

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 5/25/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 5/25/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

Meetings will be held via Zoom for the welfare of everyone involved. All interested persons wishing to be heard at the public hearing may appear in person however we are encouraging the public to stay home and stay safe.

Join Zoom Meeting: <https://us02web.zoom.us/j/89555541449?pwd=bmZVdlhvQXpaZGtiUWM3clpWZW9CZz09>

Dial by your location: +1 312 626 6799 US (Chicago)

Meeting ID: 895 5554 1449

Passcode: 448702

Additional Instructions for making a virtual appearance can be found at:

<https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON ZONING MAP AMENDMENT REQUEST

Application No.: 21-VA-5675

Applicant: Amcor Flexibles North America - ACF Plant

Agent: CR Meyer & Sons Company

Location of Premises: 2451 Badger Ave

Tax Parcel No.: 1325000000

Legal Description: ALL OF LOT 1 CM 1665 AND PRT OF N 1/2 OF SECT 33, T18N R 16E DESC AS FOLLOWS: COM NW 1/4 COR OF SD SEC 33-18-16; TH ALG N LI OF NE1/2 SD

Explanation: Applicant is requesting a variance to exceed the standard airport height limit.

DESCRIPTION:	CODE REFERENCE:	REQUIRED:	PROPOSED:
The structure height limitation within an Air 4 zoned district may not exceed 880 ft.	24.5-7	880 ft	892 ft

INITIAL STAFF REPORT

Sanitation: existing; municipal

Overlays: Wittman Airport

Current Zoning: City of Oshkosh HI - Air 4

Surrounding Zoning: North: AIR 5; South: AIR 5; East: AIR 3; West: AIR 4

Code Reference: 24.5-7

Description of Proposed Use: The structure height limitation within an Air 4 zoned district may not exceed 880 ft.

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER/APPLICANT

Describe your project, include the proposed dimensions and setbacks: see attached

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property : see attached

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question: see attached

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties: see attached

SECTION REFERENCE AND BASIS OF DECISION

Basis of Decision: Town/County Zoning Code: 23.7-5

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Appendix - 1

Amcor Flexibles North America – ACF Plant
2451 Badger Avenue, Oshkosh, WI
Resin Storage Silo Height Variance



C-1 Describe your project, include the dimensions and proposed setbacks:

The project consists of the installation of two (2) resin storage silos which are 13' dia. x 70' high (with accessories). The top of silo accessories will be at elevation ~892 AMSL. The current Winnebago height limit for this location is 880 AMSL per Wittman Regional Airport Zoning Chapter 24 – Height Districts (Map 2 of 2) dated October 24, 2012. The two silos are being added to an existing cluster of nineteen (19) silos of similar height and dimension. The initial set of silos was installed in the early 1980's when the Amcor (Curwood/Bemis) facility was originally constructed. Over the years additional silos have been added with the most recent, silo #19, being added in 2011. The two (2) new silos will be placed such that one is directly west of silo #19 and one directly east of silo #19. The silos are approx. 120' east of the Amcor west property line.

The proposed silos are located in the City of Oshkosh and are approximately 1.03 miles west of the Wittman Regional Airport Runway 09. (Latitude: 43 deg. 59' 26.17" N and Longitude: 88 deg. 35' 34.25" W)

The existing and proposed silos are/will be filled with various plastic resin material which is used in Amcor's manufacturing process. The resin is delivered by railcar and is pumped via. piping from the rail cars to the storage silos, where it awaits demand from manufacturing processes.

The two (2) new silos will be erected with a temporary crane (up to 142' boom height). The use of the crane will be coordinated with the FAA and Wittman Regional Airport.

C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

The proposed resin storage silos are of the height necessary for manufacturing requirements for the Amcor facility. The proposed two silos are of the same height and size of the existing nineteen silos located directly adjacent to the proposed silos.

The two (2) new silos will be interconnected to the top of the existing silo #19 via an elevated bridge, thus, need to be of the same height.

C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

The proposed two (2) silos are needed in the location proposed due to manufacturing process requirements and site limitations.

- The new silos are at the height necessary for manufacturing requirements.
- The silos are filled from rail cars and resin pump systems that are serviced by the adjacent railroad spur track. The rail spur track is directly west of the existing and proposed silos.

Appendix - 1

Amcor Flexibles North America – ACF Plant

2451 Badger Avenue, Oshkosh, WI

Resin Storage Silo Height Variance

- The location of the silos is ~120' from the west property line and are unable to be moved any further west on the Amcor property that would allow them to be in a compliant height zone.

C-4 Describe how the granting of the requested variance will not harm public interest or have adverse effects on surrounding properties:

The proposed two (2) silos and crane to erect the silos has been reviewed by the FAA and has been determined to be of no hazard. See attached FAA "Determination of No Hazard to Air Navigation" Aeronautical Study No. 2020-AGL-10612-OE (Resin Storage Silos) and 2020-AGL-10746-OE (Construction Crane).

The proposed two (2) resin storage silos are of the same height and size of the existing nineteen (19) adjacent silos.

The placement of the two silos has also been reviewed by Wittman Regional Airport – Jim Schell and they have stated that there are no concerns from the Airport's perspective. They have stated that they would be supportive of a variance.



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2020-AGL-10612-OE

Issued Date: 08/09/2020

Matt Roake
Amcor Flexibles North America
3550 Moser Street
Oshkosh, WI 54901

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Resin Storage Silos
Location:	Oshkosh, WI
Latitude:	43-59-26.17N NAD 83
Longitude:	88-35-34.25W
Heights:	822 feet site elevation (SE) 77 feet above ground level (AGL) 899 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

____ At least 10 days prior to start of construction (7460-2, Part 1)
__X__ Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 2.

This determination expires on 02/09/2022 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.
- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

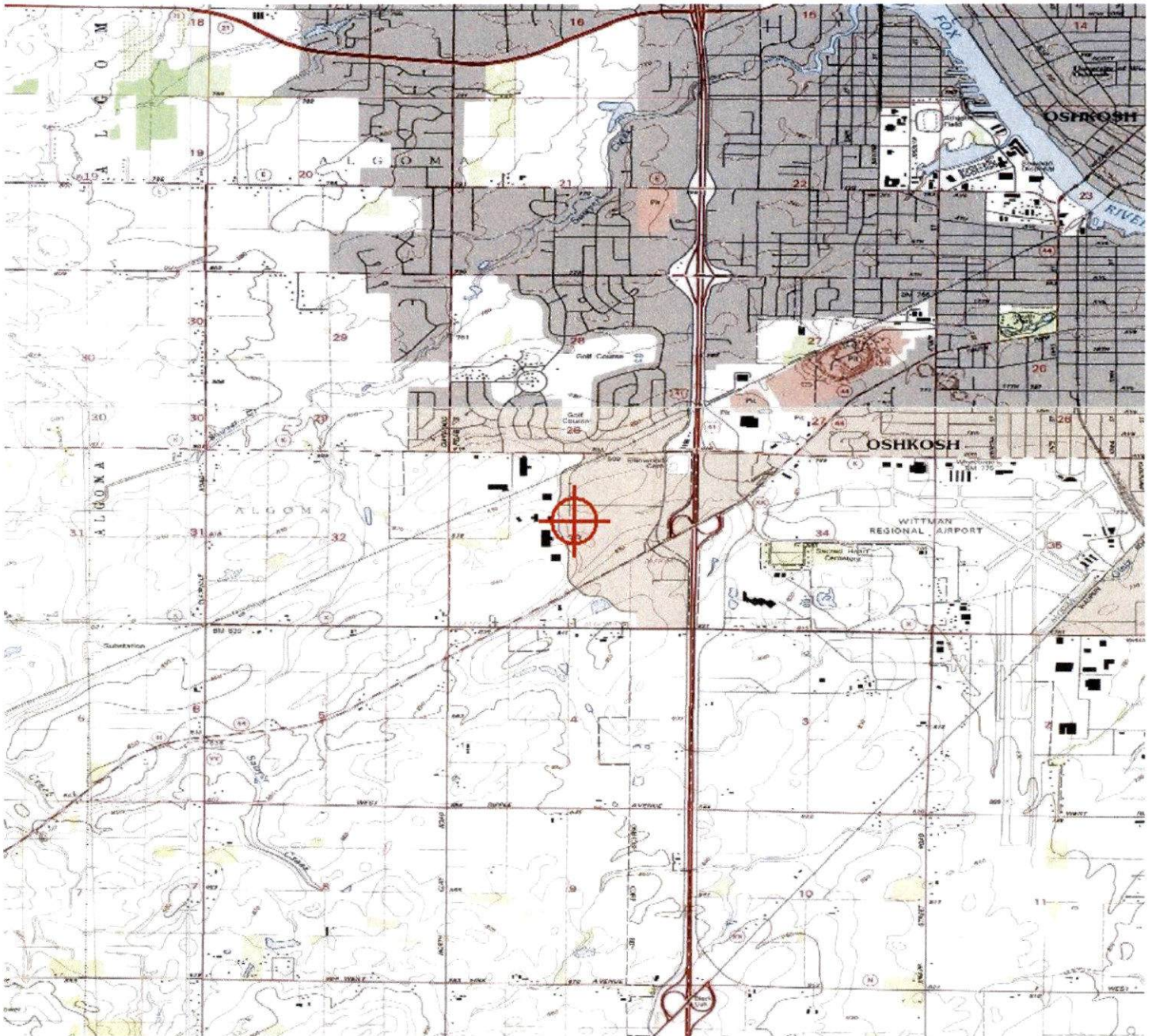
If we can be of further assistance, please contact our office at (816) 329-2508, or vee.stewart@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2020-AGL-10612-OE.

Signature Control No: 439734356-447862186

(DNE)

Vee Stewart
Specialist

Attachment(s)
Map(s)







Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
10101 Hillwood Parkway
Fort Worth, TX 76177

Aeronautical Study No.
2020-AGL-10746-OE

Issued Date: 08/11/2020

Matt Roake
Amarcor Flexibles North America
3550 Moser Street
Oshkosh, WI 54901

****DETERMINATION OF NO HAZARD TO AIR NAVIGATION FOR TEMPORARY STRUCTURE****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Crane Construction Crane for erection of silos
Location:	Oshkosh, WI
Latitude:	43-59-25.94N NAD 83
Longitude:	88-35-33.43W
Heights:	822 feet site elevation (SE) 142 feet above ground level (AGL) 964 feet above mean sea level (AMSL)

This aeronautical study revealed that the temporary structure does exceed obstruction standards but would not be a hazard to air navigation provided the condition(s), if any, in this letter is (are) met:

****SEE ATTACHMENT FOR ADDITIONAL CONDITION(S) OR INFORMATION****

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of a structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this temporary structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Aviation Administration Flight Procedures Office if the structure is subject to the issuance of a Notice To Airman (NOTAM).

If you have any questions, please contact our office at (816) 329-2508, or vee.stewart@faa.gov. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2020-AGL-10746-OE

Signature Control No: 439825952-448002316

(TMP)

Vee Stewart
Specialist

Proposal: To construct and/or operate a(n) Crane to a height of 142 feet above ground level, 964 feet above mean sea level.

Location: The structure will be located 1.59 nautical miles west of OSH Airport reference point.

Part 77 Obstruction Standard(s) Exceeded and Aeronautical Impacts, if any:

Section 77.17 (a) (3) by 78 feet - a height that increases a minimum instrument flight altitude within a terminal area (TERPS Criteria). The proposal would necessitate that because it would penetrate the RWY 27 40:1 departure surface by 32 feet it would require a TAKEOFF MINIMUMS AND (OBSTACLE) DEPARTURE PROCEDURES, RWY 27, 300-1 1/8 or STD with minimum climb of 338 feet per NM to 1100; it would increase the RNAV (GPS) RWY 9 LPV DA from 1055 to 1243; it would increase the RNAV (GPS) RWY LNAV/VNAV DA from 1140 to 1175; it would increase the RNAV (GPS) RWY 9 MDA from 1220 to 1280.

Section 77.17 (a) (5) a height that affects an Airport Surface by penetrating:

Section 77.19 (a) Horizontal Surface by 6 feet as applied to OSH.

Section 77.19 (d) Approach Surface by 15 feet as applied to OSH, RWY 9.

Based on this aeronautical study, the structure would not constitute a substantial adverse effect on aeronautical operations or procedures because it will be temporary. The temporary structure would not be considered a hazard to air navigation provided all of the conditions specified in this determination are strictly met.

As a condition to this Determination, the structure is to be marked/lighted in accordance with FAA Advisory circular 70/7460-1 L Change 2, Obstruction Marking and Lighting, flag marker - Chapters 3(Marked)&12.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

As a condition to this determination, the temporary structure must be lowered to 64 feet above ground level (886 feet above mean sea level) , when not in use and during the hours between sunset and sunrise.

If the crane cannot be lowered to this height, then the following condition must also be met for nighttime conspicuity:

The structure must be lighted in accordance with FAA Advisory Circular 70/7460-1 L Change 1, Obstruction Marking and Lighting, red lights – Chapters 4, 5(Red),&12.

It is required that the FAA be notified 3 business days prior to the temporary structure being erected and again when the structure is removed from the site. Notification should be made to this office through your registered e-filing account. Notification is necessary so that aeronautical procedures can be temporarily modified to accommodate the structure.

NOTIFICATION IS REQUIRED AGAIN THROUGH YOUR REGISTERED E-FILING ACCOUNT WHEN THE TEMPORARY STRUCTURE IS REMOVED FROM THE SITE FOR NOTICE TO AIRMAN (NOTAM) CANCELLATION.

It is required that the manager of WITTMAN RGNL AIRPORT (OSH), Jim Schell, (920) 236-4930 be notified at least 3 business days prior to the temporary structure being erected and again when the structure is removed from the site.

It is required that the manager of OSHKOSH AIR TRAFFIC CONTROL TOWER, Controller-in-Charge, (920) 424-8002 be notified at least 3 business days prior to the temporary structure being erected and again when the structure is removed from the site. Additionally, please provide contact information for the onsite operator in the event that Air Traffic Control requires the temporary structure to be lowered immediately.

It is required that MILWAUKEE MITCHELL ATCT/TRACON, Randall Lenz, Support Specialist, (414) 489-2191 be notified at least 3 business days prior to the temporary structure being erected and again when the structure is removed from the site. Additionally, please provide contact information for the onsite operator in order to establish direct two way communication.

This determination expires on 04/11/2021 unless extended, revised, or terminated by the issuing office.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

As stated above, please make notification (using your e-filing account) to the FAA at least 3 FULL BUSINESS days before your crane is erected and again when lowered/removed. To complete this condition, under "Off Airport Construction", select "Temporary Structure Notification", enter your ASN (aeronautical study number) and select search, select "Add 7460-2", select "Request a NOTAM" then complete the information, select save then confirm to submit. If you receive a voice mail when you call any required phone number(s) to provide notification or are required to send an email notification, please leave the following information: The ASN, the start date for the construction of the equipment, the down date for the equipment, the time the equipment will be raised on the first day (whether the equipment is being raised to start the project or just being set up), the on-site contact name and phone number, your name and phone number.

