



GREEN LAKE COUNTY

571 County Road A, Green Lake, WI 54941

The following documents are included in the packet for the Land Use Planning & Zoning Committee meeting on Thursday, February 7, 2019:

Packet Pages:

**This meeting is cancelled
due to the weather.**

- 1 Agenda 2/1/19
- 2-3 Draft meeting minutes from January 3, 2019
- 4-8 Monthly reports
- 9 Notice of Budget Adjustment
- 10-42 Chapter 338 Shoreland Zoning Ordinance – proposed amendments
- 43 Public hearing notice
- 44-56 **Item I: Owners/Applicants:** Charles Edwin Hutchinson, Holly Ann Sina, Donald John Hutchinson, III **General legal description:** County Road J, Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (±120 acres), Part of the SW¹/₄ and SE¹/₄ of Section 7, T16N R13E, Town of Brooklyn **Request:** Request to rezone ±17.22 acres from A-1 Farmland Preservation District to R-4 Rural Residential District
- 57-68 **Item II: Applicant:** Green Lake County Land Use Planning & Zoning Committee
Explanation: The committee is requesting an amendment to the Code of Green Lake County, Chapter 350, Zoning Ordinance; more specifically, to amend various sections within to be consistent with 2017 Act 67 and 68 as well as other identified changes. For more detailed information regarding the amendments, please contact Land Use Planning & Zoning Director Matt Kirkman at (920) 294-4175. To view the proposed zoning ordinance amendments:
- Go to <http://www.co.green-lake.wi.us/uploads/forms/proposed-zoning-ordinance-amendments-by-article-1-14-2019.pdf>
- 69-78 2018 Annual Report

If you have questions or need additional information, please contact the Land Use Planning & Zoning Department at (920) 294-4156.



GREEN LAKE COUNTY
Land Use Planning & Zoning Committee
571 County Road A, Green Lake, WI 54941
Office: (920) 294-4156 FAX: (920) 294-4198

Land Use Planning & Zoning Committee Meeting Notice

Date: 02/07/19 Time: 5:15 p.m.
Green Lake County Government Center, Room #0902
571 County Road A, Green Lake, WI 54941

***AMENDED AGENDA 02/01/19**

**This meeting
is cancelled
due to the
weather.**

**Committee
Members:**

*William Boutwell
Robert Lyon
Harley Reabe
Curt Talma
Peter Wallace
Alternate:
Keith Hess*

Carole
DeCramer,
Secretary

1. Call to Order
2. Pledge of Allegiance
3. Certification of Open Meeting Law
4. Minutes: 01/03/19
5. Public comments: 3-minute limit
6. Public appearances
7. Correspondence
8. Department activity reports
 - a. Financial reports
 - b. Permits
 - c. Violation reports
9. Department/Committee activity
 - a. Annual Report
 - *b. Notice of Budgetary Adjustment**
 - *c. Staff update**
 - d. Amendments to Chapter 334 Sewage Systems, Private
 - e. Amendments to Chapter 338 Shoreland Zoning
- f. Future committee activities
 - a. Future agenda items
 - b. Meeting date:
March 7, 2019
Business meeting 5:15 p.m. – *** Public hearing 6:00 p.m.**

6:00 p.m. Public Hearing

Item I: Owners/Applicants: Charles Edwin Hutchinson, Holly Ann Sina, Donald John Hutchinson, III **General legal description:** County Road J, Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (±120 acres), Part of the SW¼ and SE¼ of Section 7, T16N R13E, Town of Brooklyn **Request:** Request to rezone ±17.22 acres from A-1 Farmland Preservation District to R-4 Rural Residential District

- a. Committee Discussion & Deliberation
- b. Committee Decision
- c. Execute ordinance/determination form

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 - a. Committee Discussion & Deliberation
 - b. Committee Decision
 - c. Execute ordinance/determination form

11. Adjourn

Please note: Meeting area is accessible to the physically disabled. Anyone planning to attend, who needs visual or audio assistance, should contact the Land Use Planning & Zoning Dept. at 294-4156, no later than 3 days before the meeting.

**GREEN LAKE COUNTY
LAND USE PLANNING AND ZONING
COMMITTEE MEETING MINUTES
Thursday, January 3, 2019**

CALL TO ORDER

Chair Lyon called the meeting of the Land Use Planning and Zoning Committee to order at 5:16 p.m. in the Green Lake County Government Center, County Board Room, Green Lake, WI. The requirements of the open meeting law were certified as being met.

PLEDGE OF ALLEGIANCE

Present: **Robert Lyon, Harley Reabe, Curt Talma, Peter Wallace**

Absent: **William Boutwell**

Also Present: **Matt Kirkman, Land Use Planning and Zoning Director
Carole DeCramer, Committee Secretary
Dawn N. Klockow, Corporation Counsel**

APPROVAL OF MINUTES

Motion by Reabe/Wallace, unanimously carried, to approve the 12/6/18 minutes.

PUBLIC COMMENT - None

PUBLIC APPEARANCES - None

CORRESPONDENCE - None

DEPARTMENT ACTIVITY REPORTS

a. Financial reports

Kirkman discussed the monthly financial reports, land use permits, and sanitary permits reports.

b. Permits

Kirkman explained the list of issued land use and sanitary permits for the month of November.

c. Violations

The committee discussed the list of land use violations and septic violations.

DEPARTMENT/COMMITTEE ACTIVITY

a. Amendments to Chapter 350 of the zoning ordinance

The committee discussed the proposed amendments to the zoning ordinance.

On a motion by Wallace/Talma, unanimously carried on roll call (4-ayes, 0-nays) to prepare the zoning ordinance amendments for the February 7th public hearing.

b. Corporation Counsel's memo re: private sewage ordinance

Corporation Counsel Klockow explained her opinion on what can be done with the pumpers reporting when pumping and inspecting the private on-site wastewater treatment systems. She advised updating *Chapter 334 Sewage Systems, Private* to include codifying the maintenance program to allow enforcement. The committee directed staff to begin work on the amendments.

CLOSED SESSION PER WISCONSIN STATE STATUTE 19.85 (1)(g) CONFERRING WITH LEGAL COUNSEL FOR THE GOVERNMENTAL BODY WHO IS RENDERING ORAL OR WRITTEN ADVICE CONCERNING STRATEGY TO BE ADOPTED BY THE BODY WITH RESPECT TO LITIGATION IN WHICH IT IS INVOLVED. THE CLOSED SESSION IS IN REGARD TO CASE NUMBER 18CX4, GREEN LAKE COUNTY V. HUTTON-OKPALAEKE, ET AL.

Motion by Wallace/Reabe , unanimously carried on roll call (4-ayes, 0-nays), to convene in closed session per Wisconsin State Statute 19.85 (1)(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is involved. The closed session is in regards to case number 18CX4, Green Lake County v. Hutton-Okpalaek, et al.

RECONVENE IN OPEN SESSION TO TAKE ACTION, IF APPROPRIATE, ON MATTERS DISCUSSED IN CLOSED SESSION.

Motion by Reabe/Talma, unanimously carried on roll call (4-ayes, 0-nays), to reconvene in open session.

As a result of the closed session, the committee instructed corporation counsel to follow the directive of the committee.

FUTURE COMMITTEE ACTIVITIES

- a. Future agenda items
- b. Next meeting date
February 7, 2019
Business meeting – 5:15 p.m.
Public hearing – 6:00 p.m.

ADJOURN

6:34 p.m. Meeting adjourned.

RECORDED BY

Carole DeCramer
Committee Secretary

APPROVED ON:

FEES RECEIVED		DECEMBER				YEAR-TO-DATE				BUDGET	
		2017		2018		2017		2018		2018	
		NO.	AMOUNT	NO.	AMOUNT	NO.	AMOUNT	NO.	AMOUNT		
LAND USE PERMITS											
Residential	New	4	1,300	1	700	40	15,300	24	10,900	-	
	Alterations	-	-	1	150	80	12,300	100	17,550	-	
Commercial	New	1	50	1	150	6	1,250	6	1,500	-	
	Alterations	-	-	-	-	2	1,100	9	1,250	-	
Agricultural	New	2	300	-	-	23	3,500	13	3,050	-	
	Alterations	-	-	-	-	4	750	3	300	-	
Other	New	-	-	-	-	-	-	-	-	-	
	Alterations	-	-	-	-	-	-	-	-	-	
Other	New	-	-	-	-	-	-	-	-	-	
	Alterations	-	-	-	-	-	-	-	-	-	
Misc.	Denied/Refunded	-	-	-	-	-	-	-	-	-	
	Permit Renewals	-	-	-	-	-	-	-	-	-	
Total		7	\$ 1,650	3	\$ 1,000	155	\$ 34,200	155	\$ 34,550	\$ 34,800	99%
SANITARY PERMITS (POWTS)											
Residential	New	6	1,195	-	-	27	7,600	23	6,185	-	
	Replacement	4	1,120	6	1,310	53	15,350	65	16,280	-	
	Reconnect	-	-	1	280	3	840	10	2,950	-	
	Modify	1	150	-	-	4	450	4	730	-	
	Repairs	1	150	-	-	1	150	-	-	-	
	Additional Fees	-	-	-	-	-	-	-	-	-	
Commercial	New	-	-	-	-	-	-	2	635	-	
	Replacement	-	-	-	-	1	280	-	-	-	
	Reconnect	-	-	-	-	-	-	1	280	-	
	Modify	-	-	-	-	-	-	-	-	-	
	Additional Fees	-	-	-	-	-	-	-	-	-	
	Total	12	\$ 2,615	7	\$ 1,590	89	\$ 24,670	105	\$ 27,060	\$ 24,600	110%
NON-METALLIC MINING PERMITS											
Annual Permit Fees		-	-	-	-	18	14,500	18	15,300	-	
Total		-	\$ -	-	\$ -	18	\$ 14,500	18	\$ 15,300	\$ -	
BOARD OF ADJUSTMENT											
Special Exception		-	-	-	-	-	-	-	-	-	
Variances		-	-	1	375	4	1,500	6	2,250	-	
Appeals		-	-	-	-	-	-	-	-	-	
Total		-	\$ -	1	\$ 375	4	\$ 1,500	6	\$ 2,250	\$ 750	300%
PLANNING & ZONING COMMITTEE											
Zoning Change		2	750	1	375	15	6,000	18	6,750	-	
Conditional Use Permits		-	-	-	-	5	2,250	5	1,875	-	
Variance		-	-	-	-	-	-	1	375	-	
Total		2	\$ 750	1	\$ 375	20	\$ 8,250	24	\$ 9,000	\$ 7,000	129%
MISC.											
Rental Weatherization		-	-	-	-	14	350	-	-	-	
Wisconsin Fund		-	-	2	10,300	2	200	2	10,300	6,500	
Applied Funds - Code Enforcement		-	-	-	-	-	-	-	-	-	
Total		-	\$ -	2	\$ 10,300	16	\$ 550	2	\$ 10,300	\$ 6,500	158%
SURVEYOR											
Certified Survey Maps		4	690	4	660	52	9,315	37	6,375	6,000	
Preliminary Plats		-	-	-	-	-	-	-	-	-	
Final Plats		-	-	-	-	-	-	-	-	-	
Miscellaneous		-	-	1	20	-	125	1	2,739	-	
Total		4	\$ 690	5	\$ 680	52	\$ 9,440	37	\$ 9,114	\$ 6,000	152%
GIS (Geographic Information System)											
Map Sales		-	37	-	30	-	229	-	190	200	
Land Records Transfer		-	2,680	-	2,088	-	30,760	-	32,137	27,000	
Land Information Grant		-	-	-	-	-	9,080	-	9,500	9,080	
Total		-	\$ 2,717	-	\$ 2,118	-	\$ 40,069	-	\$ 41,827	\$ 36,280	115%
GRAND TOTAL											
		25	8,422	19	16,438	354	133,179	347	149,401	\$ 115,930	
										Total	129%

For 12/01/18 12/31/18

Revenue Summary Report

FJRES01A

Periods 12 12

Land Use & Zoning Month End Revenue

MER100-10-P&Z

Account No/Description	Budget Amount	Period Amount	Y-T-D Amount	Balance	Percent Received
10 Land Use Planning and Zoning					
18-100-10-43502-000-000 Wisconsin Fund Grant	6,500.00	10,300.00	10,300.00	-3,800.00	158.46
18-100-10-44400-000-000 Land Use Permits	34,800.00	1,000.00	34,550.00	250.00	99.28
18-100-10-44400-001-000 BOA Public Hearing	750.00	375.00	2,250.00	-1,500.00	300.00
18-100-10-44400-002-000 PZ Public Hearing	7,000.00	375.00	9,000.00	-2,000.00	128.57
18-100-10-44400-003-000 Misc	.00	20.00	2,739.57	-2,739.57	.00
18-100-10-44409-000-000 Non-Metallic Mining	.00	.00	15,300.00	-15,300.00	.00
18-100-10-44410-000-000 Sanitary Permits	24,600.00	1,590.00	27,060.00	-2,460.00	110.00
18-100-10-46131-001-000 GIS Map Sales	200.00	30.00	190.00	10.00	95.00
18-100-10-46131-002-000 Strategic Fund	9,080.00	.00	.00	9,080.00	.00
18-100-10-46762-000-000 Certified Survey Maps	6,000.00	660.00	6,375.00	-375.00	106.25
18-100-10-47411-000-000 Interdepartment transfer/Land Records	27,000.00	.00	2,025.00	24,975.00	7.50
18-100-10-49320-000-000 Applied Funds	9,500.00	.00	9,500.00	.00	100.00
10 Land Use Planning and Zoning	125,430.00	14,350.00	119,289.57	6,140.43	95.10

For 12/01/18 12/31/18

Expenditure Summary Report

FJEXS01A

Periods 12 - 12

Land Use & Zoning Month End Expenses

MEE100-10-P&Z

<u>Account No/Description</u>	<u>Adjusted Budget</u>	<u>Y-T-D Encumb</u>	<u>Period Expended</u>	<u>Y-T-D Expended</u>	<u>Available Balance</u>	<u>Percent Used</u>
10 Land Use Planning and Zoning						
53610 Code Enforcement						
18-100-10-53610-110-000 Salaries	281,520.00	.00	22,192.00	271,048.29	10,471.71	96.28
18-100-10-53610-140-000 Meeting Payments	600.00	.00	280.96	752.28	-152.28	125.38
18-100-10-53610-151-000 Social Security	21,539.00	.00	1,628.56	21,584.77	-45.77	100.21
18-100-10-53610-153-000 Ret. Employer Share	18,865.00	.00	1,486.86	18,875.02	-10.02	100.05
18-100-10-53610-154-000 Health Insurance	63,361.00	.00	5,161.46	63,742.34	381.34	100.60
18-100-10-53610-155-000 Life Insurance	504.00	.00	49.05	553.20	-49.20	109.76
18-100-10-53610-210-002 Professional Services-SRV	9,500.00	.00	750.00	8,900.00	600.00	93.68
18-100-10-53610-210-003 Miscellaneous Fees	300.00	.00	.00	40.00	260.00	13.33
18-100-10-53610-245-000 Wisconsin Fund Grant	6,500.00	.00	10,300.00	10,300.00	-3,800.00	158.46
18-100-10-53610-307-000 Training	916.00	.00	.00	935.53	-19.53	102.13
18-100-10-53610-310-000 Office Supplies	1,930.00	.00	76.58	1,018.01	911.99	52.75
18-100-10-53610-312-000 Field Supplies	300.00	.00	.00	60.30	239.70	20.10
18-100-10-53610-320-000 Publications-BOA Public Hearing	500.00	.00	284.50	894.00	-394.00	178.80
18-100-10-53610-320-001 Publications-PZ Public Hearing	2,000.00	.00	1,035.75	3,838.25	-1,838.25	191.91
18-100-10-53610-321-000 Seminars	1,085.00	.00	.00	791.00	294.00	72.90
18-100-10-53610-324-000 Member Dues	100.00	.00	.00	100.00	.00	100.00
18-100-10-53610-330-000 Travel	500.00	.00	.00	462.70	37.30	92.54
18-100-10-53610-352-000 Vehicle Maintenance	734.00	.00	233.94	658.02	75.98	89.65
53610 Code Enforcement	410,754.00	.00	43,479.66	404,553.71	6,200.29	98.49
10 Land Use Planning and Zoning	410,754.00	.00	43,479.66	404,553.71	6,200.29	98.49

Land Use Permits: 12/01/18 - 12/31/18



Parcel Number	Town	Site Address	Owner Name	Permit Fee	Construction Cost	Project
002-00236-0400	Berlin	N8878 County Road F	PTRO Properties LLC	150.00	38,000.00	Pole shed
006-01470-0000	Green Lake	W2636 Oakwood Beach Rd	Hank & Ilsa Esveld	700.00	553,000.00	Single-family dwelling
012-00144-0000	Manchester	W4026 State Road 44	Robert & Jody Mace	150.00	92,000.00	New shed, lean-to, concrete work
Totals				\$ 1,000.00	\$ 683,000.00	

Sanitary Permits: 12/01/18 - 12/31/18



Parcel Number	Town	Site Address	Owners	Permit Fee	Permit Type
004000150000	Brooklyn	N7297 County Road FF	Jonathan J/Donna M Schulz Revocable Living Trust	\$ 150.00	Replacement Tank
004002800301	Brooklyn	W762 State Road 23 49	Faith M Smith & Mark D White	\$ 150.00	Replacement Tank
004007130000	Brooklyn	W2291 Hickory Rd	Malcolm Moore	\$ 280.00	Reconnection
006001540000	Green Lake	N4430 County Road N	Bruce & Donald Warnke, Cynthia Downs, Lisa Sondalle, Nancy Stephenson	\$ 150.00	Replacement Tank
014003190000	Marquette	W7160 Drager Rd	George & Dawn Corris	\$ 355.00	Replacement System
016007650100	Princeton	N5201 Bend Rd	John Coda	\$ 150.00	Replacement Tank
020000370000	Seneca	W3128 County Road F	David L & Jill A Gregor	\$ 355.00	Replacement System
Totals				\$ 1,590.00	

GREEN LAKE COUNTY

Notice of Budgetary Adjustment

Unanticipated Revenue or Expense Increase or Decrease Not Budgeted

Date: January 7, 2019
 Department: Land Use Planning & Zoning
 Amount: \$6,357.00
 Budget Year Amended: 2018

Source of Increase / Decrease and affect on Program:
 (If needed attached separate brief explanation.)

Underestimated public hearing revenue, for both P&Z and BOA, but using overage to offset extra expenses associated with additional public hearings (Training, Publications, Meeting Payments).

Underestimated Wisconsin Fund expenses, but offset with actual revenue from these grant applications.

Also, County Surveyor expenses were over, but excess CSM revenue used to offset.

Revenue Budget Lines Amended:

Account #	Account Name	Current Budget	Budget Adjustment	Final Budget
18-100-10-44400-002-000	PZ Public Hearing	\$ 7,000.00	\$ 907.00	\$ 7,907.00
18-100-10-44400-001-000	BOA Public Hearing	\$ 750.00	\$ 1,500.00	\$ 2,250.00
18-100-10-43502-000-000	Wisconsin Fund Grant	\$ 6,500.00	\$ 3,800.00	\$ 10,300.00
18-100-10-46762-000-000	Certified Survey Maps	\$ 6,000.00	\$ 150.00	\$ 6,150.00
Total Adjustment			\$ 6,357.00	

Expenditure Budget Lines Amended:

Account #	Account Name	Current Budget	Budget Adjustment	Final Budget
18-100-10-53610-307-000	Training	\$ 916.00	\$ 20.00	\$ 936.00
18-100-10-53610-320-001	Publications PZ Public Hearing	\$ 2,000.00	\$ 1,840.00	\$ 3,840.00
18-100-10-53610-320-000	Publications BOA Public Hearing	\$ 500.00	\$ 394.00	\$ 894.00
18-100-10-53610-140-000	Meeting Payments	\$ 600.00	\$ 153.00	\$ 753.00
18-100-10-53610-245-000	Wisconsin Fund Grant	\$ 6,500.00	\$ 3,800.00	\$ 10,300.00
18-100-10-53610-210-002	Professional Services SRV	\$ 9,500.00	\$ 150.00	\$ 9,650.00
Total Adjustment			\$ 6,357.00	

Department Head Approval: 

Date Approved by Committee of Jurisdiction: _____

Following this approval please forward to the County Clerk's Office.

Date Approved by Finance Committee: _____

Date Approved by County Board: _____

Per WI Stats 65.90(5)(a) must be authorized by a vote of two-thirds of the entire membership of the governing body.

Date of publication of Class 1 notice of budget amendment: _____

1 Chapter 338
2 Shoreland Zoning

3 [HISTORY: Adopted by the Board of Supervisors of Green Lake County 9-20-2016 by Ord. No.
4 20-2016, Amendments noted where applicable.]

5 GENERAL REFERENCES

6 Comprehensive Plan — See Ch. 280.

7 Construction site erosion control and stormwater management — See Ch. 284.

8 Floodplain zoning — See Ch. 300.

9 Land division and subdivision — See Ch. 315.

10 Private sewage systems — See Ch. 334.

11 Zoning — See Ch. 350.

Commented [1]: Editor's Note: This ordinance also repealed former Ch. 338, Shoreland Zoning, adopted 9-18-2012 by Ord. No. 1034-2012.

Commented [KK2]: May need to reference new chapters or a new section w/in 338?

12
13 Article I
14 Introduction

15 § 338-1 Statutory authorization.

16 This chapter is adopted pursuant to the authorization in § 59.692, Wis. Stats., to implement §§ 59.692 and
17 281.31, Wis. Stats.

18 § 338-2 Finding of fact.

19 Uncontrolled use of the shorelands and pollution of the navigable waters of Green Lake County will
20 adversely affect the public health, safety, convenience and general welfare, and impair the tax base. The
21 legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe
22 and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic
23 life; control building sites, placement of structures and land uses; and to preserve shore cover and natural
24 beauty. This responsibility is hereby recognized by Green Lake County, Wisconsin.

25 § 338-3 Purpose and intent.

26 For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect
27 the public trust in navigable waters, this chapter has been established to:

28 A. Further the maintenance of safe and healthful conditions and prevent and control water pollution
29 through:

- 30 (1) Limiting structures to those areas where soil and geological conditions will provide a safe
31 foundation.
- 32 (2) Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems.
- 33 (3) Controlling filling and grading to prevent soil erosion problems.
- 34 (4) Limiting impervious surfaces to control runoff which carries pollutants.

35 B. Protect spawning grounds, fish, and aquatic life through:

- 36 (1) Preserving wetlands and other fish and aquatic habitat.
- 37 (2) Regulating pollution sources.
- 38 (3) Controlling shoreline alterations, dredging, and lagooning.
- 39 C. Control building sites, placement of structures and land uses through:
 - 40 (1) Prohibiting certain uses detrimental to the shoreland-wetlands.
 - 41 (2) Setting minimum lot sizes and widths.
 - 42 (3) Setting minimum building setbacks from property boundary lines and waterways.
 - 43 (4) Setting the maximum height of near shore structures.
- 44 D. Preserve and restore shoreland vegetation and natural scenic beauty through:
 - 45 (1) Restricting the removal of natural shoreland cover.
 - 46 (2) Preventing shoreline encroachment by structures.
 - 47 (3) Controlling shoreland excavation and other earth-moving activities.
 - 48 (4) Regulating the use and placement of boathouses and other structures.

49 § 338-4 **Title.**

50 This chapter shall be known, cited, and referred to as the "Shoreland Zoning Ordinance for Green Lake
51 County, Wisconsin."

Deleted: Protection

52 § 338-5 **When effective; repealer.**

- 53 A. This chapter shall be effective upon final adoption by the Green Lake County Board and publication
54 as provided for in the Wisconsin Statutes. Prior to final adoption of this chapter, the County must
55 receive a certificate of compliance from the Department.
- 56 B. Any previously adopted versions of Chapter 338 shall be replaced with this chapter in its entirety
57 upon the effective date of this chapter.

