

PLAN COMMISSION AGENDA

Tuesday, January 19, 2021
5:30 PM

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Roll Call
- 4) Public Participation (Non-Agenda Harrison Related Items)
Please be advised per State Statute Section 19.84(2), information will be received from the public; be further advised that there may be limited discussion on the information received; however, no action will be taken under public comments.
- 5) Approve Minutes
 - December 22, 2020
- 6) Convene Meeting and Enter Public Hearing
 - a. Comprehensive Plan Amendment – Lexington Homes (Novella) – Midway Road
 - b. Zoning Map Amendment – Lexington Homes (Novella & Jewel Box Estates) – Midway Road
 - c. Conditional Use Permit – Lexington Homes (Novella) – Midway Road
 - d. Land Division Variance – Lexington Homes (Jewel Box Estates) – Midway Road
- 7) Close Public Hearing and Reconvene Regular Meeting
- 8) Items for Discussion and Possible Action
 - a. PC Resolution 2021-01 Comprehensive Plan Amendment – Lexington Homes (Novella) – Midway Road
 - b. Zoning Map Amendment – Lexington Homes (Novella & Jewel Box Estates) – Midway Road
 - c. Conditional Use Permit – Lexington Homes (Novella) – Midway Road
 - d. Design Standard Waiver – Lexington Homes (Novella) – Midway Road
 - e. Land Division Variance – Lexington Homes (Jewel Box Estates) – Midway Road
- 9) Items for Discussion
 - a. Roles and Responsibilities of the Plan Commission
 - b. Report: Zoning Permits
- 10) Set Next Meeting Date
 - Regular meeting date of February 16, 2021 is the spring primary election.
- 11) Adjourn

Any person with hearing disabilities or requiring special accommodations to participate in the meeting should contact the Clerk's Office (920-989-1062) at least 24-hours prior to the meeting.

Posted: January 8, 2021

**VILLAGE OF HARRISON
PLAN COMMISSION MEETING MINUTES
DECEMBER 22, 2020**

1. The meeting was called to order in the Harrison Municipal Building by Chairman Hietpas at 5:30pm.
2. The Pledge of Allegiance was recited.
3. Roll Call: Members present: Dennis Reed, Jim Lincoln (excused at 7:10pm), Pat Hennessey, Kevin Hietpas, Darlene Bartlein, Mark Van Hefty, and Kent Gross.

Staff Present: Mark Mommaerts, Planner; Carie Krause, Deputy Clerk-Treasurer.

4. Public Participation: None.
5. Motion (Van Hefty/Hennessey) to approve the minutes of November 17, 2020. Motion carried 7-0.
6. Enter Public Hearing at 5:31pm
 - a. Zoning Text Amendment – Climate Controlled Storage. Planner Mommaerts introduced the item stating that at the last Plan Commission meeting, the Commission heard a proposal regarding an indoor climate-controlled storage facility to be located along County Road KK on property that is currently zoned Office & Retail Commercial [COR]. The current zoning classifies all storage facilities as mini-warehousing, which is only allowed as a conditional use in the General Agricultural [AG] and Industrial & Manufacturing [IM] zoning districts. As part of the discussion, the Plan Commission thought a distinction could be made between indoor access, climate-controlled storage and typical exterior access, non-controlled storage facilities. The Plan Commission asked staff to develop a zoning text amendment to allow for indoor access, climate-controlled storage facilities as a conditional use in the commercial zoning district. Staff reviewed the information regarding the different types of storage facilities (climate-controlled, temperature-controlled, and mini-warehousing). Staff finds that the appropriate zoning district for indoor access, climate- or temperature-controlled storage is the Community Commercial [CC] zoning district which is intended to serve a large consumer population with a wide range of developments. The below language in underline italics is proposed.
[Topic: Climate/Temperature Controlled Storage Facilities]
[Add]
Sec. 117-88. – Community Commercial District (CC).
(d) Conditional Uses and Structures.
(22) Storage, Climate Controlled or Temperature Controlled, indoor access only.

[Add]

Sec. 117-428. – Words and terms defined.

Storage, Climate Controlled. A self-storage facility with indoor storage units with interior access that manages both temperature and humidity levels, with a maintained temperature range of 55 to 80 degrees Fahrenheit with a max relative humidity of 55%.

Storage, Temperature Controlled. A self-storage facility that manages only temperature of storage units. Typically provides heat only. Interior and exterior access.

Storage, mini-warehousing: A self-storage facility with storage space at ambient (outside) temperature with exterior access.

No public comments.

7. Close Public Hearing at 5:34pm.
8. Items for Discussion and Possible Action
 - a. Toonen Companies Zoning Map Amendment (Rezoning) – Manitowoc Road. Planner Mommaerts introduced the item stating that at the November Plan Commission meeting there was an application by Toonen Companies to rezone approximately 40-acres east of County Road N and north of Manitowoc Road from General Agricultural [AG] to Multiple Family Residential [RM]. There was discussion among the Plan Commission about the number of multi-family developments/units approved recently. The Plan Commission approved a motion to postpone action for more information. Under the Harrison Zoning Ordinance, the Plan Commission and Village Board are given review timelines in order to respond to the application, the applicant must agree to postpone action in order to extend the review timeline. In this case, Toonen Companies did not agree to extend the review timeline, so the Village Board had to take action at their meeting on December 8th in order to meet the review timeline. The Village Board made a motion to adopt Ordinance V20-20 approving the rezoning from AG to RM. The motion failed on a 3-4 vote, so the property was not rezoned. Since the Village Board already acted on the item, the Plan Commission recommendation is not needed.

Discussion:

Commissioner Van Hefty stated that this is a very concerning issue, this is the second time in two months where planning commission staff has tried to bypass Planning Commission and go straight to the Board on a major multi-family development. He asked why we have a Plan Commission if the Staff is going to go straight to the Village Board every time, it is unethical and unacceptable. He said the Village Board wanted to table this item but couldn't because state statute says if you table it, it is a yes vote in 9 days, they were forced to vote on this without any additional information. He talked to over 500 constituents in the last 3 months from Ward 3,4,5 & 6; 98% of them are totally opposed to additional multifamily in the heart of Harrison. He knows it is consistent with

the Comprehensive Plan, but that plan was developed 3 years ago by a different Board, different Trustees, and there is a different direction going on in the Village now. Commissioner Van Hefty then gave Planner Mommaerts permission to speak.

Planner Mommaerts stated that ethically he was providing information to the Village Board on what the Harrison ordinance states, the timelines are in the ordinance, the applicant did not agree to the extension, which is also in the ordinance; without action by the Village Board it would have been approved so he made the Village Board aware of that. Regarding the Lexington issue, the Plan Commission met right before the Village Board meeting, it was on the Village Board agenda, the Village Board did not need to take action on that item, but they decided to, that is one of the reasons the Plan Commission meetings were moved to another night. Planner Mommaerts stated that he isn't trying to sneak anything past the Plan Commission, everything comes to the Commission, it's really up to the Plan Commission to make a decision. When it comes to rezoning, those decisions must be made on the Comprehensive Plan, that information was provided at the last meeting.

Commissioner Van Hefty stated, he was told that Planner Mommaerts had knowledge of this Toonen thing 200 days prior to the Village Board having to make a decision.

Planner Mommaerts stated that they did not apply 200 days prior and until the developer makes a formal application, there is nothing for the Plan Commission to review.

Commissioner Van Hefty said he didn't know you could bypass the Plan Commission and force a decision on the entire Village Board, the Board was blindsided by having to make a decision. The Village Board and Plan Commission need to have more conversations with Staff because plans seem to be out of sync.

Planner Mommaerts responded that the plan is the Comprehensive Plan, there was a review, the Village Center with multifamily was approved. If that is not the direction the Village Board wants to go then there is a process for change in the Comprehensive Plan, it can't be discussed as an individual application.

Commissioner Gross stated that in general, he would like to see some clarification on the role of the Plan Commission; are there items that are simply advisory, are there other items that must be approved by Plan Commission.

Planner Mommaerts responded that he will put something together for the next meeting.

Commissioner Hennessey referenced a few times where the Plan Commission advised the Village Board, and the Board took a different direction. If the Village Board does look at changing the Comprehensive Plan, Commissioner Hennessey would hope the Plan Commission would also have input.

Planner Mommaerts answered that under statute when it comes to a Comprehensive Plan, Plan Commission is part of that.

Chairman Hietpas responded that at that meeting there were a few Board Members that felt it was on the agenda, the Board had enough information because they researched it, they are paid to make a decision, so they made a motion.

Commissioner Bartlein shared that she did mention to the Village Board that the Plan Commission was putting it on hold for a month. The Developer was upset and said they had to get started immediately, putting pressure on the Village Board, she believes that is why they voted on it. Commissioner Bartlein did not vote on the item.

Commissioner Hennessey thinks it is an unfortunate situation for all the residents that thought they had a voice.

Commissioner Reed agrees with Commissioner Hennessey.

Planner Mommaerts stated that most of the Village Board members were in attendance of the Plan Commission meeting whether on the Commission or in the audience, they heard the people speak.

Commissioner Gross stated that he would hope that the decisions made at the Plan Commission level would be consistent through to the Village Board decisions but based on the vote, that was not consistent.

Planner Mommaerts stated that looking at some lessons learned, moving forward the Plan Commission may have to be ready to decide and if more information is needed, reach out to him for more information. Development has been fast paced this year, developers have their own timelines. We need to be ready to make hard decisions.

Chairman Hietpas said that he does believe the Village Board has a high value for the considerations and recommendations of the Plan Commission.

Planner Mommaerts stated that essentially, the only thing the Plan Commission has authority over are the design guidelines, everything else is a recommendation to the Village Board. In the past, probably 99% of the time, the recommendation by the Plan Commission was followed by the Village Board but the past couple of months it seems to be an issue at each meeting.

Chairman Hietpas stated that just for closure, even though it is too late to change the Village Board vote, if the Plan Commission had voted what would it have been? It was the consensus of the Plan Commission that enough time had been spent on this item and they would like to move on.

- b. Certified Survey Map – Kimberly Clark Corp. – Old Highway Road. Planner Mommaerts introduced the item stating that the applicant is proposing a 2-outlot Certified Survey Map (CSM) in order to create a parcel to sell to the adjacent property owner. Outlot #1 is proposed to be 5.842-acres and contains a portion of the driving range of the adjacent North Shore Golf Club. The applicant wishes to sell off land in this area and North Shore Golf Club wishes to purchase that portion of the property containing the driving range. North Shore Golf Club currently has an agreement to utilize a portion of the property for the driving range. Outlot #2 is 6.490-acres and will be retained by the applicant and sold with the adjacent properties the applicant owns to the west and north. These properties are being created as outlots as they do not meet public roadway frontage standards. Under state statutes, outlots are unbuildable. The current property configuration does not have public roadway frontage, access is gained through adjacent properties under common ownership.
Motion (Van Hefty/Lincoln) to approve the CSM for Kimberly Clark Corp.
Motion carried 7-0.
- c. Affidavit of Correction for Drainage Easement – Lot 15 of Southtowne Place. Planner Mommaerts introduced the item stating that as part of the Southtowne Place subdivision plat, there is a drainage easement that runs along the east and south sides of the plat where Lot 15 is located. There were artificial wetlands along these areas where historic drainage of the property flowed. As part of the plat, the artificial wetlands were going to be filled and the drainage swale relocated within the easement area. During the construction of the plat, it was determined that the drainage swale would be best suited to follow the artificial wetlands, which on the southeast corner of Lot 15 was outside of the drainage easement.
An Affidavit of Correction is proposed in order to relocate the drainage easement to cover the lands for the drainage swale. Since the drainage easement was part of the subdivision plat, any changes must be approved by the Village Board.
Motion (Van Hefty/Lincoln) to approve the Affidavit of Correction as submitted.
Motion carried 6-0-1 with Commissioner Gross abstaining.
- d. Preliminary Plat – Stargazer Estates – Midway Road. Planner Mommaerts introduced the item stating that the applicant is proposing a 48-lot preliminary plat for a new subdivision called Stargazer Estates. The subdivision is located along Midway Road, west of Lake Park Road. The property is currently zoned Single Family Residential (Traditional) [RS-2]. The subdivision is proposed to have roadway access to Midway Road, with connections to Ethan Drive, McKayla Drive, and Woodendale Way. All roadways are proposed to be dedicated to the public. Lots are generally 10,500-12,000 square feet in area, the corner lots are generally 13,000 square feet. Sewer and water will be extended through the subdivision. Stormwater management will be accommodated in a stormwater pond north of proposed lots 26-30. The pond will be located on Outlot 1 of CSM #3890, which will be deeded to the Village for park and stormwater purposes.

