



**AGENDA**  
**PLAN COMMISSION**  
**Tuesday, July 10, 2018 at 6:30 p.m.**  
**Common Council Chambers, 224 East Jefferson Street**

**Mayor Jeannie Hefty**, Chairman  
**Tom Preusker**, Aldermanic Representative  
**Bob Grandi**, Aldermanic Representative  
**Chad Redman**, Commissioner  
**Andy Tully**, Commissioner  
**John Ekes**, Commissioner  
**Art Gardner**, Commissioner

1. Call to Order
2. Roll Call
3. Approval of the minutes of June 12, 2018
4. Letters and Communications: None
5. Citizen Comments
6. Old Business:
  - A. Consideration to approve a Conditional Use application from Zach Acker of Burlington Fireplace & Solar for property located at 857 Milwaukee Avenue, to engage in the display and retail of outdoor merchandise, subject to Graef's June 5, 2018 and Fire Department's May 2, 2018 memorandums to the Plan Commission. This item was tabled at the June 12, 2018 meeting.
  - B. Consideration to approve a Conditional Use and Site Plan application from Zach Acker for property located at 857 Milwaukee Avenue for the construction and occupancy of a 6,800 square foot storage building, subject to Graef's June 5, 2018, Kapur & Associates' May 1, 2018 and Fire Department's April 23, 2018 memorandums to the Plan Commission. This item was tabled at the June 12, 2018 meeting.
  - C. Consideration to approve a Site Plan application from Scherrer Construction for property located at 601 Blackhawk Drive to construct a storage building for material and equipment, subject to Graef's May 1, 2018, Kapur & Associates' May 1, 2018 and Fire Department's May 2, 2018 memorandums to the Plan Commission. This item was tabled at the May 8, 2018 and June 12, 2018 meetings.

7. New Business:

- A. Consideration to recommend approval to the Common Council of a Petition for Rezoning Map Amendment application from Richard Torhorst on behalf of Brian Ehler, for property located at 169 Industrial Drive to rezone from M-2, General Manufacturing District to M-2 PUD, General Manufacturing District with a Planned Unit Development Overlay subject to Graef's July 2, 2018 memorandum to the Plan Commission.
- B. Public Hearing to hear public comments regarding a Conditional Use application from Paul Molkentin for property located at 454 S. Pine Street, to operate as a construction company.
- C. Consideration to approve a Conditional Use application from Paul Molkentin for property located at 454 S. Pine Street, to operate as a construction company, subject to Graef's July 2, 2018 and Fire Department's June 27, 2018 memorandums to the Plan Commission.
- D. Public Hearing to hear public comments regarding a Conditional Use application from Craig Faust for property located at 332 Milwaukee Avenue to rezone from B-2 Central Business District to Rd-2, Two-Family Residential District.
- E. Consideration to approve Resolution No. 26 to amend the Racine County Multi-Jurisdictional Comprehensive Plan for property located at 332 Milwaukee Avenue.
- F. Consideration to recommend approval to the Common Council of a Petition for Rezoning Map Amendment application from Craig Faust for property located at 332 Milwaukee Avenue to rezone from B-2, Central Business District to Rd-2, Two-Family Residential District, subject to Graef's July 2, 2018 memorandum to the Plan Commission.
- G. Consideration to approve a Conditional Use application from Craig Faust for property located at 332 Milwaukee Avenue, to convert the existing commercial business rental unit into a single-family residence, subject to Graef's July 2, 2018 memorandum to the Plan Commission.
- H. Consideration to approve a Site Plan application from Kueny Architects for property located at 800 Blackhawk Drive to construct an office building for Phase II, subject to Graef's July 2, 2018, Kapur & Associates' June 28, 2018 and Fire Department's June 29, 2018 memorandums to the Plan Commission.
- I. Public Hearing to hear public comments regarding a Conditional Use application from Scott Slavson for property located at 381 W. Market Street, to allow for shop and equipment storage for a small asphalt business.
- J. Consideration to approve a Conditional Use application from Scott Slavson of Jimmy C, LLC for property located at 381 W. Market Street to allow for shop and equipment storage for a small asphalt business, subject to Graef's July 2, 2018 and Fire Department's July 2, 2018 memorandums to the Plan Commission.

8. Adjournment.

***Note:** If you are disabled and have accessibility needs or need information interpreted for you, please call the City Clerk's Office at 262-342-1161 at least 24 hours prior to the meeting.*

***Note:** Notice is hereby given that a majority of the members of the Common Council may be present at the meeting. Although this may constitute a quorum of the Council, the Council will not take any action at this meeting.*

***Note:** If you are disabled and have accessibility needs or need information interpreted for you, please call the City Clerk's Office at 262-342-1161 at least 24 hours prior to the meeting.*

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**Minutes**  
**City of Burlington Plan Commission**  
**June 12, 2018, 6:30 p.m.**

Mayor Jeannie Hefty called the Plan Commission meeting to order at 6:30 p.m. Roll call: Alderman Bob Grandi; Commissioners Chad Redman; John Ekes; and Art Gardner were present. Alderman Tom Preusker and Commissioner Andy Tully were excused.

**APPROVAL OF MINUTES**

Alderman Grandi moved, and Commissioner Ekes seconded to approve the minutes of May 8, 2018. All were in favor and the motion carried.

**LETTERS & COMMUNICATIONS**

Commissioner Ekes moved, and Commissioner Redman seconded to accept a letter as presented from Commissioner Tully.

**CITIZEN COMMENTS**

None

**OLD BUSINESS**

None

**NEW BUSINESS**

**A. Public Hearing to hear public comments regarding a Conditional Use application from Burlington Fireplace & Solar for property located at 857 Milwaukee Avenue, to engage in the display and retail of outdoor merchandise.**

- Mayor Hefty opened the Public Hearing at 6:31 p.m.
- There were no comments.

Commissioner Redman moved, and Commissioner Ekes seconded to close the Public Hearing at 6:32 p.m.

*All were in favor and the motion carried.*

**B. Consideration to approve a Conditional Use application from Zach Acker of Burlington Fireplace & Solar for property located at 857 Milwaukee Avenue, to engage in the display and retail of outdoor merchandise, subject to Graef's June 5, 2018 and Fire Department's May 2, 2018 memorandums to the Plan Commission.**

- Mayor Hefty opened this item for discussion.

- Tanya Fonesca, Graef, explained there are two Conditional Use applications; one is for the outdoor display in front of the primary building, and the second one is for the display in front of the proposed building.
- Richard Hendrickson, Sr. owner, explained the outdoor display is for high-end outdoor kitchen appliances, Napoleon Fireplaces, etc. The displays will be outside in front of the building for a hands-on experience under a canopy, plus be used for possible future competition cooking events. The interior of the cold storage building will have appliances i.c. grills, fireplaces, and fire pit tables for purchase and take home. Gregory Guidry, Building Inspector, asked if the grills were operational. Mr. Hendrickson replied the grills will not be permanently operational. Commissioner Ekes questioned if the current outdoor display has been running under a Conditional Use. Mr. Guidry responded the Conditional Use has not been approved, the City is trying to clean up paperwork.
- Jack Reesman, resident, asked if there will be a solar display underneath the canopy. Mr. Hendrickson replied there are already solar panels, so there will not be any more, unless they are put on the top of the building.
- Mr. Guidry was asking what specific type of products would be on display. Mr. Hendrickson stated it would be code compliant, and everything that is currently hooked-up is hard pipe gas. Alderman Grandi clarified that no additional structures will be built at this time. Mr. Hendrickson replied, only the front canopy area.
- Alderman Grandi stated he would like to hear the whole story as to why the building was built prior to approval before making a decision on the Conditional Use Permit. Commissioner Ekes commented he would like to move onto the next item and come back to this later.
- There were no further comments.

**C. Public Hearing to hear public comments regarding a Conditional Use application from Burlington Fireplace & Solar for property located at 857 Milwaukee Avenue, for the construction and occupancy of a 6,800 square foot storage building.**

- Mayor Hefty opened the Public Hearing at 6:40 p.m.
- Mr. Hendrickson stated the addition is approximately 2,700 square feet and not 6,800 square feet.
- There were no further comments.

Alderman Grandi moved, and Commissioner Ekes seconded to close the Public Hearing at 6:41 p.m.

*All were in favor and the motion carried.*

**D. Consideration to approve a Conditional Use and Site Plan application from Zach Acker for property located at 857 Milwaukee Avenue for the construction and occupancy of a 6,800 square foot storage building, subject to Graef's June 5, 2018, Kapur & Associates' May 1, 2018 and Fire Department's April 23, 2018 memorandums to the Plan Commission.**

- Mayor Hefty opened this item for discussion.
- Attorney John Bjelajac explained City personnel was receiving complaints of a metal storage building that was built. The construction was almost completed when Mr. Guidry informed the owner that a building permit was required. A building permit was issued, but the project never came before the Commission for approval prior to construction. The City has the right to enforce zoning codes, and is following up with the correct paperwork. Attorney John Bjelajac further explained a Development Review Committee meeting was held, but the owner/applicant had not come back for further meetings or applications. The owner assumed things were done and approved. Mr. Hendrickson had stated earlier in the meeting that an employee who was responsible for the process to follow through, was no longer working with the company during the middle of the review process. Attorney John Bjelajac stated mistakes were made by both the owner and the City, and to review this project as if the building had not been constructed. Commissioner Redman asked if inspections had been done. Mr. Guidry responded yes, except for the final inspection. Ms. Fonesca stated the Site Plan and outdoor displays are compliant to all City codes.
- Commissioner Gardner was inquiring if the intention will be to black top or pave the driveways and parking lot. Mr. Hendrickson replied yes, everything that is needed to be paved will be.
- Carina Walters, City Administrator, commented that the Fire Department will need to be provided the criteria that is missing, such as what is inside the proposed cold storage building. Fire Chief Al Babe clarified there is no intent for the inside of the building. Mr. Hendrickson responded there will be storage of fireplaces, grills, pallets, and maybe stone at eight feet high. Mr. Babe stated the maximum height is twelve feet.
- Alderman Grandi stated even though it meets the requirements of a pole building, he still receives complaints from citizens. Alderman Grandi further stated he would like to see improvements on how it looks. Mayor Hefty stated Alderman Tom Preusker and herself have received many complaints on the look as well. Mr. Hendrickson stated he plans on putting stone on the building. Attorney John Bjelajac explained the Commissioner could request the owner to come back with a rendering for a better looking building.
- Commissioner Ekes asked if the solar panels in the front were approved. Mr. Guidry answered quite a few years ago, before 2015, there were approved.
- Attorney John Bjelajac stated if this item had come for approval prior to the build, the Commissioners would have asked to see improvements. Mr. Guidry commented since the parking and landscape is approved, the Commissioners should allow the owner to do those. Chief Babe explained he did not want the Conditional Use Permit to include what was be stored inside, only the intended use. Ms. Walters stated the Commissioners could allow the

owner to move forward and pave the parking lot, and sit with staff to discuss what is missing. Mr. Guidry stated that what is expected will be, what is inside and the final appearance.

- There were no further comments.

Commissioner Redman moved, and Alderman Grandi seconded to table the Conditional Uses and Site Plan until the August meeting with a revised rendering of the exterior and what is stored inside, but approve to proceed with asphaltting the parking lot and the landscape plan.

*All were in favor and the motion carried.*

**E. Public Hearing to hear public comments regarding a Conditional Use application from Wisco Automotive, LLC for property located at 496 S. Pine Street, to operate as an automotive repair shop.**

- Mayor Hefty opened the Public Hearing at 7:05 p.m.
- There were no comments.

Alderman Grandi moved, and Commissioner Redman seconded to close the Public Hearing at 7:06 p.m.

*All were in favor and the motion carried.*

**F. Consideration to approve a Conditional Use application from Matthew Gums of Wisco Automotive, LLC for property located at 496 S. Pine Street, to operate as an automotive repair shop, subject to Graef's June 5, 2018 memorandum to the Plan Commission.**

- Mayor Hefty opened this item for discussion.
- Ms. Fonesca, Graef, this is an existing structure and the Conditional Use Permit shall be reviewed yearly. Mr. Guidry stated that the number of vehicles parked at night, and that all vehicles are registered could be conditions on the permit. Matt Gums explained no more than 10 vehicles would be parked overnight. Commissioner Gardner asked how many vehicles can fit inside, and if there is any painting. Mr. Gums answered 2 vehicles fit in the garage, and there will be no painting. Mr. Gums further explained he only repairs cars and light trucks under 1 ton, and will keep this lot clean and not trashy. Commissioner Gardner questioned if there will be fencing. Mr. Gums responded no, since impound lots usually have fencing and not the repair shops. Mr. Gums stated the parking lot spaces will be painted. Mr. Reesman asked if a tow truck will be sitting out. Mr. Gums replied there will be no tows, since they will be contracting out.
- There were no further comments.

Commissioner Redman moved, and Alderman Grandi seconded to approve the Conditional Use to include 10 parking spaces and all vehicles to be registered.

*All were in favor and the motion carried.*

**G. Public Hearing to hear public comments regarding a Conditional Use application from GMX Real Estate Group, LLC for property located at 1054 Milwaukee Avenue, to allow for a drive-thru window, and also two outdoor seating areas.**

- Mayor Hefty opened the Public Hearing at 7:17 p.m.
- There were no comments.

Commissioner Ekes moved, and Commissioner Gardner seconded to close the Public Hearing at 7:18 p.m.

*All were in favor and the motion carried.*

**H. Consideration to approve a Conditional Use and Site Plan application from Andrew Goodman for property located at 1054 Milwaukee Avenue, to allow for a drive-thru window, two outdoor seating areas, and construct a 6,200 square foot multi-tenant commercial building, subject to Graef's April 3, 2018, Kapur & Associates' April 3, 2018 and Fire Department's April 4, 2018 memorandums to the Plan Commission.**

- Mayor Hefty opened this item for discussion.
- Ms. Fonesca explained the applicant is applying for a Certified Survey Map to purchase nearby outlot to have the existing property meet the City's dimensions. There will be 3 tenants, one which is a restaurant with a patio. The parking lot will be shared with the other businesses. The applicant is requesting a variance for the parking spaces, landscaping and additional signage.
- Representatives from GMX Real Estate Group, LLC gave a presentation. Mike Colombo, representative, showed the landscape plan, the drive-thru is around the back, the second seating area is on the opposite side of the building, and the proposed ground sign location. Mr. Colombo stated there is a sign band in case businesses change.
- Mayor Hefty asked if all their buildings, including in Illinois, have the same design. Andy Goodman, representative, responded the buildings are tailored a little differently, but the same materials are used. Mr. Guidry questioned if there is a parapet wall so the air conditioning unit will not be seen. Mr. Colombo replied yes, it will be hidden. Commissioner Redman asked if the brick color was a set choice, since the City has a predominant brick color. Mr. Goodman responded that if buildings can be pointed out, they will do their best to match the others. Alderman Grandi asked how the construction grade compares to the drawings on the letter from Commissioner Tully. Alderman Grandi further mentioned that the letter states a higher grade design is being requested. Mr. Goodman stated the design can be changed to meet the height of parapet walls to be code compliant. Commissioner Ekes commented he wanted to make sure the lighting poles height are at the right height, because when the Walmart lights were installed there was a big discussion. Mayor Hefty stated new lights had been installed by the owner of Big R recently. Commissioner Ekes further

commented that he has heard many times before that the parking lots between Kohl's and Big R will be connecting, but is very excited.

- Ms. Walters questioned what would happen if she wanted to leave the drive-thru lane for any reason. Mr. Goodman explained that there is always an escape route, however, in this case the landscape would have to be shortened. Commissioner Ekes would agree to have less landscape to allow for an escape route. Alderman Grandi asked how much landscape would be given up. Ms. Fonesco responded a very small percentage. Commissioner Ekes asked if Big R had any problems regarding the new sign blockage. Joe Devorkin, Big R owner, responded no, the new monument sign is not blocking the existing one. Commissioner Ekes stated he approves, as long as the applicant looks at surrounding businesses for brick color, has less landscape for an escape route, and shares the parking lot with surrounding businesses.
- There were no further comments.

Commissioner Ekes moved, and Commissioner Gardner seconded to approve the Conditional Use and Site Plan for 1054 Milwaukee Avenue.

*All were in favor and the motion carried.*

**I. Public Hearing to hear public comments regarding a Conditional Use application from Joshua and Bethany Fiegel for property located at 732 S. Kane Street, to operate as an automotive repair shop.**

- Mayor Hefty opened the Public Hearing at 7:50 p.m.
- There were no comments.

Alderman Grandi moved, and Commissioner Redman seconded to close the Public Hearing at 7:51 p.m.

*All were in favor and the motion carried.*

**J. Consideration to approve a Conditional Use application from Joshua and Bethany Fiegel for property located at 732 S. Kane Street, to operate as an automotive repair shop, subject to Gregory Guidry's June 5, 2018 memorandum to the Plan Commission.**

- Mayor Hefty opened this item for discussion.
- Mr. Guidry explained this property is an existing auto business repair shop that never had a Conditional Use. The new owners want to be in compliance with the City.
- Josh Fiegel, 34215 Fulton Street, stated he is in the process of purchasing the front and back of the building. Alderman Grandi asked if the lot will be purchased with everything on it. Mr. Fiegel further stated he cannot purchase the property without having the vehicles

registered, and the current vehicles will be removed before operating the business. Commissioner Ekes questioned if just body work, engine repair, and upholstery will be conducted. Mr. Fiegel responded no body work at first, but would like to have a Volkswagen restoration business, and then hopes to expand his business for body work.

- Commissioner Ekes stated he would like to see a parking lot sketch, since it looks like a junk yard by the fenced in area. Mr. Guidry asked how many vehicles will be parked overnight. Mr. Fiegel answered about fifteen. Commissioner Ekes questioned if the parking lot is gravel or paved. Mr. Fiegel replied he was not sure, but would like to improve the pavement since it is in rough shape.
- There were no further comments.

Commissioner Ekes moved, and Alderman Grandi seconded to approve the Conditional Use, to include a maximum of fifteen vehicles overnight, all vehicles are registered, and a one year renewal review.

*All were in favor and the motion carried.*

**K. Consideration to approve a Site Plan application from Scherrer Construction for property located at 601 Blackhawk Drive to construct a storage building for material and equipment, subject to Graef's May 1, 2018, Kapur & Associates' May 1, 2018 and Fire Department's May 2, 2018 memorandums to the Plan Commission. This item was tabled at the May 8, 2018 meeting.**

- This item is tabled since there is no quorum to vote. Commissioner Redman must excuse himself from this item.

### **ADJOURNMENT**

Commissioner Gardner moved, and Alderman Grandi seconded to adjourn the meeting at 8:05 p.m.

*All were in favor and the motion carried.*

Recording Secretary  
Kristine Anderson  
Administrative Assistant



**PLAN COMMISSION**

**ITEM NUMBER: 6A**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Conditional Use application at 857 Milwaukee Avenue.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Conditional Use application from Zach Acker of Burlington Fireplace & Solar, for property located at 857 Milwaukee Avenue. The applicant is proposing to engage in the display and retail of outdoor merchandise.

This item was tabled at the June 12, 2018 meeting, until the applicant could provide a revised rendering of the exterior and what is stored inside.

**ZONING:**

The parcel is zoned B-1, Neighborhood Business District.

**RECOMMENDATION:**

Graef and the Fire Department recommend a conditional approval of this Conditional Use, subject to items listed in their June 5, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





One Honey Creek Corporate Center  
125 South 84<sup>th</sup> Street, Suite 401  
Milwaukee, WI 53214-1470  
414 / 259 1500  
414 / 259 0037 fax  
[www.graef-usa.com](http://www.graef-usa.com)

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## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

Copies to: Carina Walters, City Administrator  
Megan Watkins, Director of Administrative Services  
Gregory Guidry, Building Inspector  
Gregory Governatori, City Engineer, Kapur & Associates, Inc.  
Richard Hendrickson, Sr., Burlington Fireplace & Solar, Applicant

**FROM:** GRAEF  
Tanya Fonseca, AICP

**DATE:** June 5, 2018

**SUBJECT:** Review of Site Plan and Conditional Use Permits for a Warehouse and Outdoor Display of Merchandise at Burlington Fireplace & Solar at 857 Milwaukee Avenue, Burlington, WI 53105

### A. PURPOSE

- 1) Consider for approval a Site Plan Approval Application from Richard Hendrickson, Sr. of Burlington Fireplace & Solar located at 857 Milwaukee Avenue, Burlington, WI 53105 to construct an area to engage in the display and retail of outdoor merchandise.
- 2) Consider for approval a Conditional Use Permit Application from Richard Hendrickson, Sr. of Burlington Fireplace & Solar located at 857 Milwaukee Avenue, Burlington, WI 53105 for the construction of a warehouse.
- 3) Consider for approval a Conditional Use Permit Application Richard Hendrickson, Sr. of Burlington Fireplace & Solar located at 857 Milwaukee Avenue, Burlington, WI 53105 to engage in the outdoor display of merchandise.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends that the Plan Commission recommend to the Common Council the:

- a. **CONDITIONAL APPROVAL** of a Site Plan Approval Application from Richard Hendrickson, Sr. for property located at 857 Milwaukee Avenue, Burlington, WI 53105 for a storage building to engage in the display of outdoor products subject to the following conditions:
  - (1) Pursuant to §315-48 (E)(1), all open, off-street parking and loading spaces shall be improved with pavement of either asphalt or concrete, with stormwater drainage facilities,
  - (2) Pursuant to §315-48 (G), provide permanent marking of all off-street parking stalls with painted lines (or with another approved materials)

- (3) Pursuant to §315-48 (H), provide one off street parking space for persons with disabilities meeting all applicable American with Disabilities Act (ADA) Guidelines
- b. and, **CONDITIONAL APPROVAL** of a Conditional Use Permit Application from Richard Hendrickson, Sr. for property located at 857 Milwaukee Avenue, Burlington, WI 53105 to engage in the display and retail of outdoor merchandise.

### **C. BACKGROUND**

Richard Hendrickson, Sr., of Burlington Fireplace & Solar of 4802 Mamerous Lange, Waterford, WI 53185 (Applicant) submitted a Site Plan Approval Application and Conditional Use Permit Application for the construction and occupancy of a storage building and to engage in the display of outdoor products on-site at Burlington Fireplace & Solar at 857 Milwaukee Avenue, Burlington, WI 53110. The structure has already been constructed on parcel 206-03-19-29-125-040.

The Applicant submitted the following materials:

- a. Site Plan Approval Application (2 sheets, as prepared by Richard Hendrickson, Sr., dated April 16, 2018)
- b. Conditional Use Permit Application (2 sheets, as prepared by Richard Hendrickson, Sr., dated April 16, 2018)
- c. Email correspondence with Engineering Consultant (2 sheets, dated April 13, 2018)
- d. Floodplain review by Engineering Consultant (1 sheet)
- e. Site Improvement Plan (1 sheet, dated October 6, 2016)

### **D. COMPLIANCE WITH BURLINGTON ZONING CODE §315-26 B-1 "NEIGHBORHOOD BUSINESS DISTRICT"**

The new warehouse structure is a conditional use, pursuant to §315-26(D)(28) and meets the setback and yard requirements outlined in §315-26(G)(D). The proposed outdoor display and retail of outdoor product merchandise, is an allowable conditional use pursuant to §315-26(D)(34). The outdoor display of merchandise is subject to the performance standards in §315-26(D)(34).

There are two areas for the outdoor display of merchandise – in front of the original structure (currently already in use as outdoor display of merchandise), as well as within the covered area in front of the new accessory structure. The proposed outdoor display areas are compliant with the performance standards as represented in the Applicant's materials, and as constructed.

The granting of a conditional use permit for "outdoor display of merchandise" is subject to yearly renewal pursuant to §315-26(D)(34)(f). Burlington Fireplace & Solar will be required to renew its conditional use permit with the City of Burlington Zoning Administrator on an annual basis.

Pursuant to §315-26(I), parcel 206-03-19-29-125-040 continues to meet the landscape surface ratio, even with the new accessory structure, and the removal of trees. The new ratio is 28 percent, meeting the requirement of 25 percent.

Any signage that will be placed on the outdoor display area or storage building is subject to permitting pursuant to Burlington Zoning Code Article VII "Signs."

**E. COMPLIANCE WITH BURLINGTON ZONING CODE §315-48 “PARKING REQUIREMENTS”**

Burlington Fireplace & Solar as a use can be classified as “Commercial Uses: Retail – Furniture stores, carpet stores, appliance stores” in Chapter 315 Table 5 “Off-Street Parking and On-Site Queuing Requirements for Use Types.” This use requires 1.5 parking spaces per 1,000 square feet of floor area. As Burlington Fireplace & Solar will occupy the total space that is approximately 6,800 square feet and given that the new structure that is 1,000 square feet is for storage only, the existing parking of 11 spaces fulfills the requirement (10.2 spaces are required).

The existing driveways, off-street parking, and loading areas are not currently improved with pavement or stormwater drainage facilities. Pursuant to §315-48 (E)(1), all open, off-street parking and loading spaces shall be improved with pavement of either asphalt or concrete, with stormwater drainage facilities. The Applicant will be required to provide concrete curb and gutter for all off-street parking areas and associated drives connecting to Milwaukee Avenue and Paul Street, pursuant to §315-48 (F). Additionally, permanent markings of all off-street parking stalls with painted lines (or with another approved materials) will need to be provided, pursuant to §315-48 (G). Finally, as indicated on the Applicant’s Plan, one off street parking space for persons with disabilities meeting all applicable American with Disabilities Act (ADA) Guidelines, pursuant to §315-48 (H).

**F. COMPLIANCE WITH BURLINGTON ZONING CODE §315-49 “DRIVEWAYS”**

The driveways from Milwaukee Avenue and Paul Street will need to be improved with pavement pursuant to the dimensional requirements of §315-49 (B).

**G. COMPLIANCE WITH BURLINGTON ZONING CODE §315-130 “CONDITIONAL USE PERMIT”**

The Applicant’s materials comply with the provisions enumerated in §315-130(A) “Application for conditional use permit.”

**H. COMPLIANCE WITH BURLINGTON ZONING CODE §315-137 “SITE PLANS”**

The site plan materials are compliant with the requirements in §315-137(A, B, & C).

The Applicant’s materials do not indicate the addition of lighting to the site. As a result, a lighting plan is not required. Should improvements be made, the applicant should submit the revised lighting plan with future pavement plans.

**I. COMPLIANCE WITH BURLINGTON ZONING CODE §315-138 “LANDSCAPE PLANS”**

The site plan is compliant with the requirements in §315-138.



857 Milwaukee Avenue  
Burlington, WI 53105  
Phone: 262-763-3522 Fax: 262-763-3998

## **Outdoor Display Areas**

### **Front Patio (Showroom Building)**

The Front Patio of our Showroom is completely uncovered and will be used for permanent placement of gas burning fire tables and displays.

### **Covered Porch (Cold Storage Building)**

The covered porch area will be used to display grills, and smokers. All displays will be non-functioning and for display only. All displays will be rolled out during the day for display and rolled into the building at night for protection from the elements and theft.

\*All of the fire displays that we have are rated to be able to be burnt in a covered space as long as the space has open sides or is only screened in for ventilation. We have already spoken with Wes Miner the fire inspector about approval of certain units being able to be used to show customers how they function. If approved all units will only be burned (used) for short periods of time to allow customers to see how they work and will never be left on unattended or for prolonged periods of time. We are aware that usage is conditional on further talks with the fire marshal and inspector.



**PLAN COMMISSION**

**ITEM NUMBER: 6B**

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**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Conditional Use and Site Plan application at 857 Milwaukee Avenue.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

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**PROJECT/SCOPE:**

This item is to consider approving a Conditional Use and Site Plan application from Zach Acker of Burlington Fireplace & Solar, for property located at 857 Milwaukee Avenue.

The applicant is proposing for the occupancy of a total of 6,800 square foot storage building, with the construction of a new structure that is 1,000 square feet is for storage only, subject to the following conditions:

- All open, off-street parking and loading spaces shall be improved with pavement of either asphalt or concrete, with storm-water drainage facilities
- Provide permanent marking of all off-street parking stalls with painted lines (or with another approved materials)
- Provide one off-street parking space for persons with disabilities meeting all ADA requirements

The new warehouse structure meets the setback and yard requirements. There are two areas for the outdoor display of merchandise – in front of the original structure (currently in use as outdoor display of merchandise), as well as within the covered area in front of the new accessory structure.

This item was tabled at the June 12, 2018 meeting, until the applicant could provide a revised rendering of the exterior and what is stored inside.

**ZONING:**

The parcel is zoned B-1, Neighborhood Business District.