58 **Article II**
59 **General Provisions**

60 § 338-6 **Areas to be regulated.**

61 Areas regulated by this chapter shall include all the lands, referred to herein as "shorelands," in the
62 unincorporated areas of Green Lake County which are:

- 63 A. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds, or flowages.
64 Navigability of lakes, ponds, or flowages in Green Lake County shall be determined based on
65 criteria established in Appendix A of this chapter and revisions thereto.
- 66 B. Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward
67 side of the floodplain, whichever distance is greater. Navigability of rivers and streams in Green
68 Lake County shall be determined based on criteria established in Appendix A of this chapter and
69 revisions thereto.
- 70 C. The provisions of this chapter apply to regulation of the use and development of unincorporated
71 shoreland areas unless specifically exempted by law. All cities, villages, towns, counties, and, when

Commented [3]: Editor's Note: Appendix A is included as an attachment to this chapter.

Deleted: .

73 § 13.48(13), Wis. Stats., applies, state agencies are required to comply with, and obtain all necessary
74 permits under, this chapter. The construction, reconstruction, maintenance or repair of state
75 highways and bridges carried out under the direction and supervision of the Wisconsin Department
76 of Transportation are not subject to this chapter if § 30.2022(1), Wis. Stats., applies. Shoreland
77 zoning requirements in annexed or incorporated areas are provided in §§ 61.353 and 62.233, Wis.
78 Stats.

79 D. Determinations of navigability and ordinary high-water mark location shall initially be made by the
80 Land Use Planning and Zoning Department. When questions arise, the Land Use Planning and
81 Zoning Department shall contact the appropriate office of the Department for a final determination
82 of navigability or ordinary high-water mark. The County may work with surveyors in regard to
83 § 59.692(1h), Wis. Stats.

84 E. Under § 281.31(2m), Wis. Stats., notwithstanding, any other provision of law or administrative rule
85 promulgated thereunder, this chapter does not apply to:

86 (1) Lands adjacent to farm drainage ditches if:

87 (a) Such lands are not adjacent to a natural navigable stream or river;

88 (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before
89 ditching; and

90 (2) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that
91 are not hydrologically connected to a natural navigable water body.

92 **§ 338-7 Shoreland-Wetland maps.**

93 The most recent version of the Wisconsin Wetland Inventory, as depicted on the Department of Natural
94 Resources Surface Water Data Viewer, is made part of this chapter. These maps may be viewed at:
95 <http://dnrm.wisconsin.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>. These maps may also
96 be viewed from the GIS Viewer at the County's website: <http://gis.co.green-lake.wi.us/>.

97 **§ 338-8 Compliance.**

98 The use of any land, the size, shape, and placement of lots and parcels, the use, size, type, and location of
99 structures on lots and parcels, the installation and maintenance of water supply and waste disposal
100 facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the
101 subdivision of lots and parcels, shall be in full compliance with the terms of this chapter and other
102 applicable local, state, or federal regulations. Buildings and other structures shall require a permit unless
103 otherwise expressly excluded by a provision of this chapter. The property owner(s), or the contractor(s),
104 under the direction of the property owner(s), are responsible for compliance with the terms of this
105 chapter.

106 **§ 338-9 Municipalities and state agencies regulated.**

107 Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with
108 this chapter and obtain all necessary permits. State agencies are required to comply when § 13.48(13),
109 Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and
110 bridges by the Wisconsin Department of Transportation are exempt when § 30.2022(1), Wis. Stats.,
111 applies.

112 **§ 338-10 Abrogation and greater restrictions.**

113 When more restrictive, the provisions of this chapter supersede any provisions in a County zoning
114 ordinance that solely relate to shorelands. Therefore, if a zoning standard of another ordinance only
115 applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this
116 chapter supersedes those provisions. However, where another ordinance adopted under a statute other
117 than § 59.692, Wis. Stats., does not solely relate to shorelands and is more restrictive than this chapter,
118 that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- 120 A. This chapter shall not require approval or be subject to disapproval by any town or town board.
- 121 B. If an existing town ordinance relating to shorelands is more restrictive than this chapter or any
122 amendments thereto, the town ordinance continues in all respects to the extent of the greater
123 restrictions but not otherwise.
- 124 C. This chapter is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants,
125 or easements. However, where this chapter imposes greater restrictions, the provisions of this
126 chapter shall prevail.
- 127 D. This chapter may establish standards to regulate matters that are not regulated in Ch. NR 115, Wis.
128 Adm. Code, but that further the purposes of shoreland protection as described in § 338-3 of this
129 chapter.
- 130 E. Counties may not establish shoreland zoning standards in a shoreland protection ordinance that
131 requires any of the following:
- 132 (1) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation
133 requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibit or regulate
134 outdoor lighting in shorelands, if the lighting is designed or intended for residential use.
- 135 (2) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure
136 may be made.
- 137 F. The construction and maintenance of a facility is considered to satisfy the requirements of a
138 shoreland zoning ordinance if:
- 139 (1) The Department issued all required permits or approvals authorizing the construction or maintenance
140 under Ch. 30, 31, 281 or 283, Wis. Stats.
- 141 (a) Note: A "facility" means any property or equipment of a public utility, as defined in § 196.01(5),
142 Wis. Stats., or a cooperative association organized under Ch. 185, Wis. Stats., for the purpose of
143 producing or furnishing heat, light, or power to its members only, that is used for the transmission,
144 delivery, or furnishing of natural gas, heat, light, or power.

145 § 338-11 **Interpretation.**

146 In their interpretation and application, the provisions of this chapter shall be liberally construed in favor
147 of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin
148 Statutes. Where a provision of this chapter is required by statute and a standard in Ch. NR 115, Wis.
149 Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the
150 statute and Chapter NR 115 standards in effect on the date of the adoption of this chapter or in effect on
151 the date of the most recent text amendment to this chapter.

152 § 338-12 **Severability.**

153 If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction,
154 the remainder of this chapter shall not be affected.

155 § 338-13 through § 338-15. (Reserved)

156 Article III
157 **Shoreland-Wetland District**

158 § 338-16 **Designation.**

159 This district shall include all shorelands within the jurisdiction of this chapter which are designated as
160 wetlands on the most recent version of the Wisconsin Wetland Inventory as referenced in § 338-7.

- 161 A. Locating Shoreland-Wetland boundaries. Where an apparent discrepancy exists between the

162 Shoreland-Wetland District boundary shown on the Wisconsin Wetland Inventory and actual field
163 conditions, the County shall contact the Department to determine if the map is in error. If the
164 Department determines that a particular area was incorrectly mapped as wetland or meets the
165 wetland definition but was not shown as wetland on the map, the County shall have the authority to
166 immediately grant or deny a shoreland land use permit in accordance with the applicable regulations
167 based on the Department determination as to whether the area is wetland. In order to correct wetland
168 mapping errors on the official zoning map, an official zoning map amendment must be initiated
169 within a reasonable period of time.

170 § 338-17 **Purpose.**

171 This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish
172 spawning grounds and wildlife habitat, to preserve shore cover and natural beauty, and to control building
173 and development in wetlands whenever possible. When development is permitted in a wetland, the
174 development should occur in a manner that minimizes adverse impacts upon the wetland.

175 § 338-18 **Permitted Uses.**

176 The following uses shall be allowed subject to general shoreland protection regulations contained in this
177 chapter, the provisions of ~~Chapters 30 and 31, and § 281.36, Wis. Stats., and the provisions of other~~
178 applicable local, state, and federal laws:

179 A. Activities and uses which do not require the issuance of a land use permit, but which must be carried
180 out without any filling, flooding, draining, dredging, ditching, tiling, or excavating except as allowed
181 under Subsections **A** or **B**:

- 182 (1) Hiking, fishing, trapping, hunting, swimming, and boating;
- 183 (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree
184 seeds, in a manner that is not injurious to the natural reproduction of such crops;
- 185 (3) The pasturing of livestock;
- 186 (4) The cultivation of agricultural crops;
- 187 (5) The practice of silviculture, including the planting, thinning, and harvesting of timber; and
- 188 (6) The construction or maintenance of hunting blinds.

189 B. Uses which do not require the issuance of a land use permit and which may include limited filling,
190 flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically
191 provided below:

- 192 (1) Temporary water level stabilization measures necessary to alleviate abnormally wet or dry
193 conditions that would have an adverse impact on silvicultural activities if not corrected;
- 194 (2) The cultivation of cranberries including flooding, dike, and dam construction or ditching necessary
195 for the growing and harvesting of cranberries;
- 196 (3) The maintenance and repair of existing agricultural drainage systems, including ditching, tiling,
197 dredging, excavating, and filling necessary to maintain the level of drainage required to continue the
198 existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil
199 adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where
200 possible;
- 201 (4) The construction or maintenance of fences for the pasturing of livestock, including limited
202 excavating and filling necessary for such construction or maintenance;

Commented [KK4]: What does this reference? GLC does not have these in our code.

Deleted: .

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- 205 (5) The construction or maintenance of piers, docks, or walkways built on pilings, including limited
 206 excavating and filling necessary for such construction and maintenance; and
- 207 (6) The maintenance, repair, replacement, or reconstruction of existing town and County highways and
 208 bridges, including limited excavating and filling necessary for such maintenance, repair, replacement
 209 or reconstruction.
- 210 C. Uses which require the issuance of a land use permit and which may include limited filling, flooding,
 211 draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
- 212 (1) The construction and maintenance of roads which are necessary to conduct silvicultural activities or
 213 agricultural cultivation, provided that:
- 214 (a) The road cannot as a practical matter be located outside the wetland;
- 215 (b) The road is designed and constructed to minimize adverse impact upon the natural functions of the
 216 wetland enumerated in § **338-20B**;
- 217 (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the
 218 intended use;
- 219 (d) Road construction activities are carried out in the immediate area of the roadbed only.
- 220 (2) The construction or maintenance of nonresidential buildings, provided that:
- 221 (a) The building is essential for and used solely in conjunction with the raising of waterfowl, minnows,
 222 or other wetland or aquatic animals; or some other use permitted in the Shoreland-Wetland District;
- 223 (b) The building cannot, as a practical matter, be located outside the wetland;
- 224 (c) Such building is not designed for human habitation and does not exceed 500 square feet in floor
 225 area; and
- 226 (d) Only limited filling or excavating necessary to provide structural support for the building is
 227 authorized.
- 228 (3) The establishment of public and private parks and recreation areas, natural and outdoor education
 229 areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms,
 230 fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
- 231 (a) Any private development is used exclusively for the permitted use and the applicant has received a
 232 permit or license under Ch. 29, Wis. Stats., where applicable;
- 233 (b) Filling or excavating necessary for the construction or maintenance of public boat launching ramps
 234 or attendant access roads is allowed only where such construction or maintenance meets the criteria
 235 in § **338-18C(1)(a)** through **(d)** and;
- 236 (c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and
 237 recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges,
 238 game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of
 239 improving wildlife habitat and to otherwise enhance wetland values.
- 240 (4) The construction or maintenance of electric, gas, telephone, water and sewer transmission, and
 241 distribution facilities, by public utilities and cooperative associations organized for the purpose of
 242 producing or furnishing heat, light, power, or water to their members and the construction or
 243 maintenance of railroad lines provided that:

- 244 (a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located
245 outside the wetland;
- 246 (b) Such construction or maintenance is done in a manner designed to minimize adverse impact upon the
247 natural functions of the wetland enumerated in § **338-20B**.
- 248 § 338-19 **Prohibited uses.**
249 Any use not listed in § **338-18A, B or C** is prohibited, unless the wetland or portion of the wetland has
250 been rezoned by amendment of this chapter in accordance with § **338-20** of this chapter and § 59.69(5)(e),
251 Wis. Stats.
- 252 § 338-20 **Rezoning of lands in the Shoreland-Wetland District.**
- 253 A. For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the
254 appropriate office with the Department shall be provided with the following:
- 255 (1) A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this
256 chapter, within five days of the filing of such petition with the County Clerk. Such petition shall
257 include a copy of the Wisconsin Wetland Inventory map adopted as part of this chapter describing
258 any proposed rezoning of a shoreland-wetland;
- 259 (2) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to
260 such hearing;
- 261 (3) A copy of the Land Use Planning and Zoning Committee's findings and recommendations on each
262 proposed amendment within 10 days after the submission of those findings and recommendations to
263 the County Board; and
- 264 (4) Written notice of the County Board's decision on the proposed amendment within 10 days after it is
265 issued.
- 266 B. A wetland, or a portion thereof in the Shoreland-Wetland District, shall not be rezoned if the
267 proposed rezoning may result in a significant adverse impact upon any of the following:
- 268 (1) Storm and flood water storage capacity;
- 269 (2) Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of
270 groundwater from a wetland to another area, or the flow of groundwater through a wetland;
- 271 (3) Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would
272 otherwise drain into navigable waters;
- 273 (4) Shoreline protection against soil erosion;
- 274 (5) Fish spawning, breeding, nursery, or feeding grounds;
- 275 (6) Wildlife habitat; or
- 276 (7) Wetlands both within the boundary of designated areas of special natural resource interest and those
277 wetlands which are in proximity to or have a direct hydrologic connection to such designated areas
278 as defined in § NR 103.04, Wis. Adm. Code, which can be accessed at the following website:
279 <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.
- 280 C. If the Department notifies the Land Use Planning and Zoning Committee that a proposed text or map
281 amendment to the shoreland-wetland provisions of this chapter may have a significant adverse
282 impact upon any of the criteria listed in § **338-20B** of this chapter, that amendment, if approved by
283 the County Board, shall contain the following provision: "This amendment shall not take effect until

284 more than 30 days have elapsed after written notice of the County Board's approval of this
285 amendment is mailed to the Department of Natural Resources. During that thirty-day period the
286 Department of Natural Resources may notify the County Board that it will adopt a superseding
287 shoreland ordinance for the County under § 59.692(6), Wis. Stats. If the Department does so notify
288 the County Board, the effect of this amendment shall be stayed until the § 59.692(6) adoption
289 procedure is completed or otherwise terminated."

290 § 338-21 (Reserved)

291 Article IV
292 **Land Division and Sanitary Regulations**

293 § 338-22 **Land division review.**

294 The County shall review, pursuant to § 236.45, Wis. Stats., all land divisions in shoreland areas which
295 create three or more lots or parcels or building sites of five acres each or less within a five-year period. In
296 such review all of the following factors shall be considered:

- 297 A. Hazards to the health, safety, or welfare of future residents.
298 B. Proper relationship to adjoining areas.
299 C. Public access to navigable waters, as required by law.
300 D. Adequate stormwater drainage facilities.
301 E. Conformity to state law and administrative code provisions.

302 § 338-23 **Planned unit development (PUD).**

- 303 A. Purpose. The planned unit development is intended to permit smaller nonriparian lots and parcels
304 where the physical layout of the lots and parcels is so arranged as to better assure the control of
305 pollution and preservation of ground cover than would be expected if the lots and parcels were
306 developed with the normal lot sizes and setbacks and without special conditions placed upon the
307 planned unit development at the time of its approval. A condition of all Planned Residential Unit
308 Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.
- 309 B. Requirements for planned unit development. The County Board may at its discretion, upon its own
310 motion or upon petition, approve a planned unit development overlay district upon finding, after a
311 public hearing, that all of the following facts exist:
- 312 (1) Area. The area proposed for the planned unit development shall be at least two acres in size or have
313 a minimum of 200 feet of frontage on a navigable water.
- 314 (2) Lots and parcels. Any proposed lot or parcel in the planned unit development that does not meet the
315 minimum size standards of §§ **338-27** and **338-28** shall be a nonriparian lot or parcel.
- 316 (3) Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a planned unit
317 development the governing body shall consider whether proposed lot or parcel sizes, widths, and
318 setbacks are of adequate size and distance to prevent pollution or erosion along streets or other
319 public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way
320 of minimizing adverse impacts of development. Vegetative shore cover provisions in § **338-37** shall
321 apply except that maximum width of a lake frontage opening shall be 100 feet and minimum
322 vegetative buffer depth shall be increased to offset the impact of the proposed development.
- 323 (4) Note: Counties should be aware that the planned unit development standards, as written, grant back
324 lot access (key holing) without applying frontage requirement standards to determine overall density.
325 This comports to NR115.05(1)(a)4. Counties may optionally include requirements to limit overall
326 density based upon minimum frontage standards as well. These types of developments may also be

327 known as conservation subdivisions or planned residential development. The provisions of NR
328 115.05(1)(a)4 apply to these types of developments where there may be a combination of a density
329 bonus, smaller lot size, and preservation of open space.

330 C. The procedure for establishing a Planned Residential Unit Development district shall be as follows:

331 (1) Petition. A petition setting forth all of the facts required in § 338-23B shall be submitted to the
332 County Clerk with sufficient copies to provide for distribution by the County Clerk as required by
333 § 338-62H.

334 (2) Review and Hearing: The petition shall be submitted to the County Land Use Planning and Zoning
335 Committee established as required by § 59.69(3)(d), Wis. Stats., which shall hold a public hearing
336 and report to the County Board as required by law. Copies of the petition and notice of the hearing
337 shall also be sent to the appropriate office of the Department as described in § 338-65A, of this
338 chapter. The Land Use Planning and Zoning Committee's report to the County Board shall reflect the
339 recommendations of any federal, state, or local agency with which the Land Use Planning and
340 Zoning Committee consults.

341 (3) Findings and Conditions of Approval. The County Board shall make written findings as to the
342 compliance or noncompliance of the proposed overlay district with each of the applicable
343 requirements set forth in § 338-23B. If the petition is granted in whole or part, the County Board
344 shall attach such written conditions to the approval as are required by and consistent with § 338-23B.
345 The conditions of approval shall in all cases establish the specific restrictions applicable with regard
346 to minimum lot sizes, width, setbacks, dimensions of vegetative buffer zone, and open space
347 requirements.

348 (4) Planning studies. A landowner or petitioner may, at his own expense, develop the facts required to
349 establish compliance with the provisions of § 338-23B or may be required to contribute funds to the
350 County to defray all or part of the cost of such studies being undertaken by the County or any agency
351 or person with whom the County contracts for such work.

352 § 338-24 **Sanitary regulations.**

353 Each County shall adopt sanitary regulations for the protection of health and the preservation and
354 enhancement of water quality.

355 A. Where public water supply systems are not available, private well construction shall be required to
356 conform to Ch. NR 812, Wis. Adm. Code.

357 B. Where a public sewage collection and treatment system is not available, design and construction of a
358 private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Ch.
359 SPS Comm 383, Wis. Adm. Code and after June 30, 1980, be governed by a private sewage system
360 ordinance adopted by the County under § 59.70(5), Wis. Stats.

361 § 338-25 **(Reserved)**

362 **Article V**
363 **Lot and Parcel Size**

364 § 338-26 **Purpose.**

365 Minimum lot and parcel sizes in the shoreland area are established to afford protection against danger to
366 health, safety and welfare, and protection against pollution of the adjacent body of water.

367 A. In calculating the minimum area or width of a lot or parcel, the beds of navigable waters shall not be
368 included.

369 § 338-27 **Sewered lots and parcels.**

370 Minimum area and width for each lot or parcel.

371 A. The minimum area shall be 10,000 square feet and the minimum average width shall be 65 feet.

372 (1) The width shall be calculated by averaging the shortest horizontal measurements at the following
373 locations:

374 (a) The landward distance at the ordinary high-water mark between the side boundary lines.

375 (b) Distances at any angle point along the side boundary line.

376 (c) The street/access boundary line.

377 (d) The rear boundary line, where applicable.

378 § 338-28 **Unsewered lots and parcels.**

379 Minimum area and width for each lot or parcel.

380 A. The minimum area shall be 20,000 square feet and the minimum average width shall be 100 feet.

381 (1) The width shall be calculated by averaging the shortest horizontal measurements at the following
382 locations:

383 (a) The landward distance at the ordinary high-water mark between the side boundary lines.

384 (b) Distances at any angle point along the side boundary line.

385 (c) The street/access boundary line.

386 (d) The rear boundary line, where applicable.

387 § 338-29 **Substandard lots and parcels.**

388 A. A legally created lot or parcel that met minimum area and minimum average width requirements
389 when created, but does not meet current size requirements, may be used as a building site if all of the
390 following apply:

391 (1) The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat,
392 survey, or consolidation by the owner into one property tax parcel.

393 (2) The substandard lot or parcel has never been developed with one or more of its structures placed
394 partly upon an adjacent lot or parcel.

395 (3) The substandard lot or parcel is developed to comply with all other requirements of this chapter.

396 B. Notes: The intent of this provision is to allow lots and parcels that were legally created that currently
397 do not meet the minimum width and area requirements to be considered a building site provided all
398 ordinance requirements can be met. Substandard lots and parcels that have been reconfigured by a
399 certified survey map or consolidated into one legal description with the Register of Deeds, which
400 result in a larger (closer to conforming) lot or parcel, should be allowed to be utilized as a building
401 site. Additionally, lots that have a legal description for each substandard lot on record with the
402 Register of Deeds but have one tax parcel number assigned by the Real Property Lister or Assessor
403 for taxing/assessing purposes, should be considered separate building sites and should not be
404 considered consolidated. Lots or parcels that have had development over the lot lines should be
405 combined with a legal description and recorded with a new deed prior to new development
406 occurring.

407 § 338-30 **Other substandard lots and parcels.**

408 Except for lots which meet the requirements of § 338-29, a land use permit for the improvement of a lot

409 or parcel having lesser dimensions than those stated in §§ 338-27 and 338-28 shall be issued only if a
410 variance is granted by the Board of Adjustment.

411 § 338-31 (Reserved)

412 Article VI
413 Building Setbacks

414 § 338-32 Building setbacks.

415 Permitted building setbacks shall be established to conform to health, safety and welfare requirements,
416 preserve natural beauty, reduce flood hazards, and avoid water pollution.

417 A. Shoreland setbacks. Unless exempt under § 338-32A(1), or reduced under § 338-32.B, a setback of
418 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building
419 or structure shall be required for all buildings and structures.

Commented [KK5]: Is this supposed to reference 338-32B ? 33 is about floodplain structures, does not deal with reducing setbacks. MEK...Makes sense to me!

Deleted: 3,

420 (1) Exempt structures. Per § 59.692(1k)(a)(6), Wis. Stats., all of the following structures are exempt
421 from the shoreland setback standards in § 338-32A:

422 (a) Boathouses located entirely above the ordinary high-water mark and entirely within the access and
423 viewing corridor that do not contain plumbing and are not used for human habitation. All boathouses
424 shall adhere to the following conditions:

425 [1] The construction or placement of boathouses below the ordinary high-water mark of any navigable
426 waters shall be prohibited.

427 [2] Boathouses shall be designed and constructed solely for the storage of boats and water-related
428 equipment.

429 [3] One boathouse is permitted on a lot or parcel as an accessory structure.

430 [4] Boathouses constructed where the existing slope is more than 50% shall be designed to not
431 destabilize the existing slope. Final grades must be at a slope that is naturally stable, depending on
432 soil type. Boathouses shall be constructed at existing grades.

Commented [KM6]: Mike want to omit this as an option. WDNR helping with language. Can't outright prohibit boathouses specifically, but may be able to prohibit all structures apart from stairways, etc. from being constructed on lands with >50% slopes.

433 [5] Boathouses shall be constructed in conformity with local floodplain zoning standards. Fill, elevation
434 surveys, or other documentation may be required within 180 days of permit issuance, per 300-
435 38B.(4)

Commented [KK7]: Is this still our threshold?

Commented [KK8]: Is this something we have numbers on? The coefficient or slope for different soil types that we can have a cheat sheet on?

436 [6] Boathouses shall be one story with sidewalls not exceeding 10 feet in height and a footprint within
437 the access and viewing corridor of the vegetative buffer. The footprint is not to exceed 16 feet in
438 width by 24 feet in depth, with the width running parallel to the shore. The footprint dimensions
439 shall include all eaves and overhangs.