Discussion:

Commissioner Reed questioned the zoning of RS2. Planner Mommaerts stated that the decision for rezoning from AG to RS2 happened in October.

Motion (Gross/Hennessey) to approve the Preliminary Plat with the following conditions:

1. All road right-of-way to be 66-feet in width, with the exception of Ethan & Mckayla (matching the current 60ft) and the addition of Constellation Drive at 66-feet in width.
2. Erosion Control Silt Fence shall be installed, in accordance with State Specifications, along the right-of-way line of all streets prior to roadway acceptance.
3. All lots shall have a storm sewer lateral provided for sump pump discharge.
4. Consider creation of an outlot for the easement area on Lot 26 to be deeded to the Village.
5. All improvements, including but not limited to, utilities, curb & gutter, street paving, sidewalks, shall be installed prior to issuance of building permits or zoning permits, unless the Village Board approves a Subdivision Development Agreement to allow for improvements to be installed at a later date.
6. All comments from the Village engineer and staff shall be included in the Plan Commission discussion and decision.
7. A note shall be added to the plat indicating access control to County AP/Midway Road.
8. A grading/drainage stormwater management plan and erosion control plan shall be reviewed and approved by the Village engineer and Village staff.
9. Final utility and street plans shall be reviewed and approved by the Village Engineer and Village staff prior to approval of the Final Plat and prior to utility and street construction.
10. All environmental corridors shall be clearly identified and setback lines to be indicated.
11. Grading/Drainage Plan shall identify elevations of ground at the foundation.
12. All road names shall be approved by the Appleton Post Office, the Village of Harrison, and Calumet County E911.
13. Sidewalks and laterals shall be indicated on the infrastructure plans.
14. There shall be notes to be added to the face of the final plat in accordance with Section 115-12(d)(1)(f).
15. The final plat and final grading/drainage plans shall include benchmarks for all fire hydrants. Benchmarks shall refer to hydrant tag bolts.
16. Plans shall be sent to the appropriate utility entities for review (ie phone, cable, gas/electric, sewer/water).
17. Developer to consider RS-1 zoning along the existing RS-1 zoning.

Motion carried 7-0.

- e. Zoning Text Amendment – Climate Controlled Storage. Planner Mommaerts introduced the item in the Public Hearing.

Motion (Lincoln/Van Hefty) to approve recommending the proposed zoning text changes be forwarded to the Village Board for approval and adoption into the zoning ordinance. Motion carried 7-0.

9. Items for Discussion

- a. Mini-warehousing Storage – Cameron Butler – Pigeon Road/Hwy 114. Planner Mommaerts introduced the item stating that the developer is interested in developing a mini-warehousing development on a 9-acre parcel on the west side of Pigeon Road, north of the railroad tracks, Tax ID 40154. The property is currently zoned General Agricultural [AG]. Mini-warehousing is a conditional use in the AG zoning district provided the development is outside of the sewer service area. There is currently no access to public sewer & water to the site. There is a stream along the eastern portion of the property. A DNR permit for bridge crossing or disturbance is likely. The developer is seeking input from the Plan Commission prior to property purchase and plan development. The developer is considering 100-units of building storage and 50-spaces for gated outdoor storage.

Items to consider:

1. Is mini-warehousing the best use of land at this location?
2. Any fencing along roadways or adjacent properties should be visually pleasing, wood or vinyl fencing.
3. Landscaping and screening along Roadways and property lines.
4. Lighting implications on surrounding neighborhoods.
5. Wetland/environmental analysis to determine buildable areas and driveway crossing/access.
6. Stormwater Management facilities and discharge.
7. Concern that businesses will be operated out of the storage buildings.
8. Parking and driveway locations, outdoor storage area size.
9. A Conditional Use Permit was granted in October for mini-warehousing and outdoor storage on a parcel on the south side of the railroad tracks on Pigeon Road.

Plan Commission has no interest at this time.

- b. Report: Zoning Permits - Planner Mommaerts stated that the YTD estimated value was approximately \$63 million.

10. Next Meeting Date: Tentatively January 19, 2021 at 5:30pm.

11. Adjourn:

Motion (Bartlein/Van Hefty) to adjourn at 7:24 pm.

Motion carried 6-0.

Prepared by: Carie Krause, Deputy Clerk-Treasurer

Dated: December 23, 2020

PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Comprehensive Plan Amendment – Lexington Homes (Novella)

Issue:

Should the Plan Commission recommend approval of a Comprehensive Plan Amendment from Single Family to Multiple Family to the Village Board?

Background and Additional Information:

The applicant is proposing a mix of single-family and multi-family residential development on property located along Midway Road, Tax IDs 43292 & 43290. The development consists of single-family lots and twenty-one (21) 8-unit buildings with attached garages and outside parking area along with a clubhouse for the MF development. The development also includes a stormwater management pond and proposed berming/screening along Lake Park Road and Midway Road. Total development proposed will be 64 single-family lots and 168 multi-family units. The SF lots are proposed adjacent to the existing SF lots to the west and are also located on the north side of the proposed MF development.

The MF development is proposed to have access only from Lake Park Road. The eastern half of Lake Park Road was recently detached from the City of Appleton and attached to the Village of Harrison. The proposed access driveway aligns with the driveway on the east side of Lake Park Road. The SF development will extend Solitude Lane to Lake Park Road. It will also create a new street, Gemstone Drive, and connector streets to the north for future development.

The applicant is requesting a Comprehensive Plan Amendment, Zoning Map Amendment, Conditional Use Permit, Design Standard Waiver, and Land Division Ordinance variance. (Separate memos have been prepared for each item.)

Comprehensive Plan Amendment:

The applicant is proposing to amend the future land use map in the Comprehensive Plan to change some of the single-family areas to allow for multiple-family residential. Currently, the future land use map identifies this area as Single-Family Residential. There are single-family uses on the west and multiple-family uses on the north and east sides of the property. South of the proposed development is a mixed single-family and multiple-family development by the same developer. The petition maintains single-family use on the western boundary of the property.

Recommended Action:

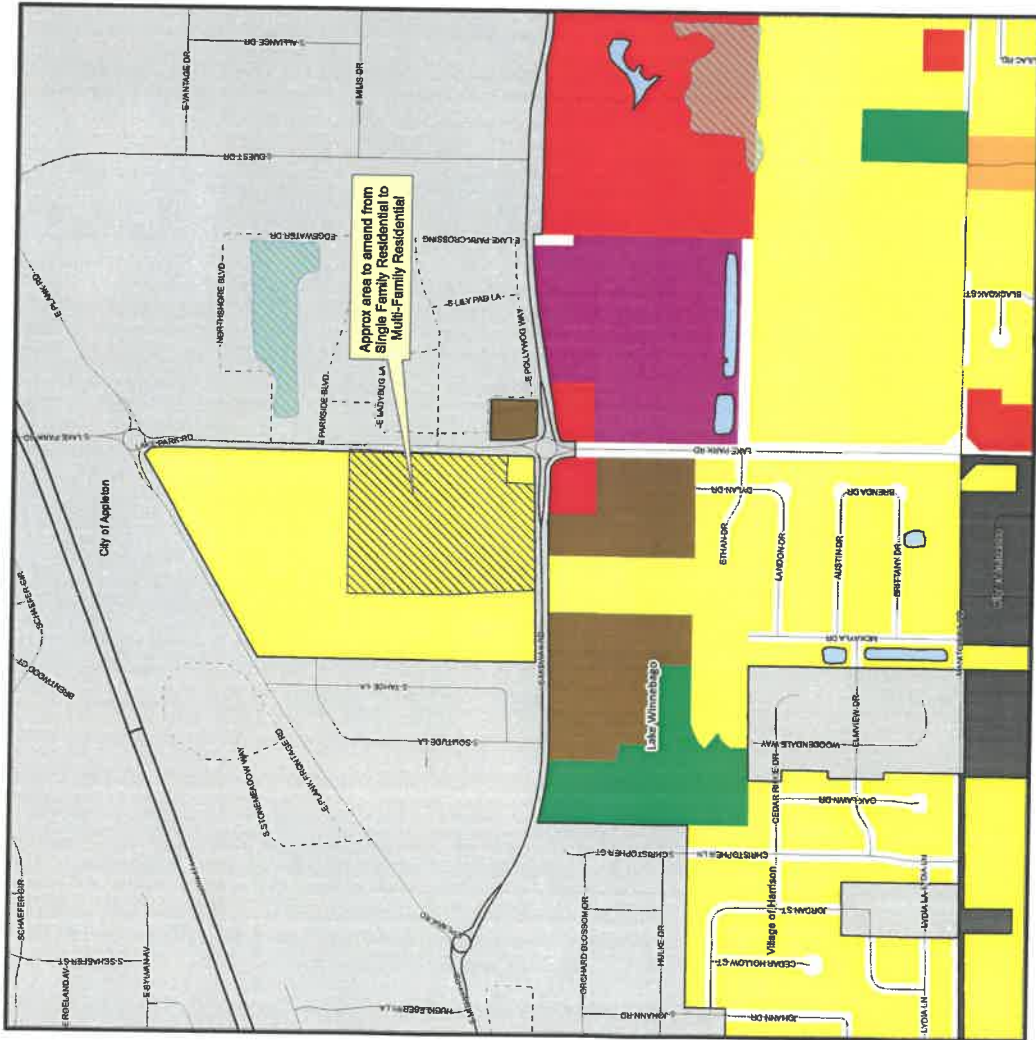
Staff recommends approval of Plan Commission Resolution PC2021-01, recommending the Village Board amend the comprehensive plan.

Attachments:

- Aerial Map
- Future Land Use Map
- Concept Plan
- Plan Commission Resolution PC2021-01

Future Land Use Map

Harrison Future Land Use Map



Legend

County Boundary

Road Centerline

- County Boundary
- Rail/Roads
- Local
- Federal
- State
- County
- Private

Future Land Use

- Single Family Residential (sewered)
- Single Family Residential (sewered)
- Single Family Residential (transitional)
- Single Family Residential (unsewered)
- Two-Family Residential
- Multi-Family Residential
- Mobile Home Park
- Farmstead Homes
- Village Center
- Commercial
- Mixed Use
- Parks and Recreation
- Industrial
- Public/Institutional
- Ag, Vacant, Undeveloped
- Special Ap/Nursesites
- Woodlands
- Utilities/Quarries
- Wetlands

0 0.125 0.25 0.5 Miles

Village of HARRISON
 10000 Harrison Rd
 Harrison, OH 43085
 614.733.1100
 www.villageofharrison.com

This map was prepared by:
 Village of Harrison
 Planning Department
 10000 Harrison Rd
 Harrison, OH 43085

Update: November 13, 2018

The Village of Harrison is pleased to provide this Future Land Use Map to the public. The Village of Harrison does not warrant the accuracy of the information on this map. The Village of Harrison does not assume any liability for any errors or omissions on this map. The Village of Harrison is not responsible for any damages, including any consequential damages, that may result from the use of this map. The Village of Harrison is not responsible for any damages, including any consequential damages, that may result from the use of this map. The Village of Harrison is not responsible for any damages, including any consequential damages, that may result from the use of this map.

PLAN COMMISSION RESOLUTION 2021-01

TO RECOMMEND TO THE VILLAGE BOARD AN AMENDMENT TO THE HARRISON COMPREHENSIVE PLAN (Lexington Homes - Novella)

WHEREAS, the Harrison Plan Commission received an application from Lexington Homes to amend the Comprehensive Plan Future Land Use Map from Single Family Residential to Multi-Family Residential; and

WHEREAS, the proposed amendment is attached to the Resolution as “Exhibit A”; and

WHEREAS, the amendments have resulted in a Plan that is compliant with the requirements of Section 66.1001(2) Wis. Stats; and

WHEREAS, the Plan Commission has held a least one public hearing on these amendments on January 19, 2021, in compliance with the requirements of Section 66.1001(4)(d) Wis. Stats.

