelling, patio/deck, any accessory buildings and yard area. Staff reviewed eight adjacent properties on the north side of W. Ryan Road and found that impervious surface areas for those lots ranged from roughly 3,260 square feet to 8,600 square feet. The average area of impervious surface for these lots is about 5,110 square feet. Note that this is considering impervious surface only, not yard areas.

Ingress/egress to future lots will be from W. Ryan Road. This portion of W. Ryan Road is a local City of Franklin street, thus Engineering Department approval is required for driveway locations and any work conducted within the right-of-way.

Sewer and Water

Lot 3, as noted on CSM No. 8907, is served by public sanitary sewer; public water is not currently available in this area. The CSM also notes, "The property owners of Lots 1, 2, and 3 will be assessed and required to connect to public sewer and water facilities once they become available." Therefore, *staff recommends that development of Lot 3 of CSM No. 8907 be allowed, subject to any future properties being assessed for and connecting to public water facilities once <i>it becomes available*. If approved, staff intends that this condition satisfy Common Council approval of development of up to three single-family homes without public water.

Natural Resource Protection Plan

The applicant provided a Wetland Delineation Report, dated March 19, 2015, from R.A. Smith National, Inc. with the submittal of CSM 8907. All three lots of that CSM consist of a portion of the pond, wetland, wetland buffer and setback and the 75-foot shore buffer.

The NRPP did not contain a detailed woodland analysis for the subject property, Lot 3. As such, staff is recommending that the <u>applicant shall provide additional details related to the woodland</u> <u>designation and trees located onsite, including a tree inventory conducted within 25 feet of the</u> <u>areas being disturbed (per Section 15-4.0102B.1. of the Unified Development Ordinance), prior</u> to the issuance of a Building Permit. Staff also recommends that significant trees onsite be <u>identified and avoided wherever possible at the discretion of the Planning Manager</u>.

Below are the options for identifying woodlands per Part 4 of the UDO. Per this condition, staff is requesting that Option 1 be utilized for areas within 25 feet of land disturbing activities. Option 2 may be utilized for the remainder of the site.

Woodlands and Forests. Woodlands and forests (mature and young) are defined in Division 15-11.0100 of this Ordinance. Woodlands and forests shall be measured and graphically indicated on the "Natural Resource Protection Plan." Such woodland and forest area drawing shall indicate all woodland and forest areas of the property. The determination of woodland and forest boundaries shall be based on the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Zoning Administrator, the succeeding source shall be used:

- 1. A field survey of trees compiled by a registered land surveyor and identified by a landscape architect, forester, arborist, or botanist with a professional degree in one of those fields of endeavor. The location, size, and species of all healthy trees having a diameter of eight (8) inches or greater Diameter at Breast Height (DBH) that are located in woodland and forest areas within twenty-five (25) feet of any proposed improvement and/or in woodland and forest areas to be demolished due to the placement of improvements or grading are to be graphically shown on the "Natural Resource Protection Plan" or submitted as a separate drawing. For the remaining undisturbed areas of the development, Certified Survey Map, Subdivision Plat, or Condominium only the outline of woodland and forest areas indicating whether they are mature or young woodlands is required.
- 2. 1" = 400' aerial photographs prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and available from SEWRPC (most recent date only).

Please note that trees do not appear to extend to the west property line. This will be further reviewed as part of the required woodland analysis. The woodland boundary depicted may not include areas outside of the tree line or areas of the site that are not wooded. As this may affect the site intensity and capacity calculations related to the size of the woods and amount of disturbance allowed, <u>staff recommends that the applicant shall submit revised Site Intensity and Capacity Calculations, for staff review and approval, following completion of the woodland analysis.</u>

Staff also recommends that:

- <u>A Conservation Easement shall be submitted to the Common Council for review and</u> <u>approval and recording with Milwaukee County, prior to the issuance of a Building</u> <u>Permit, to protect a minimum of 70% of the mature woodland onsite (and 50% of any</u> <u>young woodland onsite, if identified upon further review).</u>
- <u>The applicant shall utilize signage, boulders or other demarcation method as may be</u> <u>approved by the Planning Manager to mark the location of the conservation easement</u> <u>boundary on the property or any future individual lots that may be created.</u>

STAFF RECOMMENDATION

City Development Staff recommends approval of the proposed Special Use Application, subject to the conditions in the draft resolution.

RESOLUTION NO. 2017-____

A RESOLUTION IMPOSING CONDITIONS AND RESTRICTIONS FOR THE APPROVAL OF A SPECIAL USE FOR A SINGLE-FAMILY RESIDENTIAL DEVELOPMENT USE UPON PROPERTY LOCATED AT 11906-11908 WEST LOOMIS ROAD (MILLS HOTEL WYOMING, LLC, APPLICANT)

WHEREAS, Mills Hotel Wyoming, LLC having petitioned the City of Franklin for the approval of a Special Use in an R-8 Multiple-Family Residence District and C-1 Conservancy District, to allow for a single-family residential development (up to three single-family homes) use, upon property located at 11906-11908 West Loomis Road (on the south side of West Ryan Road approximately 1100 feet west of the intersection of Loomis Road and West Ryan Road), bearing part of Tax Key No. 891-9989-001, more particularly described as follows:

Lot 3 of Certified Survey Map No. 8907, being part of the Northeast 1/4 of the Northwest 1/4 of Section 30, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin. Containing 4.5489 acres; and