Commented [KK9]: This is not good phrasing, but we were looking to minimize slope destabilization by further clarifying language about slope stability. AKA limiting grading near the shore.

440 [7] Boathouse roofs shall be designed with a visually pitched roof having a maximum slope of 4 units of
441 rise to 12 units of run and in no case shall be designed for use as a deck, observation platform, or for
442 other similar uses.

Commented [KM10]: Not sure we want to include the eaves and overhangs in the footprint. Modify definition to not include eaves or overhangs?

Commented [KK11]: By definition even "flat" roofs have some amount of pitch. How else can this be worded to communicate roofs must have slope? Define types of roof to be hip, shed, or gable?

443 [8] Earth-toned color shall be required for all exterior surfaces of a boathouse.

Commented [KK12]: Have received feedback that this is too restrictive to match the pitches of traditional-style lake homes.

444 [9] The main door shall face the water.

Deleted: /

445 [10] Patio doors, fireplaces, and other features considered inconsistent with the use of the structure
446 exclusively as a boathouse, are not permitted.

Commented [KK13]: Do we want to add a definition for "main door" or provide other clarification within this condition?

447 [11] Per § 59.692(1o) Wis. Stats., the roof of an existing boathouse may be used as a deck, provided that
448 the boathouse has a flat roof, has no side walls or screened walls, and has a railing that meets

Deleted: ,

452 Department of Safety and Professional Services standards.

453 [121]

Commented [KM14]: What's this?

454 (b) Open-sided and screened structures such as gazebos, decks, patios, and screen houses in the
455 shoreland setback area that satisfy the following requirements in § 59.692(1v), Wis. Stats.

456 [1] The part of the structure that is nearest to the water is located at least 35 feet landward from the
457 ordinary high-water mark.

458 [2] The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In
459 calculating this square footage, boathouses shall be excluded.

Commented [KK15]: Cannot be more restrictive than statute. Verbatim from 59.692(1v)(b)

460 [3] The structure that is the subject of the request for special zoning permission has no sides or has open
461 or screened sides.

462 [4] The County must approve a plan that will be implemented by the owner of the property to preserve
463 or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area
464 that is nearest to the water. Note: The statutory requirements under § 59.692(1v), Wis. Stats., which
465 require the establishment of a vegetative buffer for the construction of open-sided structures is not
466 superseded by § 59.692(1f)(a).

467 [5] The structure must be free-standing and more than five feet from a principal structure.

468 [6] An enforceable affidavit must be filed with the Register of Deeds prior to construction
469 acknowledging the limitations on vegetation.

470 (c) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in
471 diameter and satellite earth station antennas that are two meters or less in diameter.

472 (d) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump
473 house covers, private on-site wastewater treatment systems that comply with Ch. SPS Comm 383,
474 and other utility structures that have no feasible alternative location outside of the minimum setback
475 and that employ best management practices to infiltrate or otherwise control stormwater runoff from
476 the structure.

477 (e) ~~A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline
478 and is a maximum of 60 inches in width. Platforms as part of the shoreline access way / system shall
479 be limited to a maximum of 40 square feet, at no more than 60 inches wide.~~

Commented [KK16]: Per statute again: 59.692(1n)(d)6.

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480 [1] In cases of steep slopes, a rail system (i.e., tram or lift) in addition to a stairway, shall be permitted as
481 long as the rail system is mounted to or immediately adjacent to the existing stairway and can be
482 located entirely within the viewing access corridor per § 338-37B.

483 (f) Devices or systems used to infiltrate runoff from impervious surfaces.

Deleted: treat

484 (2) Existing Exempt Structures. Per § 59.692(1k)(a)2m, Wis. Stats., existing exempt structure may be
485 maintained, repaired, replaced, restored, rebuilt, and remodeled provided the activity does not
486 expand the footprint and does not go beyond the three-dimensional building envelope of the existing
487 structure. The expansion of a structure beyond the existing footprint may be permitted if the
488 expansion is necessary to comply with applicable state and federal requirements. Note: Section
489 59.692(1k)(a)2m, Wis. Stats., prohibits counties from requiring any approval or imposing any fee or
490 mitigation requirement for the activities specified in § 338-32A(2). However, it is important to note
491 that property owners may be required to obtain permits or approvals and counties may impose fees
492 under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning,
493 general zoning, sanitary codes, building codes, or even stormwater erosion control.

501 B. Reduced principal structure setback (§ 59.692(1n), Wis. Stats.). A setback less than the seventy-five-
502 foot required setback from the ordinary high-water mark shall be permitted for a proposed principal
503 structure and shall be determined as follows:

504 (1) Where there are existing principal structures in both directions, the setback shall equal the average of
505 the distances the two existing principal structures are set back from the ordinary high-water mark,
506 provided that all of the following are met:

507 (a) Both of the existing principal structures are located on an adjacent lot to the proposed principal
508 structure.

509 (b) Both of the existing principal structures are located within 250 feet of the proposed principal
510 structure and are the closest structure.

511 (c) Both of the existing principal structures are located less than 75 feet from the ordinary high-water
512 mark.

513 (d) The average setback shall not be reduced to less than 35 feet from the ordinary high-water mark of
514 any navigable water.

515 (e) Note: § 59.692(1d)(a), Wis. Stats., requires counties to adopt the standards consistent with § 338-
516 32B(1) for reducing the shoreland setback.

517 C. In addition to the shoreland setback standards in Subsections A and B above, buildings and
518 structures shall comply with the following setback standards.

519 (1) Side yard: twelve-foot minimum for lots at least 85 feet wide.

520 (2) Side yard: ten-foot minimum for lots less than 85 feet wide.

521 (3) Street yard: twenty-five-foot minimum.

522 (4)

523 D. In addition to the shoreland setback standard in Subsections A and B above, fences shall comply
524 with the following:

525 (1) All fences, no greater than eight feet in height, may be allowed along any lot line excluding the street
526 right-of-way line and the side lot lines within the street-yard setback.

527 (2) Open style fences (greater than 50% open space), no greater than four feet in height, may be allowed
528 along the street right-of-way line and alongside lot lines within the street-yard setback.

529 E. In addition to the shoreland setback standard in Subsections A and B above, retaining walls shall
530 comply with the following:

531 (1) Retaining and decorative/landscape walls may be allowed in the street-yard, side-yard and rear-yard
532 with a minimum zero setback.

533 (2) Retaining and decorative/landscape walls may be constructed to a maximum height of 8ft from
534 grade.

535 (3) Upon application to the BOA, fences may be allowed in the shoreland setback for purposes of
536 human health and safety, as in cases of steep slopes or other potentially injurious site conditions.

537 F. ~~Walkways no more than 36 inches wide and Driveways shall be exempt from 338-32C, § 338-~~

Commented [KM18]: ????

Deleted:
Commented [KK19]: Check this out – can we do this?
BOA would then determine if site specifics warrant a
variance to the 75ft setback. MEK...Me like! See if WDNR
is OK with it.

Deleted: In cases of

Deleted: w

Deleted: in the case of

Deleted: d

Deleted: , these structures

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545 **33 Floodplain structures.**
546 Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any
547 applicable floodplain zoning ordinance.

548 § 338-34 through § 338-35. (Reserved)

549 **Article VII**
550 **Vegetation**

551 § 338-36 **Purpose.**

552 To protect natural scenic beauty, fish and wildlife habitat, and water quality, this article shall regulate
553 removal of vegetation in shoreland areas, consistent with the following: The standards of this chapter
554 shall consider sound forestry and soil conservation practices and the effect of vegetation removal on water
555 quality, including soil erosion, and the flow of effluents, sediments, and nutrients.

556 § 338-37 **Vegetative buffer zone.**

557 To protect water quality, fish and wildlife habitat, and natural scenic beauty, and to promote preservation
558 and restoration of native vegetation, there shall be designated land that extends from the ordinary high-
559 water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation
560 in the vegetative buffer zone except as follows.

- 561 A. Routine maintenance of vegetation.
- 562 B. Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per
563 § 59.692(1f)(b), Wis. Stats., the viewing corridor may be at least 35 feet wide for every 100 feet of
564 shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of
565 shoreline frontage owned.
- 566 C. Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of
567 forested land consistent with "generally accepted forestry management practices" as defined in § NR
568 1.25(2)(b), Wis. Adm. Code, and described in Department publication "Wisconsin Forest
569 Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with
570 these practices.
- 571 D. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species,
572 damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an
573 imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same
574 area as soon as practicable, not to exceed 6 months from date of vegetation removal.
- 575 (1) A site visit by the Department or photos of the site provided by an owner or agent must be received
576 by the Department prior to vegetation removal. A site visit or photos from an owner or agent must
577 be provided after the vegetation has been replanted, within the timeframe specified above.
- 578 E. Additional vegetation management activities in the vegetative buffer zone may be allowed by
579 permit. The permit issued under this subsection shall require that all management activities comply
580 with detailed plans approved by the County and designed to control erosion by limiting
581 sedimentation into the waterbody, to improve the plant community by replanting in the same area,
582 and to maintain and monitor the newly restored area. The permit also shall require an enforceable
583 restriction to preserve the newly restored area.
- 584 F. Note: § 59.692(1f)(a), Wis. Stats., prohibits counties from requiring a property owner to establish a
585 vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone.
586 However, as part of a counties shoreland mitigation standards, the establishment or expansion of the
587 vegetative buffer may remain an option.

Commented [KK20]: Timelines are enforceable. Would Dawn agree that "as soon as practicable" is a wishy-washy term? MEK...OK.

Commented [KK21]: Dawn: Is this enforceable language? MEK...OK!

Commented [KK22]: Create template for this "additional veg management act." to resemble general application in that it is simple, concise, and provides clear record of activities permitted and timeline for replanting. MEK...OK.

588 § 338-38 through § 338-39. (Reserved)

589 Article VIII
590 Land Disturbing Activity

591 § 338-40 Land disturbing activity.

592 Filling, grading, lagooning, dredging, ditching, and excavating may be permitted only in accordance with
593 the provisions of § NR 115.04, Wis. Adm. Code, the requirements of Ch. 30, Wis. Stats., and other state
594 and federal laws where applicable, and only if done in a manner designed to minimize erosion,
595 sedimentation, impairment of fish and wildlife habitat, and natural scenic beauty.

Commented [KK23]: Again, what is this in reference to? If it's chapter 30 of wis stats, why the repeat?

596 § 338-41 General standards.

597 Filling, grading, lagooning, dredging, ditching, or excavating, in the shoreland area, which does not
598 require a permit under § 338-42, may be allowed without a land use permit provided that:

Commented [KK24]: Can we remove this word? We are aiming for no excavation/disturbance of the vegetative shore buffer area?

Deleted:

599 A. It is done in a manner designed to minimize erosion, sedimentation, and impairment of fish and
600 wildlife habitat.

601 B. Filling, grading, lagooning, dredging, ditching, or excavating in a Shoreland-Wetland District meets
602 the requirements of § 338-18B and C of this chapter.

Commented [KK25]: Does this mean 1) if it doesn't require a permit below (42), it is allowed without permits as long as these criteria are followed or 2) you still need a permit for this work as well? If it's #1, why does C. say "in addition to a permit under this chapter" and if it's 2, can we clarify this language? MEK...I have interpreted it as a no-permit use.

Deleted: permitted

Deleted: in the shoreland area

603 C. All applicable federal, state, and local authority is obtained in addition to a permit under this chapter.

604 D. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative
605 cover, or a bulkhead.

606 § 338-42 Permit required.

607 A. For any filling or grading of any area which is within 300 feet landward of the ordinary high-water
608 mark of navigable water and which has surface drainage toward the water and on which there is
609 either:

610 (1) Any filling or grading on slopes of more than 20%.

611 (2) Filling or grading of more than 1,000 square feet on slopes of 12%-20%.

612 (3) Filling or grading of more than 2,000 square feet on slopes less than 12%.

613 B. For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond,
614 lake, or similar waterway which is within 300 feet landward of the ordinary high-water mark of a
615 navigable body of water or where the purpose is the ultimate connection with a navigable body of
616 water.

Commented [KK26]: So all those Lake Puckaway dredging projects on the manmade channels... What criteria are we evaluating to require a permit here? 338-43 G, unless it's riprap, then are we micromanaging the DNR permit conditions for riprap? MEK...didn't know we did this. Ask Dale about.

617 § 338-43 Permit conditions.

618 In granting a permit under § 338-42, the County shall attach the following conditions, where appropriate,
619 in addition to those provisions specified in § 338-63 or 338-65.

620 A. The smallest amount of bare ground shall be exposed for as short a time as feasible.

621 B. Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative
622 cover shall be established.

623 C. Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be
624 used to prevent soil and sediment from leaving the project site.

Commented [KK27]: Recommended phrasing per TJ in LCD: these methods do not PREVENT erosion, they contain it. MEK...OK.

Deleted: erosion

625 D. Lagoons shall be constructed to avoid fish trap conditions.

626 E. Fill and excavations shall be stabilized according to soil type and accepted non-engineered and

Commented [KK28]: Is this the phrasing that validates contractor's field experience? MEK...Still leaves it to us to verify the non-engineered practice's acceptability as well as consider the soil type.

631 engineering standards as required by the Land Use Planning and Zoning Department.

632 F. Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or
633 destroy the flood storage capacity of a floodplain.

634 G. Channels or artificial watercourses shall be constructed with side slopes of two units horizontal
635 distance to one unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap
636 are provided.

637 § 338-44 (Reserved)

638 **Article IX**
639 **Impervious Surfaces**

640 § 338-45 **Purpose.**

641 Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect
642 against pollution of navigable waters. Impervious surface standards of this chapter shall apply to the
643 construction, reconstruction, expansion, replacement, or relocation of any impervious surface on a
644 riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the
645 ordinary high-water mark of any navigable waterway.

646 § 338-46 **Impervious surface calculation.**

647 A. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and
648 proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary
649 high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious
650 surfaces described in § 338-49 shall be excluded from the calculation of impervious surface on the
651 lot or parcel. If an outlot lies between the ordinary high-water mark and the developable lot or parcel
652 and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or
653 parcel for the purposes of calculating the percentage of impervious surface.

654 B. Note: § NR 115.05(1)(e)1m, Wis. Adm. Code, clarifies that, if an outlot lies between the OHWM
655 and the developed lot or parcel and both are in common ownership, then the lot or parcel should be
656 considered one property for the purposes of calculating the percentage of impervious surfaces. If
657 there is an outlot, parcel or road that is owned by some other entity, for example a hydroelectric
658 facility, town, or County, then the County should determine what level of control the property owner
659 has over that portion of the lot. Can the property owner place structures, such as shoreline protection,
660 piers, stairs, boathouses etc. on that portion of the lot, or does some other entity have control over
661 development? If a property owner has no or little say over construction on that portion of the lot,
662 then impervious surfaces on that portion of the lot should be calculated separately. For properties
663 that have condominium ownership, the impervious surface calculations apply to the entire property.
664 The property is still under one legal description and the proposed expansion to a unit is not the only
665 impervious surface calculated since the regulation states lot or parcel and not a unit. It will be
666 important to remember also that mitigation applies to the property as a whole and not just to the
667 portion of the frontage that might be in front of the unit impacted.

668 § 338-47 **Impervious surface standard.**

669 **[Amended 4-18-2017 by Ord. No. 8-2017]**

670 Except as allowed in §§ 338-48 and 338-49, allow up to 15% impervious surface on the portion of a lot or
671 parcel that is within 300 feet of the ordinary high-water mark.

672 § 338-48 **Maximum impervious surface.**

673 **[Amended 4-18-2017 by Ord. No. 8-2017]**

674 A property may exceed the impervious surface standard under § 338-47, provided the following standards
675 are met:

Commented [KK29]: In which case.... We check for compliance with DNR standards? MEK... You'd think this would be a DNR permit?

676 A. For properties where the general impervious surface standard applies under § 338-47, a property
677 owner may have more than 15% impervious surface but not more than 30% impervious surface on
678 the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

679 B. For properties that exceed the standard under § 338-47 but do not exceed the maximum standard
680 under § 338-48A, a permit can be issued for development with a mitigation plan that meets the
681 standards found in Article XII.

Deleted: or the development can be shown to meet § 338-49

682 § 338-49 **Treated impervious surfaces.**

683 A. Impervious surfaces that can be documented to show they meet either of the following standards
684 shall be excluded from the impervious surface calculations under § 338-46.

685 (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands,
686 infiltration basins, rain gardens, bioswales, or other engineered systems.

687 (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains
688 the runoff on or off the parcel and allows infiltration into the soil.

689 B. Note: The provisions in § 338-49 are an exemption from the impervious surface standards and, as
690 such, should be read construed narrowly. As such, a property owner is entitled to this exemption
691 only when the runoff from the impervious surface is being treated by a sufficient (appropriately
692 sized) treatment system, treatment device, or internally drained. Property owners that can
693 demonstrate that the runoff from an impervious surface is being treated consistent with § 338-49 will
694 be considered pervious for the purposes of implementing the impervious surface standards in this
695 ordinance. If a property owner or subsequent property owner fails to maintain the treatment system,
696 treatment device, or internally drained area, the impervious surface is no longer exempt under § 338-
697 49.

698 C. To qualify for the statutory exemption, property owners shall submit a complete land use permit
699 application that is reviewed and approved by the Land Use Planning and Zoning Department. The
700 application shall include the following:

701 (1) Calculations showing how much runoff is coming from the impervious surface area.

702 (2) Documentation that the runoff from the impervious surface is being treated by a proposed treatment
703 system, treatment device, or internally drained area.

704 (3) An implementation schedule and enforceable obligation on the property owner to establish and
705 maintain the treatment system, treatment devices, or internally drained area.

706 (a) The enforceable obligations shall be evidenced by an instrument recorded in the office of the
707 Register of Deeds prior to the issuance of the land use permit.

708 § 338-50 **Existing impervious surfaces.**

709 For existing impervious surfaces that were lawfully placed when constructed but do not comply with the
710 impervious surface standard in § 338-47 or the maximum impervious surface standard in § 338-48, the
711 property owner may do any of the following:

712 A. Maintain and repair the existing impervious surfaces;

713 B. Replace existing impervious surfaces with similar surfaces within the existing building envelope;

714 C. Relocate or modify an existing impervious surface with similar or different impervious surface,
715 provided that the relocation or modification does not result in an increase in the percentage of
716 impervious surface that existed on the effective date of the County shoreland protection ordinance,
717 and the impervious surface meets the applicable setback requirements in this chapter.

720 D. Note: The impervious surface standards in this section (changed to reflect Ch. NR 115, Wis. Adm.
721 Code) shall not be construed to supersede other provisions in the County Shoreland Protection
722 Ordinance.

All of the provisions of the County Shoreland Protection Ordinance still apply to new or existing development.

723 § 338-51 (Reserved)

724 Article X
725 Height

726 § 338-52 Height.

727 To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a land use
728 permit may not be granted for any construction that results in a structure taller than 35 feet within 75 feet
729 of the ordinary high-water mark of any navigable waters.

730 A. The structure height for structures at or greater than 75 feet from the ordinary high-water mark shall
731 comply with the provisions of other applicable ordinance standards, if any.

732 B. Structure height within 75 feet of the ordinary high-water mark of any navigable water is the
733 measurement of the vertical line segment starting at the lowest point of any exposed wall and its
734 intersect with the ground (Point A in the diagram below) to a line horizontal to the highest point of a
735 structure excluding items attached to a structure such as, but not limited to, chimneys, ornamental
736 towers, vents, television towers, and mechanical appurtenances (Point B in the diagram below),
737 unless specified under other sections of this chapter.

[\[Image\]](#)

738 § 338-53 (Reserved)

739 Article XI
740 Nonconforming Uses and Structures

741 § 338-54 Discontinued nonconforming use.

742 If a nonconforming use is discontinued for a period of 12 months, any future use of the building,
743 structure, or property shall conform to this chapter.

744 § 338-55 Maintenance, repair, replacement, or vertical expansion of nonconforming structures.

745 A. An existing structure that was lawfully placed when constructed but does not comply with the
746 required setbacks, per §§ 338-32 and 338-33, may be maintained, repaired, replaced, restored,
747 rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure.
748 Further, an existing structure that was lawfully placed when constructed but does not comply with
749 the required shoreland setback, may be vertically expanded unless the vertical expansion would
750 extend more than 35 feet above grade level, as provided in § 338-52B. Expansion of a structure may
751 be allowed beyond the existing footprint if the expansion is necessary to comply with applicable
752 state or federal requirements.

753 B. Note:

754 (1) Section 59.692(1k), Wis. Stats., prohibits counties from requiring any approval or imposing any fee
755 or mitigation requirement for the activities specified in § 338-55. However, it is important to note
756 that property owners may be required to obtain permits or approvals and counties may impose fees
757 under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning,
758 general zoning, sanitary codes, building codes, or even stormwater erosion control.

Commented [KK31]: (a)1. exists but has no children

Deleted: (a)1.b. and d.

Commented [KK32]: I believe 55 is the correct reference

Deleted: 7

761 (2) Section NR 115.05(1)(b)1m, Wis. Adm. Code, lists structures that are exempt from the shoreland
762 setback. These structures are considered conforming structures and are not considered
763 nonconforming structures. Structures that were granted variances or illegally constructed structures
764 are not considered nonconforming structures.

765 § 338-56 **Lateral expansion of nonconforming principal structure within the setback.**

766 An existing principal structure that was lawfully placed when constructed but does not comply with the
767 required building setback per §§ 338-32A and 338-33 may expand laterally, provided that all of the
768 following requirements are met:

- 769 A. The use of the structure has not been discontinued for a period of 12 months or more if a
770 nonconforming use.
- 771 B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- 772 C. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No
773 portion of the expansion may be any closer to the ordinary high-water mark than the closest point of
774 the existing principal structure.
- 775 D. The Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan
776 that shall be approved by the Land Use Planning and Zoning Department and implemented by the
777 property owner by the date specified in the land use permit. The mitigation plan shall meet the
778 standards found in Article XII.
- 779 E. All other provisions of this chapter shall be met.

780 § 338-57 **Expansion of a nonconforming principal structure beyond setback.**

781 An existing principal structure that was lawfully placed when constructed but does not comply with the
782 required building setback under §§ 338-32 and 338-33, may be expanded horizontally, landward, or
783 vertically provided that the expanded area meets the building setback requirements per § 338-32 or 338-
784 33 and that all other provisions of this chapter are met. A mitigation plan is not required solely for
785 expansion under this section, but may be required per Article IX.

786 § 338-58 **Relocation of nonconforming principal structure.**

787 An existing principal structure that was lawfully placed when constructed but does not comply with the
788 required building setback per §§ 338-32A and 338-33, may be relocated on the property provided all of
789 the following requirements are met:

- 790 A. The use of the structure has not been discontinued for a period of 12 months or more if a
791 nonconforming use.
- 792 B. The existing principal structure is at least 35 feet from the ordinary high-water mark.
- 793 C. No portion of the relocated structure is located any closer to the ordinary high-water mark than the
794 closest point of the existing principal structure.
- 795 D. The Land Use Planning and Zoning Department determines that no other location is available on the
796 property to build a principal structure of a comparable size to the structure proposed for relocation
797 that will result in compliance with the shoreland setback requirement per § 338-32A.
- 798 E. The Land Use Planning and Zoning Department shall issue a permit that requires a mitigation plan
799 that shall be approved by the Land Use Planning and Zoning Department and implemented by the
800 property owner by the date specified in the permit. The mitigation plan shall meet the standards
801 found in Article XII and include enforceable obligations of the property owner to establish or
802 maintain measures that the Land Use Planning and Zoning Department determines are adequate to
803 offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland

804 wildlife habitat, and natural scenic beauty. The mitigation measures shall be proportional to the
805 amount and impacts of the replaced or relocated structure being permitted. The obligations of the
806 property owner under the mitigation plan shall be evidenced by an instrument recorded in the office
807 of the County Register of Deeds.