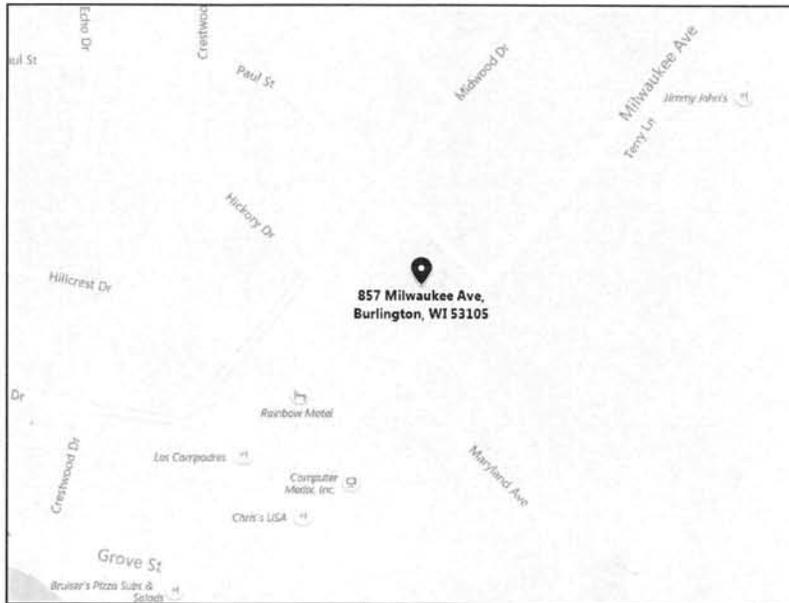
**RECOMMENDATION:**

Graef, Kapur & Associates, and the Fire Department recommend a conditional approval of this Conditional Use and Site Plan, subject to items listed in their June 5, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





857 Milwaukee Avenue  
Burlington, WI 53105  
Phone: 262-763-3522 Fax: 262-763-3998

### Cold Storage Building Improvement plan

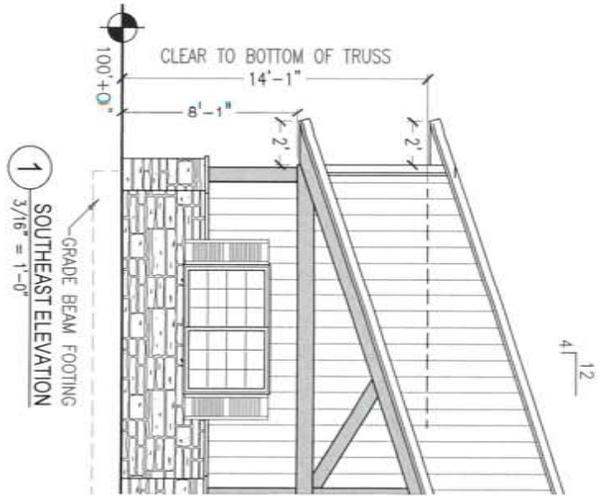
The Following is our plan and time frames for making esthetic improvements to the cold storage building at 857 Milwaukee Avenue:

End Of Summer 2018 – Stone will be added to all 4 sides of the 4 pillars you see on the southeast elevation as shown in the plan. In addition to the stone, a decorative limestone capstone will top each pillar just above the stonework.

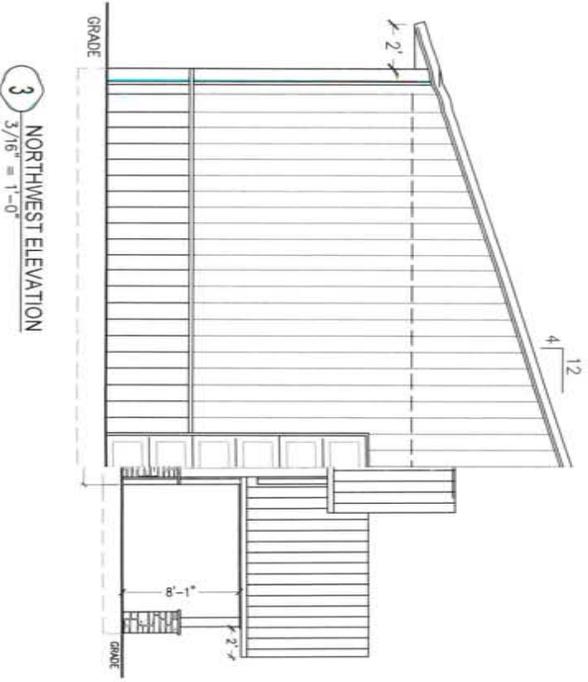
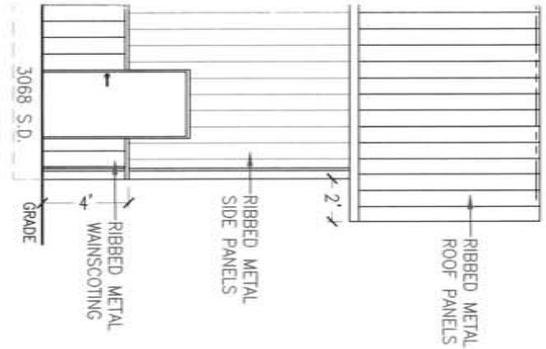
End of Summer 2019 – Stone will be added to the front (southeast elevation) of the building up to 48” to match the height of the pillars. In addition to the stone a decorative sill stone ledge will be ran above the stone to create a decorative ledge.

Potential Future Improvement – May in the future wrap stone partially around the sides (northeast and southwest elevations) at 48” to match front of building.

\*All stone will be the same as what is currently on showroom building. (see provided picture)



1  
3/16" = 1'-0"  
SOUTHEAST ELEVATION



3  
3/16" = 1'-0"  
NORTHWEST ELEVATION

ADD STONE WAINSCOT

PAGE: 1 OF 5	JOB NO. 17229 DRAWN BY: JLL ISSUE DATE: 8/14/2017 REVISIONS: 6/15/2018	-COPYRIGHT NOTICE- UNAUTHORIZED COPYING OF OR BUILDING FROM PLANS IS VIOLATION OF U.S. COPYRIGHT LAWS, CONSTITUTING CRIMINAL THEFT	BUILDING <b>STORAGE BUILDING</b> 46' x 50' x 14' clear height w/ 46' x 10' x 8' clear Porch	OWNER: Hendrickson Trust ATTN: Richard Hendrickson Jr. 857 Milwaukee Ave Burlington, WI 53105	SITE: Burlington Fireplace & Solar 857 Milwaukee Ave Burlington, WI 53105 Racine County	 Quality Post Frame Buildings W8856 COUNTY ROAD T ROSENDALE, WI 54974 <small>PHONE: (202) 822-7910 FAX: (202) 822-9803 www.pinnobuildings.com</small>	 Americans with Jobs <small>PHONE: (202) 822-7910 FAX: (202) 822-9803 www.pinnobuildings.com</small>



857 Milwaukee Avenue  
Burlington, WI 53105  
Phone: 262-763-3522 Fax: 262-763-3998

### Cold Storage Building Storage Plan

**Note: Our racking does not exceed 10' tall and product is not to exceed 12' of height at any time.**

Our building is planned to contain the following items as non-operated stock:

- 55% Fireplaces/inserts/stoves – stocked mostly in wood crates and some in cardboard boxes
- 15% Grills/Smokers – Stocked in cardboard boxes
- 15% Venting – Stocked in cardboard boxes
- 10% Steel Caps/accessory parts – Not boxed
- 3% Durock board (cement)
- 3% Hardi-board (cement)
- 4% Mortar (cement mix)

**\*\*No flammables or chemicals of any kind will be stored or even used in the storage building.**





**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Site Plan application at 601 Blackhawk Drive.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Site Plan application from Scherrer Construction for property located at 601 Blackhawk Drive. The applicant is proposing to construct a vehicle and material storage building. The proposed vehicle and material storage building will be an accessory building to the current facility and support its existing operations. The building will be constructed on the east side within a gravel lot currently used for the outdoor storage of materials and vehicles. The building will be 1,920 square feet measuring 30 feet by 64 feet. The north wall will have four overhead doors and the west wall will have one overhead door for vehicle access. The roof peak height will measure 21 feet, 4 inches. The building will be clad in Gallery Blue steel siding and Charcoal Gray steel trim and roofing.

**Please see attached revised rendering of the storage building.**

**ZONING:**

The parcel is zoned M-3, Manufacturing and Office Park District.

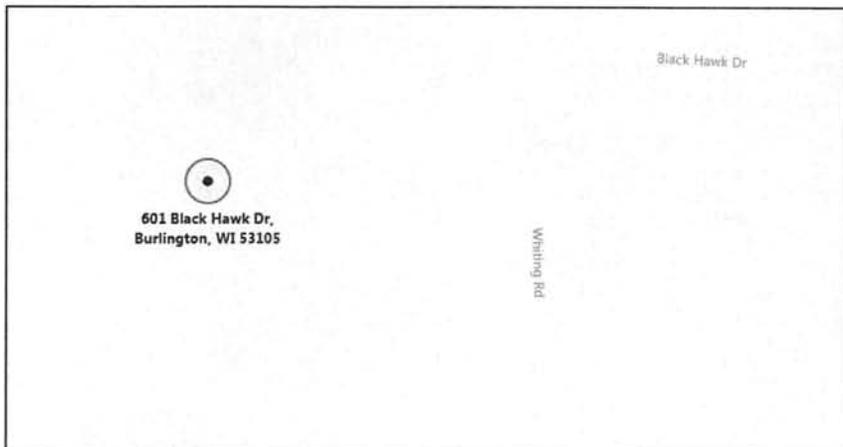
**RECOMMENDATION:**

Graef, Kapur & Associates, and Fire Department recommend a conditional approval of this Site Plan, subject to items listed in their May 1, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





One Honey Creek Corporate Center  
125 South 84<sup>th</sup> Street, Suite 401  
Milwaukee, WI 53214-1470  
414 / 259 1500  
414 / 259 0037 fax  
[www.graef-usa.com](http://www.graef-usa.com)

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## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

Copies to: Carina Walters, City Administrator  
Megan Watkins, Director of Administrative Services  
Gregory Guidry, Building Inspector  
Gregory Governatori, City Engineer, Kapur & Associates, Inc.  
John Bjelajac, City Attorney  
Connor Nimmow, Scherrer Construction Co., Inc., Applicant

**FROM:** GRAEF

**DATE:** May 1, 2018

**SUBJECT:** Review of Site Plan for a Vehicle and Material Storage Building at Scherrer Construction Co., Inc. at 601 Blackhawk Drive, Burlington, WI 53105

### A. PURPOSE

- 1) Consider for approval a Site Plan Approval Application from Connor Nimmow of Scherrer Construction Co., Inc. to construct a vehicle and material storage building at 601 Blackhawk Drive, Burlington, WI 53105 as an accessory building to the company's existing facility.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends that the Plan Commission recommend to the Common Council the **APPROVAL** of the following:

- a. a Site Plan Approval Application from Connor Nimmow of Scherrer Construction Co., Inc. to construct a vehicle and material storage building at 601 Blackhawk Drive, Burlington, WI 53105 as an accessory building to the company's existing facility.

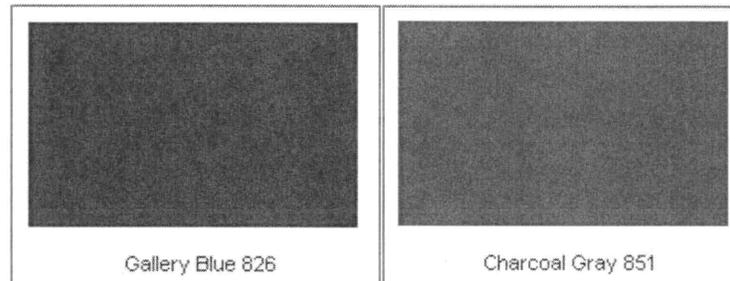
### C. BACKGROUND

Connor Nimmow of Scherrer Construction Co., Inc. (Applicant) submitted a Site Plan Approval Application to construct a vehicle and material storage building at the company's headquarters located at 601 Blackhawk Drive, Burlington, WI 53105. The vehicle and material storage building will be an accessory building to the current facility and support its existing operations. The building will be constructed on the east side of the parcel within a gravel lot currently used for the outdoor storage of materials and vehicles. The building will be 1,920 square feet measuring 30 feet by 64 feet. The north wall will have four



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overhead doors and the east wall will have one overhead door for vehicle access. The roof peak height will measure 21 feet, 4 inches. The building will be clad in Gallery Blue steel siding and Charcoal Gray steel trim and roofing.



Source: Cleary Building Corp.

The facilities of Scherrer Construction Co., Inc. are located on parcel 206-02-19-09-007-140 and zoned M-3 "Manufacturing and Office Park District." Parcel 206-02-19-09-007-140 is located in the Burlington Manufacturing and Office Park (BMOP). Surrounding uses include other commercial and manufacturing users zoned M-3. The west side of parcel 206-02-19-09-007-140 abuts agricultural land.

The construction of the vehicle and material storage building is substantially consistent with the provisions of the original conditional use permit issued in 2004. As the use will not change and it is unlikely that an increase in the intensity of use on parcel 206-02-19-09-007-140 will result from the new building, the building and its use may be incorporated into the 2004 conditional use permit. For future decision making, the recommendation of this memorandum may accompany a future Plan Commission action to be considered in tandem with the 2004 memorandum from Meehan & Company, Inc.

The Applicant submitted the following materials:

- a. Site Plan Approval Application form (2 sheets, as prepared by Connor Nimmow of Scherrer Construction Co., Inc., dated April 17, 2017)
- b. Cleary Building Corp. Project Proposal (10 sheets, as prepared by Cleary Building Corp., dated April 12, 2017)
- c. Schematic Site Plan Drawing (1 sheet, as prepared by RSV Engineering, undated)

*It is the understanding of GRAEF that reviews and comments on all engineering-related aspects of the site plan are to be accomplished by the City Engineer. Therefore, GRAEF defers all engineering-related review and comment to the City Engineer.*



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**D. COMPLIANCE WITH BURLINGTON ZONING CODE §315-32 "M-3 MANUFACTURING AND OFFICE PARK DISTRICT"**

The current use of the Scherrer Construction Co., Inc.'s facilities is allowable as a conditional use pursuant to §315-32(D) and substantially consistent with the conditional use permit originally granted in 2004. The future use of the vehicle and material storage building would be appropriate as a permitted accessory use pursuant to Subsection (C).

Parcel 206-02-19-09-007-140 is a conforming lot and meets the lot area and width requirements in Subsection (E). Additionally, Scherrer Construction Co., Inc.'s existing building, existing parking lot, and proposed new building conform to the maximum building height and minimum setback and yard requirements in Subsection (E).

The Applicant's materials did not indicate the installation of new lighting on the exterior of the proposed building. As additional light fixtures are not proposed as part of this project, a lighting plan required by §315-32(L) is not needed as part of the Applicant's submittal.

The proposed building construction is compliant with §315-32.

**E. COMPLIANCE WITH BURLINGTON ZONING CODE §315-52 "LANDSCAPING"**

As the total facility floor area on parcel 206-02-19-09-007-140 will not increase by more than 10%, additional landscaping and bufferyards are not required pursuant to §315-52(A)(2)(b). The vehicle and material storage building will add 1,920 square feet to the existing approximate 23,715 square feet. This constitutes an 8.1% increase.

**F. COMPLIANCE WITH BURLINGTON ZONING CODE §315-137 "SITE PLANS"**

The site plan is compliant with the requirements in §315-137(A, B, & C).

**G. COMPLIANCE WITH BURLINGTON ZONING CODE §315-138 "LANDSCAPE PLANS"**

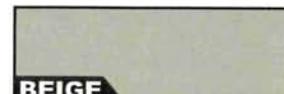
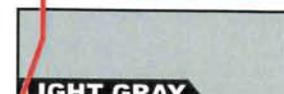
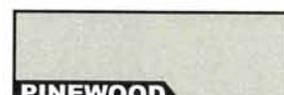
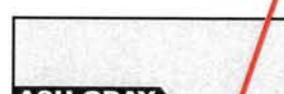
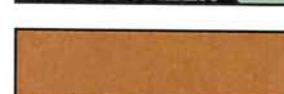
As additional landscaping is not needed pursuant to §315-52(A)(2)(b), a landscape plan was not required as part of the Applicant's submittal.



SCCI Accessory Building - Metal Roof / Lap Siding (Painted to Match)

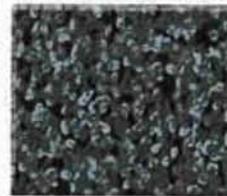
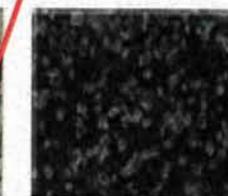
# Colors Available

Roof Style Proposed for Building  
- Color to match Primary Building  
Roof Color (See next picture)

 <b>WHITE</b>	 <b>BRITE WHITE</b>	 <b>SLATE BLUE</b>	 <b>BEIGE</b>	 <b>LIGHT GRAY</b>
 <b>BRITE RED</b>	 <b>PRAIRIE WHEAT</b>	 <b>PINEWOOD</b>	 <b>OCEAN BLUE</b>	 <b>BRONZE</b>
 <b>CHARCOAL GRAY</b>	 <b>RED</b>	 <b>IVORY</b>	 <b>ASH GRAY</b>	 <b>FOREST GREEN</b>
 <b>BURNISHED SLATE</b>	 <b>MIDNIGHT GRAY</b>	 <b>COLONIAL RED</b>	 <b>TAN</b>	 <b>PATINA GREEN</b>
 <b>EMERALD GREEN</b>	 <b>BROWN</b>	 <b>BLACK</b>	 <b>BURGUNDY</b>	 <b>COPPER COLORED*</b>

Color chips show approximate tone. Color of actual product may vary. Final color approval should be made with actual material.  
\*Only available in Premium Products.

## Multi-Tone Colors - Available in our Premium Products only

 <b>BARKDUST</b>	 <b>BAY HARBOR BLUE</b>	 <b>GOLD RUSH</b>	 <b>NORTHWEST SLATE</b>	 <b>TWILIGHT BLACK</b>	 <b>WOODLAND TIMBER</b>
------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------



Accessory Building Roof to match Primary Building Roof Color to obtain "general harmony" per Burlington Ordinance 315-32.M.(1)(g)





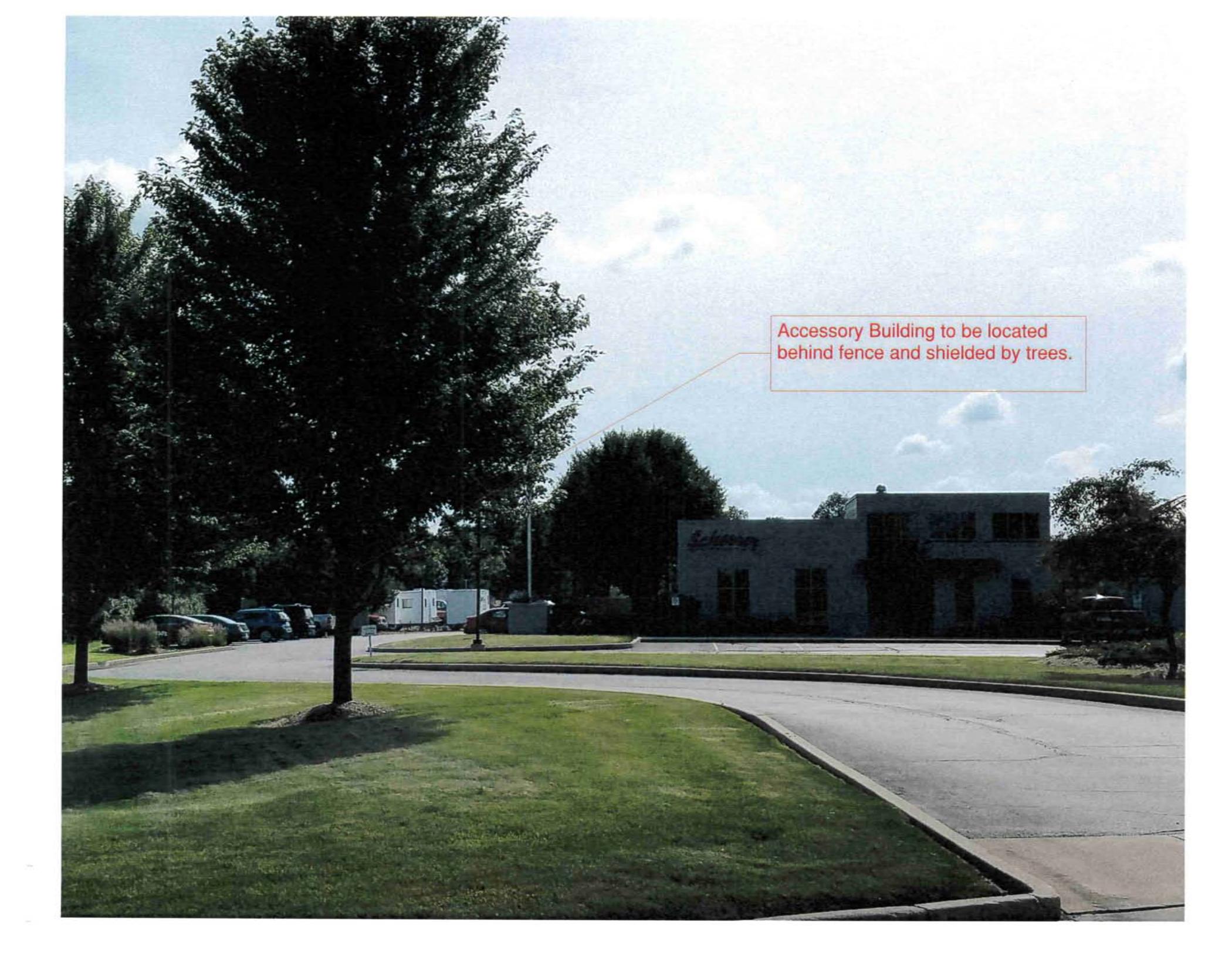
RESERVED  
PARKING  
[Wheelchair icon]  
THIS SPACE  
VAN  
ACCESSIBLE

RESERVED  
PARKING  
[Wheelchair icon]  
THIS SPACE



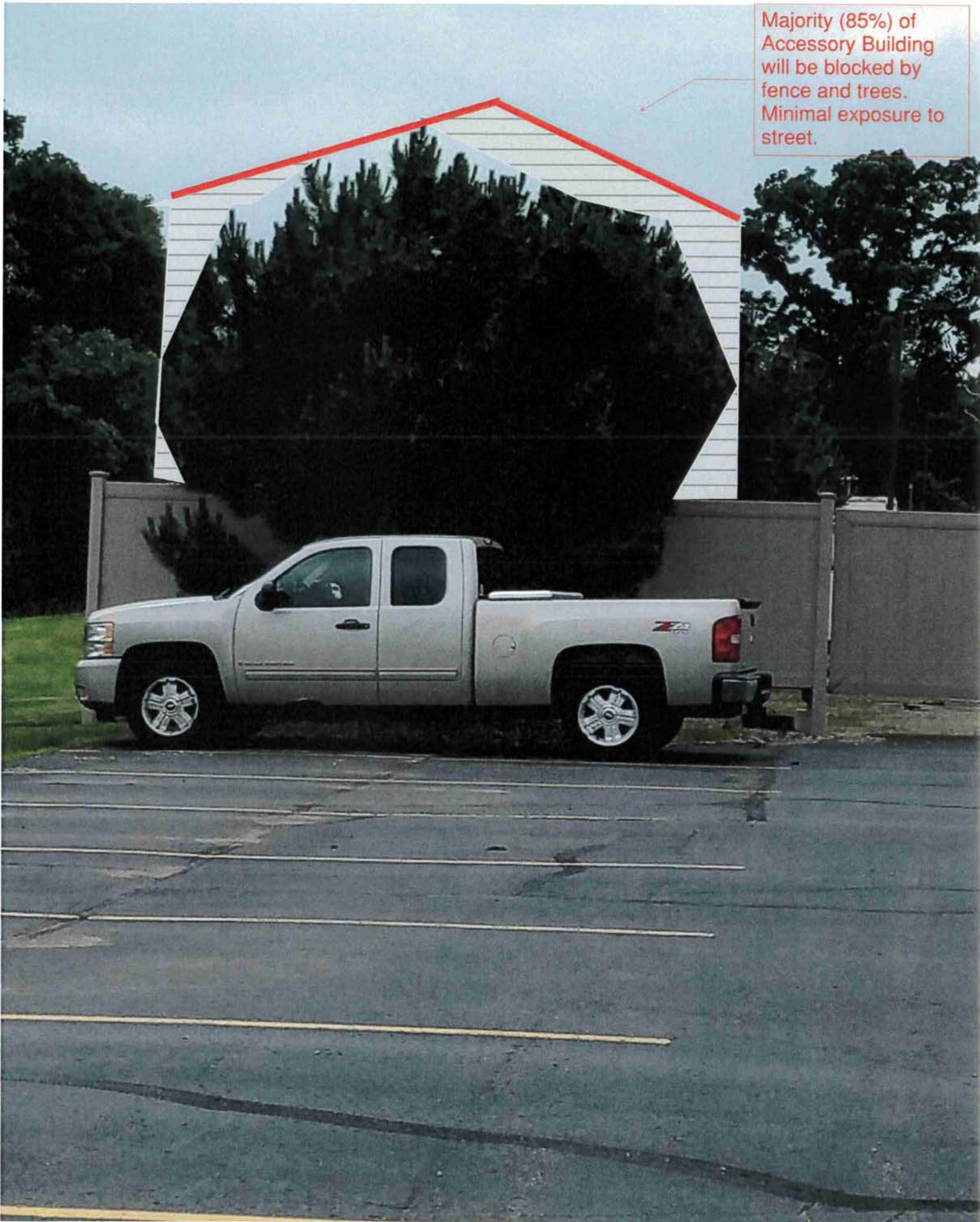
LP SmartSiding to be used on exterior of building and **Painted** to match Primary Building





Accessory Building to be located behind fence and shielded by trees.

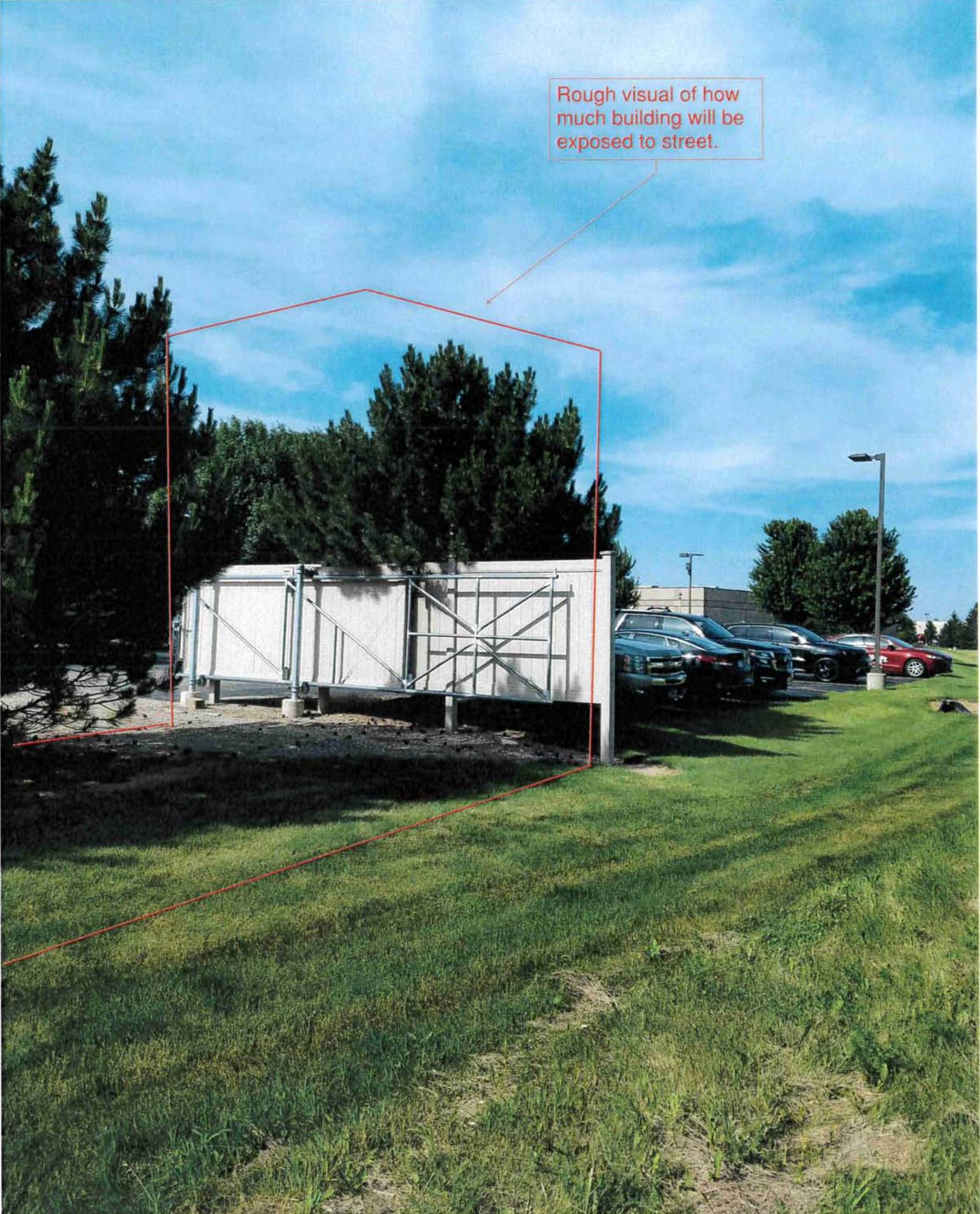
Majority (85%) of  
Accessory Building  
will be blocked by  
fence and trees.  
Minimal exposure to  
street.



Area of construction.  
Behind tree and  
fence. See next  
picture for view from  
back.



Rough visual of how much building will be exposed to street.





**PLAN COMMISSION**

**ITEM NUMBER: 7A**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to recommend approval of a Rezone Map Amendment request at 169 Industrial Drive from M-2 District to M-2 PUD Overlay District.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider recommending approval of a Rezone Map Amendment request from Richard Torhorst on behalf of Brian Ehlert for property at 169 Industrial Drive. The applicant is requesting to rezone the property from M-2, General Manufacturing District to M-2 PUD, General Manufacturing District with a Planned Unit Development Overlay. The applicant would like to convert an existing multi-tenant industrial building to condominium ownership. This condominium conversion requires a Planned Unit Development (PUD) Overlay District.