WHEREAS, such petition having been duly referred to the Plan Commission of the City of Franklin for a public hearing, pursuant to the requirements of §15-9.0103D. of the Unified Development Ordinance, and a public hearing having been held before the Plan Commission on the 22nd day of June, 2017, and the Plan Commission thereafter having determined to recommend that the proposed Special Use be approved, subject to certain conditions, and the Plan Commission further finding that the proposed Special Use upon such conditions, pursuant to §15-3.0701 of the Unified Development Ordinance, will be in harmony with the purposes of the Unified Development Ordinance and the Comprehensive Master Plan; that it will not have an undue adverse impact upon adjoining property; that it will not interfere with the development of neighboring property; that it will be served adequately by essential public facilities and services; that it will not cause undue traffic congestion; and that it will not result in damage to property of significant importance to nature, history or the like; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the petition of Mills Hotel Wyoming, LLC, for the approval of a Special Use for the property particularly described in the preamble to this Resolution, be and the same is hereby approved, subject to the following conditions and

MILLS HOTEL WYOMING, LLC – SPECIAL USE RESOLUTION NO. 2017-____ Page 2

restrictions:

- 1. That this Special Use is approved only for the use of the subject property by Mills Hotel Wyoming, LLC, successors and assigns, as a single-family residential development use, which shall be developed in substantial compliance with, and operated and maintained by Mills Hotel Wyoming, LLC, pursuant to those plans City file-stamped June 13, 2017 and annexed hereto and incorporated herein as Exhibit A.
- 2. Mills Hotel Wyoming, LLC, successors and assigns, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the Mills Hotel Wyoming, LLC single-family residential development, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to \$15-9.0502 thereof and \$1-19. of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.
- 3. The approval granted hereunder is conditional upon Mills Hotel Wyoming, LLC, and the single-family residential development use, for the property located at 11906-11908 West Loomis Road: (i) being in compliance with all applicable governmental laws, statutes, rules, codes, orders and ordinances; and (ii) obtaining all other governmental approvals, permits, licenses and the like, required for and applicable to the project to be developed and as presented for this approval.
- 4. Approval of a Rezoning Application shall be obtained, prior to the issuance of any Building Permits for the property, to rezone the C-1 District portion of the property to R-8 Multiple-Family Residence District.
- 5. Approval of a Comprehensive Master Plan Amendment Application shall be obtained, prior to the issuance of any Building Permits for the property, to amend the future land use from Areas of Natural Resource Features and Water to Residential, Areas of Natural Resource Features and Water.
- 6. Development of Lot 3 of CSM No. 8907 shall be allowed, subject to any future properties being assessed for and connecting to public water facilities once it becomes available.
- 7. Additional details related to the woodland designation and trees located onsite shall be provided, including a tree inventory conducted within 25 feet of the areas being disturbed (per Section 15-4.0102B.1. of the Unified Development Ordinance), prior to the issuance of a Building Permit.
- 8. Significant trees onsite shall be identified and avoided wherever possible at the discretion of the Planning Manager.

- 9. Revised Site Intensity and Capacity Calculations shall be submitted, for staff review and approval, following completion of the woodland analysis.
- 10. A Conservation Easement shall be submitted to the Common Council for review and approval and recording with Milwaukee County, prior to the issuance of a Building Permit, to protect a minimum of 70% of the mature woodland onsite (and 50% of any young woodland onsite, if identified upon further review).
- 11. Signage, boulders or other demarcation method as may be approved by the Planning Manager shall be utilized to mark the location of the conservation easement boundary on the property or any future individual lots that may be created.

12. [other conditions, etc.]

BE IT FURTHER RESOLVED, that in the event Mills Hotel Wyoming, LLC, successors or assigns, or any owner of the subject property, does not comply with one or any of the conditions and restrictions of this Special Use Resolution, following a ten (10) day notice to cure, and failure to comply within such time period, the Common Council, upon notice and hearing, may revoke the Special Use permission granted under this Resolution.

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

BE IT FURTHER RESOLVED, that this Resolution shall be construed to be such Special Use Permit as is contemplated by §15-9.0103 of the Unified Development Ordinance.

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

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

MILLS HOTEL WYOMING, LLC – SPECIAL USE RESOLUTION NO. 2017-____ Page 4

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of ______, 2017.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this ______ day of ______, 2017.

APPROVED:

ATTEST:

Stephen R. Olson, Mayor

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____



11906-11908 W. Loomis Road TKN: 891 9989 001



Planning Department (414) 425-4024





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





May 16, 2017

Mr. Nick Fuchs Principal Planner City of Franklin 9229 W. Loomis Road Franklin, WI 53132 Franklin

MAY 1 7 2017

City Development

Dear Mr. Fuchs:

Bear Development is pleased to submit this letter and the enclosed submittal materials as formal Special Use application for review and approval. Bear Development is acting on behalf of the owner of record, Mills Hotel Wyoming, LLC.

Project Summary

Mills Wyoming Hotel, LLC is the owner of record of approximately 164 acres of land in the City of Franklin. The vast majority of the property is south of Ryan Road and west of Loomis Road and is not subject to this petition.

The property in question, consists of 4.55 acres and is located on the south side of West Ryan Road approximately 1100 feet west of the intersection of and Loomis Road and West Ryan Road. The property in question is Lot 3 of CSM 8907 and was recently recorded with the Milwaukee Register of Deeds. The property, is part of Tax Key Number: 891-9989-001.

We respectfully request approval of a Special Use to allow the property to be used for Single Family residential land use in the R8 Residential District. Upon favorable hearing, Bear Development will submit a Certified Survey Map to create up to three (3) individual home sites. The intended use is compatible with existing land use to the north, south and east.