808 F. All other provisions of this chapter shall be met.

809 **§ 338-59 Maintenance, repair, replacement or vertical expansion of structures authorized by**
810 **variance.**

811 A. A structure of which any part has been authorized to be located within the shoreland setback area by
812 a variance granted before July 13, 2015, ~~may be maintained, repaired, replaced, restored, rebuilt, or~~
813 ~~remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the~~
814 ~~structure may be vertically expanded unless the vertical expansion would extend more than 35 feet~~
815 ~~above grade level. Counties may allow expansion of a structure beyond the existing footprint if the~~
816 ~~expansion is necessary to comply with applicable state or federal requirements.~~

Deleted: 5

817 B. Note: § 59.692(1k)(a)2, Wis. Stats., prohibits counties from requiring any approval or imposing any
818 fee or mitigation requirement for the activities specified in § 338-59. However, it is important to note
819 that property owners may be required to obtain permits or approvals and counties may impose fees
820 under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning,
821 general zoning, sanitary codes, building codes, or even stormwater erosion control.

822 **Article XII**
823 **Mitigation**

824 **§ 338-60 Mitigation.**

825 When a land use permit, issued under this chapter, requires mitigation according to § 338-32A(2) and
826 §§ 338-48 and 338-58, the property owner must submit a complete permit application that includes a
827 mitigation plan.

828 A. The application shall be reviewed and approved by the County Land Use Planning and Zoning
829 Department. The application shall include the following:

830 (1) A scaled site plan that describes with images and notations the proposed mitigation measures:

831 (a) The mitigation site plan shall be designed and implemented to restore natural functions lost through
832 development and human activities.

833 (b) The mitigation measures of the plan shall be proportional in scope to the impacts of development on
834 water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.

835 (2) An implementation schedule stating the completion date of the mitigation measures. Also, there shall
836 be an enforceable obligation on the property owner to establish and maintain the mitigation
837 measures.

838 (a) The enforceable obligations shall be evidenced by an instrument, shoreland mitigation agreement,
839 recorded in the office of the Register of Deeds, prior to issuance of a land use permit.

840 B. The various types of development projects that require mitigation measures based on this chapter
841 shall have options to mitigate the impacts of those development projects as provided herein. In cases
842 where a development project impacts more than one type of development requiring mitigation,
843 mitigation measures shall provide the total points for all affected types of development. The
844 mitigation measures with corresponding mitigation points applicable to development projects
845 requiring mitigation are as follows:

846 (1) Three points: Creation or restoration of the primary shoreland vegetative buffer zone, which is the

§48 area from the Ordinary High Water Mark to 35 feet landward. The mitigation points and buffer depth
849 may be modified if a lesser buffer depth is approved by the Land Use Planning and Zoning
850 Department, based on the scope of the development project.

851 (2) One point: Each additional 500 square feet of native secondary vegetative shoreland buffer; after the
852 shoreland vegetative buffer zone has been created or restored.

853 (3) Removal of building structures: Removal area(s) landward of the shoreland vegetative buffer zone
854 shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be
855 in accordance with Subsection D below.

Deleted: B

856 (a) Two points: Removal of each building structure having 200 square feet or more of impervious
857 surface within the seventy-five-foot shoreland setback area.

858 (b) One point: Removal of each building structure having less than 200 square feet of impervious
859 surface within the seventy-five-foot shoreland setback area.

860 (c) Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated.
861 (4) One point: Removal of each 200 square feet of impervious surface within 300 feet of the ordinary
862 high-water mark of navigable waters. Removal area(s) landward of the shoreland vegetative buffer
863 zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone
864 shall be in accordance with Subsection D below.

Deleted: Removal area(s) landward of the shoreland vegetative buffer zone shall be restored and vegetated. Removal area(s) within the shoreland vegetative buffer zone shall be in accordance with Subsection D below.

865 (5) One point: Removal of seawalls/bulkheads.

866 (6) One point: Relocate access and viewing corridor to include boathouse. Vacated area(s) landward of
867 the shoreland vegetative buffer zone shall be restored and vegetated. Vacated area(s) within the
868 shoreland vegetative buffer zone shall be vegetated in accordance with Subsection D below.

869 (7) Stormwater management that will infiltrate the peak flow discharge of stormwater runoff on a lot or
870 parcel, for a two-year rainfall event, into a rain garden(s) for conditions stated below. Other
871 infiltration methods may be used as approved by the Land Use Planning and Zoning Department.

872 (a) Two points: Stormwater management practice that will infiltrate all the stormwater runoff from the
873 impervious surface of principal building structure(s).

874 (b) Three points: Stormwater management practice that will infiltrate all the stormwater runoff from the
875 impervious surface of principal building structure(s) and any accessory building structure(s).

876 (c) Four points: Stormwater management practice that will infiltrate the stormwater runoff from all the
877 impervious surface(s).

878 C. Types of development requiring mitigation measures are as follows:

879 (1) Impervious surface development. Any of the following levels of impervious surface area, based on
880 the standards of Article IX, shall provide mitigation measures having the following number of
881 mitigation points.

882 (a) Three mitigation measure points shall be included in a mitigation plan on a lot or parcel where the
883 percentage of impervious surface is greater than 15% and up to and including 20%.

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884 (b) Four mitigation measure points shall be included in a mitigation plan on a lot or parcel where the
885 percentage of impervious surface is greater than 20% and up to and including 25%.

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886 (c) Five mitigation measure points shall be included in a mitigation plan on a lot or parcel where the

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- 895 percentage of impervious surface is greater than 25% and up to and including 30%.
- 896 (2) Lateral expansion of a nonconforming principal structure per § 338-56 shall require a mitigation plan
897 that includes any mitigation measures listed in § 338-60B having a minimum of one point.
- 898 (3) Replacement or relocation of a nonconforming principal structure per § 338-58 shall require a
899 mitigation plan that includes any mitigation measures listed in § 338-60B having a minimum of two
900 points.
- 901 D. Where reference is made to a shoreland vegetative buffer zone, the buffer shall be designed in
902 accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1:
903 Shoreland Habitat. In cases where these standards provide options, the Land Use Planning and
904 Zoning Department shall make the determination which option is most appropriate in the design and
905 execution of the project.
- 906 E. Where reference is made to a rain garden, the rain garden shall be designed, installed, and
907 maintained in accordance with Wisconsin DNR Publication, PUB-WT-776 2018, "Rain Gardens: A
908 how-to manual for homeowners."
- 909 F. Where the Land Use Planning and Zoning Department determines a lot or parcel has excessive
910 navigable water frontage for the purpose of a shoreland vegetative buffer installation, the Land Use
911 Planning and Zoning Department may reduce the width of the shoreland vegetative buffer to no less
912 than 100 feet.
- 913 G. All development projects requiring mitigation measures on a lot or parcel having a POWTS (private
914 onsite wastewater treatment system) shall be required to have the POWTS evaluated by a licensed
915 plumber to determine condition and sizing compliance; and, if needed, the POWTS shall be
916 upgraded to comply with current applicable standards.

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917 § 338-61 (Reserved)

Article XIII Administration

920 § 338-62 **Administrative provisions.**

921 Given the County has created a Land Use Planning and Zoning Department, and Land Use Planning and
922 Zoning Committee, and Board of Adjustment to administer and enforce land use ordinances, these same
923 officials shall also administer and enforce this chapter. These officials, for the purpose of this shoreland
924 protection ordinance, shall be responsible for all of the following:

- 925 A. A system of permits for all new construction, development, reconstruction, structural alteration, or
926 moving of buildings and structures. A copy of applications shall be required to be filed in the Land
927 Use Planning and Zoning Department, unless prohibited by § 59.692(1k), Wis. Stats.
- 928 B. Perform regular inspection of permitted work in progress to insure conformity of the finished
929 structures with the terms of this chapter.
- 930 C. Establish a variance procedure which authorizes the Board of Adjustment to grant such variance
931 from the terms of this chapter as will not be contrary to the public interest where, owing to special
932 conditions and the adoption of the shoreland protection ordinance, a literal enforcement of the
933 provisions of this chapter will result in unnecessary hardship as long as the granting of a variance
934 does not have the effect of granting or increasing any use of property which is prohibited in that
935 zoning district by the shoreland protection ordinance.
- 936 D. Establish a special exception (conditional use permit) procedure for uses presenting special
937 problems.

- 939 E. The County shall keep a complete record of all proceedings before the Board of Adjustment, and
940 Land Use Planning and Zoning Committee.
- 941 F. Written notice to the appropriate office of the Department at least 10 days prior to any hearing on a
942 proposed variance, special exception, or conditional use permit, appeal for a map or text
943 interpretation, map or text amendment, and copies of all proposed land divisions submitted to the
944 County for review under Article **IV**.
- 945 G. Submission to the appropriate office of the Department, within 10 days after grant or denial, copies
946 of any decision on a variance, special exception, or conditional use permit, or appeal for a map or
947 text interpretation, and any decision to amend a map or text of this chapter.
- 948 H. Mapped zoning districts and the recording, on an official copy of such map, of all district boundary
949 amendments.
- 950 I. The establishment of appropriate penalties for violations of various provisions of this chapter,
951 including forfeitures. Compliance with this chapter shall be enforceable by the use of injunctions to
952 prevent or abate a violation, as provided in § 59.69 (11), Wis. Stats.
- 953 J. Investigate and report violations of this chapter for enforcement and/or prosecution.
- 954 § 338-63 **Permits.**
- 955 A. When required. Except where another section of this chapter specifically exempts certain types of
956 development from this requirement, a land use permit shall be obtained from the Land Use Planning
957 and Zoning Department, or Board of Adjustment, or Land Use Planning and Zoning Committee
958 before any new development.
- 959 B. Application. An application for a land use permit shall be made to the Land Use Planning and
960 Zoning Department upon forms furnished by the Land Use Planning and Zoning Department and
961 shall include for the purpose of proper enforcement of these regulations, the following information:
- 962 (1) Name and address of applicant and property owner.
- 963 (2) Legal description of the property and type of proposed use.
- 964 (3) A "to scale" drawing of the dimensions of the lot and location of all existing and proposed structures
965 and impervious surfaces relative to the lot lines, center line of abutting highways, and the ordinary
966 high-water mark of any abutting waterways.
- 967 (4) Location and description of any existing private water supply or sewage system or notification of
968 plans for any such installation.
- 969 (5) Plans for appropriate mitigation when required.
- 970 (6) Payment of the appropriate fee.
- 971 (7) Additional information required by the Land Use Planning and Zoning Department.
- 972 C. Expiration of permit. A land use permit shall expire 12 months from date issued if no substantial
973 work has commenced.
- 974 D. Certificates of compliance. Upon written request from the owner, the Land Use Planning and Zoning
975 Department shall issue a certificate of compliance for any building or premises existing at the time
976 of the adoption of this chapter, certifying after inspection the extent and type of use made of the
977 building or premises and whether or not such use conforms to the provisions of this chapter.

978 § 338-64 **Special exception permits (conditional use permits).**
979 A. Application for a special exception permit. Any use listed as a special exception in this chapter shall
980 be permitted only after an application has been submitted to the Land Use Planning and Zoning
981 Department and a special exception permit has been granted by the Board of Adjustment. To secure
982 information upon which to base its determination, the Board of Adjustment may require the
983 applicant to furnish, in addition to the information required for a land use permit, the following
984 information:

985 (1) A plan of the area showing surface contours, soil types, ordinary high-water marks, ground water
986 conditions, subsurface geology, and vegetative cover.

987 (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space, and
988 landscaping.

989 (3) Plans of buildings, sewage disposal facilities, water supply systems, and arrangement of operations.

990 (4) Specifications for areas of proposed filling, grading, lagooning or dredging.

991 (5) Other pertinent information necessary to determine if the proposed use meets the requirements of
992 this chapter.

993 (6) Rationale for why the proposed special exception meets all of the special exception criteria listed in
994 this chapter.

995 B. Notice, public hearing and decision. Before deciding whether to grant or deny an application for a
996 special exception permit, the Board of Adjustment shall hold a public hearing. Notice of such public
997 hearing, specifying the time, place and matters to come before the Board of Adjustment, shall be
998 given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate
999 office of the Department at least 10 days prior to the hearing. The Board of Adjustment shall state in
1000 writing the grounds for granting or denying a special exception permit.

1001 C. Standards applicable to all special exceptions. In deciding a special exception application, the Board
1002 of Adjustment shall evaluate the effect of the proposed use upon:

1003 (1) The maintenance of safe and healthful conditions.

1004 (2) The prevention and control of water pollution including sedimentation.

1005 (3) Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent
1006 properties due to altered surface water drainage.

1007 (4) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative
1008 cover.

1009 (5) The location of the site with respect to existing or future access roads.

1010 (6) The need of the proposed use for a shoreland location.

1011 (7) Its compatibility with uses on adjacent land.

1012 (8) The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal
1013 systems.

1014 (9) Location factors under which:

1015 (a) Domestic uses shall be generally preferred;

- 1016 (b) Uses not inherently a source of pollution within an area shall be preferred over uses that are or may
1017 be a pollution source;
- 1018 (c) Use locations within an area tending to minimize the possibility of pollution shall be preferred over
1019 use locations tending to increase that possibility. Additional standards, such as parking, noise, etc.,
1020 may be referred to the applicable part of their ordinance.
- 1021 D. Conditions attached to special exception. Such conditions may include specifications for, without
1022 limitation because of specific enumeration: type of shore cover; specific sewage disposal and water
1023 supply facilities; landscaping and planting screens; period of operation; operational control; sureties;
1024 deed restrictions; location of piers, docks, parking, and signs; and type of construction.
- 1025 (1) Upon consideration of the factors listed above, the Board of Adjustment shall attach such conditions,
1026 in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this
1027 chapter. Violations of any of these conditions shall be deemed a violation of this chapter.
- 1028 (2) In granting a special exception permit, the Board of Adjustment may not impose conditions which
1029 are more restrictive than any of the specific standards in this chapter. Where this chapter is silent as
1030 to the extent of restriction, the Board of Adjustment may impose any reasonable permit conditions to
1031 affect the purpose of this chapter.
- 1032 E. Recording. When a special exception permit is approved, an appropriate record shall be made of the
1033 land use and structures permitted. Such permit shall be applicable solely to the structures, use, and
1034 property so described. A copy of any decision on a special exception permit shall be provided to the
1035 appropriate office of the Department within 10 days after it is granted or denied.
- 1036 F. Revocation. Where the conditions of a special exception permit are violated, the special exception
1037 permit may be revoked.
- 1038 **§ 338-65 Variances.**
- 1039 A. The Board of Adjustment may grant upon appeal a variance from the standards of this chapter where
1040 an applicant convincingly demonstrates that:
- 1041 (1) Literal enforcement of the provisions of this chapter will result in unnecessary hardship on the
1042 applicant; and
- 1043 (2) The hardship is due to special conditions unique to the property; and
- 1044 (3) Is not contrary to the public interest.
- 1045 B. Notice, hearing, and decision. Before deciding on an application for a variance, the Board of
1046 Adjustment shall hold a public hearing. Notice of such hearing specifying the time, place, and
1047 matters of concern, shall be given a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be
1048 provided to the appropriate office of the Department at least 10 days prior to the hearing. The Board
1049 of Adjustment shall state in writing the reasons for granting or refusing a variance and shall provide
1050 a copy of such decision to the appropriate Department office within 10 days of the decision.
- 1051 **§ 338-66 Board of Adjustment.**
- 1052 The chair of the County Board shall appoint a Board of Adjustment consisting of three members and two
1053 alternate members under § 59.694, Wis. Stats. The County Board shall adopt such rules for the conduct of
1054 the business of the Board of Adjustment as required by § 59.694(3), Wis. Stats.
- 1055 A. Powers and duties (§ 59.694 Wis. Stats.).
- 1056 (1) The Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise
1057 all of the powers conferred on such boards by § 59.694, Wis. Stats.

- 1058 (2) It shall hear and decide appeals where it is alleged there is error in any order, requirement, decision,
 1059 or determination made by an administrative official in the enforcement or administration of this
 1060 chapter.
- 1061 (3) It shall hear and decide applications for special exception permits pursuant to Section **338-64**.
- 1062 (4) It may grant a variance from the standards of this chapter pursuant to Section **338-65**.
- 1063 (5) In granting a variance, the board may not impose conditions which are more restrictive than any of
 1064 the specific standards in this chapter. Where this chapter is silent as to the extent of restriction, the
 1065 board may impose any reasonable permit conditions to affect the purpose of this chapter.
- 1066 B. Appeals to the Board. Appeals to the Board of Adjustment may be made by any person aggrieved of
 1067 by an officer, department, board, or bureau of the County affected by any decision of the Land Use
 1068 Planning and Zoning Department or other administrative officer. Such appeal shall be made within
 1069 30 days, as provided by the rules of the County Board, by filing with the officer whose decision is in
 1070 question, and with the Board of Adjustment, a notice of appeal specifying the reasons for the appeal.
 1071 The Land Use Planning and Zoning Department, or other officer whose decision is in question, shall
 1072 promptly transmit to the Board of Adjustment all the papers constituting the record concerning the
 1073 matter appealed.
- 1074 C. Hearing Appeals and Applications for Variances and Special Exception Permits. (§ 59.694(6), Wis.
 1075 Stats.)
- 1076 (1) The Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The
 1077 Board of Adjustment shall give public notice thereof by publishing a Class 2 notice under Chapter
 1078 985, Wis. Stats, specifying the date, time, and place of the hearing and the matters to come before
 1079 the Board of Adjustment. Notice shall be mailed to the parties in interest. Written notice shall be
 1080 given to the appropriate office of the Department at least 10 days prior to hearings on proposed
 1081 shoreland variances, special exceptions (conditional uses), and appeals for map or text
 1082 interpretations.
- 1083 (2) A decision regarding the appeal or application shall be made as soon as practical. Copies of all
 1084 decisions on shoreland variances, special exceptions (conditional uses), and appeals for map or text
 1085 interpretations shall be submitted to the appropriate office of the Department within 10 days after
 1086 they are granted or denied.
- 1087 (3) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a
 1088 written resolution or order signed by the chairman and secretary of the Board of Adjustment. Such
 1089 resolution shall state the specific facts which are the basis of the Board of Adjustment determination
 1090 and shall either affirm, reverse, vary, or modify the order, requirement, decision, or determination
 1091 appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the
 1092 application.
- 1093 (4) At the public hearing, any party may appear in person or by agent or by attorney.

1094 § 338-67 (Reserved)

Article XIV
Amendments

1097 § 338-68 **Changes and amendments.**

1098 The County Board may, from time to time, alter, supplement, or change the regulations contained in this
 1099 chapter in accordance with the requirements of § 59.69(5)(e), Wis. Stats, Ch. NR 115, Wis. Adm. Code
 1100 and this chapter where applicable.

1101 A. Amendments. Amendments to this chapter may be made on petition of any interested party as

1102 provided in § 59.69(5), Wis. Stats.

1103 B. Shoreland-Wetland map amendments. Every petition for a Shoreland-Wetland map amendment filed
1104 with the County Clerk shall be referred to the Land Use Planning and Zoning Committee. A copy of
1105 each petition shall be provided to the appropriate office of the Department within five days of the
1106 filing of the petition with the County Clerk. Written notice of the public hearing to be held on a
1107 proposed amendment shall be provided to the appropriate office of the Department at least 10 days
1108 prior to the hearing.

1109 (1) A copy of the County Board's decision on each proposed amendment shall be forwarded to the
1110 appropriate office of the Department within 10 days after the decision is issued.

1111 § 338-69 (Reserved)

1112 Article XV
1113 Enforcement

1114 § 338-70 Investigation of alleged violations.

1115 Any violation of the provisions of this chapter shall be deemed unlawful. When necessary, to determine
1116 compliance with this chapter, the Land Use Planning and Zoning Department shall investigate alleged
1117 violations. After confirmation that a violation exists, the Land Use Planning and Zoning Department shall
1118 pursue compliance of the violation and enforce the provisions of this chapter.

1119 § 338-71 Violations and penalties; citations.

1120 A. Any violation of the provisions of this chapter by or under the direction of the landowner shall be
1121 brought into compliance upon notification by the Land Use Planning and Zoning Department or the
1122 Land Use Planning and Zoning Committee or the County Corporation Counsel.

1123 B. The County Corporation Counsel shall have the authority to use all legal remedies necessary to
1124 enforce the provisions of this chapter. After consultation with the Land Use Planning and Zoning
1125 Department and/or the Land Use Planning and Zoning Committee, the Corporation Counsel shall
1126 determine which legal remedy or legal remedies are in order to enforce the provisions of this
1127 chapter.

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1128 C. Any landowner who violates or refuses to comply with any of the provisions of this chapter shall be
1129 subject to a forfeiture of not less than \$50 nor more than \$500 per offense, together with the taxable
1130 costs of action. Each day that the violation exists, after receiving notice of the violation from the
1131 Land Use Planning & Zoning Department by certified or registered mail, or personal service per Ch.
1132 801.11 Wis. Stats. shall constitute a separate offense.

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1133 D. In addition to the Corporation Counsel having the authority to enforce the provisions of this chapter
1134 per Subsection B above, the designated staff of the Land Use Planning and Zoning Department shall
1135 have the authority to and may prepare, sign, and issue citations in order to commence action to
1136 achieve compliance with the provisions of this chapter.

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1137 § 338-72 Stop-work orders.

1138 A. No land use permit obtained. When the Land Use Planning and Zoning Department is notified or
1139 becomes aware of any activity in violation of the provisions of this chapter by or under the direction
1140 of the landowner that requires issuance of a land use permit pursuant to this chapter, and such a
1141 permit has not been obtained, the Land Use Planning and Zoning Department may issue a stop-work
1142 order requiring any such activity to be immediately stopped and enjoined.

1143 B. Land use permit obtained. When the Land Use Planning and Zoning Department is notified or
1144 becomes aware of any activity in violation of the provisions of this chapter by or under the direction
1145 of the landowner for which a land use permit was issued and the actual activity deviates from that
1146 land use permit, the Land Use Planning and Zoning Department may issue a stop-work order
1147 requiring the activity to be immediately stopped and enjoined.

1153 C. The stop-work order shall be mailed to the subject landowner's property tax bill mailing address or
1154 the mailing address as stated on the land use permit application and/or to any person signing the land
1155 use permit application.

1156 D. The stop-work order card issued and posted by the Land Use Planning and Zoning Department shall
1157 be posted at the subject site in plain view from a non-trespass location off the subject property. A
1158 stop-work order card shall remain posted until compliance of the violation occurs. In the event that a
1159 stop-work order has been removed from its posted location by persons other than Department staff, the
1160 property owner(s) and/or other agents, upon conviction, shall be subject to a \$300 fine plus court costs. The
1161 fine shall increase by \$300 after each offense and be cumulative. For example: \$300 first offense, \$600 for
1162 second offense, \$900 for third offense, and so on. If a property owner removes a stop work order sign three
1163 times they shall be subject to \$1800 (\$300 + \$600 + \$900) in fines plus court costs.

1164 E. An action filed pursuant to the Board of Adjustment or to any court shall stop work during and until
1165 the final outcome of the action has been reached or until so ordered by a Court of appropriate
1166 jurisdiction.

1167 § 338-73 **Injunctions.**

1168 Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the
1169 maintenance thereof abated pursuant to § 59.69(11), Wis. Stats.

1170 § 338-74 **Emergency conditions.**

1171 Whenever the Land Use Planning and Zoning Department finds that an emergency exists such as sudden,
1172 unexpected occurrences, or combinations thereof, unforeseen conditions or circumstances at the time
1173 beyond a landowner's control, adverse weather conditions, meeting a timetable which requires immediate
1174 action to protect the public health, safety, and welfare, the Land Use Planning and Zoning Department
1175 may, without notice or hearing, issue an order citing the existence of such emergency and may require
1176 that such action be taken as may be deemed necessary to meet the emergency. The Land Use Planning
1177 and Zoning Department shall notify the Chairperson of the Land Use Planning and Zoning Committee
1178 within 24 hours of such situations. Notwithstanding any other provisions of this chapter, such order shall
1179 become effective immediately. Any person to whom such order is directed shall comply therewith
1180 immediately. Appeals or challenges to emergency orders may be brought to the Board of Adjustment
1181 after emergency conditions have ceased.

