

NOTICE OF MEETING

VILLAGE OF FOX POINT PLAN COMMISSION

SCHWEMER HALL - MUNICIPAL BLDG.
7200 N. SANTA MONICA BLVD
FOX POINT, WI 53217

Monday
April 1, 2024
5:45 P.M.

NOTE: THE PLAN COMMISSION WILL BE MEETING IN PERSON AT VILLAGE HALL, WITH A REMOTE ATTENDANCE OPTION, PER THE HYBRID MEETING PROCEDURES FURTHER DESCRIBED IN SECTION 19-32 D. OF THE VILLAGE CODE. THIS MEETING IS OPEN TO ALL CITIZENS IN PERSON AT VILLAGE HALL, OR THROUGH THE ZOOM PARTICIPANT INFORMATION SHOWN BELOW, SUBJECT TO THE FOLLOWING: NO ASSURANCE IS PROVIDED TO THOSE PLAN COMMISSION MEMBERS AND CITIZENS INTENDING TO ATTEND REMOTELY THAT THE TECHNOLOGY WILL PERFORM SUFFICIENTLY TO ALLOW FOR THEIR PARTICIPATION AND THE MEETING WILL PROCEED REGARDLESS. PUBLIC OFFICIALS AND CITIZENS WISHING TO ENSURE THEY CAN PARTICIPATE ARE ENCOURAGED TO ATTEND IN PERSON. CITIZENS ARE ENCOURAGED TO SUBMIT ANY COMMENTS IN WRITING IN ADVANCE OF THE MEETING TO THE VILLAGE MANAGER AT sbotcher@villageoffoxpoint.com

Zoom Participant Information

<https://us02web.zoom.us/j/89614055451>

Dial: (312) 626-6799
Meeting ID: 896 1405 5451

AGENDA

1. Roll Call.
2. Approval of the minutes of the March 4, 2024 Plan Commission meeting.
3. Consideration and possible action regarding the application of the Town Club for approval of outdoor recreational facilities (pickleball courts) at 7950 N Santa Monica Blvd., per Section 745-10 of the Village of Fox Point Village Code.
4. Review and Recommendation RE: Land Combination for 7111 N Barnett Lane, Fox Point.
Land Combination for 7111 N Barnett Lane, Fox Point. The Plan Commission will discuss, and may make a recommendation to the Village Board concerning a combination of lots at 7111 N Barnett Lane, tax key #129-9986-000.

5. Adjourn.

NEXT PLAN COMMISSION MEETING:

Monday, May 6, 2024

PLEASE NOTE: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aids. For additional information or to request these services, contact the Village Clerk at 351-8900. It is possible that members of, and possibly a quorum of members of, other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.

VILLAGE OF FOX POINT
PLAN COMMISSION MEETING MINUTES
March 4, 2024

A meeting of the Fox Point Plan Commission was held on Monday, March 4, 2024. President Symchych called the meeting to order at 5:45 p.m. and noted there was a quorum of Plan Commission members present.

The Plan Commission roll call was taken by Village Manager Scott Botcher:

Plan Commission:	President Christine Symchych, Chairman
	Eric Fonstad, Commissioner
	Robert Smith, Commissioner
	Ted Durant, Commissioner (Absent)
	Jay Craig, Commissioner (Absent)
	William Langhoff, Commissioner
	Mark Freedman, Commissioner (Virtually-5:47pm)

Staff present included Village Attorney Eric Larson (via Zoom), Village Manager Scott Botcher, and Assistant Village Manager Kevin Ausman.

Notice of the meeting was provided to the North Shore Now as necessary, and to all others as required by State open meetings laws and posted on the official bulletin board at 7200 N Santa Monica Boulevard, as well as the village website at www.villageoffoxpoint.com, as per 2015 Wisconsin Act 79 and as described in Village Ordinance Chapter 116-2, 116-2(C).

Approval of the Minutes of the January 2nd, 2024 Plan Commission Meeting

Motion by Fonstad, seconded by Smith, and carried unanimously with a 5-0 vote, the Commission approved the minutes of the January 2nd, 2024 Plan Commission meeting.

Consideration of Request from New Barons Brewing Cooperative for a Temporary Beer Garden located at Longacre Park.

Motion by Fonstad, seconded by Langhoff, and carried unanimously by roll call vote, the Commission recommended the Village Board approve the temporary beer garden; that the Plan Commission finds that the application satisfies 745-20(2) that the beer garden is appropriate in the location, compatible with the neighborhood, is not detrimental to the property values of surrounding property, and is in keeping with the residential character and quality of the Village; and recommends use of the public land be approved subject to a written agreement.

Adjourn

On motion by Smith, seconded by Fonstad and carried unanimously by roll call vote 5-0, the Plan Commission meeting adjourned at 6:18 PM.

**VILLAGE OF FOX POINT
PLAN COMMISSION MEETING MINUTES
March 4, 2024**

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Respectfully Submitted,

Scott Botcher
Village Manager

DRAFT



VILLAGE OF FOX POINT APPLICATION FOR CONDITIONAL USE PERMIT

Section 1

Name of Business The Town Club	Phone # 414-352-6800	Name of former tenant (if known)
Fox Point Business Address 7950 N Santa Monica Blvd, Fox Point WI 53217		
Email abby@thetownclub.com	Contact Person Abby Schroeder	

If the business is a corporation, complete the following section. If not, skip to next section.

Section 2

Legal name of corporation The Town Club	Corporate email abby@thetownclub.com
Corporate headquarters address 7950 N Santa Monica Blvd, Fox Point WI 53217	Corporate phone # 414-352-6800
Name and addresses of all corporate officers Ryan Savage; President; 7950 N Santa Monica Blvd, Fox Point WI 53217 Peter Klug; Vice President; 7950 N Santa Monica Blvd, Fox Point WI 53217 Mitchel Cox; Secretary & Treasurer; 7950 N Santa Monica Blvd, Fox Point WI 53217	
Name of corporate agent Abby Schroeder	Address of corporate agent 7950 N Santa Monica Blvd, Fox Point WI 53217

If applicant(s) is an individual or partnership, please complete the following section.

Section 3

List the name, home address, business address, and phone numbers of all applicants and owners.			
Name	Home address	Business address	Phone #

All applicants must complete the following section.

Section 4

Applicant's specific interest in site Owner of site
Describe in detail the business activity that will take place on site including products & services Pickle Ball; Matches between members, lessons with racket sports professionals, club leagues, social mixers

Describe all owned fixtures, furniture, and equipment to be used on site nets, fences, court surface, ball machines		
Describe all leased fixtures, furniture, and equipment to be used on site		
Describe any alterations planned for the site and estimated cost of renovation following resurfacing of courts will re-stripe for pickleball, will add fixed pickle ball nets, will add 40" internal fences to separate courts, will run electrical conduit to have outlets for ball machines		
Person responsible for obtaining building permit (if required) Bob Fetherston		
Square footage of site 19,920	# of employees 1	# of parking spaces to be used 24
Days & hours of operation Monday-Sunday 8am-dusk		Proposed date of occupancy

Attach a site plan to this application (see Directions for Conditional Use Permit). Site plan must include a layout of the inside of the store.

This application must be fully completed to be considered by the Village.

Fee: \$300.00 (non-refundable)


Business Owner Signature

Ryan Savage
Printed Name

11/20/23
Date

FOR OFFICE USE ONLY

Has sufficient site plan been submitted? (If not, what is needed?) _____

What is the category of proposed use? CLUB MA 11-22-23

Does the parking meet code requirements? The Town Club has a previous

conditional use permit for tennis at the site & it appears the

Is there proper exterior lighting? parking and lighting have been previously

addressed and approved - SB 11/27/23

Are there any existing code violations? LOT 1 & 2 NEED TO BE COMBINED, MA 11-29-23

Additional Comments? _____

Letter of Consent received from owner? _____

Comments/Date

Date application/materials received: 11-21-2023

Fee Paid: 11-21-2023 Receipt No. 1.059709

STATE OF WISCONSIN

VILLAGE OF FOX POINT

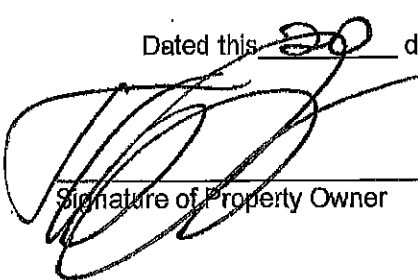
MILWAUKEE COUNTY

NOTICE

PLEASE BE ADVISED: Chapter 67, Article III of the Village of Fox Point Village Code is attached hereto and incorporated herein. Pursuant to this Ordinance, the Village of Fox Point Village Board has determined that whenever the services of the Village Attorney, Village Engineer, Village Forester or any other of the Village's professional staff (internal or independently contracted) results in a charge to the Village for that professional's time and services and such service is not a service supplied to the Village as a whole, the Village Treasurer shall charge the property owner for the fees incurred by the Village. Also be advised that pursuant to the Village of Fox Point Municipal Code certain other fees, costs and charges are the responsibility of the property owner making application to the Village.

I, the undersigned, have been advised that, pursuant to the Village Fox Point Village Code, if the Village Attorney, Village Engineer, Village Forester or any other Village professional (internal or independently contracted) provides services to the Village as a result of my activities, whether at my request or at the request of the Village, I shall be responsible for the fees incurred by the Village. Also I have been advised that pursuant to the Village of Fox Point Village code certain other fees, costs and charges are my responsibility.

Dated this 20 day of November, 2023



Signature of Property Owner



Name of Property Owner - PRINTED

Mailing Address of Property Owner:

7950 N. Santa Monica Blvd
Fox Point WI 53217

Tax Key No. of Property:

Address of Property:

7950 N. Santa Monica Blvd

Fox Point, WI 53217

For Village Use Only:

- ☐ Original kept on file with Village Clerk.
- ☐ Copy provided to Property Owner.

Signature: _____

Conditional Use Order

WHEREAS, an application has been filed by **The Town Club** (hereinafter "Applicant"); and

WHEREAS, the Applicant is requesting that a conditional use permit be granted pursuant to the Zoning Ordinance of the Village of Fox Point for land described as **7950 N Santa Monica Blvd., Fox Point, Wisconsin.**

NOW, THEREFORE, the Village of Fox Point Village Board, upon consideration of thoughts expressed by all persons heard at the Village Board meeting in this matter, upon consideration of the recommendation from the Plan Commission, and following all necessary study and investigation, having given the matter due consideration, hereby ORDERS AS FOLLOWS: Commencing upon the date hereof, the Applicant is hereby granted a conditional use permit, subject to initial and continued compliance with each and every one of the following conditions, restrictions and limitations.

1. **Use Restricted.** **The Town Club will provide Pickle Ball; matches between members, lessons with racket sports professionals, club leagues, and social mixers. The hours of operation shall be limited to 8:00 a.m. until dusk, Monday through Sunday, unless additional hours are approved in writing by the Village Manager.**
2. **Presentation Compliance.** All of the Applicant's plans, specifications, terms and representations as submitted with the application, or in support thereof, or as represented to the Village Board in the course of the approval process, are specifically incorporated herein and made a part hereof by reference, and the use of the subject property shall be in substantial conformance with the same except as further restricted or modified herein.
3. **Not Transferable.** This conditional use permit is granted to the Applicant and shall not be transferred or assigned without the Village Board's prior written consent, which may only be granted following the Village Board's receipt of a recommendation from the Plan Commission.
4. **Applicant and Owner Agreement.** As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing, and the Applicant is required to accept the terms and conditions of the same in its entirety in writing.
5. **Other Uses Prohibited.** Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to whether a use is permitted, the question shall be submitted to the Plan Commission for recommendation to the Village Board, and then to the Village Board for determination.
6. **No Nuisances, and Compliance with Applicable Laws.** No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Milwaukee, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
7. **Subject Property Only.** This conditional use hereby authorized shall be confined to the Subject Property described, without extension or expansion other than as noted herein.
8. **Abandonment.** Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the Applicant be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Village Board following receipt of a recommendation from the Plan Commission and after the Village Board holds a public hearing in the matter.
9. **Amendments.** Any change, addition, modification, alteration and/or amendment of any aspect of

this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the Subject Property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.

10. Plan Amendments. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended (a) without separate approval in the limited circumstances described in Section 14.19(11) of the Village Code; or (b) by the Village Board upon receipt of a recommendation from the Plan Commission if the Village Board finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village Board, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
11. Severability. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
12. Most Restrictive Applies. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
13. Prior Conditional Use Permits Terminated. Unless stated otherwise herein or in the documents incorporated herein, all conditional use permits previously granted for the Subject Property, if any, shall be automatically terminated without further action of the Village Board immediately following full satisfaction of all condition's precedent to this conditional use order taking effect.
14. Payment of fees. Applicant shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this conditional use order including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional use order due to a violation of these conditions.
15. Payment of Taxes and Charges. Any unpaid bills owed to the Village by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees; or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Village, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional use order, that is subject to all remedies available to the Village, including possible cause for termination of the conditional use order.
16. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the Applicant's application, as noted in the Minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
17. The Applicant is obligated to file with the Village Clerk a current mailing address and current phone number at which the Applicant can be reached, which must be continually updated by the Applicant if such contact information should change, for the duration of this conditional use. If the Applicant fails to maintain such current contact information the Applicant thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.

Let copies of this order be filed in the permanent records of the Village Board for the Village of Fox Point, and let copies be sent to the proper Village of Fox Point authorities and the Applicant and Owner.

Signed this _____ day of _____, 2023, *nunc pro tunc* the _____ day of _____, 2023.

BY THE FOX POINT VILLAGE BOARD:

Christine Symchych, Village President

Attest:

Kelly A. Meyer, CMC/WCMC, Village Clerk/Treasurer

APPROVAL

I hereby approve the issuance of this Conditional Use Permit to the Applicant on the terms and conditions described herein.

Dated this _____ day of _____, 2023.

SUBJECT PROPERTY OWNER

By: _____
Authorized Signatory

Title: _____

ACCEPTANCE

I hereby accept the terms and conditions of this Conditional Use in its entirety.

Dated this _____ day of _____, 2023.

APPLICANT:

By: _____
Authorized Signatory

Title: _____



MUNSON, INC.

www.munsoninc.com

Asphalt & Concrete Services
Chain Link & Ornamental Fence
Tennis Court Construction

6747 N. SIDNEY PLACE
GLENDALE, WI 53209

(414) 351-0800
(800) 236-0340



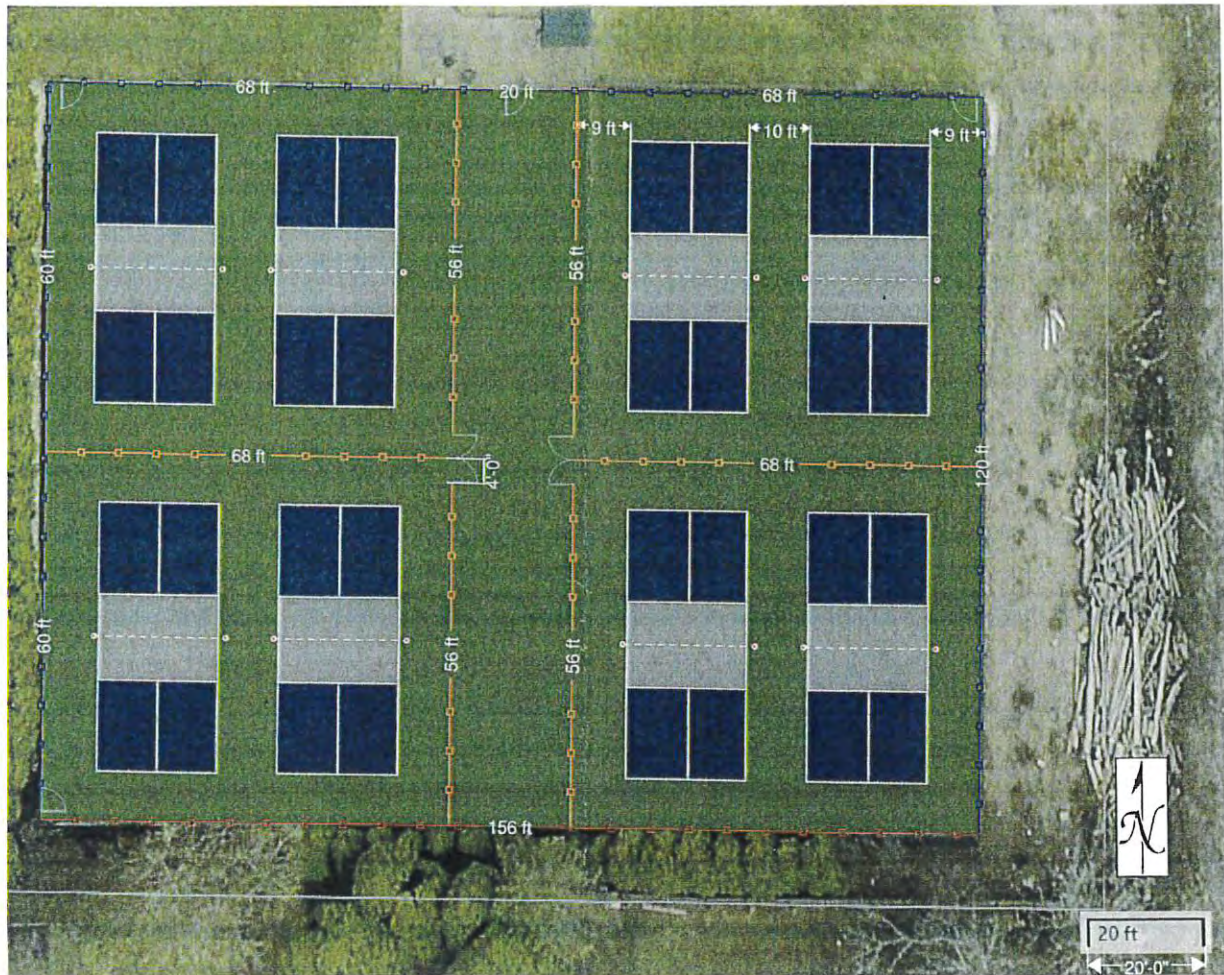
THE TOWN CLUB
7950 N. SANTA MONICA BLVD.
MILWAUKEE, WI 53217

PICKLEBALL COURT RECONSTRUCTION

**COURT
SITE PLAN**

Date: 08/08/2023

Drawn by: K. Meerdink



THESE SPECIFICATIONS & DRAWINGS ARE PROPERTY OF MUNSON-ARMSTRONG PAVING DIV. & MAY NOT BE REPRODUCED, COPIED OR USED FOR COMPETITIVE BIDS WITHOUT PRIOR WRITTEN PERMISSION



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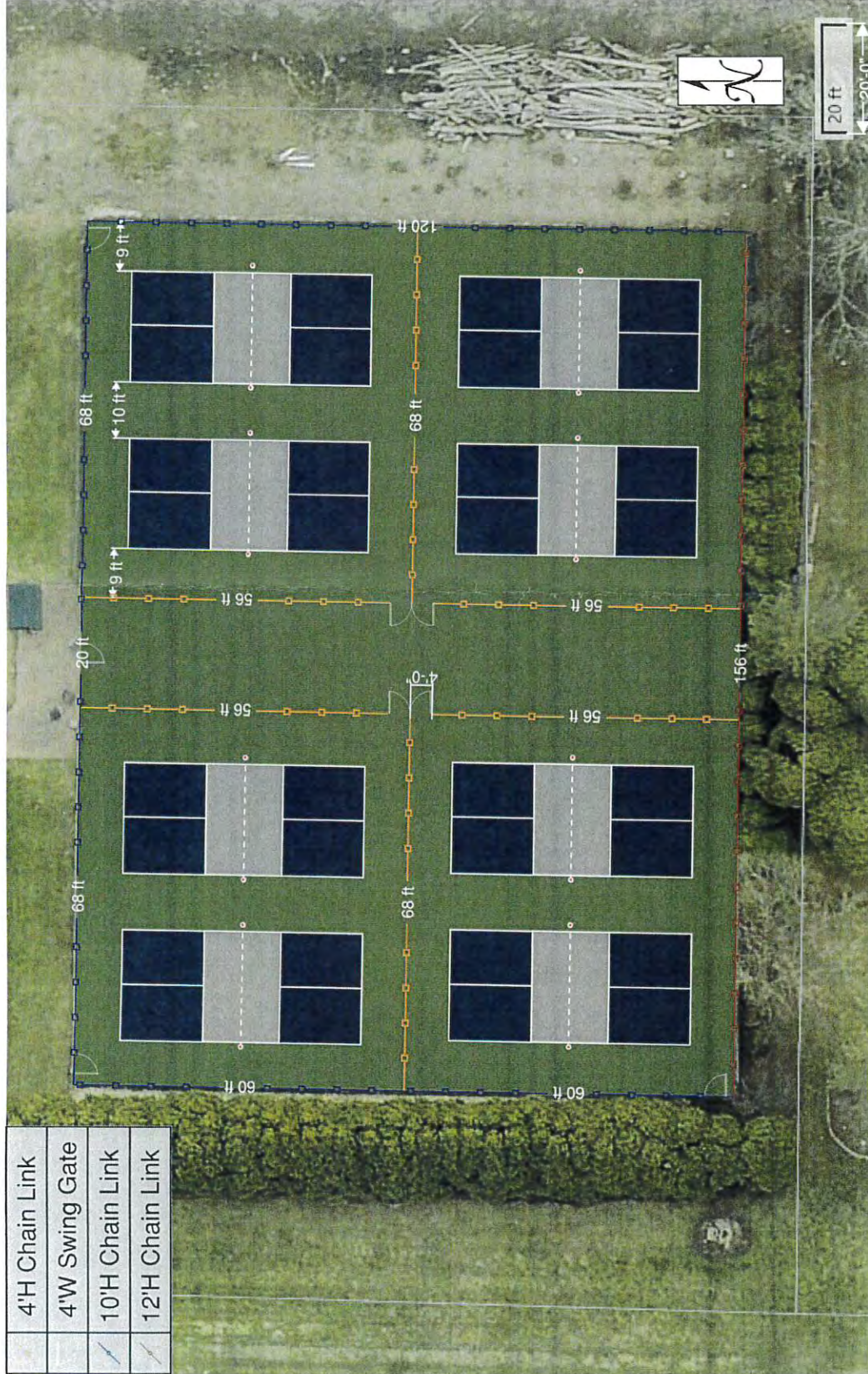


THE TOWN CLUB
7950 N. SANTA MONICA BLVD.
MILWAUKEE, WI 53217
PICKLEBALL COURT RECONSTRUCTION

**COURT
SITE PLAN**

Date: 08/08/2023

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VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-351-8800

Receipt No: 1.059709

Nov 21, 2023

7850 N Santa Monica Blvd

Previous Balance;	.00
LICENSES & PERMITS - CONDITIONAL USE PERMIT	300.00
24-44550 CONDITIONAL USE PERMIT	

Total:	300.00
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CHECK	Check No: 34046	300.00
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Payor: The Town Club

Total Applied:	300.00
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Change Tendered:	.00
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Duplicate Copy

11/21/2023 12:45 PM



VILLAGE OF FOX POINT

MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT WI 53217-3505
414-351-8900
FAX 414-351-8900
www.villageoffoxpoint.com

APPLICATION FOR CONDITIONAL USE PERMIT DIRECTIONS

GENERAL INFORMATION:

All new businesses locating in an area zoned D-Business must apply for a Conditional Use Permit under Section 745-18D of the Village Code. Certain exceptions apply, see Section 745-18C of the Village Code ([located on the Village website](#)).

Changes in ownership, changes in use, changes in operations, changes in permitted conditions, alterations, and relocations within the Village to businesses with existing Conditional Use Permits may necessitate obtaining an amended Conditional Use Permit.

TO APPLY FOR A PERMIT:

1. Complete all the information on the attached application. Please type or print. Attach additional pages if necessary. **Applications with incomplete information will not be accepted.**
2. All materials must be submitted on 8.5" x 11" paper. If larger scale plans are necessary for clarity, please bring to the Plan Commission meeting. (Note: All documents submitted will be in copied in black and white.)
3. A \$300 non-refundable fee must accompany this application.
4. A letter of approval from the owner of the property must accompany this application, unless the applicant is the owner. The letter should be:
 - on the owner's letterhead including the owner's original signature,
 - addressed to the Village, and
 - reference the proposed address and name of the business.

The Village will not entertain any requests without the written consent of the owners.

5. A signed Charge Back Form as described in Chapter 67, Article III of the Village Code must accompany this application.
6. The application and one set of the site plans and all related materials must be submitted by **4:00 pm on the second Wednesday** prior to the Plan Commission meeting.
7. Completed applications will be submitted by staff to the Plan Commission for consideration. The Plan Commission meets on the first Monday of each month at 5:45 p.m. PLEASE NOTE: Applicants are required to attend the Plan Commission meeting to discuss their Application.
8. The Village Board will consider the Plan Commission's recommendation at the Board meeting on the second Tuesday of the month at 7:00 p.m. Applicants should also plan to attend the Village Board meeting.
9. The owner is responsible for obtaining other necessary permits and/or approvals, including but not limited to, the North Shore Fire Department's Plan Review and Submittal Requirements.

-APPLICATION FOR NEW BUILDING OR BUILDING ADDITION - SEE PAGE 2 OF DIRECTIONS-

NOTE: The following information must be submitted for Village approval when proposing a new building or building addition:

1. Description of the project
2. Landscape plan
3. Plat of survey
4. Parking plan (including parking computations) per Chapter 14 of the Fox Point Village Code
5. Drainage plan (including drainage computations)
6. Lighting plan (including photometrics)
7. Traffic plan
8. Proposed location and connection to the sanitary sewer and water mains
9. All elevations
10. Floor plans
11. Any additional information as determined by Village staff

Municipal LAW

& LITIGATION GROUP

DALE W. ARENZ – 1935-2022
DONALD S. MOLTER, Jr. - Retired
JOHN P. MACY
H. STANLEY RIFFLE - Court Commissioner
ERIC J. LARSON
REMZY D. BITAR

730 N. GRAND AVENUE
WAUKESHA, WISCONSIN 53186
Telephone (262) 548-1340
Direct (262) 806-0215
Facsimile (262) 548-9211
Email: elarson@ammr.net

PAUL E. ALEXY
MATTEO REGINATO
LUKE A. MARTELL
SAMANTHA R. SCHMID
CHRISTOPHER R. SCHULTZ
LUCAS C. LOGIC
BENJAMIN T. CROCKETT
GREGORY M. PROCOPIO
ADAM J. MEYERS

STEPHEN J. CENTINARIO, JR.
MICHAEL J. MORSE
JAMES P. WALSH

September 19, 2023

Scott Botcher, Village Manager
Village of Fox Point
7200 N Santa Monica Blvd.
Fox Point, WI 53217

**Re: Merger of Title
Legal Analysis**

Dear Mr. Botcher:

I understand that a corporate entity located in the Institutional District in the Village for many years has conducted recreational operations on two adjacent parcels, as follows. One of the parcels contains only recreational facilities (tennis courts) with no principal building or use, while the adjacent parcel is improved with a principal building and use. The two adjacent parcels have been used as a single operation for decades. I understand the entity is planning to modify its current use of the recreational use parcel, triggering a review under Section 745-10 of the Village Code. A question has been raised of whether the two parcels should be combined. You asked for my thoughts. I have had an opportunity to carefully consider this matter.

Based upon my review, I recommend that the parcels should be combined. I reach this conclusion as follows:

1. Accessory Use. Section 745-10 D. of the Village Code says the use is *accessory* in the Institutional district where these parcels are located:

Private commercial facilities. Such facilities may be permitted in an Institutional District as an accessory use, and in a "D" Business or "E" Semi-Business District as a principal or accessory use subject to the procedure hereinafter set forth.

As an accessory use, it cannot be permitted on the parcel unless the parcel also has a principal use.

2. Past Laws: Merger of Title. Prior to 2017 Wisconsin Act 67, we took the position, as did municipalities throughout the country, that adjacent lots owned in common and used as a single operation "merged" together to form a single lot in many circumstances. Under that interpretation, the two adjacent parcels at issue here would have been owned and regulated as one lot. My office litigated this issue

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Scott Botcher
September 19, 2023
Page 2

and received confirmation of the merger of title doctrine from the U.S. Supreme Court, in *Murr v. Wisconsin*, 582 U.S. 383, 137 S.Ct. 1933 (2017).

3. Current Laws: Merger of Title is Prohibited. As a reaction to the *Murr* decision, Wisconsin Act 67 removed the ability of municipalities to treat the adjacent parcels as one lot. The law now says:

Merging. Notwithstanding the authority granted under ss. 59.69, 60.61, 60.62, 61.35, and 62.23, no political subdivision may enact or enforce an ordinance or take any other action that requires one or more lots to be merged with another lot, for any purpose, without the consent of the owners of the lots that are to be merged. (66.10015(4), Wis. Stats.)