The proposed lots are proposed to each over 1.50 acres each and meet the minimum bulk requirements of the underlying R-8 Multi-Family Residential District. We are not requesting amendment to the Comprehensive Plan or zoning reclassification.

In accordance with City of Franklin requirements, we have completed a Natural Resource Protection Plan for the property in question. A copy has been included in this submittal. In specific regard with Lots 1 and 2, we found limited natural resource features, as the site is currently improved as single family home sites. Lot 3 is encumbered with an existing Conservation Easement and is wooded. We have prepared Site Intensity Calculations with the assumption that the wooded area consists of Mature Tree Cover.

We feel the request will allow a sensible and valuable single family land use that is consistent and compatible with the properties in the general area.

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

Thank you for your time and consideration.

Sincerely,

un Alsprand

Daniel Szczap Bear Development, LLC

Cc: S. R. Mills Steve Mills

Response to General Standards For Special Uses

Section 15-3.0701

1. Ordinance and Comprehensive Plan Purposes and Intent

The Owner and Applicant propose a Special Use Permit to allow for the establishment of Single Family land use on 4.55 acres. We submit that the intended use will be in harmony with the surrounding land uses, which are currently single family homes.

2. No Undue Adverse Impact

The intended residential use will not cause any adverse or detrimental effect upon or endanger adjacent property. The owner/Applicant owns the adjacent property to the south and west. The establishment of Single Family land use, in fact, represents a less intense use than which is allowed under the existing zoning.

The use of the property for single-family home sites will increase the taxable value of the land and provide highly desired and needed home sites in the City of Franklin.

3. No Interference with Surrounding Development

The proposed home sites are compatible with the existing and planned land use in the general area. The home sites will be comparable with the home sites directly across W. Ryan Road and the home site directly east of the property in question. The use will not interfere with existing or planned land use in the general area.

4. Adequate Public Facilities

The proposed home sites abut an existing public street (W. Ryan Road), which is improved with public sanitary sewer. The property in question is improved with two (2) separate existing sanitary sewer laterals which were planned to serve the property. Public water is not currently available to the site, but the Owners will agree to make the public water connection when it becomes available.

5. No Traffic Congestion

The establishment of single family home sites will cause no undue traffic congestion to the heavily traveled W. Ryan Road. Each home site will have over 150' of road frontage, so adequate driveway spacing can be planned.

Franklin

MAY 1 7 2017

City Development

6. No Destruction of Significant Features

The Owner has completed the required Natural Resource Protection Plan for the property and has calculated the Site Intensity Calculations per Ordinance. We submit that the intended use can be established within the threshold prescribed by the Ordinance.

7. Compliance with Standards

The intended use will conform to the applicable regulations of the underlying zoning district. We are seeking the Special Use Permit to establish a less intense land use within the existing zoning district.

SECTION 15-3.0502 CALCULATION OF BASE SITE AREA

The *base site area* shall be calculated as indicated in Table 15-3.0502 for each parcel of land to be used or built upon in the City of Franklin as referenced in Section 15-3.0501 of this Ordinance.

Table 15-3.0502

WORKSHEET FOR THE CALCULATION OF BASE SITE AREA FOR BOTH RESIDENTIAL AND NONRESIDENTIAL DEVELOPMENT

STEP 1:	Indicate the total gross site area (in acres) as determined by an actual on-site boundary survey of the property.	4.55	acres
STEP 2:	Subtract (-) land which constitutes any existing dedicated public street rights-of- way, land located within the ultimate road rights-of-way of existing roads, the rights- of-way of major utilities, and any dedicated public park and/or school site area.	_ 0	acres
STEP 3:	Subtract (-) land which, as a part of a previously approved development or land division, was reserved for open space.	- 0	acres
STEP 4:	In the case of "Site Intensity and Capacity Calculations" for a proposed residential use, subtract (-) the land proposed for nonresidential uses; or In the case of "Site Intensity and Capacity Calculations" for a proposed nonresidential use, subtract (-) the land proposed for residential uses.	_ 0	acres
STEP 5:	Equals "Base Site Area"	= 4.55	acres

SECTION 15-3.0503 CALCULATION OF THE AREA OF NATURAL RESOURCES TO BE PROTECTED

All land area with those natural resource features as described in Division 15-4.0100 of this Ordinance and as listed in Table 15-3.0503 and lying within the *base site area* (as defined in Section 15-3.0502), shall be measured relative to each natural resource feature present. The actual land area encompassed by each type of resource is then entered into the column of Table 15-3.0503 titled "Acres of Land in Resource Feature." The acreage of each natural resource feature shall be multiplied by its respective *natural resource protection standard* (to be selected from Table 15-4.0100 of this Ordinance for applicable agricultural, residential, or nonresidential zoning district) to determine the amount of resource protection land or area required to be kept in open space in order to protect the resource or feature. The sum total of all resource protection land on the site equals the *total resource protection land*. The *total resource protection land* shall be calculated as indicated in Table 15-3.0503.