1182 § 338-75 **(Reserved)**

1183 **Article XVI**

1184 **Fees**

1185 § 338-76 **Fees.**

1186 A. The following fees shall be paid to Green Lake County at the Land Use Planning and Zoning
1187 Department at the time of application for each service requested as listed below to defray the cost of
1188 administration, investigation, advertising, and processing. Land use permit fee is based on
1189 construction value of project:

1190 (1) Fee.

Value of Project	Fee
\$0 to \$999	\$50
\$1,000 to \$99,999	\$150
\$100,000 to \$199,999	\$300

Value of Project	Fee
\$200,000 to \$299,999	\$400
\$300,000 to \$399,999	\$500
\$400,000 to \$499,999	\$600
\$500,000 to \$599,999	\$700
\$600,000 to \$699,999	\$800
\$700,000 to \$799,999	\$900
\$800,000 to \$899,999	\$1,000
\$900,000 or more	\$1,250

1191 (2) Permit renewals are the same as the original fee.

1192 (3) After-the-fact permit ~~is~~ double the above-stated fee.

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1193 (4) Permit fees may be waived in cases where the Land Use Planning and Zoning Department
1194 determines the project(s) to be funded or conducted by federal, state, or local governmental bodies.

1195 B. All public hearing items such as a variance, rezone, appeal, conditional use permit, ordinance
1196 amendment, planned unit development, or special exception permit: \$375.

1197 C. All public hearing items listed above, postponed at the request of the applicant prior to public
1198 hearing: \$250.

1199 § 338-77 (Reserved)

Article XVII Definitions

1202 § 338-78 Definitions.

1203 A. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be
1204 interpreted as follows: Words used in the present tense include the future; words in the singular
1205 number include the plural number; and words in the plural number include the singular number. The
1206 word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be
1207 measured horizontally.

1208 B. The following terms or words used in this chapter mean:

1209 ACCESS AND VIEWING CORRIDOR

1210 A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer
1211 zone.

1212 AFTER-THE-FACT PERMIT

1213 A land use permit that was issued for a development on a date after the development had already
1214 commenced, was under construction, or was completed. The fee for an after-the-fact permit is double the
1215 standard land use permit fee (see 338-76.A.(1)).

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- 1217 **BOATHOUSE**
 1218 A permanent structure used for the storage of watercraft and associated materials and includes all
 1219 structures which are totally enclosed, have roofs or walls, or any combination of these structural
 1220 parts.
- 1221 **BUILDING ENVELOPE**
 1222 The three-dimensional space within which a structure is built.
- 1223 **COUNTY ZONING AGENCY**
 1224 That committee or commission created or designated by the County Board under § 59.69(2)(a), Wis.
 1225 Stats, to act in all matters pertaining to County planning and zoning. In Green Lake County, this
 1226 body shall be known as the Land Use Planning and Zoning Committee.
- 1227 **DEER STAND**
 1228 Open or enclosed platforms used by hunters. The platforms are secured to trees (or free standing) in
 1229 order to elevate the hunter and give him (or her) a better vantage point.
- 1230 **DEPARTMENT**
 1231 The Department of Natural Resources.
- 1232 **DEVELOPMENT**
 1233 Any man-made change to improved or unimproved real estate, including but not limited to, the
 1234 construction of buildings, structures, or accessory structures; the construction of additions or
 1235 substantial alterations to buildings, structures, or accessory structures; the placement of buildings or
 1236 structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the
 1237 storage, deposition, or extraction of materials.
- 1238 **DRAINAGE SYSTEM**
 1239 One or more artificial ditches, tile drains, or similar devices which collect surface runoff or
 1240 groundwater and convey it to a point of discharge.
- 1241 **EXISTING DEVELOPMENT PATTERN**
 1242 That principal structures exist within 250 feet of a proposed principal structure in both directions
 1243 along the shoreline.
- 1244 **FLOODPLAIN**
 1245 The land which has been or may be hereafter covered by flood water during the regional flood. The
 1246 floodplain includes the floodway and the flood fringe as those terms are defined in Ch. NR 116, Wis.
 1247 Adm. Code.
- 1248 **FOOTPRINT**
 1249 The land covered by a structure at ground level measured on a horizontal plane. The footprint of a
 1250 structure includes the horizontal plane bounded by the furthest exterior wall and eave, if present,
 1251 projected to natural grade. For structures without walls (decks, stairways, patios, carports) having a
 1252 single-horizontal plane, the footprint is bounded by the furthest portion of the structure projected to
 1253 natural grade.

Note: For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under Ch. NR 115, Wis. Adm. Code, and would need to follow Ch. NR 115.05(1)(g)5, Wis. Adm.

Code.

1254 **GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES**
1255 Forestry management practices that promote sound management of a forest. Generally accepted
1256 forestry management practices include those practices contained in the most recent version of the
1257 Department publication known as Wisconsin Forest Management Guidelines and identified as PUB
1258 FR-226.

1259 **HUNTING BLIND**
1260 A hunting blind (or hide) is an easily portable, cover device for hunters, designed to reduce the
1261 chance of detection. Not including deer stands.

1262 **IMPERVIOUS SURFACE**
1263 An area that releases as runoff all or a majority of the precipitation that falls on it. "Impervious
1264 surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets
1265 unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in
1266 § 340.01(54), Wis. Stats., or sidewalks as defined in § 340.01(58), Wis. Stats., are not considered
1267 impervious surfaces.

1268 **LOT**
1269 An area of land that is part of a recorded subdivision plat, certified survey map, or other document
1270 using the platting process, that is identified by an assigned number or letter.

1271 **LOT OR PARCEL AREA**
1272 The total square footage lying within the peripheral boundaries of a recorded lot or parcel boundary
1273 description, including the land over which easements have been granted. The area of a lot or parcel
1274 does not include the area of any land below the ordinary high-water mark of navigable waters.

1275 **LOT OR PARCEL OF RECORD**
1276 An area of land, the description of which is properly recorded with the County Register of Deeds,
1277 which at the time of its recordation complied with all applicable laws, ordinances, and regulations.
1278 The act of recording is the time at which a lot or parcel is created.

1279 **LOT OR PARCEL, SUBSTANDARD**
1280 A legally created lot or parcel that met minimum area and minimum average width requirements
1281 when created, but does not meet current lot size requirements for a new lot or parcel.

1282 **MITIGATION**
1283 Balancing measures that are designed, implemented, and function to restore natural functions and
1284 values that are otherwise lost through development and human activities.

1285 **NAVIGABLE WATERS**
1286 Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds,
1287 sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin
1288 portion of boundary waters, which are navigable under the laws of this state. Under § 281.31(2)(d),
1289 Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated
1290 thereunder, shoreland ordinances required under § 59.692, Wis. Stats., and Ch. NR 115, Wis. Adm.
1291 Code, do not apply to lands adjacent to:

1292 (1) Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and
1293 such lands were not navigable streams before ditching; and

1294 (2) Artificially constructed drainage ditches, ponds, or stormwater retention basins that are not
1295 hydrologically connected to a natural navigable water body.

1296 **ORDINARY HIGH-WATER MARK**

1297 The point on the bank or shore up to which the presence and action of surface water is so continuous
1298 as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation,
1299 predominance of aquatic vegetation, or other easily recognized characteristics.

1300 **PARCEL**

1301 An area of contiguous land having a boundary description duly recorded in the Register of Deeds
1302 office that identifies the boundaries of that specific parcel.

1303 **REGIONAL FLOOD**

1304 A flood determined to be representative of large floods known to have generally occurred in
1305 Wisconsin and which may be expected to occur on a particular stream because of like physical
1306 characteristics, once in every 100 years.

1307 **ROUTINE MAINTENANCE OF VEGETATION**

1308 Normally accepted horticultural practices that do not result in the loss of any layer of existing
1309 vegetation and do not require earth disturbance.

1310 **SHORELAND**

1311 Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000
1312 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the
1313 floodplain, whichever distance is greater.

1314 **SHORELAND SETBACK**

1315 Also known as the "shoreland setback area" in § 59.692(1)(bn), Wis. Stats., means an area in a
1316 shoreland that is within a certain distance of the ordinary high-water mark in which the construction
1317 or placement of structures has been limited or prohibited under an ordinance enacted under § 59.692,
1318 Wis. Stats.

1319 **SHORELAND-WETLAND DISTRICT**

1320 A zoning district, created as a part of a County zoning ordinance, comprised of shorelands that are
1321 designated as wetlands on the Wisconsin wetland inventory maps prepared by the Department.

1322 **SPECIAL EXCEPTION (CONDITIONAL USE)**

1323 A use which is permitted by this chapter provided that certain conditions specified in this chapter are
1324 met and that a permit is granted by the Board of Adjustment or, where appropriate, the Land Use
1325 Planning and Zoning Committee or County Board.

1326 **STRUCTURE**

1327 A principal structure or any accessory structure including a garage, shed, boathouse, sidewalk,
1328 walkway, patio, deck, retaining wall, porch, or fire pit.

1329 **STRUCTURE, ACCESSORY**

1330 A subordinate structure on the same property as the principal structure which is devoted to a use
1331 incidental to the principal use of the property. Accessory structures include, but are not limited to,
1332 detached garages, sheds, barns, gazebos, patios, decks, swimming pools, hot tubs, fences, retaining
1333 walls, driveways, parking lots, sidewalks, detached stairways, and lifts.

1334 **UNNECESSARY HARDSHIP**
1335 That circumstance where special conditions, which were not self-created, affect a particular property
1336 and make strict conformity with restrictions governing area, setbacks, frontage, height or density
1337 unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

1338 **VARIANCE**
1339 An authorization granted by the Board of Adjustment to construct, alter, or use a building or
1340 structure in a manner that deviates from the dimensional standards of this chapter.

1341 **WETLANDS**
1342 Those areas where water is at, near, or above the land surface long enough to be capable of
1343 supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

1344 **Attachments:**
1345 [Attachment 1 - Appendix A](#)

1346

NOTICE OF PUBLIC HEARING

The Land Use Planning and Zoning Committee of *Green Lake County* will hold a public hearing in County Board Room #0902 of the Government Center, 571 County Road A, Green Lake, WI, on *Thursday, February 7, 2019, at 6:00 p.m.* to consider the following items:

Item I: Owners/Applicants: Charles Edwin Hutchinson, Holly Ann Sina, Donald John Hutchinson, III
General legal description: County Road J, Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (±120 acres), Part of the SW¼ and SE¼ of Section 7, T16N R13E, Town of Brooklyn
Request: Request to rezone ±17.22 acres from A-1 Farmland Preservation District to R-4 Rural Residential District

Item II: Applicant: Green Lake County Land Use Planning & Zoning Committee
Explanation: The committee is requesting an amendment to the Code of Green Lake County, Chapter 350, Zoning Ordinance; more specifically, to amend various sections within to be consistent with 2017 Act 67 and 68 as well as other identified changes. For more detailed information regarding the amendments, please contact Land Use Planning & Zoning Director Matt Kirkman at (920) 294-4175. To view the proposed zoning ordinance amendments:

- Go to <http://www.co.green-lake.wi.us/uploads/forms/proposed-zoning-ordinance-amendments-by-article-1-14-2019.pdf>

All interested persons wishing to be heard at the public hearing are invited to attend. For further detailed information concerning this notice and for information related to the outcome of public hearing items, contact the Green Lake County **Land Use Planning and Zoning Department** at (920) 294-4156.

Publish: January 24 & January 31, 2019

LAND USE PLANNING AND ZONING COMMITTEE STAFF REPORT
PUBLIC HEARING

February 7, 2019

ITEM I: ZONING CHANGE – AMENDED 1-25-19

OWNERS:

Ken Sina
Holly Ann Sina
Charles Hutchinson

APPLICANTS:

same

REQUEST: The owner/applicants are requesting a zoning change for three lots from A-1 Farmland Preservation District to R-4, Rural Residential District, ±5 acres.

PARCEL NUMBER / LOCATION: The affected parcel numbers are 004-00137-0000, 004-00141-0000, and 004-00142-0000 located in the SW¼ and SE¼ of Section 7, T16N, R13E, Town of Brooklyn. The sites proposed for zoning change are located along County Road J.

EXISTING ZONING AND USES OF ADJACENT AREA: The current zoning of the parcels in question is A-1 Farmland Preservation District and lands surrounding the subject site are also zoned A-1, Farmland Preservation District with the predominant use of the land being agricultural. To the east of the parcels are lands zoned A-2, General Agriculture District.

The Green Lake County Farmland Preservation Plan identifies the land under consideration for this zoning change to be in a Farmland Preservation Area.

According to Flood Boundary and Floodway Map Panel 55047C0126C, a portion of the lands under consideration for this request are located in the floodway. The Puchyan River runs through a large majority of the parcels. The Wisconsin Wetland Inventory does show some mapped wetlands on parcel 004-00137-0000. Also, these parcels fall under the Shoreland Zoning jurisdiction.

ADDITIONAL INFORMATION / ANALYSIS: The owners plan to put a considerable amount of their lands into conservancy. However, the owners plan to survey off three ± 5 acres lots to keep for themselves. One of the lots may become a building site in the future, while the other two plan to remain in their current state. The remaining acres will stay in A-1, Farmland Preservation District.

Additional Analysis: A property's soils indicate its potential for agricultural production. If the soils are ideal then it would not be advisable to change the zoning to a zoning district that would not be completely utilized for agricultural production. The soils present on westerly proposed parcels are a combination of KdC2, LaC2 and RaB. The soils present on the proposed easterly parcel (building site) are Ho, KdB, KdC2, and KdD2.

Proposed westerly parcels:

KdC2 and LaC2 can be suitable with proper management, slopes make it hard to retain moisture and organic matter.

RaB is limited in its ability to hold soil moisture. Soils must be irrigated for crop production.

Proposed Easterly parcel:

KdC2 and GnC2 can be suitable with proper management, Slopes make it hard to retain moisture and organic matter.

The above analysis should be interpreted as to say that none of the proposed parcels contain soils that are ideal for agricultural production. On these lands that slope toward the Puckyan River the only way to be effective in crop production would be through the addition of organic matter and irrigation.

STATUTORY CRITERIA PER 91.48(1): Land may be rezoned out of a farmland preservation zoning district if all of the following are found after public hearing: **(Staff comments in bold)**

- a) The land is better suited for a use not allowed in the farmland preservation zoning district. **A goal of the county's comprehensive plan and of the county Farmland Preservation Plan is to preserve and protect quality agricultural lands. Base on a soil and slope analysis (see above) these agricultural lands do not rise to this level. Had the situation been the same soils but not at all sloped to the river or possibly a flatter parcel with more ideal soils I believe this criterion could not be met.**
- b) The rezoning is consistent with any applicable comprehensive plan. **The proposed rezone is consistent with the county's comprehensive plan as it upholds the goals and objectives, most prominently the goal to preserve the rural characteristic of the county. Section 350-41 of the County Zoning Ordinance states that the R-4 district is intended to provide for limited rural residential use development; require a large residential lands area to maintain the rural character and to accommodate uses that are not urban in nature. Had the request been for R-1, Single-family Residence District with its associated higher density and land use conflict as well as access to services conflicts, that request would be inconsistent with the comprehensive plan.**
- c) The rezoning is substantially consistent with the county certified farmland preservation plan. **The overall goal of the county certified Farmland Preservation Plan is to maintain the integrity and viability of county agriculture...without damaging the economic and social environment or the natural resources..." Due to the marginality of these soils for crop production, it is staff's belief that the request does not negatively impact the integrity or viability of county agriculture and is, therefore, substantially consistent with the county's certified Farmland Preservation Plan.**
- d) The rezoning will not substantially impair or limit current or future agricultural use of the surrounding parcels of land that are zoned for or are legally restricted to agricultural use. **The R-4, Rural Residential District is intended to provide for limited rural residential use development, but also require a larger area to maintain the rural character and to accommodate uses like light agriculture. The R-4 district is intended not to impair or limit future agricultural use of surrounding parcels.**

TOWN OF BROOKLYN: An Action Form requesting the Town of Brooklyn's input related to this zoning change request was mailed to the Town Clerk on December 7, 2018.

Please type or use black ink

Return to: Green Lake County
Planning & Zoning Department
571 County Road A
Green Lake, WI 54941

GENERAL APPLICATION

Fee \$375 (not refundable)

Date 12/3/18

Zone Change from A-1 to R-4

Conditional Use Permit for _____

Other _____

PROPERTY OWNER / APPLICANT 1

Name Ken Sina

Mailing Address W1130 Illinois Ave

Phone Number 920-261-7173

Signature Ken Sina Date Dec 3 18

AGENT IF OTHER THAN OWNER 2+3

Name Charles Hutchinson, Holly Ann Sina, Holly Ann Sina

Mailing Address 1019 Ganson Dr Wauwatosa WI 53597

Phone Number 608-213-5841 Chutchi 307ey@hawaii.com

Signature Charles Hutchinson Date Dec 3 2018

PROPERTY INFORMATION

Town of Brooklyn Parcel Number 004-00137-0000 004-00141-0000 004-00142-0000 Acres ±17.22 Affected

Lot _____ Block _____ Subdivision _____

Section 7 Town 16 North Range 13 East

Location of Property County Road J

Legal Description _____

Current Zoning Classification A-1 Current Use of Property Recreational

lands and agricultural lands

Detailed Description of Proposed Use one lot may become a residential building site and the other 2 will remain in their current state

PLEASE PROVIDE A DETAILED SITE PLAN WITH THE APPLICATION

- Fees: Zone Change \$375
- Conditional Use Permit \$375.00
- Variance \$375.00
- Special Exception \$375.00

Please type or use black ink

Return to: Green Lake County
Planning & Zoning Department
571 County Road A
Green Lake, WI 54941

GENERAL APPLICATION

Fee \$375 (not refundable)

Date 12/3/18

Zone Change from A-1 to R-4

Conditional Use Permit for _____

Other _____

PROPERTY OWNER / APPLICANT

Name Ken Sina

Mailing Address W1130 Illinois Ave

Phone Number 920-261-7173

Signature Ken Sina Date Dec 3 18

AGENT IF OTHER THAN OWNER

Name Donald J. Hutchinson III

Mailing Address W5861 Hillcrest Drive LaCrosse WI 54601

Phone Number 608-788-4705

Signature D Hutchinson Date Dec 3 '18

PROPERTY INFORMATION

Town of Brooklyn Parcel Number 004-00137-0000
004-00141-0000
004-00142-0000 Acres _____

Lot _____ Block _____ Subdivision _____

Section _____ Town _____ North Range _____ East _____

Location of Property County Road J

Legal Description _____

Current Zoning Classification A-1 Current Use of Property Recreational
lands and agricultural lands

Del _____ Propc _____ One lot may become a residential
building site and the other 2 will remain in their
current state

PLEASE PROVIDE A DETAILED SITE PLAN WITH THE APPLICATION

Fees: Zone Change \$375
Conditional Use Permit \$375.00
Variance \$375.00
Special Exception \$375.00



**RIPON LAND
SURVEYING**

827 W. Fond du Lac St.
P.O. Box 386
Ripon, Wisconsin 54971
Phone (920) 748-9696

CERTIFICATE OF SURVEY

**ILLUSTRATIONS FOR ZONING SHOWING A
DIVISION OF TAX PARCELS 004-00141-0000,
004-00142-0000 AND 004-00137-0000 LOCATED IN
SECTION 7, T.16N., R.13E., TOWN OF BROOKLYN,
GREEN LAKE COUNTY, WISCONSIN.**

OWNERS:

**CHARLES E. HUTCHINSON, HOLLY ANN SINA AND DONALD J. HUTCHINSON
1019 GANSER DR.
WAUNAKEE, WI 53597**

PARCEL 1: CHARLES E. HUTCHINSON:

**THIS CSM IS LOCATED IN THE NE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 7, T.16N., R.13E.,
TOWN OF BROOKLYN, GREEN LAKE COUNTY, WISCONSIN.**

PARCELS 2 : DONALD J. HUTCHINSON

**THIS CSM IS LOCATED IN THE NE $\frac{1}{4}$ OF THE SW $\frac{1}{4}$ OF SECTION 7, T.16N., R.13E.,
TOWN OF BROOKLYN, GREEN LAKE COUNTY, WISCONSIN.**

PARCEL 3: HOLLY ANN SINA

**THIS CSM PARCEL IS LOCATED IN THE NW $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ AND THE NE $\frac{1}{4}$ OF
THE SW $\frac{1}{4}$ OF SECTION 7, T.16N., R.13E., TOWN OF BROOKLYN, GREEN LAKE
COUNTY, WISCONSIN**

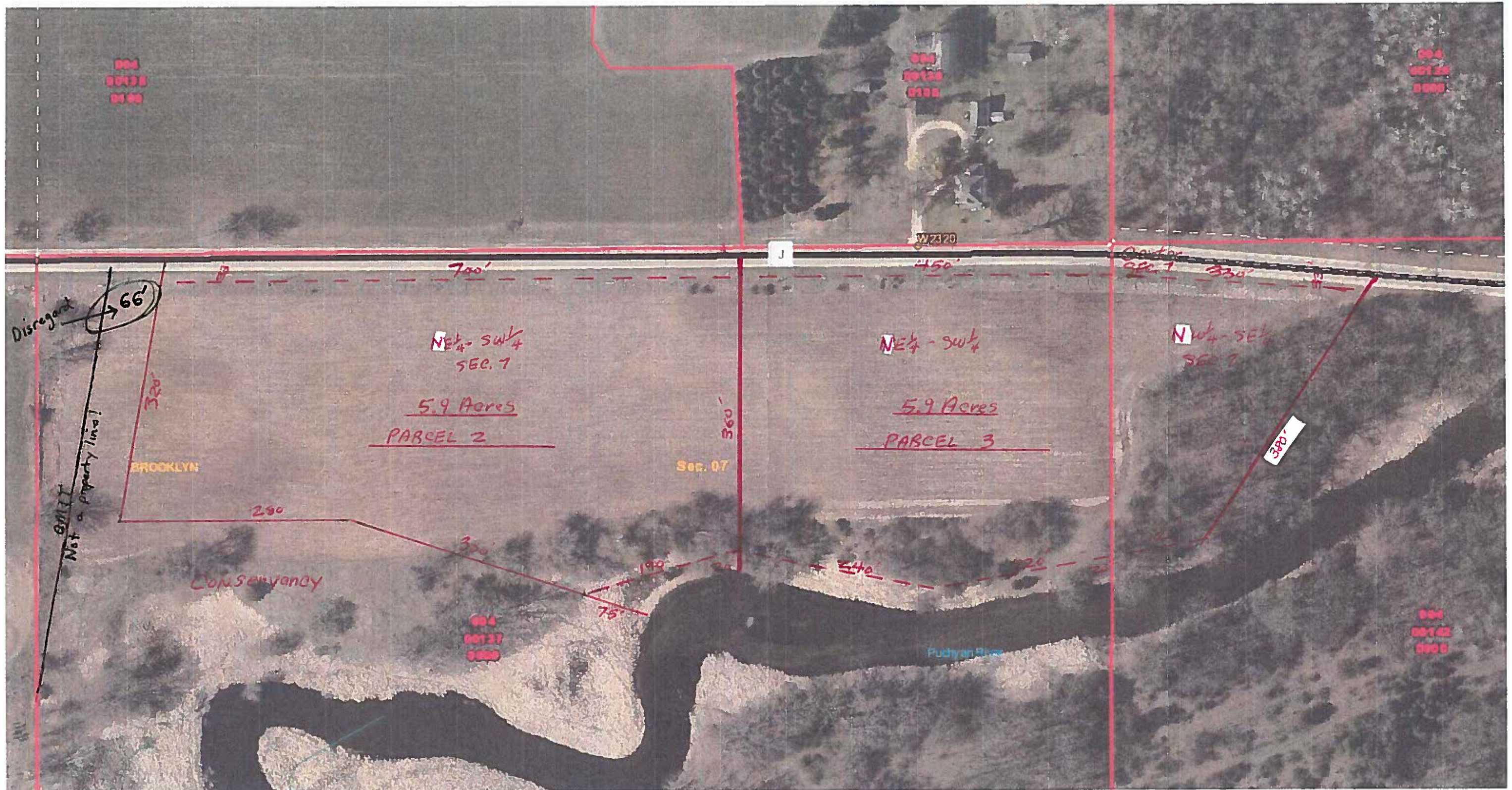
NOTE:

