

It is expected that a Quorum of the Board of Public Works, Park Board, Administration Committee, and/or Common Council may attend this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
PLAN COMMISSION
Council Chambers
140 Main Street, Menasha**

**August 2, 2016
3:30 PM**

AGENDA

A. CALL TO ORDER

B. ROLL CALL/EXCUSED ABSENCES

C. MINUTES TO APPROVE

1. [Minutes of the July 12, 2016 Plan Commission Meeting](#)

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

Five (5) minute time limit for each person

E. CORRESPONDENCE

- 1.

F. DISCUSSION

- 1.

G. ACTION ITEMS

1. [Proposed Rezoning – 412 Broad Street – Parcel #1-00041-00](#)
2. [Proposed Rezoning – 1861-1863 Beck Street – Parcel #4-00919-01](#)
3. [Certified Survey Map – North Ridge Court](#)
4. [Easement Agreement – Outlot 1 Second Addition Woodland Hills](#)

H. ADJOURNMENT

CITY OF MENASHA
Plan Commission
Council Chambers, City Hall – 140 Main Street
July 12, 2016
DRAFT MINUTES

A. CALL TO ORDER

The meeting was called to order at 3:30 PM by Mayor Merkes.

B. ROLL CALL/EXCUSED ABSENCES

PLAN COMMISSION MEMBERS PRESENT: Mayor Merkes, Ald. Benner and Commissioners Sturm, Schmidt, DeCoster and Cruickshank (arrived at 3:50 PM).

PLAN COMMISSION MEMBERS EXCUSED: None.

OTHERS PRESENT: AP Englebert, CDC Heim, Ralph DeMarco (Keller Williams), Ashley Breyer, Bill Blair, Steve Grenell (Menasha Utilities), Michael Hagens (Woodland Development), and Dave Schmalz (McMahon Associates).

Mayor Merkes requested that AP Englebert give an overview of all four public hearings. AP Englebert provided the following:

Proposed rezoning at 412 Broad Street. The property had been a commercial use at one time. The current property owners have converted the property into a residential dwelling with the desire to revert the use to single family.

Proposed rezoning at 620 Racine Street. The property owners have requested that this property be rezoned to C-1 and will combine the parcel with the existing campus at a future date.

Proposed rezoning at 1861-1863 Beck Street. The property owners have requested the rezoning to allow the division of the lot along the common wall of the existing property.

Staff is requesting that the ordinance revision be delayed as the section the change was denoted in is incorrect and to also allow staff to include additional recreational vehicles into the ordinance.

3:30 PM – Informal Public Hearing Regarding the Proposed Rezoning of 412 Broad Street – Parcel #1-00041-00

Mayor Merkes opened the public hearing at 3:34 PM.

Bill Blair (2620 Forestview Ct Apt.12, Appleton) indicated he is a perspective home buyer of the property and would like to rezone so they can close on their loan.

Ralph DeMarco (Keller Williams) home is currently a 4 bedroom house; bank will not approve a residential loan to purchase the property as it is currently zoned.

The hearing was closed at 3:35 PM.

3:35 PM – Informal Public Hearing Regarding the Proposed Rezoning of 620 Racine Street – Parcel #1-00517-00

Mayor Merkes opened the public hearing at 3:35 PM.

No one spoke.

The hearing was closed at 3:36 PM.

3:40 PM – Informal Public Hearing Regarding the Proposed Rezoning of 1861-1863 Beck Street – Parcel #4-00919-01

Mayor Merkes opened the public hearing at 3:36 PM.

No one spoke.

The hearing was closed at 3:37 PM.

3:45 PM – Proposed Amendment to Title 13 of the Menasha Code of Ordinances Pertaining to Storage and Parking of Recreational Vehicles - Definitions

Mayor Merkes opened the public hearing at 3:37 PM.

No one spoke.

The hearing was closed at 3:38 PM.

C. MINUTES TO APPROVE

1. Minutes of the June 21, 2016 Plan Commission Meeting

Motion by Ald. Benner, seconded by Comm. Sturm to approve the June 21, 2016 Plan Commission meeting minutes. The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. Mr. Hagens stated that the development in Lake Cottage Estates is going well and showed house plans for Lot 7 of the CSM proposed on the agenda.

E. CORRESPONDENCE

1. None.

F. DISCUSSION

1. None.

G. ACTION ITEMS

1. Proposed Rezoning – 412 Broad Street – Parcel #1-00041-00

AP Englebert provided the current zoning and usage of the surrounding parcels. The Comprehensive Plan designates this parcel as Mixed Use Commercial Core. The designation is intended to permit mix of commercial, entertainment, residential and civic uses. Preservation of existing historic buildings and sites is also encouraged. The property, if rezoned, would stand alone as an R-1 designation and the Plan Commission is tasked with determining if rezoning one lot in the middle of the block is desirable.

Commissions discussed the following:

- Reason for the rezoning is more of a third party reason compared to a rezoning based on our comprehensive plan or use.
- End use of the property (single family vs. commercial)
- If difficulty in achieving a loan for a single family use in a commercially zoned parcel is an issue, fear of property falling into disrepair
- Possibility of rezoning additional properties in vicinity to make more consistent
- How does the request compare to the use indicated in the Comprehensive Plan
- Property is currently legal non-conforming as it has been converted into a single family home, because not vacant for more than 12 months property has not lost its legal non-conforming status

After a lengthy discussion, it was the consensus of the Commission to take no action on this item and requested that staff research the possibility of rezoning a larger area.

2. **Proposed Rezoning – 620 Racine Street – Parcel #1-00517-00**

AP Englebert provided an overview of the history of the Boys and Girls Club campus. The proposed property was acquired by the Boys and Girls Club and the home was razed. It is the desire to rezone to combine the two lots via a certified survey map at a future date.

Motion by Comm. Sturm, seconded by Ald. Benner to recommend the proposed rezoning of 620 Racine Street, Parcel number 1-00517-00 to the Common Council for approval. The motion carried.

3. **Proposed Rezoning – 1861-1863 Beck Street – Parcel #4-00919-01**

AP Englebert explained that it is the intent of the property owners to divide the lot along the common wall of the existing property which would allow each to have ownership over one side of the existing duplex. Commissioners felt this request is similar to the request on Broad Street and consensus was to take no action on this item and have staff research the possibility of rezoning the entire 6 parcel area.

4. **Ordinance O-____-16 Relating to Storage and Parking of Recreational Vehicles – Definitions**

AP Englebert made a staff request that no action on this item be taken. The ordinance revision as presented was not formatted in the correct section of the code and staff will also be looking to add additional recreational vehicles in addition to what was provided in this revision.