**ZONING:**

The parcel is zoned M-2, General Manufacturing District.

**RECOMMENDATION:**

Graef recommends approval of this Rezone Map Amendment, subject to items listed in the July 2, 2018 memorandum.

**TIMING/IMPLEMENTATION:**

This item is for recommendation to the Council at the July 10, 2018 Plan Commission, is scheduled for the July 17, 2018 Committee of the Whole meeting and with a Public Hearing the same night and at the August 7, 2018 Common Council meeting for consideration.

**MAP:**





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## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** GRAEF  
Ben Block  
Tanya Fonseca, AICP

**DATE:** July 2, 2018

**SUBJECT:** Review of a Petition for Rezoning Map Amendment and a Declaration of Condominium for 169 Industrial Drive.

### A. PURPOSE

Consider for approval a Petition for Rezoning Map Amendment and a Declaration of Condominium to convert the existing multi-tenant industrial building to condominium ownership.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends the following:

1. The Plan Commission recommend to the Common Council the **APPROVAL** of the Petition for Rezoning Map Amendment.

### C. BACKGROUND

Brian Ehlert of 169 Industrial Drive (Applicant) submitted a Petition for Rezoning Map Amendment on June 12, 2018 to allow for the conversion an existing multi-tenant industrial building to condominium ownership. The property is zoned "M-2 General Manufacturing District," and requires Planned Unit Development (PUD) Overlay District Zoning to allow for the condominium conversion. Once converted to condominiums, the present use of the building as a multi-tenant industrial building would remain as is.

The Applicant submitted the following materials:

1. A Petition for Rezoning Map Amendment (2 pages)
2. A Certified Survey Map (2 pages)
3. A Declaration of Condominium (25 pages)

*Note: It is the understanding of GRAEF that the legality of the Declaration of Condominium will be reviewed by the City Attorney; GRAEF has reviewed the Declaration of Condominium from a planning perspective.*



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#### **D. COMPLIANCE WITH ZONING CODE §315-43 “PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.”**

Per §315-43(A)(2), the use of a PUD Overlay District is a requirement for any sites that want to utilize the condominium ownership structure as defined by Chapter 703 of Wisconsin State Statutes.

As the property will retain its underlying zoning of “M-2 General Manufacturing District” and be used for industrial purposes, the proposed PUD Overlay District is an Industrial PUD. Per §315-43(E), the minimum area requirements for an Industrial PUD is 20-acres. The target property is only 1.033-acres in size, and fails to meet this requirement.

Considering that the purpose of the Industrial PUD is to establish a condominium ownership structure, and considering that there are no size requirements imposed by Wisconsin State Statutes §703.07 for the establishment of condominiums, the Plan Commission should recommend to the Common Council that the area requirements imposed by the City of Burlington for Industrial PUDs should be overlooked.

#### **E. CONSISTENCY WITH COMPREHENSIVE PLAN**

Per State Statutes, any changes to the Zoning Code or Zoning Map must be consistent with the Comprehensive Plan, most notably the Future Land Use Plan. As the industrial use of the property will remain unchanged, the proposed addition of a PUD Overlay District is consistent with the Comprehensive Plan.

#### **F. COMPATIBILITY WITHIN SURROUNDING CONTEXT**

All changes to the Zoning Code or Zoning Map must be compatible within the surrounding context. As the industrial use of the property will remain unchanged, the proposed addition of a PUD Overlay District is compatible within the surrounding context.

#### **G. REVIEW OF DECLARATION OF CONDOMINIUM**

A review of the Declaration of Condominium from a planning perspective revealed no issues of concern.



**CITY OF BURLINGTON**

---

**Fire Department**  
165 W. Washington Street, Burlington, WI 53105  
(262) 763-7842 – (262) 767-8602 fax  
[www.burlington-wi.gov](http://www.burlington-wi.gov)

**MEMORANDUM**

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** June 26, 2018

**SUBJECT:** Rezone Map Amendment – 169 Industrial Drive.

**A. PURPOSE**

Review a Rezone Map Amendment and Declaration of Condominiums for the property located at 169 Industrial Drive.

**B. RECOMMENDATION**

Based upon the review of the submitted materials, the City of Burlington Fire Department has no comments regarding the subject matter.



**Building & Zoning Department**  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1163 – (262) 763-3474 fax  
www.burlington-wi.gov

For Office Use Only	
Petition No.	_____
Date Filed	_____
Date Received (\$500)	6/12/18
Zoning Administrator	KA
	(initials)

**ZONING FORM NO. 2**  
**PETITION FOR REZONING MAP AMENDMENT**

TO THE COMMON COUNCIL OF THE CITY OF BURLINGTON, WISCONSIN:

I, the undersigned, being owner/owner's agent of all the area herein described, hereby petition the Common Council of the City of Burlington, Wisconsin, to rezone and make appropriate a zoning map amendment to the following described property from M2 District to PUD Overlay District:

Address of Property: 169 Industrial Drive Acres: 1.033

Legal Description of Property (attach additional sheets if needed): \_\_\_\_\_

~~See attached legal~~ \_\_\_\_\_

I have requested this rezoning for the purpose of: Converting an existing multi tenant industrial building to condominium ownership

Please find the following items attached:

Plot Plan drawn to a scale of one inch equals one hundred (100) feet showing the area to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within two hundred (200) feet of the area proposed to be rezoned.

Owners' Names and Addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.

Additional Information required by the Plan Commission or Common Council.

I have certified that all the above statements submitted herewith are true and correct to the best of my knowledge and belief.

PROPERTY OWNER:

Name Brian I. Ehler

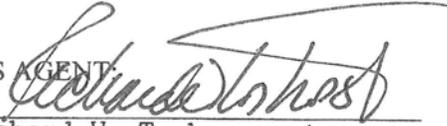
Address PO Box 481

Burlington, WI 53105  
(City) (State) (Zip)

Telephone No. 262-767-0067

Date June 12, 2018

OWNER'S AGENT:

Name   
Richard W. Torhorst, Attorney

Address PO Box 1300

Lake Geneva, WI 53147  
(City) (State) (Zip)

Telephone No. 262-248-3333

Date June 12, 2018

More information maybe requested by the Plan Commission and/or Common Council if deemed necessary to properly evaluate your request. The lack of information requested by this form may be sufficient cause to deny the petition. If you have any question regarding the procedure, please contact the Zoning Administrator.



## 169 INDUSTRIAL DRIVE CONDOMINIUM

Lot 4, Block 2, BURLINGTON INDUSTRIAL COMPLEX FIRST ADDITION, a subdivision of part of the Northeast Quarter of the Northeast Quarter, part of the Northwest Quarter of the Northeast Quarter, part of the Southwest Quarter of the Northeast Quarter and part of the Southeast Quarter of the Northeast Quarter, all in Section 5, Town 2 North, Range 19 East of the 4th Principal Meridian, City of Burlington, County of Racine, State of Wisconsin.

### SURVEYOR'S CERTIFICATE

I, Mark A. Bolander, Professional Land Surveyor No. 1784, hereby certify, that in compliance with the provisions of Chapter 703 of the Wisconsin Statutes and the land division Ordinance for Racine County and the City of Burlington, Wisconsin I have surveyed and mapped the following described lands:

Lot 4, Block 2, BURLINGTON INDUSTRIAL COMPLEX FIRST ADDITION, a subdivision of part of the Northeast Quarter of the Northeast Quarter, part of the Northwest Quarter of the Northeast Quarter, part of the Southwest Quarter of the Northeast Quarter and part of the Southeast Quarter of the Northeast Quarter, all in Section 5, Town 2 North, Range 19 East of the 4th Principal Meridian, City of Burlington, County of Racine, State of Wisconsin.

I further certify that this condominium plat correctly represents the condominium described; that the floor plans are reproduced from plans furnished by the owner and by measurements by this surveyor, and the location and identification of each unit and the common elements can be determined from the plat.

Dated at Wheatland, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Mark A. Bolander - Wisconsin Registered Land Surveyor S - 1784  
AMBIT LAND SURVEYING \* 8120-3121st Ave. \* Wheatland, WI 53105

### OWNERS CERTIFICATE

I, Brian R. Eiert, as owner do hereby certify that I have caused the land described on this map to be surveyed, mapped and divided as represented on this map.

Date \_\_\_\_\_

Brian R. Eiert, Owner

I, Brian R. Eiert, do further certify that this plat is required by Section 703 to be submitted to the following for approval or objection:

City of Burlington

STATE OF WISCONSIN

SS

Racine COUNTY

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017 the above named, Brian R. Eiert, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public \_\_\_\_\_

County, State \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Witness the hand and seal of said owner this \_\_\_\_\_ day of \_\_\_\_\_, 2017

### COMMON COUNCIL RESOLUTION

Resolved, that the plat of 169 CONDOMINIUM in the City of Burlington, Brian R. Eiert, owner, is hereby approved by the Common Council of the City of Burlington.

Dianne Holbach  
City Clerk

DECLARATION OF CONDOMINIUM  
OF  
169 INDUSTRIAL DRIVE CONDOMINIUM

This Declaration is made and entered into pursuant to the requirements of the Condominium Ownership Act, Chapter 703, et seq. of the Wisconsin Statutes, by Brian R. Ehlert, as legal titleholder of the real estate which is the subject matter of this Declaration, said legal titleholder being hereinafter referred to as the "Declarant":

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of certain real estate hereinafter described, located in the City of Burlington, Walworth County, Wisconsin, which real estate is more particularly described as follows:

Lot 4, Block 2, Burlington Instruction Complex First Addition, a subdivision of part of the Northeast Quarter of the Northeast Quarter, page of the Northwest Quarter of the Northeast Quarter, page of the Southwest Quarter of the Northeast Quarter and part of the Southeast Quarter of the Northeast Quarter, all in Section 5, Town 2 North, Range 19 East of the 4<sup>th</sup> Principal Meridian, City of Burlington, County of Racine, State of Wisconsin.

WHEREAS, the Declarant desires and intends by this Declaration to submit and subject said real estate, together with all buildings, piers, structures, improvements and other permanent fixtures of whatsoever kind thereon, or that may be constructed thereon, and all rights and privileges belonging or in any way pertaining thereto (hereinafter referred to as the "Property"), to be owned by Declarant and by each successor in interest of the Declarant, under that certain type ownership commonly known as "condominium" and to submit the Property to the provisions of the Condominium Ownership Act of the State of Wisconsin as the same is amended from time to time (hereinafter referred to as the "Act"); and

WHEREAS, the Declarant further desires and intends that the several owners, mortgagees, occupants and other persons hereafter acquiring any interest or possession in said Property or any part thereof, shall at all times enjoy the benefit of, and shall at all times hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are hereby declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of said property, and are hereby established for the purpose of enhancing and preserving the value, desirability and attractiveness of the Property,

NOW, THEREFORE, the Declarant, as the legal titleholder of the Property hereinabove described, and for the purposes set forth above DECLARES AS FOLLOWS:

ARTICLE 1  
DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

Act: The Condominium Ownership Act of the State of Wisconsin, as amended from time to time, being Chapter 703 et seq. of the Wisconsin Statutes.

Common Elements: All of the condominium except its Units.

Declaration: This instrument by which the Property, as hereinafter defined, is submitted to the provisions of the Act, and shall include such instrument as from time to time may be adopted pursuant to the terms thereof, or any addenda to this instrument.

Declarant: Whenever used herein, the word "Declarant" shall denote the present legal titleholder of the Property and any successors, heirs, or assigns thereto.

Limited Common Elements: That portion of the Common Elements serving a single Unit or Units as an inseparable appurtenance thereto and designated on the plat as Limited Common Elements. The Limited Common Elements are reserved for the exclusive use of one or more of the Unit Owners.

Occupant: Person or persons, other than Owner, in possession of a Unit.

Parcel: The entire tract of real estate above described.

Parking Area: That part of the Common Elements provided for parking of automobiles and other vehicles as delineated on the plat as "Parking" or "Parking Area".

Parking Space: Each portion of the Parking Area intended for the

parking of a single automobile or other vehicle.

Person: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property in Wisconsin.

Property: Unimproved land, land together with improvements on it or improvements without the underlying land. Property may consist of noncontiguous parcels or improvements.

Plat: The Plat of Survey of the Property showing all Units presently situated or to be constructed, submitted and to be submitted pursuant to the provisions of the Act, said plat being attached hereto as an exhibit and by this reference made a part hereof and recorded simultaneously with the recording of this Declaration.

Unit: A part of the Property subject to the Act and intended for independent use as a single office and connecting warehouse/shop, including one or more cubicles of air at one or more levels of space, or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) as described on the Plat. Included as a part and portion of the Unit are all interior wall surfaces, entryways and substructures, doors and windows, as well as the floor surfaces and ceiling surfaces of the Unit as herein defined.

Unit Owner: A person, combination of persons, partnership or corporation, who holds legal title to a condominium unit or has equitable ownership as a land contract purchaser.

Unit Number: The number, letter or combination thereof designating the unit in the Declaration and on the Plat.

Association of Unit Owners: All of the unit owners acting as a group in accordance with the By-laws and this Declaration.

Building: A structure containing one or more Units and

comprising a part of the Property.

Majority or Majority of Unit Owners:

The Unit Owners with more than 50% of the votes in accordance with the votes assigned in the Declaration to the Units for voting purposes.

Unit Ownership:

A part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

Streets and Roads:

The surfaced portions of the Property set aside for the use for travel by foot, animal or vehicles to and from the Units to the public streets or highways.

ARTICLE II

PROPERTY AND UNITS: SUBMISSION TO ACT

2.1 Submission of Property to Act. The Declarant hereby submits the Property described herein to the provisions of the Act, which shall hereafter be known as "169 INDUSTRIAL DRIVE CONDOMINIUM".

2.2 Units: Description and Ownership. The legal description of each Unit shall consist of the identifying number or symbol of each Unit as shown on the Plat attached hereto as Exhibit "A". Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on the plat, and every such description shall be deemed good and sufficient for all purposes as provided in the Act. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as set forth in the delineation thereof as shown on the Plat, which shall include the interior floor, wall, doors and windows, and ceiling surfaces of said Unit. Except as otherwise provided by the Condominium Ownership Act, no Unit Owner shall, by deed, plat or otherwise, subdivide or in any manner cause the Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat. Each Unit shall be entirely within the Building Envelope as designated on the Plat. No unit shall be expanded beyond the dimensions set forth in the Plat of Survey.

2.3 Certain Structures Not Constituting Part of a Unit. No Unit Owner shall own any pipes, wires, conduits, public utility links or other structural components running through his Unit and serving more than his Unit, whether or not such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit, except as a tenant-in-common with all other Unit Owners to which said pipes, wires, conduits, public utility links or other structural components are appurtenant.

ARTICLE III  
COMMON ELEMENTS

3.1 Description. Except as otherwise provided in this Declaration, the Common Elements shall consist of all portions of the Property, except the Units. Without limiting the generality of the foregoing, the Common Elements shall include outside walks, and driveways, streets, landscaping, entrances and exits, parking area, outdoor lighting, facilities, pipes, pumps and underground conduits for the water system of the Condominium, culverts, conduits, wires and other utility installations, as well as all other facilities located within the confines of the Condominium.

3.2 Ownership of Common Elements. The Unit Owners shall have appurtenant to it an undivided interest in the Common Elements as follows:

Unit 1: 16.666%  
Unit 2: 16.666%  
Unit 3: 16.666%  
Unit 4: 16.666%  
Unit 5: 16.666%  
Unit 6: 16.666%

3.3 No Partition of Common Elements. There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms or from the terms of any statute applicable to condominium ownership.

ARTICLE IV  
GENERAL PROVISIONS AS TO UNIT OWNERSHIP & COMMON ELEMENTS

4.1 Easements.

(a) Encroachments: In the event that, by the reason of the construction, settlement or shifting of any building, or the design or construction of any Unit, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of the Unit encroaches or shall hereafter encroach upon any part of the Common Elements or any other Unit, or, if by reason of the design or construction of utility systems, any pipes, conduits, etc. serving more than one Unit encroaches or shall hereafter encroach upon any part of any Unit, valid easement for the maintenance of such encroachments are hereby established and shall exist for the benefit of such Unit and the Common Elements; provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Owners of the Common Elements if such encroachment occurred due to the willful conduct of said Owner or Owners.

(b) Utility Easements: All public and private utilities serving the Property are hereby granted the right to lay, construct, renew, operate and maintain conduits, cables, pipes, wires,

transformers, switching apparatus and other equipment, into and through the Common Elements and the condominium Units for the purpose of providing utility services to the Property.

(c) Parking Area: All parking areas shall be part of the Common Elements. Common Element parking areas shall be allocated, used and operated in such manner and subject to such rules and regulations as the Board of Directors may prescribe from time to time. Each and all parking spaces in the parking area shall be provided for by the Board, together with the maintenance and upkeep of each said parking space from time to time hereafter. The Board shall, at all times, insure reasonable means of access to each and all such parking spaces from public roads.

(d) Easements of Access: There is hereby reserved to each and all Unit Owners and their respective successors and assigns, perpetual nonexclusive easements over the Common Elements for ingress and egress to each Unit and insuring a right of access between each and all Units and the public roads; each and all of which easements shall be appurtenant to, and pass with the title to, the respective Unit to which said easements correspond, whether or not said easement is expressly mentioned in a deed or deeds of conveyance. The location and use of said easement shall be subject to the rights and powers of the Board of Directors in this Declaration set forth; provided, however, that such rights and powers shall never be construed or exercised in a manner which deprives any Owner of a Unit, of ingress and egress to such Unit or of access between such Unit and public roads

(e) Service and Maintenance Easements: It is hereby reserved for the benefit of all Unit Owners, and their respective successors and assigns, perpetual, nonexclusive easements over the Common Elements for ingress and egress to the Common Elements and each Unit in order to provide and serve the Property with garbage and refuse pickup, mail service, police and fire protection, as well as necessary and miscellaneous maintenance services of the Common Elements by the Property Owners Association and/or those persons appointed or hired by the Property Owners Association to perform said functions.

(f) Easements to Run with Land: All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on, the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee, and other persons having an interest in the Property, or any part or portion thereof.

4.2 No Severance of Ownership: No Owner shall execute any deed, mortgage, lease or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other, shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described herein.

4.3 Use of the Common Elements: Subject to the provisions of Article VI and Article XII, each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of ingress and egress to, and use and occupancy and enjoyment of, the respective Unit owned by each Unit Owner, and to the use and enjoyment of Common Areas. Such rights shall extend to the Unit Owner, employees and guests and other authorized occupants and visitors of the Unit Owner. The use of the Common Elements and the rights of the Unit Owners with respect thereto shall be subject to and governed by the provisions of the Act, this Declaration and the Bylaws and rules and regulations of the Board of Directors (hereinafter described and for convenience hereinafter sometimes referred to as the "Board"). The Board of Directors shall have the right and authority to lease or rent or grant licenses or concessions with respect to the storage areas, parking or other parts of the Common Elements, subject to the provisions of this Declaration and the Bylaws and rules and regulations of the Board.

4.4 Damage or Destruction: In the event any of the Property is damaged or destroyed:

(a) If the damage is only to those parts of a Unit which the Unit Owner has the responsibility to maintain as provided herein, the Unit Owner shall be responsible for the repair;

(b) Otherwise, the duty, authority and responsibility to rebuild, repair, or restore shall be borne solely by the Association, unless within ninety (90) days of the date of the damage or destruction the Association determines by an affirmative vote of at least sixty-six (66%) percent of the votes in the Association not to rebuild, repair, or restore. In the event the Property is not rebuilt, repaired or restored, the Property shall be subject to the provisions of Sec. 703.18(2)(b), Wisconsin Statutes.

## ARTICLE V COVENANTS AND RESTRICTIONS OF USE AND OCCUPANCY

### 5.1 Intent of Covenants and Restrictions.

The covenants and restrictions herein shall apply in their entirety to all Units in 169 INDUSTRIAL DRIVE CONDOMINIUM Plat as recorded. It is the intention of these covenants and restrictions to maintain aesthetic harmony for the benefit and protection of the Unit Owners of the Units in the condominium and to provide architectural protection and control of the Units and Common Areas and their use. It is a further intent of these covenants and restrictions that no part of the Property shall be used for other than purposes for which the Property was designed. Each Unit shall be used as a business office and/or warehouse/shop or such other purposes as permitted by this Declaration and for no other purposes.

These rules have been adopted to permit the enjoyment of the condominium by all those authorized to use it. The purchase of a Unit shall constitute acceptance of these rules and regulations and shall acknowledge a willingness to abide by them.

5.2 Unit Use.

1. The Units shall be utilized only for a business office and/or warehouse/shop.
2. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance on the Property without the prior written consent of the Board of Directors. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the Property, or which would be in violation of any Jaw or zoning ordinance.
3. Each Unit Owner shall be responsible for his own insurance for his Units and the contents located therein and his appurtenances, additions and improvements thereto, decorating and furnishings and personal property therein, his personal property stored elsewhere on the Property and personal liability, all to the extent not covered by fire and liability insurance for all the Unit Owners obtained as part of the Common Expenses as provided in Article V 5.01(9)(a)(b).
4. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in any of the Common Elements at any time.
5. No noxious, offensive or illegal activity shall be carried on in any Unit or the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to other Unit Owners or occupants.
6. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Unit or on the Common Elements which is violative of State or local building or zoning codes or Laws.
7. Unit Owners are responsible to keep and maintain their Unit and personal property thereon in a neat, clean, sanitary and orderly condition.
8. Garbage and rubbish removal shall be a common expense of each Unit Owner. All garbage and rubbish shall be placed in common dumpsters located and maintained as an Association expense. Notwithstanding the foregoing, in the event any owner, by virtue of its business, or otherwise, deposits excessive amounts of garbage or rubbish in comparison to other units within the condominium (as determined in the sole discretion of the Board of Directors), the Board of Directors may assess the garbage and rubbish removal expense in a percentage different than that set forth in the ownership percentage exhibit attached hereto.

### 5.3 Unit Improvement.

1. In General: There may be no improvement to a Unit which in any manner hinders the use of another Unit or the Common Elements of the Condominium or which in any way interferes with the provision of services to any Unit. There shall be no structural improvement to a Unit without prior written approval of the Board of Directors.
2. Contour Improvements: There shall be no contour improvements made by any Unit Owner to the Common Areas.
3. Unit Improvements: Improvements to the exterior of Units shall be allowed upon the express written consent of the Board of Directors, but the improvement of all Units shall be of a uniform nature with materials and colors approved by the Board of Directors. No Unit shall be expanded beyond the limit of the present dimensions as set forth on the Plat.
4. Plants, Trees and Shrubs: Trees, shrubs and plants shall be provided by the Board of Directors and located on the Common Areas. No Unit Owner shall plant trees, shrubs, plants, grass or lawns without the prior consent of the Board of Directors.
5. Concreting or Blacktopping of Common Elements: None of the Common Elements shall be concreted, blacktopped or otherwise paved by any Unit Owner without the prior written consent of the Board of Directors.
6. Fencing: Unit Owners are hereby prohibited from erecting any fences on the Common Elements. All fencing of any kind and nature must be constructed by the Board of Directors.
7. Gardens: Unit Owners are hereby restricted from installing or planting a garden on the Common Elements without the prior express written consent of the Board of Directors.
8. External Lights: Permanent external lighting is allowed, provided that no external lights shall shine or become a hindrance on other Units and shall be directed towards the ground so as not to directly illuminate or create a nuisance to other Unit Owners, excepting lighting for external signs as provided herein.
9. Signs: Unit Owners may place external signs on the exterior building surfaces adjoining their unit; which sign or signs shall be of a uniform size, design, color and placement as other signs in the condominium and shall not be placed without prior written approval of the Board of Directors. The Board of Directors shall compile a signage scheme to ensure a consistent and aesthetically harmonious signage policy. Such policy or scheme may include sign lighting and/or an Association sign for use by all Unit Owners.

#### 5.4 Common Areas.

1. Roadways within the Common Areas are to be kept clear and unobstructed at all times. No parking is allowed on the roadways.
2. Speed limit on all roadways and/or parking areas in the Condominium is five (5) miles per hour.
3. No allowable motorized vehicle of any type may be parked or located other than in a Unit or approved parking area.
4. Inoperable vehicles located anywhere within the Condominium shall be promptly removed by their Owners.
5. No person may cut or remove any trees or vegetation from any part of the Common Elements nor alter its existing topography and drainage. The Board may permit trimming or removal of small vegetation adjacent to the Units and located in the Common Elements, if necessary, for the reasonable use and enjoyment of the Units.
6. There shall be no obstruction of the Common Elements nor shall anything be stored on the Common Elements without prior consent of the Board.

#### 5.5 General Covenants and Restrictions.

1. No "For Sale" or "For Rent" signs, advertising or other display shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined and permitted in writing by the Board; and except as to those rights hereinafter granted to the Declarant.
2. Entry to the Property may be made only through the prescribed entrance and in no circumstances, shall entry be made to the Condominium by trespassing on adjacent property. Violation of this condition shall give the Board the right to proceed under Article X of this Declaration.

### ARTICLE VI SALE, LEASING OR OTHER ALIENATION

6.1. Right of First Refusal on Conveyance. No Unit Owner other than the Declarant shall, at any time, sell, convey, gift or give away any Unit without first complying with the provisions hereinafter contained in this paragraph unless the recipient of said Unit is related by blood or marriage to the Owner, is a co-owner, a member of the partnership which is the Owner of a Unit, or a shareholder in a corporation which is the Owner of a Unit. No such sale or alienation shall be made unless the Board is given no less than thirty (30) days prior written notice of the terms of any proposed bona fide sale or other alienation, as evidenced by a bona fide written

document of purchase, sale or other alienation, together with the name and address of the proposed purchaser or alienee. The Association shall, at all times, have the first right and option to purchase such Unit upon the terms as evidenced by such bona fide document, which option shall be exercisable for a period of thirty (30) days following the date of receipt of the written notice of the proposed sale or alienation. If said option is not exercised by the Association within said thirty (30) days, the Owner may, at the expiration of said thirty (30) days period and at any time within sixty (60) days after the expiration of said period, contract to sell or gift such Unit to the proposed purchaser or donee named in such notice, but only to such purchaser or donee upon the terms specified therein.

6.2. Units may be leased on no less than an annual basis provided that any Unit Owner desiring to lease his Unit shall notify the Board of the name, address, phone number and occupation of any prospective Lessee and shall provide the Board with at least thirty (30) days notice of such Lease. The Lease for any Unit executed by any Unit Owner shall restrict the utilization of said Unit to the uses provided herein.

(a) Any Lessee shall be fully subject to the rules and regulations of this Declaration and those promulgated by the Board under authority of this Declaration. The Lessor of any Unit shall have the primary responsibility for enforcement of the rules and regulations before mentioned. Upon violation of the rules and regulations, the Board shall have the authority to terminate the lease of such Unit upon notice of not less than seven (7) days. The Board may not, however, promulgate any rules or regulations that restrict or prohibit the leasing of Units. Nothing in this section shall be construed as limiting the rights of the Board or Association to remedy for breach of covenants, restrictions and regulations as provided in Article VIII of this Declaration.

(b) A Unit Owner may lease the office or warehouse/shop portion of his Unit separate from the other provided both usages are consistent with and not violative of the covenants and provisions hereof, including, but not limited to, zoning codes.

(c) The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, or any part of the same, shall not impair or affect, in any manner, the validity, enforceability or effect of the rest of this Declaration.

(d) Real estate taxes are to be separately taxed to each Owner for his Unit and such Unit's corresponding percentage of Ownership in the Common Elements, as provided in the Act. In the event that for any year such taxes are not separately taxed, then each Unit Owner shall be assessed his proportionate share of the tax bill in accordance with his respective fractional Ownership in the Common Elements.

(e) The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class condominium.

ARTICLE VII  
BYLAWS  
169 INDUSTRIAL DRIVE CONDOMINIUM  
OWNERS ASSOCIATION, INC.

7.1 Administration.

1. Administration of Property: The initial Board of Directors shall consist of those individuals named in the Article of Incorporation until such time as provided in Section 703.15 Wisconsin Statutes, or such time as Declarant shall vest the management and control of the condominium but no later than as required by Section 703.15 Wisconsin Statutes. The Board of Directors of the Condominium, after Declarant releases control of the Condominium and the direction and administration of the same, shall consist of three (3) persons. Except for the initial Board of Directors and those Board members nominated by the Declarant, each member of the Board shall be one of the Unit Owners or a spouse of a Unit Owner. In the event a Unit Owner is a corporation, partnership, trust or other legal entity, then any officer, director, beneficiary, or other designated agent of such entity shall be eligible to serve as a member of the Board.

2. Association: The Association as referred to herein shall be 169 INDUSTRIAL DRIVE CONDOMINIUM OWNERS ASSOCIATION, INC., a corporation organized under the pursuant to Chapter 181 of the Wisconsin Statutes. The Board shall be deemed to be the "Board of Directors" for the Unit Owners as referred to in the Act. Each Unit Owner shall be a member of the Association so long as he shall be a Unit Owner, and such membership shall automatically terminate when he ceases to be a Unit Owner, and upon the transfer of his ownership interest the next Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. The Association may issue certificates evidencing membership therein if deemed advisable by the Board of Directors.