**PARCEL 1 IS TO BE 1 CERTIFIED SURVEY MAP
PARCELS 2 AND 3 TO BE ON 1 CERTIFIED SURVEY MAP**

Hutchinson SECTION 7, T.16N. R. 13E.
PARCEL 1

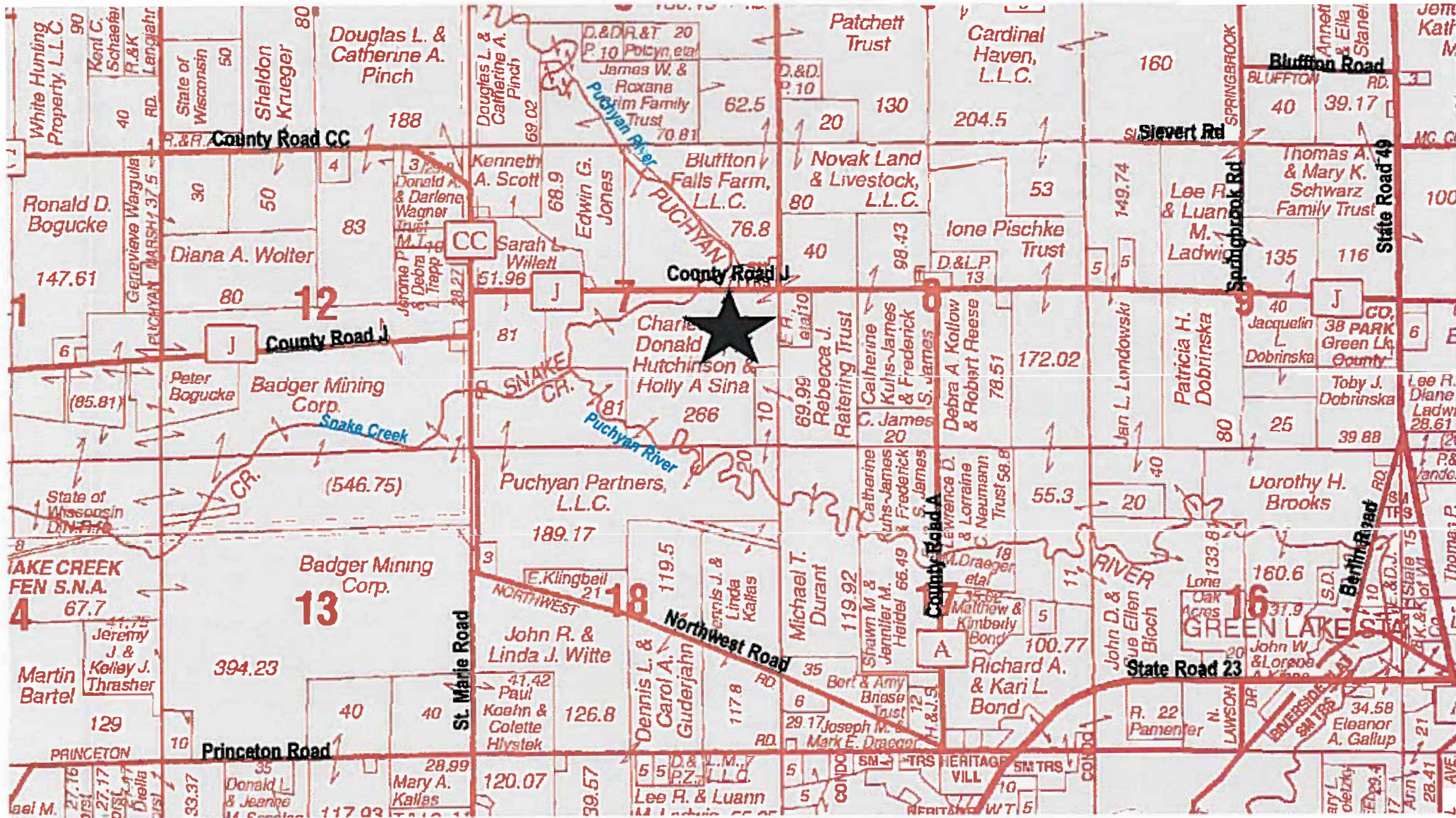
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SEC. 7



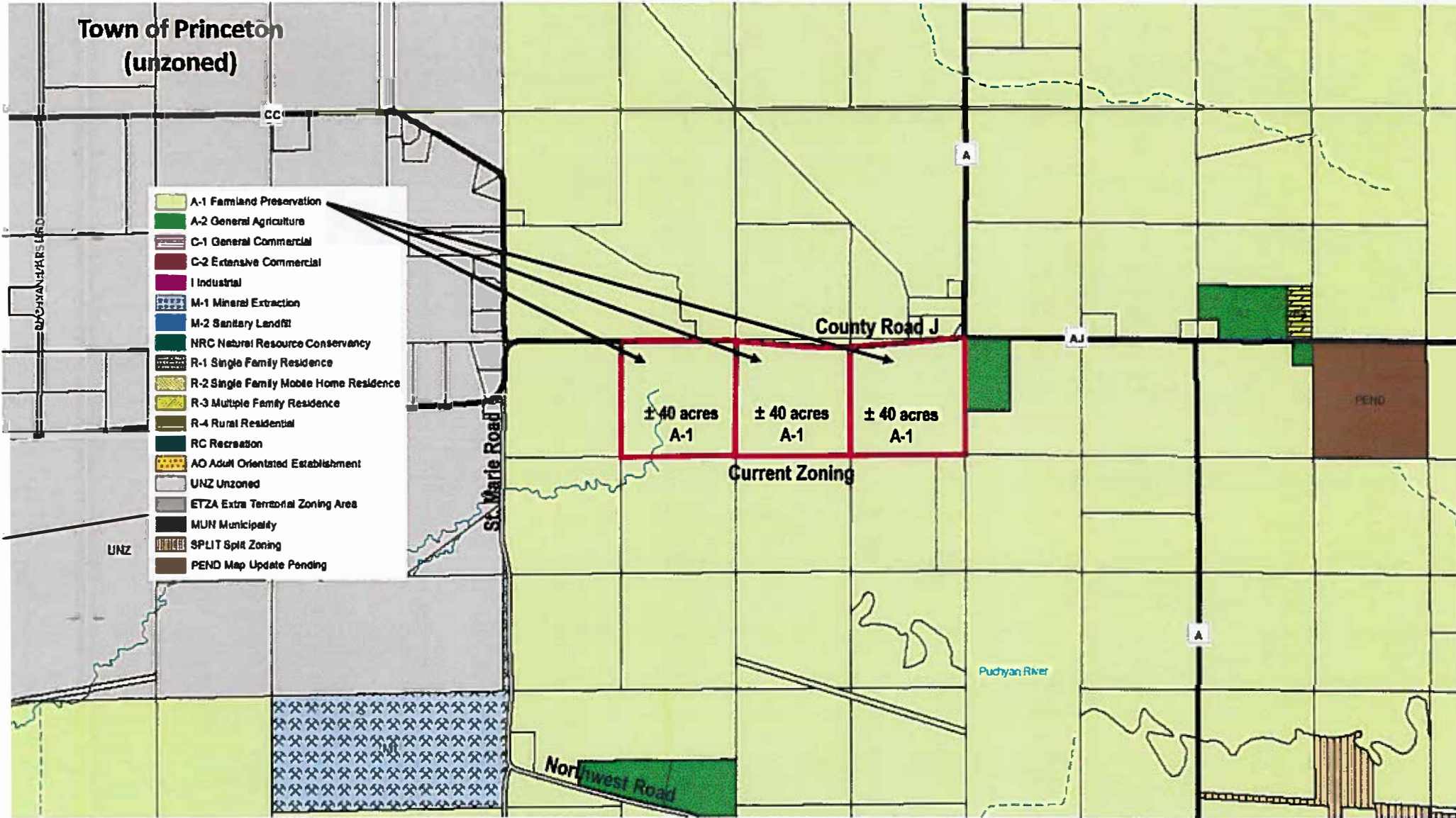


Hutchinson Lands SECTION 7
Town 16 Range 13

**Holly Ann Sina, Charles Edwin Hutchinson, Donald John Hutchinson, III – County Road J, Town of Brooklyn
 Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (total ±120 acres), Part of the SE¼ & SW¼ of Section 7, T16N, R13E
 Request to rezone ±17.22 acres (creating 3 new lots) from A-1 Farmland Preservation District to R-4 Rural Residential District.**



**Holly Ann Sina, Charles Edwin Hutchinson, Donald John Hutchinson, III – County Road J, Town of Brooklyn
 Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (total ±120 acres), Part of the SE¼ & SW¼ of Section 7, T16N, R13E
 Request to rezone ±17.22 acres (creating 3 new lots) from A-1 Farmland Preservation District to R-4 Rural Residential District.**

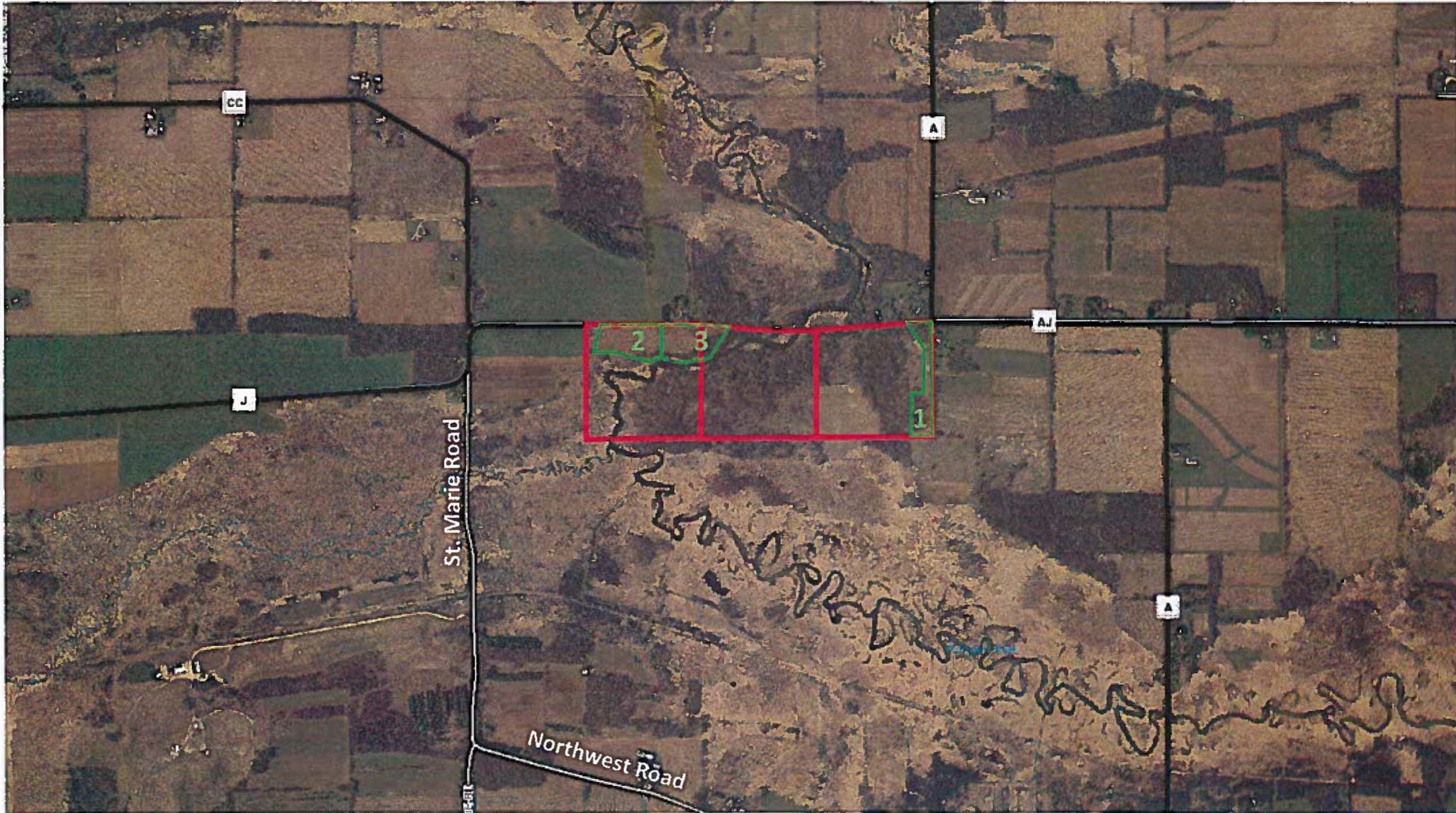


**Holly Ann Sina, Charles Edwin Hutchinson, Donald John Hutchinson, III – County Road J, Town of Brooklyn
Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (total ±120 acres), Part of the SE¼ & SW¼ of Section 7, T16N, R13E
Request to rezone ±17.22 acres (creating 3 new lots) from A-1 Farmland Preservation District to R-4 Rural Residential District.**

(outlined in green)
Proposed Lot 1 = ±5.42 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District
Proposed Lot 2 = ±5.9 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District
Proposed Lot 3 = ±5.9 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District
The remnant parcels will remain zoned A-1.



**Holly Ann Sina, Charles Edwin Hutchinson, Donald John Hutchinson, III – County Road J, Town of Brooklyn
Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (total ±120 acres), Part of the SE¼ & SW¼ of Section 7, T16N, R13E
Request to rezone ±17.22 acres (creating 3 new lots) from A-1 Farmland Preservation District to R-4 Rural Residential District.**



Green Lake County Land Use Planning & Zoning Committee Public Hearing 02/07/19

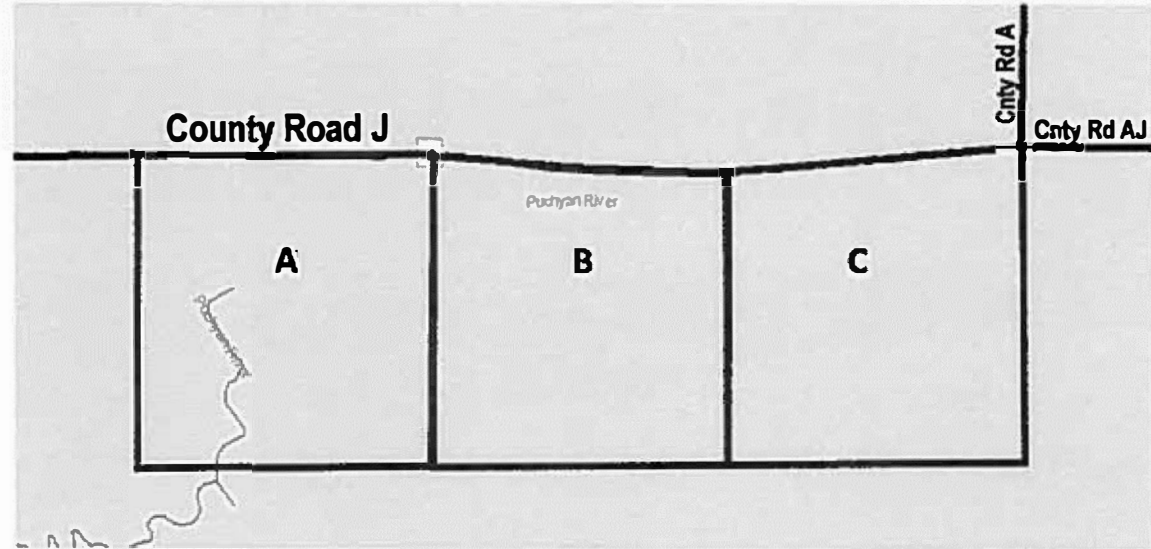
**Holly Ann Sina, Charles Edwin Hutchinson, Donald John Hutchinson, III – County Road J, Town of Brooklyn
 Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (total ±120 acres), Part of the SE¼ & SW¼ of Section 7, T16N, R13E
 Request to rezone ±17.22 acres (creating 3 new lots) from A-1 Farmland Preservation District to R-4 Rural Residential District.**

Existing Configuration:

**Parcel A = ±40 acres currently zoned A-1 Exclusive Agriculture District
 Parcel # 004-00137-0000**

**Parcel B = ±40 acres currently zoned A-1 Exclusive Agriculture District
 Parcel # 004-00142-0000**

**Parcel C = ±40 acres currently zoned A-1 Exclusive Agriculture District
 Parcel # 004-00141-0000**

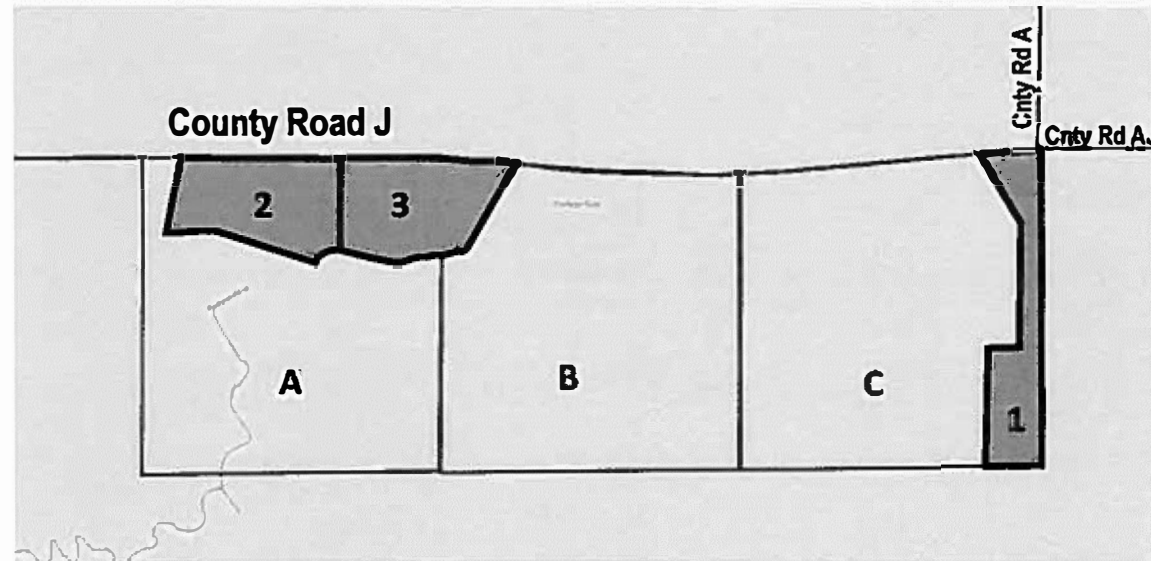


Proposed Configuration:

Lot 1 = ±5.42 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District (remnant Parcel C remains A-1)

Lot 2 = ±5.9 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District (remnant Parcel A remains A-1)

Lot 3 = ±5.9 acres rezoned from A-1 Exclusive Agriculture District to R-4 Rural Residential District (remnant Parcel B remains A-1)



TOWN BOARD ACTION

Rezoning Request

Dear Land Use Planning and Zoning Committee:

Please be advised that the Town Board of Brooklyn, County of Green Lake, took the following action on 8 JAN 2019.

Does not object to and approves of X

No action taken _____

Objects to and requests denial of _____

Reason(s) for objection _____

**** NOTE: If denial – please enclose Town Resolution of Denial.**

Owners/Applicants: Charles Edwin Hutchinson, Holly Ann Sina, Donald John Hutchinson, III

General legal description: County Road J, Parcels #004-00137-0000, #004-00141-0000, #004-00142-0000 (±120 acres), Part of the SW¼ and SE¼ of Section 7, T16N R13E, Town of Brooklyn.

Planned public hearing date: February 7, 2019

Request: Request to rezone ±17.22 acres from A-1 Farmland Preservation District to R-4 Rural Residential District

Mike Wuest Town Board
Town Representative

8 JAN 2019
Date Signed

NOTES: _____

Please return this form to the Land Use Planning & Zoning Office by: 12/28/18

LAND USE PLANNING AND ZONING COMMITTEE STAFF REPORT

PUBLIC HEARING

February 7, 2019

ITEM II: ZONING ORDINANCE TEXT AMENDMENTS

APPLICANT:

Green Lake County, Land Use Planning & Zoning Committee

REQUEST: The Green Lake County Land Use Planning and Zoning Committee is requesting an amendment to the Code of Green Lake County, Chapter 350 of the Zoning Ordinance; more specifically, to amend various sections within to be consistent with 2017 Act 67 as well as other identified changes.

ADDITIONAL INFORMATION / ANALYSIS: The Committee is aware that on November 27, 2017, the State Legislature enacted Act 67. The Act related to: "limiting the authority of local governments to regulate development on substandard lots and requiring the merging of lots; requiring a political subdivision to issue a conditional use permit under certain circumstances; standards for granting certain zoning variances; local ordinance related to repair, rebuilding and maintenance of certain nonconforming structures..."

The laws enacted through Act 67 were reviewed against the County's zoning ordinance and it was determined by the Land Use Planning and Zoning Committee that the Zoning Ordinance text should be amended. The following amendments are summarized as follows:

Article III contains standards for nonconforming structures. Act 67 required additional language to allow for certain nonconforming structures (dwellings and other buildings) to be rebuilt. This Article also contains dwelling design and construction standards. Due to Act 67's restrictions on conditional use permits and the removal (as part of this amendment) of the referendum requirements of the R-2, Single-Family Mobile Home Residence District, staff felt this text should be removed from the ordinance. Also, in this section, the term "front" was replaced by "street" as it relates to yards and setbacks, to make the zoning ordinance consistent with the shoreland zoning ordinance. Finally, under substandard lots, a provision that would require substandard lots to be merged was stricken as it conflicted with Act 67.

Article IV contains the zoning district descriptions and the permitted and conditional uses of those zoning districts. Under the conditional uses allowed in the C-2, Extensive Commercial district, a "contractor's shop (inside material storage only)" was added. Under the conditional uses allowed in the I, Industrial District as "Contractor's Yard (outside material storage)" was added. Under the R-2, Single-Family Mobile Home Residence District, the words "and manufactured" and "or manufactured" were added after the word "mobile" to include manufactured homes as being permitted in this zoning district. And, after Corporation Counsel's review, the petition / referendum sections need to be deleted from the R-2 district. Under R-3, Multi-family Residence District, the word "detached" was added to clarify that the maximum area requirement of 600 square feet only applied to accessory structures that were detached from the residence. Under R-4, "or manufactured" was added to include these

structures in this ordinance standard. Also, three new conditional uses were added. They are kennels, event barns, and RV and boat storage. All three may only be approved if they are accessory to a residential use. Event barns and RV and boat storage must occur in existing agriculturally used buildings. These new uses provide property owners additional income options to help them preserve their nonconforming buildings.

Article V contains ordinance standards for “nonbuilding structures.” A section was added to account for privacy and open fences. Presently these structures were treated differently in the Shoreland Zoning Ordinance as opposed to the Zoning ordinance. This amendment rectifies this discrepancy.

Article VI contains ordinance standards related to Highway setbacks. There were two edits. The word “front” was replaced by “street” and the words “new privacy fence” were added to clarify that privacy fences are not allowed in setbacks.

Article VII contains the ordinance standards relating to conditional use permits. Staff proposes to delete a redundant paragraph to clarify the department that would receive the CUP application, and introduce Act 67’s “substantial evidence” language. In addition, a clarifying statement, related to a person’s right to appeal a Committee’s CUP decision to the Board of Adjustment, was added.