NOW, THEREFORE BE IT RESOLVED, the Harrison Plan Commission recommends to the Village Board the adoption of the amendment from Single Family Residential to Multi-Family Residential for the property described as:

Part of the Southeast 1/4 of the Southeast 1/4, located in Section 5, Township 20 North, Range 18 East, Village of Harrison, Calumet County, Wisconsin more fully described as follows: Commencing at the Southeast corner of said Section 5; thence N00°46’05”E, 1144.05 feet on the east line of said Southeast 1/4; thence N89°05’53”W, 48.72 feet to the west right of way of Lake Park Road (aka CTH ‘LP’), the Point of Beginning ; thence continuing N89°05’53”W, 936.44 feet; thence S00°27’59”W, 453.94 feet; thence S05°05’31”E, 455.17 feet; thence S01°02’24”E, 259.05 feet to the north right of way of Midway Road (aka CTH ‘AP’); thence N88°57’36”E, 686.89 feet to the west line of lands described in Volume 98 of Records, Page 555; thence N00°46’05”E, 165.70 feet on said west line to the northwest corner thereof; thence N88°57’36”E, 191.84 feet on the north line of said lands to said west right of way of Lake Park Road; thence N00°50’01”E, 970.03 feet on said west right of way to the Point of Beginning. Said parcel contains 1,019,971 Square Feet (23.415 Acres) of land more or less.

Approved this 19th day of January, 2021.

Motion for adoption by: _____

Seconded by: _____

Vote Aye: ____ Nay: ____

Kevin Hietpas, Plan Commission Chair

Attest: Mark J. Mommaerts, AICP, Harrison Planner

PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Zoning Map Amendment – Lexington Homes (Novella & Jewel Box Estates)

Issue:

Should the Plan Commission recommend approval of a Zoning Map Amendment from AG to RS-2 & MF to the Village Board?

Background and Additional Information:

The applicant is proposing a mix of single-family and multi-family residential development on property located along Midway Road, Tax IDs 43292 & 43290. The development consists of single-family lots and twenty-one (21) 8-unit buildings with attached garages and outside parking area along with a clubhouse for the MF development. The development also includes a stormwater management pond and proposed berming/screening along Lake Park Road and Midway Road. Total development proposed will be 64 single-family lots and 168 multi-family units. The SF lots are proposed adjacent to the existing SF lots to the west and are also located on the north side of the proposed MF development.

The MF development is proposed to have access only from Lake Park Road. The eastern half of Lake Park Road was recently detached from the City of Appleton and attached to the Village of Harrison. The proposed access driveway aligns with the driveway on the east side of Lake Park Road. The SF development will extend Solitude Lane to Lake Park Road. It will also create a new street, Gemstone Drive, and connector streets to the north for future development.

The applicant is requesting a Comprehensive Plan Amendment, Zoning Map Amendment, Conditional Use Permit, Design Standard Waiver, and Land Division Ordinance variance. (Separate memos have been prepared for each item.)

Zoning Map Amendment:

The applicant is proposing to rezone from General Agricultural [AG] to Single-Family Residential (Traditional) [RS-2] and Multiple-Family Residential [RM] the area for the development.

The RS-2 zoning district generally allows for single-family lots to be 7,500-12,000 square feet in area and 65-100 feet in width. The district also allows for 25-foot front yard, 35-foot rear yard, and 5-foot side yard setbacks. The RM zoning district generally allows for multiple-family residential develop densities between 6-15 units per acre. Multiple-family developments over 3 buildings and 24 units are required to obtain a Conditional Use Permit.

Findings of Fact:

- Staff finds that the Rezoning request complies with the Future Land Use Map as part of the Comprehensive Plan if the Comprehensive Plan Amendment is approved.
- Property owners within 300-feet of the subject property have been notified via first-class mail.

Recommended Action:

Staff recommends approval of the Zoning Map Amendment from General Agricultural [AG] to Single-Family Residential (Traditional) [RS-2] and Multiple-Family Residential [RM], if the Comprehensive Plan Amendment is approved.

Attachments:

- Aerial Map
- Zoning Map
- Concept Plan

Zoning Map

Zoning Map Village of Harrison Calumet & Outagamie Counties, WI

Legend

Zoning Districts

- AG | General Agriculture
- RR | Rural Residential
- RS-1 | Single-Family Residential (Suburban)
- RS-2 | Single-Family Residential (Traditional)
- RT | Two-Family Residential
- RM | Multiple-Family Residential
- CN | Neighborhood Commercial
- COR | Office & Retail Commercial
- CC | Community Commercial
- BP | Business Park
- IM | Industrial & Manufacturing
- NC | Natural & Conservancy
- MHO | Mobile Home Overlay
- PDO | Planned Development Overlay
- SHO | Shoreland Overlay*
- SWO | Shoreland-Westland Overlay*

RoadCenterline

- Local Roads
- County Highway
- State Highway
- US Highway
- Railroads
- Streams
- Town of Harrison
- Parcels

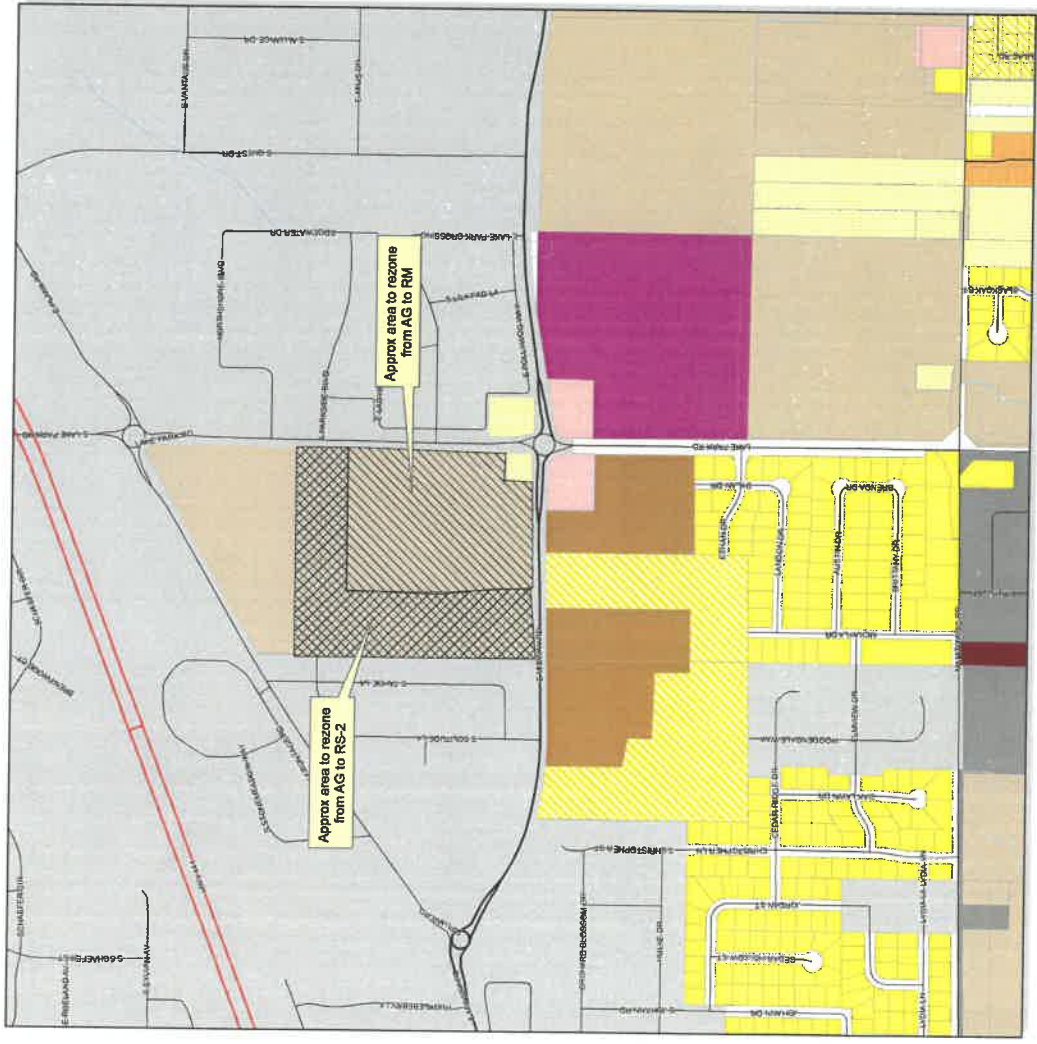
* Please note that the SHO & SWO boundaries are subject to change based on determinations of navigable waterways.

This map was created by:
 Village of Harrison
 W6258 Hwy 114
 Harrison, WI 54852
 920-488-1052

Adopted: July 27, 2010
 Effective: November 1, 2010
 Current as of: December 10, 2020

Village of HARRISON
 WHERE OPPORTUNITY LIVES

0 0.125 0.25 0.5 Miles



This map was created using data obtained from Calumet County. The map is neither a legally recorded map nor a survey and is not intended to be used as such. The Town of Harrison does not warrant the accuracy of the information contained herein and is not responsible for any mistake or misinterpretation of this information or its consequences. The information is provided for informational purposes only. The Town of Harrison is not liable for any loss resulting from the use or misuse of these maps and data. The information is provided for informational purposes only. The information is not intended for Calumet County business. Original recorded source documents located in the county records should be used for legal or survey purposes.

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PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Conditional Use Permit – Lexington Homes (Novella)

Issue:

Should the Plan Commission recommend approval of a Conditional Use Permit to the Village Board?

Background and Additional Information:

The applicant is proposing a mix of single-family and multi-family residential development on property located along Midway Road, Tax IDs 43292 & 43290. The development consists of single-family lots and twenty-one (21) 8-unit buildings with attached garages and outside parking area along with a clubhouse for the MF development. The development also includes a stormwater management pond and proposed berming/screening along Lake Park Road and Midway Road. Total development proposed will be 64 single-family lots and 168 multi-family units. The SF lots are proposed adjacent to the existing SF lots to the west and are also located on the north side of the proposed MF development.

The MF development is proposed to have access only from Lake Park Road. The eastern half of Lake Park Road was recently detached from the City of Appleton and attached to the Village of Harrison. The proposed access driveway aligns with the driveway on the east side of Lake Park Road. The SF development will extend Solitude Lane to Lake Park Road. It will also create a new street, Gemstone Drive, and connector streets to the north for future development.

The applicant is requesting a Comprehensive Plan Amendment, Zoning Map Amendment, Conditional Use Permit, Design Standard Waiver, and Land Division Ordinance variance. (Separate memos have been prepared for each item.)

Conditional Use Permit:

The zoning ordinance requires a Conditional Use Permit for any multiple-family development greater than 3-buildings or greater than 24-units. The applicant is proposing a 21-building development with 168-units total. Landscaping and buffering should be provided along the single-family residential uses and Midway Road.

Basis for Approval: *(from the Zoning Ordinance Section 117-319)*

1. *Zoning. The proposed use conforms to the underlying zoning district intent and design standards and is in harmony with the general purpose and intent of this chapter. Where there is an existing nonconforming structure, the design standards of the underlying*

zoning district may be waived by the plan commission and town board. If the Comprehensive Plan and Zoning Map amendments are approved, then the proposed single-family subdivision is an allowable use in the RS-2 zoning district and the multi-family development is an allowable use in the MF zoning district.

2. *Plans. The proposed use conforms to the comprehensive plan and any other officially adopted plan. If the Comprehensive Plan and Zoning Map amendments are approved, then the proposed single-family subdivision and multi-family development conform to the Comprehensive Plan.*
3. *Traffic. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The main entrance is anticipated to connect with Lake Park Road for the multi-family development. Lake Park Road was recently constructed to a 3-lane road with adequate left turn stacking. Under the proposal, the MF traffic will not share roads with the SF lots.*
4. *Landscaping and screening. Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use as established in article VI, Access, Parking, and Loading and article IX, Landscaping and Screening Standards. Landscaping may be required to meet buffering requirements. Landscape buffer berms around the property may be warranted.*
5. *Neighborhood compatibility. The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development and whether the proposed use creates a nuisance due to noise, odor, or dust. The multi-family residential proposed will be in the middle of the development with the single-family homes adjacent to the existing subdivisions. Landscape screening and buffering should be utilized to further reduce potential light nuisance.*
6. *Services. Adequate facilities, access roads, drainage and/or necessary services have been or will be provided. Sanitary sewer and water can be provided to the site. Stormwater management is proposed to service the development.*

Findings of Fact:

- Property owners within 300-feet of the subject property have been notified via first-class mail.