5. **Certified Survey Map – Lake Cottage Estates, East**

AP Englebert explained that this is the second certified survey map relating to the Lake Cottage Estates development. The CSM before the Commission would divide the east parcel into 4 residential lots. The DOT conditions have been placed on the original CSM.

Motion by Ald. Benner, seconded by Comm. Sturm to recommend to the certified survey map at Lake Cottage Estates, East to the Common Council for approval. The motion carried.

6. **Property Acquisition – 867 Valley Road – Parcel #4-00753-00**

AP Englebert explained the history of the property. An investor approached the city to assist with the clean-up of this property. The City applied for and was awarded a Site Assessment Grant (SAG) grant from WEDC in the amount of \$150,000 environmental site work. That development failed to move forward however the grant funds are available still so staff has been working on finding a new end user for the property. Staff is seeking a recommendation to proceed with the acquisition of the property while grant fund access are still available. The site is zoned I-1 General Industrial and the comprehensive plan calls for industrial activities at the location and along the Valley Road corridor. A prospective purchaser is proposing to construct self-storage facilities which is a permitted use within the I-1 district.

Motion by Comm. Sturm, seconded by Ald. Benner to recommend to the Common Council the property acquisition at 867 Valley Road, Parcel #4-00753-00. The motion carried.

H. ADJOURNMENT

Motion by Comm. Schmidt, seconded by Comm. DeCoster, to adjourn at 4:47 PM. The motion carried.

Minutes respectfully submitted by CDC Heim.

City of Menasha

SPECIAL ZONING APPROVAL

Owner Daniel & Deanna Coonen Case or Plan No. _____
Address 412 Broad St, Menasha Fee \$350.00
Applicant (if different than Owner) Ashley Breyer and William Blair
Address 2620 Forestview Ct Apt 12, Appleton, WI 54915
Zoning Commercial Parcel Number(s) 1-00041-00

PLEASE INDICATE WHICH REQUEST IS BEING MADE

- Rezoning Special Use Flood Plain Map Amendment
 Appeal or Variance PUD Plan Approval

Description of Request: This house is currently zoned as a commercial property, even though it has been redone to be a single family dwelling. We would like this property to be rezoned residential.

Owner/Agent Daniel Coonen  06/20/2016 07:24 PM GMT Deanna Coonen  06/20/2016 07:32 PM GMT
Signature

(If applicable) Formal Hearing 7-18-2016
Informal Hearing 7-12-2016 Notice Mailed 7-1-2016
Notice Mailed 7-1-2016 Notice Mailed n/a
Action Taken: _____ 20__

APPROVED DENIED

Conditions (if any): _____



July 1, 2016

Dear Property Owner:

The City of Menasha will be holding public hearings regarding the proposed rezoning of a property located at 412 Broad Street (Parcel #1-00041-00). You are being notified in accordance with Section 13-1-142 of the Menasha Code of Ordinances.

Rezoning of the property from C-2 Central Business District to R-1 Single Family Residence District is being requested by the owners based on the desire to utilize the building as a single family dwelling.

Please see the enclosed map and public notice for more information.

The Plan Commission will be considering this rezoning at an informal public hearing on Tuesday, July 12, 2016 at 3:30 p.m. or shortly thereafter in the Third Floor Council Chambers of City Hall, 140 Main Street. Persons interested in this matter will be given an opportunity to comment and ask questions about the proposed rezoning. A second public hearing before the Common Council will be held Monday, July 18, 2016 at 6:00 p.m. or shortly thereafter in the Council Chambers of City Hall, 140 Main Street. If you have any questions, please contact me at the number listed below.