3. Voting Rights: Each Unit Owner shall be entitled to a vote which shall be weighed according to the percentage of ownership as set forth in the exhibit attached hereto and as may be amended from time to time as set forth elsewhere in this Declaration. Such voting member who shall be entitled to vote the number of votes allotted to a Unit owned, may be a Unit Owner, one of the persons composed of all the Owners of a Unit Ownership, or may be some person designated in writing by such Unit Owner or Owners to act as proxy on his or their behalf and who need not be a Unit Owner. The terms "majority" or Majority of the Owners" whenever used herein shall have the same meaning as provided for such terms in Section 703.15(4)(e) of the Act. Any specified percentage of Owners, whether majority or otherwise, for the purpose of voting and for all purposes herein provided, shall mean such percentage of the aggregate in interest of the undivided ownership of the Common Elements.

4. Mailing Address: The mailing address for the Condominium Association shall be: Brian Ehlert, PO Box 481, Burlington, Wisconsin 53105.

5. Service of Process: Service of process may be made upon:

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6. Meetings.

(a) Place and Quorum: Meeting of the Owners shall be held at the Property or at such other place as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the Unit Owners of a majority of votes held by all the Unit Owners shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Unit Owners at which a quorum is present upon the vote of the majority of Unit Owners represented at the meeting.

(b) Initial Meeting: The Declarant's control of the Association shall cease pursuant to Section 703.15(2)(c) of the Act. Upon the expiration of the control of the Declarant, the Association, pursuant to the Act and within thirty (30) days of said expiration, shall hold their First Annual Meeting.

(c) Annual Meeting: Following the First Annual Meeting, there shall be an annual meeting of the Unit Owners on the first Saturday of June of each succeeding year thereafter or at such other reasonable time or date.

(d) Special Meetings: Special Meetings of the Owners may be called at any time for any legal purpose, upon written notice authorized by the Board, or by at least twenty-five (25%) of the owners, delivered not less than ten (10) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

(e) Notices of Meetings: Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the unit of the owner with respect to which such voting right appertains if no address has been given to the Board.

7.2 Board of Directors.

(a) First Annual Meeting: At the First Annual meeting, the voting members shall elect the Board. In all elections for members of the Board, each voting member shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected. At the First Annual Meeting three (3) Board Members shall be elected. Two (2) persons receiving the highest number of votes at the First Annual Meeting shall be elected to the Board for a term of two (2) years and the one (1) person receiving the next highest number of votes shall be elected to the

Board for a term of one (1) year. The election and term of office as between candidates receiving the same number of votes shall be determined by lot. Upon expiration of the terms of office of the Board members so elected at the First Annual Meeting and thereafter, successors shall be elected for a term of two (2) years each. The voting members having at least two-thirds (2/3) of the total votes of all Unit Owners may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of Board members at any annual or special meeting providing that such number shall not be less than two (2) and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. Members of the Board shall serve without compensation unless compensation shall be approved or ratified by vote of the voting members having a majority of the total votes. Vacancies in Board, including vacancies due to any increase in the number of persons on the Board shall be filled by the voting members present at the next annual meeting or special meeting of the voting members called for such purpose. Except as otherwise provided in the Declaration, the Property shall be managed by the Board, and the Board shall act by majority vote of those present at its meeting when a quorum of the Board exists. Meetings of the Board may be called, held and conducted in accordance with such regulations as the Board may adopt. A majority of the total number of members on the Board shall constitute a quorum.

(b) The Board shall elect from among its members a President who shall preside over both its meetings and those of the Voting Members, and who shall be the chief executive officer of the Board and the Association, a Secretary who shall keep the minutes of all meetings of the Board and of the Voting Members and who shall, in general, perform all the duties incident to the office of secretary, including counting votes, and a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect.

(c) Except for Directors designated by Declarant, any Board member may be removed from office by affirmative vote of the voting members having at least two-thirds (2/3) of the total votes, at any special meeting called for this purpose or at any regular meeting. A successor to fill the unexpired term of a Board members removed may be elected by the voting members at the same meeting or any subsequent meeting called for that purpose.

7.3 General Powers of the Board. The Board, for the benefit of all the owners, shall provide and shall pay for out of the Maintenance Fund hereinafter provided for, the following:

(a) A policy or policies of insurance insuring the Common Elements against loss or damage by the perils of fire, lighting and those contained in the extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Common Elements, written in the name of, and the proceeds thereof payable to, the members of the Board, as Trustees for the Owners. Prior to obtaining any such policy or policies of insurance, or any renewal thereof, except for the initial policy or policies obtained by the Declarant, the Board, at its election, may from time to time, obtain an appraisal from a qualified person for the purpose of determining the full replacement value of the Common Elements for the amount of insurance to be effected pursuant hereto. The cost of any and all such appraisals shall be common expenses. All such policies of insurance (1) shall provide that the insurance, as to the interest of the Board, shall not be

invalidated by any act or neglect of any Owner, (2) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Owners elect to sell the Property or remove the Property from the provisions of the Act, (3) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Trustee, the Declarant, the managing agent, if any, their respective employees and agents, and owners or occupants, and (4) shall contain a "replacement Cost Endorsement." The proceeds of such insurance shall be applied by the Board for the reconstruction of the amenities in the Common Elements, or shall be otherwise disposed of, in accordance with the provisions of this Declaration and the Wisconsin Condominium Ownership Act. Such insurance coverage shall also cover cross-liability claims of one insured against another.

(b) A policy or policies of comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as the Board shall deem desirable, insuring each Unit Owner, the Association, its officers, members of the Board, Declarant, manager and managing agent of the building, if any, and their respective employees and agents, from liability in connection with the Common Elements and the streets, sidewalks and areas adjoining the Property and insuring the officers of the Association and members of the Board from liability for good faith action beyond the scope of their respective authorities. Such insurance coverage shall include cross-liability claims of one or more insured parties against the other insured parties.

(c) Workmen's compensation insurance as may be necessary to comply with any applicable laws and other forms of insurance as the Board in its judgment shall elect to effect.

(d) The services of any person or firm employed by the Board, The Board, at the direction of a majority of the owners, may employ the services of a person or firm to act on behalf of the owners in connection with real estate taxes and special assessments on the Unit Ownerships. The cost of such services shall be common expenses. Upon authorization by at least a majority of the Unit Owners, the Board, acting on behalf of all owners, shall have the power to seek relief from or in connection with any assessments or charges, and to charge and collect all expenses incurred in connection therewith as common expenses.

(e) Landscaping, gardening, snow removal, painting, cleaning, tuck pointing, maintenance, decorating, repair and replacement of the Common Elements, including the furnishing of materials, supplies, furniture, labor, services and equipment, for the Common Elements as the Board shall deem necessary and proper, the Board having the exclusive right and duty to provide for the Common Elements. The obligation of the Board so stated herein does not extend to the Limited Common Elements (except the Limited Common Elements designated as parking areas, which shall be maintained and paid by the Board), but shall be provided for by those Unit Owners having the right to use said Limited Common Elements. In addition to the above enumerated services, the Board shall also

undertake the operation of lawn mowing of the Common Elements. Unit Owners shall cooperate as need be in order that the mowing of the units may be done in an expeditious and orderly fashion. The miscellaneous trimming around the units shall be the obligation of the Unit Owners.

(f) Any amount necessary to discharge any construction lien or other encumbrance levied against the entire property or any part thereof which may in the opinion of the Board, constitute a lien against all or part of the Common Elements. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Owners.

(g) Maintain and repair any Unit if such maintenance or repair is necessary in the discretion of the Board, to protect the Common Elements and an Owner if any Unit has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner, provided that the Board shall levy a special assessment against said Owner for the cost of said maintenance or repair. Provided, further, that the notice envisioned by this paragraph shall not be necessary in case of an emergency which shall be determined in the sole discretion of the Board.

(h) The Board or its agents, upon reasonable notice, or in the case of an emergency determined at the sole discretion of the Board, without notice may enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the owners as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund.

(i) The Board 's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire or provide or pay for out of the maintenance fund any structural alterations, capital additions to, or capital improvements of the Common Elements (other than for purposes of replacing or restoring portions of the Common Elements subject to all the provisions of this Declaration) requiring an expenditure in excess of Five Thousand and no/100 (\$5,000.00) Dollars, in any one instance, without in each case, the prior approval of the voting members or at least two-thirds (2/3) of the Unit Owners.

(j) All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and countersigned by the Treasurer of the Board

(k) The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property and

for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners. The entire Property shall at all times be maintained subject to such rules and regulations. If within thirty (30) days from the date of written notice to the Unit Owners of the adoption of any rule or regulations at least twenty-five (25%) of the Unit Owners shall file with the Board of written objection thereto, then such rule or regulation shall be deemed rescinded until approved by a majority vote of the Unit Owners.

(l) The Declarant may enter into a management contract, contract for services, employment contracts, or other agreements to facilitate the maintenance, management and upkeep of the Property, which shall be binding upon and enure to the benefit of the owners and Association. Thereafter, the Board may terminate said contracts upon not less than ninety (90) days notice to the other party thereto.

(m) Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all the owners or any of them.

(n) The Board shall have the power to borrow money, acquire and convey Property in the Association name only with the prior approval of the voting members of at least two-thirds (2/3) of the owners, except as herein provided elsewhere in this Declaration.

(o) The Board may engage the service of a manager or managing agent and pay compensation from the Assessment-Maintenance funds provided, however, that the Board may not contract with said manager or managing agent for a period of time of more than one (1) year. Said contract to be renewable yearly at the option of the Board.

## ARTICLE VIII

### ASSESSMENT-MAINTENANCE FUND

8.1 On or before December 1st, the Board shall estimate the total amount necessary to pay the costs of wages, materials, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for replacements and contingencies, and shall, on or before December 15th, notify each Unit Owner in writing of the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the Unit Owner according to each Unit Owner's percentage of ownership in the Common Elements, as a yearly assessment. On or before January 1st of the ensuing year, and the first calendar day of each and every month of said year, each Unit Owner shall be personally liable for an obligated to pay to the Board one-twelfth (1/12) of said yearly assessment pursuant to this paragraph. Upon written request of any Unit Owner, or at any time as the Board shall direct, the Board shall supply to such Unit Owner an itemized accounting of the maintenance expenses for

the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimate provided and showing the net amount over and short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each Unit Owner's percentage of ownership in the Common Elements to the next monthly installments due from Unit Owners under the current year's estimate until exhausted and one-third (1/3) of any net shortage shall be added according to each Unit Owner's percentage of ownership in the Common Elements, to the installments due in each of the succeeding three (3) months after rendering of the account. In addition to the requirements for maintenance of the Common Elements as described hereinabove, each Unit Owner shall be charged and assessed on a monthly basis any charges or expenses relating to maintenance and upkeep of the limited common areas as the same pertain to each Unit Owner.

8.2 The Board shall build up and maintain a reasonable reserve fund for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including nonpayment of any owner's assessment, the Board may at any time levy a further assessment which shall be assessed to the owners according to each owner's percentage of ownership in the Common Elements. The Board shall serve notice of such further assessment on all owners by a statement in writing giving the amount and reasons therefor and such further assessment shall become effective with the monthly maintenance payment which is due not more than ten (10) days after delivery or mailing of such notice of further assessment. All Unit Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

8.3 When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement" as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31 of the calendar year in which said election occurs. Assessments shall be levied against the Unit Owners during said period as provided in this Declaration.

8.4 The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the Unit Owners shall not constitute a waiver or release in any manner of such Units Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined and in the absence of any annual estimate or adjusted estimate the Unit Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due not more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

8.5 The Board shall keep full and correct books of account, specifying and

itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. Such records and the voucher authorizing the payments shall be available for inspection by any Unit Owner or any representative of a Unit Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the owner. Upon ten (10) days notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

8.6 All funds collected hereunder shall be held and expended for the purposes designated herein and, except for such special assessments as may be levied hereunder against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the benefit, use and account of all Unit Owners.

8.7 If a Unit Owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all Unit Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amounts due, the costs of said suit and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent or unpaid charges or assessments and interest, costs and fees as above provided shall become a lien or charge against the Unit Ownership of the Unit Owner involved when payable and may be foreclosed by any action brought in the names of the Board as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force when and as provided in the Act; provided, however, that encumbrances (other than those constituting a first mortgage recorded prior to the making of such assessment), owned or held by or on behalf of any person, bank, insurance company or savings and loan association., shall not have priority after written notice is given to said encumbrancer, of the fact that there are unpaid common expenses. This provision applies only to the lien of all common expenses on the encumbered unit which becomes due and payable subsequent to the date said encumbrancer either takes possession of the Unit Ownership, accepts a conveyance of any interest therein, or has a receiver appointed in a suit to foreclose such lien. Any encumbrancer may, from time to time, request in writing a written statement from the Board setting forth the unpaid common expenses with respect to the Unit Ownership covered by such encumbrance. Any assessment not paid within thirty (30) days after due date shall bear interest from the due date at the rate of twelve percent (12%) per annum.

8.8 Notwithstanding anything herein contained to the contrary, the Declarant shall be assessed according to the aggregate percentage of ownership in the Common Elements for all units it owns that are completed and held for sale but not occupied, only for that portion of the "estimated cash requirement" that relates to the estimated costs and expenses that will be required irrespective of the number of units occupied, excluding from such estimate by way of illustration

and not limitation, the cost of water and garbage collection, legal and accounting services, and also excluding any reserves for contingencies or replacements. The Declarant's ultimate liability for maintenance expenses actually incurred and paid under paragraph 6.02(1) of the Article VI; and for extraordinary expenditures under paragraph 6.02(2) of this Article VI shall be similarly computed.

8.9 No units owner may waive or other wise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his unit.

8.10 Start-up Assessments. Each owner, at the time of closing for the purchase of his unit from the Declarant, shall contribute, at that time, to the assessment-maintenance fund, in addition to monthly assessments, an amount equal to three (3) times the then existing monthly assessments which shall be placed in a reserve fund for the condominium that year.

ARTICLE IX  
REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS REGULATIONS AND  
OWNER'S REMEDIES

9.1 Abatement and Enjoinment: The violation of any rule, restriction, condition or regulation adopted by the Board, or the breach or default of any covenant, or provision contained herein shall give the Board the right to proceed as follows:

(a) To enter upon that part of the Property upon which, or as to which such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or its successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; and

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs, attorneys' fees and all damages, liquidated or otherwise, together with interest thereon at the maximum legal rate until paid, shall be charged to and be assessed against such defaulting Unit Owner and shall be added to and deemed part of his respective share of the common expenses and the Board shall have a lien for all of the same upon all of his additions and improvements thereto and upon all of his personal property in his unit or located elsewhere on the Property . Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board

9.2. Involuntary Sale: If any Unit Owner (either by his own conduct or by the conduct of any other occupant of his unit) shall violate or breach any covenants, bylaws, restrictions or provisions of this Declaration, or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall occur or shall reoccur more than once thereafter, then the Board shall have the power to issue the defaulting owner a ten (10) day notice in writing terminating the rights of the said defaulting owner to continue as an owner

and to continue to occupy, use or control his unit and thereupon an action in equity may be filed by the members of the Board against the defaulting owner for a decree of mandatory injunction against the owner or occupant or in the alternative a decree declaring the termination of the defaulting owner's right to occupy, use or control the unit owned by him on account of the breach of covenant, and ordering that all the right, title and interest of the owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the Court shall enjoin and restrain the defaulting owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any mortgages, liens, judgments or other encumbrances of record, shall be paid to the owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights as provided in Paragraph 3, Article VIII hereof, to immediate possession of the unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

ARTICLE X  
LIABILITY OF THE DECLARANT AND BOARD OF DIRECTORS

The members of the Board of Directors and the Declarant, and their respective agents and employees, shall not be personally liable to the Unit Owners or others for any mistake of judgment or for any acts or omissions made in good faith as such Board members or otherwise in exercise of the powers herein vested in the Board. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Directors, the Declarant, and their respective agents and employees, against all contractual liability to others arising out of contracts made by the Board of Directors, or the Declarant on behalf of the owners unless any such contract shall have been made in bad faith and contrary to the provisions of this Declaration. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Directors, the Declarant or out of the aforesaid indemnify in favor of the members of the Board of Directors, the Declarant, and their respective agents and employees, shall be limited to such proportion of the total liability thereunder at his percentage of interest in the Common Elements bears to the total percentage interest of all the unit Owners in the Common Elements. Every agreement made by the Board of Directors, Declarant, or by the managing agent on behalf of the Unit Owners, shall provide that the members of the Board of Directors, Declarant, or the managing agent, as the case may be, are acting only as agent for the Unit Owners and shall have no personal liability thereunder (except as owners) and that each Unit Owner's liability thereunder shall be equal to his percentage of ownership in the Common Elements

ARTICLE XI  
LIMITED COMMON AREAS

Any parking area located on the Plat (or exhibits to the Declaration, as amended) and

designated as a limited common area shall be appurtenant to the unit to which the parking area is allocated and shall be for the exclusive use and for the exclusive benefit of the owner to which said parking area is designated on the Plat. The upkeep and maintenance of the parking spaces designated as limited common areas shall be deemed a common expense payable out of the general maintenance fund as provided in this Declaration.

ARTICLE XII  
GENERAL PROVISIONS

12.1. The Declarant expressly reserves to itself various rights specified in this Declaration and in addition to those rights, expressly reserves the following rights unto itself and its fully appointed agents:

(a) To maintain anywhere on the Common Elements and the units owner by either of them or any part thereof, all models, sales offices, advertising signs, for sale signs, for rent signs, banners, billboards, lighting or any other activity or property relating to the sale or advertising for the sale of the units by the Declarant and its fully appointed agents.

(b) The unconditional right to use and of access over, through and upon any or all parts of the Common Elements for the purposes set forth in subpart (a) of this paragraph and for any other lawful purpose which shall include, but not be limited to, developing, selling, and marketing the condominium.

(c) The right to leave or otherwise make available for occupancy any completed or unsold unit or units owned by the Declarant for such periods of time as Declarant shall determine. The terms and conditions of such occupancy shall be determined solely by Declarant but such use and occupancy shall be subject to the covenants and restrictions as to use and occupancy as set forth in this Declaration.

12.2. The rights reserved to the Declarant in this Article XII shall exist only until the last unit owned by the Declarant in the condominium has been sold, whereupon such rights shall automatically cease and terminate without notice or other action by any person. Said rights shall, until the time above prescribed, exist for the benefit of the Declarant.

12.3. Until such time as the first Unit Owner elected Board of Directors provided for in this Declaration is formed, the Declarant may, but shall not be required to, exercise any of the powers, rights, duties and functions of the Board.

12.4. Upon written request to the Board, the holder of any duly recorded mortgage against any Unit Ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner whose Unit Ownership is subject to such mortgage or trust deed.

12.5. Notices provided for in this Declaration and in the Act shall be in writing and shall be addressed to the Declarant at P.O Box 481 Burlington, WI, 53015; to the Board in care

of the property address until further notice in writing is transmitted; and to any Unit Owner at the address of the unit in which his unit is located (indicating thereon the number of the respective unit), or at such other address as herein provided. The Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all Unit Owners. Any Unit Owner may also designate a different address for notices to him by giving written notice of his change of address to the Board or Association.

12.6. Each grantee of the Declarant, by the acceptance of a deed or conveyance, or each purchaser under Agreement for Condominium Deed, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and all right, benefit and privilege of every character hereby granted, created, reserved, or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time an interest or estate in the Property and shall enure to the benefit of such Unit Owner or the Declarant in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.

12.7. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.8. Neither the Declarant nor its beneficiaries nor their respective representatives or designees shall be liable for any claim whatsoever arising out of or by reason or any actions performed pursuant to any authorities reserved, granted or delegated to the Declarant by or pursuant to this Declaration, or in the Declarant's capacity as Declarant, contractor, owner, manager or seller of the Property, whether or not such claim:

(a) Shall be asserted by any owner, occupant, the Board of the Association, or by any person or entity claiming through any of them; or

(b) Shall be on account of injury to person or damage to or loss of property wherever located and however caused; or

(c) Shall arise ex contractu or (except in case of gross negligence) ex delictu.

12.9. Without limitation to the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any owner, occupant, the Board, the Association, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the property, or by reason of the failure to function, or disrepair of, any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.).

Declarant. These rights may never be changed, modified or rescinded without the express written consent of the Declarant. The provisions of Articles II, III, IV, V, VI and X, and paragraph 8 of Article XII (except as it applies to the Declarant) of this Declaration may be change, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board and all of the Unit Owners and all mortgagees having bona fide liens of record against any Unit Ownerships. Except as otherwise provided in Article VI and except for those rights granted the Declarant which shall only be modified as set forth above, no other provision of this Declaration may be changed, modified or rescinded except by an instrument inwriting setting forth such change, modification or rescission, signed and acknowledged by the Board and the Unit Owners having at least two-thirds (2/3) of the number of units, together with the proviso that said written instrument also contain an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed, by certified mail, to all mortgagees having bona fide lines of record against any Unit Ownership, no less than ten (10) days prior to the date of such affidavit. Such change, modification or rescission shall become effective upon recording of such instrument in the Office of the Register of Deeds in and for Racine County, Wisconsin, provided, however, that a provision in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

12.10. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

12.11. Real estate taxes are to be separately taxed to each owner for his unit and such unit's corresponding percentage of ownership in the Common Elements as provided in the Act. In the event that for any year such taxes are not separately taxed, then each Unit Owner shall be assessed his proportionate share of the tax bill in accordance with his respective fractional ownership in the Common Elements.

12.13. The provisions of the Declaration shall be liberally constructed to effectuate its purpose of creating a uniform plan for the operation of a first class condominium.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Declaration has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Brian R. Ehlert

AUTHENTICATION

Signature of Brian R. Ehlert authenticated on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Richard W. Torhorst  
TITLE: MEMBER STATE BAR OF WISCONSIN

Drafted By: Attorney Richard W. Torhorst  
SB#1015127

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP BY REZONING 169 INDUSTRIAL DRIVE FROM M-2, GENERAL MANUFACTURING DISTRICT TO M-2 (PUD), GENERAL MANUFACTURING DISTRICT WITH A PLANNED UNIT DEVELOPMENT OVERLAY**

**WHEREAS**, Richard Torhorst, applicant, requests property located at 169 Industrial Drive, as described in Attachment "A" to be rezoned to M-2 PUD Overlay, multi-tenant commercial building with a Planned Unit Development Overlay for the development of multi-commercial condominium ownership; and,

**WHEREAS**, this request was heard at, and recommended for approval by the Plan Commission at their July 10, 2018 meeting; and,

**WHEREAS**, a public hearing was held regarding this matter at the Common Council's July 17, 2018 meeting.

**NOW THEREFORE BE IT ORDAINED** that the Common Council of the City of Burlington, Racine County and Walworth County, State of Wisconsin does as follows:

**Section 1.** The district map of the City of Burlington, as it is incorporated by reference and made part of the City Zoning Ordinance, is hereby amended and changed in relation to the zoning classification of land more particularly described as follows:

<b>Owner:</b>	Brian Elhert
<b>Applicant:</b>	Richard Torhorst, Attorney, (owner's agent)
<b>Location of Request:</b>	169 Industrial Drive
<b>Existing Zoning:</b>	M-2, General Manufacturing District
<b>Proposed Zoning:</b>	M-2, General Manufacturing District with a PUD Overlay
<b>Proposed Use:</b>	M-2 with a PUD Overlay, multi-tenant commercial building with a Planned Unit Development Overlay for the development of multi-commercial condominium ownership.

**Section 2.** The district map in all other respects shall remain the same.

**Section 3.** This ordinance shall take effect upon its passage and publication as provided by law.

**NOW THEREFORE BE IT FURTHER ORDAINED** that the City Clerk shall provide a copy of this ordinance to Planning and Development Director, Julie Anderson, of Racine County Planning and Development, located at 14200 Washington Ave., Sturtevant, WI 53177.

Introduced: July 17, 2018  
Adopted: \_\_\_\_\_, 2018

\_\_\_\_\_  
Jeannie Hefty, Mayor

Attest:

\_\_\_\_\_  
Diahn Halbach, City Clerk

## ATTACHMENT A

### Legal Description

206-02-19-05-050-140

169 INDUSTRIAL DRIVE

LOT 4, BLOCK 2, BURLINGTON INDUSTRIAL COMPLEX FIRST ADDITION, A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER, PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER AND PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, ALL IN SECTION 5, TOWN 2 NORTH, RANGE 19 EAST OF THE 4<sup>TH</sup> PRINCIPAL MERIDIAN, CITY OF BURLINGTON, COUNTY OF RACINE, STATE OF WISCONSIN.



**PLAN COMMISSION**

**ITEM NUMBER: 7B**

**DATE:** July 10, 2018

**SUBJECT:** A Public Hearing for a Conditional Use application at 454 S. Pine Street

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

A Public Hearing has been scheduled to hear comments and concerns from the public regarding a Conditional Use application from Paul Molkentn, for property located at 454 S. Pine Street. The applicant is proposing to operate as a construction company.

**ZONING:**

The parcel is currently zoned M-1, Light Manufacturing District.

**RECOMMENDATION:**

N/A

**TIMING/IMPLEMENTATION:**

This item is for a Public Hearing at the July 10, 2018 Plan Commission meeting and will be for discussion the same night.

**MAP:**



THE PLAN COMMISSION IN AND FOR THE CITY OF BURLINGTON

Notice of Hearing on  
Proposed Conditional Use Permit  
M-1, Light Manufacturing District

TO WHOM IT MAY CONCERN:

**NOTICE** is hereby given that the Plan Commission of the City of Burlington, Racine County, Wisconsin, will conduct a hearing to discuss the proposed Conditional Use Permit for:

**Owner:** Paul Molkentin  
**Applicant:** Paul Molkentin  
**Location:** 454 S. Pine Street  
**Zoning:** M-1, Light Manufacturing District  
**Use:** To operate a construction company, and storage of equipment and material.

**NOTICE IS FURTHER GIVEN** that a hearing on the above-mentioned Conditional Use Permit will be held by the City Plan Commission in the Courtroom of the Police Department, in the City of Burlington on:

**TUESDAY, JULY 10, 2018 DURING THE MEETING OF THE PLAN COMMISSION SCHEDULED TO BEGIN AT 6:30 P.M. OR SHORTLY THEREAFTER**

To consider the above Conditional Use Permit and to hear persons in support thereof or opposition thereto.

CITY OF BURLINGTON  
PLAN COMMISSION

Dated at Burlington, Wisconsin, 18<sup>th</sup> day of June, 2018.

Diahnn Halbach, City Clerk

Published in the Burlington Standard Press  
June 21<sup>st</sup> and June 28<sup>th</sup>, 2018

454 S. Pine Street





**PLAN COMMISSION**

**ITEM NUMBER: 7C**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Conditional Use and application at 454 S. Pine Street.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Conditional Use application from Paul Molkentin of PM Construction and Restoration, LLC for property located at 454 S. Pine Street. The applicant is proposing to operate as a construction company. The surrounding context of residential, business, and manufacturing uses creates an environment in which the proposed construction company would not pose a significant disturbance. The hours of operation (8 am to 5 pm) and the scale of business (10 employees) are both reasonable and modest, and would likely not pose any adverse impacts to the environment of value of the surrounding neighborhood.

**ZONING:**

The parcel is zoned M-1, Light Manufacturing District.

**RECOMMENDATION:**

Graef and Fire Department recommend a conditional approval of this Conditional Use, subject to items listed in their July 2, 2018 and June 27, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





collaborāte / formulāte / innovāte

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** GRAEF  
Ben Block  
Tanya Fonseca, AICP

**DATE:** July 2, 2018

**SUBJECT:** Review of an Application for a Conditional Use Permit for a construction company at 454 S. Pine Street.

### A. PURPOSE

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends the following:

1. The Plan Commission recommend to the Common Council the **APPROVAL** of the Application for a Conditional Use Permit for a construction company at 454 S. Pine Street.

### C. BACKGROUND

Paul Molkentin (Applicant) submitted an Application for a Conditional Use Permit on June 13, 2018 for a construction company to be located at 454 S. Pine Street. The property is zoned "M-1 Light Manufacturing District" and allows for construction companies as conditional uses. The proposed construction company would have the hours of operation from 8am – 5pm, and would accommodate ten employees.

As a part of this Application, the following materials were submitted:

1. An Application for a Conditional Use Permit (1 sheet)
2. A Map indicating which building is to be converted to a construction company (1 sheet)

### D. COMPLIANCE WITH ZONING CODE §315-30 "M-1 LIGHT MANUFACTURING DISTRICT"

Per 315-30C(15), "construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry stonework, tile setting, plastering services, roofing, sheet metal services, and water well drilling services" are allowable conditional uses for the M-1 District.

The proposed construction company would fall under this category.

**E. COMPLIANCE WITH ZONING CODE §315-130 "CONDITIONAL USE PERMIT"**

In addition to the requirements governing the submitted materials and required public hearing, this section of the Zoning Code outlines the considerations that must be evaluated in granting a Conditional Use Permit. These considerations serve to prevent any harmful, hazardous, offensive, or otherwise adverse use that would negatively impact the environment or value of the surrounding neighborhood.

With respect to this Application, the surrounding context of residential, business, and manufacturing uses creates an environment in which the proposed construction company would not pose a significant disturbance. The hours of operation (8am to 5pm) and the scale of the business (10 employees) are both reasonable and modest, and would likely not pose any adverse impacts to the environment or value of the surrounding neighborhood.



## CITY OF BURLINGTON

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### Fire Department

165 W. Washington Street, Burlington, WI 53105  
(262) 763-7842 – (262) 767-8602 fax  
www.burlington-wi.gov

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** June 27, 2018

**SUBJECT:** Review of Conditional Use Application for building at 454 S. Pine Street.

### A. PURPOSE

Consider for approval the Conditional Use Application for building at 454 S. Pine Street.