Abbreviations:

ATCT, Air Traffic Control Tower
CIC, Controller-in-Charge
DA, Decision Altitude
GPS, Global Positioning System
LNAV, Lateral Navigation
LPV, Localizer Performance with Vertical Guidance
MDA, Minimum Descent Altitude
NM, Nautical Mile
NOTAM, Notice to Airmen
RADAR, Radio Detecting and Ranging
RNAV, Area Navigation
RWY, Runway
STD, Standard
TRACON, Terminal Radar Approach Control
VNAV, Vertical Navigation





Ken Kraase

From: Schell, Jim <JSchell@co.winnebago.wi.us>
Sent: Monday, March 15, 2021 3:46 PM
To: Ken Kraase
Cc: Mark Delveaux; Andy Frank
Subject: RE: Amcor (Bemis) Proposed Resin Silos

Hi Ken,

Understanding that the new silos will be the same height as the existing silos (70') and adjacent to silo #19 as you've shown below and knowing that you've cleared the FAA height analysis, I don't have any other concerns from the Airport's perspective.

As you've mentioned, silo #19 was constructed in 2011. The County's zoning code (Chapter 24) which includes the height limitations, was established in 2012. My understanding is that any new construction must either conform to the zoning code, or receive a variance. You can most certainly reach out to the County's Zoning Department for clarification. If a variance is required (as determined by the Zoning Administrator), we would be supportive of that variance given all the information you've submitted. If it's deemed as not required by County Zoning to receive that variance due to the circumstances you've outlined, then I believe you can move forward with all other proper permitting in place for the new construction.

Please contact, Cary Rowe, County Zoning Administrator - CRowe@co.winnebago.wi.us

It may seem like a formality, but I do not have the authority to approve a variance request to county ordinance.

Best Regards,

Jim Schell, C.M.

Director, Wittman Regional Airport

920-236-4932 (Office)

920-420-4983 (Cell)

Follow us on [Facebook](#) and [Instagram](#)!!

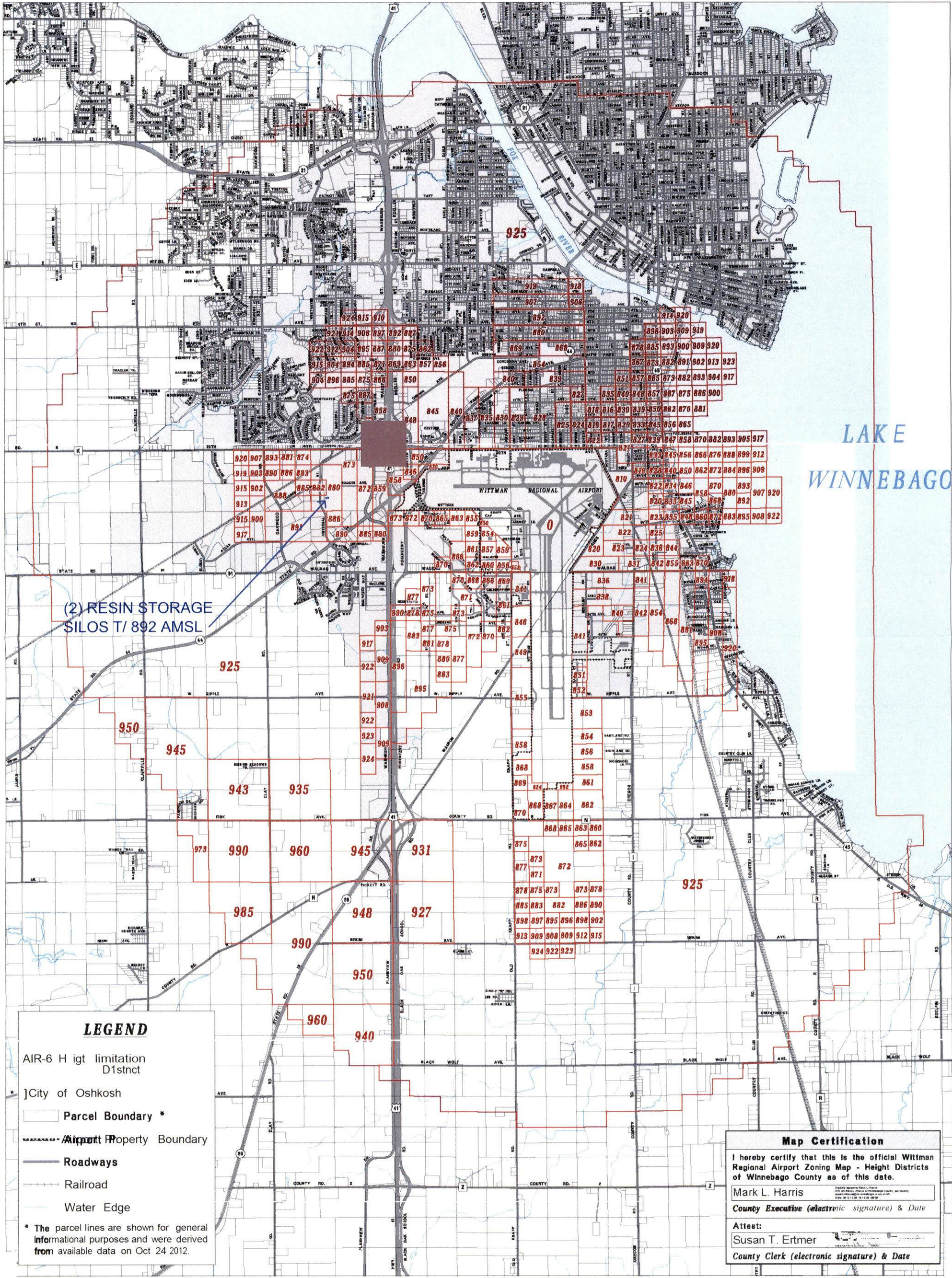


From: Ken Kraase <kkraase@crmeyer.com>
Sent: Monday, March 15, 2021 2:16 PM
To: Schell, Jim <JSchell@co.winnebago.wi.us>
Cc: Mark Delveaux <mdelveaux@crmeyer.com>; Andy Frank <afrank@crmeyer.com>
Subject: RE: Amcor (Bemis) Proposed Resin Silos

Good afternoon Jim,

Wittman Regional Airport Zoning Map

Height Districts (Map 2 of 2)



T/ NEW SILO
EL. ~892'-0"

T/ EXIST. SILO
EL. ~892'-0"

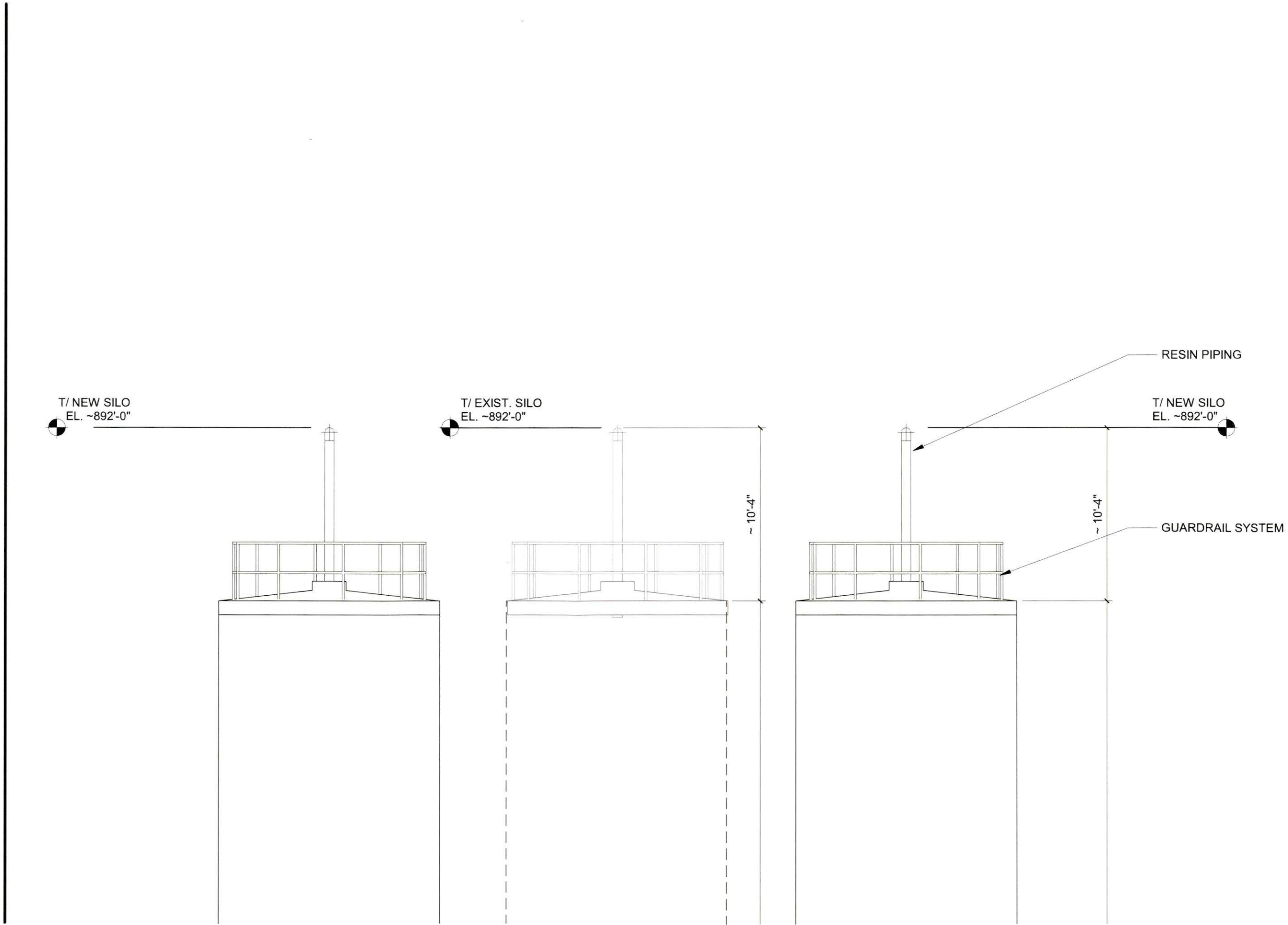
T/ NEW SILO
EL. ~892'-0"

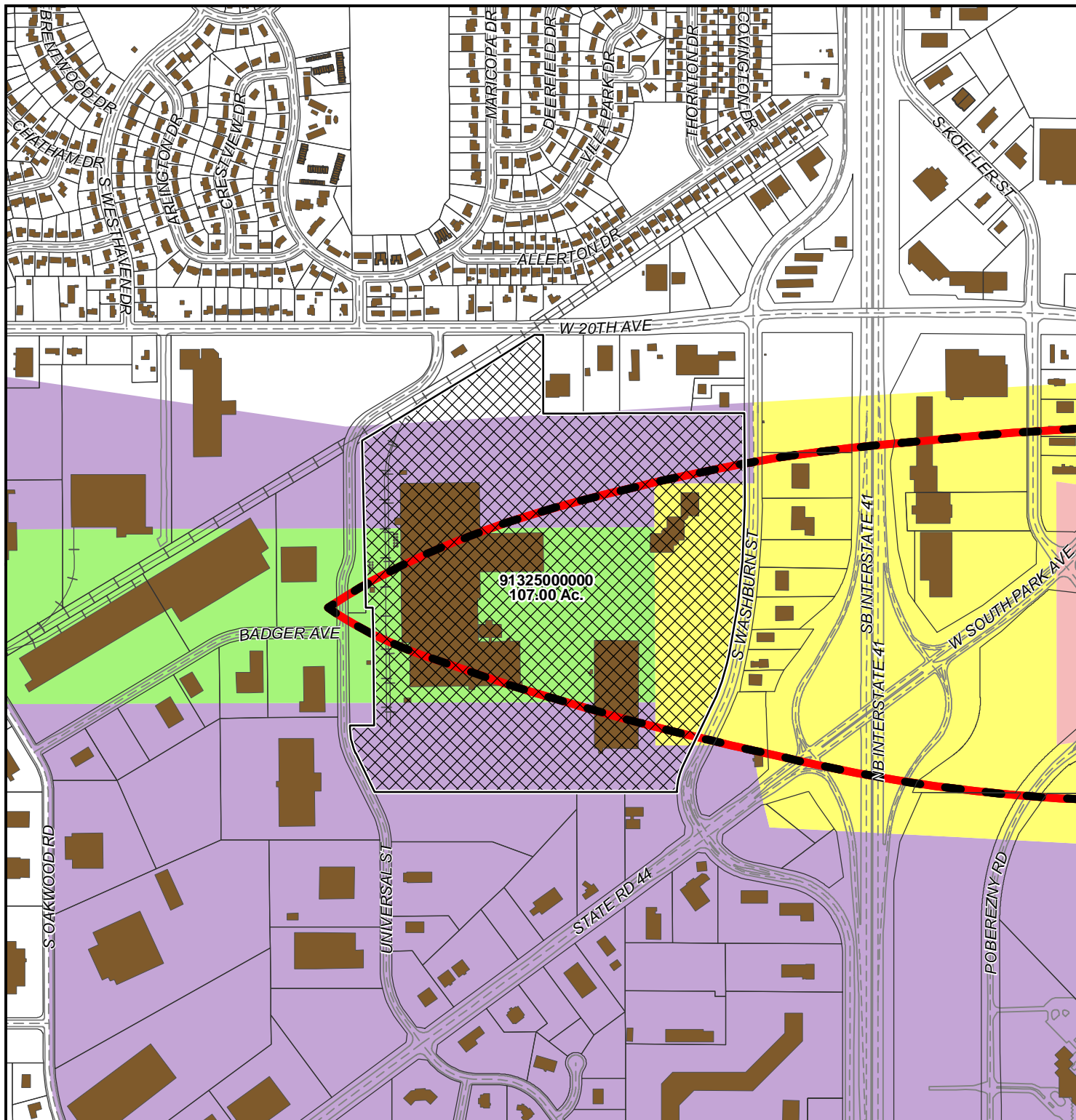
RESIN PIPING

GUARDRAIL SYSTEM

~ 10'-4"

~ 10'-4"





Application #21-VA-5675

Date of Hearing:

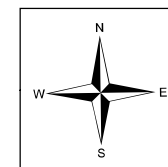
May 25, 2021

Owner(s):

AMCOR FLEXIBLE NORTH
AMERICA INC

Subject Parcel(s):

91325000000



Winnebago County
WINGS Project

Scale
1 inch : 800 feet

Airport Zoning Districts

- AIR-1 Runway Protection Zone
- AIR-2 Airport Noise Zone
- AIR-3 Aerial Approach / Departure Zone
- AIR-4 Outer Approach / Departure Zone
- AIR-5 Traffic Pattern Zone

Corporate Boundary

○ = SITE

Application #21-VA-5675

Date of Hearing:

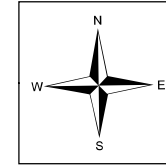
May 25, 2021

Owner(s):