Franklin

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City Development

City of Franklin Unified Development Ordinance Part 3: Zoning Districts: District Establishment, Dimensional, and Use Regulations

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Table 15-3.0503

Natural Resource Feature	Protection Standard Based Upon Zoning District Type (circle applicable standard from Table 15-4.0100 for the type of zoning district in which the parcel is located)			Acres of Land in Resource Feature	
	Agricultural District	Residential District	Non- Residential District.		
Steep Slopes: 10-19%	0.00	0.60	0,40	x 0	0
20-30%	0.65	0.75	0.70	= x_0	_0
+ 30%	0.90	0.85	0.80	0	0
Woodlands & Forests:		1.00		2.44 TOTAL X 1.70 Not in C.E.	1.19
Mature	0.70	0.70	0.70	= x 0	0
Young	0.50	0.50	0.50		
Lakes & Ponds	1	1	I	x <u>1.72</u>	1.72 N/A Wetland Exceeds
Streams	Ť	1	1	x_0	0
Shore Buffer	1	1	1	x <u>0.80</u>	0.80 Excludes Wetland Area
Floodplains	1	1	1	x_0	0
Wetland Buffers	1	1	1	x _0.44	0.44 N/A Shore Buffer Exceeds
Wetlands & Shoreland Wetlands	1	1	1	x <u>1.86</u>	1.86
TOTAL RESOURCE PROTECT (Total of Acres of Land in Resource)	TION LAND arce Feature to be	Protected)			3.85

WORKSHEET FOR THE CALCULATION OF RESOURCE PROTECTION LAND

Note: In conducting the calculations in Table 15-3.0503, if two or more natural resource features are present on the same area of land, only the most restrictive resource protection standard shall be used. For example, if floodplain and young woodlands occupy the same space on a parcel of land, the resource protection standard would be 1.0 which represents the higher of the two standards.

SECTION 15-3.0504

CALCULATION OF SITE INTENSITY AND CAPACITY FOR RESIDENTIAL USES

In order to determine the maximum number of dwelling units which may be permitted on a parcel of land zoned in a residential zoning district, the site intensity and capacity calculations set forth in Table 15-3.0504 shall be performed.

Table 15-3.0504

WORKSHEET FOR THE CALCULATION OF SITE INTENSITY AND CAPACITY FOR RESIDENTIAL DEVELOPMENT

STEP 1:	CALCULATE MINIMAL REQUIRED ON-SITE OPEN SPACE Take Base Site Area (from Step 5 in Table 15-3.0502): Multiplé by Minimum Open Space Ratio (OSR) (see specific residential zoning district OSR standard): X O Equals MINIMUM REQUIRED ON-SITE OPEN SPACE =	0 acres
STEP 2:	CALCULATE NET BUILDABLE SITE AREA: Take Base Site Area (from Step 5 in Table 15-3.0502); 4.55 Subtract Total Resource Protection Land from Table 15-3.0503) or Minimum Required On-Site Open Space (from Step 1 above), whichever is greater: 2.85 Equals NET BUILDABLE SITE AREA	0.70 acres
STEP 3:	CALCULATE MAXIMUM NET DENSITY YIELD OF SITE: Take Net Buildable Site Area (from Step 2 above): 0.70 Multiply by Maximum Net Density (ND) (see specific residential zoning district ND standard): X 5 Equals MAXIMUM NET DENSITY YIELD OF SITE =	3.70 _{D.U.s}
STEP 4:	CALCULATE MAXIMUM GROSS DENSITY YIELD OF SITE: Take Base Site Area (from Step 5 of Table 15-3.0502): 4.55 Multiple by Maximum Gross Density (GD) (see specific residential zoning district GD standard): X 5 Equals MAXIMUM GROSS DENSITY YIELD OF SITE =	22.75 D.U.s
STEP 5:	DETERMINE MAXIMUM PERMITTED D.U.s OF SITE: Take the <i>lowest</i> of Maximum Net Density Yield of Site (from Step 3 above) or Maximum Gross Density Yield of Site (from Step 4 above):	3.70 D.U.s



6/12/16 809.00

🎜 CITY OF FRANKLIN 🌀

REPORT TO THE PLAN COMMISSION

Meeting of June 22, 2017

Site Plan and Natural Resource Special Exception

RECOMMENDATION: City Development staff recommends approval of the proposed Site Plan for the new Forest Park Middle School upon property located at 8225 W. Forest Hill Avenue subject to the conditions set forth in the draft Resolution.

City Development staff does not recommend approval of the Natural Resource Special Exception at this time, but rather, that action on this matter be postponed until the application can be revised by the applicant and reviewed by staff.

Project Name:	Forest Park Middle School SP and NRSE
Project Address:	8225 W. Forest Hill Avenue
Applicants:	Heidi Kramer, Plunkett Raysich Architects Joseph Doyle, Vierbicher
Property Owner:	Franklin School District
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; single-family residential and natural resource features to the south; multi- family residential to the east; and single-family residential, business, and natural resource features to the west
Applicant Action Requested:	Recommendation of approval for the proposed Site Plan and Natural Resource Special Exception for the new Forest Park Middle School at 8225 W. Forest Hill Avenue.

Please note:

- Staff recommendations are *<u>underlined</u>, in <i>italics* and are included in the draft resolution.
- Staff suggestions are only <u>underlined</u> and are not included in the draft resolution.

INTRODUCTION

On March 29, 2017, Ms. Kramer submitted a Site Plan application on behalf of the Franklin School District for construction of a new Forest Park Middle School, and demolition of the existing middle school, at 8225 W. Forest Hill Avenue.

On May 19, 2017, Mr. Doyle submitted a Natural Resource Special Exception (NRSE) application on behalf of the School District to remove certain wetlands, wetland buffers, and wetland setbacks in order to construct the middle school as proposed. The applicant also indicates that new wetlands, wetland buffers, and wetland setbacks will be established as mitigation for the envisioned natural resource impacts.

The applicants are proposing to construct a two-story, approximately 207,600 square foot middle school designed for grades 6 through 8, with a capacity for 1,350 students. The applicants propose a phased construction schedule with construction of the new school beginning in June of 2017 and completion in January of 2019, while demolition and removal of the existing school will occur early in 2019. It is anticipated that students will move into the new school in January 2019.