### B. BACKGROUND

Paul Molkentin (Applicant) submitted a Conditional Use Application on June 13, 2018 to propose the use of 454 S. Pine Street as an equipment and material storage facility for a construction company. The occupancy is currently classified as Mercantile (Group M). The applicant's proposal will trigger a change of use, causing the re-classification of the occupancy as Industrial (Group F).

### C. REVIEW OF COMPLIANCE WITH BURLINGTON CODE CHAPTER 155. FIRE PREVENTION, PROTECTION AND CONTROL

The provisions of Chapter 155 shall apply to all existing structures, public buildings and places of employment that are additions, changes of use, renovations of, alterations of, remodeling of and/or modifications to existing structures and existing conditions.

#### **D. REVIEW OF COMPLIANCE WITH STATE FIRE CODE**

Multiple codes may apply due to the change of occupancy.

#### **E. RECOMMENDATION**

Based upon the review of the submitted materials, we recommend that the Plan Commission recommend to the Common Council the **CONDITIONAL APPROVAL** of the Conditional Use Application for 454 S. Pine Street, Burlington WI 53105 based on the following:

- 1) The owner provides documentation from a competent design professional that the intended use of the building is in compliance with local code and state code.
-



Building & Zoning Department  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1163 – (262) 763-3474 fax  
www.burlington-wi.gov

APPLICATION FOR A CONDITIONAL  
USE PERMIT

FOR OFFICIAL USE ONLY	
Date Filed	6/13/18
Received by	KA

Conditional Use Permit - \$500 Deposit +/- Actual cost

**Instructions:** Applications are to be filed with the Zoning Administrator, who shall refuse applications that are not complete or that are not legible.

NAMES AND ADDRESSES

Applicant Paul Molkentin

Phone No. 262-210-8910

Applicant's Address 454 South Pine Street

Applicant's Email Address Paulmolkentinconstruction@gmail.com

Owner of the site Rich Colano

Phone No. 262-210-9797

Owner's address \_\_\_\_\_

DESCRIPTION OF THE SUBJECT SITE

Business name PM Construction and Restoration LLC

Address 454 South Pine Street

Or if no address exists: Parcel Identification No. \_\_\_\_\_

Existing Zoning classification M-1

Description of the proposed use Construction Company

Number of employees / Hours of operation 8-5

Employees ~~8-5~~ 10

ATTACHMENTS –  
THE FOLLOWING ITEMS MAY NEED TO BE ATTACHED TO THIS APPLICATION:

**PLAT OF SURVEY** – prepared by a registered land surveyor showing the location, boundaries, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within (40) feet of the subject site.

If municipal sewage service or water service is not available, a plan shall be approved by the City Engineer who shall certify in writing that satisfactory, adequate and safe sewage disposal and/or a safe supply of water, is possible on the site as proposed by the plan in accordance with applicable local, county and state board of health regulations.

**Additional information**

**Reason for requesting a Conditional Use:**

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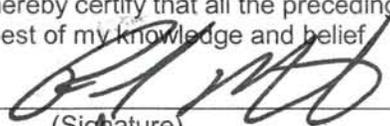
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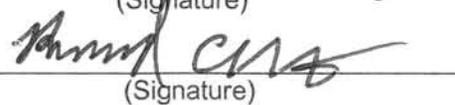
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Certificate – I hereby certify that all the preceding statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

Applicant   
(Signature)

Paul  
(Print)

Owner   
(Signature)

Richard V. COLOMBO  
(Print)

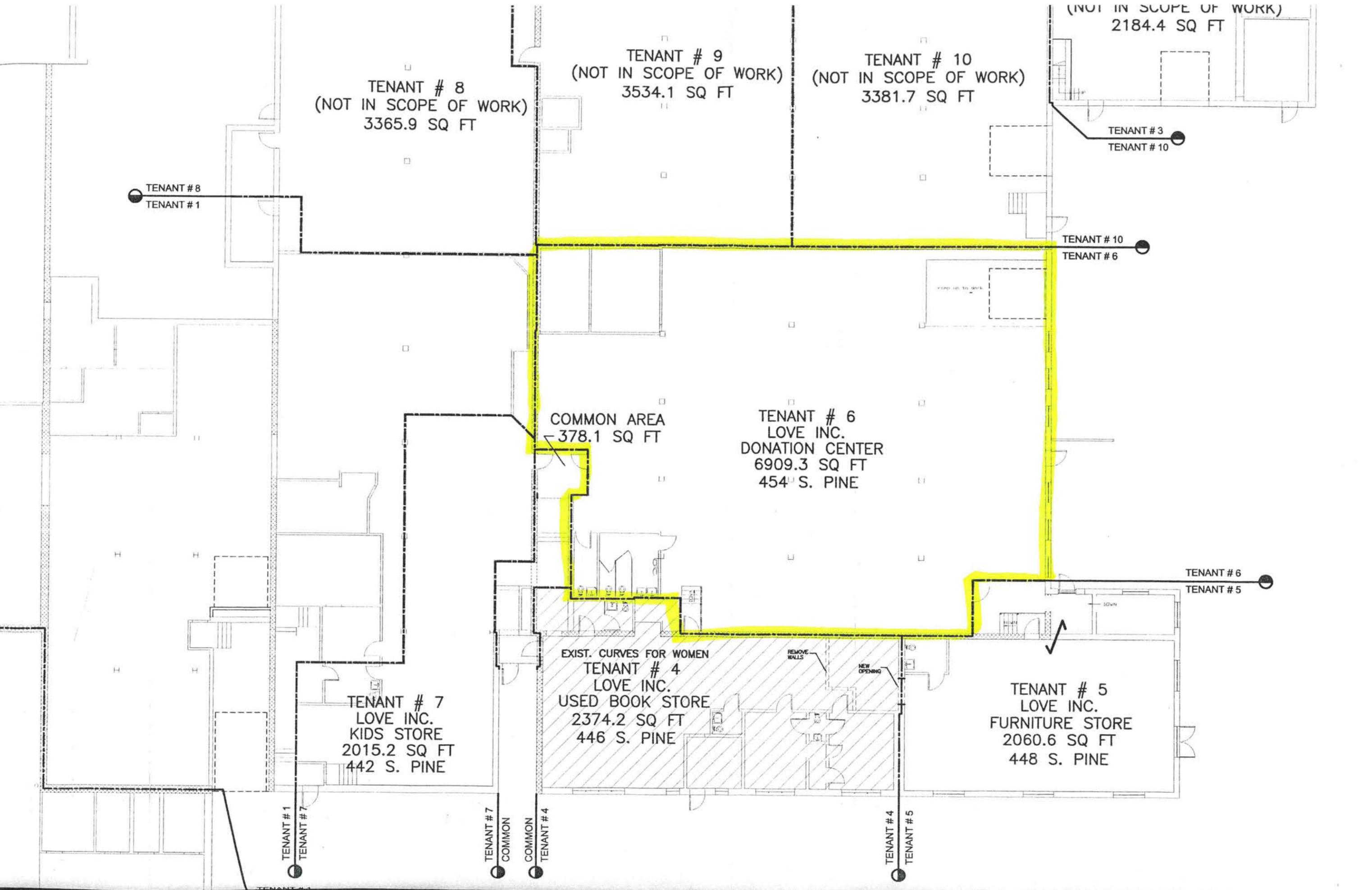
Date: \_\_\_\_\_

Date application Filed: \_\_\_\_\_

- Applications will not be processed without the property owner's signature.
- Permit may be revoked without notice if misrepresentation of any of the above information or attachments is found to exist.
- Permit is Null and Void if issued in error. It is understood that any permits issued on this application will not grant any right or privilege to erect any structure or to use any premises for any purpose that is prohibited by the Zoning Ordinance or any other state or local laws.
- Changes in the plans or specifications submitted in the original application shall not be made without prior written approval of the Zoning Administrator.

Zoning Administrator: \_\_\_\_\_  
(Signature)

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



TENANT # 8  
(NOT IN SCOPE OF WORK)  
3365.9 SQ FT

TENANT # 9  
(NOT IN SCOPE OF WORK)  
3534.1 SQ FT

TENANT # 10  
(NOT IN SCOPE OF WORK)  
3381.7 SQ FT

(NOT IN SCOPE OF WORK)  
2184.4 SQ FT

TENANT # 8  
TENANT # 1

TENANT # 3  
TENANT # 10

TENANT # 10  
TENANT # 6

COMMON AREA  
378.1 SQ FT

TENANT # 6  
LOVE INC.  
DONATION CENTER  
6909.3 SQ FT  
454 S. PINE

TENANT # 6  
TENANT # 5

EXIST. CURVES FOR WOMEN  
TENANT # 4  
LOVE INC.  
USED BOOK STORE  
2374.2 SQ FT  
446 S. PINE

TENANT # 5  
LOVE INC.  
FURNITURE STORE  
2060.6 SQ FT  
448 S. PINE

TENANT # 7  
LOVE INC.  
KIDS STORE  
2015.2 SQ FT  
442 S. PINE

TENANT # 1  
TENANT # 7

TENANT # 7  
COMMON  
COMMON  
TENANT # 4

TENANT # 4  
TENANT # 5

REMOVE WALLS

NEW OPENING



**PLAN COMMISSION**

**ITEM NUMBER: 7D**

**DATE:** July 10, 2018

**SUBJECT:** A Public Hearing for a Conditional Use application at 332 Milwaukee Avenue.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

A Public Hearing has been scheduled to hear comments and concerns from the public regarding a Conditional Use application from Craig Faust, for property located at 332 Milwaukee Avenue. The applicant is proposing to convert the existing commercial business rental unit into a single-family residence, with a Conditional Use Permit. The applicant has identified the purpose for reclassifying the land use and rezoning the parcel as the following: "The market has a lot of vacant office space and the building is more suitable for residential use versus small office business use."

**ZONING:**

The parcel is currently zoned B-2, Central Business District. The applicant is requesting to rezone to Rd-2, Two-Family Residential District.

**RECOMMENDATION:**

N/A

**TIMING/IMPLEMENTATION:**

This item is for a Public Hearing at the July 10, 2018 Plan Commission meeting and will be for discussion the same night.

**MAP:**



THE PLAN COMMISSION IN AND FOR THE CITY OF BURLINGTON

Notice of Hearing on  
Proposed Conditional Use Permit  
Rd-2, Two-Family Residential District

TO WHOM IT MAY CONCERN:

**NOTICE** is hereby given that the Plan Commission of the City of Burlington, Racine County, Wisconsin, will conduct a hearing to discuss the proposed Conditional Use Permit for:

**Owner:** Craig Faust  
**Applicant:** 332 Milwaukee Avenue, LLC  
**Location:** 332 Milwaukee Avenue  
**Zoning:** Rd-2, Two-Family Residential District  
**Use:** To change the existing commercial business rental unit into a single-family residential rental unit.

**NOTICE IS FURTHER GIVEN** that a hearing on the above-mentioned Conditional Use Permit will be held by the City Plan Commission in the Courtroom of the Police Department, in the City of Burlington on:

**TUESDAY, JULY 10, 2018 DURING THE MEETING OF THE PLAN COMMISSION SCHEDULED TO BEGIN AT 6:30 P.M. OR SHORTLY THEREAFTER**

To consider the above Conditional Use Permit and to hear persons in support thereof or opposition thereto.

CITY OF BURLINGTON  
PLAN COMMISSION

Dated at Burlington, Wisconsin, 18<sup>th</sup> day of June, 2018.

Diahnn Halbach, City Clerk

Published in the Burlington Standard Press  
June 21<sup>st</sup> and June 28<sup>th</sup>, 2018



**PLAN COMMISSION**

**ITEM NUMBER: 7E**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve Resolution 26 to amend the Multi-Jurisdictional Comprehensive Plan for property at 332 Milwaukee Avenue.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

The Racine County Multi-Jurisdictional Comprehensive Plan was implemented by state statute on January 1, 2010. Upon review of a rezone request from Craig Faust to rezone property at 332 Milwaukee Avenue, it was determined a plan amendment was also required. Per the Comprehensive Plan, 332 Milwaukee Avenue is listed as “Commercial” and would not be consistent with the requested zoning change from B-2, Central Business District to Rd-2, Two-Family Residential District. As such, an amendment from “Commercial” to “Medium Density Residential” is necessary to be compliant.

The process of a Comprehensive Plan Amendment begins with a Plan Commission recommendation. A Public Hearing will be held at the Common Council meeting. After the Public Hearing the Common Council will consider the amendment and make it part of permanent record if approved. Racine County will amend the land use plan yearly with any updates or amendments.

**ZONING:**

The parcel is currently zoned B-2, Central Business District. The applicant is requesting to rezone to Rd-2, Two-Family Residential District.

**RECOMMENDATION:**

Graef recommends approval of this Multi-Jurisdictional Comprehensive Plan Amendment, subject to items listed in the June 22, 2018 memorandum.

**TIMING/IMPLEMENTATION:**

Resolution 26 is for consideration at the July 10, 2018 Plan Commission. It will move on as an ordinance at the August 21, 2018 Committee of the Whole meeting with a Public Hearing the same night and at the September 4, 2018 Common Council meeting for final consideration.

**MAP:**





One Honey Creek Corporate Center  
125 South 84<sup>th</sup> Street, Suite 401  
Milwaukee, WI 53214-1470  
414 / 259 1500  
414 / 259 0037 fax  
[www.graef-usa.com](http://www.graef-usa.com)

collaborāte / formulāte / innovāte

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** GRAEF  
Ben Block  
Tanya Fonseca, AICP

**DATE:** June 22, 2018

**SUBJECT:** Review of a Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application for the City of Burlington, a Petition for Rezoning Map Amendment, and an Application for a Conditional Use Permit for 332 Milwaukee Avenue.

### A. PURPOSE

Review a set of applications to reclassify the land use, rezone the land, and allow a conditional use for single-family housing at 332 Milwaukee Avenue.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends the following:

1. The Plan Commission recommend to the Common Council the **APPROVAL** of the Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application for the City of Burlington;
2. The Plan Commission recommend to the Common Council the **APPROVAL** of the Petition for Rezoning Map Amendment; and,
3. The Plan Commission recommend to the Common Council the **APPROVAL** of the Application for a Conditional Use Permit.

### C. BACKGROUND

On June 15, 2018, 332 Milwaukee Ave, LLC (Applicant) submitted a Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application for the City of Burlington, a Petition for Rezoning Map Amendment, and an Application for a Conditional Use Permit for 332 Milwaukee Avenue. The Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application proposes to reclassify the future land use for the target property from "commercial" to "medium-density residential." Once reclassified, the Petition for Rezoning Map Amendment proposes to rezone 332 Milwaukee Avenue from "B-2 Central Business District" to "RD-2 Two-Family Residential District." Once rezoned, the Applicant is requesting a Conditional Use Permit to allow for single-family residential use at 332 Milwaukee Avenue.

The Applicant has identified the purpose for reclassifying the land use and rezoning the parcel as the following: "The market has a lot of vacant office space and the building is more suitable for residential use versus small office business use."

As a part of this Application, the following materials were submitted:

1. A Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application for the City of Burlington (1 sheet)
2. A Petition for Rezoning Map Amendment (1 sheet)
3. An Application for a Conditional Use Permit (1 sheet)

#### **D. COMPLIANCE WITH STATE STATUTES §66.1001(4) PROCEDURES FOR ADOPTING COMPREHENSIVE PLANS”**

This section of the State Statutes outlines the procedural requirements for amending a comprehensive plan. Per subsection 66.1001(4)(b), a Plan Commission may recommend the amendment of a comprehensive plan by a majority vote. Per subsection 66.1001(4)(d), a public hearing is required for the adoption of an ordinance to amend a comprehensive plan.

The scale of the proposed zoning reclassification is minor, and the proposed reclassification is compatible with the context of the surrounding uses.

#### **E. COMPLIANCE WITH ZONING CODE §315-119 “PETITIONS”**

This section of the Zoning Code identifies the regulations governing petitions for rezoning a property to a new zoning classification. In addition to providing a reason justifying the proposed rezoning, this section requires that Applicants submit a plot plan of the area proposed to be rezoned, as well as information regarding the owners of property within 300 feet of the target area. Though the plot plan and neighboring owner information was not submitted as part of this Application, the review did not depend on this information being provided.

#### **F. COMPATIBILITY WITH SURROUNDING CONTEXT**

In evaluating a petition for rezoning, the proposed future zoning classification must be compatible with the surrounding zoning classifications. In this case, the proposed zoning classification of “RD-2 Two-Family Residential District” would be compatible. Though the neighboring properties along Milwaukee Avenue are mostly zoned “B-2 Central Business District,” the properties that border the target property on the rear (along West Jefferson Street) are all zoned “R-2 Two-Family Residential District.” When looking at the zoning map, it becomes apparent that the proposed rezoning to “R-2 Two-Family Residential District” would not create any incompatibility within the immediate or surrounding area.

#### **G. COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

If approved, the Racine County Multi-Jurisdictional Comprehensive Plan Amendment Application would reclassify the future land use for the target property from “commercial” to “medium-density residential.” With this change in place, the proposed rezoning from “B-2 Central Business District” to “RD-2 Two-Family Residential District” would be compatible with the Comprehensive Plan.

**E. COMPLIANCE WITH ZONING CODE §315-130 "CONDITIONAL USE PERMIT"**

In addition to the requirements governing the submitted materials and required public hearing, this section of the Zoning Code outlines the considerations that must be evaluated in granting a Conditional Use Permit. These considerations serve to prevent any harmful, hazardous, offensive, or otherwise adverse use that would negatively impact the environment or value of the surrounding neighborhood.

The proposed conditional use for single-family housing would not negatively impact the environment or value of the surrounding neighborhood.



**CITY OF BURLINGTON**

---

**Fire Department**

165 W. Washington Street, Burlington, WI 53105

(262) 763-7842 – (262) 767-8602 fax

[www.burlington-wi.gov](http://www.burlington-wi.gov)

**MEMORANDUM**

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** June 28, 2018

**SUBJECT:** Review of Rezoning Map Amendment for the occupancy at 332 Milwaukee Ave.

**A. PURPOSE**

Consider for approval the Rezoning Map Amendment for the occupancy at 332 Milwaukee Ave.

**B. RECOMMENDATION**

Based upon the review of the submitted materials, the City of Burlington Fire Department has no comments regarding the subject matter.



## CITY OF BURLINGTON

### Fire Department

165 W. Washington Street, Burlington, WI 53105  
(262) 763-7842 – (262) 767-8602 fax  
www.burlington-wi.gov

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** June 28, 2018

**SUBJECT:** Review of Conditional Use Application for the occupancy at 332 Milwaukee Ave.

### A. PURPOSE

Consider for approval the Conditional Use Application for the occupancy at 332 Milwaukee Ave.

### B. BACKGROUND

Craig Faust (Applicant) submitted a Conditional Use Application on June 15, 2018 to propose the occupancy at 332 Milwaukee Ave. be reclassified as a single-family residential unit. The occupancy is currently classified as Business (Group B). The applicant's proposal will trigger a change of use, causing the re-classification of the occupancy as Residential (Group R-2).

### C. REVIEW OF COMPLIANCE WITH BURLINGTON CODE CHAPTER 155. FIRE PREVENTION, PROTECTION AND CONTROL

Single-family dwellings are not subject to the provisions of this chapter.

### D. REVIEW OF COMPLIANCE WITH STATE FIRE CODE

Single-family dwellings are not subject to the provisions of this code.

### E. RECOMMENDATION

Based upon the review of the submitted materials, the City of Burlington Fire Department has no comments regarding the subject matter.



Administration Department  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1161 – (262) 763-3474 fax  
www.burlington-wi.gov

**RACINE COUNTY MULTI-JURISDICTIONAL COMPREHENSIVE PLAN AMENDMENT  
APPLICATION FOR CITY OF BURLINGTON**

Date of Application for Plan Amendment: June 14, 2018

Attach a legal description and provide the tax key numbers of parcels included in the application:

332 Milwaukee Ave - Sec. 32 T3N, R19E, Perkins 2nd Addition, Lot 6, Blk 4

Property Owner's Name:

332 Milwaukee Ave, LLC

Signature

Mailing Address: \_\_\_\_\_

Phone Number: Po box 365 Burlington, WI 53105 - 262-894-2777

Note: if the property owner's signature cannot be obtained in the above space, a "letter of agent status" signed by the property owner must be submitted if you are an applicant (tenant, leaseholder, or authorized agent representing the legal owner) acting on their behalf.

Applicant's Name (if different than property owner):

Same as above

Signature

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Current Zoning: B-2 with an application to rezone to Rd-2

Existing planned land use category as shown on the land use plan map:

Commercial

Proposed land use category:

Medium-Density Residential

Reason(s) for proposed Amendment: (Describe the intended use of the property)

**FOR OFFICE USE ONLY:**

Resolution No. \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Fee Paid:  \$200 Date pd: \_\_\_\_\_

Date to Council: \_\_\_\_\_ Approved by Council:  Yes  No Date Approved by Council: \_\_\_\_\_

**CITY OF BURLINGTON PLAN COMMISSION RESOLUTION RECOMMENDING  
THE AMENDMENT OF THE RACINE COUNTY MULTI-JURISDICTIONAL  
COMPREHENSIVE PLAN FOR PROPERTY LOCATED AT 332 MILWAUKEE AVENUE  
IN THE CITY OF BURLINGTON, WISCONSIN**

**WHEREAS**, on July 21, 2009, the City of Burlington adopted, as Ordinance No. 1890(11) a comprehensive plan (the "Plan") pursuant to the provisions of 66.1001 of the Wisconsin Statutes, such Plan being formally titled "A Multi-Jurisdictional Comprehensive Plan for the City of Burlington, Wisconsin"; and,

**WHEREAS**, Section 66.1001(4) of the Wisconsin Statutes allows the Plan to be amended from time to time, by the City of Burlington under and pursuant to the provisions and procedures contained in such Section 66.1001(4); and,

**WHEREAS**, the City of Burlington Plan Commission wishes to recommend to the City of Burlington Common Council to so amend the Plan as expressly described below (the "Plan Amendment"); and,

**WHEREAS**, the Plan Amendment pertains to the real property (the "Real Property") located in the City of Burlington and which is more specifically described in attached Exhibit A, such Exhibit A being hereby incorporated herein by reference.

**WHEREAS**, the City of Burlington Plan Commission hereby finds and determines that:

- a) The Plan Amendment is consistent with the goals, objectives, and policies of the Plan.
- b) The Plan Amendment will not lead to any detrimental environmental effects.
- c) The Plan Amendment is compatible with surrounding land uses.
- d) The Plan Amendment will not overburden existing local and County facilities and services and such facilities and services are adequate to serve the type of development associated with the Plan Amendment.
- e) The Plan Amendment will enhance economic development within the City and County.
- f) The Plan Amendment is in substantial agreement with the recommendations of the regional land use plan.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Burlington Plan Commission hereby recommends to the City of Burlington Common Council that the Real Property at 332 Milwaukee Avenue (described in attached Exhibit A) be changed from its current land use designation of "Commercial" in the Plan to the new land use designation of "Medium Density Residential" in the Plan to use for residential.

**BE IT FURTHER RESOLVED** that this resolution, having been adopted by a majority of all the members of the City of Burlington Plan Commission as required by Sections 62.23(3)(b) and 66.1001(4)(b) of the Wisconsin Statutes, is hereby certified to the City of Burlington Common Council for its consideration.

Adopted this 10<sup>th</sup> day of July, 2018

Ayes:    Nays:    Absent:

---

Jeannie Hefty, Chairman  
City of Burlington Plan Commission

Attest:

---

Kristine Anderson, Secretary  
City of Burlington Plan Commission

## ATTACHMENT A

### **Legal Description**

206-03-19-32-470-150  
332 Milwaukee Avenue

Section 32 T3N, R19E, Perkins 2<sup>nd</sup> Addition, Lot 6, Block 4



## PLAN COMMISSION

ITEM NUMBER: 7F

**DATE:** July 10, 2018

**SUBJECT:** Consideration to recommend approval of a Rezone Map Amendment request at 332 Milwaukee Avenue from B-2 District to Rd-2 District.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

### **PROJECT/SCOPE:**

This item is to consider recommending approval of a Rezone Map Amendment request from Craig Faust for property at 332 Milwaukee Avenue. The applicant is requesting to rezone the property B-2, Central Business District to Rd-2, Two-Family Residential. The Racine County Multi-Jurisdictional Comprehensive Plan Amendment application proposes to reclassify the future land use for the target property from “commercial” to “medium density residential”. The applicant proposes to convert the existing commercial business rental unit into a single-family residence, with a Conditional Use Permit. The applicant has identified the purpose for reclassifying the land use and rezoning the parcel as the following: “The market has a lot of vacant office space and the building is more suitable for residential use versus small office business use.”

### **ZONING:**

The parcel is currently zoned B-2, Central Business District. The applicant is requesting to rezone to Rd-2, Two-Family Residential District.

### **RECOMMENDATION:**

Graef recommends approval of this Rezone Map Amendment, subject to items listed in the June 22, 2018 memorandum.

### **TIMING/IMPLEMENTATION:**

This item is for recommendation to the Council at the July 10, 2018 Plan Commission, is scheduled for the July 17, 2018 Committee of the Whole meeting and with a Public Hearing the same night and at the August 7, 2018 Common Council meeting for final consideration.

### **MAP:**





CITY OF BURLINGTON

**Building & Zoning Department**  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1163 -- (262) 763-3474 fax  
www.burlington-wi.gov

For Office Use Only	
Petition No.	_____
Date Filed	_____
Date Received (\$500)	6/15/18
Zoning Administrator	TA
	(initials)

**ZONING FORM NO. 2**  
**PETITION FOR REZONING MAP AMENDMENT**

TO THE COMMON COUNCIL OF THE CITY OF BURLINGTON, WISCONSIN:

I, the undersigned, being owner/owner's agent of all the area herein described, hereby petition the Common Council of the City of Burlington, Wisconsin, to rezone and make appropriate a zoning map amendment to the following described property from B-2 District to RD-2 District:

Address of Property: 332 Milwaukee Ave Acres: .19

Legal Description of Property (attach additional sheets if needed): \_\_\_\_\_

332 Milwaukee Ave Sec.32,T3N,R19E  
Perkins 2nd AddLot 6 Blk 4

I have requested this rezoning for the purpose of: Commercial business rental use into a Single/Multi family Rental use

~~Market has a lot of vacant office space and building is more suitable for residential use verses~~  
~~small office business use~~

Please find the following items attached:

Plot Plan drawn to a scale of one inch equals one hundred (100) feet showing the area to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within two hundred (200) feet of the area proposed to be rezoned.

Owners' Names and Addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.

Additional Information required by the Plan Commission or Common Council.

I have certified that all the above statements submitted herewith are true and correct to the best of my knowledge and belief.

PROPERTY OWNER:

Name 332 Milwaukee Ave LLC

Address po box 365

Burlington      wi                      53105  
(City)                      (State)                      (Zip)

Telephone No. 262-894-2777

Date 6/14/2018

OWNER'S AGENT:

Name Craig C Faust "managing member of LLC"

Address po box 365

Burlington      wi                      53105  
(City)                      (State)                      (Zip)

Telephone No. 262-894-2777

Date 6/14-2018

More information maybe requested by the Plan Commission and/or Common Council if deemed necessary to properly evaluate your request. The lack of information requested by this form may be sufficient cause to deny the petition. If you have any question regarding the procedure, please contact the Zoning Administrator.

**NOTICE OF PUBLIC HEARING  
FOR AMENDING THE ZONING MAP**

TO WHOM IT MAY CONCERN:

**NOTICE** is hereby given that the Common Council of the City of Burlington proposes to amend Chapter 315 of the Municipal Code, Zoning Map, as it pertains to:

**Owner:** Craig Faust  
**Applicant:** Craig Faust  
**Applicant Address:** PO Box 365, Burlington, WI 53105  
**Location of Request:** **332 Milwaukee Avenue**  
**Existing Zoning:** B-2, Central Business District  
**Proposed Zoning:** Rd-2, Two-Family Residential District  
**Proposed Use:** To change the existing property from a commercial business rental into a single-family residence, with a Conditional Use Permit.

**NOTICE IS FURTHER GIVEN** that a Public Hearing on the above matter will be held by the Common Council in the City Council Chambers, in the City of Burlington located at 224 E. Jefferson Street on:

**TUESDAY, JULY 17, 2018 DURING THE MEETING OF THE COMMON COUNCIL  
SCHEDULED TO BEGIN AT 6:30 P.M. OR SHORTLY THEREAFTER**

To hear any persons objecting to, or in support thereof, on the above mentioned matter.

CITY OF BURLINGTON

Dated at Burlington, Wisconsin, this 25<sup>th</sup> day June, 2018.