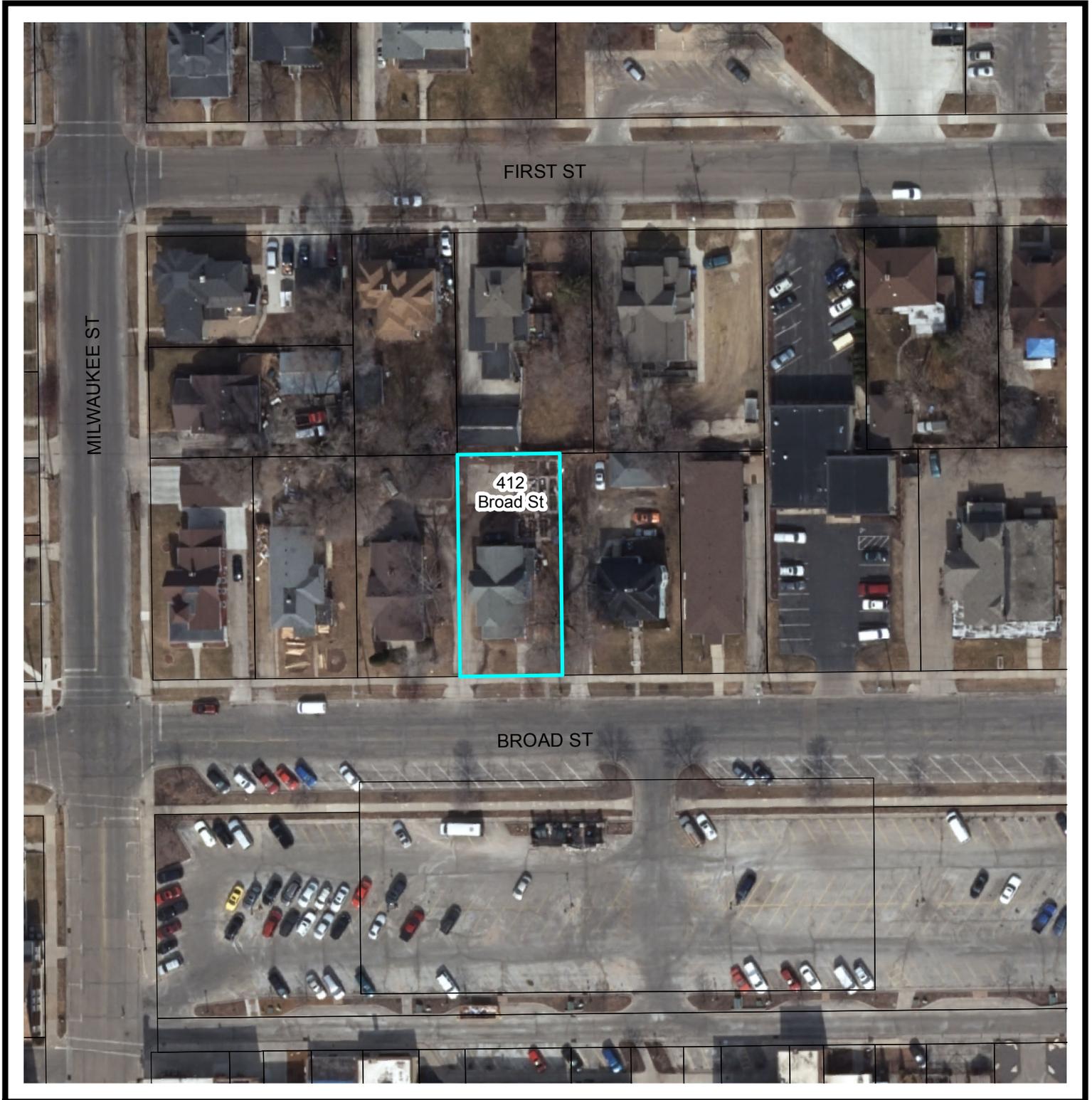
Sincerely,

Kristi Heim
Community Development Coordinator

Enclosures

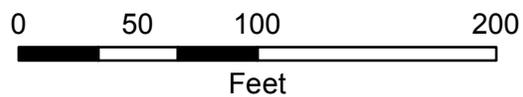
C: City of Menasha Plan Commission ✓
City Clerk Deborah Galeazzi

Proposed Rezoning from C-2 Central Business District to R-1 Single Family Residence District



Legend

 Proposed for Rezoning:
Parcel ID# 5-00493-00



CITY OF MENASHA
Public Hearing

NOTICE IS HEREBY GIVEN that the City of Menasha will be holding public hearings regarding the proposed rezoning of property located at 412 Broad Street (Parcel #1-00041-00).

Rezoning of the property from C-2 Central Business District to R-1 Single Family Residence District is being requested by the owners desire to utilize the building as a single family dwelling.

The Plan Commission will be considering this rezoning at an informal public hearing on Tuesday, July 12, 2016 at 3:30 p.m. or shortly thereafter in the Third Floor Council Chambers of City Hall, 140 Main Street. Persons interested in this matter will be given an opportunity to comment and ask questions about the proposed rezoning. A second public hearing before the Common Council will be held Monday, July 18, 2016 at 6:00 p.m. or shortly thereafter in the Council Chambers of City Hall, 140 Main Street.

Deborah A. Galeazzi
City Clerk

Publish: July 7 and 11, 2016.

City of Menasha

SPECIAL ZONING APPROVAL

Owner SANDRA SLUSARZYK Case or Plan No. _____

Address 1861 / 1863 Beck St Fee _____

Applicant (if different than Owner) MENASHA WI 54952

Address [scribble]

Zoning R-2 Parcel Number(s) 4-00919-01

PLEASE INDICATE WHICH REQUEST IS BEING MADE

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> Rezoning | <input type="checkbox"/> Special Use | <input type="checkbox"/> Flood Plain Map Amendment |
| <input type="checkbox"/> Appeal or Variance | <input type="checkbox"/> PUD Plan Approval | <input type="checkbox"/> Comprehensive Plan Amendment |

Description of Request: _____

(If applicable) Formal Hearing 7-18-2016
Informal Hearing 7-12-2016 Notice Mailed 7-1-2016
Notice Mailed 7-1-2016 Notice Mailed _____

Action Taken: _____ 20__

- APPROVED DENIED

Conditions (if any): _____

| |
|--------------------------------------|
| Owner/Agent _____ Signature _____ |
|--------------------------------------|



July 1, 2016

Dear Property Owner:

The City of Menasha will be holding public hearings regarding the proposed rezoning of a property located at 1861-1863 Beck Street (Parcel #4-00919-01). You are being notified in accordance with Section 13-1-142 of the Menasha Code of Ordinances.

Rezoning of the property from R-2 Two Family Residence District to R-2A Multi-Family, Zero Lot Line Residence District is being requested by the owners in order to make provision with zoning requirements which allow the lot to be split along the common wall of the existing structure.

Please see the enclosed map and public notice for more information.

The Plan Commission will be considering this rezoning at an informal public hearing on Tuesday, July 12, 2016 at 3:40 p.m. or shortly thereafter in the Third Floor Council Chambers of City Hall, 140 Main Street. Persons interested in this matter will be given an opportunity to comment and ask questions about the proposed rezoning. A second public hearing before the Common Council will be held Monday, July 18, 2016 at 6:00 p.m. or shortly thereafter in the Council Chambers of City Hall, 140 Main Street. If you have any questions, please contact me at the number listed below.