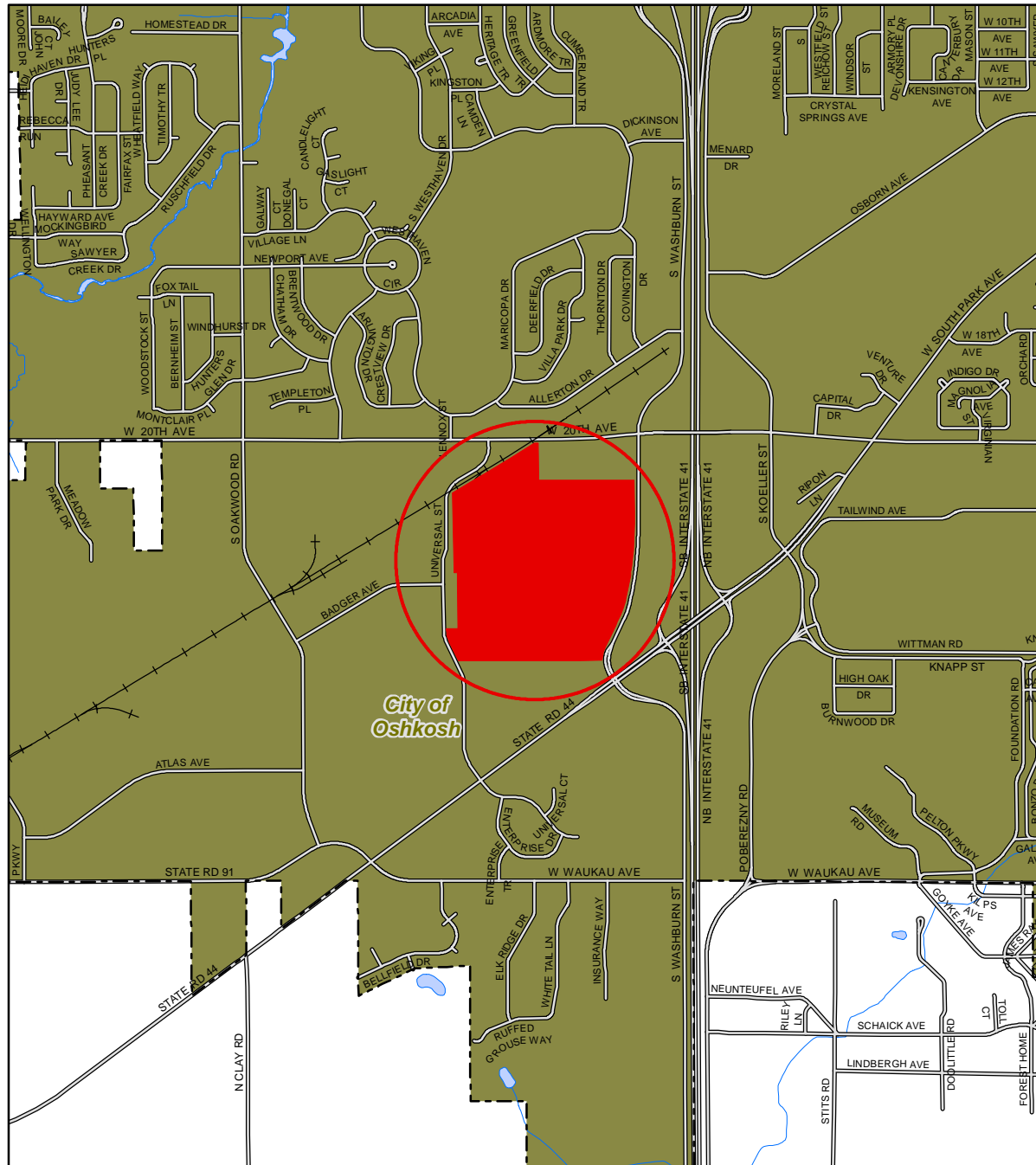
AMCOR FLEXIBLE NORTH AMERICA INC

Subject Parcel(s):

91325000000

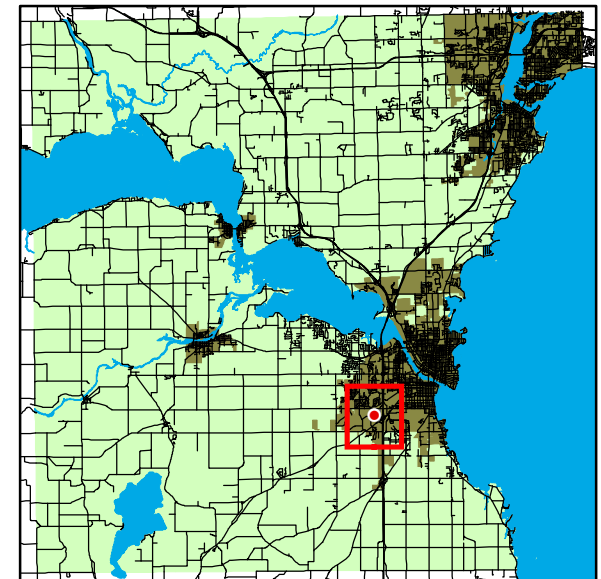


*Winnebago County
WINGS Project*



1 inch : 2,000 feet

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 5/25/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 5/25/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

Meetings will be held via Zoom for the welfare of everyone involved. All interested persons wishing to be heard at the public hearing may appear in person however we are encouraging the public to stay home and stay safe.

Join Zoom Meeting: <https://us02web.zoom.us/j/89555541449?pwd=bmZVdIlvQXpaZGtiUWM3clpWZW9CZz09>

Dial by your location: +1 312 626 6799 US (Chicago)

Meeting ID: 895 5554 1449

Passcode: 448702

Additional Instructions for making a virtual appearance can be found at:

<https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON VARIANCE REQUEST

Applicant:

RAATZ, MARK RAATZ, PEGGY A

Agent:

None

File Number:

2021-VA-5680

Location of Premises:

8566 HERBST RD
WINNECONNE, WI 54986

Tax Parcel No.:

020-0090-11

Legal Description:

Being part of the NE 1/4 of the NE 1/4, Section 16, Township 19 North, Range 14 East, Town of Poygan, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a variance for a sub standard shore yard & floodplain fill requirement.

<u>DESCRIPTION:</u>	<u>CODE REFERENCE:</u>	<u>REQUIRED:</u>	<u>PROPOSED:</u>
Floodplain protection fill shall be one foot or more above regional flood elevation, extending at least 15 ft beyond the limits of the structure. The shore yard setback from the nearest point of a structure shall be at least 75 ft from the OHWM unless exempt under section 6.1(1) or reduced under section 6.2.	26.5-23(b)(1) 27-6.1	Floodplain Fill: 15 ft Shore Yard: 75 ft	Floodplain Fill: 11.5 ft (North section) & 3.3 ft (West section) Shore Yard: 49.9 ft

INITIAL STAFF REPORT

Sanitation:

Existing System
Municipal System

Overlays:

Floodplain Shoreland

Current or Proposed Zoning:

Retaining Wall

Code Reference:

26.5-23(b)(1) 27-6.1

Description of Proposed Use:

Applicant is requesting a variance for a sub standard shore yard & floodplain fill requirement.

Surrounding Zoning:

North: Lake Poygan

South: R-1

East: R-1

West: R-1

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

See Attached.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

None

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

None

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:

None

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code**23.7-234 Basis of decision**

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- (1) The variance shall not cause any increase in the regional flood elevation;
- (2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;
- (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

VARIANCE APPLICATION

Responses may be typed on a separate sheet and attached to this form.

Applicant, please fill out all of the questions in your own words.

C-1 Describe your project, include the dimensions and proposed setbacks:

Attached is a plan martenson + Eisele show Wall
With set backs.

C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

If did the way Set up the wall would be into the existing
bathhouse + Trees + the rain runoff would not drain properly.
Also, could not use side or lake side of property.

C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

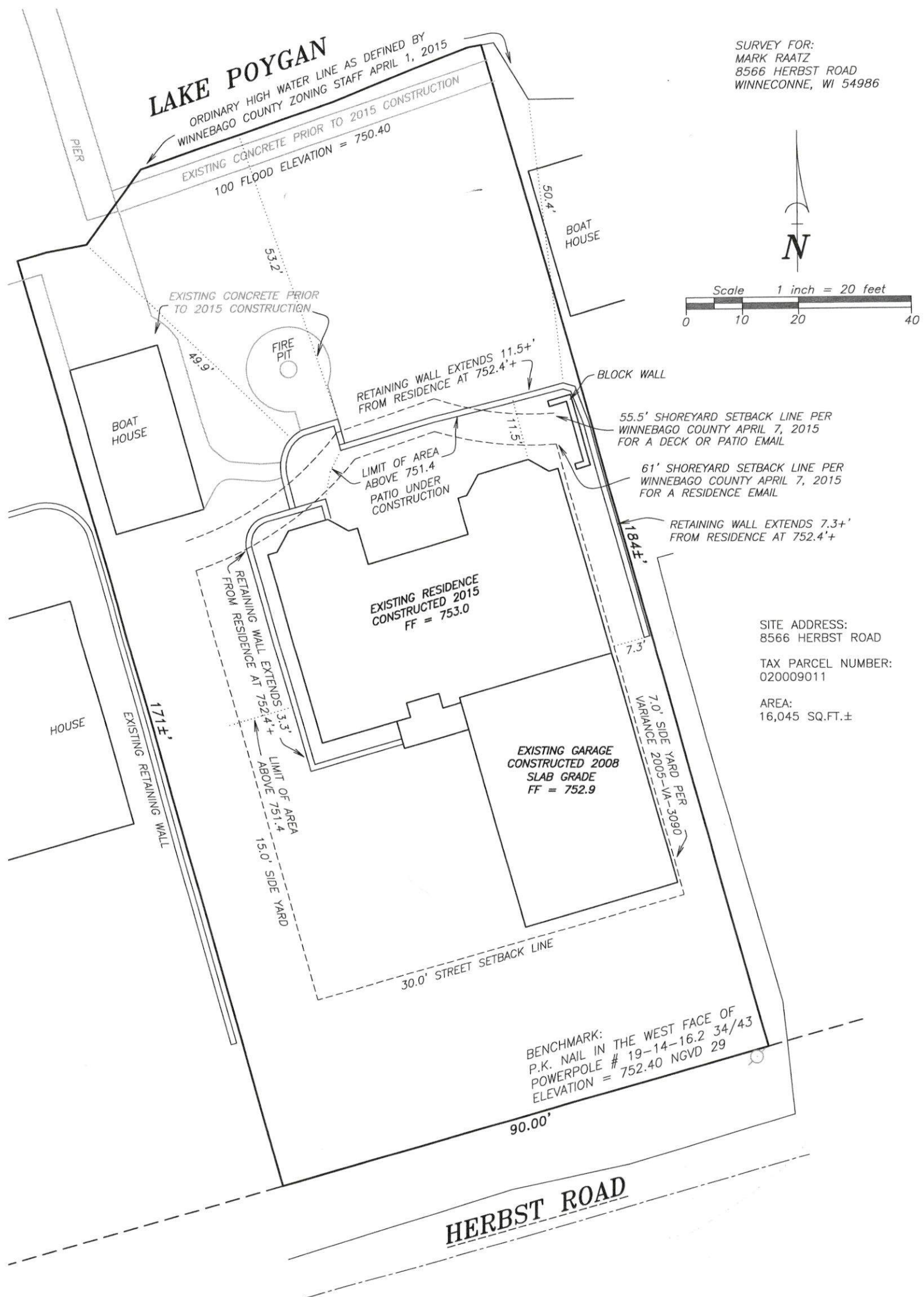
Outline of project is done, not causing any problems
with anyone + proper drainage is in place + working effectively.
If developed with the requirement in question the rain runoff
ect. would not properly be able to go out of side neighbors or
out of existing bathhouse as well as ample room to get to rear of house

C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :

The retaining wall system
is done + complete as you can see on the martenson + Eisele drawing
attached + there is no harm or adverse affects to any surrounding
properties or areas.

REFERENCE DRAWING FOR A VARIANCE APPLICATION

8566 HERBST ROAD, WINNECONNE, WI
PARCEL 020-009011



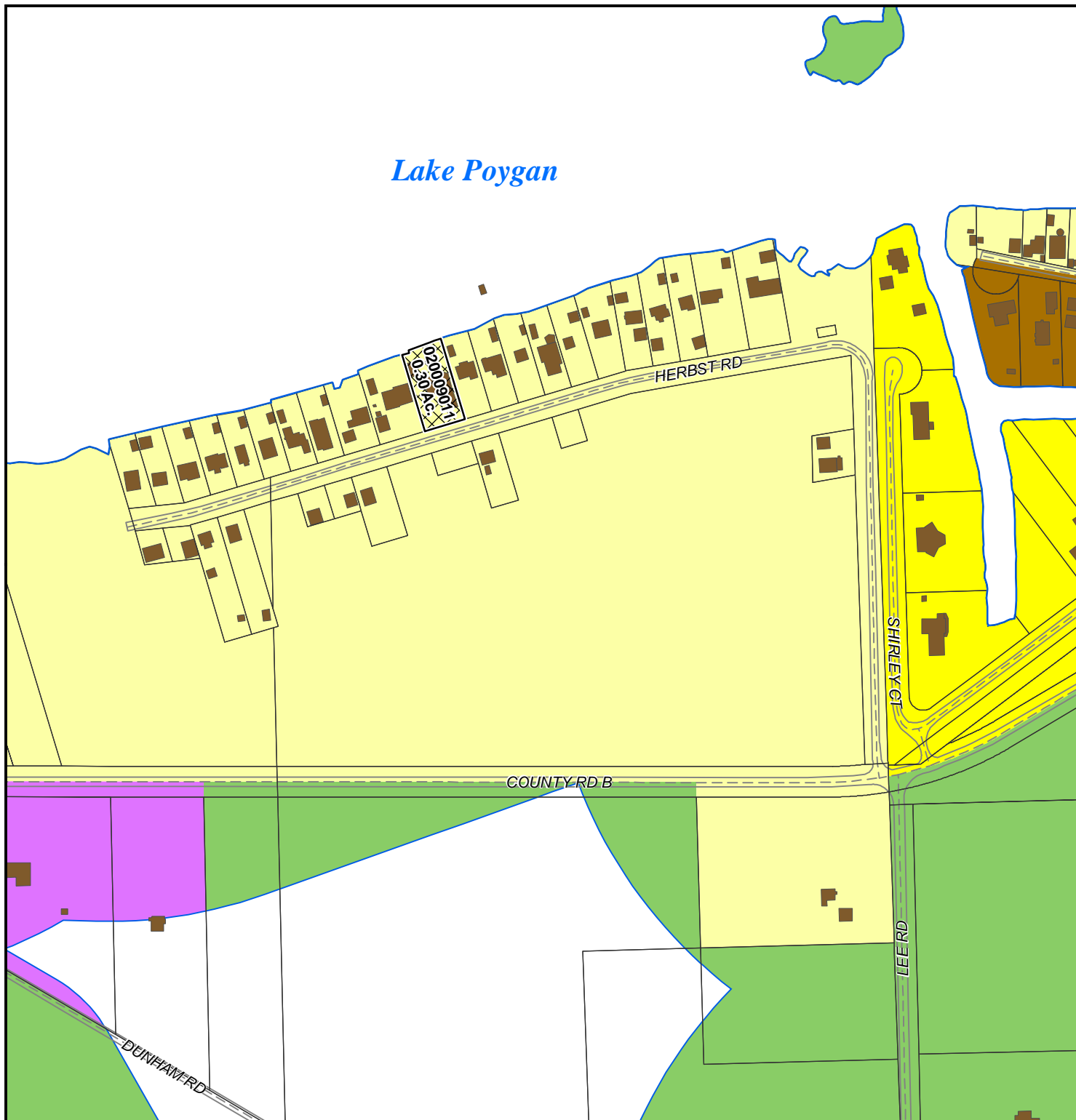
Martenson & Eisele, Inc.