Diahnn Halbach, City Clerk

Published in the Burlington Standard Press  
June 28<sup>th</sup>, 2018 and July 5<sup>th</sup>, 2018

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP BY REZONING  
332 MILWAUKEE AVENUE FROM B-2, CENTRAL BUSINESS DISTRICT TO  
RD-2, TWO-FAMILY RESIDENTIAL DISTRICT**

**WHEREAS**, Craig Faust, applicant, requests property located at 332 Milwaukee Avenue, as described in Attachment "A" to be rezoned to Rd-2, to convert the existing property from a commercial business rental into a single-family residence, with a Conditional Use Permit; and,

**WHEREAS**, this request was heard at, and recommended for approval by the Plan Commission at their July 10, 2018 meeting; and,

**WHEREAS**, a public hearing was held regarding this matter at the Common Council's July 17, 2018 meeting.

**NOW THEREFORE BE IT ORDAINED** that the Common Council of the City of Burlington, Racine County and Walworth County, State of Wisconsin does as follows:

**Section 1.** The district map of the City of Burlington, as it is incorporated by reference and made part of the City Zoning Ordinance, is hereby amended and changed in relation to the zoning classification of land more particularly described as follows:

<b>Owner:</b>	Craig Faust
<b>Applicant:</b>	Craig Faust
<b>Location of Request:</b>	332 Milwaukee Avenue
<b>Existing Zoning:</b>	B-2, Central Business District
<b>Proposed Zoning:</b>	Rd-2, Two-Family Residential District
<b>Proposed Use:</b>	To convert the existing property from a commercial business rental into a single-family residence, with a Conditional Use Permit

**Section 2.** The district map in all other respects shall remain the same.

**Section 3.** This ordinance shall take effect upon its passage and publication as provided by law.

**NOW THEREFORE BE IT FURTHER ORDAINED** that the City Clerk shall provide a copy of this ordinance to Planning and Development Director, Julie Anderson, of Racine County Planning and Development, located at 14200 Washington Ave., Sturtevant, WI 53177.

Introduced: July 17, 2018  
Adopted: \_\_\_\_\_, 2018

\_\_\_\_\_  
Jeannie Hefty, Mayor

Attest:

\_\_\_\_\_  
Diahn Halbach, City Clerk

## ATTACHMENT A

### Legal Description

206-03-19-32-470-150  
332 Milwaukee Avenue

Section 32 T3N, R19E, Perkins 2<sup>nd</sup> Addition, Lot 6, Block 4



**PLAN COMMISSION**

**ITEM NUMBER: 7G**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Conditional Use and application at 332 Milwaukee Avenue.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Conditional Use application from Craig Faust for property located at 332 Milwaukee Avenue. The applicant is proposing to convert the existing commercial business rental unit into a single-family residence, with a Conditional Use Permit. The applicant has identified the purpose for reclassifying the land use and rezoning the parcel as the following: "The market has a lot of vacant office space and the building is more suitable for residential use versus small office business use."

**ZONING:**

The parcel is zoned B-2, Central Business District.

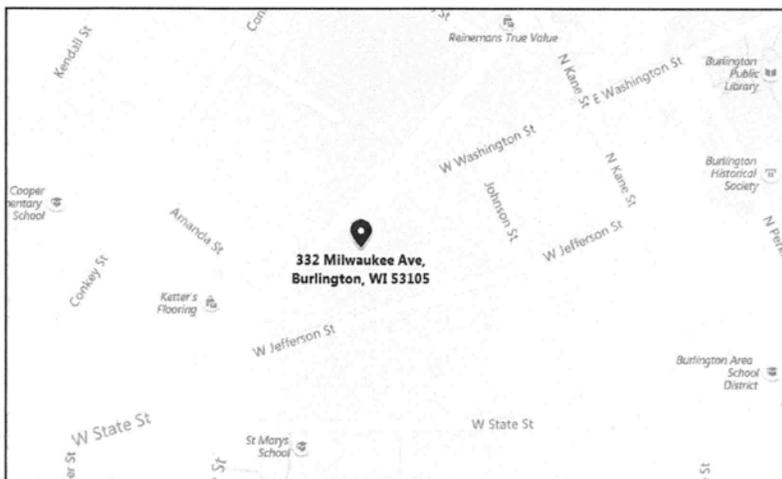
**RECOMMENDATION:**

Graef recommends approval of this Conditional Use, subject to items listed in the June 22, 2018 memorandum.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





CITY OF BURLINGTON

Building & Zoning Department  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1163 – (262) 763-3474 fax  
www.burlington-wi.gov

APPLICATION FOR A ZONING PERMIT,  
CERTIFICATE OF COMPLIANCE,  
OR  
CONDITIONAL USE PERMIT

<b>FOR OFFICE USE ONLY</b>	
PERMIT NO. (not C.U.)	_____
AMOUNT PAID \$	<u>500</u>
DATE FILED	<u>6/15/18</u>
DATE PUBLISHED	_____
PUBLIC HEARING DATE:	_____
RECEIVED BY:	<u>KJ</u>

- Zoning Permit - \$25.00                       Joint Zoning/Certificate of Compliance - \$35.00
- Certificate of Compliance - \$15.00         Conditional Use Permit - \$500 Deposit +/- Actual cost

**Instructions:** Applications are to be filed with the Zoning Administrator, who shall refuse applications that are not complete or that are not legible.

**NAMES AND ADDRESSES**

Applicant 332 Milwaukee Ave, LLC

Phone No. 262-894-2777 Fax No. \_\_\_\_\_

Applicant's Address Po box 365 Burlington, WI 53105

Owner of the site 332 Milwaukee Ave, LLC managing member Craig C Faust

Phone No. 262-894-2777 Fax No. \_\_\_\_\_

Owner's address PO Box 365 Burlington WI 53105

Architect / Professional Engineer none

Architect / Professional Engineer Address none

Contractor \_\_\_\_\_

Contractor's Address \_\_\_\_\_

**DESCRIPTION OF THE SUBJECT SITE**

Address 332 Milwaukee Ave Burlington WI 53105

Or if no address exists: Parcel Identification No. \_\_\_\_\_

Existing Zoning classification B2

Description of existing use Currently Vacant was use as a small business office

Description of the proposed use RD-2 Single and/or Two-Family Rental Unit

Number of employees / Hours of operation \_\_\_\_\_

**ATTACHMENTS –  
THE FOLLOWING ITEMS MAY NEED TO BE ATTACHED TO THIS APPLICATION:**

**PLAT OF SURVEY** – prepared by a registered land surveyor showing the location, boundaries, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within (40) feet of the subject site.

If municipal sewage service or water service is not available, a plan shall be approved by the City Engineer who shall certify in writing that satisfactory, adequate and safe sewage disposal and/or a safe supply of water, is possible on the site as proposed by the plan in accordance with applicable local, county and state board of health regulations.

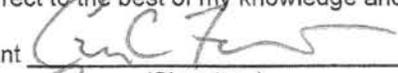
***Additional information as may be required by City Officials.***

**Reason for requesting a Conditional Use (for Conditional Use Permit Only):**

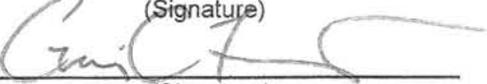
Based on location and best use of the property and surrounding property uses. I'm asking to

re-zone from B-2 to RD-2 and a conditional use permit for single or two-family rental use

Certificate – I hereby certify that all the preceding statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

Applicant   
(Signature)

Craig C Faust  
(Print)

Owner   
(Signature)

Craig C Faust  
(Print)

Date: 6/14/2018

Date application Filed: \_\_\_\_\_

- Applications will not be processed without the property owner's signature.
- Permit may be revoked without notice if misrepresentation of any of the above information or attachments is found to exist.
- Permit is Null and Void if issued in error. It is understood that any permits issued on this application will not grant any right or privilege to erect any structure or to use any premises for any purpose that is prohibited by the Zoning Ordinance or any other state or local laws.
- Changes in the plans or specifications submitted in the original application shall not be made without prior written approval of the Zoning Administrator.

Zoning Administrator: \_\_\_\_\_  
(Signature)

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



**PLAN COMMISSION**

**ITEM NUMBER: 7H**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Site Plan application at 800 Blackhawk Drive.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Site Plan application from Kueny Architects, for property located at 800 Blackhawk Drive. The applicant is proposing to construct an office addition approximately 2,024 square feet on the Northeast corner of the facility for Phase II. The proposed addition is compliant for the office use and dimensional requirements. The applicant indicates there will be 69 parking spaces and 3 accessible spaces provided, which are compliant.

**ZONING:**

The parcel is zoned M-3, Manufacturing and Office Park.

**RECOMMENDATION:**

Graef, Kapur & Associates, and Fire Department recommend a conditional approval of this Site Plan, subject to items listed in their July 2, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





collaborāte / formulāte / innovāte

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** GRAEF  
Ben Block  
Tanya Fonseca, AICP

**DATE:** July 2, 2018

**SUBJECT:** Review of a Site Plan Approval Application for an Office Addition at 800 Black Hawk Drive.

### A. PURPOSE

Consider for approval the Site Plan Approval Application for the Phase 2 Expansion from John F. Schmidbauer, Agent of Kueny Architects, for parcel 206-02-19-09-007-120 located at 800 Black Hawk Drive, Burlington, WI 53105.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends the following:

1. The Plan Commission recommend to the Common Council the **APPROVAL** of the Site Plan Approval Application for a truck terminal addition at 800 Black Hawk Drive, Burlington, WI 53105.

### C. BACKGROUND

John F. Schmidbauer, P.E. (Applicant) submitted a Site Plan Approval Application on June 15, 2018 for the second phase of their expansion plans, featuring a proposed office addition. The Applicant had previously submitted materials for the first phase of the expansion plans, which have already been evaluated. Those elements of the first phase of expansion that did not change will not be addressed in this memorandum.

This Application provides more details regarding the second phase of expansion, as well as provides additional information that was requested in the memorandum from GRAEF dated March 5, 2018.

The Applicant submitted the following materials:

- a. Existing Site Plan (1 page)
- b. Grading Plan (1 page)
- c. Site Plan (1 page)
- d. Addition Office and Roof Plan (1 page)
- e. Exterior Elevations – Addition (1 page)
- f. Plumbing Site Plan (1 page)
- g. Site Photometric Plan (1 page)



collaborāte / formulāte / innovāte

#### **D. COMPLIANCE WITH ZONING CODE §315-32 "M-1 LIGHT MANUFACTURING DISTRICT"**

The proposed office addition is compliant with the provisions outlined in this section of the Zoning Code. Offices are an acceptable accessory use in this District, and the proposed office is compliant with the dimensional requirements outlined in Table 3.

#### **E. COMPLIANCE WITH MUNICIPAL CODE §315-48 "PARKING REQUIREMENTS"**

The Application indicates there will be 69 parking spaces provided for 35 employees. This amount of spaces is compliant with the provisions outlined in Table 5 (Attachment 7 of §315).

This Application indicates that there will be 3 accessible spaces provided, 2 of which are van-accessible. This amount of spaces is compliant with the provisions outlined in Table 4 (Attachment 6 of §315).

#### **F. COMPLIANCE WITH MUNICIPAL CODE §315-52 "LANDSCAPING"**

The proposed building addition does not affect the existing landscaping of the property. The existing conditions are compliant with the landscaping and bufferyard requirements outlined by this section of Burlington Code.

#### **G. COMPLIANCE WITH MUNICIPAL CODE §315-137 "SITE PLANS"**

The Application is compliant and includes all the pertinent materials required by this section of Burlington Code.

#### **H. EROSION CONTROL PLAN**

A grading plan has been submitted with this Application, which was requested in the memorandum from GRAEF dated March 5, 2018. This plan should be evaluated by the City Engineer.

#### **I. RECOMMENDATION**

Based upon the review of the submitted materials, we recommend that the Plan Commission recommend to the Common Council the APPROVAL of the Site Plan Approval Application for a truck terminal addition at 800 Black Hawk Drive, Burlington, WI 53105.



**To:** Kristine Anderson **Date:** June 28, 2018  
**From:** Burak Kicikoglu, P.E.  
**CC:** Carina Walters, Megan Watkins, Gregory Guidry, Peter Riggs, Tanya Fonseca, Greg Governatori  
**Subject:** Engineering review of Veterans Truck Line – Plans Dated 6-8-2018

We have completed our review of the construction plans prepared by John F. Schmidbauer and Kueny Architects, June 8<sup>th</sup>, 2018. The review was conducted to determine compliance with the City of Burlington Municipal Code and good engineering practices.

**BACKGROUND AND REQUEST:** Veterans Truck Line, Inc. has submitted an application to add an 2024 SF office building to the North East corner of existing facility for the property at 800 Black Hawk Drive. Our review was conducted to determine compliance with City ordinances and good engineering practices.

The following plans were submitted for review as part of the site plan application:

- Site, Grading, Lighting, Plumbing and Architectural Plans dated 6/8/18

**REVIEW COMMENTS:**

**General:**

- The proposed activities will not change the existing drainage volume or patterns of the site. The existing area to be used for the new office building is currently paved therefore will not change the current storm water characteristics for this site. There is no additional impervious surface and the site will not generate an increase in runoff. Additional storm water management will not be required.

**RECOMMENDATION:** We recommend approval of the submitted site plan.

The plans have been reviewed for conformance with generally accepted engineering practices and City of Burlington policies. Although the material has been reviewed, the design engineer is ultimately responsible for the thoroughness and accuracy of the plans and supplemental data and for compliance with state, county, and other local ordinances and procedures.

Please contact me if you have any questions or comments pertaining to this project at (262) 758-6025, [bkicikoglu@kapurinc.com](mailto:bkicikoglu@kapurinc.com) or Greg Governatori at (262) 758-6010, [ggovernatori@kapurinc.com](mailto:ggovernatori@kapurinc.com)



## CITY OF BURLINGTON

**Fire Department**  
165 W. Washington Street, Burlington, WI 53105  
(262) 763-7842 – (262) 767-8602 fax  
www.burlington-wi.gov

### MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** June 29, 2018

**SUBJECT:** Review of Site Plan Application for a building addition at 800 Blackhawk Drive, Burlington, WI. 53105.

#### A. PURPOSE

Consider for approval the Site Plan Application for a building addition at 800 Blackhawk Drive, Burlington, WI. 53105.

#### B. BACKGROUND

John F. Schmidbauer (Applicant) of Kueny Architects submitted a Site Plan Application for a proposed addition to the commercial building at 800 Blackhawk Drive, Burlington, WI. 53105.

#### C. REVIEW OF COMPLIANCE WITH BURLINGTON CODE CHAPTER 155. FIRE PREVENTION, PROTECTION AND CONTROL

No concerns at time of review.

#### D. REVIEW OF COMPLIANCE WITH STATE FIRE CODE

No concerns at time of review.

#### E. RECOMMENDATION

Based upon the review of the submitted materials, we recommend that the Plan Commission recommend to the Common Council the **CONDITIONAL APPROVAL** of the Site Plan Application at 800 Blackhawk Drive, Burlington, WI. 53105, based on the following:

- 1) The owner ensures all work conforms to local and state code.



Building & Zoning Department
300 N. Pine Street, Burlington, WI, 53105
(262) 342-1163 – (262) 763-3474 fax
www.burlington-wi.gov

SITE PLAN APPROVAL APPLICATION

REVIEW: \$500.00 Deposit +/- Actual Cost

FOR OFFICE USE ONLY
DATE FILED: 6/15/18
RECEIVED BY: KA (Initials)
AMT. PAID: 500

APPLICANT: John F. Schmidbauer, P.E. - Kueny Architects - Agent

ADDRESS: 10505 Corporate Drive, Suite 100, Pleasant Prairie, WI PHONE NO. (262) 857-8101

E-MAIL ADDRESS: johns@kuenyarch.com

OWNER: BCD Enterprises, LLC

ADDRESS: 800 Black Hawk Drive, Burlington, WI 53105 PHONE NO. (262) 539-3400

SITE ADDRESS: 800 Black Hawk Drive, Burlington, WI 53105

PROPOSED USE: Office Addition (Phase 2) PRESENT ZONING: M-3

LEGAL DESCRIPTION: 206-02-19-09-007-120
(Attach full legal description if needed)

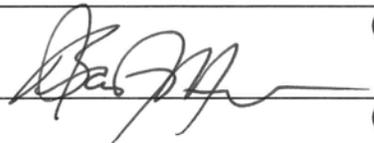
THE SITE PLAN MUST INCLUDE THE FOLLOWING INFORMATION
(PLEASE LIST ANY ADDITIONAL INFORMATION WHERE APPLICABLE):

- X Site plan drawn to a recognized engineering or architectural scale with graphic scale, shown as well as the date of drawing and the north arrow shown.
X Project title and owner's/developer's name and address noted.
X Architect's and/or engineer's name and address noted.
X Property boundaries and dimensions.
X Abutting property zoning classifications.
X General description of building materials, façade and roof detail.
X Setback lines indicated.
X Easements for access, if any.
N/A 100-year floodplain identification.
X Existing and proposed topography show at a contour interval of not less than two feet, indicating proposed grade and location of improvements.
X Signage and outdoor lighting – proposed location and details.

- X Total number of employees: 35 and Hours of operation 24 hour, 5 days / week.
- X Total no. of parking spaced noted. No. of parking spaces provided: 69 (3 H.C.). Calculations used to arrive at the no. of spaces: 1.5 sp. /1000 s.f.
- X Type, size and location of all structures with all building dimensions shown.
- X Locate existing and general location of proposed sanitary sewers, storm sewers and water-mains.
- X Locate any proposed stormwater management facilities, including detention/retention areas. The City of Burlington has a stormwater ordinance in effect.
- X Note location, extent and type of proposed landscaping and landscaping plantings and buffers to adjacent property, including fencing or other screening.
- X Note, location of pedestrian sidewalks and walkways.
- X Graphic outline of any development staging that is planned.
- X Driveway locations and sizes.
- X Handicap accessibility.
- N/A List environmental concerns, i.e. odor, smoke, noise.

Owner: Barbara Morman  
 \_\_\_\_\_  
 (Print)

Date: 6/14/2018

Owner:   
 \_\_\_\_\_  
 (Signature)

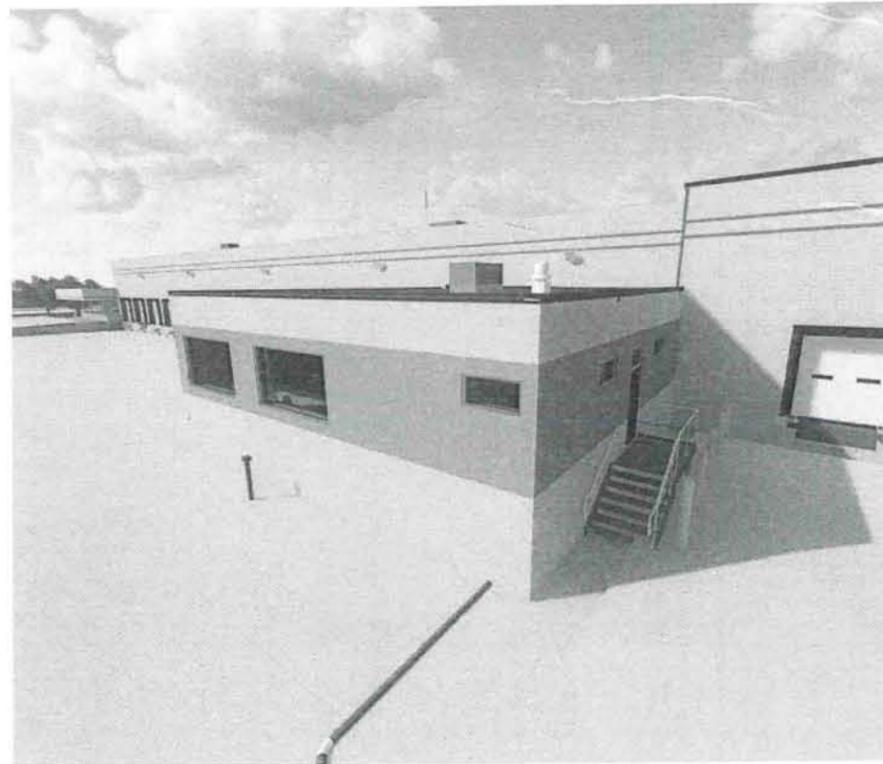
Applicant: John F. Schmidbauer, P.E. - Agent  
 \_\_\_\_\_  
 (Print)

Date: 6/14/2018

Applicant:   
 \_\_\_\_\_  
 (Signature)

Zoning Administrator: \_\_\_\_\_  
 \_\_\_\_\_  
 (Signature)

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



CODE SUMMARY	
SECTION	REMARKS
304.1	OCCUPANCY CLASS = S-2 - LOW-HAZARD STORAGE (Unsprinklered) = B - BUSINESS The Cross Dock addition shall be used for the storage of non-combustible materials such as products on wood pallets or in paper cartons with or without single thickness dividers, or in paper wrappings.
506.1	MODIFIED ALLOWABLE AREA = 40,250 Square Feet
506.2	TABULAR ALLOWABLE AREA = 23,000 Square Feet (Class B and S2)
506.3	FRONTAGE AREA INCREASE = 75 percent
508.3	Non-Separated Occupancies ACTUAL AREA = 34,414 < 40,250 Square Feet
601.1	CONSTRUCTION CLASS = TYPE IIB
1004.1	OCCUPANT LOAD: Existing Office = 2,760 sq. ft. / 100 = 28 Existing Cross Dock = 15,280 sq. ft. / 500 = 31 Proposed Cross Dock = 14,250 sq. ft. / 500 = 29 Proposed Office = 2,024 sq. ft. / 100 = 21
1005.1	REQUIRED EGRESS WIDTH = 109 x 0.2 = 22 inches PROVIDED EGRESS WIDTH = 216 inches
1006.2.1	TWO EXITS ARE PROVIDED AS REQUIRED.
1007.2	EXITS ARE SEPARATED BY A DISTANCE > 1/2 DIAGONAL DIMENSION.
1017.2	EXIT TRAVEL DISTANCE LIMIT = 200 feet Maximum ACTUAL DISTANCE = 67 feet. (for office)
2902.1	PLUMBING FIXTURE COUNTS: WATER CLOSETS - REQUIRED = 3 PROVIDED = 5 LAVATORIES - REQUIRED = 2 PROVIDED = 5
ZONING	City of Burlington M-3 Manufacturing and Office Park

NOTE - Proposed Cross Dock Addition was previously APPROVED, Transaction ID 3061167

## GENERAL NOTES

- All concrete to test 4000 psi (exterior) or 3000 psi (interior) in 28 days.
- Verify all dimensions, access, utilities and working conditions in the field.
- Conform to all applicable codes, ordinances and safety standards.
- Obtain and pay for all required permits and fees.
- Notify Architect immediately if work cannot proceed as shown on Drawings or as described in the Specifications.
- No concrete to be poured without Architect's prior review.
- All Contractor's to co-operate with all trades, Owner's and Architect's representatives.
- Leave site clean, neat and free of debris at all times.
- Each Prime and Sub-contractor is responsible for having read each page of the Specifications, Drawings, Addenda and Change Orders.
- Guard against interfering with Owner's operations.
- These Drawings contain no provisions or procedures for on-site safety. Each Contractor and their employees are responsible to follow all laws and ordinances and provide their own engineering to provide a safe work place.
- The locations of existing underground utilities, shown on these Drawings, are shown in an approximate way only and have not been independently verified by the Owner or its representatives. The Contractor shall determine the exact location of all existing utilities before commencing work, and agree to be fully responsible for any and all damages which might be occasioned by the Contractor's failure to exactly locate and preserve any and all underground utilities.
- Services performed for this project have been conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in this area under similar budget and time constraints. No warranty, expressed or implied, is made.

## MATERIAL INDICATIONS

Earth Backfill		Sand Fill	
Rigid Insulation		Concrete	
Concrete Block		Finished Wood	
Aluminum		Stone Fill	
Lumber (Rough)		Plywood	
Steel		Batt Insulation	

## DRAWING LEGEND

+ 461.0 New or Required Point Elevation		10 Room/Space Number
+ 461.0 Existing Point Elevation		10 Door Number
+ 461.0 Existing Contours		A Building Section
+ 461.0 New or Required Contours		A Wall Section
A		4 Column Grids

## CONSULTANTS

ARCHITECT	Kuery Architects, LLC	10505 Corporate Drive	Pleasant Prairie, Wisconsin 53158
	(262) 857-8101		
MECHANICAL	Southport Engineering System	1343 South 27th Street	Caledonia, Wisconsin 53108
	(262) 854-6630		
ELECTRICAL	Rewald Electric	1556 South Teul Road	Burlington, Wisconsin 53105
	(262) 763-3573		
CONSTRUCTION	Pioneer Projects	3200 Sheridan Road, Suite 105	Kenosha, Wisconsin 53140
	(262) 764-1478		

## SHEET INDEX

- Title Sheet
- 1.1 Existing Site Plan
- 1.2 Grading Plan
- 1.3 Site Plan
- 4.1 Addition Office and Roof Plan
- 5.1 Exterior Elevations - Addition
- PD-1 Plumbing Site Plan
- SP-1 Site Photometric Plan

## SITE MAP



Office Addition

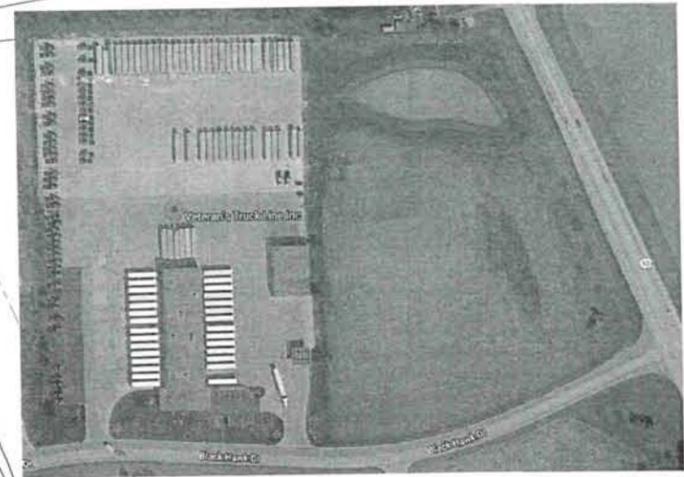
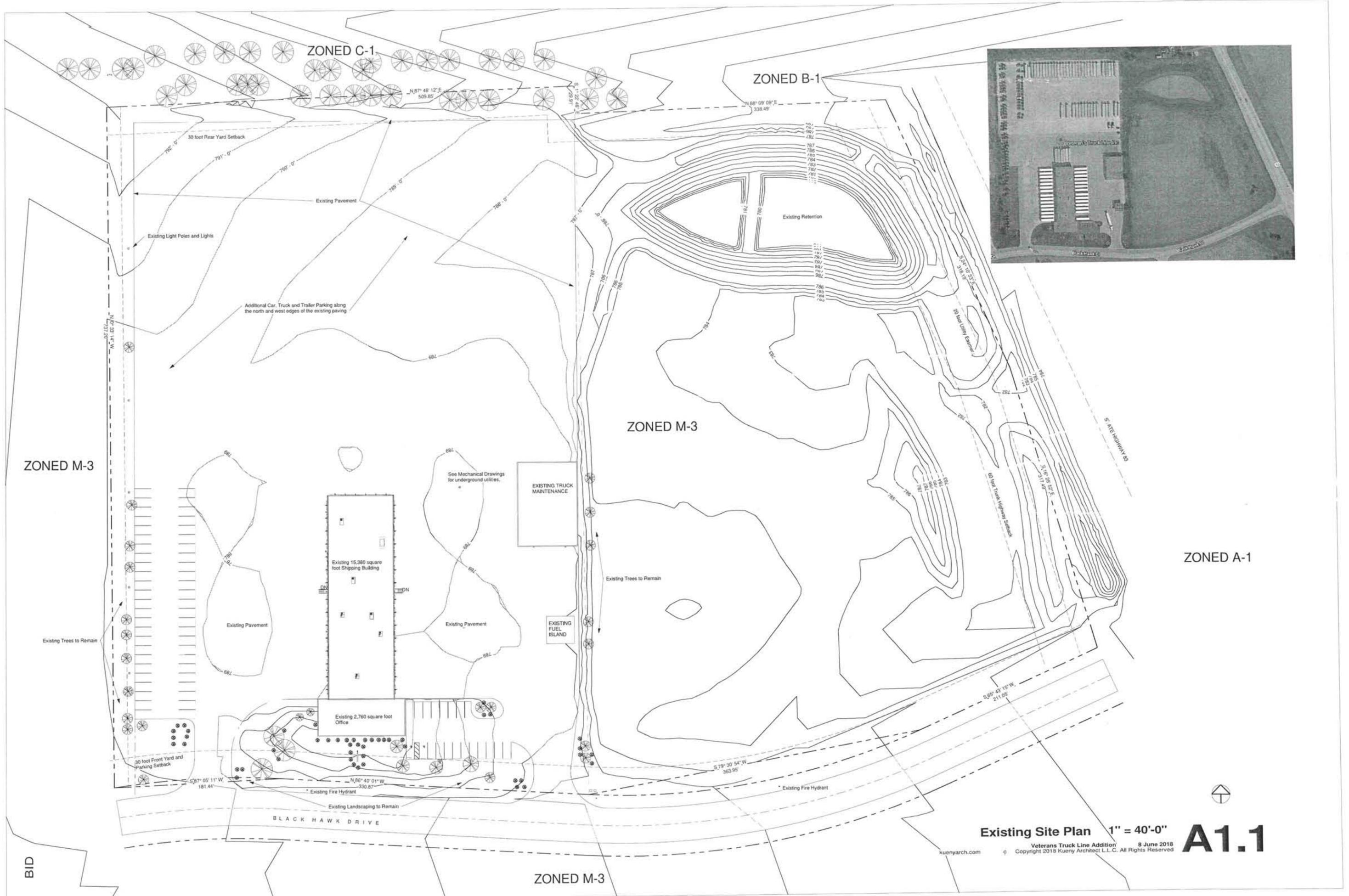
Kuery Architects



VETERAN'S TRUCK LINE, INC.