Moreover, even if one of the adjacent parcels is legal nonconforming, municipalities are prohibited from preventing separate conveyance and development of the parcels that had been used together:

Notwithstanding any other law or rule, or any action or proceeding under the common law, no political subdivision may enact or enforce an ordinance or take any other action that prohibits a property owner from doing any of the following:

1. Conveying an ownership interest in a substandard lot.
 2. Using a substandard lot as a building site if all of the following apply:
 - a. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - b. The substandard lot or parcel is developed to comply with all other ordinances of the political subdivision.
- (66.10015(2)(e), Wis. Stats.)*

4. Conclusion: While formerly the two adjacent parcels at issue here could be regulated as one lot, that is no longer the case. Under current law, they are two separate lots that have not merged. If one of the parcels will have only an accessory use, under current law it must be combined with the adjacent lot that contains the principal use.

If you have any questions or concerns in this regard, please do not hesitate to contact me.
Very truly yours,

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/em

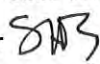
cc: Kelly Meyer, Village Clerk
Kevin Ausman, Assistant Village Manager



VILLAGE OF FOX POINT

MILWAUKEE COUNTY
WISCONSIN

VILLAGE HALL
7200 N. SANTA MONICA BLVD.
FOX POINT 53217-3505
414-351-8900
FAX 414-351-8909

To: Village of Fox Point Plan Commission
From: Scott Brandmeier, Director of Public Works 
Through: Scott Botcher, Village Manager 
Date: November 30, 2023
Re: Land Combination – 7950 North Santa Monica

An application was submitted by the Town Club to combine two parcels at 7950 North Santa Monica Boulevard (Tax Key Numbers 0929991000 and 0929980000) into one parcel. The Applicant is requesting that the two parcels as shown on the Plat of Survey be combined and that one lot be created as shown on the Certified Survey Map (CSM). The Applicant has submitted this application in accordance with Section 738 of the Village Code.

Based upon correspondence from the Village Attorney, it is my understanding that the application requires a filing fee (\$300) and the appropriate CSM but does not require an appraisal, as it is a land combination, nor notice to property owners within 500 feet of the proposed land combination. As the filing fee has been paid and the Plat of Survey and CSM have been submitted depicting the land combination, it appears that the requirements for the land combination have been met and, therefore, is referred to the Plan Commission for action on the matter.

CERTIFIED SURVEY MAP NO. _____

That part of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN)
:SS
MILWAUKEE COUNTY)

I, DANIEL E. BEDNAR, a professional land surveyor, certify:

THAT I have surveyed, divided and mapped That part of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin, bounded and described as follows:

COMMENCING at the Northwest corner of the Northwest 1/4 of said Section 16, thence North 89°31'33" East along the North line of said 1/4 Section 966.14 feet to the point of beginning of the lands to be described; thence North 89°31'33" East continuing along said North line 275.50 feet to a point on the West line of the Chicago and Northwestern Railroad; thence South 00°25'27" East along said West line 1551.56 feet to a point; thence South 89°24'03" West 275.50 feet to a point on the centerline North Santa Monica Boulevard; thence North 00°25'27" West along said centerline 1552.16 feet to the North line of said 1/4 Section and point of beginning.

Said lands as described contains 427,536 square feet or 9.8149 acres.

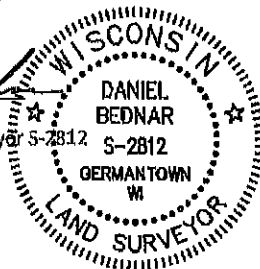
THAT I have made the survey, land division and map by the direction of The Town Club, owner.

THAT the map is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

THAT I have fully complied with Chapter 236 of the Wisconsin Statutes and the subdivision regulation of the Village of Fox Point in surveying, dividing and mapping the same.

Date: November 2, 2023


Daniel E. Bednar
Professional Land Surveyor S-2812



CERTIFIED SURVEY MAP NO. _____

That part of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin.

CORPORATE OWNER'S CERTIFICATE

The Town Club, a Wisconsin Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, certifies that said corporation caused the land described on this map to be surveyed, divided, dedicated and mapped as represented on this map in accordance with the requirements of the Village of Fox Point Code of Ordinances.

In consideration of the approval of the map by the Village Council of the Village of Fox Point and in accordance with the Village of Fox Point Code, the undersigned agrees:

In Witness Where of, The Town Club, a Wisconsin Corporation, has caused these presents to be signed by _____, its _____ this _____ day of _____, 20____,
In the presence of:

STATE OF _____)
:SS
_____ COUNTY)

Personally came before me this _____ day of _____, 20____, the above named _____, to me known as the person who executed the foregoing instrument and acknowledged the same.

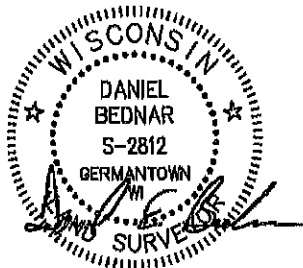
Notary Public
State of Wisconsin
My commission expires: _____
My commission is permanent.

VILLAGE BOARD APPROVAL

Approved by the Village Board of the Village of Fox Point on the _____ day of _____, 20____

CHRISTINE SYMCHYCH, PRESIDENT

CATIE ANDERSON, TRUSTEE

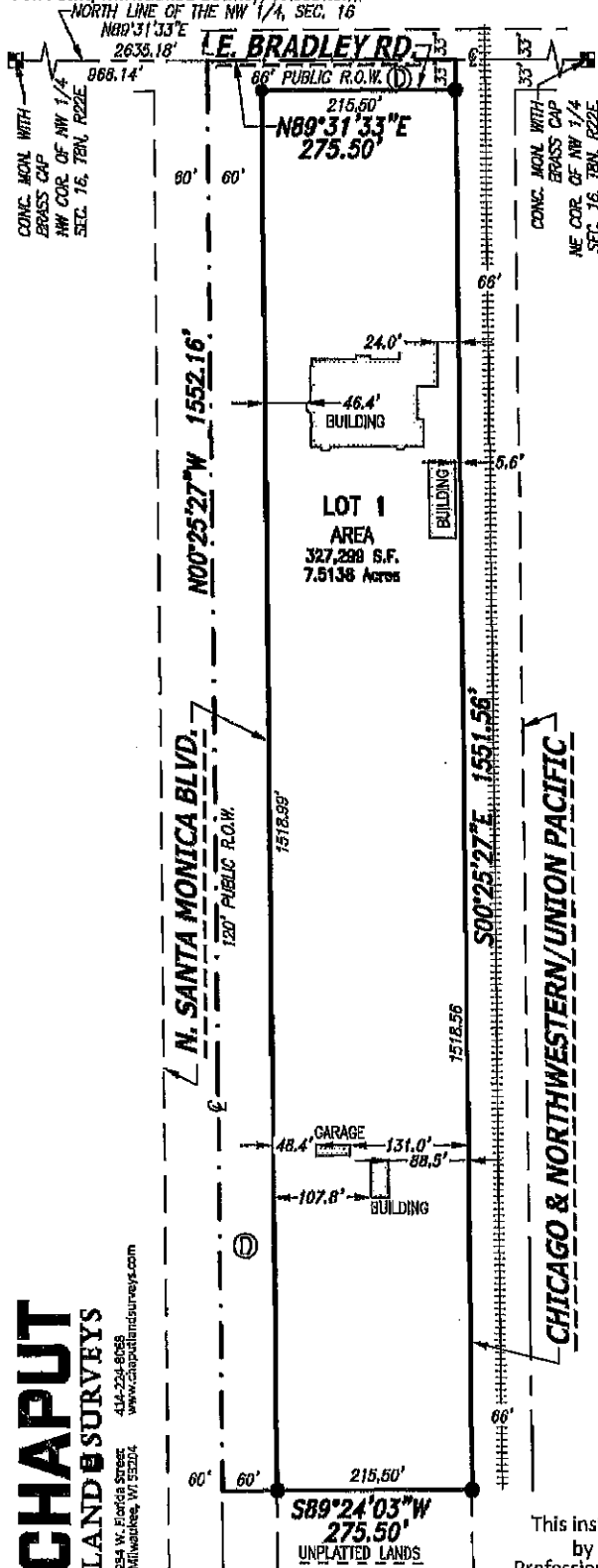


This Instrument was drafted by Daniel E. Bednar
Professional Land Surveyor S-2812

Date: November 2, 2023
Survey No. 5247-lpm
Sheet 4 of 4 Sheets

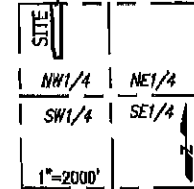
CERTIFIED SURVEY MAP NO. _____

That part of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin.



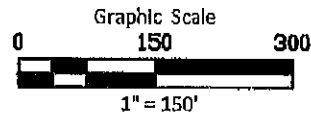
Owner: The Town Club
7950 N. Santa Monica Blvd.
Fox Point, WI 53217

VICINITY MAP



- Indicates found 1" iron pipe.
- Indicates set 1" iron pipe, 18" in length, 1.13 lbs. per lineal foot.
- Ⓢ Dedicated to the public for roadway purposes

All bearings are referenced to the Wisconsin State Plane Coordinate System, South-zone (NAD83/2011) in which the North line of the NW 1/4, Sec. 16 bears N89°31'33"E.

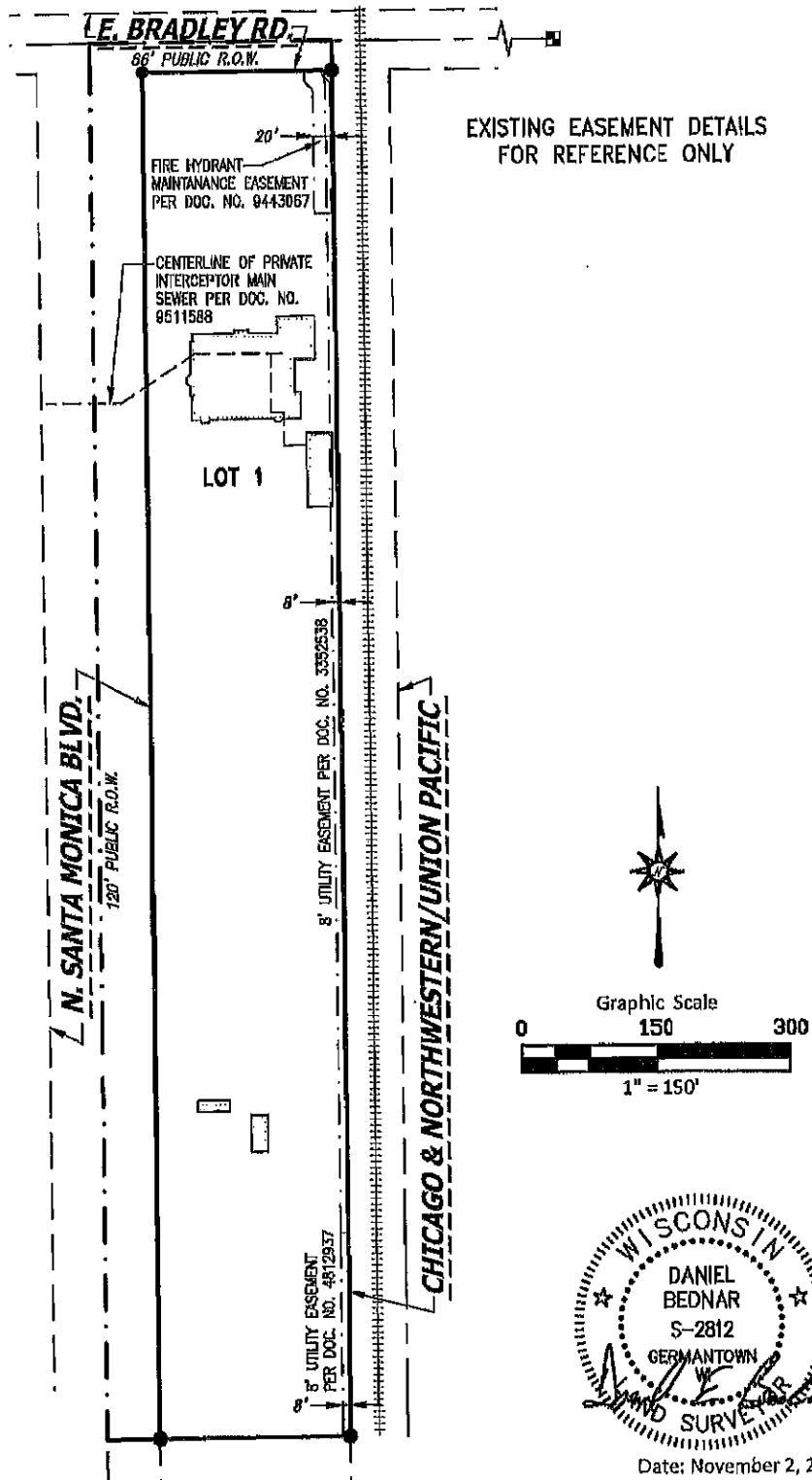


This instrument was drafted by Daniel E. Bednar Professional Land Surveyor S-2812 Date: November 2, 2023 Survey No. 5247-lpm Sheet 1 of 4 Sheets

CHAPUT
LAND SURVEYS
254 W. Florida Street
Milwaukee, WI 53204
414-224-8058
www.chaputlandsurveys.com

CERTIFIED SURVEY MAP NO. _____

That part of the Northwest 1/4 of the Northwest 1/4 of Section 16, Township 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin.



EXISTING EASEMENT DETAILS
FOR REFERENCE ONLY

CHAPUT
LAND SURVEYS
284 W. Florida Street
Milwaukee, WI 53204
414-274-5053
www.chaputlandsurveys.com

This instrument was drafted by Daniel E. Bednar
Professional Land Surveyor S-2812



Date: November 2, 2023
Survey No. 5247-lpm
Sheet 2 of 4 Sheets

§ 745-10. Outdoor recreational areas and facilities.

Swimming pools, tennis courts, athletic fields, and other buildings or grounds used for leisure-time activities of a predominantly outdoor nature shall be permitted in those districts and subject to such regulations as are hereinafter designated.

A. General.

- (1) No such use shall be permitted in any case where it shall create a nuisance, a hazard, or otherwise result in a substantial adverse effect on the surrounding property values or on the enjoyment of such property, or be in any other way detrimental to the general public welfare. Every reasonable effort shall be made to prevent such effect through control of lighting, attractive design and maintenance of structures, use of planting screens or attractive fences, careful placement on the site, and sensible regulation of use.
- (2) Adequate provision shall be made for off-street parking consistent with the need generated by the facility.

B. Classification. For purposes of regulation, such uses shall be classified as follows:

- (1) Public. Facilities owned and operated by a governmental agency for limited or general public use.
- (2) Private commercial. Facilities owned and operated by an individual or group for profit as a business, whether or not open to general public use.
- (3) Private noncommercial group. Facilities owned and operated by a group for exclusive use of the members of such group and their guests and not for profit as a business.
- (4) Private residential. Facilities owned by the individual, located on the same or adjoining lot to his residence, and intended solely for the use of his family and guests.

C. Public facilities. Such facilities may be permitted in any district as a principal or accessory use subject to the procedure hereinafter set forth.

D. Private commercial facilities. Such facilities may be permitted in an Institutional District as an accessory use, and in a "D" Business or "E" Semi-Business District as a principal or accessory use subject to the procedure hereinafter set forth.

E. Private noncommercial group facilities. Such facilities may be permitted in any district as a principal or accessory use subject to the procedure hereinafter set forth.

F. Procedure. The following procedure shall be complied with before public facilities, private commercial facilities, or private noncommercial group facilities are permitted.

- (1) The request for such use, together with site, building and operational plans, shall be submitted to the Village Board and shall be referred to the Plan Commission for its study and recommendation to the Village Board.
- (2) Any active use area or structure shall conform to the appropriate open area, height, and front, side and rear setback requirements of the district in which located, provided, however, that in no case shall a swimming pool, athletic field, or game court be

permitted closer than 100 feet to an adjoining property line of a property in a residence district.

- (3) As a special exception, open area, height, front, side and rear setback requirements in effect pursuant to Subsection F(2) above may be reduced.
 - (4) In acting on a request pursuant to Subsection F(1) above or on the question of granting a special exception pursuant to Subsection F(3) above the Plan Commission shall take into consideration the requirements of Subsection A above and shall also consider whether or not the proposed use is compatible with the area, is in keeping with the unique residential character of the community, and would result in substantial adverse effect upon surrounding properties.
 - (5) The Plan Commission shall make its recommendation to the Village Board.
 - (a) The Village Board, taking into consideration the requirements above set forth and the recommendation of the Plan Commission, shall reject, grant, or grant with modification the request; provided that if the request includes a request for a special exception under Subsection F(3) above, it shall not be granted until after a public hearing has been held by the Village Board. Notice of such hearing shall be given as required for Board meetings, and in addition thereto, written notice shall be given to the owners of property abutting that on which the special exception would exist at least five days before such hearing by delivering such notice to a person of suitable age residing on the premises, or by mailing such notice to the person residing on the premises as appears in the records of the Village for sending water bills, or if vacant property to the person who appears as owner on the records of the Village for real estate taxes. If notice is given by mail, it shall be mailed not less than seven days before the meeting.
 - (b) The notice shall give the time and place of the hearing and describe the special exception that has been requested.
 - (c) After such hearing, the Village Board, applying the requirements above set forth, shall reject, grant or grant with modification the special exception requested.
- G. Private residential facilities. Such facilities may be permitted as an accessory use in any district permitting residential use, subject to the following:
- (1) Backboards shall comply with the setback regulations and shall be in such location or so screened by building or vegetation that it will not substantially adversely affect the value or reasonable enjoyment or use of adjoining property, and will not present an unattractive appearance from the street or adjoining property. The Village Manager shall determine that the provisions of this subsection are complied with before a building permit is issued.
 - (2) Any active use area or structure shall conform to the open area, height, and front, side and rear setback regulations of the district in which located except as is otherwise provided.
 - (3) In the case of tennis, badminton or other similar areas for court games where size and

proper orientation limit suitable locations, the aforesaid regulations may be modified by the Village Manager upon his determination that, as the regulations are modified, the facility will not substantially adversely affect the value or reasonable enjoyment or use of adjoining property and will not present an unattractive appearance from the street or adjoining property. In addition to this general requirement, the following requirements must be met:

(a) The location as proposed is justified in terms of logical utilization of the site.

(b) In no case shall any portion of the court area be closer than five feet to a lot line.

(c) Appropriate landscaping shall be provided.

[1] The plan for such landscaping shall be submitted to and approved by the Village Manager as meeting these requirements. Such landscaping shall thereafter be continuously maintained in good condition, so long as such court continues in existence.

[2] The Village Manager may from time to time instruct the owner to make changes in or additions to the landscaping when the Village Manager determines that because of the use being made of the court or adjoining premises, changes or additions to the landscaping are necessary for continued compliance with these provisions. Such instructions shall be promptly complied with.

(d) In those cases where the Village Manager has modified the height or any setback requirement (front, side or rear), every enclosure around a court for the containment of balls or birds, etc., shall be as open as reasonably possible to permit the passage of light and air, provided that the Village Manager may permit a canvas or plastic windbreak on such court enclosure upon his determination that there will still be compliance with these provisions.

(4) The power here given to the Village Manager to modify regulations does not apply to the above regulations in respect to backboards.

H. Swimming pools. In addition to the foregoing, swimming pools shall be subject to the following:

(1) Pumps, filter, and heating equipment shall in no case be closer than 20 feet to a property line and shall be adequately housed or screened and muffled.

(2) Surfaced terraces, sundecks, and walks may be permitted no closer than five feet to a lot line where accessory to a private residential pool. In the case of public, private commercial or private noncommercial group pools, such accessory uses may be permitted no closer than 10 feet to a lot line.

(3) Reasonable precautions shall be taken to insure the safety of the pool area and to prevent it from becoming an "attractive nuisance." Pools other than those classified as "private residential" shall be completely fenced so as to prevent the unregulated entrance of young children to the pool area.

- (4) Pools erected on top of the surface of the ground shall have the pool construction completely and adequately screened from the view of abutting properties by means of combined fence and landscape screen.
- (5) Pools other than those classified as "private residential" or "private noncommercial group" shall conform to the following:
 - (a) Water supplied to the pool shall meet state standards for pure drinking water.
 - (b) Adequate provision shall be made for separate shower, lavatory, and dressing facilities for men and women which are well lighted, ventilated and properly equipped.
 - (c) Pool construction shall be of concrete, steel, or other material having an impervious smooth surface and approved by the Director of Public Works/Village Engineer.
 - (d) Pool shape, design, depth, and slopes shall be such as to promote safe control of the bathers in the pool.
 - (e) Inlets must be submerged and produce uniform circulation without "dead" spots.
 - (f) Outlets must be of ample size and located at the pool low points.
 - (g) Hose connections must be of ample size and pressure to clean all the pool area.
 - (h) Overflow gutters must surround the pool and have a pitch adequate to carry off all overflow.
 - (i) Adequate steps or ladders shall be provided to allow safe emergence from the pool and shall be made of impervious material, easily cleaned, and must not collect water or retain water.
 - (j) A suction cleaner must be used to remove sludge, sediment and other accumulations.
 - (k) Recirculation systems shall consist of pumping equipment, hair and lint catcher, filters, and all necessary fixtures and connections; must be capable of a six-hour turnover of water; and must include disinfecting equipment.
 - (l) All equipment must be accessible, satisfactorily located and the equipment room adequately drained.
 - (m) Each pool shall have available a pH and residual determination outfit.
 - (n) If used at night, the pool shall be adequately lighted.



March 20, 2024

*Via Email: sbotcher@villageoffoxpoint.com
And Regular U.S. Mail*

Scott Botcher
Village Manager
Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

*Via Email: elarson@ammr.net
And Regular U.S. Mail*

Attorney Eric J. Larson
Municipal Law and Litigation Group, S.C.
720 N. East Avenue
Waukesha, WI 53186

Re: Conditional Use Permit: The Town Club – 7950 N. Santa Monica Blvd

Gentlemen,

We write to advise you that we understand that this matter is now proceeding as a single permit under both Sections 745-10 and 745-20 of the Village Zoning Code.

We further understand that the prior proceedings remain in the record, the public hearing has been reopened, and the matter is scheduled for the Plan Commission on April 1. Additional submittals and comment will be received (including a projected reconvened Public Hearing on April 9).

If we are mistaken with regard to the proceedings as set forth, or if you have any questions or comments, please do not hesitate to call or email.

Thank you.

Very truly yours,

Amundsen Davis, LLC

Christopher J. Jaekels

CJJ/das

List of Exhibits

- | | |
|------------|---|
| Exhibit 1 | Applicable Ordinances: Sections 745-10 and 745-20 |
| Exhibit 2 | Applicable Statute: Wis. Stat. Sec. 62.23(7)(de) |
| Exhibit 3 | Appraiser Opinion of No Detrimental Impact on Fox Point Residential Property in the Vicinity of Town Club Pickle Ball Courts |
| Exhibit 4 | Emails in Support of Pickle Ball Courts and Required Findings
(59 Signatories) |
| Exhibit 5 | Link to Acoustiblok Webpage Regarding Pickle Ball Issues and Answers
(https://acoustiblok.com/2013/04/08/pickleball-court-reduced-noise/) |
| Exhibit 6 | March 20, 2024, Letter From Counsel for Town Club to Scott Botcher Agreeing to Proceed Under 745-10 and 745-20 of the Fox Point Code |
| Exhibit 7 | National Hearing Conservation Association Decibel Chart |
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(Permit Status Unknown) |
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(No Complaints about Pickle Ball anywhere in Village, March 2021 to March 2024) |
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| Exhibit 11 | Roster of Adult Town Club Members Who Are Fox Point Residents
(173 Total) |
| Exhibit 12 | Site Plans
(One Current, Two Proposed) |
| Exhibit 13 | Union Pacific Railroad Schedule and Train Horn Decibel Information |



March 27, 2024

Via Email: sbotcher@villageoffoxpoint.com

Scott Botcher
Village Manager
Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

Via Email: elarson@ammr.net

Attorney Eric J. Larson
Municipal Law and Litigation Group, S.C.
720 N. East Avenue
Waukesha, WI 53186

Re: Conditional Use Permit (CUP): The Town Club – 7950 N. Santa Monica Blvd.

Gentlemen,

We write to follow up our March 20, 2024, letter regarding the above-referenced permit and to supplement the record in this matter. **Exhibit 6.** In addition, we address the applicable legal standards and how the application meets those standards. For the reasons set forth below, the Town Club is entitled to resurface and renovate its pickle ball facilities under a Conditional Use Permit.

The Town Club was founded in 1901 and has been a part of the Fox Point community since 1955 when it moved to its current location adjoining the western edge of the still active Union Pacific Railroad. In the beginning it operated swimming pools and tennis courts. In the early 1970s, it added platform tennis courts and the southernmost set of three tennis courts. It is those southernmost tennis courts that are the focus of this proceeding. Since 2021, the Club has played pickle ball on these courts with the addition of pickle ball lines and temporary pickle ball nets. By all accounts, the pickle ball use and structures should be grandfathered.¹ The courts are now in disrepair and require resurfacing. It was a Town Club inquiry regarding a permit for paving that triggered these proceedings.

On November 20, 2023, the Club applied for this Conditional Use Permit. The application calls for renovating the existing southernmost tennis courts, in the exact same footprint and exterior fencing, with new pavement and permanent pickle ball nets. This would result in 8 pickle ball courts compared to the current 6 courts.

Under Section 62.33(7)(de) of the Wisconsin Statutes, submittal of a Conditional Use Permit Application requires that if an applicant meets or agrees to meet all requirements and conditions

¹ The Village itself operates pickle ball courts at two locations in the Village, both of which are scheduled for repairing and renovation. It is not clear whether or not the Village has applied for a permit for the operation of those courts or for their renovation. **Exhibit 8.**

specified in the applicable ordinance(s), as well as any conditions set forth by the local zoning authority, the Village “shall grant” the Conditional Use Permit. Any denial or conditions the Village imposes must be reasonable, and must be supported by substantial evidence. “Substantial evidence” under the statute means “facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” Any requirements or conditions imposed on the applicant “must be reasonable and, to the extent practicable, measurable.” **Exhibit 2.**

The relevant ordinance provisions are provided in Sections 745-20 and 745-10 of the Village Code. **Exhibit 1.** While the Town Club’s use of the courts in question goes back over 50 years and the use of the courts for pickle ball had gone on without comment or complaint for 3 years, the Town Club was initially directed by Village staff to apply for a Conditional Use Permit in the F Institutional District. Section 745-20 F Institutional District requires any proposed use, construction, or enlargement of a premises or building (or exterior alteration to the same) meet the following standards: (a) be appropriate in the location proposed; (b) compatible with the neighborhood; (c) not detrimental to the property values of surrounding property; and (d) in keeping with the residential character and quality of the Village.

On December 4, 2023, the Plan Commission, by unanimous vote, recommended approval of the permit to the Village Board. Later, at its February 13, 2024, Village Board Meeting, the Village Attorney submitted to the Board (at its request) a “Conditional Use Order: Grant Pickle Ball Courts” (Draft Permit) for the Board’s consideration. The Town Club, via counsel, informed the Village that it was willing to accept the Draft Permit. The Town Club remains willing to accept the Draft Permit and its terms to this day.

After taking the matter up in closed session, the Village Board, on March 12, 2024, reopened the proceedings and Public Hearing, and directed that the matter proceed under both Sections 745-20 and 745-10 Outdoor Recreational Areas and Facilities. The Town Club agreed to address this as a single permit under both. Section 745-10, in relevant part, requires any outdoor recreational area or facility to conform to the appropriate open area, height, and front, side and rear setback requirements of the district in which it is located. The four part test in Section 745-20 continues to apply as do requirements that the Conditional Use not be a nuisance or hazard, and not be detrimental to the general public welfare.

Attached to this letter are 13 exhibits which are hereby added to the record in this matter. The combination of the existing record with this supplement satisfy the requirements of both Sections 745-10 and 745-20, based on substantial evidence. Each of the requirements of those Code provisions is addressed in turn.

1. The Proposal is appropriate in the location proposed.

This is established by the record to date and is augmented by the following attached **Exhibits: 4, 8, 11, and 12.**

2. The Proposal is compatible with the neighborhood.

This is established by the record to date and is augmented by the following attached **Exhibits: 4, 8, 11, 12, and 13.**

3. The Proposal is not detrimental to the property values of the surrounding property.

This is established by the record to date and is augmented by the following attached **Exhibits: 3, 4, and 8.**

4. The Proposal is in keeping with the residential character and quality of the Village.

This is established by the record to date and is augmented by the following attached **Exhibits: 4, 8, 9, 10, and 11.**

5. The Proposal is not a nuisance or hazard.

This is established by the record to date and is augmented by the following attached **Exhibits: 4, 8, 9, 10, and 11.**

6. The Proposal is not detrimental to the general public welfare.

This is established by the record to date and is augmented by the following attached **Exhibits: 4, 8, 9, 10, and 11.**

7. The following exhibits are provided as reference information with regard to the science of sound levels and mitigation: 5, 7, and 13.