101 West Main Street
Omro, WI 54963
www.martenson-eisele.com
P 920.685.6240 F 920.685.6340

Planning
Environmental
Surveying
Engineering
Architecture

FIELD WORK DONE & DRAFTED 03-17-2021
PROJECT NO. 0-1355-003
FILE 1355003VARIANCE.DWG
THIS INSTRUMENT WAS DRAFTED BY: DSL



Application #21-VA-5680

Date of Hearing:

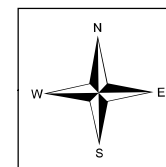
May 25, 2021

Owner(s):

RAATZ, MARK /
RAATZ, PEGGY A

Subject Parcel(s):

020009011



Winnebago County
WINGS Project

Scale

1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE

Application #21-VA-5680

Date of Hearing:

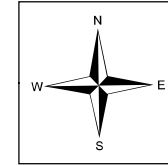
May 25, 2021

Owner(s):

RAATZ, MARK / RAATZ, PEGGY A

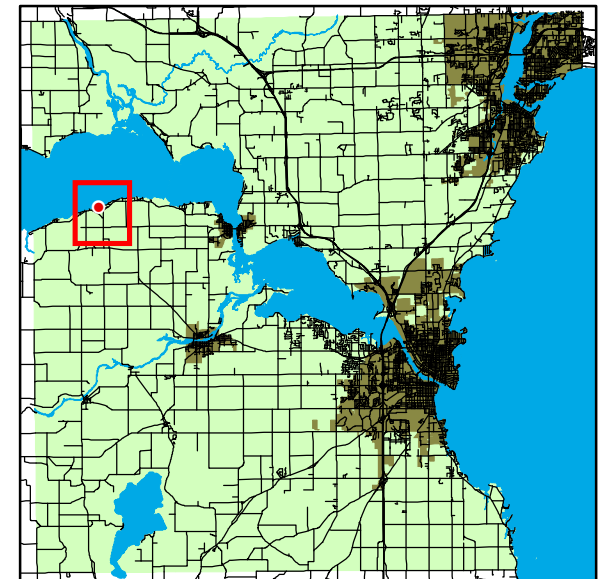
Subject Parcel(s):

020009011



*Winnebago County
WINGS Project*

● = SITE

**WINNEBAGO COUNTY**

1 inch : 2,000 feet

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 5/25/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 5/25/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

Meetings will be held via Zoom for the welfare of everyone involved. All interested persons wishing to be heard at the public hearing may appear in person however we are encouraging the public to stay home and stay safe.

Join Zoom Meeting: <https://us02web.zoom.us/j/89555541449?pwd=bmZVdlhvQXpaZGtiUWM3clpWZW9CZz09>

Dial by your location: +1 312 626 6799 US (Chicago)

Meeting ID: 895 5554 1449

Passcode: 448702

Additional Instructions for making a virtual appearance can be found at:

<https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON VARIANCE REQUEST

Applicant:

GAYLORD, DAVID R

Agent:

KALKOFEN, COREY - MCMAHON ASSOCIATES

File Number:

2021-VA-5640

Location of Premises:

7583 MALLARD LN
LARSEN, WI 54947

Tax Parcel No.:

032-07260105

Legal Description:

Being all of Units 5 and 5-2 of Poygan Shores Condominium, located in Government Lot 2, Section 36, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a variance for a sub-standard road and building separation setbacks.

<u>DESCRIPTION:</u>	<u>CODE REFERENCE:</u>	<u>REQUIRED:</u>	<u>PROPOSED:</u>
The road setback from the nearest point of any structure shall be at least 30 ft. The separation between detached buildings shall be at least 10 ft.	Exhibit 8-2	Street: 30 ft Between detached structures: 10 ft	North private street: 3.82 ft West private street: 27.15 ft Between detached structures: 3.28 ft

INITIAL STAFF REPORT

Sanitation:

Existing System
Private System

Overlays:

Floodplain Shoreland

Current or Proposed Zoning:

PDD Planned Development District

Code Reference:

Exhibit 8-2

Description of Proposed Use:

Applicant is requesting a variance for a sub-standard road and building separation setbacks.

Surrounding Zoning:

North: PDD

South: PDD

East: R-1

West: PDD

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

The proposed project consist of a 20 foot wide by 34 foot deep (680 square foot) detached garage. Due to the property being entirely within the 100 year floodplain, the site will need to be elevated by approximately 2.5 feet. The proposed setbacks for the proposed detached are: North Private Street = 3.82 feet, West Private Street = 27.15 feet, side = 3.00 feet and 3.28 feet between detached structures. The setbacks per the Winnebago County Zoning Code are: road right-of-way = 30 feet, side = 3 feet and 10 feet between detached structures. A variance for the street setback and distance between structures is requested.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

Compliance with the required road right-of-way setback and distance between detached structures would make this lot unbuildable.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

The property is an unit within a condominium plat, condominium units are typically treated different than standard lots/parcels. A condominium unit is defined as "The portion(s) of a condominium intended for any type of independent ownership and use, 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, in a building." The 30 foot setback from the private street was not part of the planning for this condominium plat. Per Poygan Shores Condominium Plat, "No improvements other than parking area or expanded paving area is allowed within 5 feet of Mallard Lane without approval of the Board of Directories of Poygan Shores Inc."

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:

Granting of the request variance will not have an adverse impact on the public health, safety and welfare. Existing drainage along the common lot lines will be maintained.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- (1) The variance shall not cause any increase in the regional flood elevation;
- (2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;
- (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

(a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

DECLARATION OF CONDOMINIUM
FOR POYGAN SHORES INC.

Document Number

Document Title

1106775

REGISTER'S OFFICE
WINNEBAGO COUNTY, WI
RECORDED ON

09-22-2000 10:42 AM

SUSAN WINNINGHOFF
REGISTER OF DEEDS

RECORDING FEE 42.00
TRANSFER FEE
OF PAGES 17

Recording Area

Name and Return Address

Attorney Bruce Chudacoff
512 W. College Avenue
Appleton, WI 54911

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.517. WRDA 2/96

**DECLARATION OF CONDOMINIUM
FOR
POYGAN SHORES INC.**

The undersigned being all of the owners of the real estate and the units to be subjected to the Wisconsin Condominium Act, Chapter 703 Wisconsin Statutes (hereinafter referred to as the "Act") have established the following condominium. The unit owners, mortgagees, occupants and other persons hereinafter and hereafter acquiring any interest in the property shall at all times enjoy the benefits of and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote, enhance and protect the common amenities and the cooperative aspect of ownership and to facilitate the proper administration of said condominium property and are established for the purpose of enhancing and protecting the value, desirability, appearance and aesthetics of the condominium property.

Now, therefore, the unit owners, as the owners of Poygan Shores Inc. and for the purposes herein above set forth declare as follows:

ARTICLE I
LEGAL DESCRIPTION AND SPECIAL PROVISIONS

- 1.01 The real estate subjected to the provisions of the Condominium Ownership Act of the State of Wisconsin is legally described as follows to-wit:

Part of Government Lot 2, Section 36, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin containing 192,945 square feet (4.4 acres) more or less and described as follows: Commencing at the Northeast corner of said Government Lot 2; Thence N86°11'53"W, 983.90 feet along the North line of said Government Lot 2 to the Westerly right-of-way line of Richter Lane and the Point of Beginning; Thence S04°11'07"W, 30.00 feet along said Westerly line; Thence N86°12'02"W, 300.52 feet, Thence S00°31'53"E (recorded as S04°14'E), 618.60 feet; Thence N86°28'56"W, 120.00 feet to the starting point of a Meander line of Lake Poygan said point being S86°28'56"E, 23 feet more or less from the East shore of Lake Poygan; Thence N24°18'22"W, 734.01 feet along said Meander line to the point of termination of said Meander line, said point being S86°11'53"E, 32 feet more or less from the East shore of Lake Poygan and said point being on the North line of said Government Lot 2; Thence S86°11'53"E (recorded as East), 719.81 feet along said North line to the Point of Beginning. Including all those lands lying Westerly of and less that part lying Easterly of the above described Meander Line to the Easterly Shore of Lake Poygan and the respective Lot lines extended to said Easterly shore. Subject to all easements and restrictions of record.

- 1.02 Said real estate and all improvements thereon and appurtenances thereto shall be known as Poygan Shores Inc. The address of the condominium shall be W153 N8009

Meadowland Drive, Menomonee Falls, Wisconsin 53051.

- 1.03 The buildings and improvements which are located on the land described above consist of 22 residential units. No future additional units are planned. The units are numbered from 1 to 22.
- 1.04 Easements. Holders of easements as hereinafter provided and holders of easements subsequently granted under the powers herein set forth shall be entitled to use the existing Mallard Lane and any future road when constructed and the common areas of the condominium.
- 1.05 Ownership. The ownership of individual units is vested in separate owners subject to the Condominium Ownership Act of the State of Wisconsin, this Declaration of Condominium and the Bylaws of the Association.
- 1.06 Special Provisions. Unit owners may make non-structural internal and external improvements to their units subject to compliance with the Declaration, Bylaws, local ordinances and state codes. No such improvements or alterations shall impair the structural integrity or lessen the support of any portion of the property.

For purposes of determining ownership and all other matters relating to voting, each unit has an undivided 4.545% interest in the common areas.

ARTICLE II **DEFINITIONS**

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

- 2.01 Appurtenance. Any structure either attached to or independent of the unit which serves a purpose related to the use, occupancy and enjoyment of the unit which is not in violation of any of the terms and conditions of this declaration, the by-laws, rules and regulations of the Association and any applicable laws or ordinances.
- 2.02 Association. The Association of Unit Owners of Poygan Shores Inc.
- 2.03 Board of Directors. The elected representatives of the Poygan Shores Inc. responsible for the direction and administration of the condominium. The Board of Directors shall have all powers set forth in the Act, this Declaration, the Bylaws, rules and regulations subject to all rights established by easements and covenants running with the land that the Board of Directors shall be responsible for the administration and operation of the condominium and shall have such assessment and other powers as may be granted pursuant to the provisions of this Declaration and the Bylaws.
- 2.04 Bylaws. Rules that govern the condominium and affect the rights and responsibilities of

unit owners.

2.05 Common Areas.

- A. Those areas designated on the Poygan Shores Condominium Plat as common areas and which are generally described as the approximately triangular-shaped parcel of land at the north end of the condominium, the roadway known as Mallard Lane and the southerly 15 +/- feet of the condominium at the shore of Lake Poygan.

All other parts of the property necessary or convenient to its existence, maintenance and safety and normally in common use.

The areas included within the condominium description excepting the units and limited common areas.

2.06 Common Expenses.

- A. All sums assessed against the unit owners by the Association and
- B. Expenses declared Common Expenses by this Declaration, the Act, Bylaws, rules or regulations.

2.07 Common Surpluses. The balance of all income, profits and revenues from the Common Areas remaining after deduction of the Common Expenses.

2.08 Declaration. The instrument by which the condominium property is submitted to the provisions of the Act including such amendments, if any, to this instrument as from time to time may be adopted pursuant to the terms hereof.

2.09 Limited Common Areas. Those areas, the use of which are allocated to specific units and which are a part of the Common Areas and not a part of any individual unit. Each unit owner owning a unit to which Limited Common Areas have been allocated shall be entitled to the exclusive use and possession of the allocated Limited Common Area.

2.10 Plat. The plat of survey of the property, buildings and all units on the property submitted to the provisions of the Act which plat is attached hereto as Exhibit A and by reference expressly incorporated herein and made a part hereof and registered and filed concurrently with the registration of this Declaration with the Winnebago County Register of Deeds.

2.11 Unit. A part of the property subject to the Act intended for independent use as a single family residence, 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.

- 2.12 Unit Number. The number designating a unit as set forth on the Poygan Shores Condominium Plat.
- 2.13 Unit Owner. The person or persons that own a unit and an undivided interest in the common areas appurtenant to such unit in the percentage specified and established in the Declaration.
- 2.14 Unit Ownership. Ownership of a portion of the property consisting of one unit and the undivided interest in the Common Areas appurtenant thereto.

ARTICLE III
PROPERTY AND UNITS

- 3.01 Units. The legal description of each unit shall consist of the identifying number of such unit set forth in this paragraph. Every deed, lease, mortgage or other instrument may legally describe a unit by its identifying number and every such description shall be deemed good and sufficient for all purposes as provided in the Act.

Unit 1:	7593
Unit 2:	7591
Unit 3:	7589
Unit 4:	7587
Unit 5:	7583
Unit 6:	7581
Unit 7:	7579
Unit 8:	7577
Unit 9:	7571
Unit 10:	7567
Unit 11:	7563
Unit 12:	Garage
Unit 13:	7557
Unit 14:	7555
Unit 15:	7553
Unit 16:	7551
Unit 17:	
Unit 18:	7549
Unit 19:	7547
Unit 20:	7545
Unit 21:	7543
Unit 22:	7541

Except as otherwise provided by the Act, no unit owner shall by deed, plat or otherwise subdivide or in any other manner cause his or her unit to be separated into any tracts or parcels different from the whole unit shown on the plat.

The exterior boundaries of each unit shall be the outer surfaces of the walls, roof and lowest portion of any foundation of each building located on the unit grounds. Unit grounds include the designated unit as set forth on the Poygan Shores Condominium Plat together with any additional area designated with the unit number and "-2." Each unit is a wood-framed dwelling which is generally one story in height. The configuration of each unit differs from all others.

ARTICLE IV **COMMON AREAS**

- 4.01 Ownership of Common Areas. Each unit owner shall own an undivided interest in the Common Areas as Tenants-In-Common with all other unit owners and, except as otherwise limited in this Declaration, shall have the right to use the Common Areas for all purposes, incident to the use and occupancy of such owners unit as a place of residence and such other incidental use as permitted by this Declaration which right shall be appurtenant to and run with the unit. The extent or amount of such ownership is 4.545%. The undivided interest in the Common Areas shall not be separated from the unit to which it appertains and shall be deemed to be leased, conveyed or encumbered with the unit, even though such interest is not expressly mentioned or described in the conveyance or other instrument. In the event of loss by condemnation by public authority as hereinafter provided or other loss, any recovery arising thereunder attributed to the Limited Common Areas shall be the exclusive property of the unit owner.