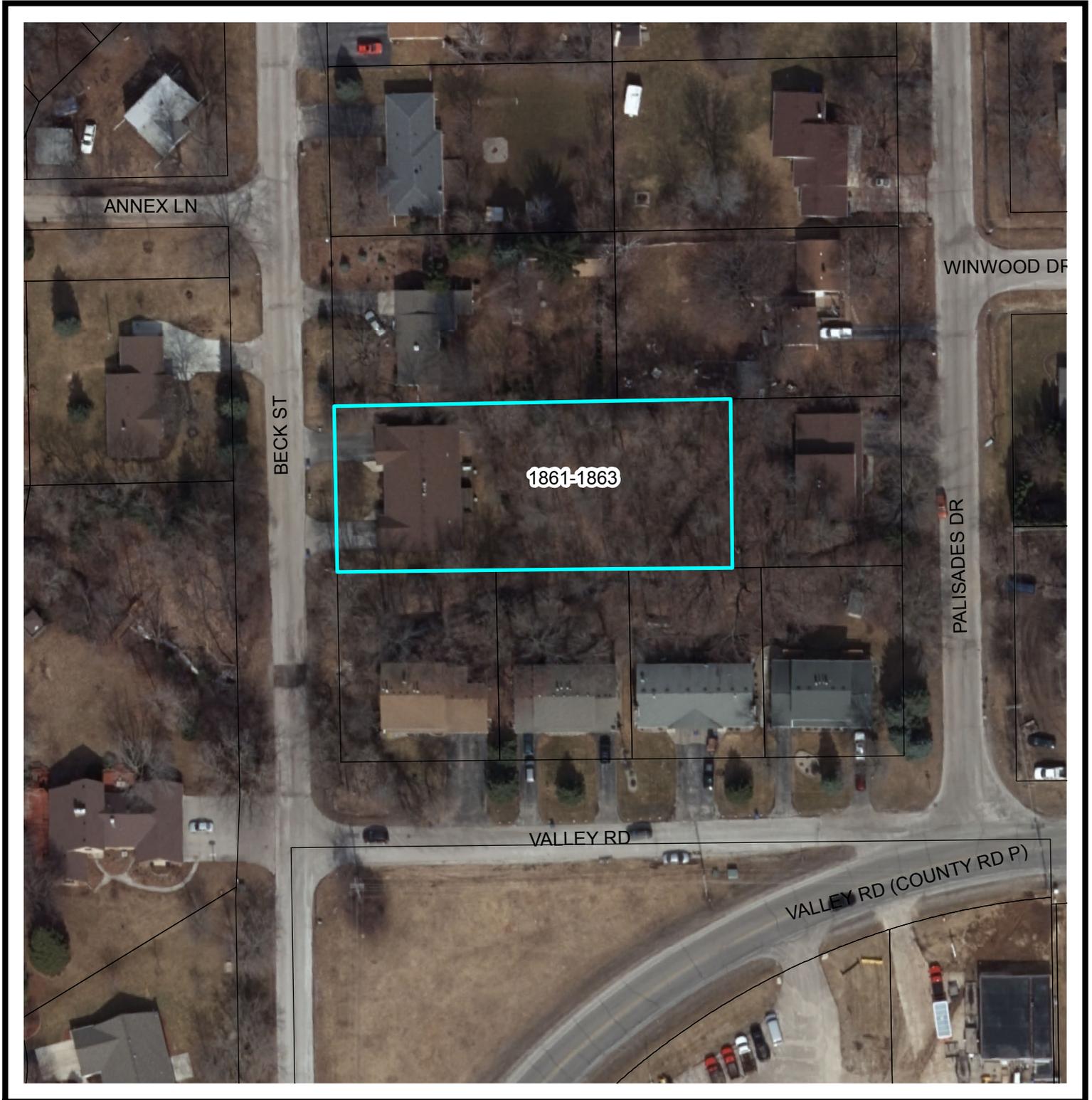
Sincerely,

Kristi Heim
Community Development Coordinator

Enclosures

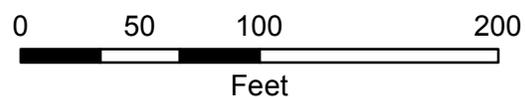
C: City of Menasha Plan Commission ✓
City Clerk Deborah Galeazzi
Town Clerk Karen Backman

Proposed Rezoning from R-2 Two Family Residence District to R-2A Multi-Family, Zero Lot Line Residence District



Legend

 Proposed for Rezoning:
Parcel ID# 4-00919-01



CITY OF MENASHA
Public Hearing

NOTICE IS HEREBY GIVEN that the City of Menasha will be holding public hearings regarding the proposed rezoning of property located at 1861-1863 Beck Street (Parcel #4-00919-01).

Rezoning of the property from R-2 Two Family Residence District to R-2A Multi-Family, Zero Lot Line Residence District is being requested by the owners in order to make provision with zoning requirements which allow the lot to be split along the common wall of the existing structure.

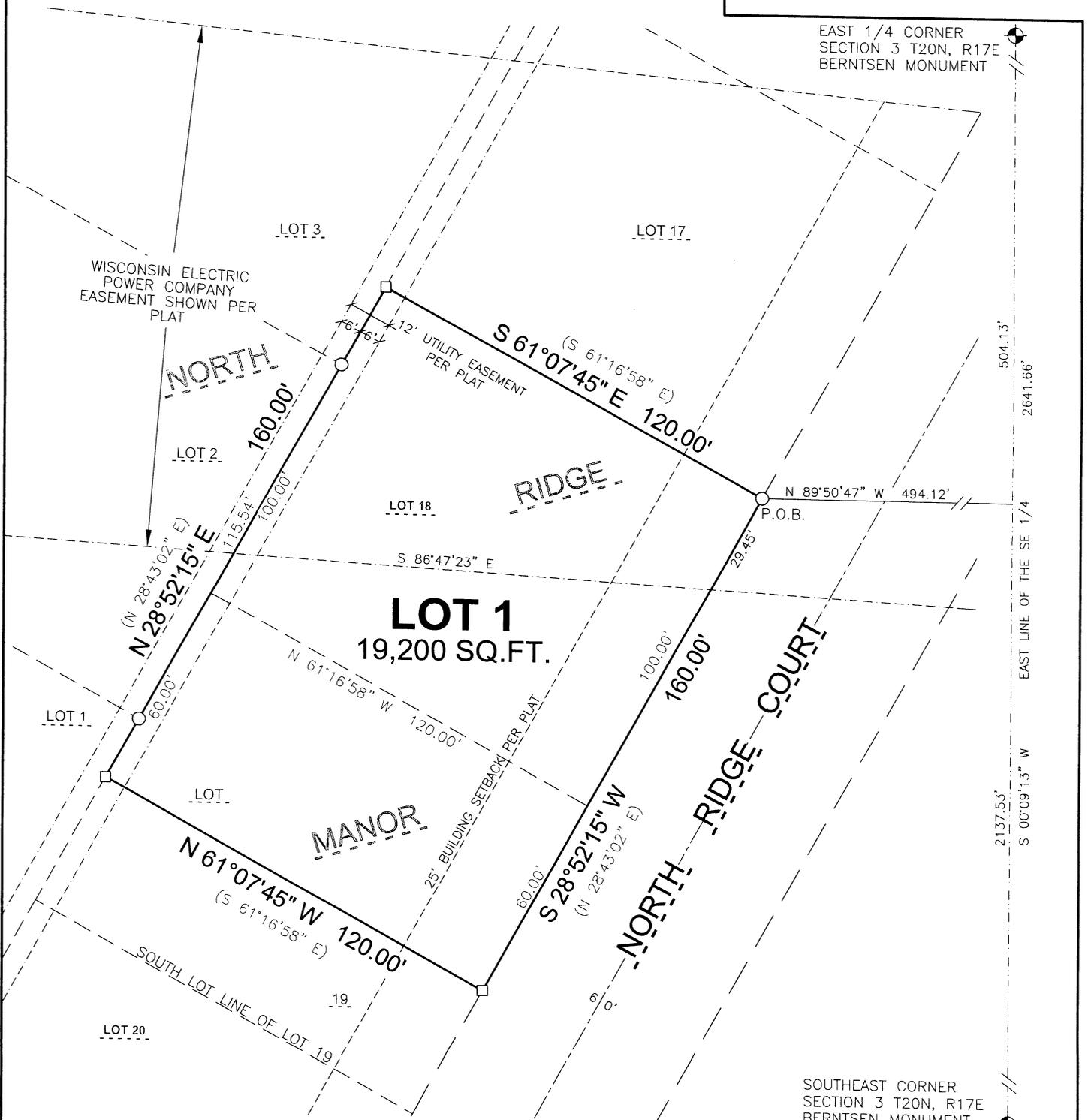
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Deborah A. Galeazzi
City Clerk

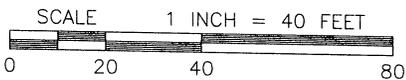
Publish: July 7 and 11, 2016.