While the Town Club pickle ball activities really should be grandfathered, we have agreed to cooperate with the Village's request for this process. The Town Club has met its burden to provide "substantial evidence" that it is entitled to a Conditional Use Permit. The evidence provided is measurable and is not based on merely personal preferences or speculation. Indeed, the Exhibits to this submittal, together with the record to date, function as a compendium of relevant, substantial evidence all in support of the permit. There has been no substantial evidence presented to the contrary. What you have before you satisfies the applicable provisions of the Village Code and state statutes. The Town Club has been here for nearly seventy years and its rights (and those of its members) should be protected.



If you have any questions or comments, please do not hesitate to call or email.

Respectfully,

Amundsen Davis, LLC

A handwritten signature in blue ink, appearing to read "CJ Jackels", written over the printed name.

Christopher J. Jackels
Attorneys for the Town Club

CJJ/jfd

Enclosures

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Exhibit 1

Applicable Ordinances

Sections 745-10 and 745-20

*Village of Fox Point, WI
Monday, March 25, 2024*

Chapter 745. Zoning

[HISTORY: Adopted by the Village Board of the Village of Fox Point 4-22-1958 by Ord. No. 264 (Ch. 14 of the 1961 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management, erosion control and bluff regulation — See Ch. **285**.

Signs — See Ch. **540**.

Offenses against public peace, safety and welfare — See Ch. **670**.

Property maintenance — See Ch. **681**.

Floodplain zoning — See Ch. **724**.

Subdivision of land — See Ch. **738**.

Building construction — See Ch. **756**.

§ 745-1. General purpose.

The Village of Fox Point is a community in the metropolitan area of Milwaukee County, in which Village substantially all of the land and real property has been or is being developed for private residential purposes by the owners thereof, and territory accessible to the inhabitants of the Village is now occupied by, or is available for, manufacturing and industrial purposes more than sufficient for the general needs of the inhabitants of the Village, and it is the desire of the inhabitants and property owners to preserve the residential character of the Village, and in the opinion of the Board of Trustees, the enactment of the regulations of this chapter is essential for the promotion of the public health, morals and public safety, and is further necessary for the promotion of the public welfare, convenience and general prosperity of the Village and its inhabitants by the prevention of unregulated and unrestricted development.

§ 745-2. Interpretation and definitions.

In interpreting and applying the provisions of this chapter, such provisions shall be deemed to be the minimum requirements adopted for the public health, morals and safety, and for the promotion of convenience, comfort and general welfare of the inhabitants of the Village, but it is not intended to interfere with or abrogate any existing easements or other agreements between individuals, but when this chapter imposes a greater restriction, the provisions of this chapter shall control, and the following words, when used in this chapter, shall have the meaning hereinbelow set forth:

AREA, OPEN

That portion of a lot which will be unoccupied after the erection of a building or buildings for which a permit has been duly requested. In computing such open area, the lot shall be considered as extending not further than the side line of any street or area reserved for highway purposes upon which a lot abuts, except when this chapter specifically provides otherwise.

AREA RESERVED FOR HIGHWAY PURPOSES

Area reserved for highway purposes or for ingress and egress to the premises as well as a public highway.

BUILDING

Any structure used, designed or intended for the protection, shelter or roofed enclosure of persons, animals or property.

BUILDING, ACCESSORY

A building or portion of a building used for a purpose customarily incident to the permitted principal use of the lot and located on the same lot as the principal use.

BUILDING, PRINCIPAL

The building in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

DEPTH OF FRONT YARD

The minimum horizontal distance between the front line a building and the front lot line or side line of the street or area reserved for highway purposes, whichever is nearer, except that the roof of a building or any attachments thereto may extend over said front yard a distance of not to exceed one foot.

DEPTH OF REAR YARD

The minimum horizontal distance between the rear line of a building and the rear lot line or side line of the street or area reserved for highway purposes, whichever is nearer, except that the roof of a building or any attachments thereto may extend over said rear yard a distance of not to exceed one foot.

DWELLING

A building having accommodations for one family only, provided that the building may provide quarters for bona fide servants though they constitute a family as defined in this section.

FAMILY

One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons but not exceeding three living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a family.^[1]

A.

FRONT LINE OF A BUILDING

A line drawn through the point of a building as defined above nearest to, and parallel with, the front lot line or the side line of a street or area reserved for highway purposes, whichever is nearer.

FRONT YARD

An open area on the same lot with a building between the front line of any building and the front lot line, or the side line of the street or area reserved for highway purposes, whichever is nearer, extending the full width of the lot.

GARAGE, PRIVATE

A structure primarily intended for and used for the enclosed storage or shelter of the private motor vehicles of the family resident upon the premises. Carports shall be considered garages within this definition.

GARAGE, PUBLIC OR COMMERCIAL

Any garage not falling within the definition of "private garage" as herein established.

LOT

A parcel of land, whether unplatted or platted, in whole or in part, all of which is owned legally or under a land contract by the same person or persons and which is treated or occupied by them as a unit for a use permitted by this chapter.

NONCONFORMING USE

Any use of a building or premises which does not conform to the regulations of the district in which it is situated as provided for by this chapter.

OUTDOOR RECREATIONAL FACILITIES

Land, water bodies, and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominantly outdoor nature and of more specific active purposes than park-like open areas.^[2]

REAR LINE OF A BUILDING

A line drawn through the point of a building as defined above nearest to, and parallel with, the rear lot line or the side line of a street or area reserved for highway purposes, whichever is nearer.

REAR YARD

An open area on the same lot with a building, between the rear lot line and the rear line of any building, extending the full width of the lot, except that where the rear of said lot abuts upon a street or area reserved for highway purposes, the rear yard shall extend only to the side of said street or area reserved for highway purposes.

SIDE LINE OF A BUILDING

A line drawn through the point of the building nearest to, and parallel with, the side lot line or the side line of a street or area reserved for highway purposes, whichever is nearer.

SIDE YARD

An open area on the same lot with a building between the side lot line and the side line of any building, extending from the front yard to the rear yard, except that where the side of said lot abuts upon a street or area reserved for highway purposes, the side yard shall extend only to the side of said street or area reserved for highway purposes.

SOLAR ENERGY SYSTEM

A system intended to convert solar energy into thermal, mechanical or electrical energy.
[Added 3-10-2020 by Ord. No. 2020-02]

SOLAR ENERGY SYSTEM, FLUSH-MOUNTED

A solar energy system that is mounted flush with a finished building surface, at no more than six inches in height above that surface.
[Added 3-10-2020 by Ord. No. 2020-02]

SOLAR ENERGY SYSTEM, GROUND-MOUNTED

A solar energy system mounted on the ground and not attached to any other structure other than structural supports.
[Added 3-10-2020 by Ord. No. 2020-02]

SOLAR ENERGY SYSTEM, STRUCTURE-INTEGRATED

A solar energy system that is an integral part of a principal or accessory structure, rather than a separate mechanical device, replacing or substituting for an architectural or structural part of the structure. Structure-integrated systems include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, skylights, shading devices and similar architectural components.
[Added 3-10-2020 by Ord. No. 2020-02]

SOLAR ENERGY SYSTEM, STRUCTURE-MOUNTED

A solar energy system that is mounted on the facade or roof of either a principal or accessory structure.
[Added 3-10-2020 by Ord. No. 2020-02]

STRUCTURE

A combination of materials other than natural terrain or plant growth erected or constructed to form a shelter, enclosure, retainer, container, support, base, pavement or decoration.

STRUCTURE, ACCESSORY

A structure or portion of a structure customarily incident to any permitted principal use of such lot and located on the same lot as such principal use.

STRUCTURE, PERMANENT

A structure placed on or in the ground or attached to another structure in a fixed and determined position and intended to remain in place for a period of more than nine consecutive months, except as follows. An enclosure for the keeping of chickens that is approved pursuant to § 579-17.5 of this Code, and a hive for keeping bees that is approved pursuant to § 579-17.6 of this Code, during such time that such permit has been issued and is in effect shall not be deemed to be a permanent structure for purposes of this Chapter 745.

[Amended 11-10-2020 by Ord. No. 2020-06]

STRUCTURE, PRINCIPAL

A structure used or intended to be used for the principal use as permitted on such lot by the regulations of the district in which it is located.

STRUCTURE, TEMPORARY

Any structure other than a permanent structure.

SUBSTANDARD LOT

A lot which was of record on April 22, 1958, and which is:

- A. Smaller in square footage than the total of the minimum open area requirement of the district in which it is located plus the minimum floor area described in § 756-15B of this Code; or
- B. Narrower in width than the minimum lot width requirement of the district in which it is located.

TIME SHARE PROPERTY

Any property that is regulated by Chapter 707, Wisconsin Statutes.

[Added 4-19-2010 by Ord. No. 2010-07; amended 1-8-2019 by Ord. No. 2019-01]

USE, ACCESSORY

A use customarily incident to the permitted principal use of property and on the same lot as the principal permitted use.

USE, PERMITTED

That utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which said land is located, including those uses customarily accessory to such permitted use.

USE, PRINCIPAL

The main or primary use of property or structure as permitted on such lot by the regulations of the district in which it is located.

WIDTH OF LOT

The distance from one side line to the other measured on a line which will be contiguous with the front line of a building and be as nearly parallel as possible to the street on which the lot abuts.

WIDTH OF SIDE YARD

The minimum horizontal distance between the side line of a building and the side lot line or the side line of a street or area reserved for highway purposes, whichever is nearer, except that the roof of a building or any attachments thereto may extend over said side yard a distance of not to exceed one foot.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

[2] *Editor's Note: The former definition of "personal wireless service facility or PWSF," which immediately followed this definition, was repealed 12-10-2013 by Ord. No. 2013-10.*

§ 745-3. Conformity with regulations.

Except as hereinafter provided or superseded by state or federal law, no building or premises or part thereof shall be used, altered, constructed or reconstructed except in conformity the provisions of this chapter which apply to the district in which it is located.

§ 745-4. Existing nonconforming uses, structures and lots.

- A. Existing nonconforming uses. The lawful nonconforming use of land without structures, or the lawful nonconforming use of water, or a lawful nonconforming use in a conforming structure, or a lawful nonconforming use in a nonconforming structure, or a lawful nonconforming use on a conforming lot, or a lawful nonconforming use on a nonconforming lot, or a lawful nonconforming use of land with conforming structures, or a lawful nonconforming use of land with nonconforming structures which existed at the time of the adoption or amendment of this chapter may be continued although the use does not conform to the provisions of this chapter; however:
- (1) Only that use in actual existence at the time of the adoption or amendment of this chapter may be so continued as a legal nonconforming use and said use may not in any way be extended, enlarged, substituted, moved, added to or changed.
 - (2) No structure on lands containing a legal nonconforming use may be extended, enlarged, totally rebuilt, substituted, moved, remodeled, modified, or added to except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter. This subsection does not apply, however, to structural repairs or alterations that are made in strict compliance with § 62.23(7)(h), Wis. Stats., including such amendments as may be made thereto from time to time.
 - (3) No lot or lands containing a legal nonconforming use may be reduced in size, modified, increased in size or changed in any manner except when required to do so by law or until the legal nonconforming use has been made to conform to this chapter.
 - (4) If a legal nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water must conform to the provisions of this chapter.
- B. Existing nonconforming lots containing conforming uses and/or conforming structures. A building may be erected on a lot of record on April 22, 1958, which lot does not comply with the requirements of this chapter, provided as follows:
- (1) In the case of such substandard lot which adjoins, along a side lot line, property held in the same ownership, as defined in Chapter 738, Subdivision of Land, of this Code, no building permit shall be issued until a determination has been made by the Plan Commission in the manner provided by § 738-6.
 - (2) No building permit shall be issued where in the opinion of the Building Inspector the erection of a building on such substandard lot would impair or jeopardize the health, safety and general welfare of the surrounding neighborhood or of the Village.
 - (3) No dwelling erected pursuant to the provisions of this section shall occupy an area of a lot which exceeds:
 - (a) A Residence District: 15% of the gross area of the lot together with the area of abutting land reserved for highway purposes, whether public or private, to the center line thereof;
 - (b) B Residence District: 30% of the gross area of a lot; or
 - (c) C Residence District: 45% of the gross area of a lot.

- (4) Where the proposed erection of a building on such substandard lot would require a variance from requirements in addition to the lot area and width, such variance must be sought in the normal manner in such case from the Board of Appeals.
 - (5) The application of this section in respect to any area annexed to the Village shall apply to parcels of land and lots as they are owned when annexed.
- C. Existing legal nonconforming structures on a conforming lot or nonconforming lot with legal conforming uses.
- (1) The legal conforming use of a nonconforming structure existing at the time of the adoption or amendment of this chapter whether on a conforming lot or nonconforming lot may be continued, even though the structure's size or location does not conform to the established building setback line along streets, or the open space, yard, height, parking, loading and/or access provisions of this chapter.
 - (2) The aforementioned structure may be extended, enlarged, substituted, moved, remodeled, modified or added to as long as any such change which alters the footprint of the structure must conform to the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this chapter. In addition, such structure may be totally rebuilt if such reconstruction is identical in size and shape and use to the original structure.
 - (3) Legal nonconforming structures existing at the time of the adoption or amendment of this chapter with a legal conforming use whether on a conforming or nonconforming lot may be moved and if moved must conform to the established building setback lines along streets and the open space, yard, height, parking, loading, and access provisions of this chapter.
 - (4) Any applicable restriction in this section which prohibits restoration of a damaged or destroyed nonconforming structure shall not apply to the extent that 2005 Wisconsin Act 112 applies to such restoration, including such amendments and renumbering of the applicable statutes referred to therein as may be made from time to time.^[1]
- [1] *Editor's Note: See § 62.23(7)(hc), Wis. Stats.*
- D. Burden of proof. The property owner has the burden of showing that a use, structure or lot is legal nonconforming. The determination shall be made by the Building Inspector upon proof presented by the property owner that the use, structure and/or lot is in fact legal nonconforming. Appeals from the decision of the Building Inspector concerning the determination of legal nonconformity may be made by any person aggrieved to the Village Board of Appeals. Such appeal shall be filed with the Village Clerk/Treasurer within 30 days after the determination of the Building Inspector.
- E. Reversion. Once a legal nonconforming use, legal nonconforming structure or legal nonconforming lot has been changed to conform, it shall not revert back to legal nonconforming status.
- F. Conditional use status.
- (1) Conditional use status may be granted to existing legal nonconforming uses, legal nonconforming structures, and legal nonconforming lots, upon petition of the owner, where such use, structure or lot is determined to not be any of the following:
 - (a) Adverse to any of the following:
 - [1] Public health;
 - [2] Safety; or
 - [3] Welfare.
 - (b) Would not conflict with the spirit or intent of this chapter; or
 - (c) Would not be otherwise detrimental to the community and particularly the surrounding neighborhood.

- (2) Such conditional use status may be granted by the Village Board only after the Village Board conducts a public hearing in the matter, and following receipt of a recommendation from the Village Plan Commission.

§ 745-5. Uses, structures and lots in violation of prior ordinance.

Any use, structure or lot existing on April 22, 1958, or thereafter which was commenced while a previous zoning ordinance was in effect and was in violation of such ordinance shall not be a nonconforming use permitted to continue under § 745-4 but shall be a violation of this chapter, unless the provision of the prior ordinance which was violated shall have been changed by this chapter and such use, structure or lot is not in violation of this chapter, and no violations are waived.

§ 745-6. Structures other than buildings.

- A. Structures not classified as buildings and less than six inches in height from the surface of the ground shall not require a building permit nor be subject to the front, side, or rear setbacks, building size, or open space requirements of this chapter, except as may be specifically otherwise provided in § 745-7 or 745-10 or Subsection C below, or § 756-44 or 842.
[Amended 4-12-2022 by Ord. No. 2022-01]
- B. Structures not classified as buildings and six inches or more in height from the surface of the ground shall be subject to the front, side, or rear setbacks, building size, and open space requirements of this chapter except as may be specifically otherwise provided in § 745-7 or 745-10 or Subsection C below.
- C. The following structures that are not classified as buildings are excluded from the requirements of this chapter, provided that the following limitations applicable to these exclusions are strictly followed:
 - (1) Retaining walls. This exclusion applies to:
 - (a) A structure that is intended primarily as a landscape feature for retaining soil, as determined by the Village Building Inspector, and the top of the wall is approximately at grade;
 - (b) A structure that is intended to retain soil primarily for the purpose of constructing a driveway, as determined by the Village Building Inspector; and
 - (c) A structure that is intended primarily to retain soil that is regulated by Article I of Chapter 285 of this Code, as determined by the Village Building Inspector.
 - (2) Play equipment. This exclusion applies to a structure that is play equipment, as defined herein, provided that it is accessory to a residential use on the lot where it is located, and the lot is zoned for residential use, and the play equipment is set back at least three feet from any lot line. Play equipment is defined as a swingset, sandbox, jungle gym, or similar equipment that has no utility other than for amusement of children, as determined by the Village Building Inspector, but not including a structure that has walls and a roof which form an enclosure.
 - (3) Gardens. This exclusion applies to a structure that is primarily intended to be a planting bed, raised flower garden, rain garden, or similar landscape feature, as determined by the Village Building Inspector, provided that such structure shall be located at least three feet from any property line.
 - (4) Signs. This exclusion applies to a structure that is primarily intended to be a sign, as determined by the Village Building Inspector, provided that the sign is regulated by Chapter 540 of this Code.

§ 745-7. Accessory uses and structures.

A. General.

- (1) Any accessory use or structure shall conform to the applicable regulations of the district in which it is located except as is specifically otherwise provided.
- (2) No accessory use or structure shall be permitted that by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property.
- (3) Any of the requirements hereinafter established in this section relating to accessory uses and structures, except for permanent buildings in excess of 100 square feet in ground area, may be modified in their specific application to a given situation with the approval of the Village Manager or his/her designee, where in the Village Manager's or designee's opinion the strict application of the requirement would be unnecessarily burdensome or would not in fact achieve the actual intent of the requirement, or where modification would more effectively achieve such intent, provided in all cases such modification is consistent with the basic spirit and intent of this chapter. Appeal from the determination of the Village Manager or his/her designee may be made to the Building Board, provided such appeal is filed with the Village Manager within 30 days from the date of the Village Manager's or designee's action.

B. Permanent structures.

- (1) Any permanent roofed structure serving an accessory use if attached to the principal building shall be considered a part of such principal building for all regulatory purposes. If such structure is a building and is not attached to the principal building, no roofed or enclosed portion shall be closer than 10 feet to any roofed or enclosed part of the principal building, and such structure shall conform to the open area, height, and front, side and rear setback requirements of the district in which such building is located except as permitted by § 756-36 of this Code.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (2) Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., where subject to "permanent structure" classification, shall not be permitted closer than three feet to an abutting property line other than a street line.
- (3) Fences, walls, architectural screening devices, driveway gates and arbors. The following regulations are established to ensure that the Village of Fox Point retains the openness and semirural character of its landscape.
 - (a) Permit required. No person shall erect or construct any fence, wall, driveway gate, architectural screening device or arbor, unless specifically exempted by the provisions of this subsection, on any property within the Village of Fox Point without having first obtained a permit from the Building Inspector and having paid the fee prescribed by ordinance. Retaining walls regulated by § 285-4 of this Code are exempt from the requirements of this subsection. A survey by a licensed surveyor shall be submitted with each application for a fence, wall, architectural screening device, driveway gate or arbor 10 feet or less from the lot line of the property. The determination of the Building Inspector as to proximity shall be final. When required, the survey shall show the location of the proposed fence, wall, architectural screening device, driveway gate or arbor in relation to the property line but need not depict any other aspect of the subject property. The Building Inspector shall deny a permit if the proposed fence, wall, architectural screening device, driveway gate or arbor is in the right-of-way or if its proposed location will impede visibility of vehicular traffic.
 - (b) Replacement or reconstruction. If an existing fence, wall, architectural screening device, driveway gate or arbor is substantially or completely destroyed or becomes deteriorated to

a material degree, it may be replaced or reconstructed in the same location, height and materials by first obtaining a permit, provided that it must be replaced or reconstructed within 12 months of being removed. All other replacement or reconstruction of existing fences, walls, architectural screening devices, driveway gates or arbors must fully comply with the terms of this section.

- (c) Temporary fences. Temporary safety, snow or deer fences of any type may be allowed in the discretion of the Village Manager for the purpose of safety, protection from the elements or protection from deer, for a period not to exceed 120 days, unless extended by the Village Manager. Temporary construction fences may be allowed in the discretion of the Village Building Inspector for the time that a building permit is in effect on the property.
- (d) Lake, bluffs and ravines. Where property abuts Lake Michigan, or is located on a bluff or a ravine in such a locale that construction of a fence, wall, architectural screening device, driveway gate or arbor would materially obstruct the aesthetic views of adjoining and surrounding property owners, the Building Inspector may deny a permit based upon his determination that there is a substantial negative impact upon the aesthetic enjoyment of surrounding properties. Any affected party may appeal the Building Inspector's determination to the Board of Appeals within 30 days of the Building Inspectors' determination. No fence, wall, architectural screening device, driveway gate or arbor shall be constructed on the side of a ravine or bluff in violation of § 285-3 of this Code.
- (e) Construction in right-of-way prohibited. Any fence, wall, architectural screening device, driveway gate or arbor that is erected in a street right-of-way or impedes traffic visibility may be removed by the Village of Fox Point at any time.
- (f) Definitions. For purposes of this subsection, the following terms shall have the following meanings; the terms "front yard," "rear yard" and "side yard" shall be defined as set forth in § 745-2 of this chapter:

ARBOR

Any structure intended to provide a support system for plantings or to designate an aesthetically pleasing outdoor seating or walk area.

ARCHITECTURAL SCREENING DEVICE

Any self-standing fence or wall type of structure employed for gardening, screening, ornamental, decorative, signage or landmark purposes.

DRIVEWAY GATE

A fence that opens and closes across a driveway.

FENCE

A structure which creates an enclosure, barrier or boundary, having a set or permanent location in the ground, or which is attached to something having a permanent location on the ground. A fence is considered to be a structure.

FINISHED LOT GRADE

Does not include berms, artificial hills and mounds.

HEIGHT

Does not include two inches of clearance at the bottom of the fence, nor does it include two inches in excess of the height limitation of the fence posts, nor a lighting device on the top of a wall.

OPEN FENCE

A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Open fences are those with more than 50% of their surface area open for free passage of light and air. Examples of such fences include chain link, picket, rail and cyclone fences, which are not merely ornamental.

ORNAMENTAL FENCE

A structure whose primary purpose is to decorate, accent or frame a feature of the landscape or premises.

SOLID FENCE

A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier or boundary. Solid fences are those with 50% or less of their surface open for free passage of light and air and designed to conceal from view the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave and louvered fences.

WALL

Substantially a solid masonry, wood, or composite structure which shall be self-supporting, but is not incorporated into an enclosed structure, and shall include any nonenclosed structure having as its purpose the denomination or accent of driveways or entryways. Any structure that satisfies the foregoing definition but which also fully complies with the requirements of one or more of the following, as determined by the Village Building Inspector, is excluded from this definition of "wall":

- [1] Signs. This exclusion applies if the wall is primarily intended to be a sign as regulated by Chapter **540** of this Code.
 - [2] Lights. This exclusion applies if the wall is intended primarily as a pediment to support a light fixture.
 - [3] Small size. This exclusion applies if the wall is smaller than three feet wide, and smaller than three feet deep, and smaller than five feet high.
 - [4] Retaining wall. This exclusion applies if the wall is intended primarily as a landscape feature for retaining soil and the top of one side of the wall is approximately at grade.
- (g) Construction standards. Fences, walls, architectural screening devices, driveway gates and arbors shall be constructed in such a manner that the "finished" side shall face the neighboring property. Fence posts shall be on the side of the fence facing the permit applicant's property. Fences shall be constructed of wood or other wood-simulated natural-appearing materials, wrought iron or other metal materials generally employed to obtain an aesthetically pleasing appearance. Open fences may be permitted; however, barbed wire, electric wire, chicken wire, or double- or triple-strand wire shall not be used in the construction of a fence, except as allowed by the Building Board.
- (h) Location and height restrictions. Subject to the following exceptions, a fence, wall, architectural screening device, driveway gate or arbor may be permitted up to the lot line in the side and rear yard of any property in Fox Point. A fence, wall, driveway gate or architectural screening device located in a rear or side yard shall not exceed a height of six feet from the finished lot grade and shall not project forward of the front line of the principal building. An arbor shall not exceed a height of ten feet from the finished lot grade and shall not project forward of the front line of the principal building.
- [Amended 2-14-2023 by Ord. No. 2023-01]

- [1] In the event a building is irregularly configured, such as an L- or V-shaped structure, or the building is located upon a corner lot, irregularly shaped lot, or lot which abuts upon more than one public or private road, such that there are or appear to be multiple front, side, or rear sides of the structure, the determination of the front, rear or side areas, as well as the determination of the location of any fencing, shall be referred by the Building Inspector to the Board of Appeals, which shall then review the matter without requirement of any appeal fee. The Board of Appeals shall treat the application as a request for a special exception, which shall specifically not be subject to the requirements applicable to zoning variances, and shall proceed in accordance

with Subsection **B(3)(j)** herein. The Board of Appeals shall consider the least obtrusive alternative, and any other criteria as set forth in the provisions of this chapter which serve to balance the interests of the applicant with the interests of the surrounding property owners.

- [2] No new fence, wall, architectural screening device, driveway gate or arbor shall be located beyond the front line of the principal building unless permitted by the Board of Appeals by special exception after a hearing, pursuant to the procedures described in Subsection **B(3)(j)** below. The Board of Appeals may grant a special exception under this subsection only if it finds that the fence, wall, architectural screening device, arbor or driveway gate is reasonably necessary to protect the safety of people residing on the property, in addition to the additional findings and conditions required by Subsection **B(3)(j)** below. Every special exception granted by the Board of Appeals for a driveway gate shall be conditioned upon the applicant filing with the Village Clerk/Treasurer the written approval of the Village Police Chief in consultation with the Fire Chief for the specific driveway gate and gate location that is proposed; and if such approval is denied, the special exception is thereby denied.
[Amended 6-11-2013 by Ord. No. 2013-04]
- [3] If the rear of the applicant's lot abuts a neighbor's side yard, any proposed fence shall be an "open fence," unless the neighbor consents to an alternate type fence in writing.
- [4] An ornamental fence or architectural screening device may be allowed anywhere on the property without a permit, provided the fence or screening device does not exceed 3 1/2 feet in height and is set back in its entirety 20 feet or more from all boundaries of the property.
- [5] For purposes of this section, the side yard of any corner lot that abuts a road shall be treated as a front yard; however, if a building footprint is other than square or rectangular in configuration, the provisions of Subsection **B(3)(h)[1]** generally shall control over the provisions of this subsection.
- [6] The provisions of this section, the limitations set forth herein, and the requirement for a permit shall not apply to:
[Amended 4-1-2012 by Ord. No. 2012-05; 11-10-2020 by Ord. No. 2020-06]
 - [a] Lands owned by the state, school district, county, Village or any other publicly held land, where fencing is employed for sport or recreational purposes such as baseball diamonds, backstops, swimming pools, playgrounds or any other public recreational or safety purpose;
 - [b] Private athletic or country clubs, or cemeteries, employing such fencing for similar uses as stated herein;
 - [c] Chicken enclosures for permitted keeping of chickens pursuant to § **579-17.5** of this Code;
 - [d] Beehives for permitted beekeeping pursuant to § **579-17.6** of this Code;
 - [e] Dog kennels or runs less than 120 square feet, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property;
 - [f] Private residential swimming pool fencing; or
 - [g] Tennis court fencing, provided such fencing is located no closer to any lot line of the property than is allowed for a principal structure on the property unless modified pursuant to § **745-10G(3)**.
- [7] Notwithstanding the otherwise applicable height limitations stated elsewhere in this section, a fence may be constructed to a height of 11 feet from the finished lot grade

on property in the D Business District or the adjacent single-family residential use district along a lot line which separates a large business use from such single-family residential use. For purposes of this exception, a large business use is defined as a use conducted in the D Business District for which 150 or more off-street parking spaces are available to the business. Such a fence may be constructed on the top of a berm, provided the berm is constructed in compliance with the requirements of this Code and all applicable laws, and further provided that the height of the fence shall be measured from the finished lot grade as defined in this section. This exception is intended to allow a fence to be constructed which will screen the large business use from the abutting single-family residential use.