No owner shall execute any deed, mortgage, lease or other instrument affecting title to his or her unit ownership without including therein both his or her interest in the unit and his or her corresponding ownership interest in the Common Areas. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the others shall be deemed and taken to include the interest so omitted, even though the latter is not expressly mentioned or described therein.

- 4.02 No Partition of Common Areas. There shall be no partition of the Common Areas through judicial proceedings or otherwise unless this Declaration is terminated and the property is withdrawn from its terms or from the terms of any statute applicable to condominium ownership.
- 4.03 Limited Common Areas. The Limited Common Areas specified in the Declaration shall be as designated and set forth on Exhibit A attached hereto and are all of the land located on Exhibit A and identified by a unit number or a unit number with "-2" following it.

ARTICLE V **GENERAL PROVISIONS AS TO UNITS AND COMMON AREAS**

- 5.01 Use of the Common Areas. Subject to the provisions of this article, each unit owner shall have the right to use the Common Areas in common with all other unit owners as necessary for the purposes of ingress to and egress from and the use, 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 and the members of the owners' immediate family and guests and other authorized occupants and visitors of the unit owner. The use of Common Areas and the rights of the owner with respect thereto shall be subject to and governed by the provisions of the Act, the Declaration and the Bylaws and rules and regulations of the Board of Directors.

The community well and pump and all associated pipes which provide water service for the condominium are a Common Area of the condominium. The Board of Directors shall have the right to install, maintain, repair and replace any necessary facilities to provide water service to any unit and shall have easements for the purpose of doing so.

- 5.02 Exhibit A sets forth a reservation for a future road across the East 30 feet of certain Limited Common Areas of the condominium. In the event that it becomes necessary to construct a road to replace all or part of Mallard Lane due to either the agreement of all of the unit owners or due to requirements of setback lines, that portion of Mallard Lane that is no longer needed for access to units shall become a Limited Common Area for the units that it is adjacent to and the portion of the preservation for future road that is necessary for the use of a road shall become a Common Area with the same status as Mallard Lane. In the event that the future road is constructed, Poygan Shores Inc. will be responsible for removing any outbuildings required to be moved by the construction.
- 5.03 Maintenance of Common Areas. Except as otherwise provided herein, management, repair, alteration and improvement of the Common Areas shall be the responsibility of the Board. Each unit owner shall pay his or her proportionate share of the Common Expenses. Payment thereof shall be in such amounts and at such times as may be provided by the Bylaws and/or rules, regulations and resolutions of the Board of Directors. In the event of the failure of a unit owner to pay such proportionate share when due, the amount thereof together with interest thereon at the rate of 12% per annum or any other interest rate determined by the Board of Directors from time to time, shall constitute a lien on the interest of such unit owner as provided by the Act. The Association may foreclose on any such lien in accordance with the applicable Wisconsin Statutes.

Each unit owner owning a unit to which Limited Common Areas have been allocated shall be responsible for the landscaping, maintenance and appearance of the Limited Common Area. The exclusive possession and use of which is extended hereby including grounds care, landscaping, refuse and natural debris removal. The Condominium is responsible for such activities on Common Areas. In the event a unit owner fails to keep the Limited Common Area allocated to him or her in proper condition, the required upkeep may be provided by the Condominium as directed by the Board of Directors and the cost of same shall be determined by the Board of Directors and shall become an additional assessment to the assessment hereinafter provided and shall be subject to all of the obligations and regulations herein contained governing the payment and collection of assessments, including the right of lien provided herein.

A unit owner shall not plant, landscape or surface a Limited Common Area in any manner contrary to the rules and regulations that may be established by the Board of Directors.

A unit owner shall not cause or allow any obstruction on any roadway traversing the Limited Common Areas and shall allow the same to remain open for the free and unimpeded access to individuals and vehicles over the duly designated roadways.

- 5.04 Easements and Encroachments. In the event that by reason of the construction, settlement or shifting of any building or the design or construction of any unit, any part of the Common Areas 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 Areas or any other unit or if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving any unit encroach or shall hereafter encroach upon any unit, easements for the maintenance of such encroachments are hereby established and shall exist for the benefit of such unit and the Common Areas as the case may be so long as all or any part of an improvement containing an affected unit shall remain standing. 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 Areas if such encroachment occurred due to the intentional disregard of unit boundaries by said owner or owners.

Easements for Utilities. Power companies, telephone companies, sanitary districts and all other public utilities serving the property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace conduits, cables, pipes and wires and other equipment into, over, under, along and on any portion of the Common Areas for the purpose of providing the property with utility services, together with the reasonable right of ingress to and egress from the property for said purpose and further, are granted an easement through those portions of Limited Common Areas which are necessary to accomplish the same purpose. The Board of Directors may hereafter grant other or additional temporary or permanent easements for utility or other purposes over, under, along and on any portion of said Common Areas and each unit owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge and record or register for and in the name of such unit owner such instruments as may be necessary or appropriate to effectuate the foregoing.

All easements and rights described herein are easements appurtenant to 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, their successors and assigns and any unit owner, purchaser, mortgagee and other person having any interest in the property or any part or portion thereof. Reference in any deed of conveyance or in any mortgage or trust deed or other evidence of obligation to the easements and rights described in this article or described in any other part of this Declaration shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such parcels as fully and completely as those such easements and rights were recited fully and set forth in their

entirety in such documents. A general reference to easements and restrictions of record is sufficient to grant these rights.

Easements for Police, Fire and Emergency Medical Protection. A perpetual easement is hereby granted for the free and uninterrupted access to the grounds herein before described for any and all legally designated law enforcement agencies, fire departments and emergency medical services for the performance of their duties.

Easements for Post Office. A perpetual easement is hereby granted for the free and uninterrupted access to the grounds, drives and walkways herein before described for any and all legally designated representatives of the U.S. Postal Service for the performance of their duties.

Easements for Refuse Removal. A perpetual easement is hereby granted for the operation of any vehicles, equipment and service personnel engaged in the removal of refuse as designated and approved by the Board of Directors or as determined by the municipality.

5.05 Limited Common Areas.

All portions of the condominium which are not specifically designated as units or Common Areas are Limited Common Areas. A Limited Common Area is designated with a unit number or a unit number plus the designation "-2." Use of a Limited Common Area is reserved exclusively to the unit owner of the unit numbered on the Poygan Shores Condominium Plat.

5.06 Separate Mortgages of Units. Each unit owner shall have the right to mortgage or encumber his or her own respective unit, together with his or her respective ownership interest in the Common Areas. No unit owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the property or any part thereof except his or her own unit and his or her own respective interest in the Common Areas as aforesaid.

5.07 Separate Real Estate Taxes. It is intended and understood that real estate taxes are to be separately taxed to each unit owner for his or her unit and his or her fraction of ownership in the Common Areas as provided in the Act. In the event that for any year such taxes are not separately taxed to each unit owner but are taxed on the property as a whole, then each unit owner shall pay his or her proportionate share thereof in accordance with his or her respective percentage of ownership interest in the Common Areas.

5.08 Utilities. Each unit owner shall pay for his or her own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility company.

5.09 Maintenance, Repairs and Replacement of Units.

- A. By the Board of Directors. Poygan Shores Inc. shall be responsible for the maintenance, repair and replacement of all Common Areas.
- B. By the Unit Owners. Each unit owner shall be responsible for all maintenance, repair and replacement of his or her unit and the Limited Common Areas designated for his or her unit. All such activities shall be subject to the reasonable rules of the Board of Directors. The Board of Directors shall have the right to set standards for such matters as grass cutting, exterior repairs and maintenance of units and accessory buildings, snow removal and the like.

ARTICLE VI
ADMINISTRATION

- 6.01 The condominium property shall be administered as provided for in the Bylaws of Poygan Shores Inc.
- 6.02 Determination of Board to be Binding. Notwithstanding the words "Board of Directors" and "Poygan Shores Inc." or "Association" may in some instances be used interchangeably in various sections of the Declaration. Matters of dispute or disagreement between unit owners relating to the property or with respect to interpretation or application of the provisions of this Declaration or the Bylaws shall be determined by the Board of Directors, which determination shall be final and binding on all parties concerned.
- 6.03 Voting Rights. The total number of votes at meetings of the Poygan Shores Inc. shall be 22. Each unit shall be entitled to one vote.
- 6.04 Meetings. Meetings shall be held as provided in the Bylaws of Poygan Shores Inc.

ARTICLE VII
COVENANTS AND RESTRICTIONS AS TO
USE, OCCUPANCY AND OWNERSHIP OF UNITS

- 7.01 The units and Common Areas shall be occupied and used as follows:
 - A. Purpose-Residential Use. No part of the property shall be used for other than housing and related common purposes for which the property was designed, including accessory buildings. Each unit is intended for and shall be restricted to use for single family residence purposes only as presently or hereafter defined and permitted by any zoning regulations by the appropriate municipality. Included in the definition of single family residential purposes is recreational use of the property.

Modifications of Units. No unit owner shall be entitled to modify the exterior of any unit or construct any other unit or addition thereto, including a garage or other

accessory building without permission of the Board of Directors. The Board of Directors shall consider such requests with a view toward maintaining the general aesthetics of the entire condominium.

There shall be no obstruction of the Common Areas, nor shall anything be stored in the Common Areas without prior consent from the Board of Directors. Owners shall be obligated to maintain and keep in good order and repair their own units and associated improvements.

Hazardous Uses and Waste. Nothing shall be done or kept in any unit or in the Common Areas which will increase the rate of insurance on the property or contents thereof without the prior written consent of the Board of Directors. Owners shall not permit anything to be done or kept in their respective units or in the Common Areas or Limited Common Areas which will result in the cancellation of insurance on the property or the contents thereof or which would be in violation of any law. No waste shall be committed in the Common Areas.

Signs. The Board of Directors shall determine, in its sole discretion, whether or not to place "for sale" or "for rent" signs on any unit or on the property for the purpose of facilitating the disposal of units by any owner, mortgagee or the Board of Directors.

- 7.02 Ownership of a unit is limited to no more than two individuals. No partnership, LLP, LLC or other non-person shall be an owner of any unit.

ARTICLE VIII **DEFAULTS AT CONDEMNATION**

- 8.01 Default. In the event any unit owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or trust deed against his or her unit, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and the Association shall thereupon have a lien therefor against such unit, which lien shall have the same force and effect and may be enforced in the same manner, together with interest as provided in this Declaration.

The Board of Directors shall have the right to determine the amounts necessary for the operation of the condominium in its sole discretion and to assess the cost thereof against the units. All costs shall be assessed equally against the units with the exception of any cost incurred by the Board of Directors for the purpose of curing a default of a particular unit owner. Those costs shall be assessed directly against that unit. Any assessments not paid within 30 days shall be considered delinquent. The unit owners shall be obligated to pay interest on any delinquent assessments at the rate of 12% per annum, or at such other interest rate determined from time to time by the Board of Directors. Failure on the part of a unit owner to pay an assessment as required herein shall permit the secretary of Poygan Shores Inc. to file a lien against the unit as provided in the Act.

- 8.02 Condemnation. In the event of condemnation under the laws of Wisconsin of a portion of the condominium, the owners of individual units condemned shall be entitled to the condemnation award applicable thereto. In the event that condemnation should take such a portion of a unit and the Limited Common Areas appurtenant thereto as to eliminate the ability of the unit owner to maintain ownership in the condominium, the owner shall be entitled to the full amount of the applicable condemnation award and shall cease to be a member of the condominium. The condominium shall then be reorganized to reflect the remaining units or dissolved if the majority of the units determine to dissolve it and withdraw from the Condominium Act.
- 8.03 Responsibility of Transferees for Unpaid Assessments. In a voluntary transfer of a unit, the transferee of the unit shall be jointly and severally liable with the transferor for all unpaid assessments against the latter up to the time of transfer, without prejudice to the transferee's right to recover from the transferor the amounts paid by the transferee therefor. Any such transferee shall be entitled to a statement from the Board of Directors setting forth the amount of the unpaid assessments against the transferor and such transferee shall not be liable for any assessments in excess of the amount set forth therein.

ARTICLE IX
DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDINGS

- 9.01 Insurance. The unit owners are responsible for their own liability, fire, casualty and personal property insurance. The Association is responsible for insurance on any Common Areas of the condominium. The Board of Directors shall not be responsible for obtaining insurance on any unit or any additions, alterations or improvements made in Limited Common Areas.

The unit owners hereby waive and release any and all claims which they may have against any other unit owner, the Board of Directors, its officers and employees for damage to the Common Areas or to any personal property located in the units or the Common Areas caused by fire or other casualty to the extent that such damage is covered by fire and other forms of casualty insurance.

Each unit owner shall be responsible to insure his or her unit for full replacement cost. However, in the event that a unit is damaged by fire or otherwise, the individual unit owner shall be entitled to determine whether the unit will be rebuilt.

ARTICLE X
GENERAL PROVISIONS

- 10.01 Notice to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any unit owner shall be given a copy of any notices permitted or required by this Declaration be given to the owner or owners whose unit is subject to such mortgage or trust deed.


- 10.02 Service of Notice. Notices required or desired to be given to any devisee or personal representative of a deceased owner may be delivered either personally or by mail to such party at his or her or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.
- 10.03 Service of Process. The initial registered agent of the condominium is Richard M. Gaylord. His address is W153N8009 Meadowland Drive, Menomonee Falls, Wisconsin 53051. This is the address of the condominium for the purpose of service of process. A successor may be selected by a majority vote of unit owners.
- 10.04 Covenants to Run with Land. Each unit owner, by acceptance of a deed of conveyance and each purchaser under any document of conveyance accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction rights, benefits and privileges of any character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed to be covenants running with the land and shall bind any person having at any time any interest or estate in said land and shall inure to the benefit of such owner in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance.
- 10.05 Non-Waiver of Covenants. 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 to the number of violations or breaches which may occur at any time.
- 10.06 Amendments to Declaration. Any portion of this Declaration may be changed, modified or rescinded by a majority vote of the unit owners. Such change, modification or rescission shall be effective upon recording of an instrument indicating the change in the office of the Register of Deeds for Winnebago County, Wisconsin. Provided, however, that no provision of this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the act.
- 10.07 Severability. 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.
- 10.08 Interpretation of Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a residential condominium development. In the event of any controversy arising under this Declaration, the controversy shall be submitted to arbitration under the laws of the State of Wisconsin as a prerequisite to the commencement of any legal proceeding. Such arbitration shall be before one disinterested arbitrator if one can be agreed upon. Otherwise, before three disinterested arbitrators, one named by the party submitting the matter at issue, one named by the party or parties contesting the matter at issue and one by the two arbitrators, thus chosen. The arbitrator or arbitrators shall

determine the controversy in accordance with the laws of the State of Wisconsin as applied to the facts found by him or them. The expense of arbitration proceedings conducted shall be borne equally by the parties. All arbitration proceedings shall be conducted in Oshkosh, Wisconsin.