CERTIFIED SURVEY MAP NO. _____

ALL OF LOT 18 AND THE NORTH 60 FEET OF LOT 19, NORTH RIDGE MANOR, BEING PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 3, TOWNSHIP 20 NORTH, RANGE 17 EAST, CITY OF MENASHA, WINNEBAGO COUNTY, WISCONSIN



SURVEY FOR:
 VAN'S REALTY & CONSTRUCTION
 2525 S. ONEIDA STREET
 APPLETON, WI 54915



BEARINGS ARE REFERENCED TO THE WINNEBAGO COUNTY COORDINATE SYSTEM IN WHICH THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 3, ASSUMED TO BEAR S 00°09'13\" W

Martenson & Eisele, Inc.

1377 Midway Road
 Menasha, WI 54952
 www.martenson-eisele.com
 info@martenson-eisele.com
 920.731.0381 1.800.236.0381

Planning
 Environmental
 Surveying
 Engineering
 Architecture

- LEGEND**
- 1" O.D. IRON PIPE FOUND
 - ⊙ GOVERNMENT CORNER
 - 3/4" O.D. REBAR FOUND
 - () RECORDED AS
 - P.O.B. POINT OF BEGINNING



PROJECT NO. 1-0067-016
 FILE 1-0067-016csm SHEET 1 OF 3
 THIS INSTRUMENT WAS DRAFTED BY: L. LUCHT

CERTIFIED SURVEY MAP NO. _____

SURVEYOR'S CERTIFICATE

I, GARY A. ZHRINGER, PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED, MAPPED, AND COMBINED AT THE DIRECTION OF VAN'S REALTY & CONSTRUCTION OF APPLETON, ALL OF LOT 18 AND THE NORTH 60 FEET OF LOT 19, NORTH RIDGE MANOR, BEING PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 3, TOWNSHIP 20 NORTH, RANGE 17 EAST, CITY OF MENASHA, WINNEBAGO COUNTY, WISCONSIN, MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 3; THENCE SOUTH 00 DEGREES 09 MINUTES 13 SECONDS WEST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, A DISTANCE OF 504.13 FEET; THENCE NORTH 89 DEGREES 50 MINUTES 47 SECONDS WEST, 494.12 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 28 DEGREES 52 MINUTES 15 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY OF NORTH RIDGE COURT, A DISTANCE OF 160.00 FEET; THENCE NORTH 61 DEGREES 07 MINUTES 45 SECONDS WEST, A DISTANCE OF 120.00 FEET; THENCE NORTH 28 DEGREES 52 MINUTES 15 SECONDS EAST, ALONG THE WEST LINE OF LOTS 18 AND 19, NORTH RIDGE MANOR, A DISTANCE OF 160.00 FEET; THENCE SOUTH 61 DEGREES 07 MINUTES 45 SECONDS EAST, ALONG THE NORTH LINE OF LOT 18, NORTH RIDGE MANOR, A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING. CONTAINING 19,200 SQ.FT. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

THAT I HAVE FULLY COMPLIED WITH CHAPTER 236.34 OF THE WISCONSIN STATUTES AND WITH THE CITY OF MENASHA SUBDIVISION ORDINANCE IN SURVEYING, DIVIDING, DEDICATING AND MAPPING THE SAME.

THAT THIS CERTIFIED SURVEY MAP IS NOT A DIVISION OF PROPERTY BUT A COMBINING OF AND DEPICTION OF PARCEL NUMBERS 74-0-0831-00 AND 74-0-0832-01 INTO A SINGLE PARCEL AND DESCRIPTION.

THAT THIS MAP IS A CORRECT REPRESENTATION OF ALL EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE COMBINATION THEREOF.

GIVEN UNDER MY HAND THIS THE 16TH DAY OF JULY, 2016.


GARY A. ZHRINGER, PROFESSIONAL LAND SURVEYOR S-2098



COMMON COUNCIL RESOLUTION:

RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MENASHA, THAT THIS CERTIFIED SURVEY MAP IS HEREBY APPROVED.

DATED THIS _____ DAY OF _____, 2016.

MAYOR

CITY CLERK

TREASURER'S CERTIFICATE:

I HEREBY CERTIFY THAT THERE ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS ON ANY OF THE LANDS SHOWN HEREON.

CITY TREASURER

DATE

CERTIFIED SURVEY MAP NO. _____

CORPORATE CERTIFICATE OF DEDICATION:

VAN'S REALTY & CONSTRUCTION OF APPLETON, INC., A CORPORATION DULY ESTABLISHED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, AS OWNER, DOES HEREBY CERTIFY THAT SAID CORPORATION CAUSED THE LAND ABOVE DESCRIBED TO BE SURVEYED, MAPPED AND COMBINED, ALL AS SHOWN AND REPRESENTED ON THIS MAP.

DATED THIS _____ DAY OF _____, 2016.

JASON C. HAEN, PRESIDENT

STATE OF WISCONSIN))SS
OUTAGAMIE COUNTY)

PERSONALLY CAME BEFORE ME ON THE _____ DAY
OF _____, 2016, THE ABOVE OWNER(S)
TO ME KNOWN TO BE THE PERSON(S) WHO EXECUTED THE
FOREGOING INSTRUMENT AND ACKNOWLEDGE THE SAME.

NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION (IS PERMANENT)
(EXPIRES: _____)



Gary A. Zahringer
7-16-16

EASEMENT AGREEMENT

1. PARTIES:

City of Menasha, a Wisconsin Municipal Corporation, 140 Main Street, Menasha, WI 54952, hereinafter referred to as "Grantor".

Waverly Sanitary District, a town sanitary district, N8722 CTH LP, Menasha, WI 54952, hereinafter referred to as "Grantee".

2. AFFECTED PROPERTY:

Grantor is currently the owner of the following described real property: Outlot 1 of the Second Addition to Woodland Hills, part of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 8, and part of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 17, all in Township 20 North, Range 18 East, City of Menasha, Calumet County, Wisconsin.