- (i) Maintenance. The owner, occupant or their agent shall keep all fences, architectural screening devices, walls, driveway gates and arbors structurally sound and maintained in a neat and attractive manner. The maintenance standards established in this section shall be enforced as provided in §§ **681-7** and **681-8** of the Village of Fox Point Code.
- (j) Special exceptions. A special exception to the height, size, material, design, setback or other physical standards set forth in this subsection or to allow a driveway gate may, upon filing a written application, be considered by the Board of Appeals after a hearing. The application must include an accurate visual rendering of the proposed wall, architectural screening device, driveway gate or arbor, along with a written statement outlining the applicant's need for the same. Notice of hearing shall be given to all property owners within a radius of 500 feet of the property upon which the fence, wall, architectural screening device, driveway gate or arbor is proposed to be constructed and the notice shall include the visual rendering submitted by the applicant. The Board of Appeals may grant the request for a special exception upon finding that the property owner has shown clear and convincing evidence to believe that the applicant has a legitimate need for the special exception and that granting the special exception will not adversely affect the health, safety or welfare of the community or the immediate area where located and will not impede the purpose, spirit and intent of this section, in addition to such other specific findings as may be required by other subsections of this section. Every special exception granted by the Board of Appeals shall be conditioned upon the applicant submitting the visual rendering to the Village Building Board and receiving the Building Board's approval of the architectural appearance, design and construction materials for the proposed fence, wall, architectural screening device, arbor or driveway gate, taking into consideration the existing development on the lot and in the surrounding neighborhood, and if the Building Board denies the application, the special exception is thereby denied.

- C. Residential accessory building and detached garage limitations. The following limitations apply to all lots in a residence district and also on all lots where the principal use is residential and the principal building is a single-family or two-family dwelling.

[Amended 4-12-2022 by Ord. No. 2022-01]

- (1) Definitions.

ACCESSORY BUILDING

For purposes of this section, the term "accessory building" shall mean an accessory building as defined in § **745-2** of this Code, that is not a detached garage as defined herein.

DETACHED GARAGE

For purposes of this section, the term "detached garage" shall mean an accessory structure designed primarily to be used for parking passenger vehicles.

- (2) Size. Accessory buildings and detached garages shall be no larger than permitted by the district regulations applicable to the lot where located.
- (3) Number. The number of accessory buildings and detached garages on such lots shall be limited as follows:

(a) Lots 25,000 square feet or less in size:

- [1] Detached garage. Not more than one detached garage is permitted. A detached garage is allowed without regard to whether there is also one or more attached garages on the premises.
- [2] Accessory building. Not more than one accessory building is permitted. Such accessory building is allowed without regard to whether or not there is also a detached garage.

(b) Lots greater than 25,000 square feet in size. In addition to accessory buildings permitted by Subsection **C(3)(a)**, above, one additional detached garage or accessory building, conforming to the size limitations described in Subsection **C(2)** above, may be permitted for every additional 25,000 square feet of lot size.

Lot Size	Detached Garage(s) and/or Accessory Building(s) Permitted
Greater than 25,000 square feet to 50,000 square feet	One detached garage and one accessory building plus a total of one additional, whether a garage or accessory building.
Greater than 50,000 square feet to 75,000 square feet	One detached garage and one accessory building plus a total of two additional, whether garage(s) or accessory building(s).
Greater than 75,000 square feet to 100,000 square feet	One detached garage and one accessory building plus a total of three additional, whether garage(s) or accessory building(s).
Further increments of 25,000 square feet	Add one additional detached garage or accessory building per increment.

- (4) Subject to applicable laws. Nothing herein shall be interpreted to modify to waive more restrictive requirements of applicable laws or Village ordinances. The open area limitations of this chapter continue to apply and may prevent construction of the size or number of accessory buildings or detached garages described herein.
- (5) Building code. All requirements of Chapter **756**, Building Construction, must be satisfied in addition to any requirements of this chapter.
- (6) Detached garage limited yard reduction. The side and rear yard provisions for a detached garage on a lot less than the required minimum width of 80 feet in B and C Residence Districts may be reduced by three inches for every foot less than 80 feet of lot width but to not less than five feet.
- (7) Minimum separation. No detached garage or accessory building shall be located closer than 20 feet to the principal building on an adjoining lot in residential use.
- (8) No limit on attached garages. Subject to such other provisions of the Fox Point Code as may regulate the construction of structures, there is no limit on the number of attached garages for the private use of the resident.

D. Temporary structures.

- (1) Any temporary structure over 500 cubic feet in bulk shall require a building permit, except as follows:
[Amended 6-11-2013 by Ord. No. 2013-04]
 - (a) No building permit is required for the placement of a trash receptacle for purposes of disposing demolition materials from a building or structure on the property in conjunction with a project for which a building permit has been issued, subject to the following. Such trash receptacle shall not be placed prior to the issuance of a building permit, or prior to

one week before commencement of demolition work, whichever is later. Such trash receptacle shall be removed within one week of completion of the demolition work, or when the work is suspended for more than seven days, or when the building permit expires or is terminated, whichever occurs first. Notwithstanding the foregoing, the Village Building Inspector may impose more restrictive requirements regarding trash receptacles as a condition of the building permit, which must be stated on the building permit when it is issued, or may be added by the Building Inspector after the permit is issued if the use of a trash receptacle was not shown in the plans submitted with the building permit application.

- (2) Every temporary structure shall comply with the front, side and rear yard requirements of the district in which it is located, except that such structure may be permitted anywhere on the lot with the approval of the Village Manager where in his opinion such structure where proposed to be located would not be detrimental to general community aesthetic values or enjoyment of use of adjoining properties.
- (3) Appeal from the decision of the Village Manager may be taken to the Board of Appeals.
- (4) No person shall build, place, or maintain any portable outhouse, privy vault, surface privy, dry closet, septic tank, or other moveable method of sewage disposal or cause the same to be built, located, placed, or constructed on any lot or premises within the Village limits except as follows:
[Added 3-13-2012 by Ord. No. 2012-03]
 - (a) The Village Building Inspector may grant permission in conjunction with the issuance of a building permit. Such permission shall be expressly set forth on the face of the building permit and shall terminate upon the Building Inspector's determination that the project for which the building permit was issued has been substantially completed, or the expiration, suspension, or revocation of the building permit by the Village, whichever occurs first.
 - (b) The Building Inspector or Village Manager may grant a permit to allow such temporary structure for a special event or other limited use, based upon a determination by the Building Inspector or Village Manager that restroom facilities are not otherwise available or that restroom facilities are available but are not reasonably adequate for the size of the expected assemblage. Application for a permit under this subsection shall be made on the application form provided by the Village and shall be accompanied by the fee as established by the Village Board from time to time. For purposes of this subsection, the Building Inspector and Village Manager shall consider the proximity of existing restroom facilities without regard to whether such facilities are subject to payment of a fee for their use.
- (5) Enclosures for keeping of chickens that have been approved pursuant to § **579-17.5** of this Code and beehives that have been approved pursuant to § **579-17.6** of this Code, during such time that such permit has been approved and is in effect, shall not be subject to the requirements of this Chapter **745** except as expressly stated otherwise, and except as follows. The structure in its totality, including any fencing, covered enclosure, chicken coop, hive or any other structure or structural elements, shall be completely removed from the property within 15 days of the lapse, revocation or expiration of the permit. Violation of this section shall be subject to the penalties and remedies described in §§ **745-33** and **745-34** of this chapter in the event the requirements of this Chapter **745** differ from § **579-17.5** regarding any matter regulated therein, or differ from § **579-17.6** regarding any matter regulated therein, the most restrictive provision shall apply as determined by the Village Manager.
[Added 11-10-2020 by Ord. No. 2020-06]

E. Unenclosed storage.

- (1) No camp, boat, house or other trailer, bus, boat, recreational vehicle, camp trailer on a truck, or truck over three-quarter-ton capacity may be stored or parked regularly on a lot in a residence district except within a garage or other enclosed storage structure except as hereinafter set forth:

- (a) For the period extending from April 15 to October 31 of each year, the following type of vehicle may be parked unenclosed on the driveway of a lot in a residential district, provided it is in actual use during such period and is not merely being stored, and that when parked it is sufficiently far in from the street as to not interfere with the view of operators of vehicles on the street, or on an adjacent intersecting street:
- [1] A camp trailer or boat on a trailer, in either case not exceeding 35 feet in length, and designed to be hauled by a passenger automobile.
 - [2] A recreational vehicle not exceeding 35 feet in length.
 - [3] A camp trailer on a pickup truck not exceeding three-quarter-ton capacity.
- (b) Open storage of any such vehicle may be permitted at any time with the approval of the Chief of Police or designee if such vehicle is effectively shielded from normal observation from the street or adjoining properties by landscaping, walls or fencing, and provided such storage is not between any portion of the building and an abutting street. No such permitted storage shall by reason of the permissive grant have any future claim to legal nonconforming use rights and such permissive grant may be rescinded at any time for due cause.^[2]
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (c) Parking a vehicle as permitted above or storage as permitted above does not authorize the use of any such trailer, boat or truck for the housing (sleeping and/or eating) therein of any person, and such housing is a violation of this chapter.
- (2) Materials, equipment, supplies or waste.
[Amended 9-11-2012 by Ord. No. 2012-11]
- (a) Definition. For purposes of this subsection, "materials, equipment, supplies or waste" shall mean the following: worn out or discarded material of little or no value, including but not limited to household appliances or parts thereof; machinery and equipment or parts thereof; vehicles or parts thereof; tools; iron, chain, brass, copper, tin, lead and other base metals; trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials; lumber or building materials; rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever; oil, kerosene, benzene, or other similar oil or oily substance or liquid; wood, brush, and any form of discarded vegetation; yard trimmings, grass clippings, foundry sand and industrial waste of any kind or description; sewage material removed from septic tanks and dry wells used in connection with sewage disposal systems; or any similar materials which constitute health, fire or safety hazards or which contribute to a blighting influence upon the immediate or surrounding area or other unsightly debris.
- (b) Prohibition; exceptions. No unenclosed storage of materials, equipment, supplies, or waste shall be permitted where such storage may be viewed from a public street or another property, except as follows:
- [1] Firewood. Firewood may be stored for use on the property as follows. Firewood must be neatly stacked and may be stacked not closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this subsection shall not include hedges or other vegetation. Notwithstanding the foregoing, wood piles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.
 - [2] Lawn and garden items. Lawn and garden items that are in regular seasonal use may be stored outdoors provided they are neatly arranged on the property. Such items may include but not be limited to outdoor furniture, planters, flowerpots, and grills.

- (c) Public nuisance. Violation of this Subsection **E(2)** is hereby declared to be a public nuisance.
 - (d) Nonexclusive authority. This subsection may be enforced by the Village Building Inspector, which shall be in addition to, and not to the exclusion or prejudice of, the matters enforced by the Village Building Inspector pursuant to Chapter **681**, Property Maintenance, of this Code.
- (3) In the case of such storage related to the construction, remodeling, or repairing of a building on the property, this regulation shall apply to items placed on the property and allowed to remain thereon more than one week prior to the commencement of such operation or more than one week after its completion.

F. Home occupations.

- (1) Restrictions. A home occupation may be permitted in residential zoning districts in the Village, in single-family or multifamily dwellings, together with accessory uses incidental thereto, subject to the restrictions described in this subsection "Home occupation" is defined as an accessory use of a dwelling carried on by one or more members of the immediate family residing in the premises, which is incidental and secondary to the use of the dwelling for residential purposes and does not change the character of the residence so as to adversely affect the residential character of the neighborhood. Home occupations shall be limited to professional and nonmanual labor, or nonindustrial type uses, and shall not involve the use of machinery or equipment not generally found or maintained on residential premises. A home occupation shall be conducted with minimal disturbance, or it shall be minimally apparent from the exterior of the building that any type of business activity is taking place on the premises, and without materially increasing traffic, noise or pedestrian activity on the premises or the surrounding neighborhood. No sign relating to the home occupation shall be visible from the exterior of the building.
- (2) Home occupation permit required. A home occupation shall be deemed a special use and shall require that an application for a home occupation permit be filed with the Building Inspector. A home occupation permit for a home occupation may be granted by the Building Inspector if he/she determines that such use shall not have an adverse impact on the residential aesthetics and residential character of the surrounding area. In making his/her determination, the Building Inspector shall consider, without limitation, the effects on the surrounding area of noise, pedestrian and motor vehicle traffic which may be generated by such use. A home occupation permit for a home occupation shall be subject to review every five years, or sooner if the Village receives a complaint concerning the use of residential property for home occupation purposes. A home occupation permit may be revoked upon a determination that the home occupation has adversely impacted the residential character of the surrounding neighborhood. Violation(s) of any portion of the Fox Point Code pertaining to noise, odors, hazardous materials and emissions generated as the result of a home occupation being conducted on a residential premises may serve as the basis for the immediate revocation or nonrenewal of a home occupation home occupation permit, as it is expressly intended that the impact of a home occupation on surrounding neighbors in any of the foregoing respects be of a far more minimal nature than is prohibited by the general regulations of the Village Code as to each of the foregoing matters.
[Amended 11-11-2014 by Ord. No. 2014-08]
- (3) Permit exception. Home occupations shall expressly be prohibited without permit, except home occupation activities conducted solely by a resident of the household via telephone or employing only computer, facsimile and copy-type services, and which have no employees, clients or visitors to the premises.
- (4) Permit fee. A permit fee shall be paid at the time of filing the application for a home occupation permit, the amount of which shall be set by the Village Board from time to time.
- (5) Appeals. The Building Inspector's determination to deny the application for or the renewal or revocation of a home occupation permit may, upon written application, be reviewed by the Plan

Commission. Any denial of an application or nonrenewal or revocation of a home occupation permit to be heard by the Plan Commission shall not be heard until 14 days have elapsed from the date notice has been served, by first class mailing, to any and all surrounding residences or structures within 500 feet of the applicant's premises. The applicant shall bear the burden of identifying the property owners to whom notice shall be served and mailing the notice required hereunder. In making its determination whether to affirm or reverse the Building Inspector's determination, the Plan Commission shall take into consideration the same factors considered by the Building Inspector, including evidence or testimony of surrounding property owners. The determination of the Plan Commission shall be final.

[Amended 11-11-2014 by Ord. No. 2014-08]

G. Solar energy systems.

[Added 3-10-2020 by Ord. No. 2020-02]

- (1) Where permitted. Subject to the provisions of this Subsection **G**, solar energy systems are a permitted use in any district in the Village of Fox Point.
- (2) Approval procedure. No solar energy system shall be installed unless all applicable Building Code and Electrical Code requirements are met, including the issuance all necessary permits. Such permits cannot be issued until an application has been submitted and reviewed by the Building Board. In addition to the powers of the Building Board described in Chapter **19**, Article **II** of this Code, the Building Board shall have the powers described in this Section **745-7G**.
- (3) Conditions under which permitted.
 - (a) General. Unless modified by the applicable conditions described below or by the Building Board, solar energy systems are subject to all accessory structure provisions of this Code.
 - (b) Structure-mounted solar energy systems.
 - [1] Structure-mounted solar energy systems may be mounted on principal and accessory structures.
 - [2] Only structure-integrated and/or flush-mounted solar energy systems may be installed on street-facing structure elevations.
 - [3] In residential zoning districts, solar energy systems shall not extend more than three feet above the applicable maximum structure height limit for the subject structure type or more than five feet above the highest point of the roof line, whichever is less. In nonresidential zoning districts, solar energy systems shall not extend more than eight feet above the applicable maximum structure height limit.
 - (c) Ground-mounted solar energy systems.
 - [1] Ground-mounted solar energy systems are only permitted as an accessory use to an existing principal use of the lot where located, and only as an accessory structure.
 - [2] In residential zoning districts, ground-mounted solar energy systems shall not be located between the principal structure and an abutting street.
 - (d) Building Board modifications. The Building Board is directed to modify the requirements of this Code when an applicant shows that such standards significantly increase the cost of the system or significantly decrease its efficiency. In that event, the Building Board shall either approve the application as presented or conditionally approve the application subject to specified modifications that meet the intent of the Code as closely as reasonably possible while allowing construction of a solar energy system of comparable cost and efficiency. In every case, the Building Board shall not approve an application or a modification to this Code that jeopardizes the public health or safety. In the event of a conflict between this subsection and from the authority described in Wisconsin Statutes § 66.0401(1m), now or in the future, the Building Board is directed to apply the statutory standard to its consideration of solar energy system applications.

§ 745-8. Time-share property restricted.

[Added 4-19-2010 by Ord. No. 2010-07]

- A. Time-share property, as defined herein, shall be subject to all of the following requirements:
- (1) The property must be owned in such a way, and must include such uses, so as to subject the property to the regulations of Chapter 707, Wisconsin Statutes; and
 - (2) The property must fully and strictly comply with the requirements of Chapter 707, Wisconsin Statutes at all times; and
 - (3) The use shall be subject to a PDO Planned Development Overlay zoning amendment being granted, in accordance with all of the rules and regulations of § 745-21 of this chapter, prior to commencing such use, and must fully and strictly comply with the same at all times.
- B. Time-share property that does not satisfy the requirements of Subsection **A** of this section, above, is prohibited in the A-1, A-2, A-3, B and C Residence Districts in the Village of Fox Point. These regulations are intended to impose the same requirements upon property that is regulated by Chapter 707, Wisconsin Statutes, that are imposed upon physically identical property in the Village of Fox Point that is not in time share ownership.

§ 745-9. Condominium property restricted.

[Added 4-19-2010 by Ord. No. 2010-07]

- A. Condominiums, as defined in Chapter 703, Wisconsin Statutes, shall be subject to all of the following requirements:
- (1) The property must be owned in such a way, and must include such uses, so as to subject the property to the regulations of Chapter 703, Wisconsin Statutes;
 - (2) The property must fully and strictly comply with the requirements of Chapter 703, Wisconsin Statutes, at all times; and
 - (3) The use shall be subject to a PDO Planned Development Overlay zoning amendment being granted, in accordance with all of the rules and regulations of § 745-21 of this chapter, prior to commencing such use, and must fully and strictly comply with the same at all times.
- B. Condominium property that does not satisfy the requirements of Subsection **A**, above, is prohibited in the A-1, A-2, A-3, B and C Residence Districts in the Village of Fox Point. These regulations are intended to impose the same requirements upon property that is regulated by Chapter 703, Wisconsin Statutes, that are imposed upon physically identical property in the Village of Fox Point that is not in condominium ownership.

§ 745-10. Outdoor recreational areas and facilities.

Swimming pools, tennis courts, athletic fields, and other buildings or grounds used for leisure-time activities of a predominantly outdoor nature shall be permitted in those districts and subject to such regulations as are hereinafter designated.

A. General.

- (1) No such use shall be permitted in any case where it shall create a nuisance, a hazard, or otherwise result in a substantial adverse effect on the surrounding property values or on the enjoyment of such property, or be in any other way detrimental to the general public welfare. Every reasonable effort shall be made to prevent such effect through control of lighting,

attractive design and maintenance of structures, use of planting screens or attractive fences, careful placement on the site, and sensible regulation of use.

- (2) Adequate provision shall be made for off-street parking consistent with the need generated by the facility.

B. Classification. For purposes of regulation, such uses shall be classified as follows:

- (1) Public. Facilities owned and operated by a governmental agency for limited or general public use.
- (2) Private commercial. Facilities owned and operated by an individual or group for profit as a business, whether or not open to general public use.
- (3) Private noncommercial group. Facilities owned and operated by a group for exclusive use of the members of such group and their guests and not for profit as a business.
- (4) Private residential. Facilities owned by the individual, located on the same or adjoining lot to his residence, and intended solely for the use of his family and guests.

C. Public facilities. Such facilities may be permitted in any district as a principal or accessory use subject to the procedure hereinafter set forth.

D. Private commercial facilities. Such facilities may be permitted in an Institutional District as an accessory use, and in a "D" Business or "E" Semi-Business District as a principal or accessory use subject to the procedure hereinafter set forth.

E. Private noncommercial group facilities. Such facilities may be permitted in any district as a principal or accessory use subject to the procedure hereinafter set forth.

F. Procedure. The following procedure shall be complied with before public facilities, private commercial facilities, or private noncommercial group facilities are permitted.

- (1) The request for such use, together with site, building and operational plans, shall be submitted to the Village Board and shall be referred to the Plan Commission for its study and recommendation to the Village Board.
- (2) Any active use area or structure shall conform to the appropriate open area, height, and front, side and rear setback requirements of the district in which located, provided, however, that in no case shall a swimming pool, athletic field, or game court be permitted closer than 100 feet to an adjoining property line of a property in a residence district.
- (3) As a special exception, open area, height, front, side and rear setback requirements in effect pursuant to Subsection **F(2)** above may be reduced.
- (4) In acting on a request pursuant to Subsection **F(1)** above or on the question of granting a special exception pursuant to Subsection **F(3)** above the Plan Commission shall take into consideration the requirements of Subsection **A** above and shall also consider whether or not the proposed use is compatible with the area, is in keeping with the unique residential character of the community, and would result in substantial adverse effect upon surrounding properties.
- (5) The Plan Commission shall make its recommendation to the Village Board.
 - (a) The Village Board, taking into consideration the requirements above set forth and the recommendation of the Plan Commission, shall reject, grant, or grant with modification the request; provided that if the request includes a request for a special exception under Subsection **F(3)** above, it shall not be granted until after a public hearing has been held by the Village Board. Notice of such hearing shall be given as required for Board meetings, and in addition thereto, written notice shall be given to the owners of property abutting that on which the special exception would exist at least five days before such hearing by delivering such notice to a person of suitable age residing on the premises, or by mailing

such notice to the person residing on the premises as appears in the records of the Village for sending water bills, or if vacant property to the person who appears as owner on the records of the Village for real estate taxes. If notice is given by mail, it shall be mailed not less than seven days before the meeting.

(b) The notice shall give the time and place of the hearing and describe the special exception that has been requested.

(c) After such hearing, the Village Board, applying the requirements above set forth, shall reject, grant or grant with modification the special exception requested.

G. Private residential facilities. Such facilities may be permitted as an accessory use in any district permitting residential use, subject to the following:

(1) Backboards shall comply with the setback regulations and shall be in such location or so screened by building or vegetation that it will not substantially adversely affect the value or reasonable enjoyment or use of adjoining property, and will not present an unattractive appearance from the street or adjoining property. The Village Manager shall determine that the provisions of this subsection are complied with before a building permit is issued.

(2) Any active use area or structure shall conform to the open area, height, and front, side and rear setback regulations of the district in which located except as is otherwise provided.

(3) In the case of tennis, badminton or other similar areas for court games where size and proper orientation limit suitable locations, the aforesaid regulations may be modified by the Village Manager upon his determination that, as the regulations are modified, the facility will not substantially adversely affect the value or reasonable enjoyment or use of adjoining property and will not present an unattractive appearance from the street or adjoining property. In addition to this general requirement, the following requirements must be met:

(a) The location as proposed is justified in terms of logical utilization of the site.

(b) In no case shall any portion of the court area be closer than five feet to a lot line.

(c) Appropriate landscaping shall be provided.

[1] The plan for such landscaping shall be submitted to and approved by the Village Manager as meeting these requirements. Such landscaping shall thereafter be continuously maintained in good condition, so long as such court continues in existence.

[2] The Village Manager may from time to time instruct the owner to make changes in or additions to the landscaping when the Village Manager determines that because of the use being made of the court or adjoining premises, changes or additions to the landscaping are necessary for continued compliance with these provisions. Such instructions shall be promptly complied with.

(d) In those cases where the Village Manager has modified the height or any setback requirement (front, side or rear), every enclosure around a court for the containment of balls or birds, etc., shall be as open as reasonably possible to permit the passage of light and air, provided that the Village Manager may permit a canvas or plastic windbreak on such court enclosure upon his determination that there will still be compliance with these provisions.

(4) The power here given to the Village Manager to modify regulations does not apply to the above regulations in respect to backboards.

H. Swimming pools. In addition to the foregoing, swimming pools shall be subject to the following:

(1) Pumps, filter, and heating equipment shall in no case be closer than 20 feet to a property line and shall be adequately housed or screened and muffled.

- (2) Surfaced terraces, sundecks, and walks may be permitted no closer than five feet to a lot line where accessory to a private residential pool. In the case of public, private commercial or private noncommercial group pools, such accessory uses may be permitted no closer than 10 feet to a lot line.
- (3) Reasonable precautions shall be taken to insure the safety of the pool area and to prevent it from becoming an "attractive nuisance." Pools other than those classified as "private residential" shall be completely fenced so as to prevent the unregulated entrance of young children to the pool area.
- (4) Pools erected on top of the surface of the ground shall have the pool construction completely and adequately screened from the view of abutting properties by means of combined fence and landscape screen.
- (5) Pools other than those classified as "private residential" or "private noncommercial group" shall conform to the following:
 - (a) Water supplied to the pool shall meet state standards for pure drinking water.
 - (b) Adequate provision shall be made for separate shower, lavatory, and dressing facilities for men and women which are well lighted, ventilated and properly equipped.
 - (c) Pool construction shall be of concrete, steel, or other material having an impervious smooth surface and approved by the Director of Public Works/Village Engineer.
 - (d) Pool shape, design, depth, and slopes shall be such as to promote safe control of the bathers in the pool.
 - (e) Inlets must be submerged and produce uniform circulation without "dead" spots.
 - (f) Outlets must be of ample size and located at the pool low points.
 - (g) Hose connections must be of ample size and pressure to clean all the pool area.
 - (h) Overflow gutters must surround the pool and have a pitch adequate to carry off all overflow.
 - (i) Adequate steps or ladders shall be provided to allow safe emergence from the pool and shall be made of impervious material, easily cleaned, and must not collect water or retain water.
 - (j) A suction cleaner must be used to remove sludge, sediment and other accumulations.
 - (k) Recirculation systems shall consist of pumping equipment, hair and lint catcher, filters, and all necessary fixtures and connections; must be capable of a six-hour turnover of water; and must include disinfecting equipment.
 - (l) All equipment must be accessible, satisfactorily located and the equipment room adequately drained.
 - (m) Each pool shall have available a pH and residual determination outfit.
 - (n) If used at night, the pool shall be adequately lighted.

§ 745-11. Districts; Official Zoning Map.

For the purpose of this chapter, the Village of Fox Point is hereby divided into the following basic zoning districts: A-1, A-2, A-3, B and C Resident Districts; D Business District; E Semi-Business District, and F Institutional District. In addition to the basic districts, there is hereby created PDO, Planned Development Overlay District, and also Cultural Overlay District. Said districts are as shown and

indicated on a map of the Village of Fox Point entitled "Official Zoning Map No. 21 of the Village of Fox Point." Said map is on file in the office of the Village Manager.

§ 745-12. District boundary lines.

The district boundaries are either lot lines, the center line of streets or alleys, or the extension thereof, and where the districts designated on the Official Zoning Map which is a part of this chapter are approximately bounded by lot lines, streets or alleys, the lot lines or center line of such streets or alleys or the extension thereof shall be considered to be the district boundaries. Where the district boundaries are not shown as being either lot lines, streets or alleys or the extension thereof, unless otherwise indicated, they shall be construed to be parallel to and 120 feet from the nearest street, provided that if a lot line or an alley shall hereafter be platted and recorded paralleling within 30 feet of such district boundary, such lot line or center line of such alley shall thereupon be construed as the district boundary. In such cases, where a district boundary line divides a lot in single ownership, and where the majority of such lot is in the district requiring the lesser restrictions, these restrictions shall prevail for the entire lot, provided the area of the land located in the district with the greater restrictions does not exceed the open area requirement of said district for the erection of the proposed building.

§ 745-13. A-1 Residence District.

- A. Uses. In an A-1 Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-1 Residence District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The open area of a lot on which a dwelling is erected or proposed to be erected, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 40,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% of the gross area of the lot or exceed a height of 25 feet.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; and 15 feet when the width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
[Amended 9-11-2012 by Ord. No. 2012-11]
 - (3) A side yard of not less than 20 feet shall be provided for on each side of every building, except that in the case of lots existing as of May 6, 1958, and less than 100 feet in width measured at the narrowest place adjacent to the location of the dwelling, the side yard may be reduced by 1/4 of the difference between said width and 100 feet; provided, however, that the side yard shall in no event be less than 15 feet.
 - (4) A rear yard of not less than 20 feet shall be provided for every building.
 - (5) Every lot on which a building is erected shall have a minimum width of 120 feet.
 - (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure, with the exception

in that, upon application to the Board of Appeals, the Board of Appeals may grant a special exception on a lot of not less than 80,000 square feet in total area upon the following criteria:
[Amended 2-9-2021 by Ord. No. 2021-01]

- (a) Special exceptions to the height limitations as hereinbefore set forth may be granted by the Board of Appeals upon consideration of the following:
 - [1] Reasonable compatibility with the character of the immediate neighborhood.
 - [2] Whether there will be unreasonable interference with the aesthetics and scenic views of residences in the surrounding area.
 - [3] Compatibility of the overall size of the structure in relation to the size of the lot.
- (b) For any special exception granted, an additional two feet of setback on all sides of the structure is required for each foot of additional height allowed.
- (c) In no event shall the Board of Appeals grant a special exception allowing a height greater than 55 feet.
- (d) For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.^[1]
 - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (e) The special exceptions herein are not deemed to be variances from this chapter, but an allowed height upon satisfactory compliance with the foregoing conditions.
- (f) The Clerk/Treasurer shall provide notice of Board of Appeals proceedings under this subsection to owners or occupants of properties the boundaries of which are within 500 feet of any boundary of the subject property.