800 Black Hawk Drive

Burlington, Wisconsin 53105



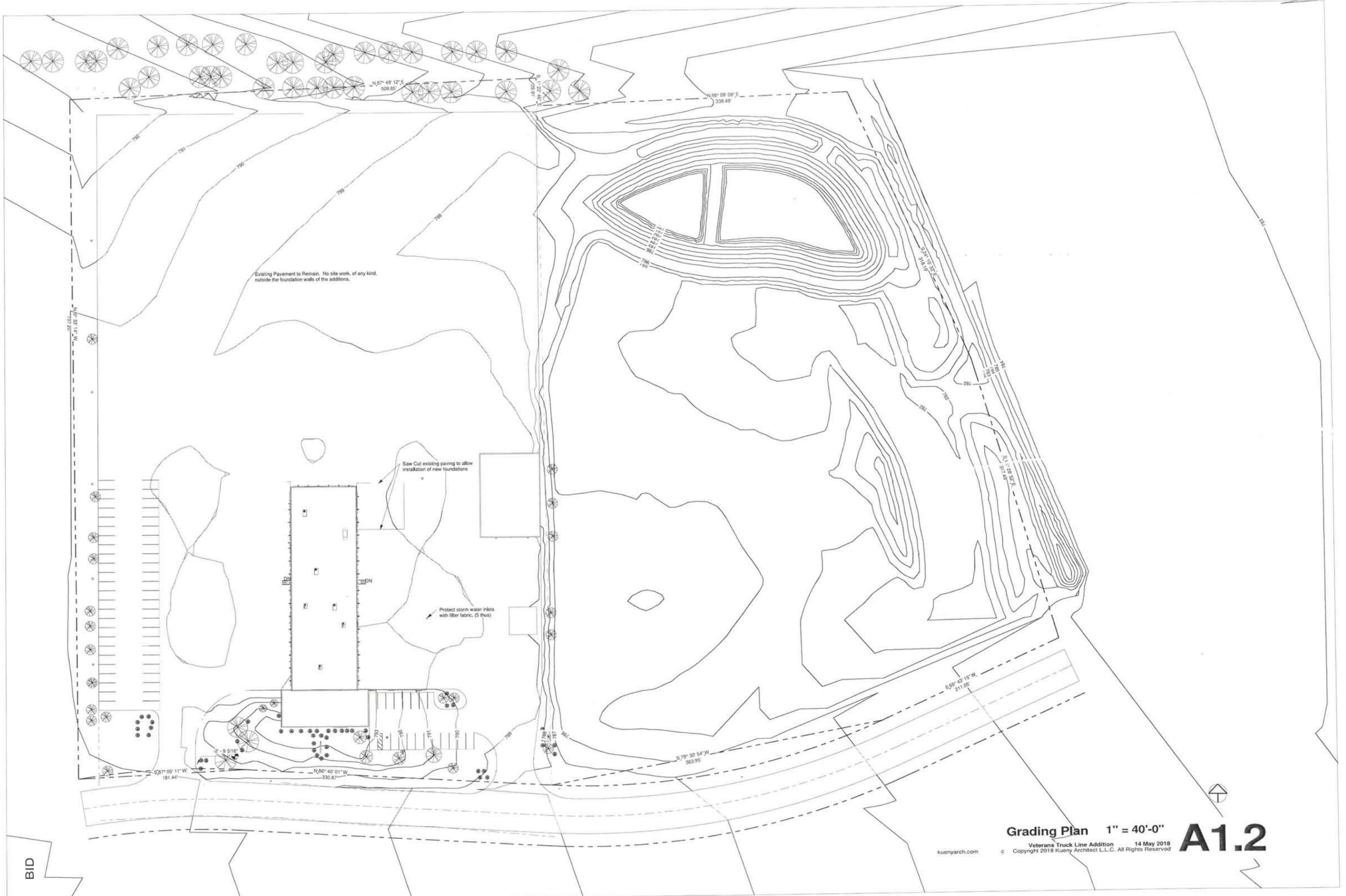
**Existing Site Plan** 1" = 40'-0"

Veterans Truck Line Addition 8 June 2018  
 Copyright 2018 Kueny Architect L.L.C. All Rights Reserved

**A1.1**

BID

ZONED M-3



Existing Pavement to Remain. No site work, of any kind, outside the foundation walls of the additions.

Saw Cut existing paving to allow installation of new foundations

Protect storm water inlets with filter fabric. (5 Thus)

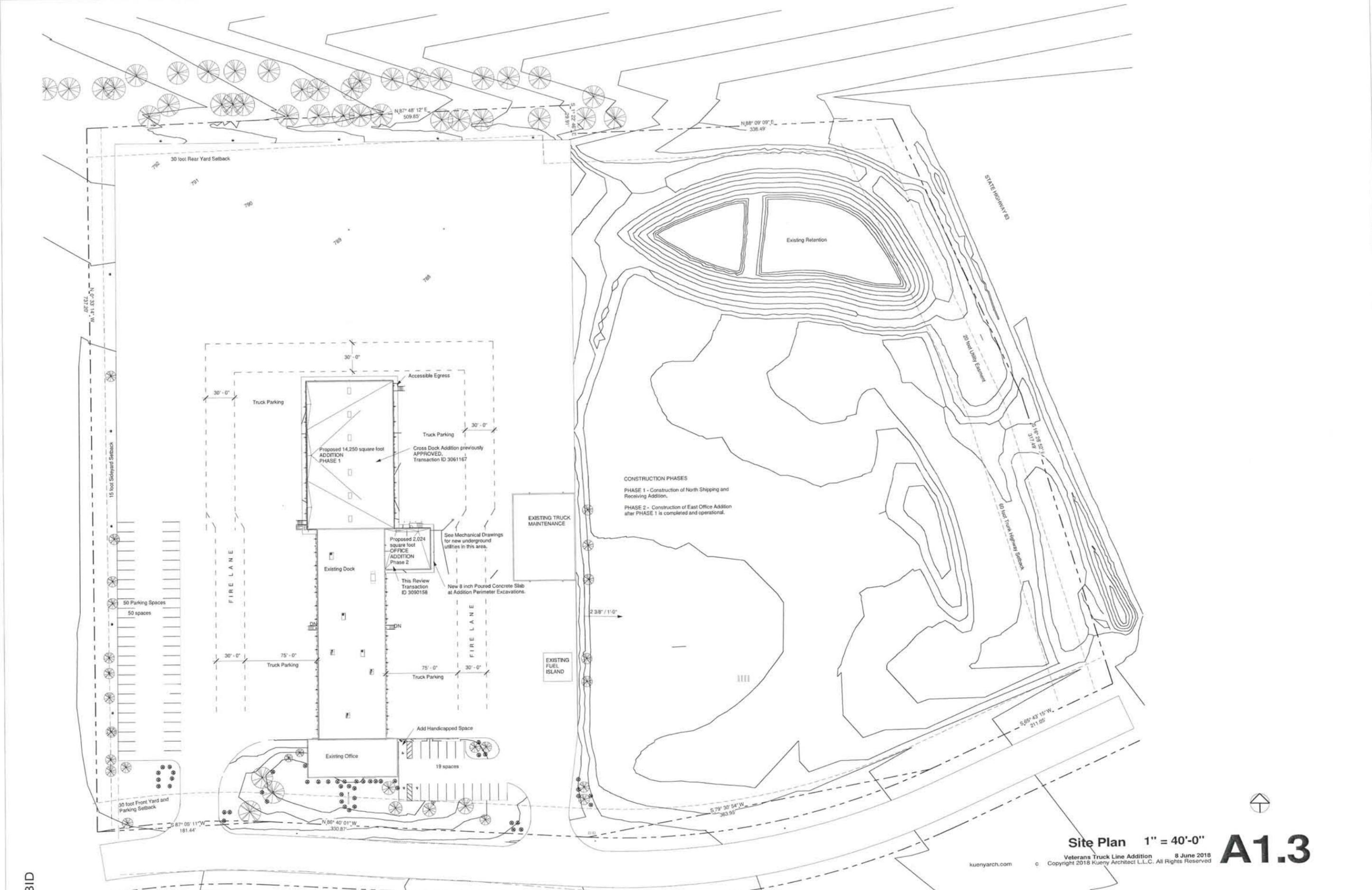
**Grading Plan 1" = 40'-0"**

Veterans Truck Line Addition 14 May 2018  
 Copyright 2018 Kuony Architect L.L.C. All Rights Reserved

**A1.2**

BID

kuonyarch.com

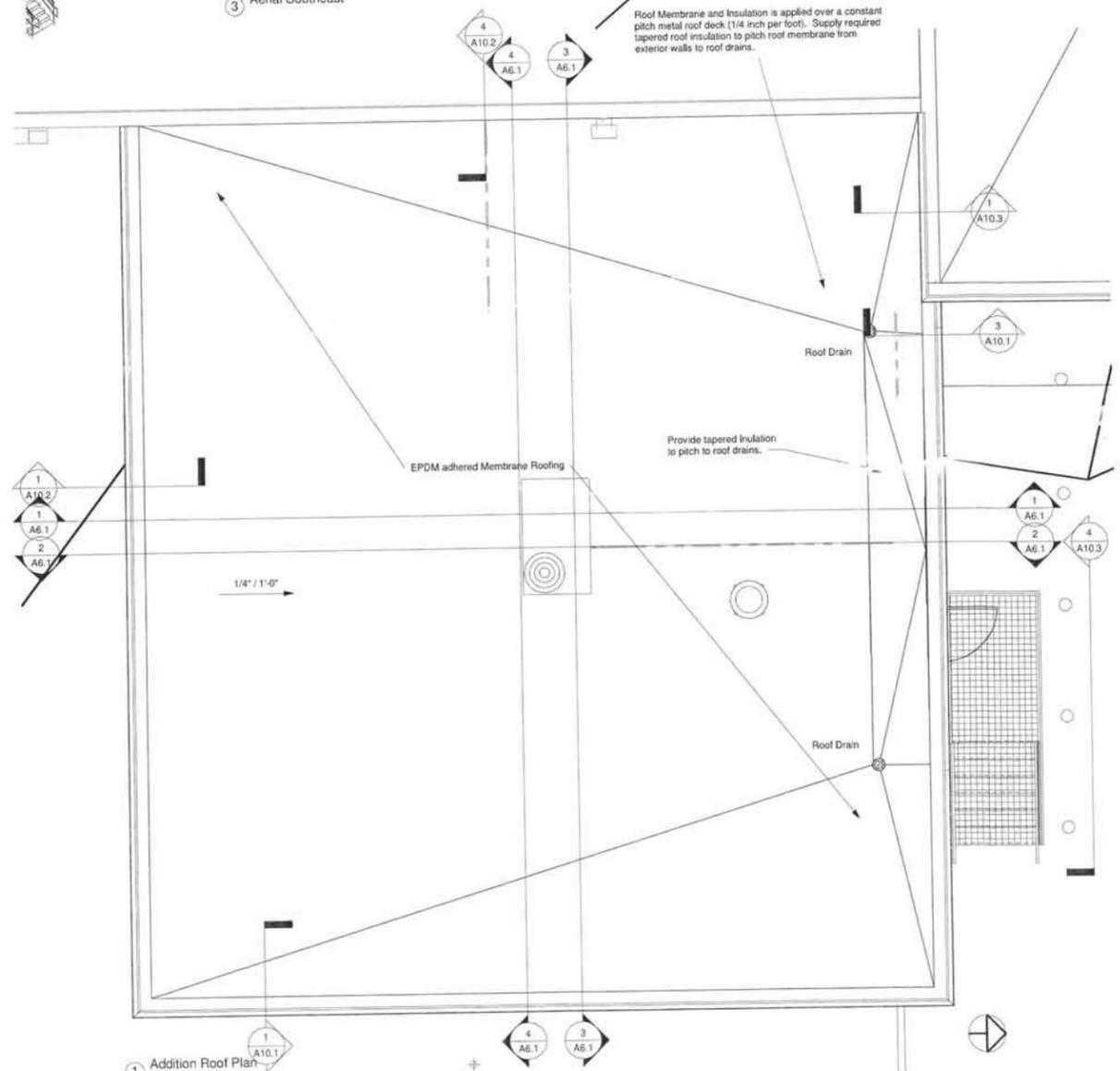
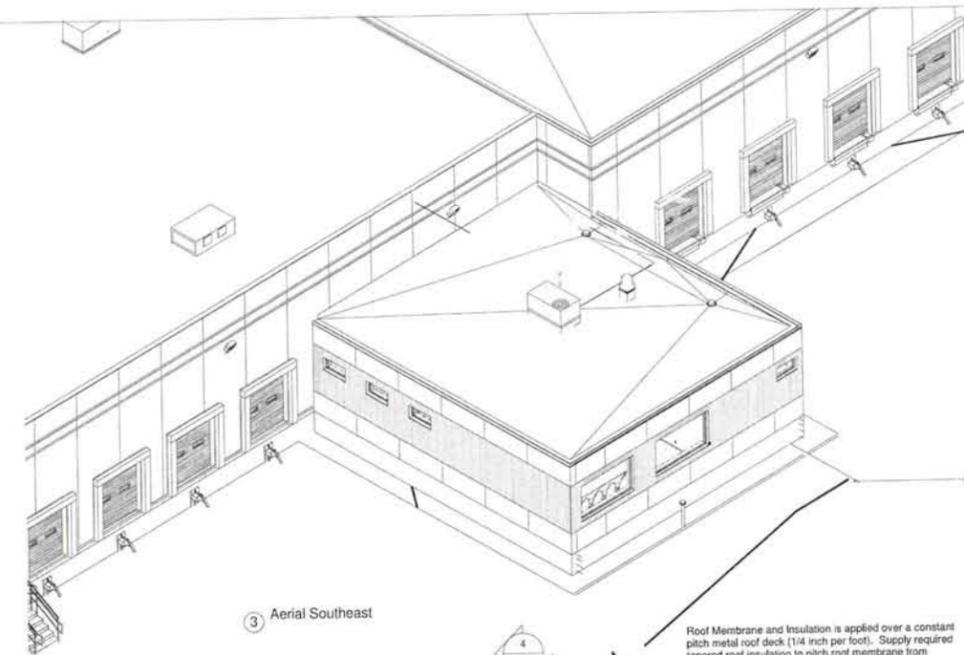
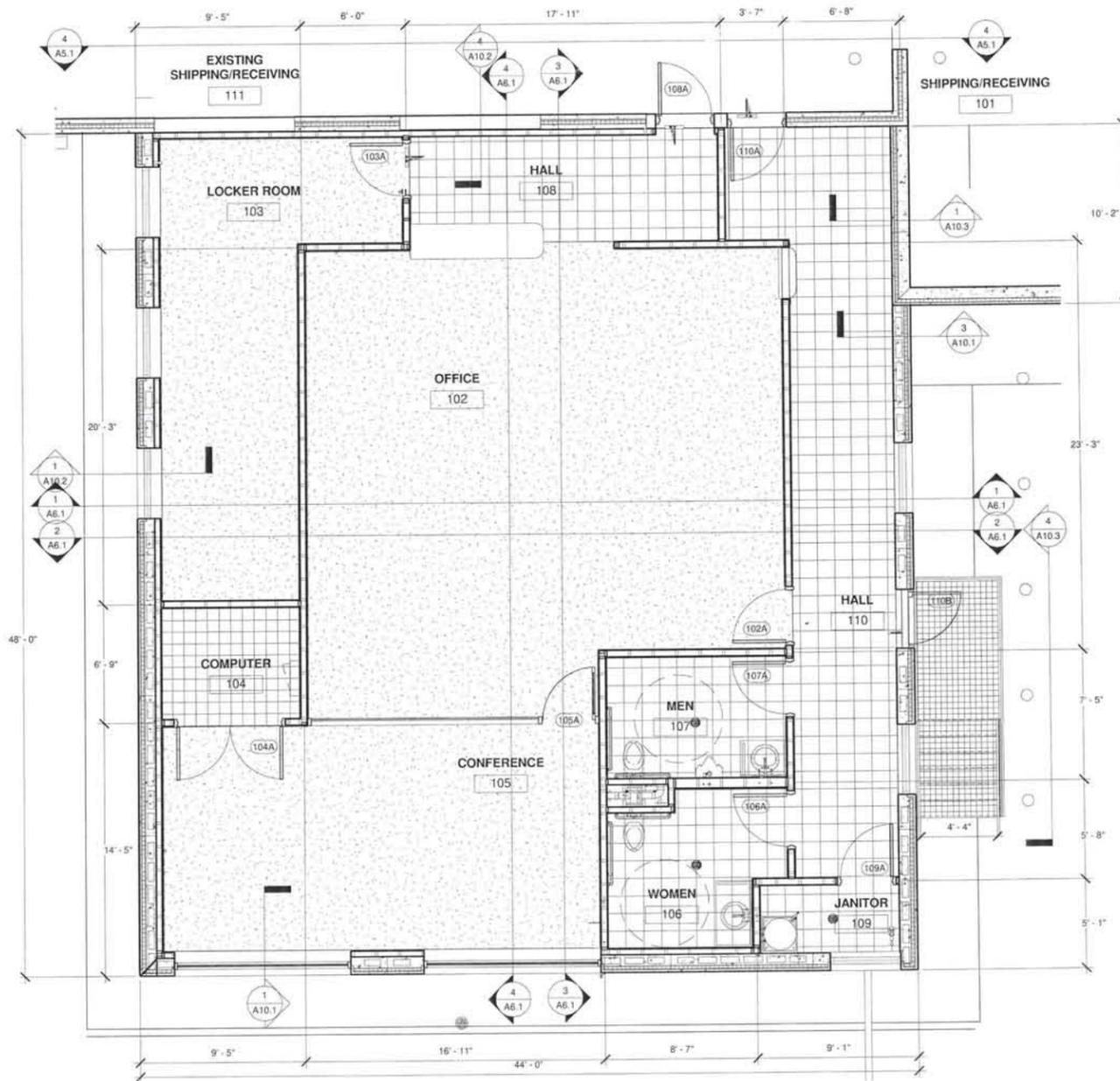


BID

Site Plan 1" = 40'-0"

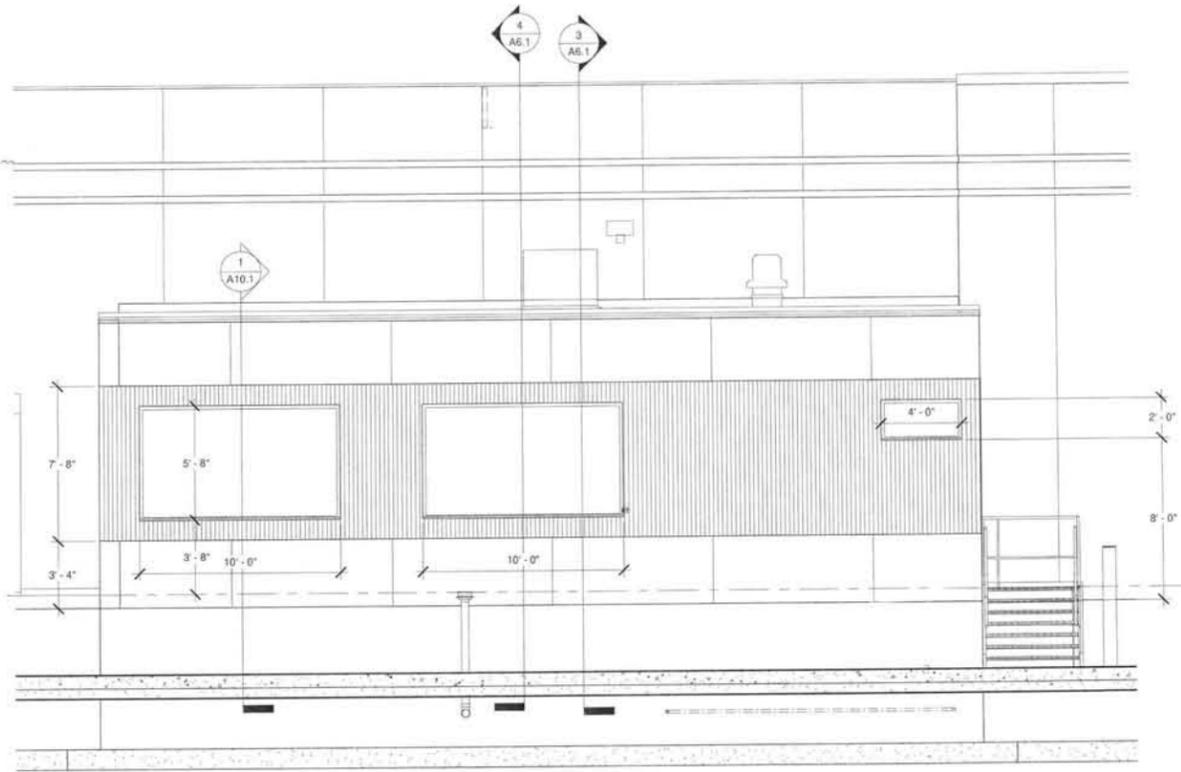
**A1.3**

kuonyarch.com  
 Veterans Truck Line Addition 8 June 2018  
 Copyright 2018 Kuery Architect L.L.C. All Rights Reserved

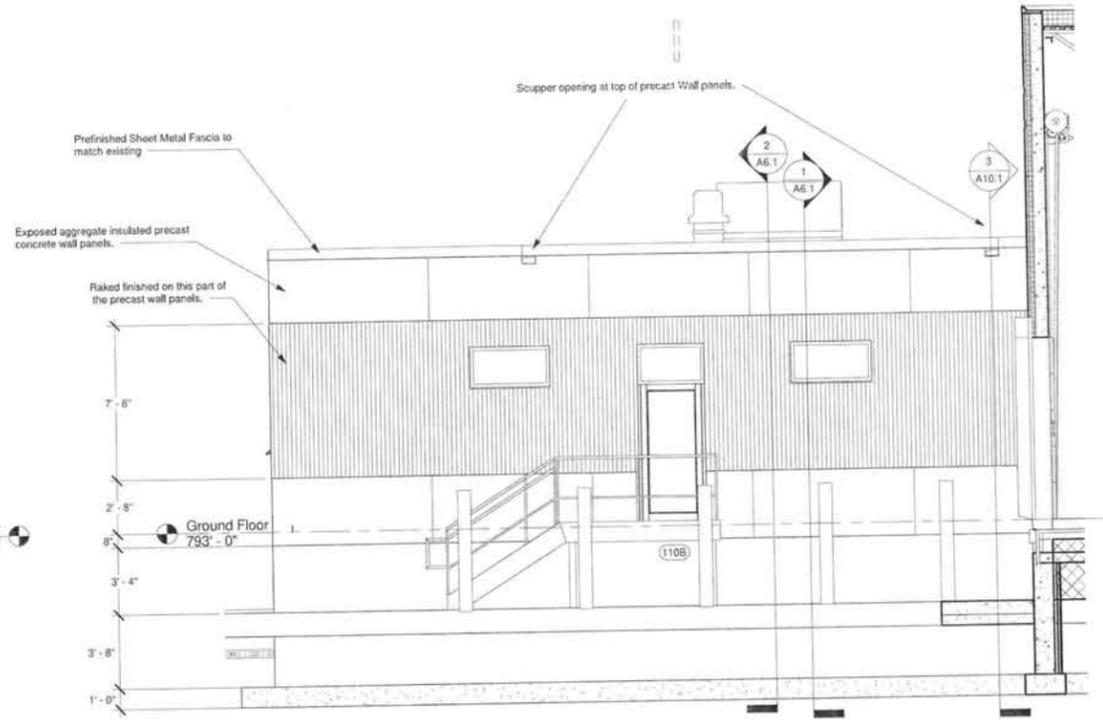


**Addition Office and Roof Plan 1/4" = 1'-0"**

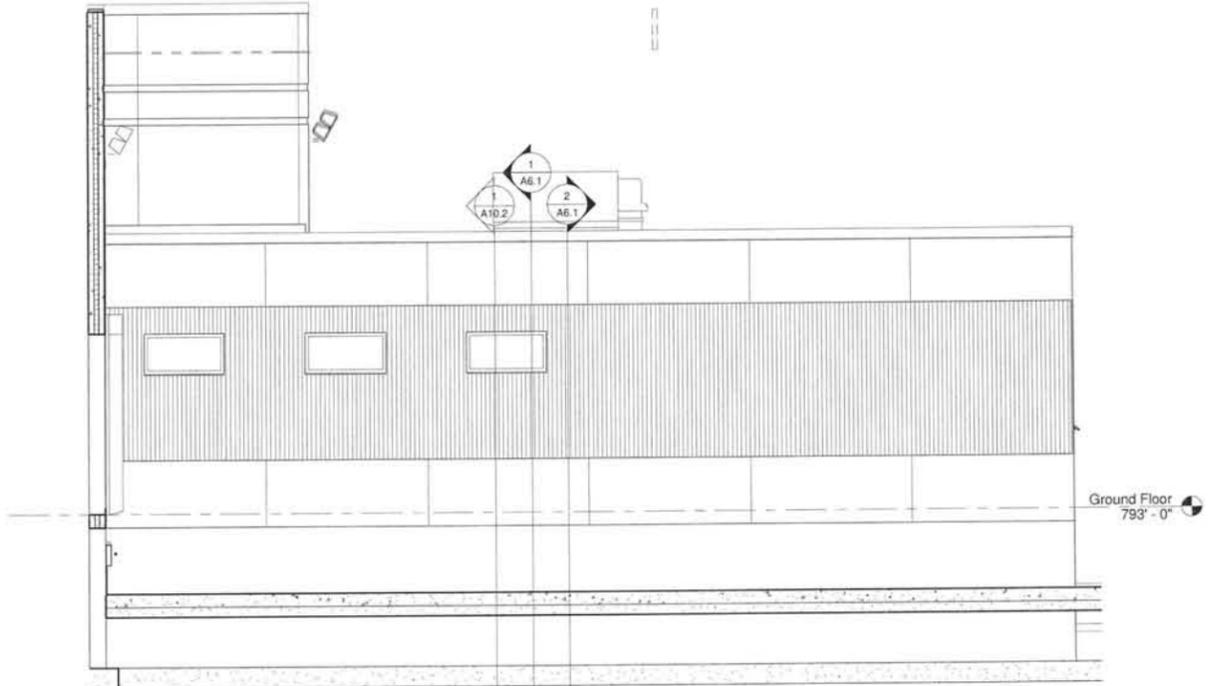
**A4.1**



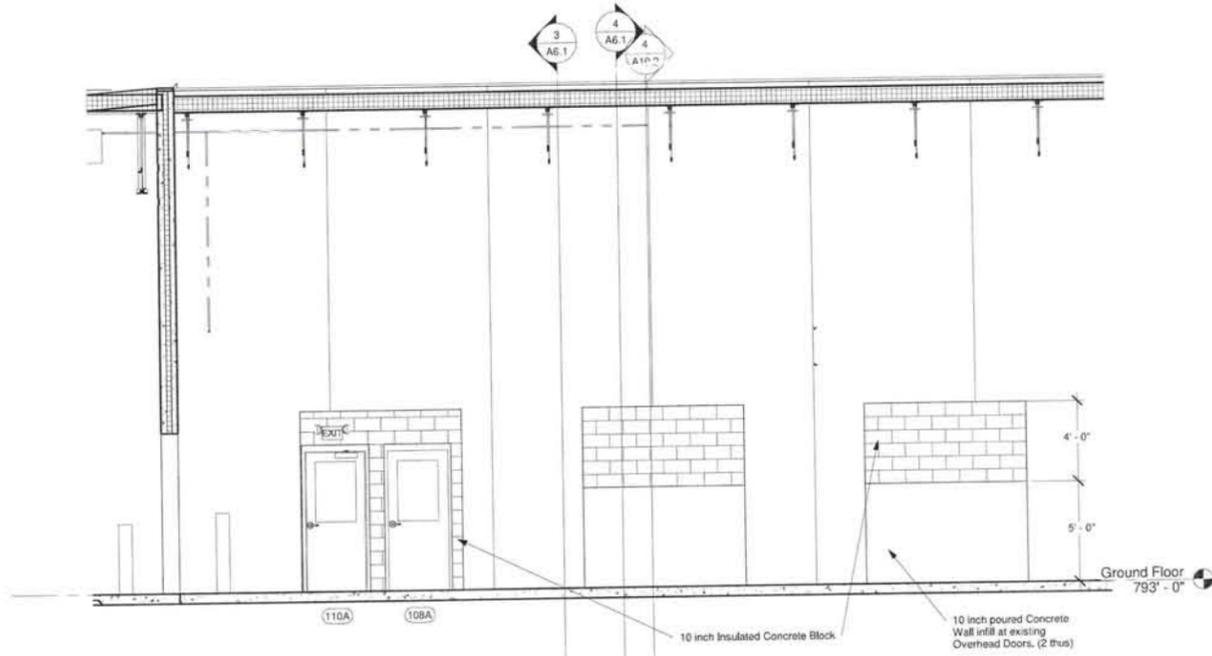
1 East Elevation - Office Addition  
1/4" = 1'-0"



2 North Elevation - Office Addition  
1/4" = 1'-0"



3 South Elevation Office Addition  
1/4" = 1'-0"



4 EXISTING DOCK LOOKING EAST  
1/4" = 1'-0"

Exterior Elevations - Addition 1/4" = 1'-0"

Veterans Truck Line Addition 8 June 2018  
kuenyarch.com Copyright 2018 Kueny Architect L.L.C. All Rights Reserved