City Clerk
City of Menasha
140 Main St.
Menasha, WI 54952

PIN: 7-00848-33

3. GRANT OF EASEMENT:

Grantor does hereby grant unto the Grantee, and Grantee hereby accepts an easement on Grantor's property as described in the attached "EXHIBIT "A", which is incorporated herein.

4. STATEMENT OF PURPOSE:

The easement described above shall be for water and sanitary sewer facilities including access for ingress and egress to Grantor's property for the purpose of installing, maintaining, repairing, and replacing such facilities. The terms and conditions of the attached October 28, 1999, Intermunicipal Agreement between the Town of Harrison, City of Menasha and Waverly Sanitary District apply in that there shall be no extension of water and sanitary sewer facilities within the City of Menasha growth area without annexation to the City of Menasha.

5. TYPE OF EASEMENT:

Grantee shall have the right to construct, install, maintain, operate, repair and replace and access water, sanitary sewer, and related facilities within the easement. Grantor may use the surface of the easement provided such use does not interfere with Grantee's rights contained in this easement.

6. MAINTENANCE:

Grantee shall be responsible for the maintenance of all water, sanitary sewer, and related facilities located within the easement.

7. INDEMNIFICATION:

The Grantee shall indemnify Grantor from any claim of liability arising out of the Grantee's use of the easement described above and caused by the Grantee's negligent conduct.

9. REMEDIES:

In addition to all other remedies allowed by law, the parties shall have the right to seek injunctive relief for the enforcement of the terms and conditions of this agreement.

10. BINDING EFFECT ON SUCCESSOR INTERESTS:

The terms, conditions and provisions of this agreement shall not extend to, be binding upon or inure to the benefit of the successors, heirs and assigns of the Grantee without the Grantor's express written consent.

Greg

INTERMUNICIPAL AGREEMENT

1. Preamble

The Town of Harrison (Town), the City of Menasha (City), and the Waverly Sanitary District (Waverly) pursuant to ss. 66.027, 66.30 and 66.028 Wis. Stats., desire to enter into an Intermunicipal Agreement in order to:

- A. Establish fixed boundaries;
- B. Facilitate orderly development of the Town and the City;
- C. Eliminate current and minimize future litigation;
- D. Provide for cost effective governmental services to citizens of the Town and City;
- E. Maximize capacity of current infrastructure for sewer and water service;
- F. Promote harmony between the municipalities.

The Town and the City desire to enter into an agreement pursuant to s. 66.023 Wis. Stats. to formalize boundaries between the municipalities. This agreement is intended to be an interim agreement until such time as the s. 66.023 agreement is enacted.

2. Boundaries

The eastern boundary line shall be fixed to run from the intersection of Manitowoc and Lake Park Road southerly to the intersection of Lake Park Road and STH114 - US10. The southern boundary line shall run from the intersection of Lake Park Road and STH114 - US10 westerly to the intersection of Oneida Street and STH114 - US10. The western boundary line shall run along Oneida Street from the intersection of Oneida Street and STH114 - US10 to the intersection of Midway Road and Oneida Street. The northern boundary shall run from the intersection of Midway Road and Oneida Street easterly along Midway Road to Kernan Avenue, then south along Kernan Avenue to Manitowoc Road, then easterly along Manitowoc Road to Lake Park Road.

The Town territory within the boundary described shall be designated as an area within which the City may annex without Town objection. This area shall be designated the City growth area.

The territory east of Lake Park Road shall be designated the Town growth area. The City shall not accept any petition for annexation for any territory east of Lake Park Road.

A map will be prepared as Exhibit "A" and incorporated into this Agreement.

3. Residents Within the City Growth Area

Property owned by a Town resident who also resides on such property within the City growth area may be included in an annexation petition accepted by the City except as is limited below. The City agrees that it will not include in any annexation petition any part of property which was actively being farmed as of April 1, 1999 (except for property owned by Gordon Van De Hey which is being purchased by the City) unless such property owner resident signs the petition for annexation. It is understood that any and all property owned by a resident active farmer as of April 1, 1999 shall not be included in any annexation petition. These are the farms owned and operated by Jeffrey Wisnet, James Bodway, and John Bartlein. Should any of these farms no longer be actively farmed by the resident owner, the City may include any of that land in any annexation petition. For purposes of this paragraph, a property is not actively farmed if no crops are harvested for two consecutive growing seasons on the tillable land, or the property owner has certified to the City and the Town a valid agricultural reason for the land to remain unplanted for longer than two consecutive growing seasons. The City may also include in an annexation petition land at the intersection of Oneida Street and US10 - STH114 currently being developed as a gas station. The City will honor any permits or plats which have been issued or approved prior to April 1, 1999.

The Town will not contest nor finance any objection to any annexation petition filed consistent with this agreement. No property owner is obligated to sign an annexation petition unless that land is being developed.

The City may annex without objection from the Town, any occupied property within the City growth area, except occupied property as of April 1, 1999 in what is known as the Stacker plat, the Green Acres Pond plat (Ribble), the Cottonwood Creek plat, and the Cottonwood Creek II plat, the Hoffman Estates plat and the farms referred to above. No such annexation may occur except at such time as the current owner sells the property to other than an immediate family member. For purposes of this agreement, immediate family means husband, wife, son, daughter, stepson or stepdaughter. The City may annex any property within the City growth area whose owner signs a petition for annexation.

Any resident owner may replace or remodel his/her existing residence pursuant to Town regulations. No new additional residences may be constructed without the consent of the City.

With respect to the Stacker plat, Hoffman Estates plat, Cottonwood Creek plat, and the Cottonwood Creek II plat, the City shall not accept any annexation petitions unless they are unanimous consent annexation petitions.

Attached as Exhibit "B" and made part of this agreement by reference is the perimeter boundaries and/or descriptions of the Stacker plat, Hoffman Estates plat, Cottonwood Creek plat, Cottonwood Creek II plat and the Green Acres Pond Plat.

4. Unimproved Property Within the City Growth Area

To the extent allowed by law, the Town will not allow the development of any land within the City growth area except single and two family dwellings may be constructed on lots of record as of April 1, 1999. Development shall include the issuance of any building permit, rezoning consideration, vacation request or any other action requiring the approval of the Town of Harrison Planning Commission or Town Board. The Town shall notify the City of applications to construct or develop single family or two-family homes on lots of record as of April 1, 1999.

