



Memorandum

DATE: April 17, 2014

TO: Board of Public Works

FROM: Mark Radtke, Director of Public Works *MR*

RE: Recommendation to Defer Special Assessment for Outlot 3, Gambsky Grove Subdivision Due to Unbuildable Status

At its March 17, 2014 meeting, the Common Council approved the special assessments for new street construction on Harold Drive and the streets in the 1st Addition to Southfield. During our review of the approved assessments, it was discovered that an unbuildable lot in Gambsky Grove (Outlot 3 on Harold Drive) did not have its assessment listed as deferred, which is the standard practice for such lots.

Municipal Code Section 3-2-14(b)(5)c states

If an entire, defined, platted lot is deemed by the Common Council to be unbuildable, any assessment may be deferred by the Common Council.

It is my recommendation that the Council make the determination that this lot is unbuildable due to its shallow depth (see attached).

This determination does not *remove* the assessment or change any of the other approved assessments. If the lot becomes buildable through any future action (acquisition of adjacent property, e.g.), the assessment shall then become due and payable as required by Code.

If the Council deems this parcel unbuildable, notice of such, along with the stipulations, would then be submitted to the property owner.

Enclosure

C: Fieldcrest Developers LLC

REPLAT 1ST

MANITOWOC RD.

HAROLD DRIVE

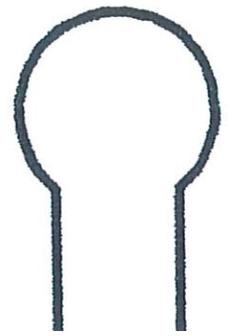
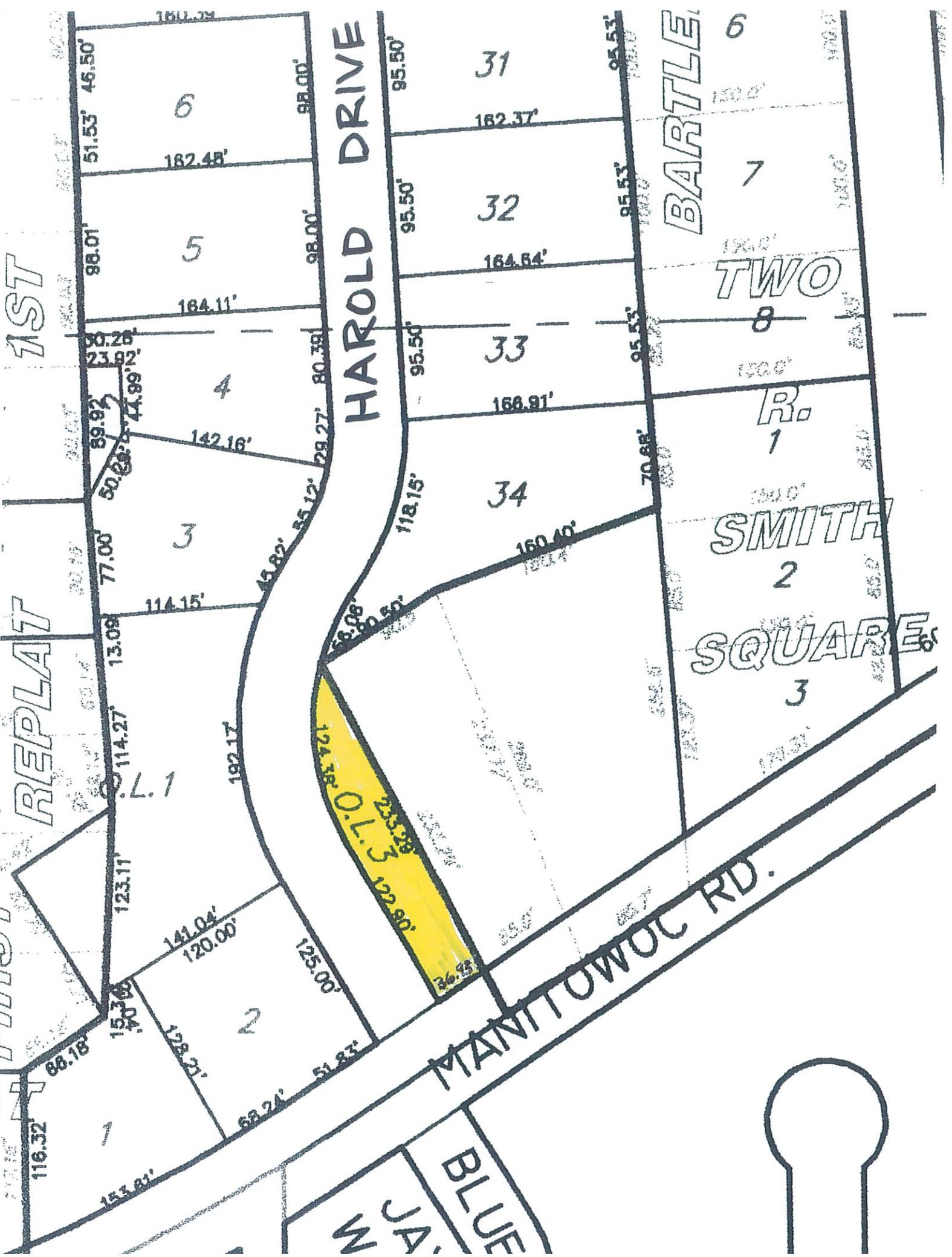
BARTLE

TWO

SMITH SQUARE

MANITOWOC RD.