Recommended Action:

Staff recommends approval the Conditional Use Permit with the following conditions:

1. The applicant works with Harrison Utilities and the City of Appleton utilities on sanitary sewer and water main connections and stormwater management.
2. Berms and landscape areas be provided along the south and east side of the development. The berm should be approximately 5-feet in height with evergreen and other plantings that are 4-5-feet in height at the time of planting. Care should be taken to design the berm and plantings to shield vehicle headlights shining into adjacent properties.
3. The stormwater management plan approval shall be in accordance with the Intergovernmental Cooperative Agreement between Appleton and Harrison.
4. All exterior building materials shall adhere to the Village Zoning requirements unless a special exception is granted by the Plan Commission.

5. All exterior parking area lighting shall be direct cut-off fixtures to reduce/eliminate any glare.
6. All provisions of the zoning ordinance and all other Village ordinances shall be met.
7. Any comments or revisions from Village staff during the site plan review process shall be incorporated as conditions of approval.
8. All necessary permits shall be obtained prior to construction.

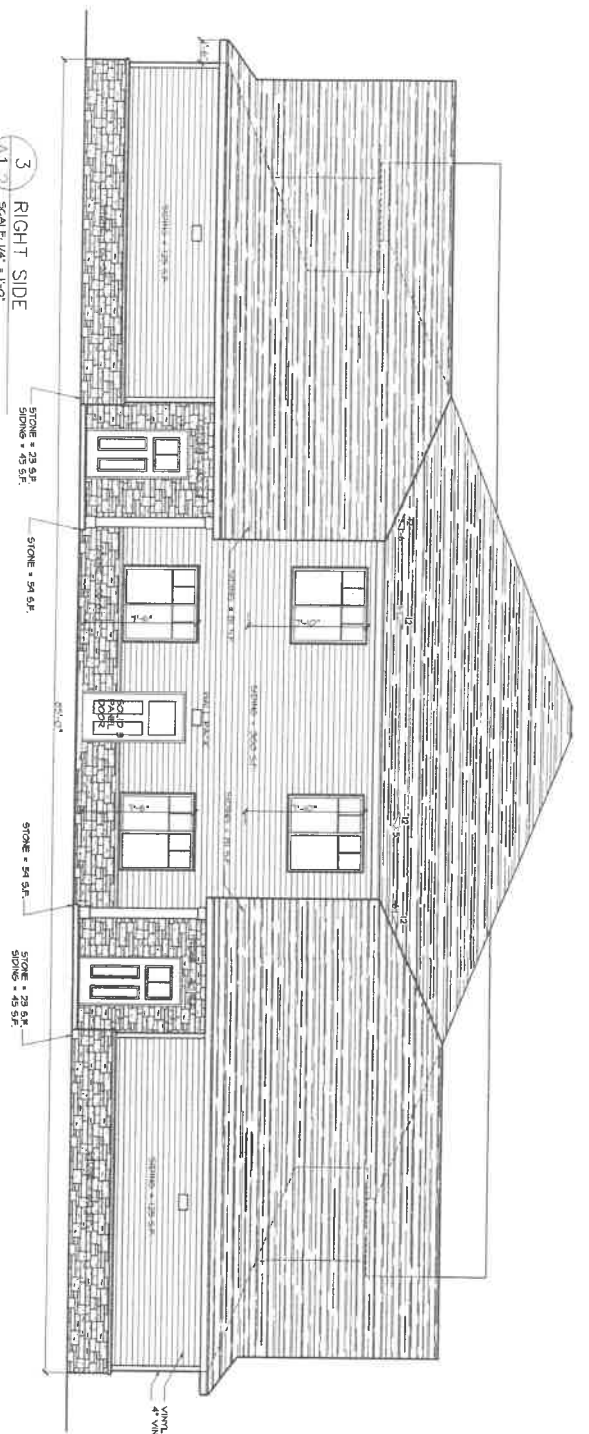
Attachments:

- Aerial Map
- Concept Plan
- Building Elevations

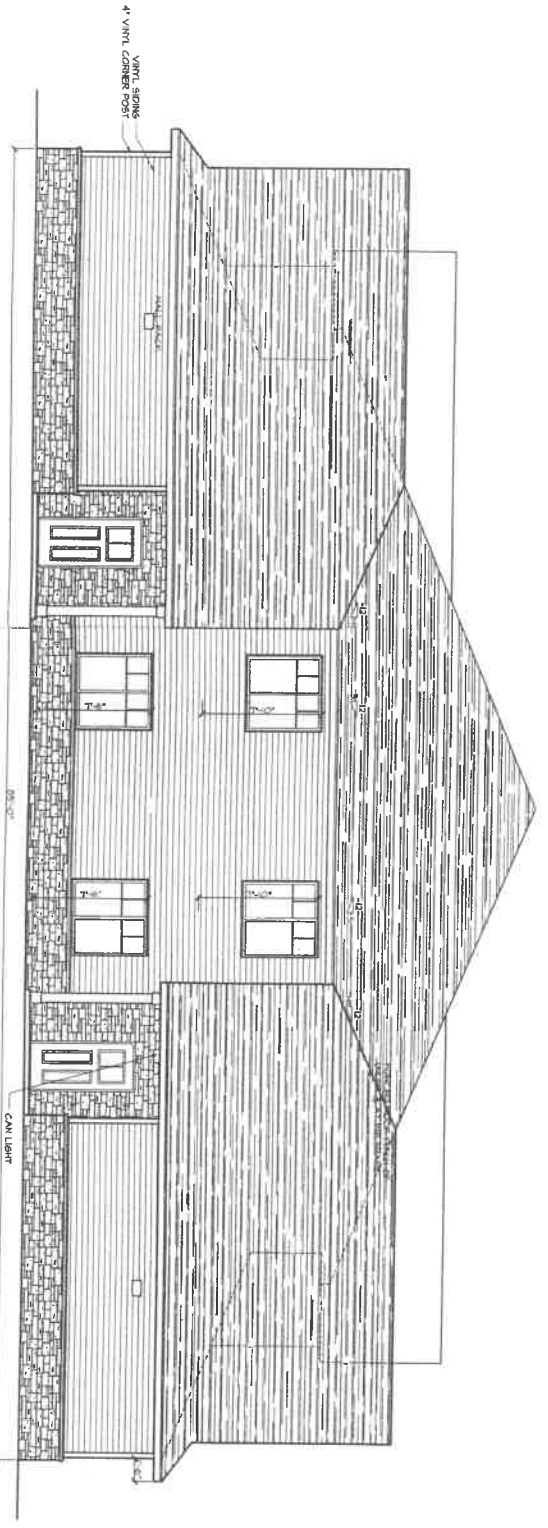
Concept Plan



3 RIGHT SIDE
A1.2 SCALE: 1/4" = 1'-0"



2 LEFT SIDE
A1.2 SCALE: 1/4" = 1'-0"



DATE	9/24/2008
PROJECT	Novella
SHEET	31827

Novella
8 Unit, Attached Garage Coachones

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PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Design Standard Waiver – Lexington Homes (Novella)

Issue:

Should the Plan Commission approve a zoning design standards waiver for the multi-family development Novella?

Background and Additional Information:

The applicant is proposing a mix of single-family and multi-family residential development on property located along Midway Road, Tax IDs 43292 & 43290. The development consists of single-family lots and twenty-one (21) 8-unit buildings with attached garages and outside parking area along with a clubhouse for the MF development. The development also includes a stormwater management pond and proposed berming/screening along Lake Park Road and Midway Road. Total development proposed will be 64 single-family lots and 168 multi-family units. The SF lots are proposed adjacent to the existing SF lots to the west and are also located on the north side of the proposed MF development.

The MF development is proposed to have access only from Lake Park Road. The eastern half of Lake Park Road was recently detached from the City of Appleton and attached to the Village of Harrison. The proposed access driveway aligns with the driveway on the east side of Lake Park Road. The SF development will extend Solitude Lane to Lake Park Road. It will also create a new street, Gemstone Drive, and connector streets to the north for future development.

The applicant is requesting a Comprehensive Plan Amendment, Zoning Map Amendment, Conditional Use Permit, Design Standard Waiver, and Land Division Ordinance variance. (Separate memos have been prepared for each item.)

Design Standards Waiver

The Developer of Novella is requesting a waiver from the design standards found in the Multiple-Family Residential (RM) zoning district. The applicant is proposing to deviate from the required amount of materials facing a public street. The reason for the request is that the site will be surrounded by berms and plantings and the buildings will have reduced visual impact from the street. The applicant is proposing to use premium shake siding on the upper portions of the buildings.

It is unclear if the proposed shake siding is cement board or vinyl. If it is cement board, then the design standards waiver is not needed. If it is vinyl siding, then the waiver would be needed.

Zoning Ordinance:

Sec. 117-85. Multiple-Family Residential District [RM].

(n) Design standards. Requirements for new buildings and structures, or additions, built after the effective date of this chapter. Special exceptions to this section shall be granted by the plan commission.

- 1. Materials. At least 50 percent of all exterior walls facing a public street shall be faced with brick, block, fieldstone, architectural cement board siding or other architectural masonry material. Roofs which exceed a pitch of more than three inches in 12 inches shall either be shingled or have an architectural metal roofing system.*
- 2. Garage door placement. The garage wall(s) containing a garage door opening facing a public street shall not comprise more than 50 percent of the façade of the principal structure width containing the primary entrance, measured along the ground level.*
- 3. Roof. The total height of the roof(s) from the lowest portion of the roof(s) to the ridge line shall be no greater than the height of the façade(s) of the building, measured vertically from the ground level of the façade(s) to the lowest portion of the roof(s), unless dormers are present.*
- 4. Off-street parking requirements. Ground level, surface parking shall be located at or behind the front façade of the principal building. Any surface parking located at the side of the building shall be screened through the use of approved integrated architectural walls and/or landscape treatments.*
- 5. Building composition.*
 - a. Site. All principal buildings shall have a well-defined front façade and entrance with the primary entrance facing a public or private street if possible. The buildings shall be aligned so the dominant lines of their facades parallel the line of the street to help create a street wall.*
 - b. Walls. No flat walls exceeding 50 feet in length shall be permitted for any structure; wall offsets, architectural details and wall facing shall be used to meet this requirement.*
 - c. Windows. There shall be a minimum of one window, per story, per side of the principal building. Accessory garages or parking buildings shall have windows, or other architectural features, to break long expanses of the building façade when facing a public street.*

Recommended Action:

The proposed design is consistent with other exterior building waivers granted for Lexington Homes' Asterion & Mirragio Development and is similar to building construction of the North Shore Apartments on the south side of Sonny Drive. Condition that the berms along the roadways be 5-feet in height and trees/plants be at least 4-5 feet at planting.

Attachments:

- Building Elevations



3 RIGHT SIDE
A1.2 SCALE: 1/4" = 1'-0"

STONE = 23 S.F.
SIDING = 45 S.F.

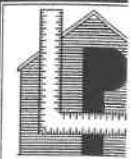
STONE = 54 S.F.

STONE = 54 S.F.

STONE = 23 S.F.
SIDING = 45 S.F.



2 LEFT SIDE
A1.2 SCALE: 1/4" = 1'-0"



LaPla
Architecture,

OFFICE: 926 WILLAM
GREEN BAY, WISC
MAILING: 1592 RUE
GREEN BAY, WISCO
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LEXING'-HOMI
Building Neighbors

One Home at

OFFICE: 1300 North
GREEN BAY, WISCO
Telephone: (920)
Fax: (920)

EMAIL:
gwells@lexingtonneighbor
WEB:
lexingtonneighbor

© unit Coachhome - # 461493 © These plans
are copyrighted by

Novella
8 Unit Attached Garage Coachhomes

REVISION	DATE
x	

DATE
9/28/2021

PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Land Division Variance – Lexington Homes (Jewel Box Estates)

Issue:

Should the Plan Commission recommend approval of a Land Division Ordinance variance to exceed the cul-de-sac length limit to the Village Board?

Background and Additional Information:

The applicant is proposing a mix of single-family and multi-family residential development on property located along Midway Road, Tax IDs 43292 & 43290. The development consists of single-family lots and twenty-one (21) 6-unit buildings with attached garages and outside parking area along with a clubhouse for the MF development. The development also includes a stormwater management pond and proposed berming/screening along Lake Park Road and Midway Road. Total development proposed will be 64 single-family lots and 168 multi-family units. The SF lots are proposed adjacent to the existing SF lots to the west and are also located on the north side of the proposed MF development.