- 10.09 Indemnity to Board Members. The members of the Board and the officers thereof or of the corporation shall not be liable to the unit owners for any mistake or judgment or any acts or omissions made in good faith as such members or officers. The unit owners shall indemnify and hold harmless each of such members or officers against all contractual liability to others arising out of contracts made by such members or officers on behalf of the unit owners or the corporation unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. Such members or officers shall have no personal liability with respect to any contract made by them on behalf of the unit owners or the corporation. The liability of any unit owner arising out of any contract made by such members or officers or out of the aforesaid indemnity shall be limited to 4.545% of the total liability.
- 10.10 Right of First Refusal. In the event that any unit owner desires to sell his or her unit and obtains an offer for the purchase of that unit on terms that are satisfactory to the unit owner, the unit owner shall submit the offer to the President of Poygan Shores Inc. except for a transfer within an immediate family; i.e., father/mother, wife/husband, son/daughter, or within the discretion of the Board of Directors. The President will immediately notify all shareholders of Poygan Shores Inc. of the offer. The adjoining unit owners will then have five (5) days to purchase the unit on the same terms as the offer. If neither of the adjoining cottage owners exercise their right to purchase within five (5) days, then any other unit owner shall have the right to purchase the unit on the same terms as the offer for the next five (5) days. If the originally accepted offer is modified to lower the sale price, the unit owners shall again have their right of first refusal to purchase the unit before it is sold to a third party using the procedure provided for in this paragraph. If more than one unit owner notifies the seller of an intent to exercise the right to purchase, the seller may negotiate with any notifying unit owner and sell to any of them on terms they agree upon. If no person mentioned above agrees to purchase within ten (10) days, the seller can then sell to the third party.

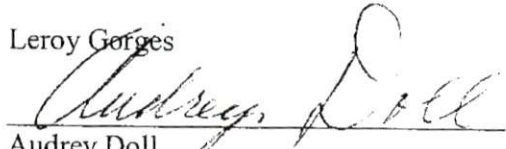
Dated this 10 day of July, 2000.

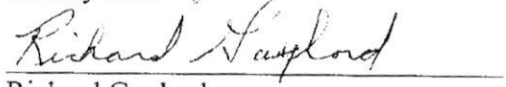

Michael O'Brien


Jerry Jeffrey

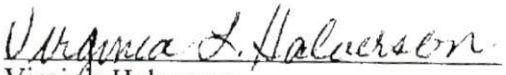


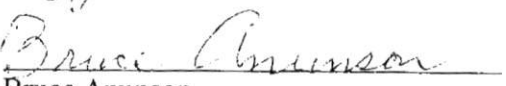
Leroy Gorges


Audrey Doll

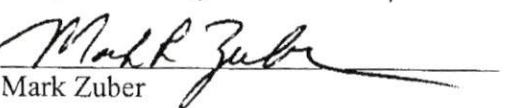

Richard Gaylord

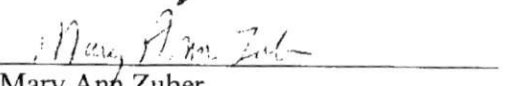

Julie Gaylord


Virginia Halverson

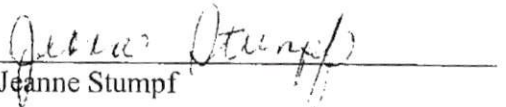

Bruce Anunson



Tony Nöllenberg



Mark Zuber

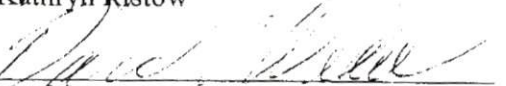

Mary Ann Zuber

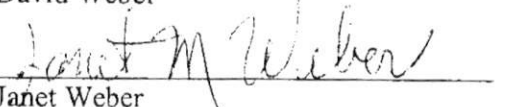

Kathleen M. Resch


Jeanne Stumpf


Elizabeth Ristow


Kathryn Ristow


David Weber


Janet Weber


Danny L. Ta...

Nancy Tawes

Scott Relien
Scott Relien

Becky Relien
Becky Relien

Betty Wollerman Cooney
Betty Wollerman Cooney

Gary Krueger
Gary Krueger

Dan Krueger
Dan Krueger

Fred Relien
Fred Relien

Pat Relien
Pat Relien

Diane Pound
Diane Pound

Donna Puls
Donna Puls

Tom Kopiske
Tom Kopiske

Bill Sprenger
Bill Sprenger

POYGAN SHORES, INC.

BY: Richard M. Layford
President

BY: Virginia L. Halvorsen
Secretary

AUTHENTICATION

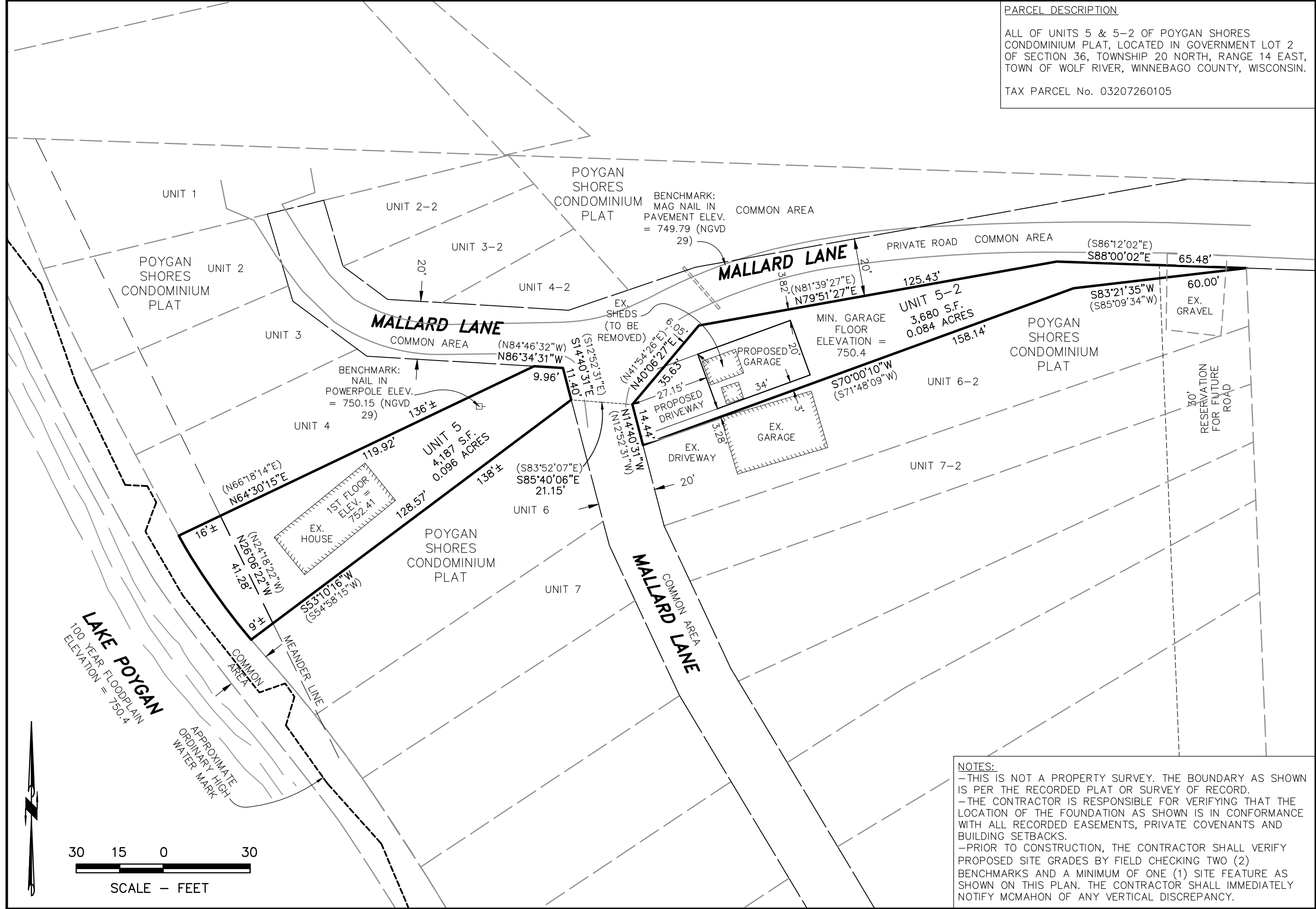
Signature(s) Michael O'Brien, Jerry Jeffery, Leroy Gorges, Audrey Doll, Richard Gaylord, Julie Gaylord, Virginia Halverson, Bruce Anunson, Tony Nollenberg, Mark Zuber, Mary Ann Zuber, Kathleen M. Resch, Jeanne Stumpf, Elizabeth Ristow, Kathryn Ristow, David Weber, Janet Weber, Nancy Tawes, Scott Relien, Becky Relien, Betty Wollerman Cooney, Gary Krueger, Dan Krueger, Fred Relien, pat Relien, Diane Pound, Donna Puls, Tom Kopsiske and Bill Sprenger

authenticated this 10 day of July, 2000.

* B. Chudacoff
TITLE: MEMBER STATE BAR OF WISCONSIN

[Faint, illegible text]

This instrument drafted by Bruce Chudacoff, Attorney



PARCEL DESCRIPTION

ALL OF UNITS 5 & 5-2 OF POYGAN SHORES CONDOMINIUM PLAT, LOCATED IN GOVERNMENT LOT 2 OF SECTION 36, TOWNSHIP 20 NORTH, RANGE 14 EAST, TOWN OF WOLF RIVER, WINNEBAGO COUNTY, WISCONSIN.

TAX PARCEL No. 03207260105

McMAHON

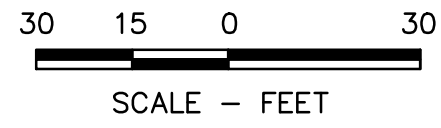
ENGINEERS ARCHITECTS

1445 McMAHON DRIVE NEENAH, WI 54956
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 751-4200 Fax: (920) 751-4284
www.mcmgrp.com

McMAHON provides this drawing and data, regardless of form, as instruments of service. All rights including copyrights are retained by McMAHON. The client and/or recipient agrees to the fullest extent permitted by law to indemnify and hold McMAHON harmless for any reuse of or changes made to the original drawing or data without prior written consent by McMAHON.

VARIANCE MAP-7583 MALLARD LANE
POYGAN SHORES CONDOMINIUM PLAT
TOWN OF WOLF RIVER, WINNEBAGO COUNTY, WI

NOTES:
- THIS IS NOT A PROPERTY SURVEY. THE BOUNDARY AS SHOWN IS PER THE RECORDED PLAT OR SURVEY OF RECORD.
- THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THAT THE LOCATION OF THE FOUNDATION AS SHOWN IS IN CONFORMANCE WITH ALL RECORDED EASEMENTS, PRIVATE COVENANTS AND BUILDING SETBACKS.
- PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL VERIFY PROPOSED SITE GRADES BY FIELD CHECKING TWO (2) BENCHMARKS AND A MINIMUM OF ONE (1) SITE FEATURE AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY McMAHON OF ANY VERTICAL DISCREPANCY.



DESIGNED CWK	DRAWN CWK
PROJECT NO. G0986 92000712.00	
DATE FEB. 2021	
SHEET NO. 1	

1106775

POYGAN SHORES CONDOMINIUM PLAT
A PART OF GOVERNMENT LOT 2, SECTION 36,
TOWNSHIP 20 NORTH, RANGE 14 EAST, TOWN OF
WOLF RIVER, WINNEBAGO COUNTY, WISCONSIN

Register's Office
Winnebago County, Wis.
Received for record this 22nd
day of September, A.D., 2007
at 10:43 o'clock A.M. and
filed in Vol. 4 of Land Plats
on page 411

David M. Schmalz
Register of Deeds

SURVEY FOR:
-Poygan Shores Inc.
-W553 N8009 Meadowland Drive
-Menomonie Falls, WI 53051
-PHONE: (414) 251-0879

LEGEND

- - 3/4" x 24" ROUND IRON REBAR
WEIGHING 1.5 lbs./lineal ft. SET
- 3/4" ROUND STEEL REBAR FOUND
- ◆ - CERTIFIED LAND CORNER
WINNEBAGO COUNTY
- () - RECORDED BEARING AND/OR DISTANCE
- S.F. - SQUARE FEET
- VP - VENT PIPE
- H - HOLDING TANK
- POWER POLE
- - OUT BUILDING
- 7543 - COTTAGE WITH ADDRESS NO.
- - - LIMITS OF LIMITED COMMON ELEMENT
- ⊞ - WELL BUILDING FOR CONDOMINIUM COMPLEX

NOTES:

No monumentation has been set for the limited common elements.

When improving Condominium units by greater than 50% of value, setback coverage from ordinary high water mark will be used for building setback. In no case will it be less than 50'.

No improvements other than parking area or expanded paving area is allowed within 5 feet of Mallard Lane without approval of the Board of Directors of Poygan Shores Inc.

No new units are allowed per Winnebago County Conditional Use Permit No. 98-CU-018.

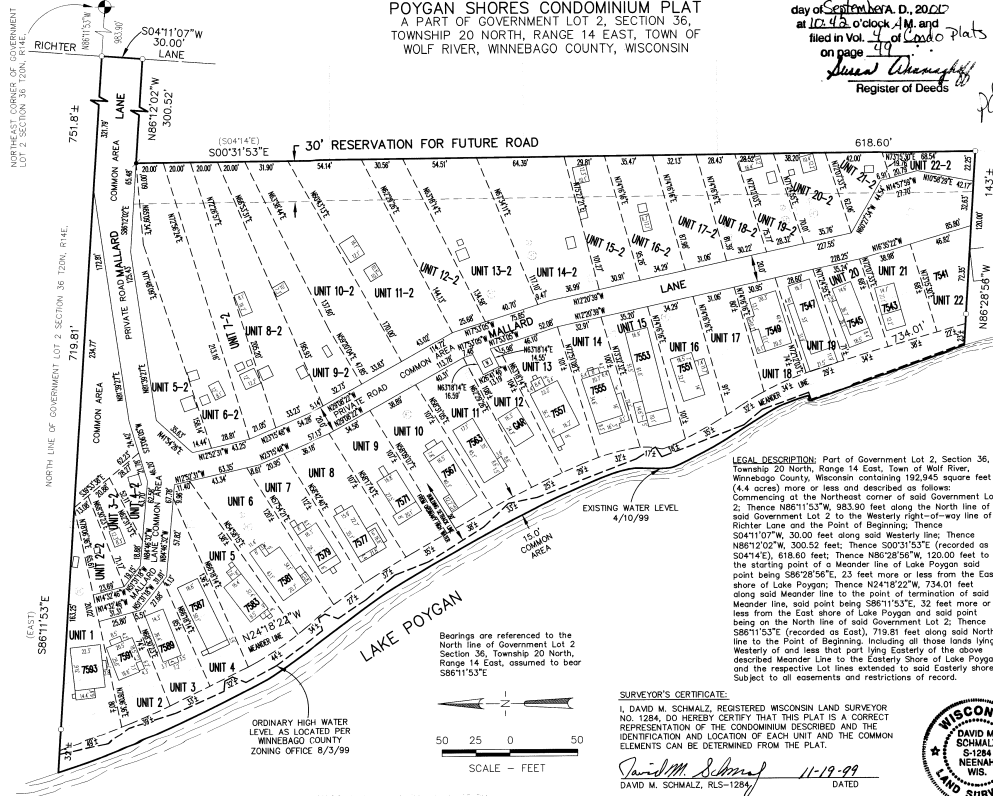
The private road shall be moved to at least 10' from the closest wall of relocated units.