It can be noted that the existing one-story Forest Park Middle School was constructed in 1970, with a major building addition in 1989, is approximately 113,000 square feet in size, houses grades 7 and 8, and currently has approximately 700 students, 100 staff, and 160 parking spaces.

PROJECT DESCRIPTION AND ANALYSIS

As indicated in the attached Site Plan materials, the applicants are proposing to construct the new middle school northeast of the existing middle school, primarily within the southern portion of the existing soccer fields. This project would also include:

- new parking lots northwest, southwest and southeast of the new building;
- a fire lane around the east and north sides of the new building;
- three half-court basketball courts northwest of the new building, one new soccer field south of the proposed event/staff parking lot, and one open play area southwest of the event/staff parking lot;
- extension of the existing sidewalk on the south side of Forest Hill Avenue, eastward across the remainder of the subject property;
- a possible future addition to the gymnasium, to be located on the southeast side of the new building;
- expansion of the existing entrance drive eastward, into a four-lane divided boulevard;
- a stormwater management system comprised of a number of small detention basins and bioretention basins; and
- demolition and removal of the existing middle school, associated parking lots, and existing soccer fields.

SITE PLAN

Forest Hill Avenue is classified by the City as a collector street, which requires an 80' wide right-of-way (r.o.w.). However, the portion along the School District property is one of the few remaining areas that does not provide the full 40' of r.o.w. as measured from the centerline of the road. Therefore, *staff recommends that the Franklin School District shall provide to the City of Franklin by means of a Quit Claim Deed seven feet of additional r.o.w. along Forest Hill Avenue, for review by the Engineering Department and approval by the Common Council, prior to issuance of an Occupancy Permit.*

A sidewalk is proposed on the south side of Forest Hill Avenue (eastward from the entrance drive into the school property). Consistent with standards contained within the Unified Development Ordinance (UDO) and City policy, *staff recommends that the applicants shall construct the proposed sidewalk along south side of W. Forest Hill Avenue pursuant to the City's*

<u>Design Standards and Construction Specifications, for Engineering Department review and</u> <u>approval prior to issuance of an Occupancy Permit.</u> Staff suggests that a sidewalk be extended to the Education and Community Center building. Should any new construction occur at the site of the Education and Community Center building, staff would likely recommend a sidewalk at that time.

To address the anticipated increase in traffic to/from the new larger school, the applicants have proposed the addition of acceleration/deceleration lanes on Forest Hill Avenue adjacent to the entrance drive into the school property. <u>Staff recommends that the applicants shall construct the acceleration/deceleration lanes along W. Forest Hill Avenue pursuant to the City's Design Standards and Construction Specifications, for Engineering Department review and approval prior to issuance of an Occupancy Permit. In addition, traffic control must be part of the site plan review. Therefore, <u>staff recommends that the applicants shall revise the Site Plan to identify the modifications of the subject intersection of the entrance driveway and Forest Hill Avenue in detail, including the placement of the stop sign and paint striping including the cross walk, with the cost of the signage and paint striping to be at the owner's expense, for Engineering Department review and approval prior to issuance of an Occupancy Permit.</u></u>

The subject property contains numerous utilities, including but not limited to existing underground electric lines, transformers, existing and proposed sewer and water service lines, existing and proposed storm sewers, and proposed stormwater management facilities. However, it appears that such utilities and associated easements may not have all been identified on the Utility Plan. Therefore, *staff recommends that the applicants shall revise the Utility Plan to identify all existing and proposed utilities and associated easements, for Engineering Department review and approval, prior to issuance of a Building Permit. Staff further recommends that the applicants shall prepare all necessary sewer, water, storm sewer, and stormwater management easements for Engineering Department review and Common Council approval prior to issuance of an Occupancy Permit.*

The two main entrances into the school building are located immediately adjacent to the school bus pick-up and drop-off area. To safely separate the pedestrians from traffic, <u>staff recommends</u> <u>that the applicants shall include decorative bollards or some other similar feature between the</u> <u>Main Entry/Event Entry area and the school bus pick-up and drop-off area, and revise the Site</u> <u>Plan accordingly, for staff review and approval prior to issuance of an Occupancy Permit.</u>

It appears that garbage dumpsters and a trash enclosure will be located on the southeast side of the building adjacent to the staff parking lot. Therefore, <u>staff recommends that the applicants</u> <u>shall provide details of all trash enclosures, to be constructed of materials compatible with the exterior materials of the building, for Department of City Development review and approval prior to issuance of a Building Permit.</u>

<u>Staff suggests that the applicants consider reconstruction of the Forest Hill Avenue/Forest</u> <u>Meadows Drive/school entrance drive into a single-lane roundabout.</u> Staff would note that discussions with public officials and nearby residents about this suggestion have not occurred and would be necessary prior to any decision on this matter. As changes to or improvements upon public infrastructure is proposed as part of this project (i.e. addition of the acceleration/deceleration lanes and sidewalk along Forest Hill Avenue, etc.), <u>staff</u> recommends that the Franklin School District shall prepare a Development Agreement for Engineering Department review and Common Council approval prior to issuance of a Building <u>Permit.</u>

LANDSCAPING

The Unified Development Ordinance (UDO) requires the establishment of a landscaped bufferyard to separate different zoning districts from one another, to minimize nuisances between certain adjacent zoning districts, and when off-street parking is adjacent to any residential zoning district. Therefore, a bufferyard is required along all four sides of the subject property.