The MF development is proposed to have access only from Lake Park Road. The eastern half of Lake Park Road was recently detached from the City of Appleton and attached to the Village of Harrison. The proposed access driveway aligns with the driveway on the east side of Lake Park Road. The SF development will extend Solitude Lane to Lake Park Road. It will also create a new street, Gemstone Drive, and connector streets to the north for future development.

The applicant is requesting a Comprehensive Plan Amendment, Zoning Map Amendment, Conditional Use Permit, Design Standard Waiver, and Land Division Ordinance variance. (Separate memos have been prepared for each item.)

Land Division Variance:

The proposed development includes a 64-lot subdivision called Jewel Box Estates. As part of the subdivision, the developer is proposing a cul-de-sac called Gemstone Drive. The Land Division ordinance states that where such conditions exist where there is a cul-de-sac or dead end street, such length of the cul-de-sac shall not exceed 1,000-feet from centerline of intersecting street to the center of the turnaround. In the case of the proposed Jewel Box Estates subdivision, a cul-de-sac is required because street connection access to Midway Road/County Road AP will not be granted by Calumet County. Due to the location of the intersecting street, Solitude Lane, the length of the proposed cul-de-sac will be 1,150-feet. If the cul-de-sac were to remain at

1,000-feet in length, it would result in the loss of 4-6 residential lots and create unnecessary lot depth at the end of the cul-de-sac.

The Plan Commission and Village Board may grant relief or a variance from the Land Division ordinance if the following criteria are met:

1. The variance is due to physical features of the site or its location.
Staff finds that the variance request is due to the physical features of the site and its location as street connection access to Midway Road/County Road AP is not feasible.
2. The variance is the least deviation from this chapter [Land Division Ordinance] which will mitigate the hardship.
Staff finds that that the request is the least deviation from the ordinance as no other variance requests are being made. The developer has made an effort to keep the cul-de-sac length to a minimum while maximizing the number of lots to create tax base.
3. The variance is not detrimental to the public interest and is in keeping with the general spirit and intent of this Chapter [Land Division Ordinance].
Staff finds that the variance is not detrimental to the public interest as a cul-de-sac would be required in this location regardless of the length. The intent of the ordinance is being met to maximize the developable land while keeping the cul-de-sac length as short as possible.
4. Any variance recommendation shall include, at minimum, that the variance will not violate the purpose of this Chapter [Land Division Ordinance] or provision of Wis. Stats. Ch. 236.
Staff finds that the variance should be violate the purpose or provisions of Village ordinances or state statutes.

Recommended Action:

Staff recommends approval of the cul-de-sac length variance request for the proposed Jewel Box Estates subdivision.

Attachments:

- Aerial Map
- Concept Plan

PLAN COMMISSION MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

January 19, 2021

Title:

Roles and Responsibilities of the Plan Commission

Issue:

What authority does the Plan Commission have in Village decisions?

Background and Additional Information:

At the last Plan Commission meeting, it was asked what role and responsibilities the Plan Commission has. In general, the Plan Commission is largely advisory to the Village Board. Essentially, the Plan Commission's role is related to community planning and land use development. Community planning refers to the Comprehensive Plan, which includes plan implementation (often ordinance development or review) and public participation and education (often public meetings or public hearings). Development review (rezonings, conditional use permits, subdivision plat) is another main component.

The Plan Commission should be a committee to listen to the public, hear evidence, and make recommendations to the Village Board. This role is intended to allow public participation in the development review, while not burdening the Village Board with the time necessary to conduct their own hearings. The Village Board should rely on the Plan Commission recommendation; however, most state statutes are created giving the governing body (Village Board) ultimate authority to approve, deny, or conditional approve an item.

For the Village of Harrison, the Plan Commission has sole authority to approve special exceptions to the design standards in the zoning ordinance. This authority is granted within the zoning ordinance. All other decisions are advisory or recommendations to the Village Board. Case law and state statutes, and Harrison ordinances, often dictate timeline reviews and decision making authority.

Under State Statute, the following ordinances, either newly adopted or revised, must be consistent with the Comprehensive Plan: official mapping, subdivision/land division, zoning, shoreland zoning. This is why there are Comprehensive Plan Amendments prior to rezonings in some cases, to ensure compliance and consistency. Generally, when making a decision on a rezoning, the Comprehensive Plan should be the guiding information used to make a decision/recommendation.

My experience in the Village over the last 12 years is that the Village Board relies on the Plan Commission recommendation when making decisions. There have been cases, mostly within the

past couple of years, when the Village Board acted against or without the recommendation of the Plan Commission. These cases can mostly be explained by the Village Board finding the recommendation in disagreement with a state statute or needed to make a decision within the review time constraints. I cannot speak for the Village Board, but I think the Plan Commission's time, energy, and thoughtfulness into the decision making recommendation is appreciated.

Recommended Action:

None, discussion/information item only.

Attachments:

- Handout from the Center of Land Use Education (CLUE) Plan Commission Handbook
- Various Wisconsin Statutes relating to items often referred to the Plan Commission.

ROLE OF THE PLAN COMMISSION

The plan commission performs a wide variety of functions related to community planning and land use development. Formal roles are outlined in state statutes and local ordinances while informal roles evolve as a result of the nature of the plan commission's work. Five general roles are outlined below:

► Community Planning

One of the primary roles of the plan commission is to prepare community plans and recommend their adoption to the governing body. Important roles for the plan commission include overseeing the development of a request for proposals for professional planning services; designing the planning process; developing a community vision; reviewing community data and trends; developing goals and objectives; and recommending policies, programs and tools to implement the plan.

► Plan Implementation

The plan commission plays an important role in the adoption and administration of zoning ordinances, land division ordinances, development standards and other related plan implementation tools. While adoption of these tools is a legislative function reserved by state law for the local governing body, the commission's role is nonetheless important. The plan commission may be involved in drafting and reviewing ordinances or amendments, public airing of proposals, and making recommendations to the governing body.

► Public Participation and Education

The plan commission may be asked to take the lead role in involving the public in developing community plans and implementing programs or ordinances. A well-designed public participation process will identify affected parties, provide meaningful opportunities for public involvement, and ensure that as many points of view as possible are expressed

throughout the process. While involving the public may add significant time, expense, and other challenges to the process, it can also help the community to identify issues of concern, assess the impacts of a proposal on various parties, and garner political support leading to adoption of the plan or ordinance.

► Development Review

In communities that are experiencing growth and change, the plan commission often spends a majority of its time reviewing specific land development proposals. Requests for zoning amendments, conditional use permits, and subdivision plats appear frequently on the municipal plan commission agenda. Plan commissions may also be involved in other types of development review including but not limited to site plan review, planned unit development review, historic preservation review, and design review.

► Referrals and Advisory Recommendations

The plan commission reviews a wide variety of matters referred to it. The table on the following page contains a list of items that must be referred to the plan commission before the decision-making body may take action. In most cases, the plan commission is given thirty days to review these matters.¹ If a report is not submitted by the plan commission within that time period, the decision-making body may proceed without it.² Failure to refer one of these items to the plan commission may result in a court voiding the action.³ In addition to the items outlined in this table, the governing body may refer any other matter to the plan commission that it deems appropriate. These referrals may be outlined in a local ordinance or determined on a case-by-case basis.

¹ The governing body may extend this time. Review of amendments to the zoning ordinance and official map are given 60 days.

² *KW Holdings, LLC v. Town of Windsor*, 2003 WI App 9, 259 Wis. 2d 357, 656 N.W.2d 752, 02-0706.

³ *Scanlon v. Menasha*, 16 Wis. 2d 437, 114 N.W.2d 791 (1962).

Role of the Plan Commission

What functions is the plan commission required to perform? What functions are optional?

The following table provides a summary of typical plan commission functions. Words such as “shall” and “must” indicate functions the plan commission is required to perform. Words such as “may” and “should” indicate functions that may be required by local ordinance or initiated at the discretion of the governing body or plan commission.

Community Planning

- **Plan Preparation.** The plan commission shall prepare and recommend a comprehensive plan for adoption by the governing body.⁴ The commission may also prepare other more detailed community plans, reports and recommendations.
- **Plan Review and Updates.** The comprehensive plan must be updated at least once every ten years.⁵ However, the plan commission may review or recommend updates to the plan on a more frequent basis.
- **Consistency Review.** New or amended zoning, subdivision and official mapping ordinances must be consistent with the comprehensive plan.⁶ The plan commission may be asked to review these items for consistency.

Public Participation

- **Preparation of a Public Participation Plan.** The governing body is required to prepare written procedures for public participation in association with the preparation of a comprehensive plan.⁷ The plan commission may be asked to prepare this plan or take a lead role in involving the public.
- **Public Meetings and Hearings.** Under Wisconsin’s Open Meetings Law, all meetings and hearings of the plan commission must be open to the public and preceded by advance notice.⁸ A public hearing must be held by the plan commission or governing body prior to adopting plans and ordinances and in association with most development review functions.

Plan Implementation

- **Ordinances.** At the direction of the governing body, the plan commission shall prepare and recommend ordinances or amendments necessary to implement the plan (i.e. zoning,⁹ subdivision,¹⁰ official mapping,¹¹ driveway access, design review, etc.)
- **Programs.** The plan commission may recommend programs for public improvements¹² or other non-regulatory programs to implement the plan (i.e. education, economic development, tourism promotion, acquisition of land or conservation easements, capital improvement programs, intergovernmental agreements, etc.)

Development Review

- **Plat Review.** Proposed plats that fall within a municipality’s plat approval jurisdiction must be referred to the plan commission for review. Approval of preliminary or final plats may be assigned to the plan commission or governing body.¹³

- **Rezones.** Proposed zoning amendments must be referred to the plan commission for review.¹⁴ (Note: For towns under county zoning, rezones and other zoning matters do not need to be referred to town plan commissions. However, notice of rezones must be provided to affected towns.)
- **Conditional Uses.** Authority to decide zoning conditional use permits may be assigned to the plan commission, zoning board, or governing body as specified in the local zoning ordinance.¹⁵
- **Other review** as assigned by the governing body including but not limited to site plan review, design review, historic preservation review, etc.

Referrals and Advisory Recommendations

The following matters must be referred to the plan commission for review and consideration before the governing body or other decision-making body takes action:¹⁶

- Location and design of public buildings
- Location of statues and memorials
- Land for public purposes such as streets, parks, airports, etc.
- Land for public or semi-public housing, slum clearance, relief of congestion, vacation camps for children
- Public utilities
- General fire limits¹⁷
- Child welfare agencies and group homes¹⁸
- Community-based residential facilities¹⁹
- Pedestrian malls²⁰
- Proposed housing projects²¹
- Plats of lands over which the municipality is given platting jurisdiction
- Adoption or amendment of a subdivision or land division ordinance²²
- Amendment or repeal of any ordinance adopted under Wis. Stat. sec. 62.23, including ordinances relating to plan commissions, comprehensive planning, official mapping and zoning.

Miscellaneous Powers

- **Hire Staff.** The plan commission may employ or contract for the services of experts or staff, not to exceed appropriations made by the governing body.²³
- **Adopt Rules of Procedure.** The plan commission may adopt rules of procedure and shall keep a record of its studies, resolutions, transactions, findings, and determinations.²⁴
- **Inspect Land.** The plan commission may enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon.²⁵

⁴ Wis. Stat. §§ 62.23(2) and 59.69(3)(a). ⁵ Wis. Stat. § 66.1001(2)(i). ⁶ Wis. Stat. § 66.1001(3). ⁷ Wis. Stat. § 66.1001(4)(a). ⁸ Wis. Stat. § 19.83. ⁹ Wis. Stat. §§ 59.69(5)(e), 60.61(4)(b) and 62.23(7)(d)1a. ¹⁰ Wis. Stat. § 236.45(4). ¹¹ Wis. Stat. § 62.23(6). ¹² Wis. Stat. § 62.23(4). ¹³ Wis. Stat. § 62.23(5) and 236.10(3). ¹⁴ Wis. Stat. §§ 59.69(5)(e) and 62.23(7)(d)2. ¹⁵ Wis. Stat. §§ 59.694(1) and 62.23(7)(e)1. ¹⁶ Wis. Stat. § 62.23(5) which applies to cities, villages and towns with village powers. Other references as noted. ¹⁷ Wis. Stat. § 62.23(9)(b). ¹⁸ Wis. Stat. § 48.68(3). ¹⁹ Wis. Stat. § 50.03(4). ²⁰ Wis. Stat. § 66.0905. ²¹ Wis. Stat. § 66.1211(3). ²² Wis. Stat. § 236.45(4). ²³ Wis. Stat. §§ 59.69(2)(d) and 62.23(1)(e). ²⁴ Wis. Stat. §§ 59.69(2)(c) and 62.23(2). ²⁵ Wis. Stat. § 62.23(4).