§ 745-14. A-2 Residence District.

[Amended 2-9-2021 by Ord. No. 2021-01]

- A. Uses. In an A-2 Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-2 Residence District, no building may be erected, enlarged or altered except in conformity with the following:
 - (1) The open area of a lot on which a dwelling is erected or proposed to be erected, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 30,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% of the gross area of the lot or exceed a height of 25 feet.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; and

15 feet when the width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.

- (3) A side yard of not less than 15 feet shall be provided for on each side of every building.
- (4) A rear yard of not less than 20 feet shall be provided for every building.
- (5) Every lot on which a building is erected shall have a minimum width of 100 feet.
- (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including but not limited to attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

§ 745-15. A-3 Residence District.

[Amended 2-9-2021 by Ord. No. 2021-01]

- A. Uses. In an A-3 Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always accessory use does not constitute or become a public or private nuisance.
- B. Areas and yards. In an A-3 Residence District, no building may be erected, enlarged or altered except in conformity with the following:
 - (1) The open area of a lot on which a dwelling is erected or proposed to be erected, together with the area of abutting land reserved for highway purposes, whether private or public, to the center line thereof, shall not be reduced to less than 20,000 square feet for each family. No building not erected for a dwelling shall occupy more than 10% of the gross area of the lot or exceed a height of 25 feet.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; and 15 feet when the width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
 - (3) A side yard of not less than 12 feet shall be provided for on each side of every building.
 - (4) A rear yard of not less than 20 feet shall be provided for every building.
 - (5) Every lot on which a building is erected shall have a minimum width of 90 feet.
 - (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including, but not limited to, attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.

§ 745-16. B Residence District.

- A. Uses. In a B Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use; provided always the accessory use does not constitute or become a public or private nuisance.
[Amended 11-11-2014 by Ord. No. 2014-08]
- B. Areas and yards. In a B Residence District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The open area of a lot on which a dwelling is erected, or proposed to be erected, shall not be reduced to less than 15,000 square feet for each family. No building not erected for a dwelling shall occupy more than 20% of the gross area of the lot or exceed a height of 25 feet.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for corner lots from the setbacks specified on the Official Zoning Map: five feet when width of lot is more than 80 feet but less than 90 feet; 10 feet when width of lot is more than 70 feet but less than 80 feet; 15 feet when width of lot is 70 feet or less; provided, however, that no setback will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
 - (3) A side yard of not less than 10 feet shall be provided for on each side of every building.
 - (4) A rear yard of not less than 20 feet shall be provided for every building, except one of not less than 10 feet shall be provided for a building used for or classified as an accessory use.
 - (5) Every lot on which a building is erected shall have a minimum width of 80 feet.
 - (6) No single-family residence built or existing in this district shall have a height greater than 40 feet from the grade abutting the structure on the front side of the structure. For purposes of this subsection, the height of the building shall include the highest roof point of any interior portion of the structure which can be occupied, including, but not limited to, attic and storage structures and observatories which accommodate entry or occupancy by a person, but shall not include roof attachments such as chimneys, antennas or decorative cupolas.
[Amended 2-9-2021 by Ord. No. 2021-01]

§ 745-17. C Residence District.

- A. Uses. In a C Residence District, no building or premises, unless otherwise provided in this chapter, shall be erected or used except for dwelling, together with accessory uses incident to the permitted use, provided always the accessory use does not constitute or become a public or private nuisance.
[Amended 11-11-2014 by Ord. No. 2014-08]
- B. Areas and yards. In a C Residence District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The open area of a lot upon which a dwelling is erected, or proposed to be erected, shall not be reduced to less than 10,500 square feet for each family. No building not erected for a dwelling shall occupy more than 15% of the gross area of the lot or exceed a height of 25 feet above the proposed grade of the ground.
 - (2) A front yard of not less than 30 feet shall be provided for every building on a lot for which a setback is not hereinafter provided for. Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map, except that the following reductions may be made for a corner lot from the

Programs, or subsequent educational degree from such an institution, in a field closely related to the service offered.

D. Conditional uses.

(1) Uses. The following uses can be allowed by conditional use permit in the D Business District, pursuant to the conditional uses procedures described below:

- (a) Bowling alleys.
- (b) Dance, music or physical health studios.
- (c) Gasoline service stations.
- (d) Greenhouses.
- (e) Hotels and motels.
- (f) Personal wireless service facility (subject to criteria and procedures outlined in § 745-23).
- (g) Premises licensed to sell alcoholic beverages.
- (h) Restaurants except drive-ins.
- (i) Retail and services stores except commercial sale or purchase of guns.
- (j) Schools and day-care centers.
- (k) Television, video and photo production studios.
- (l) Theaters, except outdoor theaters.
- (m) Video game arcades.
- (n) Wholesale office or sample rooms.
- (o) Other uses found to be substantially similar uses to those listed here by the Village Plan Commission.

(2) Application. The applicant shall furnish on an application provided by the Building Inspector for referral to the Plan Commission the following information:

- (a) Name and address of owner and/or operator.
- (b) The specific interest of the applicant in the property. If the applicant is not the owner, all owners must be listed and sign as co-applicants.
- (c) Address and legal description of site.
- (d) Current survey of site showing existing improvements, if any.
- (e) Site plan of proposed project and, if requested, appropriate elevations, building and landscape information.
- (f) Such additional information as may be required by the Building Inspector, Health Officer, Police Department, Plan Commission, or Village Board.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

(3) Fee. The applicant shall pay a fee set by the Village Board from time to time.

(4) Plan Commission recommendation. The Village Plan Commission shall review the application and make recommendations to the Village Board on the following areas:

- (a) Whether conditions, if any, as found in Subsection **D(5)** should be recommended;

- (b) Whether there will be compliance with all other provisions of this chapter, including Subsection **F** of this section, except if the project is deemed to be of superior quality by the Plan Commission. Then, in such cases, the front setback shall not be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes;
 - (c) Whether the approval of the application would impede the normal and orderly development and improvement of the adjoining properties or properties in the same D Business District;
 - (d) Whether adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
 - (e) Whether adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion on the public streets;
 - (f) Whether there will be compliance with all other applicable laws and regulations;
 - (g) Whether traffic entering or exiting the site is likely to endanger safety or cause congestion on nearby streets.
- (5) Conditions. Conditions which may be imposed as deemed necessary by the Village Board shall include:
- (a) Commencement, staging and completion dates.
 - (b) Types of construction.
 - (c) Landscaping.
 - (d) Planting or other screening.
 - (e) Parking.
 - (f) Fencing.
 - (g) Lighting.
 - (h) Hours of operation.
 - (i) Front, rear and side yard setbacks and whether parking within them is permitted.
 - (j) Operational plan.
 - (k) Highway access and loading provisions.
 - (l) Traffic circulation.
 - (m) Highway dedication.
 - (n) Deed restrictions.
 - (o) Sureties.
 - (p) Signs.
 - (q) Noise control.
 - (r) Special requirements characteristic to the use as may be deemed necessary to protect the aggregate property values of adjoining properties or the Village as a whole and/or to protect as provided in Subsection **A** above.
- (6) Public hearing. A public hearing may be held by the Village Board in the event of a favorable recommendation by the Village Plan Commission to consider the application, the recommendations of the Village Plan Commission, and other pertinent information.

- (7) Village Board action. After any public hearing, and after approval by the Village Board, the Village Board may authorize the Village staff to issue a conditional use permit with or without conditions after finding such conditional use or structure is in accordance with the purpose and intent of this section and any conditions shall be attached to the permit.
 - (8) Inspection. To ensure that the applicant has fulfilled the conditions for operation agreed to and made part of the conditional use permit, the Building Inspector may conduct a review within six months after the grant of the occupancy permit and report to the Plan Commission. If conditions are not being met, the Plan Commission shall do one of the following three: grant a continuation of time to achieve compliance, recommend a modification of the conditions, or recommend rescission of the conditional use designation to the Village Board. After the formal review period, the Building Inspector is empowered to review the subject Conditional Use at any time to ensure that the original conditions imposed on the use are being met. Failure to meet all conditions of the permit shall be cause for rehearing of the permit before the Plan Commission at which time the Plan Commission may recommend and Village Board approve or deny continuation of the conditional use.
 - (9) Limited exception for minor interior work. Separate conditional use approval is not required for an alteration to an existing building, structure or premises, if all of the following conditions are met:
 - (a) The use has been conditionally permitted by prior action of the Village Board;
 - (b) The approved use will not change as a result of the alteration;
 - (c) The total cost of the alteration as defined in Chapter **756** of this Code is \$5,000 or less; and
 - (d) No prior alterations have been made since the date of the Village Board's approval of the use.
- E. Plan review. To encourage a business environment that is compatible with the residential character of the Village, building permits that include any exterior work regarding permitted principal uses and conditional uses in the D Business District shall not be issued without site plan review and approval by the Village Board, pursuant to Subsection **F** of this section.
- F. Regulation. In a D Business District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) Final site plans shall be submitted to and be subject to approval by the Village Board before a building permit shall be issued. Said site plans shall show the following: drainage, the location of all buildings, fences, walls, signs, lighting, installations, landscaped areas, off-street parking, and loading areas, the arrangement of internal and in-and-out traffic flow, and the relationship to immediately abutting streets and other property, all to be in conformity with the provisions of this chapter and other ordinances of the Village, and also in accordance with the following general principles as determined by the Village Board:
 - (a) The Village Board may choose to rely on the following considerations, without limitation:
 - [1] Buildings should not have a design or exterior appearance which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
 - [2] Buildings should not have a design or exterior appearance which is so identical with those adjoining as to create excessive monotony or drabness.
 - [3] Buildings should not have any exposed facade that is not constructed or faced with finished materials which are aesthetically compatible with the other facades, and building facades should present an attractive appearance to the public and to surrounding properties.

- [4] The facade which faces upon a street right-of-way should be finished with aesthetically pleasing materials.
 - [5] The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings should be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
 - [6] Building rooflines and roof shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, and cornices) should be maintained in building development and redevelopment.
 - [7] Since the selection of building colors has a significant impact upon the public and neighboring properties, color should be selected in general harmony with existing neighborhood buildings.
 - [8] No building or sign should be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- (b) No building or use should have a negative impact on the maintenance of safe and healthful conditions in the Village.
 - (c) No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment should be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers should be screened from the street and from neighboring facilities. The Village Board may permit the outdoor display of product or merchandise upon finding that such display is essential to a business use.
 - (d) Buildings and uses should serve to implement the Village's existing and planned stormwater drainage systems.
 - (e) Buildings and uses should provide for safe traffic circulation and safe driveway locations.
 - (f) Buildings and uses should provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Village Board to allow the same due to extraordinary circumstances.
 - (g) Buildings and uses should be provided with adequate public services as approved by the appropriate utility.
 - (h) Buildings and uses shall make appropriate use of open spaces and the Village Board may require appropriate landscaping and planting screens.
- (2) No building shall exceed two stories in height, excluding spires, towers, roofs or other architectural embellishments not usable for business purposes, provided that a balcony or mezzanine floor shall be considered as a story.
 - (3) No such permitted building shall be closer than 20 feet to any adjoining residence district, or closer than 10 feet to any lot line except in the case of "row" type buildings, where by mutual consent common walls are provided between adjoining buildings.
 - (4) Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map; provided, however, that no setbacks will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
 - (5) The provision of any exterior lighting shall be subject to Chapter **670**, Article **XI**, of this code regulating exterior lighting and any amendments thereto, or other ordinance enacted regulating

exterior lighting.

- (6) Unenclosed storage of merchandise, cartons, equipment, refuse or any other item which might detract from cleanliness, neatness and general attractiveness of the surrounding area shall not be permitted on the premises. Any enclosure provided for such purpose shall be subject to approval of the Building Inspector.
- (7) Off-street parking and loading areas shall be provided as follows:
 - (a) At least five parking stalls for automobiles shall be provided for each 1,000 square feet of gross area of a building exclusive of storage areas.
 - (b) The dimensions for parking spaces and aisles shall be as follows:
 - [1] Ninety-degree-angle parking, two-way traffic: stalls nine feet by 19 feet; aisles 25 feet wide.
 - [2] Sixty-degree-angle parking, one-way traffic: stalls nine feet by 21 feet; aisles 18 feet wide.
 - [3] Forty-five-degree-angle parking, one-way traffic: stalls nine feet by 20 feet; aisles 14 feet wide.
 - [4] Ninety-degree-angle parking, one-way traffic: stalls nine feet by 19 feet; aisles 22 feet wide.
 - (c) In addition to the required parking stalls, adequate driveways or space required for movement of automobiles on such parking area shall be provided.
 - (d) A lesser or greater number of parking stalls may be recommended by the Plan Commission on taking into consideration the location of the parking area, the type and use of building which the parking area is to serve, and other parking areas available in close proximity to the area being considered. Such recommendation will be effective only on approval by the Village Board.
 - (e) Such off-street parking area shall be surfaced and maintained reasonably dustless in accordance with standards prescribed by the Director of Public Works/Village Engineer and shall be adequately lighted when in use. In no case shall any portion of the paved parking area be closer than 20 feet to any adjoining residence district or to any street line lying between the business district and residence district, and said 20 feet shall be landscaped and maintained in an attractive manner.
 - (f) An off-street parking area, in addition to the defined off-street parking area, having an area at least 10 feet wide by 25 feet long and with a minimum fourteen-foot height clearance shall be provided for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of building area used for commercial purposes.^[2]
 - [2] *Editor's Note: Original Subsection (7)(g), regarding application for building compliance, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (8) Vehicular access driveways shall be subject to the following regulations:
 - (a) The location and design of all vehicular access driveways from the public street to the premises shall be approved by the Director of Public Works/Village Engineer on the basis of providing reasonable service to the premises with the minimum interference to the normal, safe, and efficient movement of traffic and avoiding possible nuisance or adverse effect on the surrounding residential area.
 - (b) No vehicular access drives shall be permitted along that portion of a street where the opposite frontage is zoned exclusively for residential purposes, except where no other access is possible.

- (9) Adequate screening shall be provided under the circumstances and in the manner as follows:
- (a) Screening shall be provided along any property line adjoining a property zoned in a Residence District, and along that portion of a street where the opposite frontage is zoned in a Residence District.
 - (b) Such screening shall be of such a nature as to attractively and effectively screen from ordinary view the commercial operation and shall be subject to approval of the Director of Public Works/Village Engineer.
 - (c) If the screen is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such plant varieties as to provide adequate visual screening within no more than two years and during all seasons of the year.
 - (d) Where architectural walls or fences are used, sufficient landscaping shall be used in conjunction with such fence or wall to create an attractive view from the residential side. Any wall or fence shall be not less than four feet nor more than six feet in height.
 - (e) Where the screen is for a parking area, it shall be sufficiently opaque to prevent the penetration of headlight glare.

§ 745-19. E Semi-Business District.

- A. Uses. In an E Semi-Business District, no building or premises shall be used nor shall any building or other structure be erected, altered or enlarged which is arranged, intended or designed to be used for any purpose except for the business purposes, exclusive of residential uses, hereinbelow set forth:
- (1) Administrative and public service offices.
 - (2) Professional offices.
 - (3) Real estate and insurance offices.
 - (4) Studios for photography, painting, music, sculpture, dance, or other recognized fine art.
 - (5) Banks, savings and loan, investment houses or other financial institutions.
 - (6) Subject to approval of the Plan Commission as being compatible to the restrictive character of the district:
 - (a) Any other office not involving on the premises the retail sale or the manufacture, assembly, warehousing or distribution of goods.
 - (b) Personal service facilities, such as beauty shops, travel agencies, funeral homes, and interior decorators.
 - (7) Accessory uses customarily incident to any of the above permitted uses.
- B. Regulation. In an E Semi-Business District, no building may be erected, enlarged or altered except in conformity with the following:
- (1) The provisions of § **745-18F** shall apply and be complied with.
 - (2) In keeping with the restrictive character of this district, the buildings erected therein and the treatment of site shall be subject to the following general standards:
 - (a) All facades of buildings shall be covered with finished facing material and shall be designed with adequate consideration of aesthetic appearance from rear and sides.
 - (b) The grounds surrounding the building shall be attractively landscaped and maintained.

- (c) A filing fee as described in Chapter **63** of this Code shall be paid to the Village at the time of filing an application that is required by this subsection or Subsection **A**.

§ 745-20. F Institutional District.

[Amended 3-12-2013 by Ord. No. 2013-01]

In the F Institutional District, no building or premises shall be used, nor shall any building be constructed or enlarged, and no exterior alterations shall be made to an existing building which is arranged, intended, or designed to be used for any purpose except in conformity with the following.

- A. Permitted uses. The following uses are permitted in the F Institutional District, subject to the limitations and conditions of Subsection **B** below.

- (1) Dwelling and residential uses accessory thereto as and when permitted in a B Residence District.
- (2) Buildings and adjoining grounds for:
 - (a) Schools and municipal purposes, including storage yards;
 - (b) Church services, exclusive of graveyards;
 - (c) Social clubs or lodges, except those the chief activity of which is a service customarily carried on as a business;
 - (d) Community recreational, cultural and social service purposes operated on a not-for-profit basis; and
 - (e) Including accessory uses incident to and reasonably necessary for the furtherance of any of the above permitted uses.
- (3) Convalescent or nursing homes or similar institutions for the accommodation of the aged or infirm.

- B. Limitations, conditions and procedure.

[Amended 9-20-2023 by Ord. No. 2023-04]

- (1) Written application for the use, construction or enlargement of premises or a building or for exterior alterations to an existing building shall be made to the Plan Commission, accompanied by such building plans, sketches, renderings, and site plans as the Plan Commission determines reasonably necessary to form an opinion. A filing fee as described in Chapter **63** of this Code shall be paid to the Village at the time of filing the application.
- (2) The Plan Commission shall study such application and make its report to the Village Board advising the Village Board whether or not the Plan Commission considers that the standards have been met. The standards to be applied are:
 - (a) Appropriate in the location proposed;
 - (b) Compatible with the neighborhood;
 - (c) Not detrimental to the property values of surrounding property; and
 - (d) In keeping with the residential character and quality of the Village.
- (3) If the Plan Commission reports that in its opinion any one or more of the above standards have not been met, and the Village Board on motion duly adopted agrees with this report, then the application shall be considered denied.
- (4) If the Plan Commission reports that in its opinion the above standards have been met, or if the Plan Commission has reported that in its opinion any one or more of the above standards have

- (5) Notice of such public hearing shall be given by publication at least once in the official newspaper of the Village and by mailing a copy of such notice to all property owners who own land abutting on the site or across a street from the site, not less than five days' prior to the hearing. Mailing shall be to the last known address of the respective property owners as appears from the records of the Village.
- (6) If after such public hearing it shall appear to the Village Board that the standards above set forth have been met, the application shall be approved; otherwise, it shall be denied.
- (7) The Plan Commission may recommend and the Village Board (whether or not recommended by the Plan Commission) may condition its approval upon the compliance with such requirements as appear reasonably necessary to ensure compliance with the above standards.

- (1) For an alteration to the interior of an existing building or structure.
- (2) For an alteration to an existing building, structure or premises, if all of the following conditions are met:
 - (a) The use has been approved by prior action of the Village Board;
 - (b) The approved use will not change as a result of the alteration;
 - (c) The total cost of the alteration as defined in Chapter **756**, Building Construction, of this Code is \$5,000 or less; and
 - (d) No prior alterations have been made since the date of the Village Board's approval of the use.

- (1) Dwelling and accessory buildings shall conform with the provisions of § 745-16B.
- (2) Off-street parking areas shall be provided for nonresidential buildings subject to the following:
 - (a) At least 117 square feet of parking area shall be provided for each seat on the basis of the posted or (in the case of proposed construction) the proposed seating capacity for a church, club, lodge, or hall for assembly. The parking square footage includes the area used for parking stalls and the driving areas between and at the end of rows of parking areas; it excludes the driveways leading into the parking area from streets, structures, other parking areas, etc. The dimensions for parking spaces and aisles shall be as follows:
 - [1] Ninety-degree-angle parking, two-way traffic: stalls nine feet by 19 feet; aisles 25 feet wide.
 - [2] Sixty-degree-angle parking, one-way traffic: stalls nine feet by 21 feet; aisles 18 feet wide.
 - [3] Forty-five-degree-angle parking, one-way traffic: stalls nine feet by 20 feet; aisles 14 feet wide.
 - [4] Ninety-degree-angle parking, one-way traffic: stalls nine feet by 19 feet; aisles 22 feet wide.
 - (b) In order to eliminate daily on-street parking around areas in which children are present and to eliminate on-street parking and loading of school buses, the following rules are adopted:

- [1] One parking space for employees, including teachers (part- and full-time), administrators (part- and full-time), and support staff (part- and full-time);
- [2] One and one-half parking spaces shall be provided per classroom to allow for visitor parking;
- [3] One space shall be provided for every five students 16 years and older;
- [4] Sufficient off-street parking spaces shall be provided for the safe and convenient loading and unloading of students as determined by the Director of Public Works/Village Engineer and Police Department based on the following criteria:
 - [a] Number of buses normally used;
 - [b] The time schedule of the buses;
 - [c] The size of the buses; and
 - [d] The traffic patterns.
- [5] The applicant shall indicate proposed location for future parking if the need arises as determined by the Police Department;^[1]
 - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- [6] The parking square footage includes the area used for parking stalls and the driving areas between and at the end of rows of parking areas; it excludes the driveways leading into the parking area from streets, structures, and other parking areas, etc.;
- [7] The dimensions for parking spaces and aisles shall be as follows:
 - [a] Ninety-degree-angle parking, two-way traffic: stalls nine feet by 19 feet; aisles 25 feet wide.
 - [b] Sixty-degree-angle parking, one-way traffic: stalls nine feet by 21 feet; aisles 18 feet wide.
 - [c] Forty-five-degree-angle parking, one-way traffic: stalls nine feet by 20 feet; aisles 14 feet wide.
 - [d] Ninety-degree-angle parking, one-way traffic: stalls nine feet by 19 feet; aisles 22 feet wide.
- (c) Such off-street parking area shall be surfaced and maintained reasonably dustless in accordance with standards prescribed by the Director of Public Works/Village Engineer and shall be adequately lighted when in use.
- (d) No portion of the parking area or of any driveway shall be closer than 15 feet to an adjoining residence district or the lot line of any lot on which there is an existing residence as of May 6, 1958, or closer than five feet to any street, or closer than 10 feet to any lot line, provided that by written mutual consent and agreement of owners of adjoining nonresidential property filed with the Building Inspector, this ten-foot setback may be reduced or eliminated, and no setback is required where a lot line abuts on property on which a railroad track is maintained.
- (e) Where offset areas are required by Subsection **D(2)(d)** above, such areas shall be landscaped and kept free from refuse and debris, and screening provided in conformity with the following:
 - [1] Such screening shall be of such nature as to attractively and effectively screen from ordinary view the parking area and shall be subject to the approval of the Director of Public Works/Village Engineer.

- [2] If the screening is composed entirely of plant materials, it shall be of sufficient initial depth and height and of such plant varieties as to provide adequate visual screening within no more than two years from the date of its planting and during all seasons of the year.
 - [3] Where architectural walls or fences are used, sufficient landscaping shall be used in connection with such fence or wall to create an attractive view from the abutting property or street, and any wall or fence shall be not less than four feet nor more than six feet in height.
 - [4] Such screening shall be sufficiently opaque to prevent the penetration of headlight glare.
 - [5] Such screening may be eliminated between adjoining parking areas by mutual agreement of the adjoining property owners executed in writing and filed with the Building Inspector.
- (3) The location and design of all vehicular access driveways from the public street to the premises shall be approved by the Director of Public Works/Village Engineer on the basis of providing reasonable service to the premises with the minimum interference to the normal, safe and efficient movement of traffic and avoiding possible nuisance or adverse effect on the surrounding residential area.
- (4) The provision of any exterior lighting shall be subject to Chapter **670**, Article **XI**, of this Code regulating exterior lighting and amendments thereto or other ordinance enacted regulating exterior lighting.
- (5) Whenever any building is erected or enlarged, or exterior alterations are made to an existing building, the use of the building must be one permitted by Subsection **A**, and the lot and said building shall meet the following requirements:
- (a) The lot shall have a minimum street frontage of 140 feet measured along the street which said building faces.
 - (b) The lot shall maintain a side yard on each side of such building with a minimum width of 20 feet in respect to a building 40 feet or less in length, plus the following. The total of the side yards on both sides of said building shall be an additional two feet for every additional four feet of length of the building along the street on which the building faces. This side yard calculation shall exclude any incidental connecting corridors of only one story at the ground level that link together otherwise separate buildings or structures for the convenience of enclosed access and the purpose of which is limited to ingress and egress between the connected buildings.
[Amended 11-10-2020 by Ord. No. 2020-07]
 - (c) The building shall be placed and maintained on said lot.
 - (d) No such building shall cover more than 35% of the area of the lot on which it is erected or located.
 - (e) Every building shall be set back from the center line of each adjoining street or area reserved for highway purposes, or any extension or separated portion thereof hereafter established, not less than the street setback specified upon the Official Zoning Map; provided, however, that no setbacks will be less than 15 feet plus 1/2 the width of the abutting road or area reserved for highway purposes.
 - (f) No institutional building built or existing in this district shall have a height greater than 35 feet above the lowest point of the lot grade abutting the structure, excluding, however, from this height limitation religious institutions and spires, towers, chimneys and nonfunctional architectural embellishments.

- [1] For institutional uses, a special exception may be sought before the Board of Appeals from any height limitation, and the Board shall consider, without limitation by enumeration herein, the following:

- [a] Reasonable compatibility with the character of the immediate neighborhood.
- [b] Whether there will be unreasonable interference with the aesthetics and views from residences in the surrounding area.
- [c] Compatibility of the overall size of the structure in relation to the size of the lot.

- [2] In no event shall the Board of Appeals grant a special exception allowing a height greater than 45 feet.

- E. Doctor's Park. Milwaukee County Doctor's Park, which is identified as Parcel Tax Key No. 0579999000, is located in the F Institutional District and is hereby zoned as a park, to the full extent and meaning of the words "zoned as a park" in § 59.17(2)(b)(3), Wis. Stats.
[Added 4-12-2016 by Ord. No. 2016-02; amended 4-12-2016 by Ord. No. 2016-07]

§ 745-21. PDO Planned Development Overlay District.

- A. Intent. The regulations of this district are intended to allow for greater flexibility, variety of use, and design freedom than would be permitted by the standard application of basic district regulations, in the case of tracts of land of suitable size and appropriate location, where the unified and planned development of such tract and the increased flexibility, variety of use and design freedom would achieve optimum utilization of the site and produce a more aesthetically satisfying and economically desirable development than would result from the application of basic district controls.
- B. Application of regulations.
- (1) The regulations herein set forth shall be made effective as an "overlay" of permitted use upon the basic district to permit the planned development pursuant to the provisions herein set forth.
 - (2) Individual uses and structures as permitted and regulated by the basic zoning district shall continue to be subject to the regulations as already established unless they are part of a proposed planned development.
 - (3) Individual uses and structures in a planned development shall not be subject to the specific building location, size, yard, lot size, and open space requirements of the underlying basic district but shall be subject to the regulations hereinafter set forth governing such project.
 - (4) Normal standards relative to road design or other engineering matters may be modified in a planned development consistent with good engineering practice.
- C. Procedure.
- (1) Pre-petition conference. Prior to official submittal of a petition for consideration of a planned project, the petitioner shall meet with the Plan Commission for a preliminary discussion as to the scope and nature of the proposed development. The applicant shall pay a fee as described in Chapter 63 of this Code prior to the pre-petition conference.
 - (2) Petition. Following the preliminary consultation with the Plan Commission, petition may be made to the Village Board by the owner, or his agent, of property proposed for such development for the approval of a specific project plan under the provisions of these regulations. Such petition shall be accompanied by the following information:
 - (a) A statement describing the general character of the intended development along with such other information as would be pertinent to a determination as to the suitability and desirability of granting the proposed planned development on the particular site.