Article VIII contains ordinance standards related to the Board of Adjustment. Act 67 codified certain case law as it related to variance decisions. Changes were made to include the new statutory language and delete the outdated language.

Article IX contains ordinance standards related to Administration and Enforcement. An edit was made that added “clerk, or both” as it relates to Town review of rezones and conditional use permits.

Article X was amended at the request of Corporation Counsel. In order for the County to enforce the zoning ordinance’s standards to a degree that would have a preventative effect, the words “pursue compliance” were stricken and replaced with “enforce.” This change allows Corporation Counsel to seek forfeitures even after a violation has been resolved. The text related to investigations of alleged violations was updated. Also, the minimum and maximum forfeitures are to be changed from \$10 to \$5,000 per day to \$50 to \$500 per day. And a cumulative fine for the removal(s) of a stop work order was added.

Article XI contains the amendments section. The section that dealt with Town Board notices was renamed “Rezoning amendment standards” as rezones are ordinance amendments. Several rezoning standards that have been utilized as a matter of policy were added to the ordinance. Further a certified survey map requirement for all rezones to take effect was added to ensure that the Department obtains the required certified survey maps more expeditiously.

Article XII contains the ordinance’s fee schedule and associated standards. As the ordinance no longer contains special exception permit standards reference to these permits were deleted and replaced with the words “plan amendment.” This accounts for a citizen’s right to offer planning amendments to be reviewed by the Committee.

Article XIII relates to word usage and definitions. The definition relating to conditional use or special exception permits was edited to leave only “conditional use permit.” Again, the special exception permit ordinance standards were removed from the zoning ordinance under separate amendment. A definition of “event barn” was added. The “fence” definition was bolstered to assist the new ordinance section regulating these non-building structures. The “lot line,” “lot width, average,” and “yard” definitions were edited to continue standardizing the use of the term “street” instead of “front.” The definitions for “manufactured home” and “mobile home” were updated to their statutory definitions. Definitions for “modular home,” “prefabricated home,” and “site built home” were stricken from the ordinance as there are no specific standards that apply to these terms. Finally, the Act 67 definition for “substantial evidence” was added to clarify the CUP standards being added under this amendment.

The driving force behind this zoning ordinance amendment is to bring the zoning ordinance into compliance with Act 67. Staff took this opportunity to edit other sections to avoid any future lawsuits related to the R-2 district include fence language, add “contractor’s yard” language, bolster corporation counsel’s enforcement options, and perform some general “clean-up” edits. The Land Use Planning & Zoning Department recommends that the following language be adopted. Attached is a copy of the proposed ordinance amendments.

STAFF COMMENTS: The Land Use Planning and Zoning Committee has several options in this regard and they are as follows:

- ❑ Forward onto the County Board with recommendation to adopt as proposed.
- ❑ Hold another public hearing to take additional public comment.
- ❑ *Reject as proposed.

* In the event that these amendments are not adopted, property owners would not be informed by ordinance as to their rights as it relates to conditional use permits, variances, and rezones. Further, property owners wishing to rezone to R-2 could seek a legal remedy (lawsuit) as opposed to following the ordinance standards. The ordinance would maintain outdated definitions that are defined in Statutes. Event Barn uses as well as other described uses designed to help preserve existing agricultural buildings would continue to be illegal uses on parcels zoned R-4, Rural Residential district.

TOWN INPUT: Action Forms requesting Town input were mailed to the Towns of Berlin, Brooklyn, Green Lake, Mackford, Manchester, and Marquette. Town input will be addressed at the public hearing by the Land Use Planning & Zoning Committee.

Proposed Zoning Ordinance Amendments by Article: Zoning Ordinance remains the same unless specified below: Changes are highlighted yellow, new language is underlined.

Article III. General Provisions

Section 350-14.B.(5) Per Chapter 59.69(10e)(a) and (b) Wis. Stats., a nonconforming dwelling or nonconforming building, or part thereof shall be permitted to be rebuilt so long as the three-dimensional building envelope is not increased.

Section 350-17.B. The requirements as set forth in Subsection A(2) above do not apply to dwellings located in an R-2 District. ~~Further, a person may apply to the Land Use Planning and Zoning Committee to obtain a conditional use permit to deviate and vary from the provisions set forth in Subsection A(2) of this section. The Land Use Planning and Zoning Committee may grant a conditional use permit to deviate from any of the provisions of Subsection A(2) if the applicant can show that the dwelling will not adversely affect the aesthetics of the neighborhood or reduce the value of surrounding properties.~~

Section 350-19.B. Churches, schools, hospitals, sanatoriums and other public/quasi-public buildings may be erected to a height not exceeding 60 feet nor five stories, provided that the ~~front~~street, side and rear yards required in the district in which such building is to be located are each increased at least one foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

Section 350-20 ~~Front, S~~side and rear yard regulations.

Section 350-22.A. Substandard lots: served by a public sanitary sewer.

Section 350-22.A.(3) ~~The lot is in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the terms of this chapter.~~

Section 350-22.A(4) All dimensional requirements of this chapter are complied with insofar as practical.

Section 350-22.B. Substandard lots not served by a public sewer. The provisions of Subsection A and Ch. SPS 383, Wis. Adm. Code, shall apply and, in addition, the minimum lot area shall be 7,500 square feet and the minimum lot width 50 feet at the building line and 50 feet average width. [Amended 11-14-2017 by Ord. No. 22-2017] Other substandard lots. A building permit for the improvement of a lot having lesser dimensions than those stated in Subsections A and B of this section shall be issued only after the granting of a variance by the Board of Adjustment.

Article IV. Zoning District

Section 350-33.B.(16) Contractor's shop (inside material storage only)

Section 350-34.B.(27) Contractor's yard (outside material storage)

Section 350-39.A. In the Class Two Residential District, all uses and structures shall be permitted that are permitted in the regular (Class One) Residential District, and, in addition thereto, mobile and manufactured homes occupied by a single family shall be permitted.

Section 350-39.B. Such homes shall be permanently mounted on a stone, concrete or masonry foundation and skirted and shall be adequately served by sanitary facilities installed in compliance with all local ordinances and state laws and regulations. ~~The Land Use Planning and Zoning Committee shall determine the length of time to comply fully with this order.~~ Mobile and manufactured homes located in the Class Two Residential District shall be deemed to be a part of the real estate and assessable as such and not as mobile homes.

~~Section 350-39.C. Class Two Residential Districts shall be permitted only when approved by the County Board and when the following procedures are followed prior to such approval:~~

- ~~(1) A petition requesting an amendment of this chapter and zoning maps describing the area to be rezoned (together with a sketch map of the same) to Class Two Residential District must be filed with the Land Use Planning and Zoning Department bearing the signatures of 80% of the property owners in the area to be so rezoned. Upon receipt of such petition, the Land Use Planning and Zoning Department shall verify the number of signatures before filing the same with the Land Use Planning and Zoning Committee of the County Board for further action in accordance with the following provisions. [Amended 11-14-2017 by Ord. No. 22-2017]~~
- ~~(2) Upon receipt of the petition described above from the Land Use Planning and Zoning Department, the Land Use Planning and Zoning Committee shall set the same for hearing after publishing notice of hearing as a Class 2 notice. At the hearing, the Land Use Planning and Zoning Committee shall determine if the area requested to be rezoned is feasible for Class Two residential purposes and whether or not objection has been made by 20% or more of all property owners living within the proposed district or within a radius of 1.5 miles from the boundaries of the proposed district. Objection must be made, in writing, and may be filed with the Land Use Planning and Zoning Department prior to the date set for said hearing or may be made orally and filed, in writing, at the hearing itself. If the Land Use Planning and Zoning Committee finds that such objection has been made, it shall certify the same and order a referendum of all the property owners of the town in which the proposed district lies (and additionally a referendum of all the property owners of all adjacent towns that lie within a distance of 1.5 miles from the boundaries of the proposed district) and shall set the date therefor, not later than 90 days from the date of order, and shall notify the clerk of the town(s) affected, who shall cause notice of the referendum to be published as a Class 2 notice and who shall further mail notice of the referendum to all property owners of his/her town, whether present within the County or absent therefrom. Absentee ballots will be accepted in said referendum and shall be handled and regulated by the provisions of §§ 6.85 through 6.89 (as applicable), Wis. Stats. Said town clerk(s) shall further cause all other preparations to be made for the conduct of said referendum and together with the Land Use Planning and Zoning Committee shall make an estimate of the total cost of said referendum, which shall be borne by the initial petitioners, who shall pay to the clerk of the town(s) involved a deposit of the~~

estimated cost of the referendum, all unused portions of which shall be returned to them after the completion of said referendum. Failure to pay such deposit within 10 days from the date of receiving notice of the estimated cost shall cause automatic dismissal of the petition. All town clerks involved in said referendum shall withhold mailing of notice or publication of notice of such referendum until all costs have been paid as herein required. The question to be stated in such referendum shall be substantially as follows: "Shall a portion of the Town of _____ located in Section _____, containing about _____ acres, be rezoned to Class Two Residential District permitting mobile homes to be parked therein as permanently located single family dwellings? (YES or NO)." (Amended 11-14-2017 by Ord. No. 22-2017)

- (3) If the answer to the above referendum is in the affirmative, the Land Use Planning and Zoning Committee shall report the same to the County Board at its next regular meeting together with the Committee's own recommendation for adoption or nonadoption of the petition in a form suitable for action by the County Board. If no referendum was necessary in that less than 20% of the eligible property owners filed objection to the petition, the Committee shall report the same to the County Board at its next regular meeting together with the Committee's own recommendation for adoption or nonadoption of the petition in a form suitable for action by the County Board. The Board shall thereupon either accept or reject such petition, by an amendatory ordinance if it accepts and by resolution or motion if it rejects the same. The Board may make any modification it sees fit in either accepting or rejecting said petition.
- (4) Class Two Residential Districts may come into existence only upon the passage of a suitable amending ordinance after applicable procedures set forth herein have been complied with. A petition that fails to be adopted may not be reintroduced for a period of one year from its initial filing date.

Section 350-40.A.(15) A mobile or manufactured home shall be allowed as a temporary structure for the shelter of persons and property as a result of disaster-related damages. The mobile or manufactured home shall be located after obtaining all necessary permits, for no more than one year and shall be located on the premises with the construction of the new permanent structure.

Section 350-40.E.(2) Height: 25 feet maximum; ground floor surface to peak. There shall be no sidewalls above the ground floor ceiling joist, unless attached to the dwelling unit(s). Ground floor sidewalls shall not exceed 15 feet in height.

Section 350-41.A.(23) A mobile or manufactured home shall be allowed as a temporary structure for the shelter of persons and property as a result of disaster-related damages. The mobile or manufactured home shall be located after obtaining all necessary permits, for no more than one year and shall be located on the premises with the construction of the new permanent structure.

Section 350-41.B.(7) Event Barn (ONLY as an accessory use to the residential use, existing buildings only.)

Section 350-41.B.(8) Kennel (ONLY as an accessory use to the residential use.)

Section 350-41.B.(9) RV and Boat Storage for Rent (ONLY as an accessory use to the residential use, existing buildings only)

Article V. Nonbuilding Structures

Section 350-43.1 (Reserved) Fences shall comply with the following:

- (1) All fences, no greater than eight feet in height, may be allowed along any lot line excluding the street right-of-way line and the side lot lines within the street-yard setback.
- (2) Open style fences (greater than 50% open space), no greater than four feet in height, may be allowed along the street right-of-way line and alongside lot lines within the street-yard setback.

Article VI. Highway Setback Lines

Section 350-50.A.Setback from Front Street Lot Line

Section 350-51 No new building, new sign, new privacy fence or other new structure, including cemeteries, nor any part thereof, shall be placed between the setback lines established by this chapter and the highway except as provided by this chapter. No building, sign, structure or part thereof existing within such setback lines on the effective date of this chapter shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, unless granted a variance by the Board of Adjustment.

Article VII. Conditional Use Permits

Section 350-54 Conditional uses.

~~Investigations of, and public hearings on, conditional uses required by the regulations of this article shall be conducted by the Land Use Planning and Zoning Committee for the purpose of determining the effect of the proposed use or the location thereof on the character of the neighborhood and its suitability for development by utilizing the minimum review standards and criteria of this article. The Land Use Planning and Zoning Committee shall review requests for a conditional use permit and, after public hearing and application of the standards identified in this article, shall approve, approve with conditions or deny all such requests.~~

Section 350-55 Application for permit.

Application for a conditional use permit shall be made to the County Zoning Office Land Use Planning and Zoning Department, on forms provided by the County Zoning Office same, and shall be accompanied by the following:

Section 350-55.D. Any additional information, as required by the County Zoning Office Land Use Planning and Zoning Department, which may be pertinent to the proposed conditional use.

Section 350-56.B.(1) Conditional uses may be located in certain districts under certain conditions. When reviewing a conditional use permit, the Land Use Planning and Zoning Committee shall take into consideration, among other things, the recommendation of the affected town and the particular facts

and circumstances of each proposed use in terms of the following standards and shall find adequate substantial evidence that such standards are being satisfied.

- (a) If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in this ordinance or those imposed by the Land Use Planning and Zoning Committee, the Land Use Planning and Zoning Committee shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
- (b) The requirements and conditions described under §350-56.B(1)(a) above must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal.
- (c) The applicant must demonstrate that the application and all requirements and conditions established by the Land Use Planning and Zoning Committee, relating to the conditional use, are or shall be satisfied, both of which must be supported by substantial evidence. The Land Use Planning and Zoning Committee's decision to approved or deny the conditional use permit must be supported by substantial evidence.

Section 350-56.G. In the event that the Land Use Planning and Zoning Committee chooses to deny a person's conditional use permit application, the person may appeal the decision to the Board of Adjustment or to circuit court under the procedures contained in §59.694(10) Wis. Stats.

Article VIII. Board of Adjustment

Section 350-61.A. The Board shall meet at the call of the ~~Chairman~~Chairperson, or at such other times as the Board may determine, at a fixed time and place.

Section 350-63.B.(2) ~~To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.~~ To authorize, upon appeal in specific cases, area variances where the property owner can prove "unnecessary hardship" by demonstrating that strict compliance with the zoning ordinance would unreasonably prevent the property owner from using their property for a permitted purpose (unnecessarily burdensome) or, for use a variance, by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of their property in the absence of a use variance. In both circumstances, the property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, that the unnecessary hardship is not solely economic, and that the unnecessary hardship was not self-created by the property owner.

Section 350-63.B.(3) In every case where a variance from these regulations has been granted by the Board, the minutes of the Board shall affirmatively show that an unnecessary hardship or practical difficulty exists and the records of the Board shall clearly show in what particular and specific respects

an unnecessary hardship or practical difficulty is created. "Unnecessary hardship" means, but is not limited to, the following:

- (a) No reasonable use can be made of the property without the granting of the variance;
- (b) The hardship is something that is unique to this property and not the owner of the property;
- (c) The hardship is not self-created; and
- (d) The hardship is not solely economic.

Article IX. Administration and Enforcement

Section 350-67.E. A copy of the conditional use permit or rezoning change, if approved by the County Land Use Planning and Zoning Committee, shall be forwarded by the Land Use Planning and Zoning Department to the board chairman, clerk, or both of the affected town. [Amended 11-14-2017 by Ord. No. 22-2017]

Article X. Enforcement

Section 350-68 Investigation of Alleged violations.

~~Any violation of the provisions of this chapter shall be deemed unlawful. When necessary, to determine compliance with this chapter, the Land Use Planning and Zoning Department shall investigate alleged violations. After confirmation that a violation exists, the Land Use Planning and Zoning Department shall pursue compliance of the violation.~~ The Land Use Planning & Zoning Department shall have the primary responsibility for enforcing all provisions of this chapter. The Land Use Planning & Zoning Department is hereby empowered to cause any building, other structure, lot or parcel of land to be inspected and examined for suspected or potential violations of this Chapter after proper notification. If permission to enter the property is withheld, the Land Use Planning & Zoning Department may seek a court order to require inspection of the property.

Section 350-69.B. The County Corporation Counsel shall have the authority to use all legal remedies necessary to ~~pursue compliance with~~ enforce the provisions of this chapter. After consultation with the Land Use Planning and Zoning Department and/or the Land Use Planning and Zoning Committee, the Corporation Counsel shall determine which legal remedy or legal remedies are in order to pursue compliance with enforce the provisions of this chapter.

Section 350-69.C. Any landowner who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$1050 nor more than \$5,000-00 per offense, together with the taxable costs of action. Each day that the violation exists, after receiving notice of the violation from the Land Use Planning & Zoning Department by certified or registered mail, or personal service per Ch. 801.11 Wis.Stats, shall constitute a separate offense.

Section 350-69.D. In addition to the Corporation Counsel having the authority to pursue compliance enforce the provisions of this chapter per Subsection B above, the designated staff of the Land Use Planning and Zoning Department shall have the authority to and may prepare, sign and issue citations in order to commence action to achieve compliance with the provisions of this chapter.

Section 350-70.D. The stop-work order card issued and posted by the Land Use Planning and Zoning Department shall be posted at the subject site in plain view from a nontrespass location off the subject property. A stop-work order card shall remain posted until compliance of the violation occurs. In the event that a stop-work order has been removed from its posted location by persons other than Department staff, the property owner(s) and/or other agents, upon conviction, shall be subject to a \$300 fine plus court costs. The fine shall increase by \$300 after each offense and be cumulative. For example: \$300 first offense, \$600 for second offense, \$900 for third offense, and so on. If a property owner removes a stop work order sign three times they shall be subject to \$1800 (\$300 + \$600 + \$900) in fines plus court costs.

Article XI. Amendments.

Section 350-75 ~~Notice to town board~~. Rezoning amendment standards

A. Rezoning lands out of the A-1, Farmland Preservation Zoning District shall be done in accordance with Section 350-27.B(1-5) of this Chapter. For all other rezones, the Land Use Planning and Zoning Committee and County Board shall utilize the following as criteria to guide their decisions about rezones:

1. The amendment is consistent with community land use plan (comprehensive plan).
2. The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.
3. The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.), or the impact could be mitigated by management practices on the site or in the immediate vicinity.
4. The amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services (i.e. highways, streets, water, sewage, drainage, schools, emergency services, etc.)
5. The amendment allows a more viable transition to planned land uses on adjacent properties than the current zoning designation.
6. The amendment will not result in inappropriate spot-zoning (i.e. use is inconsistent with surrounding properties and serves only a private, rather than public interests).

B. All rezone amendments that result in the creation of a new parcel or parcels shall be done by certified survey map in accordance with Section 315-38 of the Land Division and Subdivision Ordinance. The rezone amendment shall not take effect until the certified survey map creating the rezoned parcel(s) is recorded in the Green Lake County Register of Deeds office.

AC. The County Land Use Planning and Zoning Committee shall send or deliver written notice to the town board not less than 10 days prior to the date of any public hearing of any proposed zoning change within its town.

Article XII. Fee Schedule

Section 350-76.B. All public hearing items such as variance, rezone, appeal, conditional use permit, ordinance amendment or ~~special exception permit~~ plan amendment : \$375. [Amended 12-15-2009 by Ord. No. 972-2009; 9-20-2011 by Ord. No. 998-2011]

Article XIII. Word Usage and Definitions

Section 350-77

CONDITIONAL USE ~~OR SPECIAL EXCEPTION PERMIT~~

A use that is specifically listed in an ordinance that may only be permitted if the ~~Board of Adjustment, Land Use Planning and Zoning Department or Committee or County Board~~, as authorized by County ordinance, determines that the conditions specified in the ordinance for that use are satisfied.

EVENT BARN

A structure, that had previously been used for agricultural uses associated with a farm, that has been renovated and upgraded to local and state building codes and re-purposed as a facility for hire to host social or business gatherings including, but not limited to, meetings, parties, seminars, weddings, receptions, family reunions, anniversaries, and barn dances. Event barns must promote the retention of the rural nature of the parcel and community in which it is located and may only be allowed by conditional use permit.

FENCE

Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Additionally:

- A. FENCE, OPEN A fence constructed in a manner that provides 50% or more open space.
- B. FENCE, PRIVACY A fence constructed in a manner that provides less than 50% open space.

LOT LINE

The same as boundary line; the peripheral boundary of a lot, parcel tract or any other land area that divides one recorded land area from another.

- A. LOT LINE, ~~FRONT~~ STREET That boundary separating a land area from an existing or dedicated public street, ~~private street or other means of access~~.
- B. LOT LINE, REAR That boundary of a land area that is opposite the ~~front~~ lot line. In the case of corner lots the rear lot line shall be opposite the shorter of the two frontages.
- C. LOT LINE, SIDE That boundary of a land area that is not a ~~front~~ street, shore or a rear lot line.
- D. LOT LINE, SHORE That boundary of a land area that abuts a navigable waterway at the ordinary high water mark.

LOT WIDTH, AVERAGE

The average of the shortest horizontal distances between the side lot lines at the ~~front~~ lot line, rear lot line or ordinary high water mark and at any angle point in the side lot lines.

MANUFACTURED HOME

A structure, ~~transportable in one or more sections,~~ that is designed to be used as a dwelling, ~~which is built on a permanent chassis and is designed to be used~~ with or without a permanent foundation and that is certified by the ~~when connected to required utilities and constructed on or after June 15, 1976, in accordance with~~ federal department of U.S. Housing and Urban Development as complying with the standards established under 42USC 5401 to 5425. ~~and identified with a HUD seal of approval; HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974.~~ The term "manufactured home" includes a mobile home but does not include a mobile recreational vehicle.

MOBILE HOME

A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty. See "manufactured home."

MODULAR HOME

See "manufactured home."

PREFABRICATED HOME

A nonmobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction assembly is completed, permanently affixing the unit to the site.

SITE-BUILT HOME

A permanent structure substantially constructed on the property and built on a permanent foundation with connections to utilities.

SUBSTANTIAL EVIDENCE

Facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

YARD

The open land area lying between the structure and the lot line of the property.

A. YARD, FRONTSTREET The open land area across the full width of the property between the front street lot line and the nearest point of the structure.

B. YARD, REAR The open land area across the full width of the property between the rear lot line and the nearest point of the structure.

C. YARD, SIDE The open land area between the adjacent side lot line and the nearest point of the structure and extending from the frontstreet yard to the rear yard.

GREEN LAKE COUNTY

Land Use Planning & Zoning Department

2018 ANNUAL DEPARTMENT REPORT

LAND USE PLANNING & ZONING
DEPARTMENT

Director: Matt E. Kirkman

Administrative Assistant: Carole DeCramer

Code Enforcement Officer: Krista Kamke

Code Enforcement Officer: Vacant

GIS Specialist: Gerald Stanuch

County Surveyor: Don Lenz

Respectfully Submitted
March 1, 2019



Land Use Planning & Zoning Department

County Government Center
571 County Road A
Green Lake, WI 54941

Phone 920-294-4156 Website: <http://www.co.green-lake.wi.us/>

Land Development Code Enforcement County Surveyor GIS Land Information

2018 Annual Report

To the Honorable Board of Supervisors, Green Lake County:

Financials:

Please find attached the 2018 financial report for the Land Use Planning and Zoning Department. The activity of the Department's Land Development, Code Enforcement, County Surveyor, and Geographic Information Systems (GIS) offices are represented in chart format. Also see attached graphs for historical comparisons.

A few highlights from the attached report are, first and foremost, that the Department was able to meet the budgeted amount and exceed budget projections equaling 129%. Land Use Permit numbers were identical to 2017. Sanitary permits were up 15% due to a push in 2018 to get all septic systems on the 3-year maintenance program. Although certified survey maps were down 28%, the Department did see increases in every other category.

In 2017, this Department's revenues were \$132,844. In 2018, the revenues increased to \$149,401. The bulk of this increase was due to the two Wisconsin Fund applicants and a situation where a property owner paid off a septic system that had been replaced through a code enforcement action. Without these unusual revenues, 2018 was a modestly better year. Based on the trend of more septic systems being replaced and a strong building market, 2019's revenues may continue in the same direction.