Review of the Site, Natural Resource Protection, and Landscape Plans indicate that preservation of existing vegetation will generally provide an adequate bufferyard along the southern and western boundaries of the property, and that the proposed landscaping will provide an adequate buffer along most of the northern and eastern boundaries of the property. It can also be noted that the applicant has identified on the Landscape Plan a 30' Landscape Bufferyard along the eastern boundary of the property. Staff would suggest that additional landscaping be provided in the southwest corner of the subject property to screen the proposed soccer field/open play area from the adjacent residential development.

PARKING

The Site and Landscape Plans indicate that 398 parking stalls will be provided, which is 52 parking stalls, or about 11.6 percent less, than the standard set forth in the UDO. Staff has no objection to this amount, as additional parking is available at the adjacent school administration building. It can be noted that Section 15-5.0203 of the UDO allows the Plan Commission to approve parking reductions of up to 25 percent.

It should be noted that the UDO sets specific standards for the size of parking stalls for schools of 162 square feet (which are slightly smaller than typical parking stall sizes), and a standard driveway width of 24' (which the applicant's plans meet). However, the UDO also sets forth combined parking stall and adjacent drive aisle sizes, which is about 5 feet wider than provided by the applicant. As the parking stall sizes for schools was part of a recently approved Unified Development Ordinance Text Amendment reflecting the different parking situations often associated with schools, staff is not recommending any change in this regard. Rather, staff suggests that the applicants revise the subject plans to provide 65' of width for double rows of parking in conjunction with adjacent drive aisles.

It appears that the proposed parking is generally in conformance with all other standards contained within the City's Unified Development Ordinance (UDO).

To maintain proper emergency access at the school, <u>staff recommends that parking shall not be</u> <u>allowed on the Fire Lane at any time.</u> To provide additional emergency ingress/egress access to the school, <u>staff suggests that an emergency access connection be provided from the eastern</u> <u>parking lot (or from the Fire Lane immediately to the north) eastward to Tuckaway Shores Drive.</u> To lessen site and stormwater impacts, <u>staff suggests that the Fire Lane and any additional</u> emergency access be constructed with a pervious material, subject to Engineering and Fire Department review and approval.

ARCHITECTURE

The applicants are utilizing two colors of face brick on the first floor of the building, with insulated metal wall panels as accent, and are using insulated metal wall panels and face brick on the second floor of the building. The building will include numerous windows with aluminum storefront frames and spandrel elements (comprised of champagne colored metal panels). The gymnasium's exposed elevations will consist of two colors/textures of architectural concrete panels.

However, while the Project Summary indicates that the two brick colors will be tan and a darker brown, the elevations indicate that one of the brick colors will be gray. Therefore, <u>staff</u> <u>recommends that the applicants shall revise the Architectural Elevations to provide consistent</u> <u>details of the building's architectural colors for Department of City Development review and</u> <u>approval prior to issuance of a Building Permit.</u>

According to the applicants, the two-story portions of the building will be about 29' tall, the gymnasium will be about 34' tall, and the mechanical penthouse (about 15' tall) over the classroom wing of the building will in total be about 44' tall. Although the UDO specifies a building height limit of 40' for the I-1 Institutional zoning district, the UDO also allows public and semipublic facilities such as schools to be up to 60' in height.

EROSION CONTROL AND STORM WATER MANAGEMENT

While the applicants have prepared Grading and Erosion Control Plans, additional information and corrections regarding drainage and erosion control are needed. For example:

- Additional silt fence is needed along the northeast corner of the property.
- City permits will be required for any temporary construction entrances onto Forest Hill Avenue.

Therefore, <u>staff recommends that the applicants shall revise the Erosion Control plan for review</u> and approval by the Engineering Department prior to issuance of a Building Permit.

A Stormwater Management Plan has been prepared by the applicants, utilizing a number of small dry basins and bio basins, and discharge directly onto adjacent properties. However, the City's stormwater consultant has indicated a number of technical questions and concerns with the plan and has recommended that the plan be revised and resubmitted for review and approval. Therefore, <u>staff recommends that the applicants shall revise the stormwater management plan for review and approval by the Engineering Department prior to issuance of a Building Permit.</u> In addition, <u>staff recommends that the applicants shall revise the stormwater management plan to indicate that no storm water point discharges shall be directed to private property unless a <u>defined drainage way currently exists, for Engineering Department review and approval prior to issuance of an Building Permit.</u></u>

SANITARY SEWER AND WATER SERVICE

The applicants propose removing and replacing the existing sewer lateral and water main, which extend from the existing public sewer and water service in Forest Hill Avenue to the existing

school building, to provide such service to the new school building. Engineering Department staff has raised a number of technical questions and concerns relating to the sewer lateral(s) and water main. Therefore, *staff recommends that the applicants shall refer to the City of Franklin Design Standards and Construction Specifications for the proper establishment of the combined easement, fire hydrants, water valves, etc.* Therefore, *staff recommends that the applicants shall construct the applicants shall revise the Utility Plan for review and approval prior by the Engineering Department prior to <i>issuance of a Building Permit.* Staff also recommends that the applicants shall construct the *subject sewer lateral(s) and water main system pursuant to the City's Design Standards and Constructions, for Engineering Department review and approval prior to issuance of an Occupancy Permit.* Pursuant to Engineering Department concerns, *staff recommends that the applicants shall ensure at their own cost that a full-time inspector, approved/certified by the City of Franklin Engineering Department, is present during construction of the water main.*

Engineering Department staff indicates that the likelihood of losing water service is greater with only one service connection. Therefore, *staff recommends that the applicants shall loop the water main by providing two connections to the existing 12" water main on Forest Hill Avenue, for review and approval by the Engineering Department prior to issuance of a Building Permit.*