3 Updated 17–18 Wis. Stats.**PLATTING LANDS 236.12**

(4) Any municipality, town or county may under s. 66.0301 agree with any other municipality, town or county for the cooperative exercise of the authority to approve or review plats. A municipality, town or county may, under s. 66.0301, agree to have a regional planning commission review plats and submit an advisory recommendation with respect to their approval. A municipality, town or county may agree with a regional planning commission for the cooperative exercise of the authority to approve or review plats only as provided under s. 66.0309 (11).

(5) Any municipality may waive its right to approve plats within any portion of its extraterritorial plat approval jurisdiction by a resolution of the governing body recorded with the register of deeds incorporating a map or metes and bounds description of the area outside its corporate boundaries within which it shall approve plats. The municipality may rescind this waiver at any time by resolution of the governing body recorded with the register of deeds.

History: 1979 c. 248; 1993 a. 301; 1999 a. 150 s. 672; 2015 a. 178.

A city improperly included lots not within its extraterritorial plat approval jurisdiction in the city's calculation of fees assessed to a developer. *Brookhill Development, Ltd. v. City of Waukesha*, 103 Wis. 2d 27, 307 N.W.2d 242 (1981).

Section 236.12 (2) (a) does not restrict a town's authority to impose public improvements as conditions for plat approval during a contested annexation. When a town is legally contesting the annexation, sub. (1) (a) requires both the annexing municipality and the town from which the area has been annexed to approve a final plat in accordance with s. 236.12. *KW Holdings, LLC v. Town of Windsor*, 2003 WI App 9, 259 Wis. 2d 357, 656 N.W.2d 752, 02–0706.

Artificial lakes and land subdivisions. *Kusler*, 1971 WLR 369.

236.11 Submission of plats for approval. (1) (a) Before submitting a final plat for approval, the subdivider may submit, or the approving authority may require that the subdivider submit, a preliminary plat. It shall be clearly marked "preliminary plat" and shall be in sufficient detail to determine whether the final plat will meet layout requirements. Within 90 days the approving authority, or its agent authorized to approve preliminary plats, shall take action to approve, approve conditionally, or reject the preliminary plat and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the approving authority or its agent to act within the 90 days, or extension thereof, constitutes an approval of the preliminary plat.

(b) If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 36 months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat or may extend the time for submission of the final plat. The final plat may, if permitted by the approving authority, constitute only that portion of the approved preliminary plat that the subdivider proposes to record at that time.

(c) A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the approving authority with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.

(2) (a) The subdivider or subdivider's agent shall submit to the body or bodies having authority to approve plats an electronic copy of the final plat or a copy of the final plat that is capable of legible reproduction. The approving authority or authorities shall approve or reject the final plat within 60 days of its submission, unless the time is extended by agreement with the subdivider or subdivider's agent. When the approving authority is a municipality and determines to approve the plat, it shall give at least 10 days' prior written notice of its intention to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of such proposed plat but failure to give such notice shall not invalidate any such plat. If a plat is rejected, the reasons therefor shall be stated

in the minutes of the meeting and a copy thereof or a written statement of the reasons shall be supplied to the subdivider or subdivider's agent. If the approving authority fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the clerk of the authority that has failed to act.

(b) The approval of the approving authority or authorities may be based on the copy submitted under par. (a) but the approval must be inscribed on the recordable plat document. Before inscribing its approval, the approving authority shall require the subdivider or subdivider's agent to certify the respects in which the recordable plat document differs from the copy, if any. An approving authority must approve all modifications in the final plat before it gives final approval to the plat. No approving authority may inscribe its final approval on a plat before the affixing of the certificate by the department under s. 236.12 (3).

History: 1979 c. 248; 1997 a. 332; 2009 a. 376; 2013 a. 358.

Under s. 236.11 (1) (a), a village must act within the stated time limit as to a preliminary plat, even though the plat allegedly violates the official city map. Tabling consideration of the plat within the stated time is not sufficient. *State ex rel. Lozoff v. Board of Trustees of Hartland*, 55 Wis. 2d 64, 197 N.W.2d 798 (1972).

236.12 Procedure for approval of plats. (1) This section shall not apply to cities of the first class nor to unincorporated land in a county having a population of 750,000 or more.

(2) (ac) The subdivider or subdivider's agent shall submit an electronic copy of the preliminary or final plat, or a copy of the preliminary or final plat that is capable of clearly legible reproduction, to the department, which shall examine the plat for compliance with ss. 236.15, 236.16, 236.20, and 236.21 (1) and (2).

(ap) Within 2 days after a preliminary or final plat is submitted under par. (ac), the department shall transmit an electronic copy of the plat, or, if the department prefers, 2 legible hard copies of the plat, to each state agency authorized to object to the plat under this paragraph. If the subdivision abuts or adjoins a state trunk highway or connecting highway, the department shall transmit a copy or copies of the plat to the department of transportation so that the agency may determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. If the subdivision is not served by a public sewer and provision for that service has not been made, the department shall transmit a copy or copies of the plat to the department of safety and professional services so that the agency may determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. In lieu of this procedure the agencies may designate local officials to act as their agents in examining the plats for compliance with the statutes or their rules by filing a written delegation of authority with the approving body.

(b) Within 2 days after a preliminary or final plat is submitted under par. (ac), the department shall transmit an electronic copy of the plat, or, if the department prefers, 4 legible hard copies of the plat, to the county planning agency, if the agency employs on a full-time basis a professional engineer, a planner, or other person charged with the duty of administering planning legislation and adopts a policy requiring submission so that the body may determine if it has any objection to the plat on the basis of a conflict with park, parkway, expressway, major highways, airports, drainage channels, schools, or other planned public developments. If no county planning agency exists, then 2 copies to the county park commission except that in a county with a county executive or county administrator, 2 copies to the county park manager, if the subdivision abuts a county park or parkway so that the body may determine if it has any objection to the plat on the basis of a conflict with the park or parkway development.

(3) Within 20 days after the date of receiving the copies of the plat any agency having authority to object under sub. (2) shall notify the subdivider or subdivider's agent and all other agencies having the authority to object of any objection based upon failure of the plat to comply with the statutes or rules that its examination

under sub. (2) is authorized to cover, or, if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the department. After each agency and the department have certified that they have no objection or that their objections have been satisfied, the department shall so certify on the face of the plat. If an agency fails to act within 20 days from the date on which it received the copy or copies of the plat, and the department fails to act within 30 days from the date on which it received the copy of the plat, it shall be deemed that there are no objections to the plat and, upon demand, the department shall so certify on the face of the plat.

(4m) In order to facilitate approval of the final plat whenever more than one approval is required, the subdivider or subdivider's agent shall file with each approving authority a true copy of the plat that the subdivider or subdivider's agent submitted to the department.

(7) The department and the state agencies referred to in s. 236.13 (1) may charge reasonable service fees for all or part of the costs of activities and services provided by the department under this section and s. 70.27. A schedule of such fees shall be established by rule by each such agency.

History: 1973 c. 90; 1977 c. 29 s. 1654 (3), (8) (e); 1979 c. 221; 1979 c. 248 ss. 5, 25 (6); 1979 c. 355; 1985 a. 29; 1995 a. 27; 1997 a. 27; 2011 a. 32; 2013 a. 358; 2017 a. 207 s. 5; 2017 a. 364 s. 49.

A "planned public development" under sub. (2) (b) is one that a county board has adopted by ordinance. *Reynolds v. Waukesha County Park & Planning Commission*, 109 Wis. 2d 56, 324 N.W.2d 897 (Ct. App. 1982).

Because sub. (2) (a) grants only to a "town or municipality" within which a plat lies the authority to require public improvements as a condition of plat approval, and a county is not a municipality for purposes of ch. 236, a county may not regulate the size of cul-de-sacs, the length of street blocks, and the location of town roads when the plat is located within a town. *Rogers Development v. Rock County Planning and Development Committee*, 2003 WI App 113, 265 Wis. 2d 214, 666 N.W.2d 504, 02-0017.

236.13 Basis for approval. (1) Approval of the preliminary or final plat shall be conditioned upon compliance with:

(a) The provisions of this chapter.

(b) Any municipal, town, or county ordinance that is in effect when the subdivider submits a preliminary plat, or a final plat if no preliminary plat is submitted.

(d) The rules of the department of safety and professional services relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for public sewer service has not been made.

(e) The rules of the department of transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.

(2) (ad) In this subsection:

1. "Binder course" means the non-surface-level course that is attached to the packed-level gravel course.

2. "Land disturbing activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of this state. "Land disturbing activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.

3. "Total cost to complete a public improvement" includes the cost to make and install storm water facilities. "Total cost to complete a public improvement" does not include any of the following:

a. Any fees charged by the governing body of the town or municipality.

b. Land disturbing activities that are necessary to achieve the desired subgrade for public improvements.

(am) 1. a. As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that the subdivider make and install any public improvements reasonably necessary or that the subdivider pro-

vide security to ensure that the subdivider will make those improvements within a reasonable time. The governing body may not require the subdivider to provide security at the commencement of a project in an amount that is more than 120 percent of the estimated total cost to complete the required public improvements, as determined under subd. 1d.

b. The subdivider may construct the project in such phases as the governing body of the town or municipality approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of security required by the governing body under subd. 1. a. is limited to the phase of the project that is currently being constructed. The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

c. If the governing body of the town or municipality requires a subdivider to provide security under subd. 1. a., the governing body may not require the subdivider to provide the security for more than 14 months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements.

d. This paragraph applies to all preliminary and final plats, regardless of whether submitted for approval before, on, or after August 1, 2014.

1d. The estimated total cost to complete the required public improvements under subd. 1. shall be determined as follows:

a. A governing body of the town or municipality may provide an initial estimate to the subdivider of the estimated total cost to complete the required public improvements. If the subdivider accepts the initial estimate, then the initial estimate is the estimated total cost to complete the required public improvements.

b. If the governing body of the town or municipality does not provide an initial estimate to the subdivider or the subdivider rejects the initial estimate, the subdivider shall provide the governing body with a bona fide bid from the subdivider's contractor to complete the required public improvements in the event of a default. If the governing body accepts the subdivider's bona fide bid, the bona fide bid is the estimated total cost to complete the required public improvements.

c. If the governing body of the town or municipality rejects the subdivider's bona fide bid, the governing body shall provide the subdivider with an estimate for the cost to complete the public improvements in the event of a default. If the governing body's estimate does not exceed the subdivider's bona fide bid by more than 10 percent, the governing body's estimate is the estimated total cost to complete the required public improvements. If the governing body's estimate exceeds the subdivider's bona fide bid by 10 percent or more, the estimated total cost to complete the required public improvements is the amount agreed upon by the subdivider's engineer and the governing body's engineer.

1m. a. If the governing body of the town or municipality requires a subdivider to provide security under subd. 1. a., the governing body shall accept a performance bond or a letter of credit, or any combination thereof, at the subdivider's option, to satisfy the requirement.

b. The subdivider and the governing body of the town or municipality may agree that all or part of the requirement to provide security under subd. 1. a. may be satisfied by a performance bond provided by the subdivider's contractor that names the town or municipality as an additional obligee provided that the form of the contractor's performance bond is acceptable to the governing body of the town or municipality.

c. Unless the governing body of a town or municipality demonstrates that a bond form does not sufficiently ensure performance in the event of default, the governing body of the town or

functional and jurisdictional studies, urban area and rural area transportation plans, airport master plans and rail plans that apply in the local governmental unit.