**A5.1**

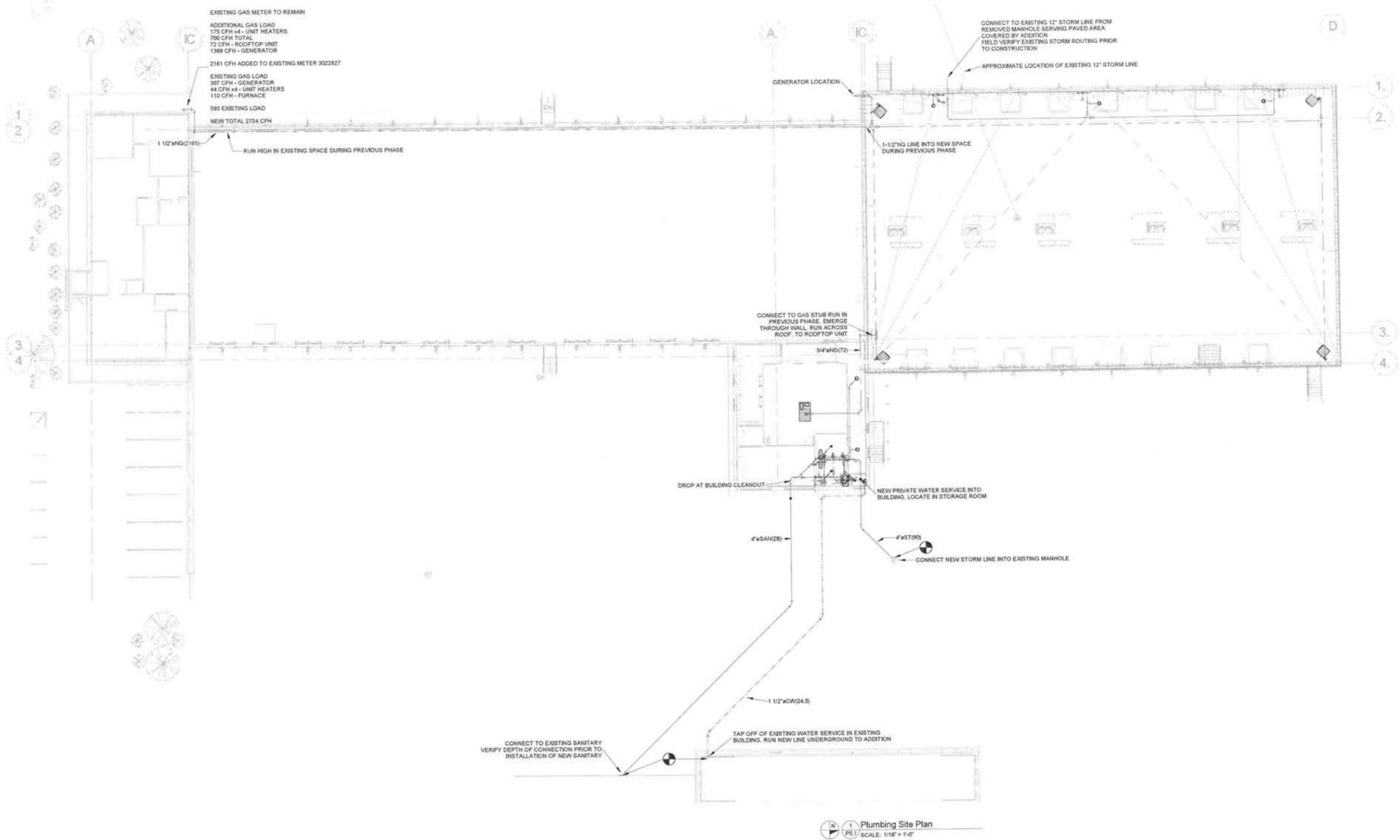
PLUMBING SYMBOLS AND ABBREVIATIONS

CW	COLD DOMESTIC WATER
HW	HOT DOMESTIC SUPPLY
HWC	HOT DOMESTIC RETURN
CHW	COLD HARD WATER
V	VENT
NG	NATURAL GAS
—	RISER DOWN
—	RISER UP
—	A-TRAP
(-)	SHUTOFF VALVE
—	CHECK VALVE
—	BALANCING VALVE
SAN	SANITARY PIPE
ST	STORM PIPE
RPZBP	REDUCED PRESSURE ZONE BACKFLOW PREVENTER
CWW	CLEARWATER WASTE
CWV	CLEARWATER VENT
FCO	FLOOR CLEAN OUT
WCO	WALL CLEAN OUT
CWF	FILTERED COLD WATER
(M)	WATER METER
VTR	VENT THROUGH ROOF
—	CONNECTION TO EXISTING
NPCW	NON-POTABLE COLD WATER
NPHW	NON-POTABLE HOT WATER

PIPE TAG NOMENCLATURE:

3" XSAN (21)

- 1 - PIPE SIZE
- 2 - MODIFIER (E.G. X-EXISTING, F-FILTERED, S-SOFT)
- 3 - SYSTEM TYPE (E.G. SAN - SANITARY, CW - COLD WATER, ETC.)
- 4 - QUANTITY OF FLOW  
SAN - DPU (DRAINAGE FIXTURE UNITS)  
CW, HW - WSFU (WATER SERVICE FIXTURE UNITS)  
STORM - GPM (GALLONS PER MINUTE)  
GAS - CFH (CUBIC FEET PER HOUR)



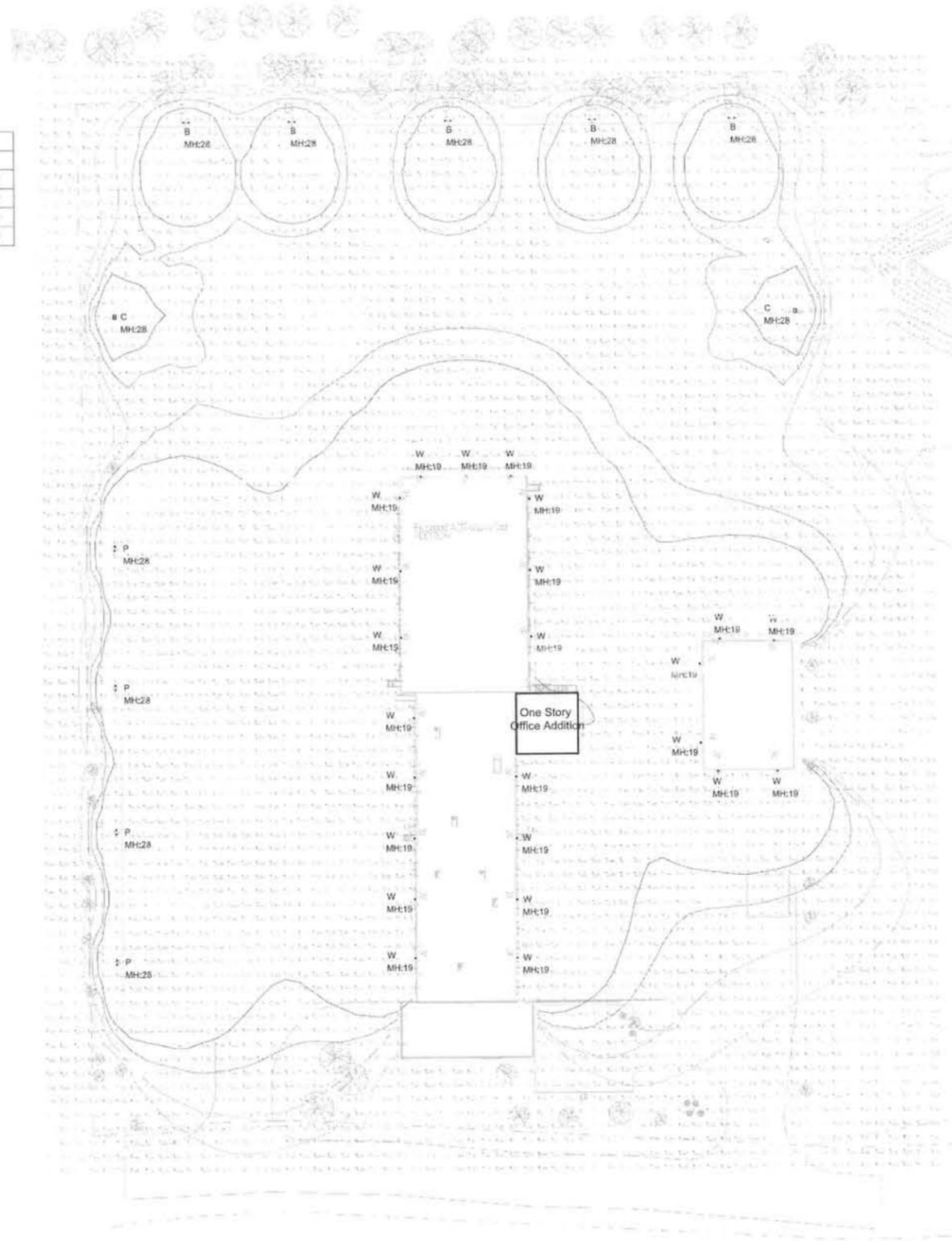
Plumbing Site Plan  
SCALE: 1/16" = 1'-0"

Sheet Number	Sheet Name
P0.1	Plumbing Site Plan
P0.0	Underground Plumbing Plan
P2.1	Ground Floor Above Ground Plumbing Plan
P2.2	Office Plumbing Plan
P2.3	Warehouse Plumbing Roof Plan
P3.0	Plumbing Isometrics, Details, and Specifications

Plumbing Site Plan As indicated **P0.1**

6/11/2018 2:39:36 PM

Luminaire Schedule				
Qty	Label	Manufacturer	Description	LLF
5	B	Cree	(2) OSQ-A-40D-S-40K-UL (25' POLE, 3' BASE)	0.500
2	C	Cree	OSQ-A-DM-3ME-S-40K (25' POLE, 3' BASE)	0.900
4	P	Lumark	(2) NFFLD-L-B100-D-UNV-66-S-CB (25' POLE, 3' BASE)	0.900
24	W	Lumark	NFFLD-L-875-X-U-66-S • RABZ	0.900





**PLAN COMMISSION**

**ITEM NUMBER: 7I**

**DATE:** July 10, 2018

**SUBJECT:** A Public Hearing for a Conditional Use application at 381 W. Market Street.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

A Public Hearing has been scheduled to hear comments and concerns from the public regarding a Conditional Use application from Jimmy C, LLC for property located at 381 W. Market Street. The applicant is proposing to allow for shop and equipment storage for a small asphalt business. The unimproved lot is part of the existing condition of the site. The applicant is requested to consider completing the asphalt improvements on the property.

**ZONING:**

The parcel is currently zoned M-1, Light Manufacturing District.

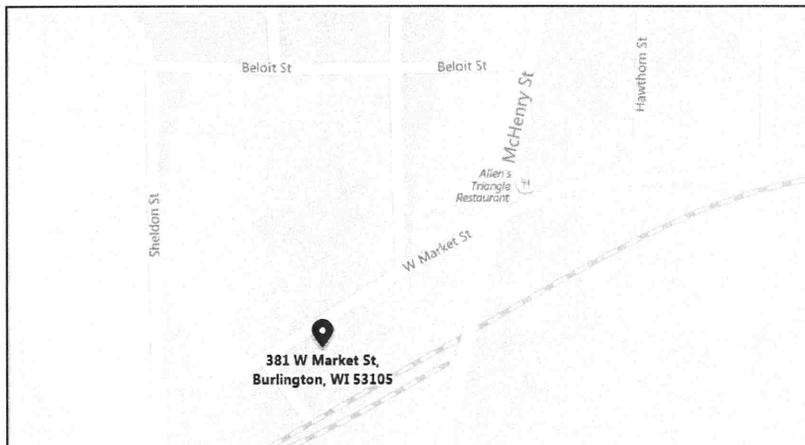
**RECOMMENDATION:**

N/A

**TIMING/IMPLEMENTATION:**

This item is for a Public Hearing at the July 10, 2018 Plan Commission meeting and will be for discussion the same night.

**MAP:**



THE PLAN COMMISSION IN AND FOR THE CITY OF BURLINGTON

Notice of Hearing on  
Proposed Conditional Use Permit  
M-1, Light Manufacturing District

TO WHOM IT MAY CONCERN:

**NOTICE** is hereby given that the Plan Commission of the City of Burlington, Racine County, Wisconsin, will conduct a hearing to discuss the proposed Conditional Use Permit for:

**Owner:** Scott Slavson  
**Applicant:** Scott Slavson  
**Location:** 381 W. Market Street  
**Zoning:** M-1, Light Manufacturing District  
**Use:** To operate an asphalt business and storage of equipment

**NOTICE IS FURTHER GIVEN** that a hearing on the above-mentioned Conditional Use Permit will be held by the City Plan Commission in the Courtroom of the Police Department, in the City of Burlington on:

**TUESDAY, JULY 10, 2018 DURING THE MEETING OF THE PLAN COMMISSION SCHEDULED TO BEGIN AT 6:30 P.M. OR SHORTLY THEREAFTER**

To consider the above Conditional Use Permit and to hear persons in support thereof or opposition thereto.

CITY OF BURLINGTON  
PLAN COMMISSION

Dated at Burlington, Wisconsin, 18<sup>th</sup> day of June, 2018.

Diahnn Halbach, City Clerk

Published in the Burlington Standard Press  
June 21<sup>st</sup> and June 28<sup>th</sup>, 2018

Jean Gruenert  
to Jean Gruenert

Tue, Jul 3 8:17 AM

## Fwd: Planning and zoning

----- Forwarded message -----

From: Jean Gruenert < >  
Date: Tue, Jul 3, 2018, 8:15 AM  
Subject: Planning and zoning  
To: Jean Gruenert < >

To whom it may concern,

They don't have a really lot of issue except for questions and the permit request for 381 West market

We will be out of town the whole week so we will not be able to make the meeting to ask the questions ourselves

Number one is the person who is going to run this business really who's it States and the permit request

Number 2 an asphalt business requires dump trucks that building is not going to be big enough for that or a paver

Number 3 seal coating business would be more properly fitting for that building smaller equipment skid steer roller storage of the liquid coating and perhaps a pick up

We know of a guy that does this he gets a guy with money to back him in his business and bleeds him dry personal experience speaking that is why I am questioning this if it's all above board in legal no problem

Sincerely



Jean Gruenert

POA for Violet Tietel Living Trust



**PLAN COMMISSION**

**ITEM NUMBER: 7J**

**DATE:** July 10, 2018

**SUBJECT:** Consideration to approve a Conditional Use and application at 381 W. Market Street.

**SUBMITTED BY:** Gregory Guidry, Building Inspector and Zoning Administrator

**PROJECT/SCOPE:**

This item is to consider approving a Conditional Use application from Scott Slavson of Jimmy C, LLC for property located at 381 W. Market Street. The applicant is proposing to allow for shop and equipment storage for a small asphalt business. The unimproved lot is part of the existing condition of the site. The applicant is requested to consider completing the asphalt improvements on the property.

**ZONING:**

The parcel is zoned M-1, Light Manufacturing District.

**RECOMMENDATION:**

Graef and Fire Department recommend a conditional approval of this Conditional Use, subject to items listed in their July 2, 2018 memorandums.

**TIMING/IMPLEMENTATION:**

This item is for consideration at the July 10, 2018 Plan Commission meeting. No further action is necessary.

**MAP:**





One Honey Creek Corporate Center  
125 South 84<sup>th</sup> Street, Suite 401  
Milwaukee, WI 53214-1470  
414 / 259 1500  
414 / 259 0037 fax  
[www.graef-usa.com](http://www.graef-usa.com)

collaborāte / formulāte / innovāte

## MEMORANDUM

**TO:** Plan Commission  
City of Burlington

**FROM:** GRAEF  
Ben Block  
Tanya Fonseca, AICP

**DATE:** July 2, 2018

**SUBJECT:** Review of an Application for a Conditional Use Permit for 381 W. Market Street.

### A. PURPOSE

Consider for approval an Application for a Conditional Use Permit for shop and equipment storage at 381 W. Market Street.

### B. RECOMMENDATION

Based upon the review of the submitted materials, GRAEF recommends the following:

1. The Plan Commission recommend to the Common Council the **CONDITIONAL APPROVAL** of the Application for a Conditional Use Permit for shop and equipment storage at 381 W. Market Street.
2. Pursuant to §315-48 (E)(1), consideration should be given to the making future asphalt improvements to the open, and off-street parking.

### C. BACKGROUND

Scott Slauson of Jimmy C, LLC (Applicant) submitted an Application for a Conditional Use Permit on July 15, 2018 to allow for shop and equipment storage for a small asphalt business at 381 W. Market Street.

Based on the submitted materials, we are assuming that the Applicant is **NOT** proposing outdoor storage (for instance, to store asphalt or equipment on this site). If this assumption is incorrect, the Applicant should revise the Application and resubmit.

The Applicant submitted the following materials:

- An Application for a Conditional Use Permit (2 pages)
- A Site Plan (1 page)

### D. COMPLIANCE WITH ZONING CODE §315-30 "M-1 LIGHT MANUFACTURING DISTRICT"

The parcel is zoned "M-1 Light Manufacturing District," which includes the following conditional use:

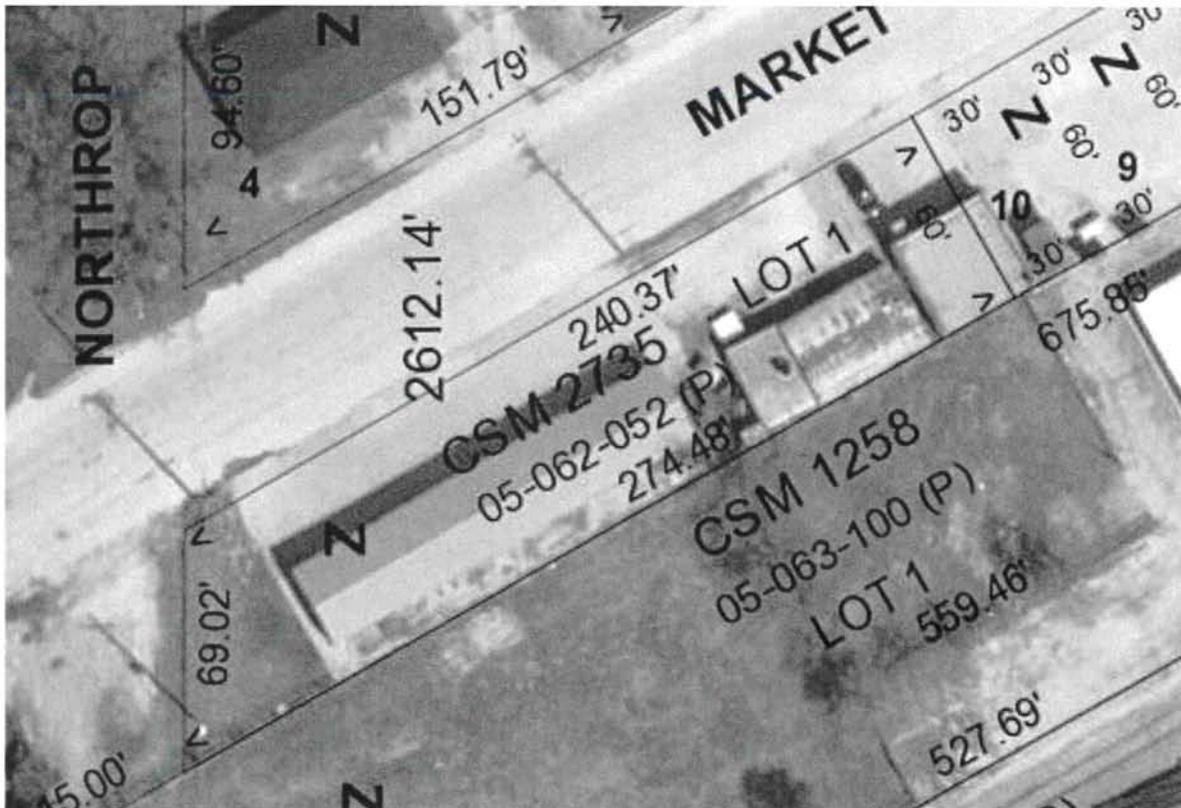
315-30C(15) Construction services, including general building contractors, carpentry, wood flooring, concrete services, masonry, stonework, tile setting, plastering services, roofing, sheet metal services, and water well drilling services.

The proposed shop and equipment storage for a small asphalt business falls under this conditional use, and is compliant.

Parcel 206-02-19-05-062-052, its structure, and its parking lot conform to the dimensional and operational requirements in §315-30 (D, E, F, & G).

### E. COMPLIANCE WITH BURLINGTON ZONING CODE §315-48 "PARKING REQUIREMENTS"

The application for a Conditional Use Permit covers approximately 1/3 of parcel 206-02-19-05-062-052 – the east end of property. Pursuant to §315-48 (E)(1), all open, off-street parking and loading spaces shall be improved with pavement of either asphalt or concrete, with stormwater drainage facilities. While most of the property has been surfaced with asphalt, a portion of the property has not yet been improved with asphalt. The unimproved area is part of the existing condition of the site. The applicant is requested to consider completing the asphalt improvements on the property.



**F. COMPLIANCE WITH ZONING CODE §315-130 “CONDITIONAL USE PERMIT”**

This section of the Zoning Code outlines the rationale for granting conditional uses, such that proposed conditional uses “are found not to be hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.”

The proposed business operations associated with this conditional use would take place between 8 am – 5pm, and would be conducted by one employee. As the surrounding uses also fall within the “M-1 Light Manufacturing District,” this business would be compatible with the surrounding context.



**MEMORANDUM**

**TO:** Plan Commission  
City of Burlington

**FROM:** City of Burlington Fire Department  
Alan Babe, Fire Chief  
Wes Miner, Fire Inspector

**DATE:** July 2, 2018

**SUBJECT:** Review of Site Plan Application for a building addition at 381 W. Market, Burlington, WI. 53105.

**A. PURPOSE**

Consider for approval the Site Plan Application for a building addition at 381 W. Market, Burlington, WI. 53105.

**B. BACKGROUND**

Scott Slavson (Applicant) of Jimmy C submitted a Site Plan Application for a proposed change of use regarding the commercial building at 381 W. Market, Burlington, WI. 53105.

**C. REVIEW OF COMPLIANCE WITH BURLINGTON CODE CHAPTER 155. FIRE PREVENTION, PROTECTION AND CONTROL**

No concerns at time of review.

**D. REVIEW OF COMPLIANCE WITH STATE FIRE CODE**

No concerns at time of review.

**E. RECOMMENDATION**

Based upon the review of the submitted materials, we recommend that the Plan Commission recommend to the Common Council the **CONDITIONAL APPROVAL** of the Site Plan Application at 381 W. Market, Burlington, WI. 53105., based on the following:

- 1) The owner ensures all work conforms to local and state code.



CITY OF BURLINGTON

Building & Zoning Department  
300 N. Pine Street, Burlington, WI, 53105  
(262) 342-1163 – (262) 763-3474 fax  
www.burlington-wi.gov

APPLICATION FOR A CONDITIONAL  
USE PERMIT

FOR OFFICIAL USE ONLY	
Date Filed	6/15/18
Received by	KA

Conditional Use Permit - \$500 Deposit +/- Actual cost

**Instructions:** Applications are to be filed with the Zoning Administrator, who shall refuse applications that are not complete or that are not legible.

**NAMES AND ADDRESSES**

Applicant JIMMY C - SCOTT SLAVSON  
 Phone No. 262-210-3071  
 Applicant's Address 401 PRAIRIE HILL WAY WATERFORD  
 Applicant's Email Address SCOTTSLAVSON@GMAIL.COM WI, 53185  
 Owner of the site SAME  
 Phone No. SAME  
 Owner's address SAME

**DESCRIPTION OF THE SUBJECT SITE**

Business name OWNER JIMMY C LLC % SCOTT SLAVSON  
 Address 381 W MARKET ST. BURLINGTON, WI  
 Or if no address exists: Parcel Identification No. 206-02-19-05-062-052  
 Existing Zoning classification M-1  
 Description of the proposed use SHOP AND EQUIPMENT STORAGE  
 Number of employees / Hours of operation SOLE EMPLOYEE IS MYSELF 8AM - 5PM

**ATTACHMENTS –  
THE FOLLOWING ITEMS MAY NEED TO BE ATTACHED TO THIS APPLICATION:**

**PLAT OF SURVEY** – prepared by a registered land surveyor showing the location, boundaries, elevations, uses and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within (40) feet of the subject site.

If municipal sewage service or water service is not available, a plan shall be approved by the City Engineer who shall certify in writing that satisfactory, adequate and safe sewage disposal and/or a safe supply of water, is possible on the site as proposed by the plan in accordance with applicable local, county and state board of health regulations.

**Additional information**

**Reason for requesting a Conditional Use:**

PURCHASING THE PROPERTY AND  
MY USE IS NOT A PERMITTED USE AND  
NEED TO BE APPROVED FOR MY CONDITIONAL  
USE AND PURCHASE OF THE PROPERTY  
STORAGE OF EQUIPMENT AND SHOP SPACE

USE

Certificate – I hereby certify that all the preceding statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

Applicant Scott Slauson  
(Signature)

SCOTT SLAUSON  
(Print)

Owner Scott Slauson  
(Signature)

SCOTT SLAUSON  
(Print)

Date: 6/15/18

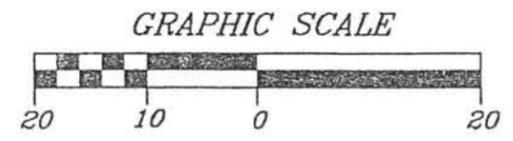
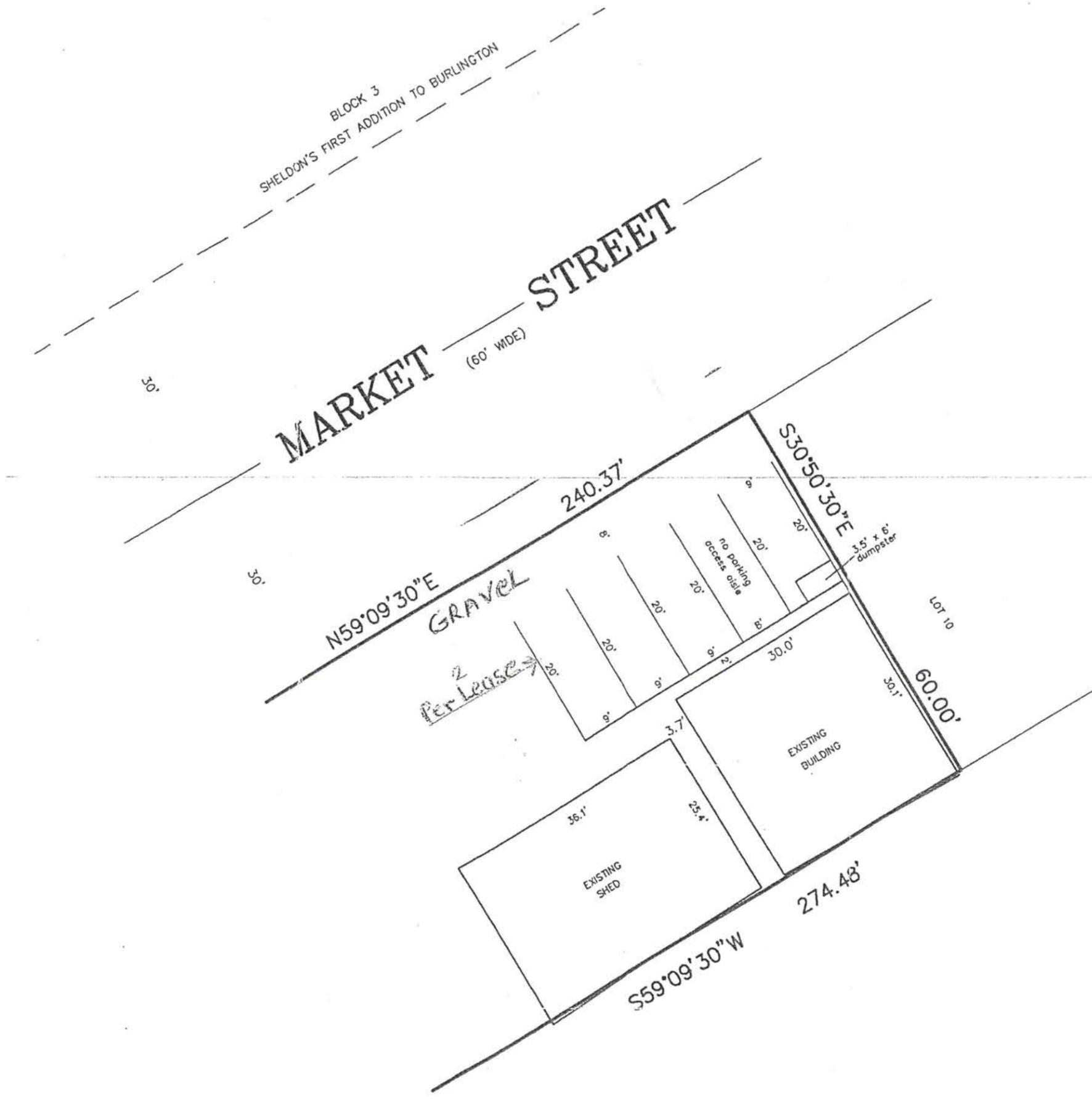
Date application Filed: \_\_\_\_\_

- Applications will not be processed without the property owner's signature.
- Permit may be revoked without notice if misrepresentation of any of the above information or attachments is found to exist.
- Permit is Null and Void if issued in error. It is understood that any permits issued on this application will not grant any right or privilege to erect any structure or to use any premises for any purpose that is prohibited by the Zoning Ordinance or any other state or local laws.
- Changes in the plans or specifications submitted in the original application shall not be made without prior written approval of the Zoning Administrator.

Zoning Administrator: \_\_\_\_\_  
(Signature)

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

# SITE PLAN



SCALE: 1" = 20'