LIGHTING

The applicants have provided a Lighting Plan with photometrics. The Lighting Plan includes 5 new light poles along the entrance boulevard, and about 17 new light poles within or adjacent to the staff and event/staff parking lots. Additional lighting will also be placed within the visitor parking lot and around the school building. It appears that the maximum foot-candles will be 15.2 at the main entrance into the school building, and around the perimeter of the property of 0.6 at the intersection of Forest Hill Avenue and the entrance drive. However, it is unclear what luminaire cut-off types or shielding will be utilized. Therefore, <u>staff recommends that the</u> <u>applicants shall revise the lighting plan for review and approval by the Department of City</u> <u>Development prior to issuance of a Building Permit.</u>

It appears that the existing streetlight at the southeast corner of Forest Hill Avenue and the entrance drive into the subject property will be removed. To improve traffic and pedestrian safety, <u>staff suggests that the applicant consider placement of a new light at the intersection of the entrance drive and Forest Hill Avenue.</u>

SIGNAGE

Pursuant to the City of Franklin Sign Ordinance, *staff recommends that review and approval of all signage on the subject property shall be conducted by the Architectural Review Board and subject to issuance of a Sign Permit from the Inspection Department, prior to installation of any signage*.

NATURAL RESOURCE PROTECTION PLAN (NRPP)

The applicants have prepared a Natural Resource Protection Plan, and associated Site Intensity Calculations, which identifies wetlands, wetland buffers and setbacks, and mature and young woodlands within the subject property. The NRPP also identifies the extent of existing and proposed development/disturbance within these areas. The Wisconsin Department of Natural Resources, by letter dated June 5, 2017, has confirmed the subject wetland delineations.

Certain existing development (most notably the entrance drive and the existing school's parking lot) were constructed in 1970 but are currently located immediately adjacent to wetlands and within wetland setbacks and buffers. The applicants propose to replace the existing school's parking lot with a new parking lot and sidewalk, which will remain approximately 20 feet from the existing wetland. They also propose to retain the entrance drive's current location but widen it eastward into a four-lane boulevard. As this existing development predates the City's current natural resource protection regulations, staff has no objection to the existing encroachment remaining, or being redeveloped in kind and in place, as long as no further encroachment into protected natural resource features occurs.

Staff review of the applicant's NRPP materials indicates that certain woodland groves were not included within the natural resource delineations on most of the NRPP maps, and that the wetland setback acreages were not included within the Calculation of Natural Resource Protection Land tables associated with most of these maps. Therefore, <u>staff recommends that the applicants shall revise the NRPP – Extent of Natural Resources, NRPP – Extent of Disturbance, Special Exception Plan, and the Mitigation Plan maps and associated tables to identify the correct natural resource delineations and acreages, for Department of City Development review and approval prior to issuance of an Occupancy Permit. Staff also recommends that the applicants shall update the Project Summary for Department of City Development review and approval prior to issuance of an Occupancy Permit.</u>

The boundary of the proposed Conservation Easement shown on the NRPP appears to be incorrect, as it does not include certain woodland groves, which appear to remain undisturbed, and does not include all of the proposed mitigation areas. Therefore, *staff recommends that the applicants shall revise the Conservation Easement document and exhibit to include all natural resource features to be protected, for staff review and Common Council approval prior to issuance of an Occupancy Permit.*

NATURAL RESOURCE SPECIAL EXCEPTION (NRSE)

The applicants indicate that they are unable to avoid impacts upon some of the natural resources located within the subject property. As shown on the Special Exception Plan map, the applicants indicate that the following resources will be impacted and removed:

- about 9,950 square feet of wetland;
- about 35,400 square feet of wetland buffer; and
- about 40,300 square feet of wetland setback.

However, staff can note that these acreages do not match the amounts stated in the Project Summary, do not match the amounts stated in the NRPP – Separate Resources map, and appear to double count certain wetland buffer and setback acreages. It can also be noted that approximately 46,550 square feet or about 26 percent of mature woodland, and approximately 17,500 square feet or about 48 percent of young woodland will also be impacted and removed (but does not require a Natural Resource Special Exception). Staff believes the correct amount of Natural Resource Special Exception impact and removal includes:

- about 9,950 square feet of wetland;
- about 32,450 square feet of wetland buffer; and
- about 29,900 square feet of wetland setback.

Therefore, <u>staff recommends that the applicants shall revise the Special Exception Plan and</u> <u>Mitigation Plan maps and associated tables to indicate the correct amount of natural resource</u> <u>impacts, for Department of City Development review and approval prior to issuance of a</u> <u>Building Permit. Staff also recommends that the applicants shall update the Wetland Mitigation</u> <u>Plan for Department of City Development review and approval prior to issuance of a Building</u> <u>Permit.</u>

As mitigation for these impacts, the applicants propose:

- Creation of an approximately 17,150 square foot wetland immediately adjacent to an existing wetland located in the southeastern portion of the property. The applicants indicate that the proposed 'Wetland Mitigation Area' will be excavated and graded outside but adjacent to the existing wetland, and will be hydraulically connected to the existing wetland, and will be seeded with a stormwater seed mix.
- Establishment of an approximately 53,350 square foot 'Wetland Buffer Area' to be located immediately south and west of the proposed new wetland. The applicants indicate that this 'Wetland Buffer Area' will be seeded with a native upland prairie vegetation seed mix.
- Establishment of an approximately 62,200 square foot 'Wetland Setback Area' to be located within Dry Basin's #1 and #3. The applicants indicate that this 'Wetland Setback Area' will be seeded with a swale seed mix.