WJA BLUE



as otherwise required by this section. Conclusive evidence of this change to assessment-due status shall be deemed to exist upon the issuance of any building permit on any lot or parcel with a contiguous property parcel held by a single legal entity.

- b. Agricultural. Property used in agriculture for crops or pasture and over five (5) acres in size shall be assessed, but the assessment deferred, upon approval of request for deferment by the Common Council.
- c. Topographically Unbuildable Parcels. If an entire, defined, platted lot is deemed by the Common Council to be unbuildable, any assessment may be deferred by the Common Council. However, upon change from topographically unbuildable parcel to developable status in the future, for any reason, the assessment shall then become due and payable as otherwise required by this section. Conclusive evidence of this change to assessment-due status shall be deemed to exist upon the issuance of any building permit for any lot or parcel within a contiguous property parcel held by a single legal entity.
- d. Under paragraph a. above, the wetlands deferred assessment may remain in force in perpetuity, unless there be the change from wetlands to developable status in the future. Under paragraph c. above, the topographically unbuildable parcel deferred assessment may remain in force i perpetuity, unless there be a change from topographically unbuildable parcel to developable status in the future.

SEC. 3-2-15 STREET ASSESSMENTS.

- (a) It is the policy of the City of Menasha that all property owners shall pay for a road and that all subsequent repair and maintenance shall be borne from the general funds and shall not be assessed against the property of the owner. However, nothing shall prevent the abutting property owners to petition the Council for a higher classification of a road than now exists or the Council from on its own motion ordering such classification. In that event, the provisions of Chapter 66.60, Wis. Stats., of the assessment powers or the police powers permitted by law shall prevail.
- (b) Temporary asphalt mats are determined to be one step in the construction of a permanent finished urbanized road section and may be assessable. When the Director of Public Works determines that a permanent finished, urbanized road section is needed to replace the temporary asphalt mat, the assessment policies of this chapter will apply irrespective of 3-2-15.

SEC. 3-2-16 ASSESSMENT DETERMINATIONS.

- (a) **SCHEDULE**. Special assessments shall be levied against all property fronting or abutting on a proposed improvement at a rate to be determined per project by the Board of Public Works on the basis of a unit cost per foot fronting or abutting in the proposed improvement. Such rates of assessment shall be approved by motion and resolution passed by the Common Council. Should the bids come in lower than the established assessment ratios, credit may be granted.
- (b) **INTERIOR LOTS**. On interior lot road construction and improvements including the

in the final resolution required by Sec. 3-2-6.

- c. Special assessments greater than Two Thousand Five Hundred Dollars (\$2,500.00) may be deferred for the initial five years after passage of the final resolution required by Sec. 3.2.6. Thereafter they shall be paid in five equal installments due and payable on or before November 1 commencing with the sixth year after the special assessment is levied and each November 1 thereafter, together with the interest as assigned. Interest shall accrue at the rate the City has borrowed the money plus 1% for administrative expenses. Should the money to pay for the project not be borrowed, interest shall be set at a rate established by the Common Council in the final resolution required by Sec. 3-2-6.

- (2) The City Comptroller shall enter the first installment due on the subsequent year's tax roll as a special tax on the property on which the special assessment was levied, and thereafter this tax shall be treated in all respects as any other city tax, and one of the subsequent installments shall be included in like manner and with like effect in each of the annual tax rolls thereafter until all are collected.
- (3) If any installment so entered in the tax roll shall not be paid to the City Treasurer with the other taxes it shall be returned to the county as delinquent and accepted and collected by the county in the same manner as delinquent general taxes on real estate.
- (4) Whenever the Common Council shall permit any special assessment for any such improvement to be paid in installments, the City Clerk shall cause to be published in the official paper of the City the "Installment Assessment Notice" as provided under Chapter 66.54(7), Wis. Stats.
- (5) After the time for making election as provided in the notice shall have expired, all remaining assessment installments may be paid in full before due by the payment of the installments together with interest to become due at the next installment due date on all of the remaining installments.
- (6) A schedule of the special assessment and all installments thereof shall be recorded in the office of the City Treasurer.

(b) **DEFERRED SPECIAL ASSESSMENTS.**

- (1) Deferred Special Assessments Permitted. The Common Council may by motion direct the City Treasurer to pay all or any portion of special assessments or special charges extended upon the current or next tax roll against property owned by or upon which reside worthy, indigent persons in accordance with the provisions of Chapter 74.77, Wis. Stats., with an annual interest rate as established by the Common Council.
- (2) Who May Apply. Applications for deferment of payment shall be made upon a form provided by the City Clerk, verified by the applicant, and the information only contained therein shall be treated as confidential, privileged information.
- (3) Who Shall Make Determination. Application shall be reviewed by the Board of Public Works for the Common Council. All the provisions of Section 74.77, Wis. Stats., shall be applicable.
- (4) Duty of City Attorney. Upon the Common Council granting such application, it shall be the duty of the City Attorney to file the necessary lien on said property.
- (5) Deferred Assessments (pursuant to Sections 66.60 and 66.605, Wis. Stats.).
 - a. Wetlands. Property designated as protected "wetlands" on the DNR-approved wetlands map shall be assessed, but the assessment deferred. However, upon change from wetland to developable status in the future, for any reason, the assessment shall then immediately become due and payable