The 15 foot common area along the East shore of Lake Poygan is 15 feet from the existing water level.

All Units are to be Limited Common Elements

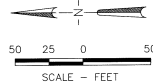
Existing sheds 10' x 10' or smaller are not dimensioned

Areas that are not labeled as Units are to be Common Areas



Bearings are referred to the North line of Government Lot 2 Section 36, Township 20 North, Range 14 East, assumed to bear S86°15'31"E

ORDINARY HIGH WATER
LEVEL AS LOCATED PER
WINNEBAGO COUNTY
ZONING OFFICE 8/3/99



SURVEYOR'S CERTIFICATE:

I, DAVID M. SCHMALZ, REGISTERED WISCONSIN LAND SURVEYOR NO. 1284, DO HEREBY CERTIFY THAT THIS PLAT IS A CORRECT REPRESENTATION OF THE CONDOMINIUM DESCRIBED AND THE IDENTIFICATION AND LOCATION OF EACH UNIT AND THE COMMON ELEMENTS CAN BE DETERMINED FROM THE PLAT.

David M. Schmalz 11-19-99
DAVID M. SCHMALZ, RLS-1284 DATED



McMAHON ENGINEERS
ASSOCIATES, INC. ARCHITECTS
SCIENTISTS
SURVEYORS

1445 McMahon Drive Neenah, WI 54956
Mailing Address:
P.O. Box 1025 Neenah, WI 54957-1025
TEL: 920-751-4200 FAX: 920-751-4284

Declaration #1106775

49.



Application #21-VA-5640

Date of Hearing:

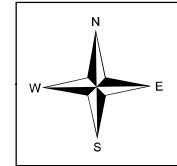
May 25, 2021

Owner(s):

GAYLORD, DAVID R

Subject Parcel(s):

03207260105



Winnebago County
WINGS Project

Scale

1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE

Application #21-VA-5640

Date of Hearing:

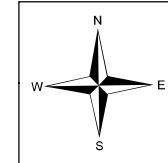
May 25, 2021

Owner(s):

GAYLORD, DAVID R

Subject Parcel(s):

03207260105

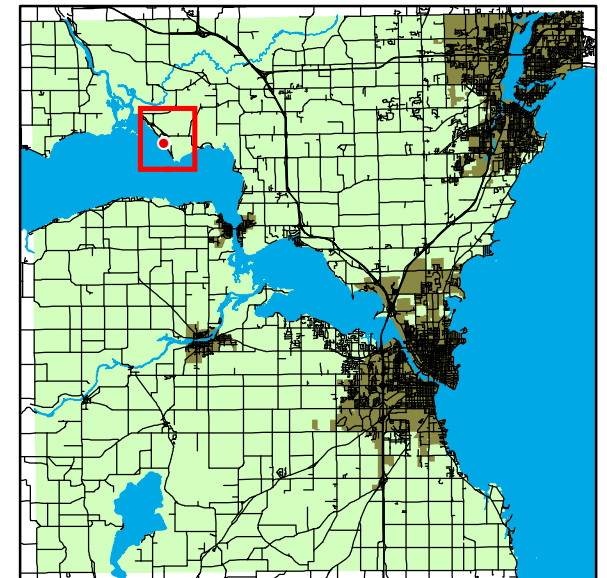


*Winnebago County
WINGS Project*



1 inch : 2,000 feet

● = SITE



WINNEBAGO COUNTY

Winnebago County Planning and Zoning Department

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT 5/25/2021

TO WHOM IT MAY CONCERN:

The applicant(s) listed below has requested a variance which is regulated by one or more of the following ordinances: Chapter 23, the Town/County Zoning Code, Chapter 26, the Floodplain Zoning Code, and Chapter 27, the Shoreland Zoning Code. You are receiving this notice because this application or petition for action: 1. affects area in the immediate vicinity of property which you own; 2. requires your agency to be notified; 3. requires your Town to be notified; or 4. requires you, as the applicant, to be notified.

The Winnebago County Board of Adjustment will be holding a public hearing on 5/25/2021 at 5:30 p.m. in Conference Room 120 of the County Administration Building located at 112 Otter Ave, Oshkosh, WI.

Meetings will be held via Zoom for the welfare of everyone involved. All interested persons wishing to be heard at the public hearing may appear in person however we are encouraging the public to stay home and stay safe.

Join Zoom Meeting: <https://us02web.zoom.us/j/89555541449?pwd=bmZVdIlvQXpaZGtiUWM3clpWZW9CZz09>

Dial by your location: +1 312 626 6799 US (Chicago)

Meeting ID: 895 5554 1449

Passcode: 448702

Additional Instructions for making a virtual appearance can be found at:

<https://www.co.winnebago.wi.us/planning-and-zoning>.

INFORMATION ON VARIANCE REQUEST

Applicant:

ROBINSON, LANCE E SCHRAMM, MARI L

Agent:

KALKOFEN, COREY - MCMAHON ASSOCIATES

File Number:

2021-VA-5650

Location of Premises:

7591 MALLARD LN
LARSEN, WI 54947

Tax Parcel No.:

032-0726-01-02

Legal Description:

Being all of Units 2 and 2-2 of Poygan Shores Condominium, located in Government Lots 1 and 2, Section 36, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin.

Description of Proposed Project:

Applicant is requesting a variance for a sub standard shore yard, side yard, road, floodplain fill, and building separation requirement.

<u>DESCRIPTION:</u>	<u>CODE REFERENCE:</u>	<u>REQUIRED:</u>	<u>PROPOSED:</u>
The shore yard setback from the nearest point of a structure shall be at least 75 ft from the OHWM unless exempt under 6.1(1) or reduced under 6.2. Flood protection fill shall be one foot or more above the regional flood elevation, extending at least 15 ft beyond the limits of the structure. The side yard setback from the nearest point of a principle structure shall be at least 7 ft on one side & 10 ft on the other. The road setback from the nearest point of any structure shall be at least 30 ft. The separation between detached buildings shall be at least 10 ft.	27-6.1 26.5-23(b)(1) Exhibit 8-2	Shore Yard:75 ft Side Yard 5 ft Road: 30 ft Floodplain Fill: 15 ft Building Separation: 10 ft	Shore Yard: 30 ft North Side Yard: 2.4 ft South Side Yard: 6.5 ft Street Yard: 9 ft Floodplain Fill (Entire Building): 1 ft Building Separation: 5.3 ft

INITIAL STAFF REPORT

Sanitation:

Existing System
Private System

Overlays:

Floodplain Shoreland

Current or Proposed Zoning:

PDD Planned Development District

Code Reference:

27-6.1 26.5-23(b)(1) Exhibit 8-2

Description of Proposed Use:

Applicant is requesting a variance for a sub standard shore yard, side yard, road, floodplain fill, and building separation requirement.

Surrounding Zoning:

North: PDD

South: PDD

East: PDD

West: Lake Poygan

THE FOLLOWING INFORMATION HAS BEEN PROVIDED BY THE OWNER / APPLICANT

Describe your project, include the proposed dimensions and setbacks:

See Attached.

Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

See Attached.

Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

See Attached.

Describe how the granting of the requested variance will not harm the public interest or have adverse affects on surrounding properties:

See Attached.

SECTION REFERENCE AND BASIS OF DECISION

Town/County Zoning Code

23.7-234 Basis of decision

When making its decision, the Board of Adjustment shall consider each of the following standards:

- (1) The requirement in question would unreasonably prevent the property owner from using the property for a permitted purpose or would render conformity with such requirement unnecessarily burdensome and such circumstances were not self-created.
- (2) The subject property has unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question.
- (3) The granting of the variance will not be contrary to or harm the public interest given the general purposes of the zoning regulations and the specific purposes of the requirement in question.

The board shall grant a variance only if the board can make an affirmative finding for all of the criteria listed in this section.

Floodplain Zoning Code

26.6-7 Variances

(a) **Review criteria.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to adoption of the floodplain chapter and unique property conditions, not common to adjacent lots or premises—in such case the chapter or map must be amended—; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter in s. 26.1-5.

(b) **Additional criteria.** In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- (1) The variance shall not cause any increase in the regional flood elevation;
- (2) Variances can only be granted for lots that are less than 0.5 acres and are contiguous to existing structures constructed below the regional flood elevation;
- (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the chapter.

(c) **Limitations.** A variance shall not (1) grant, extend, or increase any use prohibited in the zoning district; (2) be granted for a hardship based solely on an economic gain or loss; (3) be granted for a hardship which is self-created; (4) damage the rights or property values of other persons in the area; (5) allow actions without the amendments to this chapter or map(s) required in s. 26.6-4; or (6) allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Shoreland Zoning Code

27.6 -8 Variances

- (a) **Generally.** The Board of Adjustment may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that (1) literal enforcement of this chapter will cause unnecessary hardship; (2) the hardship is due to unique property conditions, not common to adjacent lots or premises; (3) the variance is not contrary to the public interest; and (4) the variance is consistent with the purpose of this chapter.

VARIANCE APPLICATION

Responses may be typed on a separate sheet and attached to this form.

Applicant, please fill out all of the questions in your own words.

C-1 Describe your project, include the dimensions and proposed setbacks:

C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:

Compliance with the required street, shoreland, side yard setback, distance between detached structures and floodplain fill with 15 feet around the foundation would make this lot unbuildable.

C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:

The property is an unit within a condominium plat, condominium units are typically treated different than standard lots/parcels. A condominium unit is defined as "The portion(s) of a condominium intended for any type of independent ownership and use, 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, in a building."

See additional sheet attached.

C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :

Granting of the request variance will not have an adverse impact on the public health, safety and welfare. Existing drainage along the common lot lines will be maintained.

C-1

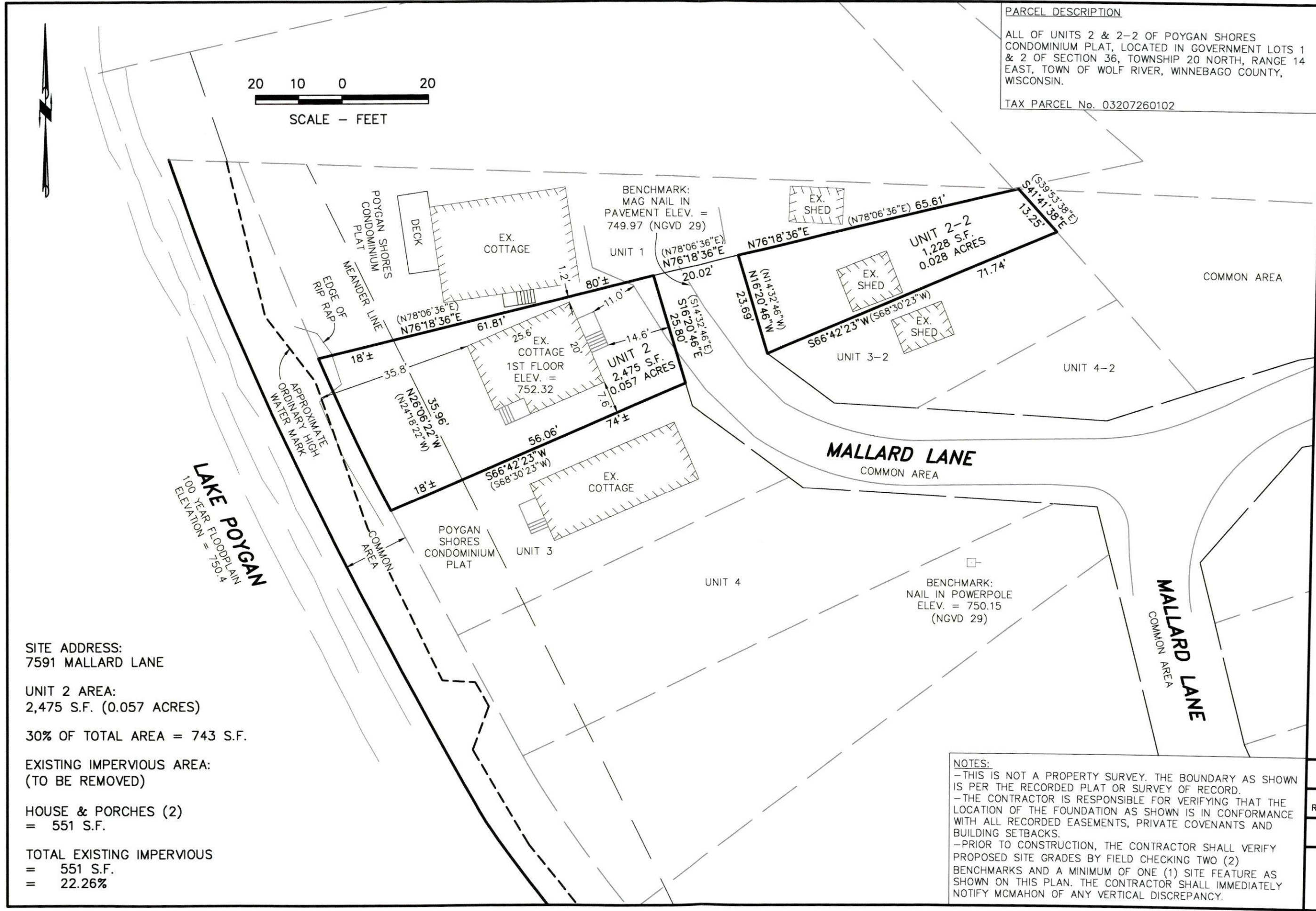
The setbacks per the Winnebago County Zoning Code are: road right-of-way (street yard) = 30 feet min., shore = 75 feet min. (38.5 feet per setback averaging), side = 5 feet due to lot width. A variance for the street, shore, side yard setback, 10 feet separation between detached buildings and the floodplain fill within 15 feet around the foundation is requested.

C-3

The 30 foot setback from the private street was not part of the planning for this condominium plat.

Per Poygan Shores Condominium Plat, "No improvements other than parking area or expanded paving area is allowed within 5 feet of Mallard Lane without approval of the Board of Directors of Poygan Shores Inc."

The parcel is entirely within the floodplain district, the proposed house will be elevated to 2 feet above the floodplain elevation to comply with the floodplain zoning requirement. However, due to how narrow the parcel is, the requirement of the floodplain zoning code, "fill must be placed around the foundation 15 feet in all directions at an elevation of 1 foot above the 100 year flood elevation" will not be met. A retaining wall is proposed around the proposed cottage, 1 foot around in all directions with a height from ground grade of approximately 1.5 feet.