The Waverly Sanitary District shall not allow any connections to sanitary sewer or water service within the City growth area except for single and two family development on lots of record as of April 1, 1999. Should any property owner wish to develop or build in any manner which is not consistent with this provision, the Town shall advise that that property owner should file a petition with the City to annex the property.

The City agrees to indemnify and hold the Town and Waverly Sanitary District harmless in the event a Court of record imposes damages as a result of the obligations imposed by this section 4.

5. Town Growth Area

The City shall not accept for annexation any property within the Town growth area without the approval of the Harrison Town Board. The parties agree that this paragraph may be used as the sole basis for a Court determination regarding the invalidity of any annexation by the City within the Town's growth area. The City shall not exercise any extraterritorial zoning or extraterritorial plat review over any property within the Town's growth area.

6. Sanitary Sewer Planning Area

All development in the Sanitary Sewer Planning Area as established by East Central Regional Planning Commission shall require hook-up to public sanitary sewer systems connected to the Neenah-Menasha Sewerage System. No on-site waste disposal systems shall be allowed or approved, except as replacements for existing on-site waste disposal systems which have been designated as a failing system by the Calumet County Sanitarian. The Town and the City shall cooperate to expand the Sanitary Sewer Service Area so as to accommodate the intent of this Agreement. Such cooperation shall include a direct request for an initial expansion of the Sewer Service Area so as to provide an opportunity for immediate growth as well as a change in policy which would allow for automatic expansion of the sewer service area upon achieving a predetermined level of growth in the Sewer Service Area.

Neither the Town nor the Waverly Sanitary District may petition East Central Regional Planning Commission to include within the Sanitary Sewer Service Area any property within the City growth area without annexation to the City or the consent of the City.

Neither the Town nor Waverly Sanitary District may extend the Waverly Sanitary District within the City growth area.

A Memorandum of Understanding relating to expansion of the Neenah/Menasha Sewer Service Area and extension of sewer and water facilities is attached as Exhibit "C" and made part of this agreement by reference.

7. Engineering Study of Sanitary Sewer System

An engineering study has been prepared by Omni Engineering which establishes a plan for the installation of sanitary sewer service to areas within the City and Town growth areas. The City and the Town agree that option A, attached as Exhibit A, will be the basis for this service expansion with the parties sharing in the actual costs of construction according to the percentages of territory to be served by this expansion. The parties further agree that this expansion will take place during the 2000 construction season and that arrangements will be made in the respective budgets of the Town and the City to pay for this expansion. Upon completion of the system, the system will be turned over to the Waverly Sanitary District for operation.

The Waverly Sanitary District shall be responsible to bid the project design and construction. Upon receiving invoices, the City and Town will pay such invoices to Waverly based upon monthly-billed documentation. The share of the total project will be as determined by the Omni study. The City and Town shall have the right to review bidding documents and contract document before award and construction.

8. Large Sewer Users

The Town or the City shall provide notice to the other when considering for approval any plans, building permit requests, CSM's or plats filed for any large user of the sewer system. A large user will be any user whose discharge is greater than 5000 gallons/day. Any capacity used by a large user shall be allocated to the capacity of the municipality in which the user is located.

9. Waverly Sanitary District

The Town and the City agree that any infrastructure necessary for water or sanitary service shall be installed at the expense of the benefiting municipality and shall then be turned over to the Waverly Sanitary District for operation and maintenance. Neither the Town nor the City shall make any attempt to dissolve and take over the Waverly Sanitary District without the consent of the Waverly Sanitary District and each other. Any

extensions to the sanitary or water service system shall follow Waverly Sanitary District procedures.

If necessary due to capacity issues with the current force main/gravity sewer connections to Sanitary District No. 4, the City of Menasha agrees to allow a future forced main connection from joint lift station to its 15" sanitary sewer in STH 114 west of Melissa street provided adequate capacity exists in such sewer. Waverly Sanitary District must exercise its current option to use excess capacity pursuant to its agreement with Sanitary District No. 4.

The Town shall obtain the consent of the Waverly Sanitary District to this Agreement.

10. Town Incorporation

The City shall not contest any attempt by the Town to incorporate so long as all the territory of the incorporation effort is outside the City's growth area. The Town agrees that it will stipulate that any incorporation filed contrary to this paragraph does not meet the criteria of sec. 66.016 Wis. Stats.

11. Joint Planning

The parties agree to work in good faith on issues of joint planning. In addition, the parties shall, in the future, work together to provide the necessary public services to the

residents of both municipalities. A joint planning committee comprised of three City members and three Town members shall be established to make recommendations to the City's Planning Commission and Common Council and to the Town Board on issues of joint planning. Any disputes will be settled by mediation by an agreed upon third party.

12. Curtin Annexation

Upon execution of this agreement, the Town will dismiss its claims in the lawsuit challenging the Curtin annexation, **Town of Harrison and Carlton A. Wieckert v. City of Menasha, 97 CV 100**. The Town shall also not finance any continuation of this lawsuit by Carlton A. Wieckert or any other third party.

13. Amendments

This agreement may be amended from time to time by mutual agreement. No amendments shall be valid until such time as the amendments are authorized by the governing bodies of the City of Menasha and the Town of Harrison and executed in writing. The Town and the City agree that each shall entertain any requests for amendments by the other and make a decision as to the amendment within 90 days of the receipt of the notice of the request for the amendment.

14. Notices

All notices required by this agreement must be served personally, or by certified mail upon the respective municipal clerks. All petitions for annexation shall be forwarded from the party receiving it to the other party as soon as possible.

16. Miscellaneous

- a. It is contemplated that the municipalities will rely on ss. 66.30, 66.027 and 66.028 Wis. Stats., as statutory authority for this Boundary Agreement. The agreement shall be binding upon future Town Boards and City Councils and shall remain in effect until the enactment of a s. 66.023 Wis. Stats. agreement. Should such s. 66.023 agreement not be enacted, this agreement shall be extended until September 1, 2029. This Agreement may be extended by the approval of the City Common Council and the Town Board at any time. It is the intent of the parties that no statutory amendments, changes in the forms of government of the Town or the City nor changes in the elected officials shall affect the enforceability of the agreement.
- b. This Agreement is intended to be solely between the Town, the City and the Waverly Sanitary District. Nothing in this Agreement accords any third party any legal or equitable right, whatsoever which may be enforced by any non-party to this Agreement. Waverly Sanitary District shall approve of this agreement.
- c. If any portion of this Agreement is deemed to be invalid or unconstitutional, it shall not invalidate the balance of the Agreement not affected by that determination.
- d. The Agreement imposes a duty of good faith and fair dealing on all parties.
- e. This Agreement is the complete agreement of the parties with respect to the matters covered by this Agreement. No agreements, promises, nor representations made by either party during the negotiations for or approval of this agreement shall be binding or effective unless included. The negotiating parties agree that each of them shall recommend this agreement to the City Council, the Town Board, and Waverly Sanitary Board for approval. The negotiating parties agree further that each of them shall support and promote this agreement to any other entity, public or private that is affected by, or needs to approve any issue necessary to carry out the intent of this agreement.
- f. Either party without objection in any action to enforce the terms of this Agreement may enter this Agreement into evidence.
- g. The failure of any party to require strict compliance with any provision of this Agreement shall not constitute a waiver of the provisions of the Agreement nor any of the parties' rights under this Agreement. Rights and obligations under this agreement may only be waived or modified in writing signed by the party waiving that right or