(d) *Utilities and community facilities element.* A compilation of objectives, policies, goals, maps and programs to guide the future development of utilities and community facilities in the local governmental unit such as sanitary sewer service, storm water management, water supply, solid waste disposal, on-site wastewater treatment technologies, recycling facilities, parks, telecommunications facilities, power-generating plants and transmission lines, cemeteries, health care facilities, child care facilities and other public facilities, such as police, fire and rescue facilities, libraries, schools and other governmental facilities. The element shall describe the location, use and capacity of existing public utilities and community facilities that serve the local governmental unit, shall include an approximate timetable that forecasts the need in the local governmental unit to expand or rehabilitate existing utilities and facilities or to create new utilities and facilities and shall assess future needs for government services in the local governmental unit that are related to such utilities and facilities.

(e) *Agricultural, natural and cultural resources element.* A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical and cultural resources, community design, recreational resources and other natural resources.

(f) *Economic development element.* A compilation of objectives, policies, goals, maps and programs to promote the stabilization, retention or expansion, of the economic base and quality employment opportunities in the local governmental unit, including an analysis of the labor force and economic base of the local governmental unit. The element shall assess categories or particular types of new businesses and industries that are desired by the local governmental unit. The element shall assess the local governmental unit's strengths and weaknesses with respect to attracting and retaining businesses and industries, and shall designate an adequate number of sites for such businesses and industries. The element shall also evaluate and promote the use of environmentally contaminated sites for commercial or industrial uses. The element shall also identify county, regional and state economic development programs that apply to the local governmental unit.

(g) *Intergovernmental cooperation element.* A compilation of objectives, policies, goals, maps, and programs for joint planning and decision making with other jurisdictions, including school districts, drainage districts, and adjacent local governmental units, for siting and building public facilities and sharing public services. The element shall analyze the relationship of the local governmental unit to school districts, drainage districts, and adjacent local governmental units, and to the region, the state and other governmental units. The element shall consider, to the greatest extent possible, the maps and plans of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, with which the local governmental unit shares common territory. The element shall incorporate any plans or agreements to which the local governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall identify existing or potential conflicts between the local governmental unit and other governmental units that are specified in this paragraph and describe processes to resolve such conflicts.

(h) *Land-use element.* A compilation of objectives, policies, goals, maps and programs to guide the future development and redevelopment of public and private property. The element shall contain a listing of the amount, type, intensity and net density of existing uses of land in the local governmental unit, such as agri-

cultural, residential, commercial, industrial and other public and private uses. The element shall analyze trends in the supply, demand and price of land, opportunities for redevelopment and existing and potential land-use conflicts. The element shall contain projections, based on the background information specified in par. (a), for 20 years, in 5-year increments, of future residential, agricultural, commercial and industrial land uses including the assumptions of net densities or other spatial assumptions upon which the projections are based. The element shall also include a series of maps that shows current land uses and future land uses that indicate productive agricultural soils, natural limitations for building site development, floodplains, wetlands and other environmentally sensitive lands, the boundaries of areas to which services of public utilities and community facilities, as those terms are used in par. (d), will be provided in the future, consistent with the timetable described in par. (d), and the general location of future land uses by net density or other classifications.

(i) *Implementation element.* A compilation of programs and specific actions to be completed in a stated sequence, including proposed changes to any applicable zoning ordinances, official maps, or subdivision ordinances, to implement the objectives, policies, plans and programs contained in pars. (a) to (h). The element shall describe how each of the elements of the comprehensive plan will be integrated and made consistent with the other elements of the comprehensive plan, and shall include a mechanism to measure the local governmental unit's progress toward achieving all aspects of the comprehensive plan. The element shall include a process for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.

(2m) EFFECT OF ENACTMENT OF A COMPREHENSIVE PLAN, CONSISTENCY REQUIREMENTS. (a) The enactment of a comprehensive plan by ordinance does not make the comprehensive plan by itself a regulation.

(b) A conditional use permit that may be issued by a political subdivision does not need to be consistent with the political subdivision's comprehensive plan.

(3) ORDINANCES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS. Except as provided in sub. (3m), beginning on January 1, 2010, if a local governmental unit enacts or amends any of the following ordinances, the ordinance shall be consistent with that local governmental unit's comprehensive plan:

(g) Official mapping ordinances enacted or amended under s. 62.23 (6).

(h) Local subdivision ordinances enacted or amended under s. 236.45 or 236.46.

(j) County zoning ordinances enacted or amended under s. 59.69.

(k) City or village zoning ordinances enacted or amended under s. 62.23 (7).

(L) Town zoning ordinances enacted or amended under s. 60.61 or 60.62.

(q) Shorelands or wetlands in shorelands zoning ordinances enacted or amended under s. 59.692, 61.351, 61.353, 62.231, or 62.233.

(3m) DELAY OF CONSISTENCY REQUIREMENT. (a) If a local governmental unit has not adopted a comprehensive plan before January 1, 2010, the local governmental unit is exempt from the requirement under sub. (3) if any of the following applies:

1. The local governmental unit has applied for but has not received a comprehensive planning grant under s. 16.965 (2), and the local governmental unit adopts a resolution stating that the local governmental unit will adopt a comprehensive plan that will take effect no later than January 1, 2012.

2. The local governmental unit has received a comprehensive planning grant under s. 16.965 (2) and has been granted an extension of time under s. 16.965 (5) to complete comprehensive planning.

the local governmental units and political subdivisions identified in that section. OAG 3–10.

66.10013 Housing affordability report. (1) In this section, “municipality” means a city or village with a population of 10,000 or more.

(2) Not later than January 1, 2020, a municipality shall prepare a report of the municipality’s implementation of the housing element of the municipality’s comprehensive plan under s. 66.1001. The municipality shall update the report annually, not later than January 31. The report shall contain all of the following:

(a) The number of subdivision plats, certified survey maps, condominium plats, and building permit applications approved in the prior year.

(b) The total number of new residential dwelling units proposed in all subdivision plats, certified survey maps, condominium plats, and building permit applications that were approved by the municipality in the prior year.

(c) A list and map of undeveloped parcels in the municipality that are zoned for residential development.

(d) A list of all undeveloped parcels in the municipality that are suitable for, but not zoned for, residential development, including vacant sites and sites that have potential for redevelopment, and a description of the zoning requirements and availability of public facilities and services for each property.

(e) An analysis of the municipality’s residential development regulations, such as land use controls, site improvement requirements, fees and land dedication requirements, and permit procedures. The analysis shall calculate the financial impact that each regulation has on the cost of each new subdivision. The analysis shall identify ways in which the municipality can modify its construction and development regulations, lot sizes, approval processes, and related fees to do each of the following:

1. Meet existing and forecasted housing demand.
2. Reduce the time and cost necessary to approve and develop a new residential subdivision in the municipality by 20 percent.

(3) A municipality shall post the report under sub. (2) on the municipality’s Internet site on a web page dedicated solely to the report and titled “Housing Affordability Analysis.”

History: 2017 a. 243.

66.10014 New housing fee report. (1) In this section, “municipality” means a city or village with a population of 10,000 or more.

(2) Not later than January 1, 2020, a municipality shall prepare a report of the municipality’s residential development fees. The report shall contain all of the following:

(a) Whether the municipality imposes any of the following fees or other requirements for purposes related to residential construction, remodeling, or development and, if so, the amount of each fee:

1. Building permit fee.
2. Impact fee.
3. Park fee.
4. Land dedication or fee in lieu of land dedication requirement.
5. Plat approval fee.
6. Storm water management fee.
7. Water or sewer hook–up fee.

(b) The total amount of fees under par. (a) that the municipality imposed for purposes related to residential construction, remodeling, or development in the prior year and an amount calculated by dividing the total amount of fees under this paragraph by the number of new residential dwelling units approved in the municipality in the prior year.

(3) (a) A municipality shall post the report under sub. (2) on the municipality’s Internet site on a web page dedicated solely to the report and titled “New Housing Fee Report.” If a municipality

does not have an Internet site, the county in which the municipality is located shall post the information under this paragraph on its Internet site on a web page dedicated solely to development fee information for the municipality.

(b) A municipality shall provide a copy of the report under sub. (2) to each member of the governing body of the municipality.

(4) If a fee or the amount of a fee under sub. (2) (a) is not properly posted as required under sub. (3) (a), the municipality may not charge the fee.

History: 2017 a. 243.

66.10015 Limitation on development regulation authority and down zoning. (1) DEFINITIONS. In this section:

(a) “Approval” means a permit or authorization for building, zoning, driveway, stormwater, or other activity related to a project.

(as) “Down zoning ordinance” means a zoning ordinance that affects an area of land in one of the following ways:

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage.

2. By reducing the permitted uses of the land, that are specified in a zoning ordinance or other land use regulation, to fewer uses than were allowed under its previous usage.

(b) “Existing requirements” means regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision.

(bs) “Members–elect” means those members of the governing body of a political subdivision, at a particular time, who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation, or removal from office.

(c) “Political subdivision” means a city, village, town, or county.

(d) “Project” means a specific and identifiable land development that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways, and easements.

(e) “Substandard lot” means a legally created lot or parcel that met any applicable lot size requirements when it was created, but does not meet current lot size requirements.

(f) “Zoning ordinance” means an ordinance enacted by a political subdivision under s. 59.69, 60.61, 60.62, 61.35, or 62.23.

(2) USE OF EXISTING REQUIREMENTS. (a) Except as provided under par. (b) or s. 66.0401, if a person has submitted an application for an approval, the political subdivision shall approve, deny, or conditionally approve the application solely based on existing requirements, unless the applicant and the political subdivision agree otherwise. An application is filed under this section on the date that the political subdivision receives the application.

(b) If a project requires more than one approval or approvals from one or more political subdivisions and the applicant identifies the full scope of the project at the time of filing the application for the first approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project, unless the applicant and the political subdivision agree otherwise.

(c) An application for an approval shall expire not less than 60 days after filing if all of the following apply:

1. The application does not comply with form and content requirements.

2. Not more than 10 working days after filing, the political subdivision provides the applicant with written notice of the noncompliance. The notice shall specify the nature of the noncompliance and the date on which the application will expire if the noncompliance is not remedied.

3. The applicant fails to remedy the noncompliance before the date provided in the notice.

(e) Notwithstanding any other law or rule, or any action or proceeding under the common law, no political subdivision may enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

1. Conveying an ownership interest in a substandard lot.
2. Using a substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other ordinances of the political subdivision.

(3) **DOWN ZONING.** A political subdivision may enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.

(4) Notwithstanding the authority granted under ss. 59.69, 60.61, 60.62, 61.35, and 62.23, no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged.

(5) **EXPIRATION DATES.** A political subdivision may not establish an expiration date for an approval related to a planned development district of less than 5 years after the date of the last approval required for completion of the project. This section does not prohibit a political subdivision from establishing timelines for completion of work related to an approval.

(6) **ZONING LIMITATIONS, INSPECTIONS.** (a) If a political subdivision or a utility district requires the installation of a water meter station for a political subdivision, neither the political subdivision nor the utility district may require a developer to install a water meter that is larger than a utility-type box, and may not require a developer to include heating, air conditioning, or a restroom in the water meter station. Any requirements for such a project that go beyond the limitations specified in this paragraph must be funded entirely by the political subdivision or utility district.

(b) 1. If a political subdivision employs a building inspector to enforce its zoning ordinance or other ordinances related to building, and a developer requests the building inspector to perform an inspection that is part of the inspector's duties, the inspector shall complete the inspection not later than 14 business days after the building inspector receives the request for an inspection.

2. If a building inspector does not complete a requested inspection as required under subd. 1., the developer may request a state building inspector to provide the requested inspection, provided that the state inspector has a comparable level of zoning and building inspection qualification as the local building inspector.

3. If a developer provides a political subdivision with a certificate of inspection from a state building inspector from an inspection described under subd. 2., which meets the requirements of the inspection that was supposed to be provided by the local building inspector, the political subdivision must accept the certificate provided by the state building inspector as if it had been provided by the political subdivision's building inspector.

History: 2013 a. 74; 2015 a. 391; 2017 a. 67, 68, 243.

66.1002 Development moratoria. (1) DEFINITIONS. In this section:

- (a) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).
- (b) "Development moratorium" means a moratorium on rezoning or approving any subdivision or other division of land by plat or certified survey map that is authorized under ch. 236.
- (d) "Municipality" means any city, village, or town.
- (e) "Public health professional" means any of the following:
 1. A physician, as defined under s. 48.375 (2) (g).

2. A registered professional nurse, as defined under s. 49.498 (1) (L).

(f) "Registered engineer" means an individual who satisfies the registration requirements for a professional engineer as specified in s. 443.04.