(b) A general development plan of the project showing at least the following information and such additional information as may be required by the Plan Commission in a specific situation in sufficient detail to allow the Plan Commission and the Village Board to apply the criteria for approval as hereinafter set forth:

- [1] An accurate map of the project area, including its relationship to surrounding properties.
- [2] Statistical data on total size of project area, area of open space, density computation and proposed number of residential units, population analysis, market analysis, economic analysis, impact upon municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
- [3] The pattern of public and private roads, driveways, and parking facilities, and intended design standards.
- [4] The size, arrangement, and location of lots or of proposed building groups.
- [5] The type, size and location of structures.
- [6] The location of sewer and water facilities, drainage facilities, stormwater retention or detention basins, and any and all plans to control or reduce flooding on the subject site, and from the subject site to any and all areas on or off the site, whether within or without the corporate limits of the Village.
- [7] Architectural drawings and sketches illustrating the design and character of proposed structures.
- [8] The location of recreational and open space areas and areas reserved or dedicated for public uses such as school, park, etc.
- [9] General landscape treatment.
- [10] Existing topography and storm drainage pattern and proposed storm drainage system showing basic topographic changes.
- [11] General outline of intended organizational structure related to property owners' association, deed restrictions, and provision of services.
- [12] Garbage, recyclable materials, yard waste, or hazardous material collection, storage and pickup facility plans.

(c) A general summary of financial factors such as value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price, and total anticipated development cost of the project.

- (3) Referral to Plan Commission. Such petition shall be referred to the Plan Commission for study and investigation, including informal hearing if deemed necessary. The Plan Commission shall make its recommendation to the Village Board as to the appropriateness and desirability of the proposed development plans, and any changes or additional conditions applicable to such plans which it may feel necessary or appropriate.
- (4) Public hearing. Upon receipt of the Plan Commission's recommendation, the Village Board shall before taking affirmative action to approve such petition hold a public hearing on the proposal. Notice for such hearing shall include reference to the consideration of the specific proposed project development plans.

D. Permitted uses.

- (1) Any use permitted in the basic zoning district shall be permitted in a planned development.
- (2) Attached single-family and multiple-family dwellings with appropriate quality and character may be permitted in a planned development.

- (3) In addition to accessory uses permitted in the basic zoning district, such uses as a swimming or other recreational area, pavilion or similar use designed as an accessory amenity to the planned development may be permitted.
 - (4) When the planned development consists in whole or in part of residential units, each residential unit shall be occupied by only one family.
 - (5) The owner of property that is zoned for residential use and PDO Planned Development Overlay under this section may use a limited portion of such property for limited commercial office use upon initial and continuing compliance with all of the following requirements:
 - (a) The improvements to the subject property must include 250 or more residential dwelling units;
 - (b) No more than one unit of average size on the subject property shall be used for commercial office purposes, and such office operations are restricted to the interior of said unit;
 - (c) No exterior commercial sign(s) or interior sign(s) visible from the exterior shall be maintained on the subject property for the benefit of the commercial office purpose;
 - (d) The proposed commercial office use must not be incompatible with the residential use of the subject property as determined by the Village Board;
 - (e) The commercial office use must be owned and operated by the owner of the subject property;
 - (f) The requested office use must be expressly provided for within the development agreement required under Subsection F of this section or an amendment to such agreement that sets forth operational limitations, including, but not limited to, hours of operation and number of employees.
- E. Basis for approval. The Plan Commission in making its recommendations and the Village Board in making its determination shall give consideration and satisfy themselves to the following:
- (1) That the proposed development is consistent with the spirit and intent of this chapter, is in conformity with the general character of the Village and would not be contrary to the general welfare and economic prosperity of the Village or of the immediate neighborhood, but rather that the benefit from improved design of the resultant development justifies the variation from the normal requirements of this chapter through the approval of a planned development.
 - (2) That the proponents of the proposed development have demonstrated that they intend to start construction within a reasonable period following the approval of the project, that the project appears economically sound, that the proponents of the proposed development have the financial capacity to carry out the project as proposed and intend to commence and complete construction within a reasonable time from the date of approval.
 - (3) That the size, quality and architectural design of all buildings within the project will be compatible with the general character of the Village and specifically to the surrounding neighborhood. To arrive at such determination, the recommendation of the Building Board shall be obtained prior to the Plan Commission's report to the Village Board. Approval of individual building plans by the Building Board is not supplanted by this section.
 - (4) That the specific project plans have been prepared with competent professional advice and guidance.
 - (5) That setbacks shall be maintained along any boundary street of the project area as required by the basic zoning district.
 - (6) That no building shall be permitted closer to a side or rear boundary line of the project area than required by the applicable side or rear yard requirements of the adjoining zoning district abutting along a side or rear property line of the project.

- (7) That no building shall exceed the height limitation of the basic zoning district.
- (8) In the case of proposed residential developments:
 - (a) That such development will create an attractive residential environment of sustained desirability and economic stability, compatible with the character of the Village and where the economic impact of the development in terms of income levels, property values, and service demands is substantially as beneficial to the community as that which could be anticipated under the basic zoning.
 - (b) That the population composition of the development will not substantially alter adversely the impact upon school or other municipal service requirements as anticipated under the basic zoning.
 - (c) That the project will not create traffic beyond the capacity of the street system to serve it, and shall provide adequate off-street parking based upon the need generated by the development.
 - (d) That the total average residential density of the planned development based upon the specific design characteristics of the development proposed will be compatible with the previously stated criteria. Specifically, the allowable density for a given development shall be computed by dividing the gross area of the proposed development exclusive of existing public right-of-way by the appropriate density factor as follows:
 - [1] Single-family dwelling: 10,000 square feet per dwelling.
 - [2] Single family attached or multiple-family dwellings as follows:
 - [a] One-bedroom: 4,000 square feet per dwelling unit.
 - [b] Two-bedroom: 4,500 square feet per dwelling unit.
 - [c] Three-bedroom: 5,000 square feet per dwelling unit.
 - (e) Where the proposed development area includes more than one dwelling type, the density computation shall be made on the basis of the proportionate ratio involved. An increase in the computed allowable maximum density not to exceed 20% may be permitted as an incentive reward where in the opinion of the Plan Commission the character and quality of the development and of the amenities provided justify the additional density allowance.
 - (f) That the plan would result in the preservation of open land in a manner which would enhance the total environmental setting and desirability of the development and compensate for any reduction in individual lot area requirements which are allowed.
 - (g) That adequate guarantee is provided for permanent preservation of the residual common open land area resulting from the application of these regulations by private reservation, as an enhancement to the development.
 - (h) The common open area to be reserved shall be protected against building development by conveying to the municipality as part of the conditions for project approval an open space easement over such common open areas restricting them against any future building or use except as is consistent with that of providing natural or landscaped open space for the esthetic and recreational satisfaction of the surrounding residences. Buildings or uses for noncommercial recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the Village Board following approval of building, site, and operational plans by the Plan Commission and the Building Board.
 - (i) The care and maintenance of such common open space reservations shall be insured either by establishment of appropriate management organization for the project or by agreement with the municipality for establishment of a special service district for the project area on the basis of which the municipality shall provide the necessary

maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the project area. In any case, the Village shall have the right to carry out and levy an assessment for the cost of any maintenance which it feels necessary if it is not otherwise taken care of to the satisfaction of the Village. The manner of assuring maintenance and assessing such cost to the individual properties shall be determined prior to the approval of the final project plans and shall be included in the title to each property.

- (j) Ownership and tax liability of private common open space reservations shall be established in a manner acceptable to the municipality and made a part of the conditions of the plan approval.
- (9) In case of proposed commercial developments:
 - (a) That the economic practicality of the proposed development can be justified on the basis of purchasing potential, competitive relationship and demonstrated tenant interest.
 - (b) That the proposed development will be adequately served by off-street parking and truck service facilities.
 - (c) That the locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an effect upon the general traffic pattern of the area substantially incompatible with that anticipated under the basic zoning.
 - (d) That the architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not creating a substantially adverse effect upon the property values of the surrounding neighborhood.

F. Determination.

- (1) The Village Board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions. Such approval shall constitute approval of the specific project development plan.
- (2) The approval of a planned development shall be based on and include as conditions thereto the building, site, and operational plans for the development as approved, as well as all other commitments offered or required as regard to project value, character, or other factors pertinent to an assurance the proposed development will be carried out basically as presented in the official submittal plan. Detailed construction and engineering need not necessarily be completed at the time the project is approved but the approval of such preliminary plans is conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses.
- (3) The developer shall enter into an appropriate development agreement, in recordable form, with the Village to guarantee the implementation and continued maintenance of the development according to the terms of the conditions established as part of the development plan approval. Any change or modifications to such approvals or the development itself shall be accompanied by an amendment to the development agreement in recordable form, which amendment shall leave in full force and effect all prior development contract terms not specifically amended. Such contracts shall be binding upon the developer's successors and assigns and shall run with the land.
- (4) Any subsequent change or addition to an approved plan shall first be submitted for approval to the Plan Commission, and if in the Commission's opinion such change or addition is not substantial, it may recommend approval to the Village Board. If such change or addition is construed to be substantial, a public hearing shall be held prior to affirmative action by the Village Board on such recommendation.

- (5) Failure to comply with the conditions and regulations as herein established and as specifically made applicable to a specific project development shall be cause for termination of the approval for said project. At least 15 days' notice shall be given to the developer to appear before the Plan Commission and answer any such charge of noncompliance. If the Plan Commission finds the charges substantiated, they shall then submit to the Village Board recommendations as to specific steps to be taken to terminate the development as rapidly as possible if the situation is not satisfactorily adjusted within a specific period. Such a termination should be in a manner which will achieve the maximum degree of the intended development objectives consistent with environmental compatibility with the neighborhood and with the general welfare of the community.

G. Signage.

- (1) Where the planned development is a residential use, signs for the purpose of identification of the development may be erected and maintained in conformity with the procedure, requirements and standards set forth in Chapter **540** for signs in an institutional district.
- (2) Where the planned development use is commercial, signs or other devices for advertising the business conducted on the premises may be erected and maintained in conformity with the procedure, requirements and standards set forth in Chapter **540** for signs in a business district.
- (3) Signs indicating that a lot, parcel of real estate, or building is for sale or lease or has been sold may be erected and maintained in conformity with the procedure, requirements and standards set forth in §§ **540-4** and **540-5**, except that each for sale or lease sign may have a total area of not to exceed 32 square feet.

§ 745-22. Cultural Overlay District.

A. Uses.

- (1) The basic zoning in a Cultural Overlay District continues in effect and any and all uses as authorized by such basic district continue to be authorized subject to the provisions of this chapter in respect to such basic district.
- (2) In addition to uses authorized by the basic district, the following uses may be permitted in a Cultural Overlay District conditioned on compliance with the provisions of this section:
 - (a) Art gallery.
 - (b) Museum.
 - (c) Library.

B. Procedure. The procedure hereinafter set forth shall be followed before any use permitted by Subsection **A(2)** above is authorized. The applicant shall pay a fee described in Chapter **63** of this Code at the time of filing the application. There shall be filed with the Village Board:

- (1) A statement describing the general character of the intended use under this section, including the days of the week and the hours of day that people will be permitted in the premises.
- (2) An accurate map of the project area, including its relationship to surrounding properties.
- (3) Statistical data on total size of project area, area of open space, and impact upon municipal services.
- (4) The pattern of public and private roads, driveways and parking facilities.
- (5) General landscape treatment.
- (6) If a new building or addition or remodeling to an existing building is considered, then also architectural drawings and sketches illustrating the design and character of such proposed new

building or addition or changes.

- (7) General outline of the intended organizational structure related to ownership and operation of the project.
 - (8) Estimated financial factors, such as estimated cost of maintenance and operation and estimated source or sources of income.
 - (9) Such other information as the Village Board or the Plan Commission considers necessary to act under this section.
- C. Referral to the Plan Commission. Upon receipt of the above material the Village Board, if it believes the proposed project might be acceptable, shall refer the matter to the Plan Commission for study and investigation. Such Commission, if it desires, may have a public hearing, formal or informal. The Plan Commission shall make its recommendation to the Village Board as to the appropriateness and desirability of the proposed use, and any changes or conditions which it feels are necessary or advisable.
- D. Public hearing. Upon receipt of the Plan Commission's recommendation, the Village Board may or may not approve the proposed use. Before taking action to approve such use, the Village Board shall hold a public hearing on the proposal.
- (1) Notice of such hearing shall include reference to the consideration of the specific proposed project including a brief description thereof.
 - (2) Notice of such hearing shall be given by:
 - (a) Publication once each week for two weeks, the first such publication to be not less than three weeks prior to the date of the hearing, and
 - (b) Mailing a copy of such notice to the owner of each lot or parcel of real estate that is within 500 feet of the lot or parcel of real estate on which the proposed use will be exercised. Such mailing shall be made not less than three weeks prior to the date of the hearing. The owners of lots or parcels of real estate to whom notice is to be given shall be determined from the records of the Village for the levying of real estate taxes.
- E. Basis for approval. The Plan Commission, in making its recommendation, and the Village Board, in making its determination, shall give consideration to and satisfy themselves as to the following in respect to the proposed use:
- (1) That the proposed development is consistent with the spirit and intent of this chapter; is in conformity with the general character of the Village, and would not be contrary to the general welfare and economic prosperity of the Village or the immediate neighborhood.
 - (2) That the project appears economically sound and that there are or adequate arrangements have been made to reasonably assure the continued maintenance of the development.
 - (3) That the contemplated use will not:
 - (a) Cause material depreciation in property values in the immediate neighborhood, nor
 - (b) Materially adversely affect the use and enjoyment of property in the immediate neighborhood.
 - (4) The setbacks will be maintained along any boundary street of the project area as required by the basic zoning district.
 - (5) That no building will be permitted closer to the side or rear boundary line of the project area than required by the applicable side or rear yard requirements of the adjoining zoning district abutting along a side or rear property line of the project.
 - (6) That no building shall exceed the height limitation of the basic zoning district.

- (7) That the project will not create traffic beyond the capacity of the street system to reasonably serve it, and that there will be adequate off-street parking based upon the need generated by the proposed project.
 - (8) That the care and maintenance of the grounds and buildings comprising such project will be assured by the establishment of an appropriate management organization, or by the Village with the cost to be charged as a special assessment, and that the Village shall have the right to perform such maintenance work as it feels reasonably necessary to properly maintain the building and grounds, if this is not otherwise taken care of, and to levy the cost thereof as a special assessment. Any such special assessment shall be due and payable and collectible as all other special assessments, even though the property may be exempt from general real estate taxes, in whole or in part.
- F. Determination. The Village Board, after due consideration, including consideration of the report of the Plan Commission, may reject the project or approve the project as originally proposed or approve it subject to certain changes, modifications, provisions and conditions as the Board considers reasonably necessary.
- G. Deed restrictions; contract. The Village Board shall require that the owner of the property on which such project will be located and/or any organization involved in the management and operation of such project place on the property deed restrictions, or enter into such contract with the Village as the Village Board determines reasonably necessary to assure continued compliance with the provisions of this section, and containing such provisions and conditions as the Village Board deems proper to regulate the use and maintenance of any changes in the project. The Village Board may require both deed restrictions and a contract.
- H. Change. No change or addition to any project approved under this section shall be made without being first submitted to the Plan Commission for its report to the Village Board and then approval by the Village Board.
- (1) As a condition to the approval of any such requested change or addition to a project previously approved, the Village Board may require so much of the procedure for original approval of a project to be followed as it determines reasonably necessary in order to make a determination as to the proposed change or addition and may require modified or additional deed restrictions to be recorded or an amendment to an existing contract or a new contract, or both such deed restrictions and contract.
 - (2) If in the opinion of the Village Board a material change or addition is proposed, the Village Board shall hold a public hearing in respect thereto and give notice thereof as provided by Subsection **D** above prior to giving approval to the proposed change or addition.
- I. Building Board. Approval of a project pursuant to this section does not affect the necessity of approval by the Building Board in respect to any new construction or remodeling and the design and placement of any sign on the premises.

§ 745-23. Wireless telecommunications mobile service facilities.

[Amended 12-10-2013 by Ord. No. 2013-10]

- A. Purpose. This section is intended to regulate mobile service facilities to the full extent allowed by Wisconsin Statutes § 66.0404 and other applicable laws. Nothing herein is intended to regulate or to authorize the regulation of mobile service facilities in a manner that is preempted or prohibited by Wisconsin Statutes § 66.0404 or other applicable laws. These regulations apply equally to small wireless facilities, however, nothing herein is intended to regulate or to authorize the regulation of small wireless facilities in a manner that is preempted or prohibited by Subpart U to Part 1 of Title 47 of the United States Code of Federal Regulations or other applicable laws or regulations.

[Amended 4-9-2019 by Ord. No. 2019-03]

B. Definitions. All terms used herein shall have the meaning described in Wisconsin Statutes § 66.0404(1). Mobile service support structures and mobile service facilities are referred to herein in some cases as "MSSF." "Small wireless facilities" as used herein shall have the meaning described in Part 1 Title 47 CFR Subpart U, § 1.6002(1).
[Amended 4-9-2019 by Ord. No. 2019-03]

C. New towers and facilities. The siting and construction of new mobile service support structures and facilities whether intended to serve small wireless facilities or any other MSSF, shall be subject to the following requirements:
[Amended 4-9-2019 by Ord. No. 2019-03]

(1) Application process. The applicant shall submit a written application which shall include all of the following information:

- (a) The name and business address of, and the contact individual for, the applicant.
- (b) The location of the proposed tower.
- (c) The location of the mobile service facility.
- (d) A construction plan which describes the tower, equipment, network components, antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
- (e) An explanation as to why the applicant chose the proposed location, and why the applicant did not choose co-location, including a sworn statement from the responsible party attesting that co-location within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.

(2) Determination of completeness within 10 days of submittal. The Village Building Inspector shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Village Building Inspector shall notify the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.

(3) Conditional use review procedure. The MSSF shall be a conditional use, and shall be reviewed pursuant to the following procedures:

- (a) Plan Commission review. After an application and all required information has been filed, the Plan Commission shall review the matter and shall make a recommendation to the Village Board.
- (b) Fee. Any petition shall be accompanied by a fee as set from time to time by the Village Board to defray the cost of notification and holding of public hearing. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes § 66.0404(4)(d).
- (c) Determination. The Village Board shall hold a public hearing, upon Class 2 notice as described in Chapter 985, Wisconsin Statutes. The Village Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations, provided further that final action shall be taken within 90 days of receipt of a complete application unless the time extended by the petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If conditional use status is not granted, the reasons therefor will be included in such record. A grant of conditional use status, subsequent changes or additions thereto and terminations thereof shall be recorded as follows:

- [1] An official record of such conditional grant shall be prepared by the Village Clerk/Treasurer on a form prescribed therefor which shall include the description of the use for which the grant is given and all conditions attached thereto. A copy of the completed form shall be recorded at the Milwaukee County Register of Deeds as a covenant on the title for the premises for which the conditional use was granted.
 - [2] The occupancy permit shall be appropriately noted as to the conditional status granted.
 - [3] Indication shall also be made on the Zoning Map by appropriate code number or symbol.
- (4) Requirements.
- (a) Siting standards.
- [1] AMSSF shall:
 - [a] Be substantially screened from public view and rights-of-way by trees, mature vegetation, natural features or structures on the subject property;
 - [b] Be completely camouflaged in a manner that is architecturally compatible with the structure on which it is mounted and integrated as an integral architectural element of the structure; or
 - [c] Not contain guyed towers or lattice towers.
 - [2] The screening required in this section may exist on the subject property or be installed as part of the proposed MSSF or a combination of both.
 - [3] No MSSF shall be located on a site containing a dwelling, nor be closer than 500 feet from a property line of an existing dwelling. No MSSF shall be closer than 500 feet from the property line of a vacant lot or vacant parcel in a residentially zoned district or a school, except as follows: The minimum setback from dwellings and schools may be reduced to no less than 100 feet for communications facilities that are up to 100 feet in height that are located on lots that have existing public utility, state, federal, Milwaukee County, or Village government structure(s) at the time of the application, and provided further that the Board finds in its consideration of the conditional use order that this reduction is appropriate and consistent with the intent of the Code under all of the facts and circumstances presented.
[Amended 10-13-2015 by Ord. No. 2015-03]
 - [4] A MSSF shall be set back from all property lines a distance equal to the height of the MSSF and comply with any other zoning setback requirements, subject to the following. If an applicant provides the Village with engineering certification showing that the tower is designed to collapse within a smaller area than the radius equal to the height of the tower, the smaller area shall be used unless the Village has and provides to the applicant substantial evidence that the engineering certification is flawed. The front, side, or rear setbacks, building size, open space requirements, and use limitations of Chapter 745, may be modified by the Village Board in its consideration of the application and the standards of § 745-23, and shall be determined by the grant or denial of the conditional use permit. Due to the constraints of § 66.0404, Wis. Stats., and other laws, the conditional use approval procedures of this § 745-23 shall be the exclusive zoning approval procedure for a new or substantially modified MSSF, eliminating the need for any other procedural reviews or approvals described in Chapter 745, including but not limited to the review and approval procedures described §§ 745-18, 745-19 and 745-20; although the intent of such sections may be considered to the extent that they are relevant to the standards of this § 745-23.
[Amended 10-13-2015 by Ord. No. 2015-03]

- [5] A side-mounted MSSF shall not project more than 42 inches from the side of a non-dwelling unit facade, shall not extend above the highest point of the roof of the structure and shall be screened and camouflaged as required herein. The MSSF shall not project into an easement, driveway or setback unless otherwise specified in the conditional use permit.
 - [6] An equipment cabinet shall be located within or adjacent to the structure on which a MSSF is placed, or located below natural grade underground, if site conditions permit and if technically feasible. An equipment cabinet shall be completely screened from view by compatible wall, fence or landscaping consistent with Village landscaping guidelines, except that an equipment cabinet larger than 144 cubic feet may not be required to be totally screened from view if the Village Board finds, at its discretion, that the cabinet has been designed with a structure or facade, materials, colors or detailing that effect a structure which emulates the residential character of the area.
 - [7] A security barrier shall be screened from view through the use of appropriate landscaping materials consistent with Village landscaping guidelines.
- (b) Design standards. The following design criteria apply to consideration of a conditional use permit for a MSSF, in addition to others which may be identified and utilized by the Village Board in its consideration of the conditional use permit or amendment thereto:
- [1] Appearance. The degree to which the MSSF "blends with" or "disturbs" the setting, the subject property and its character and use, or neighboring properties and their character and use; and to the extent allowed by law, the Village shall consider the cumulative visual effects of MSSFs and any mount, specifically their appearance or domination of the skyline, natural and structural features or terrain, in determining whether to approve a conditional use permit;
 - [2] Form. The degree to which the shape of the MSSF and any equipment cabinet relates to its surroundings;
 - [3] Color. A MSSF shall be in natural tones and a nonreflective color or color scheme appropriate to the background against which the MSSF would be viewed from a majority of points within its viewshed. "Natural" tones are those reflected in the natural features and structural background against which the MSSF is viewed from a majority of points within its viewshed. Final colors and color scheme must be approved by the Village Board;
 - [4] Size. The silhouette of the MSSF shall be reduced to minimize visual impact.
 - [5] Materials. Materials will be durable and maintain their aesthetic appearance.
- (c) Noise and environmental standards.
- [1] To the extent allowed by law, the following noise and environmental standards apply to consideration of a conditional use permit for a MSSF in addition to the monitoring requirements of this section:
 - [a] MSSF shall not generate noise in excess of 50 decibels (dba).
 - [b] An environmental assessment is required by the National Environmental Policy Act (NEPA) for any MSSF prior to commencing operations where any of the following exist: wilderness area; wildlife preserve; endangered species; historical site; Indian religious site; floodplain; high intensity white lights in residential neighborhoods. An environmental assessment which, at a minimum, conforms with FCC requirements shall be submitted to the Village for each MSSF where any of the above exists, and when the FCC requires such an environmental assessment to be submitted to the FCC. If the applicant has determined that an environmental assessment is not required pursuant to FCC rules, this article and applicable state law and Village Code, a written certification to that effect must be

submitted to the Village. If an application has not included an environmental assessment that the Village finds to be necessary under the National Environmental Policy Act, the Village may prepare, or cause to be prepared, such an environmental assessment at the applicant's expense. The environmental assessment shall be amended or revised by the applicant within 30 days after notice to do so from the Village when modifications are made or occur on the MSSF. Failure to amend or revise shall constitute grounds for revocation of the conditional use permit or amendment.

- [2] Within 90 days after the approval of the conditional use permit, and annually from the date of approval of the permit or amendment, the permittee shall submit existing and maximum future projected measurements of noise from the MSSF for the following:

- [a] Existing MSSF: maximum noise from the MSSF.
- [b] Existing MSSF plus cumulative: maximum estimate of noise from the existing MSSF plus the maximum estimate of noise from the total addition of co-located MSSFs.
- [c] Certification, signed by an acoustical engineer, stating that noise measurements are accurate and meet Subsection C(4)(c)[2](a) above.

(d) Co-location and limitations.

- [1] A permittee shall cooperate with other personal wireless service carriers in co-locating antennas and mounts, provided the proposed co-locators have received a conditional use permit for the use at such site from the Village. A permittee shall exercise good faith in co-locating other personal wireless service carriers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities).
- [2] All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal. Applicants choosing to construct a new mobile service support structure must provide an explanation as to why the applicant chose the proposed location and why the applicant did not choose co-location. Such explanation shall include a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that co-location within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible ; or is economically burdensome to the mobile service provider.
- [3] Failure to comply with the co-location requirements of this section may result in the denial of a permit request or revocation of an existing permit.

(e) Aesthetic requirements. The following aesthetic standards apply:

- [1] In areas where facilities are currently nonexistent or underground, undergrounding is required.
- [2] No new aboveground structures, including colocations on existing structures, shall be placed within 500 feet of an historic structure recognized as a historic landmark by the U.S. Department of the Interior, or the State of Wisconsin Historical Society. The 500-foot separation is waived for installations that are completely concealed from view, or are not visible from locations where the historic structure can be observed.
- [3] Attachments to existing structures shall be designed to be flush with the existing structure as much as can reasonably be done, shall be a color that matches the existing structure and shall be the smallest size possible to reasonably accommodate the intended purpose. If the structure to which the attachment is made changes color

due to repainting, resurfacing or other means, the attachment shall be modified to match the new color.

- [4] Any party objecting to the requirements of this Subsection **C(4)(e)** shall have an opportunity to demonstrate that the requirement constitutes an effective prohibition in violation of state or federal law, upon application to the Village Board, and the Village Board shall waive the requirement if it finds the standard to effectively prohibit the expansion of wireless technology in the Village or otherwise violate state or federal law.

(5) Permit limitations and general conditions.

- (a) In addition to the general authority of the Village to review a conditional use permit, the conditional use shall be reviewed in each of every fifth year after the date of permit approval. Continuation of the use after each such review shall be specifically conditioned upon continued compliance with all existing regulations affecting the MSSF.
- (b) The conditional use permit shall become null, void and nonrenewable if the permitted facility is not constructed and placed into use within one year of the date of Village Board permit approval, provided that the conditional use permit may be extended one time for six months if construction has commenced before expiration of the initial year.
- (c) The permit shall expire and the permittee must remove the MSSF if the use is discontinued for a period in excess of 90 days in any three-hundred-sixty-five-day period. A permittee shall notify the Village in writing at least 30 days prior to abandonment or discontinuance of the conditional use permit.
- (d) If the conditional use permit expires, terminates, is abandoned or revoked for any reason pursuant to this section, if removal of the MSSF is required in this article, or if the use is discontinued pursuant to this section, the MSSF shall be removed as required herein. If the MSSF is not so removed, the Village may cause the facility to be removed and all expenses of removal shall be paid by the owner of the land where the facility is located. If not paid by the owner within 30 days of notice by the Village, the Village's costs shall be charged against the property pursuant to Wisconsin Statutes Section 66.0627, and shall constitute a lien against the subject property. The term "remove" shall include but not be limited to the following:
 - [1] Removal of antenna, equipment cabinet, security barrier from the site;
 - [2] Transportation of the antenna, mount, equipment, equipment cabinet or security barrier to a location off-site; if the location is within the Village limits, it is subject to approval by the Village.
 - [3] Restoration of the site of the MSSF to its natural condition, except that any landscaping and grading shall remain in finished condition.
- (e) The permittee(s) and the personal wireless service carrier shall jointly and severally warrant and represent to the Village and its residents the safety of the MSSF. The personal wireless service carrier and the permittee(s), upon granting of a conditional use permit or amendment for a MSSF use, shall indemnify, protect and hold harmless the Village, its officers and agents and residents, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney fees (collectively "liabilities") incurred by the Village arising directly or indirectly from: the MSSF use as contemplated herein and within the conditional use permit; and the installation and operation of the MSSF. The personal wireless service carriers' compliance with this section is an express condition of the conditional use permit and is binding on any and all of personal wireless service carriers or permittee(s) successors and assigns. The requirements of this section shall survive the termination of any such permit or amendment.