However, staff has identified numerous concerns with this proposal, including:

- Few details were provided about the proposed mitigation. Information is lacking on such things as:
 - current site conditions and their appropriateness for the proposed mitigation;
 - o specific goals and objectives for each type of proposed mitigation;
 - o a specific management plan; and
 - details about the stormwater seed mix, swale seed mix, and the upland prairie vegetation seed mix (including the planting/installation method, species list, quantity list, site preparation and weed/invasive control measures, etc.).
- About 43,300 square feet, or about 81 percent of the proposed 'Wetland Buffer Area' is located within an existing mature woodland, and about 5,000 square feet or about 9 percent is located within an existing young woodland, which are already protected.
- About 1,300 square feet, or about 8 percent of the proposed 'Wetland Mitigation Area' is located within an existing young woodland and is already protected.
- None of these mitigation areas are located within the Conservation Easement, as is required by the UDO.
- It is staff's understanding that the subject 'Wetland Mitigation Area' and the 'Wetland Setback Area' are already necessary in order to meet the stormwater quantity requirements of the City's and the Milwaukee Metropolitan Sewerage District's stormwater management ordinances.

• It can be noted that the applicants propose to impact (clear, grade and fill) an area located immediately east of wetland 'Z' and the proposed 'Wetland Mitigation Area' which contains a number of large mature native trees.

Based upon this information, staff would strongly encourage the applicants to consider establishment of a 'Woodland Enhancement Area' instead of the 'Wetland Buffer Area' and 'Wetland Setback Area'. Such an Enhancement Area could include invasive species removal, native species plantings, etc.

Therefore, staff recommends that action on this matter be postponed until the application can be revised by the applicant and reviewed by staff, the Environmental Commission, and the Plan Commission. In this regard, staff would further recommend that the public hearing on this Natural Resource Special Exception be continued at that time as well.

It is important to note that the wetland concurrence letter from the Wisconsin Department of Natural Resources also states, "Some of the water features within the project area may be considered navigable by the Department. DNR Chapter 30 permits may be needed if earthwork (filling, dredging, etc.) or structures (culverts, bridges, erosion control, etc.) are proposed in or adjacent to navigable waters." Staff would also note that should there be any navigable waters, that the NRPP would need to be revised to indicate a Shore Buffer. Therefore, *staff recommends that approval of the Natural Resource Special Exception shall be conditioned upon receipt of all other permits and approvals including but not limited to wetland fill approval from the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers.*

STAFF RECOMMENDATION

City Development staff recommends approval of the Site Plan for the proposed Forest Park Middle School located at 8225 W. Forest Hill Avenue subject to the conditions set forth in the draft Resolution.

City Development staff does not recommend approval of the Natural Resource Special Exception at this time, but rather, that action on this matter be postponed until the application can be revised by the applicant and reviewed by staff, the Environmental Commission, and the Plan Commission.

However, should the City determine to approve the Natural Resource Special Exception as proposed by the applicants, draft copies of the City of Franklin Environmental Commission, and the Standards, Findings and Decision documents are included.

STATE OF WISCONSIN

CITY OF FRANKLIN PLAN COMMISSION

RESOLUTION NO. 2017-____

A RESOLUTION APPROVING A SITE PLAN FOR CONSTRUCTION OF A NEW FOREST PARK MIDDLE SCHOOL BUILDING AND ASSOCIATED PARKING LOTS (8225 WEST FOREST HILL AVENUE) (FRANKLIN PUBLIC SCHOOLS, APPLICANT)

WHEREAS, Franklin Public Schools having applied for approval of a proposed site plan for construction of a 198,000 square foot, two story, 1,350 student capacity middle school building and associated parking lots in Phase 1 (June 2017 through January 2019), demolition of the existing school in Phase 2 (early 2019), and completion of grading, parking lot, playfields, etc. in Phase 3 (spring 2019) at Forest Park Middle School located at 8225 West Forest Hill Avenue; and

WHEREAS, the Plan Commission having reviewed such proposal and having found same to be in compliance with the applicable terms and provisions of §15-3.0421 of the Unified Development Ordinance and in furtherance of those express standards and purposes of a site plan review pursuant to Division 15-7.0100 of the Unified Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the Plan Commission of the City of Franklin, Wisconsin, that the Site Plan for the construction of a 198,000 square foot, two story, 1,350 student capacity middle school building and associated parking lots in Phase 1 (June 2017 through January 2019), demolition of the existing school in Phase 2 (early 2019), and completion of grading, parking lot, playfields, etc. in Phase 3 (spring 2019) at Forest Park Middle School located at 8225 West Forest Hill Avenue, as depicted upon the plans dated ______, 2017, attached hereto and incorporated herein, is hereby approved, subject to the following terms and conditions:

- 1. The property subject to the Site Plan shall be developed in substantial compliance with, and operated and maintained pursuant to the Site Plan for the Franklin Public Schools new Forest Park Middle School dated ______, 2017.
- 2. Franklin Public Schools, successors and assigns, and any developer of the Franklin Public Schools new Forest Park Middle School construction project, shall pay to the City of Franklin the amount of all development compliance, inspection and review fees incurred by the City of Franklin, including fees of consults to the City of Franklin, for the Franklin Public Schools new Forest Park Middle School construction project, within 30 days of invoice for same. Any violation of this provision shall be a violation of the Unified Development Ordinance, and subject to \$15-9.0502 thereof and \$1-19. of the Municipal Code, the general penalties and remedies provisions, as amended from time to time.