(2) **MORATORIUM ALLOWED.** Subject to the limitations and requirements specified in this section, a municipality may enact a development moratorium ordinance if the municipality has enacted a comprehensive plan, is in the process of preparing its comprehensive plan, is in the process of preparing a significant amendment to its comprehensive plan in response to a substantial change in conditions in the municipality, or is exempt from the requirement as described in s. 66.1001 (3m), and if at least one of the following applies:

(a) The municipality's governing body adopts a resolution stating that a moratorium is needed to prevent a shortage in, or the overburdening of, public facilities located in the municipality and that such a shortage or overburdening would otherwise occur during the period in which the moratorium would be in effect, except that the governing body may not adopt such a resolution unless it obtains a written report from a registered engineer stating that in his or her opinion the possible shortage or overburdening of public facilities justifies the need for a moratorium.

(b) The municipality's governing body adopts a resolution stating that a moratorium is needed to address a significant threat to the public health or safety that is presented by a proposed or anticipated activity specified under sub. (4), except that the governing body may not adopt such a resolution unless it obtains a written report from a registered engineer or public health professional stating that in his or her opinion the proposed or anticipated activity specified under sub. (4) presents such a significant threat to the public health or safety that the need for a moratorium is justified.

(3) **ORDINANCE REQUIREMENTS.** (a) An ordinance enacted under this section shall contain at least all of the following elements:

1. A statement describing the problem giving rise to the need for the moratorium.
2. A statement of the specific action that the municipality intends to take to alleviate the need for the moratorium.
3. Subject to par. (b), the length of time during which the moratorium is to be in effect.
4. A statement describing how and why the governing body decided on the length of time described in subd. 3.
5. A description of the area in which the ordinance applies.
6. An exemption for any activity specified under sub. (4) that would have no impact, or slight impact, on the problem giving rise to the need for the moratorium.

(b) 1. A development moratorium ordinance may be in effect only for a length of time that is long enough for a municipality to address the problem giving rise to the need for the moratorium but, except as provided in subd. 2., the ordinance may not remain in effect for more than 12 months.

2. A municipality may amend the ordinance one time to extend the moratorium for not more than 6 months if the municipality's governing body determines that such an extension is necessary to address the problem giving rise to the need for the moratorium.

(c) A municipality may not enact a development moratorium ordinance unless it holds at least one public hearing at which the proposed ordinance is discussed. The public hearing must be preceded by a class 1 notice under ch. 985, the notice to be at least 30 days before the hearing. The municipality may also provide notice of the hearing by any other appropriate means. The class 1 notice shall contain at least all of the following:

1. The time, date, and place of the hearing.
2. A summary of the proposed development moratorium ordinance, including the location where the ordinance would apply,

the length of time the ordinance would be in effect, and a statement describing the problem giving rise to the need for the moratorium.

3. The name and contact information of a municipal official who may be contacted to obtain additional information about the proposed ordinance.

4. Information relating to how, where, and when a copy of the proposed ordinance may be inspected or obtained before the hearing.

(4) **APPLICABILITY.** A development moratorium ordinance enacted under this section applies to any of the following that is submitted to the municipality on or after the effective date of the ordinance:

(a) A request for rezoning.

(c) A plat or certified survey map.

(d) A subdivision plat or other land division.

History: 2011 a. 144.

66.1003 Discontinuance of a public way. (1) In this section, “public way” means all or any part of a road, street, slip, pier, lane or paved alley.

(2) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of a public way upon the written petition of the owners of all the frontage of the lots and lands abutting upon the public way sought to be discontinued, and of the owners of more than one-third of the frontage of the lots and lands abutting on that portion of the remainder of the public way which lies within 2,650 feet of the ends of the portion to be discontinued, or lies within so much of that 2,650 feet as is within the corporate limits of the city, village or town. The beginning and ending of an alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to s. 82.21.

(3) The common council of any city, except a 1st class city, or a village or town board may discontinue all or part of an unpaved alley upon the written petition of the owners of more than 50 percent of the frontage of the lots and lands abutting upon the portion of the unpaved alley sought to be discontinued. The beginning and ending of an unpaved alley shall be considered to be within the block in which it is located. This subsection does not apply to a highway upon the line between 2 towns that is subject to s. 82.21.

(4) (a) Notwithstanding subs. (2) and (3), proceedings covered by this section may be initiated by the common council or village or town board by the introduction of a resolution declaring that since the public interest requires it, a public way or an unpaved alley is vacated and discontinued. No discontinuance of a public way under this subsection may result in a landlocked parcel of property.

(b) A hearing on the passage of a resolution under par. (a) shall be set by the common council or village or town board on a date which shall not be less than 40 days after the date on which the resolution is introduced. Notice of the hearing shall be given as provided in sub. (8) (b), except that in addition notice of the hearing shall be served on the owners of all of the frontage of the lots and lands abutting upon the public way or unpaved alley sought to be discontinued in a manner provided for the service of summons in circuit court at least 30 days before the hearing. When service cannot be made within the city, village or town, a copy of the notice shall be mailed to the owner’s last-known address at least 30 days before the hearing.

(c) Except as provided in this paragraph, no discontinuance of the whole or any part of a public way may be ordered under this subsection if a written objection to the proposed discontinuance is filed with the city, village or town clerk by any of the owners abutting on the public way sought to be discontinued or by the owners of more than one-third of the frontage of the lots and lands abutting on the remainder of the public way which lies within 2,650 feet from the ends of the public way proposed to be discontinued or which lies within that portion of the 2,650 feet that is within the corporate limits of the city, village or town. If a written

objection is filed, the discontinuance may be ordered only by the favorable vote of two-thirds of the members of the common council or village or town board voting on the proposed discontinuance. An owner of property abutting on a discontinued public way whose property is damaged by the discontinuance may recover damages as provided in ch. 32. The beginning and ending of an alley shall be considered to be within the block in which it is located.

(d) No discontinuance of an unpaved alley shall be ordered if a written objection to a proposed discontinuance is filed with the city, village or town clerk by the owner of one parcel of land that abuts the portion of the alley to be discontinued and if the alley provides the only access to off-street parking for the parcel of land owned by the objector.

(5) For the purpose of this section, the narrowing, widening, extending or other alteration of any road, street, lane or alley does not constitute a discontinuance of any part of the former road, street, lane or alley, including any right-of-way, which is included within the right-of-way for the new road, street, lane or alley.

(6) Whenever any of the lots or lands subject to this section is owned by the state, county, city, village or town, or by a minor or incompetent person, or the title to the lots or lands is held in trust, petitions for discontinuance or objections to discontinuance may be signed by the governor, chairperson of the board of supervisors of the county, mayor of the city, president of the village, chairperson of the town board, guardian of the minor or incompetent person, or the trustee, respectively, and the signature of any private corporation may be made by its president, secretary or other principal officer or managing agent.

(7) The city council or village or town board may by resolution discontinue any alley or any portion of an alley which has been abandoned, at any time after the expiration of 5 years from the date of the recording of the plat by which it was dedicated. Failure or neglect to work or use any alley or any portion of an alley for a period of 5 years next preceding the date of notice provided for in sub. (8) (b) shall be considered an abandonment for the purpose of this section.

(8) (a) Upon receiving a petition under sub. (2) or (3) or upon the introduction of a resolution under sub. (4), the city, village, town, or county shall deliver a copy of the petition or resolution to all of the following:

1. The secretary of transportation, if the public way or unpaved alley that is the subject of the petition or resolution is located within one-quarter mile of a state trunk highway or connecting highway.

2. The commissioner of railroads, if there is a railroad highway crossing within the portion of the public way that is the subject of the petition or resolution.

(b) Notice stating when and where the petition or resolution under this section will be acted upon and stating what public way or unpaved alley is proposed to be discontinued shall be published as a class 3 notice under ch. 985.

(9) In proceedings under this section, s. 840.11 shall be considered as a part of the proceedings.

(10) Notwithstanding ss. 82.10 and 82.21, no city council or county, village, or town board may discontinue a highway when the discontinuance would deprive a landowner or a public school of all access to a highway.

History: 1973 c. 189 s. 20; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 46; 1993 a. 184, 246, 491; 1995 a. 239; 1999 a. 150 ss. 265, 337 to 343; Stats. 1999 s. 66.1003; 2003 a. 214; 2009 a. 107, 223.

NOTE: 2003 Wis. Act 214, which affected this section, contains extensive explanatory notes.

Cross-reference: See s. 236.43 for other provisions for vacating streets.

The enactment of sub. (2m) [now sub. (5)] did not eliminate any vested rights of abutting property owners. *Miller v. City of Wauwatosa*, 87 Wis. 2d 676, 275 N.W.2d 876 (1979).

An abutting property owner under sub. (2) (c) [now sub. (4) (c)] at the very least must be somehow supporting or sustaining travel on the street. *Voss v. City of Middleton*, 162 Wis. 2d 737, 470 N.W.2d 625 (1991).

The plain language of this section unambiguously shows that a town has authority to proceed under sub. (3) to vacate unpaved alley segments, even when considered in conjunction with ch. 236, which provides for county vacation of platted alleys in

**Village of Harrison
December-20 Zoning Permit Report**

	Current Year				YTD			
	Permits	YTD Permits	Estimated Value	Estimate Value	Permits	YTD Permits	Estimated Value	Estimate Value
Residential								
Single Family	7	83	\$ 2,014,500	\$ 27,332,618	2	61	\$ 500,000	\$ 17,473,005
Two Family (units)	0	1	\$ (0)	\$ 650,000	0	0	\$ 0	\$ 0
Multi Family (units)	0	3	\$ (0)	\$ 31,500,000	0	0	\$ 0	\$ 0
Additions	1	18	\$ 37,000	\$ 796,573	0	15	\$ 0	\$ 836,077
Acc. Structures	0	42	\$ 0	\$ 530,550	0	26	\$ 0	\$ 407,150
Miscellaneous	3	125	\$ 82,500	\$ 1,205,139	4	62	\$ 159,500	\$ 741,895
Total Residential	11	272	\$ 2,134,000	\$ 62,014,880	6	164	\$ 659,500	\$ 19,458,127
Com./Ind.								
New	0	1	\$ 0	\$ 350,000	0	3	\$ 0	\$ 5,567,000
Additions	0	1	\$ 0	\$ 16,000	0	0	\$ 0	\$ 0
Acc. Structures	0	2	\$ 0	\$ 51,500	0	0	\$ 0	\$ 0
Miscellaneous	0	6	\$ 0	\$ 523,450	0	4	\$ 0	\$ 70,750
Total Com./Ind.	0	10	\$ 0	\$ 940,950	0	7	\$ 0	\$ 5,637,750
Combined Total	11	282	\$ 2,134,000	\$ 62,955,830	6	171	\$ 659,500	\$ 25,095,877

Number of Vacant Lots Remaining 139

	Previous Year				YTD			
	Permits	YTD Permits	Estimated Value	Estimate Value	Permits	YTD Permits	Estimated Value	Estimate Value
Residential								
Single Family	2	61	\$ 500,000	\$ 17,473,005	2	61	\$ 500,000	\$ 17,473,005
Two Family (units)	0	0	\$ (0)	\$ 0	0	0	\$ 0	\$ 0
Multi Family (units)	0	0	\$ (0)	\$ 0	0	0	\$ 0	\$ 0
Additions	0	15	\$ 0	\$ 836,077	0	15	\$ 0	\$ 836,077
Acc. Structures	0	26	\$ 0	\$ 407,150	0	26	\$ 0	\$ 407,150
Miscellaneous	4	62	\$ 159,500	\$ 741,895	4	62	\$ 159,500	\$ 741,895
Total Residential	6	164	\$ 659,500	\$ 19,458,127	6	164	\$ 659,500	\$ 19,458,127
Com./Ind.								
New	0	3	\$ 0	\$ 5,567,000	0	3	\$ 0	\$ 5,567,000
Additions	0	0	\$ 0	\$ 0	0	0	\$ 0	\$ 0
Acc. Structures	0	0	\$ 0	\$ 0	0	0	\$ 0	\$ 0
Miscellaneous	0	4	\$ 0	\$ 70,750	0	4	\$ 0	\$ 70,750
Total Com./Ind.	0	7	\$ 0	\$ 5,637,750	0	7	\$ 0	\$ 5,637,750
Combined Total	6	171	\$ 659,500	\$ 25,095,877	6	171	\$ 659,500	\$ 25,095,877