Expenses for the Land Use Planning and Zoning Department managed to fall under budget. This, coupled with increased revenues, helped paint a good picture for 2018.

Department Activity:

There are many notable accomplishments for 2018. In 2018, the City of Berlin decided to dissolve their ETZA (Extra-Territorial Zoning Authority) that extended 1.5 miles into the Town of Berlin. The City and the County worked together to coordinate the timing of the dissolution so that the property owners of the post-ETZA parcels would not be negatively impacted. This Department took this opportunity to not only create a new zoning map for the post-ETZA parcels, but extended the zoning map amendment to all the nonconforming parcels in the Town of Berlin. Each nonconforming parcel owner was contacted and asked if they would want to have their parcel rezoned to a more code-conforming zoning district. About a third of the parcel owners took advantage of the offer.

Through the above process, the Department managed to rectify over 60 nonconforming parcels and added 632 post-ETZA parcels to the zoning map. Further, since there were many parcels that changed zoning either out of or into the A-1, Farmland Preservation Zoning District, a new Farmland Preservation map had to be created. This map had to be reviewed and certified by

DATCP (maybe spell out the name for this acronym) and a Farmland Preservation Plan and Comprehensive Plan amendment had to be adopted by the County Board prior to the zoning map amendments being adopted. All of this had to be completed by January 1, 2019, or the post-ETZA parcel owners would have been without a zoning district and, therefore, would not have been able to obtain a land use permit for any development or construction projects.

Also, accompanying the above project, this Department utilized the zoning ordinance amendment process to revise much of the zoning ordinance text to be compliant with certain Legislative Acts as well as other needed clarifications. The projected completion date for this project is February, 2019, but the work was done in 2018.

In the last few months of 2017, this Department was made aware that Green Lake County residents were no longer eligible to receive “Wisconsin Fund” grant dollars due to their (DSPS) (what is DSPS?) perception, through audits, that not all of the private septic systems in the county were inventoried. A discrepancy was identified among the DSPS audit, the State law, and the inventories of the counties that had met the inventory deadline. This Department worked through this issue with staff from other Counties and DSPS to convince DSPS to reinstate our eligibility. Consequently, Green Lake County is back in good standing in the Wisconsin Fund Program and both of our Wisconsin Fund applicants’ applications for 2018 were funded.

The County’s floodplain zoning ordinance was out of compliance with WDNR standards as well as FEMA standards. That being the case, Green Lake County would have been able to maintain non-compliance so long as there hadn’t been any recent revisions to the flood maps. After a review of recent flood studies, one study (Del Monte Foods 2014) did change the flood maps and should have prompted an ordinance amendment. Once realized, this department started working toward revising the floodplain zoning ordinance. This process was completed in June of 2018 and will now protect the County from any FEMA audit that could have resulted in suspension from the National Flood Insurance Program (NFIP).

Due to recent amendments to the Shoreland Zoning Ordinance, the Department developed several informational documents that explained in detail the ordinance changes. We received many questions about the changes after that mailing which better prepared our contractors for the building season.

In August of 2018, this Department hosted a Planning and Zoning Committee training. It was extremely well-attended by neighboring Counties, Cities, and even Towns. The training was presented by the University of Wisconsin’s Center for Land Use Education based out of Stevens Point. During this training, county staff was advised to codify the rezoning criteria. This change is included in the zoning text amendment that is scheduled for adoption in February.

The Land Use Planning and Zoning Department operated a booth at the County Fair this year. The main attraction was the Augmented Reality Sandbox. Using the technical expertise of Land Use Planning and Zoning as well as Land Conservation Department staff, the AR Sandbox was constructed. The AR Sandbox is a fun tool for users to create their own landscapes from a sand medium and visualize how precipitation will run off or pool. The AR Sandbox provided fairgoers an opportunity to engage in watershed and floodplain management simulation.

In September, this department assisted the Emergency Management Director and the County Sheriff with damage assessments related to the tornadic activity that impacted residents in the Towns of Brooklyn, Green Lake, Marquette, and Kingston. These assessments were done to determine if the County incurred enough damage to qualify for either public assistance, individual assistance, or both.

Also in September 2018, as a result of several heavy rain events, many property owners along the Fox River had flood waters extend onto their properties. Some buildings were inundated by floodwaters. As required by the County's Floodplain Zoning ordinance, substantial damage assessments for habitable structures were performed. Only one home was substantially damaged and, luckily, that property owner had a flood insurance policy. As a result, the property owner claimed his flood losses as well as an additional \$30,000 rider for increased cost of compliance to current standards. That property owner is looking at building plans for a new cottage in 2019.

In 2017, the Department evolved its familiarity with its new permit tracking software from Transcendent Technologies, known as Ascent Permit Management. We continue to back-add historic land use permits as well as all new land use permits, conditional use permits, and violations. POWTS (Private On-site Wastewater Treatment Systems) maintenance reminders and violation notices are all incorporated into the software's functionality. We are realizing the power of the software each day we use it.

The Department webpage was revisited in 2018. The programs, ordinances, and planning documents (and any amendments thereto) that this Department manages are laid out in a much more user friendly way.

Also in 2018 the county's LiDAR (high resolution elevation data) was upgrade from 2ft contours (2009) to 1ft contours. Aerial photography (orthophoto) projects, digital elevation models and contour maps, which are used for hydrological analysis, are all heavily dependent on accurate LiDAR. With a new digital orthophoto scheduled for 2020, this LiDAR upgrade came at the perfect time. Half of the LiDAR \$115,000 project was paid for by a federal grant, with the other half covered by the State of Wisconsin's Land Information Grant Program.

Finally, the PLSS (Public Land Survey System) re-monumentation project that began in 1970 is nearing completion. Six County Surveyors have overseen this project to formally re-establish 1,855 section corners. In 2018, 55 corner section monuments were re-established. Green Lake County is on track to complete the remaining 370 PLSS corners by the end of 2025.

2018 Projects / Activity:

The Land Use Planning & Zoning Department has much to do in 2018. The most pressing project is amending the Shoreland Zoning Ordinance. Presently there are many confusing and/or difficult-to-enforce provisions in this ordinance. As the standards have been implemented these last two years, staff found that many tweaks are needed that will save the property owner headaches as well as Department staff.

Also pressing is an amendment to the nearly 20-year old Private Sewage Ordinance. This ordinance has references to the Department of Commerce, which is no longer in existence.

Further, there are policies and procedures related to the State-mandated 3-year POWTS Maintenance Program that would be more helpful if codified.

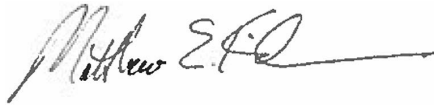
There are a couple of road projects scheduled for 2019 that this Department will be involved in. All of the PLSS monuments that are in the path of these projects need to be maintained so that once the new pavement is laid, these monuments remain. The Department will be working with the Highway Department to make sure these essential survey monuments do not “disappear”.

The Department is hoping to add a document imaging component to its permitting and enforcement functionality. Presently, even though there are permits (and violations) in electronic format, staff still has to print off the permit from the computer, attach the building plans and site plan, and file it away in a file cabinet. Ideally, the goal is to take in each new permit electronically, and attach these plans to the electronic permit. With a system like this in place, Department staff and the public will be able to access these records from their internet-capable device and a huge reduction in printing and copying expenses will be realized. Older permits would eventually be scanned and back-entered as time allows.

Conclusion:

The Land Use Planning and Zoning Department endeavors to provide an exceptional level of customer service through personal interaction, quality informational resources, and a GIS site that is second to none. This Department looks forward to working with the Public, the Land Use Planning and Zoning Committee, all other committees, the County Administrator, and the County Board to represent and serve this amazing county.

Respectfully submitted to and accepted by the Land Use Planning & Zoning Committee on March 1, 2019.

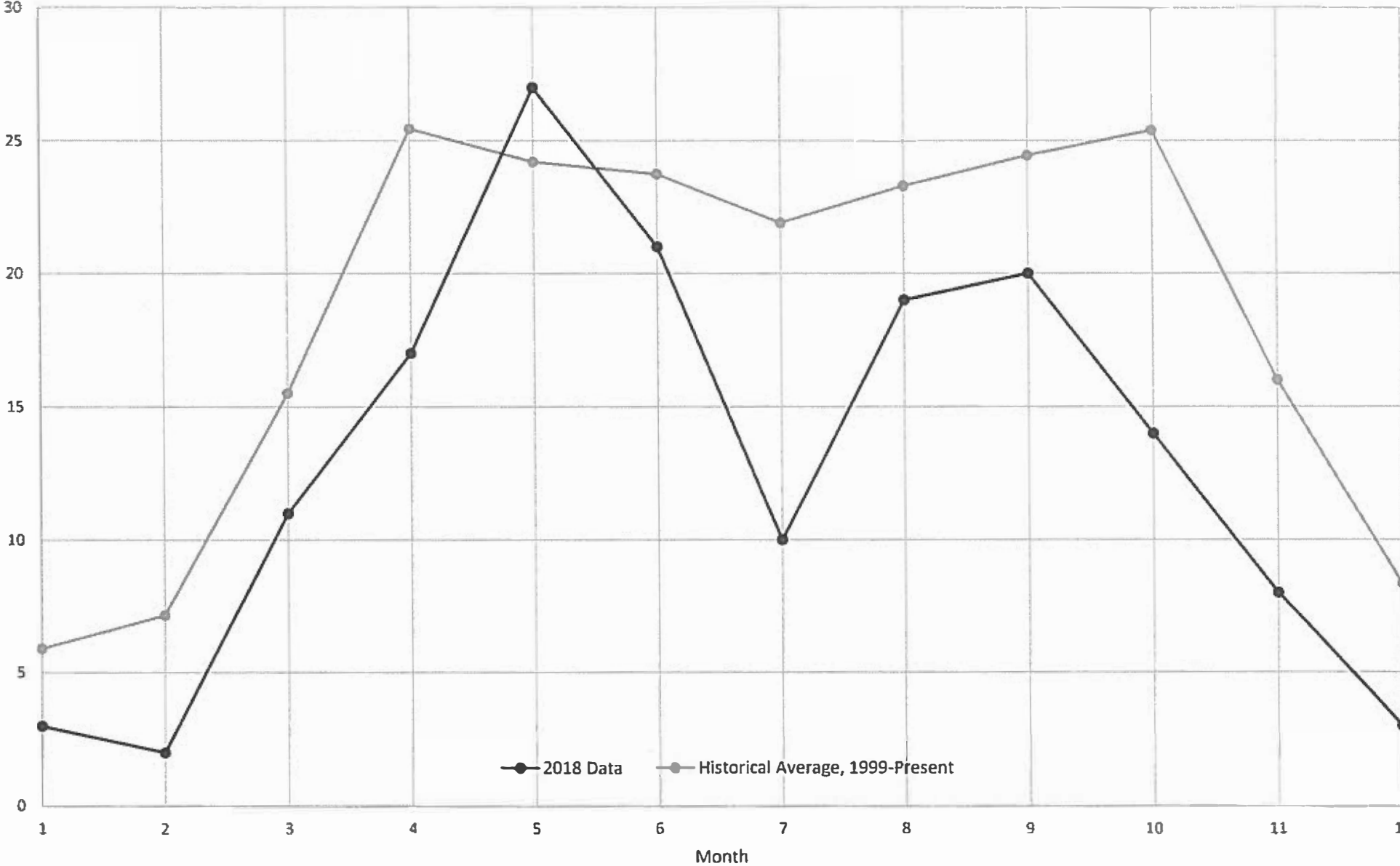
A handwritten signature in black ink, appearing to read "Matt E. Kirkman", with a long horizontal line extending to the right.

Matt E. Kirkman
Land Use Planning & Zoning Director

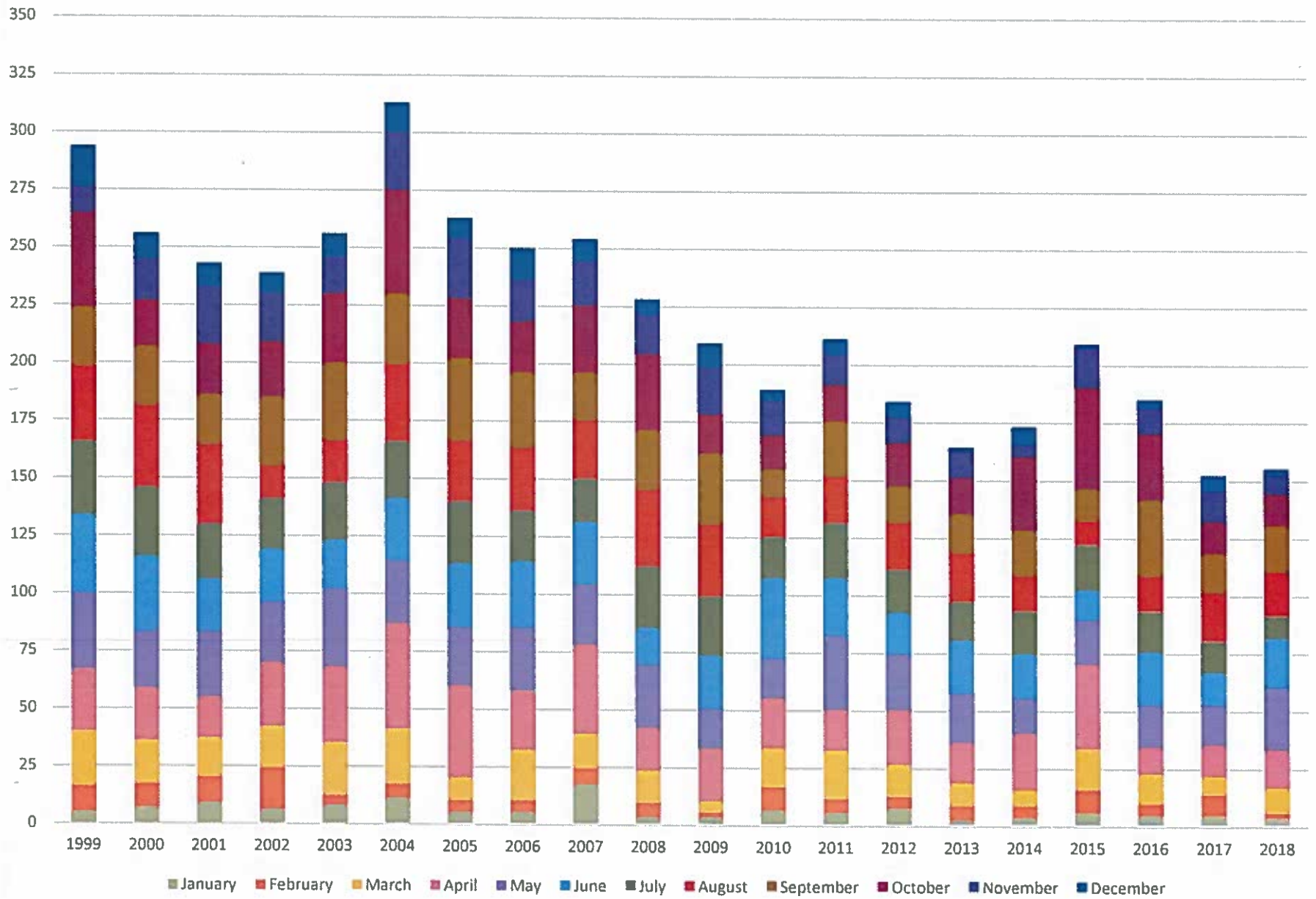
**GREEN LAKE COUNTY
LAND USE PLANNING ZONING DEPARTMENT**

FEES RECEIVED		DECEMBER				YEAR-TO-DATE				BUDGET	
		2017		2018		2017		2018		2018	
		NO.	AMOUNT	NO.	AMOUNT	NO.	AMOUNT	NO.	AMOUNT		
LAND USE PERMITS											
Residential	New	4	1,300	1	700	40	15,300	24	10,900	-	
	Alterations	-	-	1	150	80	12,300	100	17,550	-	
Commercial	New	1	50	1	150	6	1,250	6	1,500	-	
	Alterations	-	-	-	-	2	1,100	9	1,250	-	
Agricultural	New	2	300	-	-	23	3,500	13	3,050	-	
	Alterations	-	-	-	-	4	750	3	300	-	
Other	New	-	-	-	-	-	-	-	-	-	
	Alterations	-	-	-	-	-	-	-	-	-	
Other	New	-	-	-	-	-	-	-	-	-	
	Alterations	-	-	-	-	-	-	-	-	-	
Misc.	Denied/Refunded	-	-	-	-	-	-	-	-	-	
	Permit Renewals	-	-	-	-	-	-	-	-	-	
Total		7	\$ 1,650	3	\$ 1,000	155	\$ 34,200	155	\$ 34,550	\$ 34,800 99%	
SANITARY PERMITS (POWTS)											
Residential	New	6	1,195	-	-	27	7,600	23	6,185	-	
	Replacement	4	1,120	6	1,310	53	15,350	65	16,280	-	
	Reconnect	-	-	1	280	3	840	10	2,950	-	
	Modify	1	150	-	-	4	450	4	730	-	
	Repairs	1	150	-	-	1	150	-	-	-	
	Additional Fees	-	-	-	-	-	-	-	-	-	
Commercial	New	-	-	-	-	-	-	2	635	-	
	Replacement	-	-	-	-	1	280	-	-	-	
	Reconnect	-	-	-	-	-	-	1	280	-	
	Modify	-	-	-	-	-	-	-	-	-	
	Additional Fees	-	-	-	-	-	-	-	-	-	
Total		12	\$ 2,615	7	\$ 1,590	89	\$ 24,670	105	\$ 27,060	\$ 24,600 110%	
NON-METALLIC MINING PERMITS											
Annual Permit Fees		-	-	-	-	18	14,500	18	15,300	-	
Total		-	\$ -	-	\$ -	18	\$ 14,500	18	\$ 15,300	\$ -	
BOARD OF ADJUSTMENT											
Special Exception		-	-	-	-	-	-	-	-	-	
Variances		-	-	1	375	4	1,500	6	2,250	-	
Appeals		-	-	-	-	-	-	-	-	-	
Total		-	\$ -	1	\$ 375	4	\$ 1,500	6	\$ 2,250	\$ 750 300%	
PLANNING & ZONING COMMITTEE											
Zoning Change		2	750	1	375	15	6,000	18	6,750	-	
Conditional Use Permits		-	-	-	-	5	2,250	5	1,875	-	
Variance		-	-	-	-	-	-	1	375	-	
Total		2	\$ 750	1	\$ 375	20	\$ 8,250	24	\$ 9,000	\$ 7,000 129%	
MISC.											
Rental Weatherization		-	-	-	-	14	350	-	-	-	
Wisconsin Fund		-	-	2	10,300	2	200	2	10,300	6,500	
Applied Funds - Code Enforcement		-	-	-	-	-	-	-	-	-	
Total		-	\$ -	2	\$ 10,300	16	\$ 550	2	\$ 10,300	\$ 6,500 158%	
SURVEYOR											
Certified Survey Maps		4	690	4	660	52	9,315	37	6,375	6,000	
Preliminary Plats		-	-	-	-	-	-	-	-	-	
Final Plats		-	-	-	-	-	-	-	-	-	
Miscellaneous		-	-	1	20	-	125	1	2,739	-	
Total		4	\$ 690	5	\$ 680	52	\$ 9,440	37	\$ 9,114	\$ 6,000 152%	
GIS (Geographic Information System)											
Map Sales		-	37	-	30	-	229	-	190	200	
Land Records Transfer		-	2,680	-	2,088	-	30,760	-	32,137	27,000	
Land Information Grant		-	-	-	-	-	9,080	-	9,500	9,080	
Total		-	\$ 2,717	-	\$ 2,118	-	\$ 40,069	-	\$ 41,827	\$ 36,280 115%	
GRAND TOTAL		25	8,422	19	16,438	354	133,179	347	149,401	\$ 115,930	
										Total	129%

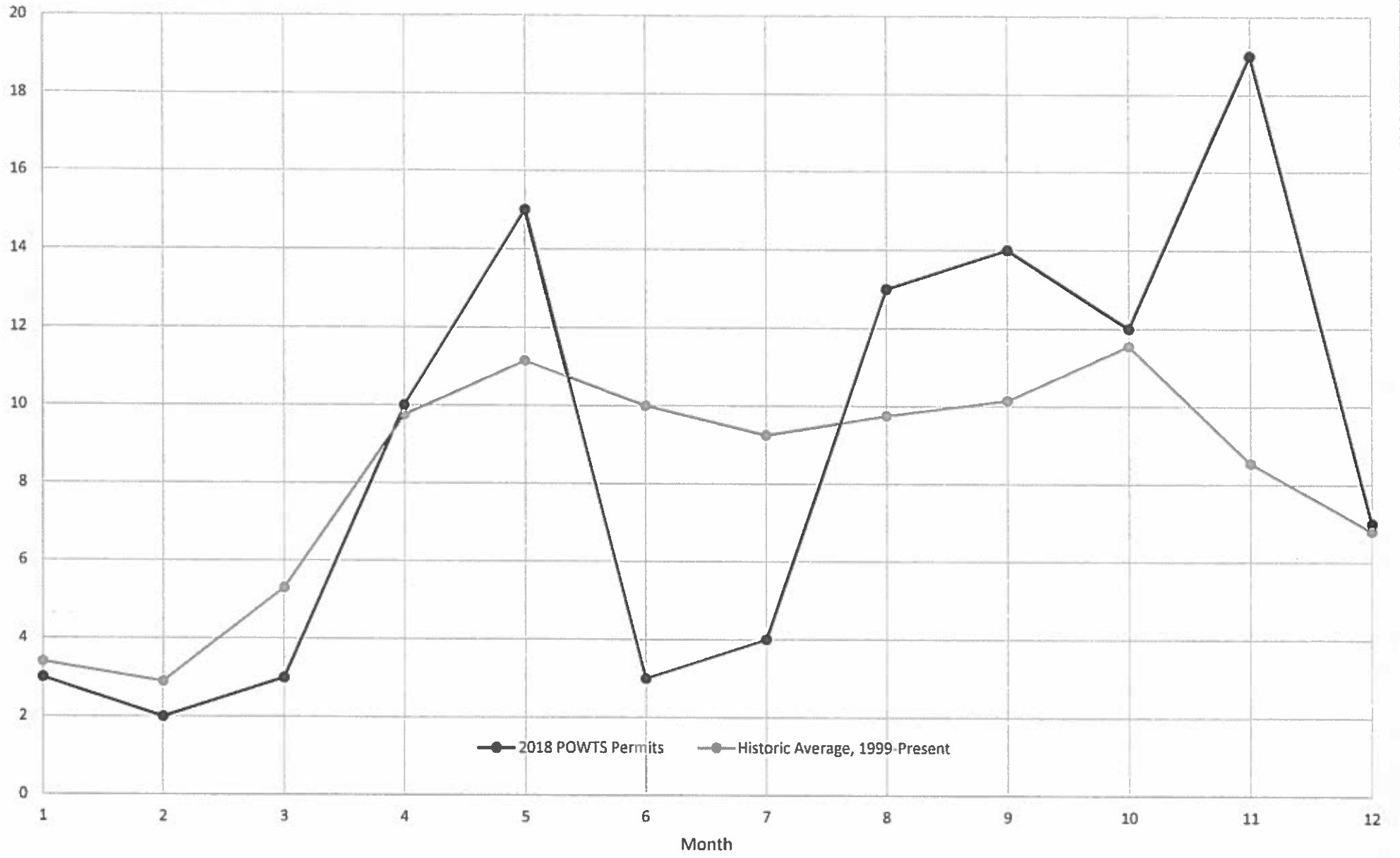
Yearly Land Use Permit with Historic Average



Land Use Permit Numbers by Year



Yearly POWTS Permits with Historic Average



Sanitary Permit Numbers by Year