PARCEL DESCRIPTION

ALL OF UNITS 2 & 2-2 OF POYGAN SHORES CONDOMINIUM PLAT, LOCATED IN GOVERNMENT LOTS 1 & 2 OF SECTION 36, TOWNSHIP 20 NORTH, RANGE 14 EAST, TOWN OF WOLF RIVER, WINNEBAGO COUNTY, WISCONSIN.

TAX PARCEL No. 03207260102

McMAHON
ENGINEERS ARCHITECTS

1445 McMAHON DRIVE NEENAH, WI 54956
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 751-4200 Fax: (920) 751-4284
www.mcmgp.com

McMAHON provides this drawing and data, regardless of form, as instruments of service. All rights including copyrights are retained by McMAHON. The client and/or recipient agrees to the fullest extent permitted by law to indemnify and hold McMAHON harmless for any reuse of or changes made to the original drawing or data without prior written consent by McMAHON.

VARIANCE MAP-7591 MALLARD LANE
POYGAN SHORES CONDOMINIUM PLAT
TOWN OF WOLF RIVER, WINNEBAGO COUNTY, WI

NOTES:

- THIS IS NOT A PROPERTY SURVEY. THE BOUNDARY AS SHOWN IS PER THE RECORDED PLAT OR SURVEY OF RECORD.
- THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THAT THE LOCATION OF THE FOUNDATION AS SHOWN IS IN CONFORMANCE WITH ALL RECORDED EASEMENTS, PRIVATE COVENANTS AND BUILDING SETBACKS.
- PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL VERIFY PROPOSED SITE GRADES BY FIELD CHECKING TWO (2) BENCHMARKS AND A MINIMUM OF ONE (1) SITE FEATURE AS SHOWN ON THIS PLAN. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY McMAHON OF ANY VERTICAL DISCREPANCY.

DESIGNED CWK	DRAWN CWK
PROJECT NO. R0583 92000638.00	
DATE MAR. 2021	
SHEET NO. 1	

SITE ADDRESS:
7591 MALLARD LANE

UNIT 2 AREA:
2,475 S.F. (0.057 ACRES)

30% OF TOTAL AREA = 743 S.F.

EXISTING IMPERVIOUS AREA:
(TO BE REMOVED)

HOUSE & PORCHES (2)
= 551 S.F.

TOTAL EXISTING IMPERVIOUS
= 551 S.F.
= 22.26%

SITE ADDRESS:
7591 MALLARD LANE

UNIT 2 AREA:
2,475 S.F. (0.057 ACRES)

30% OF TOTAL AREA = 743 S.F.

EXISTING IMPERVIOUS AREA:
(TO BE REMOVED)

HOUSE & PORCHES (2)
= 551 S.F.

PROPOSED IMPERVIOUS AREA:

HOUSE = 520 S.F.

DECK = 84 S.F.

PORCH & STAIRS
= 25 S.F.

TOTAL PROPOSED IMPERVIOUS
= 629 S.F.
= 25.41%

LAKE POYGAN
100 YEAR FLOODPLAIN
ELEVATION = 750.4

20 10 0 20
SCALE - FEET

PARCEL DESCRIPTION

ALL OF UNITS 2 & 2-2 OF POYGAN SHORES
CONDOMINIUM PLAT, LOCATED IN GOVERNMENT LOTS 1
& 2 OF SECTION 36, TOWNSHIP 20 NORTH, RANGE 14
EAST, TOWN OF WOLF RIVER, WINNEBAGO COUNTY,
WISCONSIN.

TAX PARCEL No. 03207260102

McMAHON
ENGINEERS ARCHITECTS
1445 McMAHON DRIVE NEENAH, WI 54956
Mailing: P.O. BOX 1025 NEENAH, WI 54957-1025
Tel: (920) 751-4200 Fax: (920) 751-4284
www.mcmgrp.com

McMAHON provides this
drawing and data, regardless
of form, as instruments of
service. All rights including
copyrights are retained by
McMAHON. The client and/or
recipient agrees to the fullest
extent permitted by law to
indemnify and hold McMAHON
harmless for any reuse of or
changes made to the original
drawing or data without prior
written consent by McMAHON.

VARIANCE MAP-7591 MALLARD LANE
POYGAN SHORES CONDOMINIUM PLAT
TOWN OF WOLF RIVER, WINNEBAGO COUNTY, WI

NOTES:

-THIS IS NOT A PROPERTY SURVEY. THE BOUNDARY AS SHOWN
IS PER THE RECORDED PLAT OR SURVEY OF RECORD.
-THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING THAT THE
LOCATION OF THE FOUNDATION AS SHOWN IS IN CONFORMANCE
WITH ALL RECORDED EASEMENTS, PRIVATE COVENANTS AND
BUILDING SETBACKS.
-PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL VERIFY
PROPOSED SITE GRADES BY FIELD CHECKING TWO (2)
BENCHMARKS AND A MINIMUM OF ONE (1) SITE FEATURE AS
SHOWN ON THIS PLAN. THE CONTRACTOR SHALL IMMEDIATELY
NOTIFY McMAHON OF ANY VERTICAL DISCREPANCY.

DESIGNED CWK	DRAWN CWK
PROJECT NO. R0583 92000638.00	
DATE MAR. 2021	
SHEET NO. 1	

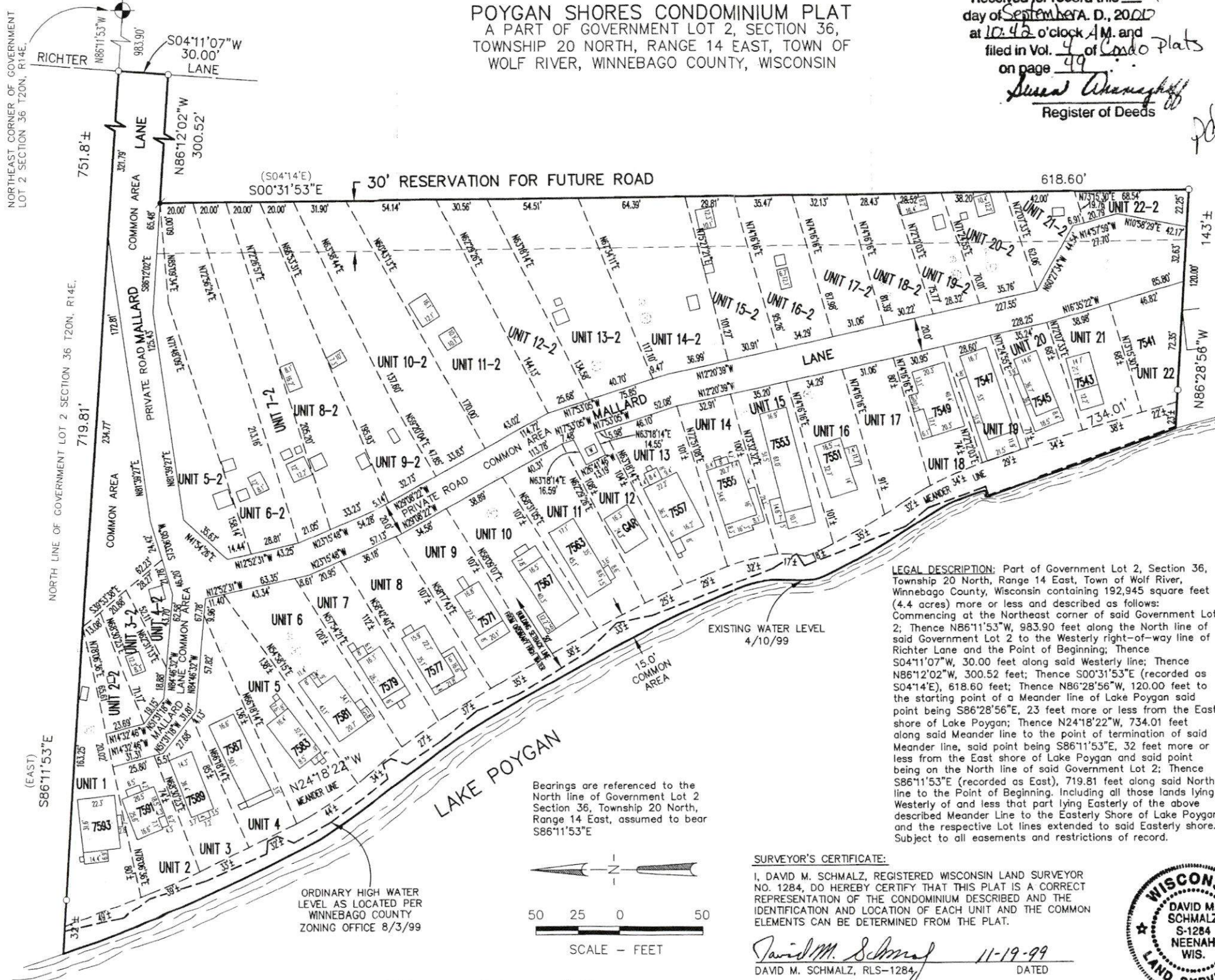
1106774

Register's Office
Winnebago County, Wis.
Received for record this 22nd
day of September, A.D., 2000
at 10:42 o'clock A.M. and
filed in Vol. 4 of Condo Plats
on page 49
Susan Whanghoff
Register of Deeds

SURVEY FOR:
- Poygan Shores Inc.
- W153 N8009 Meadowland Drive
- Menomonee Falls, WI 53051
- PHONE # (414) 251-0679

LEGEND

- - 3/4" x 24" ROUND IRON REBAR WEIGHING 1.5 lbs./lineal ft. SET
- ✱ - 3/4" ROUND STEEL REBAR FOUND
- ⊙ - CERTIFIED LAND CORNER WINNEBAGO COUNTY
- () - RECORDED BEARING AND/OR DISTANCE
- S.F. - SQUARE FEET
- ⊙ - VENT PIPE
- ⊙ - HOLDING TANK
- ⊙ - POWER POLE
- - OUT BUILDING
- 7543 - COTTAGE WITH ADDRESS NO.
- - - - - LIMITS OF LIMITED COMMON ELEMENT
- - WELL BUILDING FOR CONDOMINIUM COMPLEX



LEGAL DESCRIPTION: Part of Government Lot 2, Section 36, Township 20 North, Range 14 East, Town of Wolf River, Winnebago County, Wisconsin containing 192,945 square feet (4.4 acres) more or less and described as follows: Commencing at the Northeast corner of said Government Lot 2; Thence N86°11'53"W, 983.90 feet along the North line of said Government Lot 2 to the Westerly right-of-way line of Richter Lane and the Point of Beginning; Thence S04°11'07"W, 30.00 feet along said Westerly line; Thence N86°12'02"W, 300.52 feet; Thence S00°31'53"E (recorded as S04°14'E), 618.60 feet; Thence N86°28'56"W, 120.00 feet to the starting point of a Meander line of Lake Poygan said point being S86°28'56"E, 23 feet more or less from the East shore of Lake Poygan; Thence N24°18'22"W, 734.01 feet along said Meander line to the point of termination of said Meander line, said point being S86°11'53"E, 32 feet more or less from the East shore of Lake Poygan and said point being on the North line of said Government Lot 2; Thence S86°11'53"E (recorded as East), 719.81 feet along said North line to the Point of Beginning. Including all those lands lying Westerly of and less than part lying Easterly of the above described Meander Line to the Easterly Shore of Lake Poygan and the respective Lot lines extended to said Easterly shore. Subject to all easements and restrictions of record.

SURVEYOR'S CERTIFICATE:
I, DAVID M. SCHMALZ, REGISTERED WISCONSIN LAND SURVEYOR NO. 1284, DO HEREBY CERTIFY THAT THIS PLAT IS A CORRECT REPRESENTATION OF THE CONDOMINIUM DESCRIBED AND THE IDENTIFICATION AND LOCATION OF EACH UNIT AND THE COMMON ELEMENTS CAN BE DETERMINED FROM THE PLAT.
David M. Schmalz 11-19-99
DAVID M. SCHMALZ, RLS-1284 DATED



NOTES:
No monumentation has been set for the limited common elements.
When improving Condominium units by greater than 50% of value, setback average from ordinary high water mark will be used for building setback. In no case will it be less than 50'.
No improvements other than parking area or expanded paving area is allowed within 5 feet of Mallard Lane without approval of the Board of Directors of Poygan Shores Inc.
No new units are allowed per Winnebago County Conditional use Permit No. 98-CU-018.
The private road shall be moved to at least 10' from the closest wall of relocated units.
The 15 foot common area along the East shore of Lake Poygan is 15 feet from the existing water level.
All Units are to be Limited Common Elements
Existing sheds 10' x 10' or smaller are not dimensioned
Areas that are not labeled as Units are to be Common Areas

McMAHON ■ ENGINEERS
■ ARCHITECTS
■ SCIENTISTS
■ SURVEYORS
ASSOCIATES, INC.
1445 McMahon Drive Neenah, WI 54956
Mailing Address:
P.O. Box 1025 Neenah, WI 54957-1025
TEL: 920-751-4200 FAX: 920-751-4284

Declaration #1106775

49.



Application #21-VA-5650

Date of Hearing:

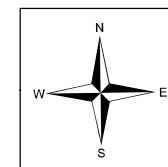
May 25, 2021

Owner(s):

ROBINSON, LANCE E /
SCHRAMM, MARI L

Subject Parcel(s):

03207260102



Winnebago County
WINGS Project

Scale

1 inch : 300 feet

County Zoning Districts

R-1	PDD	B-1
R-2	A-1	B-2
R-3	A-2	B-3
R-4	I-1	M-1
R-8	I-2	Town Zoning

City of Oshkosh Extraterritorial
Zoning Jurisdiction

Incorporated Area

○ = SITE

Application #21-VA-5650

Date of Hearing:

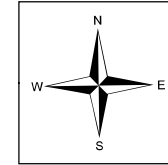
May 25, 2021

Owner(s):

ROBINSON, LANCE E / SCHRAMM, MARI L

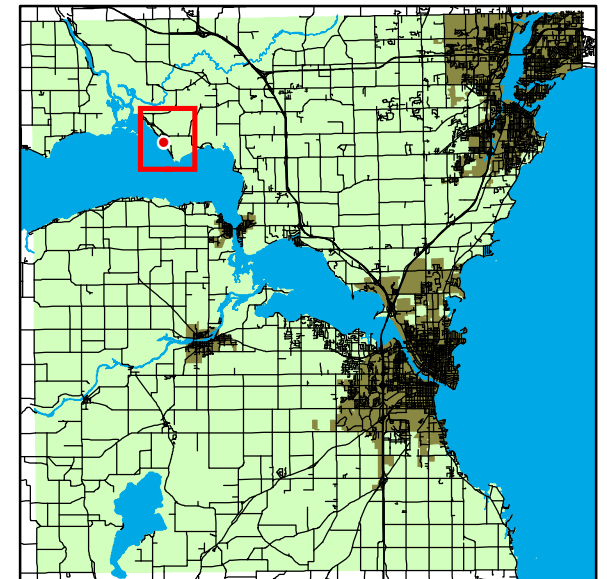
Subject Parcel(s):

03207260102



*Winnebago County
WINGS Project*

● = SITE



WINNEBAGO COUNTY



1 inch : 2,000 feet