- (f) The permittee shall carry a commercial general liability insurance policy with limits of liability not less than \$1,000,000 general aggregate, \$1,000,000 personal injury and \$1,000,000 each occurrence. Permittee shall also carry umbrella liability insurance with limits of liability not less than \$10,000,000 each occurrence, \$10,000,000 aggregate. Coverage under either policy shall not contain a standard form pollution exclusion, nor shall it exclude claims or suits that arise from the effects of electromagnetic fields or radiation, if such coverage is available. The maximum deductible shall be \$5,000 per occurrence.
- (g) The permittee shall maintain the MSSF to standards that are imposed by the Village at the time of granting of a permit or amendment thereto. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the permittee fails to maintain the facility, the Village may undertake the maintenance at the expense of the permittee or terminate or revoke the permit, at its sole option. If such maintenance expense is not paid by the owner within 30 days of notice by the Village, the permittee agrees that the Village's costs shall constitute a lien upon the subject property upon its execution and filing with the county recorder's office.
- (h) A conditional use permit or amendment granted to a permittee is specific to the owner and personal wireless service carrier and may not be assigned; provided, however, that the personal wireless service carrier may assign its interest in the permit to any subsidiary or other affiliate of the personal wireless service carrier. In the event of such assignment, the assignee shall re-execute the conditional use permit or amendment thereto within 30 days of the effective date of the assignment or the permit shall automatically expire. Permittee shall notify the Village of any change in ownership or operations of the MSSF at least 90 days prior to such change taking place for approval by the Village, which approval shall not be unreasonably withheld.
- (i) Where the Village Board finds that strict compliance with the requirements of this section may result in extraordinary hardship or are needed to ensure the Village's compliance with federal or state law, the Village Board may modify such requirements only upon a written showing by the permittee(s) of noncompliance with applicable law or extraordinary hardship so that substantial justice may be done and the public interest secured. "Hardship," as used herein, shall include, but not be limited to, a finding that special circumstances applicable to the property, including its size, shape, topography, location or surroundings, will deprive such property of privileges enjoyed by other property in the same classification in the same zoning district through the strict application of this chapter. In granting such modifications, the Village Board may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied and modified.
- (j) Any violation of the terms of this section or the conditional use permit may result in revocation by the Village of the conditional use permit. The Village may revoke the conditional use permit upon 60 days' prior notice, if, in its sole judgment, it determines the MSSF poses a safety risk. If such safety risk(s) are not cured by the permittee within 60 days after notice from the Village, the Village may revoke or modify the conditional use permit. Acceptance of any portion of the conditional use permit is acceptance of the entire conditional use permit and the terms of this section.
- (k) Within 90 days after issuance of the FCC operational permit, the personal wireless service carrier shall provide a copy of such permit to the Village and register the MSSF, providing information and data as may be requested by the Village. Any change in the permit or registration data shall be filed with the Village within 30 days after the change is made. The personal wireless service carrier shall submit to the Village a copy of its FCC Form 600 prior to the Village's approval of final inspection of a building permit for the MSSF or portion thereof.
- (l) The Village and its agents are authorized to enter on the subject property and MSSF site for the purpose of inspection and determining compliance with this section and the

provisions of the conditional use permit.

- (6) Limitations upon authority. The Village review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes Section 66.0404(4). In the event the applicant believes the Village has exceeded its authority in this regard, the applicant shall notify the Village Board in writing and the Village Board reserves the right to reconsider the matter, to ensure that applicable laws are followed.

D. Modifications. The construction of modifications to an existing mobile service support structure or mobile service facility, and any installation of a small wireless facility on an existing structure, shall be subject to the following requirements:
[Amended 4-9-2019 by Ord. No. 2019-03]

(1) Substantial modification.

- (a) Application and review process. A substantial modification is regulated the same as a new structure or facility, as described in Subsection C above, except that the required plans should describe the proposed modifications, rather than describe the new structure or facility.

(2) Not substantial modifications.

- (a) Application information. The applicant shall submit a written application that describes the applicant's basis for concluding that the modification is not substantial, and all of the following information:

[1] The name and business address of, and the contact individual for, the applicant.

[2] The location of the affected support structure.

[3] The location of the proposed facility.

- (b) Completeness determination within five days. The Village Building Inspector will determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Village Building Inspector must notify the applicant in writing within five days of receiving the application if it is found not to be complete, specifying in detail the required information that was incomplete. The applicant may resubmit as often as necessary until it is complete.
- (c) Fee. Any petition shall be accompanied by a fee as set from time to time by the Village Board to defray the cost of review. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of the conditions to be improved shall be charged to the petitioner. Such fee shall not exceed the limits established by Wisconsin Statutes § 66.0404(4)(d).
- (d) Determination. The Village Board shall make a decision on the application within a reasonable time after receipt of the Plan Commission recommendations, provided further that final action shall be taken within 45 days of receipt of a complete application unless the time is extended by the petitioner. Said decision shall be stated in writing and a copy made a permanent part of the Village records. If approval is not granted, the reasons therefor will be included in such record.
- (e) Limitations upon authority. The Village review and action in the matter shall be subject to the limitations imposed by Wisconsin Statutes § 66.0404(4), and such other laws as may apply which may include 47 U.S.C.A. § 1455. In the event the applicant believes the Village has exceeded its authority in this regard, the applicant shall notify the Village Board in writing and the Village Board reserves the right to reconsider the matter, to ensure that applicable laws are followed.

§ 745-24. Setback exceptions.

- A. Where the side or rear yard of a lot abuts on the east right-of-way of I-43, the setback required for either such side yard or rear yard as provided by the zoning district in which said lot is located shall be maintained except as hereinafter provided.
- B. On application to and approval by the Building Board, a building or structure for an accessory use may be located within the area otherwise required for a side yard or rear yard setback, provided it is not closer to the right-of-way line of I-43 than three feet, and landscaping adequate to shield such accessory building or structure from said right-of-way is planted and maintained.
- C. Application for approval of the construction of such building or structure shall be made to the Building Board along with such drawing or plat as said Board considers adequate to show the proposed location of such building or structure, and also to show the proposed location and type of planting that will be made and maintained to shield such proposed building or structure from the right-of-way. If the Building Board determines such planting is adequate to so screen said proposed building or structure and the building or structure otherwise complies with the Code of the Village of Fox Point, it shall approve the construction of such accessory building or structure and the landscaping; otherwise, it shall disapprove. The planting approved for such screening shall be done not later than one year after the granting of a building permit for the building or structure, and after being planted shall be maintained in a neat manner, and in the event of the death of any such planting, replacement shall be made.
- D. Failure to make the planting within the time herein provided or to maintain the same as herein provided shall constitute a violation of this section, and each day such condition continues to exist shall be a separate violation. In the event the Building Board determines that the planting does not meet the standards herein established, an appeal may be taken to the Board of Appeals as in other cases.
- E. The Building Inspector shall not issue a building permit for the construction of a building or structure located as authorized by this section until the landscaping required by this section has been approved as above provided.

§ 745-25. Special exceptions at boundary of zoning district.

- A. Where a use of property exists which is authorized in a zoning district (hereinafter referred to as "basic district") as a special exception, such use may be authorized to extend, not to exceed 40 feet, into property in a bordering zoning district (hereinafter referred to as "bordering district"), even though such use would not otherwise be permitted in the bordering district.
- B. Application shall be made to the Village Board requesting such extension. Such application shall be in writing signed by the owner of the property in the bordering district and shall set forth the use which exists in the basic district and which it is desired to extend into the bordering district and the reason such extension is requested. A filing fee as described in Chapter 63 of this Code shall be paid to the Village at the time of filing the application.
- C. The Village Board shall refer such application to the Plan Commission for its consideration. The Plan Commission shall consider the matter and report to the Village Board making its recommendation as to whether or not such extended use should be authorized, and may recommend that such extended use be subject to conditions and safeguards which it considers necessary to or desirable for the public interest, and to meet the requirements of this section.
- D. The Plan Commission in acting on the request shall take into consideration:
 - (1) Uses authorized in the basic district.
 - (2) The particular use existing on the property involved in the basic district.
 - (3) Uses authorized in the bordering district.
 - (4) The particular use existing on the property involved in the bordering district.

- (5) The character and use requested for the extended use, including proposed buildings and traffic layout.
 - (6) The character and use of property and buildings in the vicinity of the property which would be subject to the extended use.
 - (7) Such other matters as the Plan Commission considers germane to the question.
- E. The Plan Commission may recommend the authorization of the extended use if it is of the opinion that the extended use:
- (1) Will not be injurious to the other properties in the neighborhood and will not interfere with the use and enjoyment of their property by persons residing or working on other property in the neighborhood;
 - (2) Will not cause a substantial depreciation in the property value in the neighborhood; and
 - (3) Will be in harmony with the general purpose and intent of this chapter.
- F. On the receipt of the recommendation of the Plan Commission, the Village Board shall review the same and, applying the standards above set forth for the Plan Commission in considering the matter, shall make its own determination as to whether or not to authorize the extended use, and the Village Board may authorize such use or may deny it, or may authorize it subject to conditions and safeguards as above provided in respect to the Plan Commission in making its recommendation.
- G. Before taking action to authorize such use, the Village Board shall hold a public hearing on the proposal.
- (1) Notice of such hearing shall include reference to the consideration of the specific proposed extended use, including a brief description thereof.
 - (2) Notice of such hearing shall be given by:
 - (a) Publication once each week for two weeks, the first such publication to be not less than three weeks prior to the date of the hearing; and
 - (b) Mailing a copy of such notice to the owner of each lot or parcel of real estate that is within 500 feet of the real estate on which the proposed use will be exercised. Such mailing shall be made not less than three weeks prior to the date of the hearing. The owners of lots or parcels of real estate to whom notice is to be given shall be determined from the records of the Village for the levying of real estate taxes.
- H. Any extended use so granted is limited solely to that use. If the use of the property in the basic district is changed, this does not authorize the changed use in the bordering district.
- I. The above provision shall apply when the basic district is in another municipality, as well as when it is in the Village of Fox Point.
- J. Discontinuance of an extended use for a period of six months or failure to comply with all conditions and safeguards specifically made applicable to the extended use shall be cause for termination of the authorization of said extended use. At least 15 days' notice shall be given to the owner of the real estate on which the extended use is authorized to appear before the Village Board and answer any charge of noncompliance. If the Village Board finds the charges substantiated, it may terminate the authority for such extended use.
- K. Any person feeling aggrieved by the action of the Village Board in authorizing, including the authorization subject to conditions and safeguards, or refusal to authorize an extended use, or the termination of such authorization as provided in Subsection J above, may appeal to the Board of Appeals in the same manner provided by Wisconsin Statutes for appeals to the Board of Appeals.^[1]
- [1] *Editor's Note: Original Sec. 14.25, which immediately followed this section, was repealed 4-11-2006. See now § 745-4B.*

§ 745-26. Modification of open area.

- A. The open area, but not the setback requirement, for a lot in any residence district may be reduced as set forth herein, below the open area required by this chapter.
- B. Application shall be made to the Building Board which, along with other papers required for a building permit, shall include a plat plan showing, among other things, the location of the proposed structure on the lot, all in such detail as the Building Board may reasonably require.
- C. If the erection of the proposed structure will reduce the open area of the lot on which it is to be built more than 5% below the open area requirement for the lot, then the following additional obligations shall apply:
 - (1) The application to the Building Board shall include a plan, in such detail as the Building Board may require, showing: the location and type (Genus and species) of all trees six inches in diameter at breast height (dbh) or larger that are within the greater of the following areas (whether located on the subject parcel or elsewhere):
 - (a) Within 20 feet of the proposed structure; or
 - (b) Within an area that is affected in any manner by the proposed construction activity.
 - (2) Except as to any tree that is being removed, the "tree protection zone" of all trees that are three inches or larger dbh shall be preserved and protected from any disturbance, by the exclusion of all heavy equipment and heavy machinery. The tree protection zone shall be marked on the property. The tree protection zone shall mean that area around a tree trunk that extends vertically from the top of the tree canopy to 36 inches below ground level and horizontally in all directions from the outer edge of the tree trunk one foot for every inch of the tree's diameter at breast height (dbh).
 - (3) If any tree that the Village Forester deems to be desirable, and that is three inches or larger dbh, will be removed in conjunction with the construction, whether the tree is on public or private property, tree replacement is required. The Village Forester shall determine what replacement tree(s) is required. The replacement tree(s) required by the Village Forester shall have a total diameter at breast height (dbh) of 50% up to 100% of the total dbh of the removed tree(s). No replacement tree shall have a dbh of less than 1.5 inches.
- D. The reduction of open area shall be authorized when the Building Board, after its examination of the application and accompanying documents and after viewing the site of the proposed structure, has found as a fact:
 - (1) That the reduction of open area of the lot resulting from the erection of the proposed structure will not cause a substantial depreciation of the property values of the neighborhood; and
 - (2) That the erection of the proposed structure will not reduce the open area of the lot on which it is to be built more than 15% below the open area requirement for the lot.

§ 745-27. Public utility buildings.

Any building any portion of which will be above the grade of the lot on which it is erected which will be used by a public utility may be erected in any district in the Village, provided the provisions of this chapter, except the purpose for which the building is to be used, are complied with, and provided further the application for the building permit is referred by the Building Inspector to the Plan Commission and the Plan Commission determines that the building, when erected, is reasonably necessary for the public convenience and welfare and in harmony with the general purpose and intent of this chapter, and the Plan Commission may authorize the issuance of a permit subject to appropriate conditions and safeguards to accomplish such purpose.

§ 745-28. Property not in specified district.

In the event that there is any land in the Village of Fox Point which, as shown by the Official Zoning Map or amendments thereto, is not included in a zoning district, or if the provisions of the ordinance placing any land in a zoning district are held invalid by a court of competent jurisdiction, either in its entirety or as to a specific lot, piece or parcel of land, then each such lot, piece or parcel of land shall be considered as in a C Residence District.

§ 745-29. Enforcement by Building Inspector.

It shall be among the duties of the Building Inspector of the Village of Fox Point to see that the requirements of this chapter are met and the provisions thereof enforced insofar as lies within his power under the laws of the State of Wisconsin and the ordinances of the Village of Fox Point. Appeals from the decisions of the Building Inspector involving this chapter shall be taken to the Board of Appeals as provided for in § 62.23(7)(e), Wis. Stats., and acts amendatory thereof and supplementary thereto.

§ 745-30. Filing plans and specifications.

A copy of the complete plans and specifications for the erection or alteration of any permanent structure within the Village of Fox Point, including sewage disposal and water system, with all information necessary for the completion of the work, together with a statement of ownership and a survey of the property showing thereon the exact location of all existing and proposed buildings and systems; shall be filed with the Building Inspector, but no such work shall be commenced by any person without first receiving a permit from the Building Inspector, who shall issue or refuse such permit in writing within 20 days after proper application therefor.

§ 745-31. Certificate of occupancy.

No premises shall be occupied or used and no buildings now or hereafter erected or altered shall be occupied, used or changed until a certificate of occupancy shall have been issued by the Building Inspector of the Village of Fox Point stating that the building or proposed use of the building or premises complies with the provisions of the laws of the State of Wisconsin and the ordinances of the Village of Fox Point with respect to the health, building and zoning regulations.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

§ 745-32. Enforcement by peace officers.

Nothing in this chapter shall be construed to prohibit any officer of the Village of Fox Point with the powers of a peace officer from instituting proper proceedings for the restraint of violation of this chapter or the apprehension and punishment of a person violating any of the provisions of this chapter in the manner provided by law. Furthermore, the proper authorities or any adjacent or neighboring property owner who shall be specially damaged by violation of this chapter may, in addition to other remedies, institute an action or other proceeding pursuant to the provisions of § 62.23(7)(f), Wis. Stats., and all acts amendatory thereof and supplementary thereto.

§ 745-33. Continuing violations.

Each day during which a violation of this chapter exists, regardless of whether the violation occurred by reason of an act of commission or a mere failure to act or an act of omission, shall be deemed a separate and distinct offense.

§ 745-34. Violation and penalties.

- A. Any person violating, disobeying, circumventing, neglecting or refusing to comply with or resisting the enforcement of any of the provisions of this chapter shall be guilty of violation of this chapter, and, upon conviction thereof, shall be subject to all provisions, remedies, and penalties as set forth in § 1-4 of the Village Code.
- B. If any person shall sell, transfer or otherwise dispose of any portion of a lot subsequent to the application for and during the life of a building permit for the erection of a building upon said lot, issued pursuant to an application for such permit, or after the erection of a building whereby the area of said lot is reduced below the minimum requirement of this chapter, said person shall be guilty of a violation of this chapter and subject to the penalty therefor hereinabove provided.
- C. No person purchasing land within the Village of Fox Point whereby the transferor violates this chapter as specified in § 745-30 may include the area of the land so purchased as a portion of his lot for the purpose of computing the area thereof on application for a building permit, except insofar as the land so purchased was in excess of the amount required by the transferor at the time of the transfer in order that the transferor's lot might comply with the minimum requirements of this chapter applicable thereto.

§ 745-35. Amendments.

This chapter may be amended from time to time following the procedure as provided by Wisconsin Statutes then in effect for amendment of zoning ordinances.

§ 745-36. Board of Appeals.

[Amended 8-10-2010 by Ord. No. 2010-12]

- A. The Village President, pursuant to the Wisconsin Statutes, shall, subject to the confirmation by the Board of Trustees, appoint members and alternate members of a Board of Appeals with terms of office commencing April 1 and shall designate one of the members as Chairperson.
- B. The Board of Appeals shall have all the powers and authority vested in such a board by § 62.23(7)(e), Wis. Stats., and all acts amendatory thereof and supplementary thereto.
- C. In addition to the authority granted under § 62.23(7)(e), Wis. Stats., the Board of Appeals shall have the power and authority to grant a special exception from the dimensional requirements of this chapter where the Board of Appeals finds it necessary, based upon the facts of an individual case, to provide a reasonable accommodation to a disabled person, subject to the following. A special exception under this section may waive or modify the dimensional requirements of applicable zoning regulation(s) only to the extent reasonably required to provide a reasonable accommodation for the disability. A special exception shall not fundamentally alter the nature of a program (e.g., altering the fundamental purpose of the zoning regulation) or impose undue financial or administrative burdens on the Village of Fox Point. Dimensional requirements for which a special exception may be granted under this section are limited to open area, front yard, rear yard and side yard requirements of applicable zoning district regulations. A special exception granted under this section should generally expire upon the termination of the occupancy of the property by the disabled person, and the Board of Appeals may so condition the grant of the special exception and require the recording of a deed restriction setting forth the terms of the special exception and the termination thereof. For purposes of this section, "disability" shall be construed to have the meaning set forth in 42 U.S.C. § 12102, Title II of the Americans With Disabilities Act, and regulations pertaining thereto, as amended from time to time.

- D. The Board of Appeals may adopt such rules or regulations with respect to the time of its meetings and the procedure at its meetings as it may deem appropriate and shall, subject to the Wisconsin Statutes applicable thereto, specify the procedure pursuant to which appeals shall be taken to it, be heard and disposed of by it. All rules or regulations adopted by the Board of Appeals shall be reduced to written form, and the original thereof, identified by signature of the Chairperson of the Board, shall be filed in the office of the Village Clerk/Treasurer.
- E. Wherever in the ordinances of the Village of Fox Point reference is made to a Board of Appeals, it shall be deemed to refer to the Board appointed pursuant to this section of this chapter.
- F. In Board of Appeals actions involving special exceptions and variances, in addition to any notice requirements under any applicable state or federal law, or as otherwise provided in the Village of Fox Point Code, the Village Clerk/Treasurer, or his or her designee, shall provide notice by first class mailing to the owners or occupants of all properties within 500 feet of the subject property at least 21 days prior to any hearing or proceeding.
- G. A filing fee as described in Chapter **63** of this Code shall be paid to the Village at the time of filing any application with the Board of Appeals.

§ 745-37. Variances.

As a special exception, where there is a violation of this chapter and no order or decision of the Building Inspector has been made in respect to such violation, application may be made to the Board of Appeals for variance, and the Board shall hear and decide such application as though it was an appeal from an order of the Building Inspector requiring compliance with this chapter.

Exhibit 2

Applicable Statute

Wis. Stat. Sec. 62.23(7)(de)

is sent to all property owners. If the plan commission, the board of public land commissioners, or city plan committee of the city council completes action on any tentative recommendations that are noticed under subd. 1. a., proposed changes to a proposed district plan and regulations that are submitted under subd. 1. b., or proposed amendments that are submitted under subd. 2., and the city council is prepared to vote on the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, the city council shall send a notice, which contains a copy or summary of the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, to each person on the list whose property, the allowable use of which, may be affected by the tentative recommendations or proposed changes or amendments. The notice shall be by mail or in any reasonable form that is agreed to by the person and the city council, including electronic mail, voice mail, or text message. The city council may charge each person on the list who receives a notice by 1st class mail a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this subdivision may take effect even if the city council fails to send the notice that is required by this subdivision.

- (da) *Interim zoning.* The common council of any city which has not adopted a zoning ordinance may, without referring the matter to the plan commission, enact an interim zoning ordinance to preserve existing uses while the comprehensive zoning plan is being prepared. Such ordinance may be enacted as is an ordinary ordinance but shall be effective for no longer than 2 years after its enactment.

62.23(7)(de)

(de) *Conditional use permits.*

1. In this paragraph:

- a. "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
- b. "Substantial evidence" means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.

2.

- a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
- b. The requirements and conditions described under subd. 2. a. must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.
3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. 985, the city shall hold a public hearing on the application.
4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.
5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. (e) 10. a., or if the decision is on an application for an approval, as defined in s. 781.10 (1) (a), under the procedures described in par. (e) 10. b.

(e) *Board of appeals.*

1. The council which enacts zoning regulations pursuant to this section shall by ordinance provide for the appointment of a board of appeals, and shall provide in such regulations that said board of appeals may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. Nothing in this subdivision shall preclude the granting of special exceptions by the city plan commission or the common council in accordance with the zoning regulations adopted pursuant to this section which were in effect on July 7, 1973 or adopted after that date.



Legislature Curtails Municipal Conditional Use Permit Authority

Daniel M. Olson, Assistant Legal Counsel, League of Wisconsin Municipalities

The Wisconsin legislature enacted major changes to local zoning authority laws in 2017 that were urged and promoted by developers but described by its legislative supporters as a “homeowners” bill of rights. Nonetheless, the laws passed and the governor signed them. Significantly, the most important change to municipal land use powers included in the legislation, 2017 Wisconsin Act 67, impacts the conditional use permit (“CUP”) authority of all local governments, including cities and villages.

Conditional Use Background

Zoning is a regulatory system designed to proactively improve the quality of land use patterns in communities and supplant the inefficient, expensive, and reactive nuisance litigation morass of the 19th century. These goals are typically accomplished by grouping compatible land use activities into zoning districts, which diminishes the negative impacts from incompatible uses.

Within the districts, certain land uses are deemed unlikely to adversely affect other uses in the district and are permitted without review. Other land use activities are only allowed as conditional uses in zoning districts even though they may be beneficial because they carry a high risk of negative external impacts on adjoining properties, neighborhoods or the whole community. These less compatible and less desirable land uses are commonly allowed only after individualized review by a zoning authority and subject to conditions designed to decrease the potential adverse impacts.

The traditional CUP system of the last 75-plus years provided cities and villages

with critical flexibility to accommodate risky land uses but protect the property values and investments of adjoining property owners, neighborhoods, and the whole community. The legislative changes to city and village CUP authority attacks that balance of interests by making the CUP decision process rigid and less able to protect other property owners and communities from the negative impacts of land uses traditionally categorized as conditional uses. A CUP system is now a much less desirable land use planning and regulation tool that cities and villages might reasonably abandon altogether.

CUP Authority Changes

The Municipality published an article exploring the scope of CUP authority in 2008. See Zoning 495. Much of that article is still relevant and important to a full understanding of CUP authority in Wisconsin. However, the 2017 CUP law changes, a reaction to the Wisconsin Supreme Court’s 2017 decision in *AllEnergy v. Trempealeau County*, 2017 WI 52, 375 Wis. 2d 329, 895 N.W.2d 368, substantially altered CUP authority in several critical areas.

First, the law amends the zoning enabling statute to specify that any CUP “condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.” Wis. Stat. §62.23(7)(de)2.a. It also mandates that CUP requirements and conditions “must be reasonable and, to the extent practicable, measurable” Wis. Stat. §62.23(7)(de)2.b. These new obligations are problematic.

Prior to the change, general non-specific CUP requirements in zoning ordinances were reasonable and, thus legally permissible. Now, they must be based on substantial evidence and, where practicable, they must be measurable to be reasonable.

One challenge will be creating reasonable CUP requirements that are meaningful. Drafting an ordinance with reasonable requirements to govern the likely as well as all possible contingencies relating to a conditional use will be a very difficult task. A meaningful requirement that is legally reasonable in one circumstance may likely be unreasonable in another. That is due to the nature of conditional uses; their impacts vary based on location, which is why they were not classified as permitted uses in the first instance.

And, what should zoning officials make of the “substantial evidence” and “measurable” requirements? Must adoption or amendment of CUP ordinances be accompanied by a record that satisfies the substantial evidence threshold? Assuming we can figure out what “to the extent practicable” also means, how measurable does a CUP requirement have to be to comply with the new law? There are no answers to these questions in the statute and, the courts, through costly litigation, will likely be the only authority that might satisfy a disgruntled developer.

Second, what qualifies as substantial evidence – the information an administrative body is allowed to rely on in reaching its decision – is now defined by statute instead of case law. “Substantial evidence means facts and information,

other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” Wis. Stat. §62.23(7)(de)1.b.

While similar to what the substantial evidence test was, *see AllEnergy*, 2017 WI 52 at ¶ 76, it is clear that the change was enacted to try and limit the type of information a zoning authority can rely on in deciding whether to grant a CUP. It must not only be facts and information instead of personal preferences or speculation, but those facts and information must “directly pertain” to the requirements and conditions in the zoning ordinance or established by the zoning board.

It will be impossible to confine public hearing testimony from citizens to

only facts and information that directly pertains to CUP requirements and conditions. Most people do not have the kind of legal training or experience to provide wholly objective testimony at an informal zoning hearing. When this happens, are members of the zoning board legally permitted to redirect the testimony of the citizen without being challenged by the applicant as impermissibly biased? That is just one impact of the substantial evidence requirement.

The language prohibiting reliance on speculation for substantial evidence is another problem area. CUPs are inherently uses with higher risks of negative impacts on other uses. But, the negative impact varies from location to location. Therefore, is evidence about decreased property values or other negative impacts associated with a similar use at a different location speculation or

non-speculation about probable impacts at the proposed location?

Third, the city and village zoning enabling statute was amended to specify that “if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city *shall* grant the conditional use permit.” Wis. Stat. §62.23(7)(de)2.a. (emphasis added). This language embraces a minority zoning legal theory the Wisconsin Supreme Court rejected in *AllEnergy* that “where a [CUP] applicant has shown that all conditions and standards, both by ordinance and as devised by the zoning committee, have been or will be met, the applicant is entitled to the issuance of a permit.” *AllEnergy*, 2017 WI 52 at ¶119.

Adding this legal principle to Wisconsin zoning law shifts the legal burden from

► p.23

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a CUP applicant to the municipal governmental body responsible for making the CUP decision. The municipality must establish a permit requirement or condition by ordinance or develop conditions that are based on substantial evidence provided at the hearing. The burden shifting limits the effectiveness of the entire CUP review process and moves CUPs much closer to permitted use status than might be desirable in most circumstances.

As already noted, the pre-hearing ordinance requirements are likely to be watered down and less meaningful in order to survive a reasonableness challenge since they will apply to all proposed CUPs that have highly variable impacts based on location. This will make CUP applications much harder to deny.

Public officials do not welcome zoning litigation. It is inefficient and costly. So, even assuming that they will have a solid understanding of substantial evidence, zoning board members will be very cautious with their authority to impose CUP conditions based on substantial evidence introduced at the zoning hearing. Again, the burden shifting will make CUP applications much more difficult to deny.

Could a CUP applicant preempt the entire CUP process by simply promising full compliance when he files the CUP application? Probably not because a public hearing is mandated and the zoning board is vested with some authority to impose conditions that are based on substantial evidence after the public hearing and before granting a permit. However, as long as the CUP applicant agrees to abide by all the requirements and conditions, zoning board discretion is nullified and it must grant the CUP.