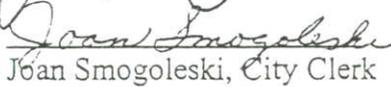
obligation. Waiver or modification of one term will not constitute a waiver of any other term.

- h. The City will construct its share of Carpenter Street during the 1999 construction season unless cost prohibitive. In that event, it will be constructed during the 2000 construction season.
- i. This Agreement shall be liberally construed to accomplish its intent. The parties agree that each has been involved in the drafting of this Agreement so that no ambiguity shall be held against either party simply as drafter.
- j. The parties agree that any unresolved dispute will be submitted to a mediator prior to either party instituting any legal action concerning this agreement.

Dated this 28th day of Oct, 1999.

CITY OF MENASHA:


Joseph F. Laux, Mayor

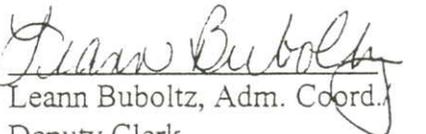

Joan Smogoleski, City Clerk

Approved as to form:


Jeffrey S. Brandt

TOWN OF HARRISON:

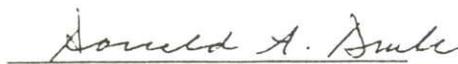

Allison Blackmer, Chairman

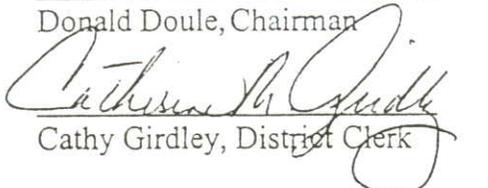

Leann Buboltz, Adm. Coord.
Deputy Clerk

Approved as to form:


~~John D. Claypool~~

WAVERLY SANITARY DISTRICT:


Donald Doule, Chairman


Cathy Girdley, District Clerk

Approved as to form:

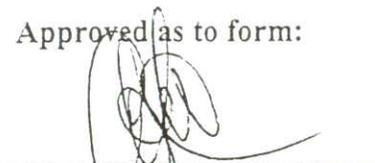

Charles J. Hartzheim

EXHIBIT B

Stacker Plat

SW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 7, T20N, R18E, Town of Harrison

Green Acres Pond plat

Part of the West $\frac{1}{2}$ of the NW $\frac{1}{4}$, Section 8, T20N, R18E, Town of Harrison,
Calumet County, Wisconsin

Hoffman Estates

Lot 2 of Certified Survey Map 1728 being Part of Lot 5 of Block 2 of Stacker Plat,
located in the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 7, Township 20 North,
Range 18 East, Town of Harrison, Calumet County, WI

Cottonwood Creek

All of C.S.M. 1624 and part of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 8,
Township 20 North, Range 18 East, Town of Harrison, Calumet County,
Wisconsin

Cottonwood Creek II

Part of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 8, Township 20 North,
Range 18 East, Town of Harrison, Calumet County, Wisconsin

EXHIBIT "C"
Memorandum of Understanding

This memorandum is entered into between the City of Menasha, Town of Harrison, Waverly Sanitary District and the East Central Wisconsin Regional Planning Commission's Regional Development Committee (RDC). This agreement is subject to the approval of the Wisconsin Department of Natural Resources on the the original swap amendment.

WHEREAS the City of Menasha, Town of Harrison, and Waverly Sanitary District have cooperated in the design of major sanitary sewer system improvements to service development in the vicinity of Lake Park Road and STH 10/114, and;

WHEREAS major investments will be required to extend the backbone sanitary sewer system to service the projected growth areas and;

WHEREAS the East Central Wisconsin Regional Planning Commission is the designated sewer service area planning agency for the subject area, and;

WHEREAS the Regional Development Committee takes actions and makes advisory recommendations to the WDNR on sewer service area amendments, and;

WHEREAS the amount of developable acreage currently within this portion of the Neenah/Menasha Sewer Service Area boundary would not be capable of supporting the costs of the necessary system improvements;

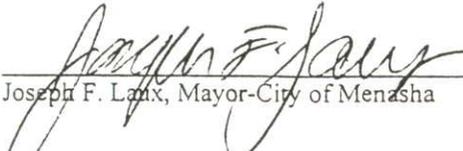
NOW, THEREFORE BE IT RESOLVED that the East Central Wisconsin Regional Planning Commission's Regional Development Committee will support and recommend to the WDNR approval of a future request from the Waverly Sanitary District to add an additional 105.8 total acres of land, of which 91.2 acres are vacant, to the Neenah/Menasha Sewer Service Area, shown as Area #4 per the attached map;

BE IT FURTHER RESOLVED that the addition of Area #4 acres will be subject to Area #2 being developed to a point which meets or exceeds 50% of its total land area.

BE IT FURTHER RESOLVED that the addition of Area #4 will still be subject to WDNR review and certification once advisory recommendations are acted upon by the Regional Development Committee.

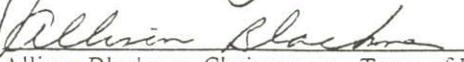
BE IT FURTHER RESOLVED that this agreement will expire on January 1, 2002 or once the East Central Wisconsin Regional Planning Commission initiates a 5-year update of the Neenah/Menasha Sewer Service Area Plan.

BE IT FURTHER RESOLVED that the City of Menasha and the Town of Harrison will support such an amendment;



Joseph F. Lutz, Mayor-City of Menasha

Date: 10-28-99



Allison Blackmer, Chairperson - Town of Harrison

Date: 10-28-99



Donald Doule, President - Waverly Sanitary District

Date: 10-28-99

Donald DeGroot, Chair - ECWRPC Regional Development Committee

Date: _____

Harlan Kiesow, Director - East Central Wisconsin RPC

Date: _____