Responding to the Changes

The legislative changes did not reduce the adverse impact risks associated with conditional uses for adjoining properties, neighborhoods, or communities. The risks are still present and, absent a

municipal response, are now even greater given the reduced ability to address those negative externalities. So, cities and villages should consider their options given the new legislative restrictions on their CUP authority.

► p.24

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Cities and villages can start with the knowledge that they are not legally required to have conditional uses in their zoning codes. Moreover, in most cases, the legislative decision by a city council or village board to include or not include a particular land use in a zoning district is essentially immune from legal challenge. The legislature may have severely curtailed city and village authority to deny a CUP request but it did not have any impact on city council or village board legislative discretion to classify land uses as conditional or permitted or determine how many, if any, conditional uses a city or village should have in a particular zoning district. So, one legally permissible response to the new laws might be elimination of all existing conditional uses in zoning districts or limiting them to a very select group of low-risk uses.

With the new laws, the legislature eliminated much of the prior legal authority cities and villages used to accommodate conditional uses while protecting property interests of adjoining landowners, the stability of neighborhoods, and the well-being of the whole community. Unless a city or village is willing to accept a conditional use in a zoning district – with much less ability to guide when and where it exists – then

eliminating them altogether or greatly reducing their availability is a reasonable and legally permissible response.

In addition, cities and villages will need to closely examine their existing conditional use permit requirements set by ordinance. As noted above, they must be reasonable, related to the purpose of the ordinance and, to the extent practicable, measurable. Thus, general requirements for CUPs commonly found in existing zoning ordinances are now suspect and subject to legal challenge. Instead, revised requirements should be information-based. In addition, a city or village will need to show that revised requirements are measurable, unless impracticable. And, if impracticable, they will need to be able demonstrate why.

Conclusion

Conditional use zoning permits have been commonly used by cities and villages to allow riskier land use activities in zoning districts subject to review and conditions. 2017 Wisconsin Act 67 substantially altered the CUP review and condition authority cities and villages have used for the last 75 years. The status quo for conditional uses in Wisconsin has changed dramatically. Cities and villages must now decide how they will respond to these changes. Revisions to CUP requirements in zoning ordinances

will be necessary. A thorough review of conditional use designation and inclusion in zoning districts is also warranted.

Zoning 523

About the author:

Daniel Olson is the Assistant Legal Counsel for the League. He provides legal assistance to municipal attorneys and officials through telephone inquiries, written opinions and briefs, workshop presentations, and published articles. He also assists in writing League handbooks and planning the Municipal Attorney's Institute. Daniel joined the League staff in 2001. Contact Daniel at danolson@lwm-info.org



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Exhibit 3

Appraiser Opinion of No Detrimental Impact on Fox Point Residential Property in the Vicinity of Town Club Pickle Ball Courts

HERRENBRUCK APPRAISALS, LLC

PO BOX 170133
MILWAUKEE, WI 53217

March 26, 2024

To: Christopher J Jaekels, Attorney for The Town Club

Re: The Town Club Opinion Statement on Property Values

I was contacted to express an unbiased opinion as to the impact on property values surrounding The Town Club in Fox Point, WI, if any, due to their outdoor sport courts and pickleball game use. I am not working as an advocate for any single party or entity.

It is my understanding that pickleball has been played on the outdoor courts at The Town Club for the past 3 years.

My research to determine any impact included an MLS search for all single family sales within the past 5 years within a ¼ mile radius from The Town Club that focused on resales of the same property. The results were 7 houses that sold twice within this time period, 2 of which were located within 500 feet of The Town Club grounds. Of the seven that resold, none sold for less than their prior selling price.

Further research was conducted in the adjacent community of Bayside, which is considered to be a similar market. Tennis and pickleball courts are located at Ellsworth Park in this community. An MLS search was conducted within 500 feet of these pickleball courts within the past 5 years. The search only resulted in only one sale. This sale also resold at a higher price than it's prior sale.

As a result of my research, no evidence was found to indicate that the outdoor sport courts and pickleball game use of these courts has a detrimental impact on property values in this market area.

Sincerely,



Todd Herrenbruck
WI Certified Residential Appraiser

TODD HERRENBRUCK

Wisconsin Certified Residential Appraiser #862-9

RESUME OF APPRAISAL AND RELATED EXPERIENCE

HERRENBRUCK APPRAISALS, LLC

CERTIFIED RESIDENTIAL APPRAISER, OCTOBER 2015 - CURRENT

CHUDNOW DRUCK VALUATION, INC

CERTIFIED RESIDENTIAL APPRAISER, MARCH 2012 - OCTOBER 2015

APPRAISAL REPORTS, INC

CERTIFIED RESIDENTIAL APPRAISER, NOVEMBER 1995 – SEPTEMBER 1997

STRATEGIC MORTGAGE SERVICES (SMS)

CERTIFIED RESIDENTIAL APPRAISER, AUGUST 1992 – NOVEMBER 1995

OTHER REAL ESTATE RELATED EXPERIENCE

KELLER WILLIAMS REALTY – North Shore Branch

SALES AGENT, OCTOBER 2014 – SEPTEMBER 2022

WELLS FARGO via RHI

SHORT SALE AUDITOR, AUGUST 2010 – APRIL 2011

JP MORGAN CHASE

WHOLESALE ACCOUNT EXECUTIVE

JULY 2007 – JULY 2008

WELLS FARGO HOME MORTGAGE

WHOLESALE ACCOUNT EXECUTIVE

DECEMBER 1999 – JULY 2007

IDEAL FINANCIAL SERVICES

MORTGAGE BROKER / LOAN OFFICER

AUGUST 1997 – DECEMBER 1999

Jaekels, Christopher J.

From: Todd Herrenbruck <info@herrenbruckappraisals.com>
Sent: Tuesday, March 26, 2024 11:10 AM
To: Jaekels, Christopher J.
Subject: The Town Club opinion statement and resume
Attachments: Opinion Statement The Town Club.pdf; RESUME OF APPRAISAL AND RELATED EXPERIENCE.pdf

Chris,

Attached is my opinion statement for The Town club and my resume.

Best regards,

Todd Herrenbruck
WI Certified Residential Appraiser
Herrenbruck Appraisals, LLC
414-331-1066
www.herrenbruckappraisals.com/

Exhibit 4

**Emails in Support of Pickle Ball Courts
and Required Findings**

(59 Signatories)

Abby Schroeder

From: Bill Ford <wfford@yahoo.com>
Sent: Sunday, March 24, 2024 12:46 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

William Ford
1550 E Goodrich Ln
Fox Point, WI

I am in full support of the Town Club's plan to upgrade to dedicated pickleball courts at the south end of the campus.

I agree with the Plan Commission's December findings that the club's plan meets the 4 criteria for an Institutional District permit, and I believe that the plan will not create a nuisance or hazard nor be detrimental to the public welfare.

I hope that the Village Board will not allow the loud complaints of a few residents to outweigh the preferences of a much larger number of residents who benefit from the Town Club either as members or whose kids find the club to be an attractive employer.

-Bill Ford

On Friday, March 22, 2024 at 12:15:41 PM CDT, Abby Schroeder <abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

Fox Point Code provisions for the Institutional District require the following findings:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;

Abby Schroeder

From: Jonathan Bloom <jbloom358@yahoo.com>
Sent: Saturday, March 23, 2024 8:30 AM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Please accept this email as statement of support.

Sent from my iPhone

On Mar 22, 2024, at 12:15 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

The Planning Commission initially unanimously approved our permit based on the Institutional District requirements, however the Village is now stating that we also need to meet with code for an Outdoor Recreation permit.

The Code for Outdoor Recreation adds:

- Not a nuisance or hazard
- Not detrimental to the general public welfare

Abby Schroeder

From: Stephen Spadafora <stephen.spadafora@gmail.com>
Sent: Saturday, March 23, 2024 7:24 AM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

We Agree

Stephen and Julie Spadafora
7731 N Club Cir, Fox Point, WI 53217

On Fri, Mar 22, 2024 at 12:15 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

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- Not detrimental to the general public welfare

We will be submitting letters of support to the Village prior to our April 1st Planning Commission. We will also be reaching out to members and residents for their support in person or via zoom at the Village's April Board Meeting on April 9th. We will follow up at a later date with more details regarding that meeting. If you have neighbors and friends in Fox Point, who are not members, but would be in support of our facility upgrades, please direct them to submit statements of support to Abby as well.

If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

--

Kind Regards,
Stephen Spadafora

Abby Schroeder

From: Emily <emilybarrett@gmail.com>
Sent: Friday, March 22, 2024 10:17 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

I support this.

Emily Barrett
8207 N Gray Log Ln, Fox Point, WI 53217

On Fri, Mar 22, 2024 at 12:15 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Byron Vielehr <bvielehr@hotmail.com>
Sent: Friday, March 22, 2024 8:38 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

I support the TC for the permits it is requesting.

Byron and Laurie Vielehr
7944 N Beach Dr
Fox Point Wi 53217

On Mar 22, 2024, at 10:15 AM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Cortney Roberts <ctbroberts@gmail.com>
Sent: Monday, March 25, 2024 3:01 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Yes, I agree.

Cortney Roberts
413 E Apple Tree Rd, Fox Point, WI 53217

On Fri, Mar 22, 2024 at 12:15 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Jeremy Simon <jeremyesimon@gmail.com>
Sent: Friday, March 22, 2024 7:03 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Caught a typo! The below should be correct:

My name is Jeremy Simon, I live at 1404 E Bywater Lane, and I'm sharing my endorsement for the improvements proposed by the Town Club.

We moved to Fox Point in 2020 for the quality of life, fantastic schools and the strong sense of community. And we were just as excited to join the Town Club, an institution that for generations has anchored Fox Point's culture. As a social organization, it fosters togetherness, builds bonds between families, and promotes healthy lives through lifelong sports such as swimming, tennis, and pickleball.

Pickleball also offers an accessible activity for children, an athletic challenge for adults, and promotes active lifestyles as people approach retirement age and beyond. The proposed Town Club project is aligned with the standards of the Village's Institutional District and Outdoor Recreation permit. This space is already used for this specific purpose. It will enable the Town Club to build community for generations to come.

I ask that you share my enthusiasm and fully support the Town Club's request.

Thank you,

Jeremy Simon

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Friday, March 22, 2024 12:15 PM
Subject: PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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4. In keeping with the residential character and quality of the Village.

The Planning Commission initially unanimously approved our permit based on the Institutional District requirements, however the Village is now stating that we also need to meet with code for an Outdoor Recreation permit.

The Code for Outdoor Recreation adds:

- Not a nuisance or hazard
- Not detrimental to the general public welfare

We will be submitting letters of support to the Village prior to our April 1st Planning Commission. We will also be reaching out to members and residents for their support in person or via zoom at the Village's April Board Meeting on April 9th. We will follow up at a later date with more details regarding that meeting. If you have neighbors and friends in Fox Point, who are not members, but would be in support of our facility upgrades, please direct them to submit statements of support to Abby as well.

If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Blair Williams <blair@wiredproperties.com>
Sent: Friday, March 22, 2024 4:42 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

I support the Town Club's request for a permit to upgrade the pickleball and tennis courts at the far south end of the campus. Pickleball and tennis are not a nuisance and hazard, and they are not detrimental to the general public welfare.

Blair and Stacy Williams
7411 N Santa Monica Blvd

Regards,

Blair Williams
President

Sent from my iPhone

On Mar 22, 2024, at 12:15 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Witt, Mark <mcwitt@gklaw.com>
Sent: Friday, March 22, 2024 3:08 PM
To: Abby Schroeder
Cc: Kelly Reilly
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

The Witt family supports the Town Club's proposed upgrade as being consistent with both the Institutional District Requirements and the Outdoor Recreation permit requirements.

Mark Witt and Kelly Reilly 1076 E. Thorne Lane

On Mar 22, 2024, at 10:15 AM, Abby Schroeder <Abby@thetownclub.com> wrote:

[EXTERNAL] This message originated from outside your domain.

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Anne Marie Finley <amfinley@biotechpolicygroup.com>
Sent: Friday, March 22, 2024 2:22 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Dear Abby:

I support the Town Club pickleball proposal. Fox Point needs amenities for residents, whether they are private or public due to the dearth of amenities in our Village.

Anne Marie Finley
8320 N Lake Dr
Fox Point, WI 53217

Sent from my iPhone

Sent from my iPhone

On Mar 22, 2024, at 10:15 AM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Michael Wanta <mikewanta@gmail.com>
Sent: Friday, March 22, 2024 1:49 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Michael Wanta
8363 N Indian Creek Pkwy, Fox Point, WI 53217

I completely support the Town Club's Pickleball Retrofit project. I strongly believe all requirements have been met for the permitting process. There is no reason to delay this project any further, and our village stands to benefit from having an additional place for area residents to participate in a healthy, positive activity.

On Fri, Mar 22, 2024 at 12:21 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: John Sennett <johnfsennett@gmail.com>
Sent: Friday, March 22, 2024 1:41 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Absolutely John and Nancy Sennett from 1206 Fox Lane. 53217 Are strongly in favor of the Town Club court modernization. We also agree the TC meets all requirements of the Outside Recreational code requirements. Thanks John and Nancy Sennett and family.

Sent from my iPhone

On Mar 22, 2024, at 1:21 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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- Not a nuisance or hazard

- Not detrimental to the general public welfare

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: James Darragh <jdarragh@gmail.com>
Sent: Friday, March 22, 2024 1:12 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Hi Abby,

I support this measure to improve the courts at town club.

James darragh
8207 n gray log lane
Fox point wi 53217

On Mar 22, 2024 at 12:15 PM -0500, Abby Schroeder <Abby@thetownclub.com>, wrote:

Dear Members,

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Hyngstrom, Allison <allison.hyngstrom@marquette.edu>
Sent: Friday, March 22, 2024 1:03 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

As a resident of Fox Point for over 20 years and former Board Member and Treasurer of the Fox Point Foundation, I enthusiastically support the efforts to upgrade the tennis and pickle ball facilities at the Town Club. The request meets all the requirements of the Fox Point provisions.

Best,
Dr Hyngstrom
Allison Hyngstrom PT PhD
Professor, Chair
Department of Physical Therapy
Marquette University
414-288-7194

3028 N. Links Way

On Mar 22, 2024, at 12:15 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

CAUTION: This email originated outside of Marquette University. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Members,

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Bob Schley <schley67@gmail.com>
Sent: Friday, March 22, 2024 12:29 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Abby I fully support the club's hope to upgrade the pickle ball courts on the south side of club property. We will be out of town in April.

Robert S Schley Jr
7716 N Lings Way, Fox Point, WI 53217

On Fri, Mar 22, 2024 at 12:15 PM Abby Schroeder <Abby@thetownclub.com> wrote:

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Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Ginny Marks <virginia.marks@gmail.com>
Sent: Friday, March 22, 2024 12:29 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Dear Abby,

We are Fox Point residents and Town Club members, and we strongly support the proposed upgrades. We feel having a long standing neighborhood club drives property values up and is a major draw to the village. Our kids can bike to the club, we take advantage of summer and winter sports and love the family, neighborly atmosphere of Town Club. We are so very lucky to have such a fantastic community in both our Village and our Club. Furthermore, we believe the proposed upgrades meet all required criteria for approval.

Best,
Ben and Virginia Marks
1419 E Bywater Ln
Fox Point, WI 53217

On Fri, Mar 22, 2024 at 5:21 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Abby Schroeder

From: Short, Mark <mark.short@chase.com>
Sent: Friday, March 22, 2024 12:27 PM
To: Abby Schroeder
Subject: RE: [External] [EXTERNAL]PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

I support The Town Club's currently pending pickleball permit request with the Village of Fox Point and believe it meets all of the required provisions detailed below.

Mark Short

425 E Apple Tree Rd

Mark Short | Credit Risk | **Commercial Banking** | 111 E Wisconsin Ave, Floor 22 | Milwaukee, WI 53202 |
T: 414 977 6750 | M: 414 331 2874 | mark.short@chase.com | jpmorganchase.com/commercial

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Friday, March 22, 2024 12:15 PM
Subject: [EXTERNAL]PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Dear Members,

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Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

This message is confidential and subject to terms at: <https://www.jpmorgan.com/emaildisclaimer> including on confidential, privileged or legal entity information, malicious content and monitoring of electronic messages. If you are not the intended recipient, please delete this message and notify the sender immediately. Any unauthorized use is strictly prohibited.

Abby Schroeder

From: Tami Vincent <tvincent2@wi.rr.com>
Sent: Friday, March 22, 2024 12:25 PM
To: Abby Schroeder
Subject: Re: [External] PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

I am in favor of this!

Tami Vincent
8118 N. Poplar Dr., Fox Point
Tami Vincent
414.228.4655
Sent from my iPhone

On Mar 22, 2024, at 12:15 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Terry McGauran
308 E. Willow Rd.
Fox Point, WI 53217

Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217
Attn: Village Board of Trustees

March 25, 2024

To The Village Board:

It has come to my attention that the board is reviewing a building permit application from The Town Club to resurface and replace the three tennis courts located at the south end of the property. As I understand it, the permit was initially approved unanimously by the Planning Commission as the proposal met all of the code requirements for an Institutional District. Then for some reason it was determined that the proposal would also need to meet the code requirements for an "Outdoor Recreation" permit. This type of permit would seem to be intended for use in our parks. Anyway, I believe that The Town Club application meets those requirements as well.

I have been a resident of Fox Point since 1974, and a member of The Town Club since 1972. The Town Club has always been respectful of the Fox Point Community and especially to those residents living close to the TC property. The activities at the south end of the property, where four Platform Tennis courts and three Tennis courts are located, have been in place for a long time. The TC will continue to be mindful of its neighbors, and I ask that the Village Board approve The Town Club Building Permit application. Thank you for your consideration.

Terry McGauran

March 25, 2024

To Village of Fox Point, via Abby Schroeder, General Manager of The Town Club.

From:

Sandy Dunst

7840 N Fairchild Rd

Fox Point, WI 53217

414-559-9246

I am a member of the Town Club (TC) and am writing to you in support of the proposed repaving of the current courts located at the south end of the TC property which are used for both tennis and pickleball. I am a **40+ year resident of Fox Point** and joined the Club specifically for pickleball play in the summer of 2022.

I urge you to issue the final approval and permit that will allow the TC - a village institution since 1955 - to provide its members with quality courts that allow for the reasonable enjoyment and safe play of the sports that it offers to its members.

Based on the information that the TC provided, it is my understanding that the planned Fall 2023 court upgrade was unexpectedly delayed after the Planning Commission unanimously approved a permit based on the Institutional District requirements. Then an additional requirement was imposed for an approval of the parcels that have long been under the ownership of this club to which the TC was responsive in complying with those requirements. Now, there are, again, additional requirements for another permit – the Outdoor Recreation permit.

Members have been informed that The Code for Outdoor Recreation adds:

- Not a nuisance or hazard
- Not detrimental to the general public welfare

As a Fox Point resident, I am aware that the Village has recently completed or will soon complete work on the Stormonth Park Tennis Courts, located at the corner of N Yates and N Lombardy Rd and the Indian Creek Tennis Courts, located at the west end of E Spooner Rd. It appears that the Village has accepted that those locations have met the Code for Outdoor Recreation. **There is no apparent reason why an existing court at a nearly 70-year-old club located in the village would not, also, meet those requirements.**

I have lived just a block or so west of the TC for over 20 years (now on N Fairchild and formerly on N Longacre) and I have never heard any noise or been disturbed by any events or activity at the TC. I have never heard any of my neighbors negatively comment about this association or facility.

It is my understanding that no complaints have been filed with the Village regarding the usage of the courts. And, the TC has offered some level of noise reduction in the form of wind screens which are not part of the renovation of the aforementioned village courts.

The Village of Fox Point has a jewel of a Club that dates back to 1901 – **yes, over 100 years**, which is renowned for its quality facilities which have been enjoyed by athletes nationally and even internationally. Its membership is composed of many Fox Point residents as well as many others from the greater North shore community and Milwaukee area. This permit is needed to simply maintain the quality of the membership. To deny this simple and reasonable request devalues the membership of local and community residents.

I urge you to issue the final permit that allows the TC to proceed with its plans to update its courts to allow membership play and ensure the safety of its members.

Thank you,
Sandy Dunst

Dear Members of the Village of Fox Point Planning Commission Committee,

We trust this message finds you well. I am writing to extend our full support for the Town Club's proposal to update its existing tennis and pickleball courts on the far south end of the property. As a proud resident of Fox Point and an active member of the Town Club, I firmly believe that this project is in the best interest of our community and club.

It's crucial to highlight that the Town Club's proposal entails upgrading the existing courts, rather than introducing entirely new structures to that location. This means there will be no increase in activity beyond what already exists. The proposed upgrades align perfectly with the Fox Point Code provisions for the Institutional District, meeting all requirements for appropriateness, compatibility with the neighborhood, and maintenance of property values in the surrounding area. Moreover, the project maintains the residential character and quality of life that we cherish in our village.

Furthermore, the Town Club's plan adheres to the Code for Outdoor Recreation, ensuring that the upgraded facilities will not pose any increased nuisance or hazard to our community. While it's understandable that there may be concerns from some residents, we are confident that the Town Club will continue to be a good neighbor and uphold its commitment to the well-being of the community. It's important to recognize that this project represents an improvement of existing amenities in the proposed area rather than an entirely new addition.

In light of these considerations, we urge the Committee to support the Town Club's permit request for the upgrade of its tennis and pickleball courts.

Thank you for your consideration of this matter.

Warm regards,

Scott & Alleyne Alderton

7937 N. Fairchild Rd
Fox Point, WI 53217

and

8317 N. Poplar Dr.
Fox Point, WI 53217

Letter of Support from Marion & Greg Pruitt (7110 N Barnett Lane):

I am writing to express my support for the upgrade of the tennis and pickleball facilities at the Town Club. The Town Club is a bright spot in Fox Point and these facilities have been around for many years and the Town Club's request meets all of the required provisions.

Best,
Marion & Greg Pruitt

Robert S. Schley, Jr.
7716 N. Links Way
Fox Point, WI 53217

March 26, 2024

Dear Village of Fox Point Plan Commission,

It is my understanding that a number of village residents on Boyd Way have objected to the plans of the Town Club to update our pickleball courts on the south side of the club's property.

It would seem that it is unfair to preclude a club which has existed on this property since the 1950's to maintain and upgrade its facilities as needed from time to time. The club has always tried to be a good neighbor and respect the rights of nearby property owners. I suspect that many if not most of the Boyd Way neighbors bought their houses with full awareness of the presence of the Town Club. I live two blocks east of the club and never have been upset by the sounds emanating from the courts, pool, or club house.

I sincerely hope that the members of the plan commission will determine that this long existing club is in an appropriate location, is permitted by existing zoning, is not detrimental to property values in the surrounding area, and is a recreational facility in keeping with the character of the village. Further, the Town Club does not present a hazard or nuisance and is not detrimental to the general public welfare.

I strongly urge the plan commission members to carefully consider this matter. I understand that more than 100 Fox Point residents are also members of the Town Club.

Sincerely,

Robert S. Schley, Jr.

Robert S. Schley, Jr.
7716 N. Links Way
Fox Point

Hello Abby,

Thank you for the opportunity for us to express support for the plans to upgrade the tennis facilities at Town Club as well as add pickleball courts. Having recently built a home in Fox Point, Rick and I appreciate the care with which permit requests and architectural plans are reviewed.

We are excited to lend our full support to the Town Club's thoughtful plans. They are appropriate, compatible with the surrounding neighborhood and fit with the high character and quality of Santa Monica Blvd and broader Fox Point community.

My husband, Frederick (Rick) Stratton III and I, Keri Sarajian, are in full support of these plans. We kindly request the Village Planning Committee's support of this valuable improvement initiative.

Best,
Keri and Rick Stratton

Residents of 1015 East Quarles Place, Fox Point
Tel: (414) 797-4084

Subject: Expressing Support for Pickleball Courts in Fox Point

Dear Village of Fox Point,

I hope this email finds you well. As residents of Fox Point and proud members of the esteemed Town Club, my family and I wanted to express our wholehearted support for the proposed construction of pickleball courts in our community.

Having been active participants in the Town Club, we have witnessed firsthand the courteous and respectful demeanor of our fellow members. The existing courts at our club serve as a testament to our commitment to maintaining the integrity of our village while providing recreational opportunities for residents - we have seen several families join after the pool officially closed with a re-open date TBD.

We firmly believe that the addition of pickleball courts would not only enhance the recreational options available to our community members but also contribute positively to the social fabric of Fox Point. Furthermore, we are confident that our fellow club members will continue to uphold the village's requirements, including adherence to noise ordinances and respectful behavior.

The Village of Fox Point is in a unique situation compared to our neighboring villages by having this club available. I believe a club that promotes healthy physical activity would be a stronger option for tenants and bring in a group of people that want to keep our community what it is today- strong, healthy and respectful.

In conclusion, we stand in solidarity with the initiative to build private pickleball courts in Fox Point and believe it will be a valuable asset to our community. Please feel free to reach out if you require any further information or support regarding this matter.

Thank you for considering our viewpoint.

Warm regards,

Kaitlin Torres

7460 N Lombardy Rd

414.758.8094

Hello Abby,

As a 50 year resident of Fox Point I am in favor of the Town Club resurfacing their existing tennis / pickle ball courts. The Town Club is good for village of Fox Point. The club has a storied history in Fox Point being built in 1956. Being the first to offer tennis in the community. Since 1956 the village of Fox Point has installed tennis courts at Long Acre and Indian Hill. Most recently they have upgraded the courts adding pickle ball. This is a natural progression of racquetball sports in the community.

Best regards,

Randy Rohmer
7831 N. Fairchild
Fox Point, WI
rrohmer20@gmail.com
(414) 870-7098

BARBARA W. DONNER

KENNETH O. DONNER

8241 NORTH GRAY LOG LN

FOX POINT, WISCONSIN 53217

(414) 272-4470

March 25, 2024

Village of Fox Point
Village Plan Commission/Village Board
7200 N Santa Monica Blvd
Fox Point, WI 53217

RE: The Town Club Application to Upgrade
Existing Tennis and Pickle Ball Facilities

Dear Village Plan Commission/Village Board:

We are writing in support of The Town Club's Application for Permits to upgrade their tennis courts and pickle ball facilities.

These facilities have existed in their present location for decades and are located along the railroad tracks. Similarly located are a synagogue, two churches, the Village Police Department, The Village Hall. The Village Department of Public Works, The Village Pool, a bank and a strip mall. The continued use as tennis courts and pickle ball courts seems appropriate.

This continued use for length of time shows that it is compatible with the neighborhood.

Upgrading these facilities will not be detrimental to the property values of the surrounding property. Any possible reduction caused by the facilities would have happened decades ago. Not now by maintaining the facilities.

The Town Club is a family club and these facilities are in keeping with the residential character and quality of the Village. The Town Club adds to the quality of life in the Village. It's one of the reasons we live in Fox Point.

The tennis courts and the pickle ball courts are not a nuisance or a hazard to the Village of Fox Point. Probably 99% of the Village do not know these facilities exist.

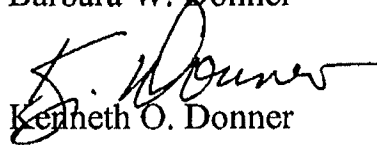
These facilities are not detrimental to the general public welfare. There is nothing inherently dangerous about them.

Thank you for considering our opinions. For the above reasons, we ask that your approve the permits.

Very truly yours,



Barbara W. Donner



Kenneth O. Donner

I 100% support the proposed upgrade to the tennis and pickleball facilities.

Andrew Roberts

413 E Apple Tree Rd, Fox Point, WI 53217

Hi Abby,

I do support the upgrade to the pickleball courts.

Thank you,
Mitch Vincent
8118 North Poplar Drive
414 559-3800

3/20/24

Dear Village of Fox Point,

This letter will be short because my wife, Molly Meyer, gave birth to our third child yesterday. However, as Fox Point residents, it is important to us to write and express our support for the Town Club upgrades to the tennis and pickleball facilities.

The Town Club is very important to our family and we believe to the Village of Fox Point. We do not believe the work will be a nuisance or detrimental to the general public welfare. Rather, this work will help keep the Town Club as a top notch facility for Fox Point residents. We strongly recommend approving this work. Thank you for the consideration.

Sincerely,
Daniel, Molly, Henry,
Meyer, & Benjamin
Meyer
(1030 E. Thorne Lane)

March 26, 2024

TO: Village Board Members

FROM: Ellie De Lia – TOWN CLUB Member (20 years) and Fox Point Resident (30 years)

7633 N. Links Way, Fox Point, WI 53217

RE: TOWN CLUB Pickle Ball Court Improvement Proposal

As a Town Club member, it has come to my attention that our proposal to improve the pickleball courts has stalled because of concerns raised by a few neighbors whose backyards are proximal to the club's property. I would like to voice my support of the proposal and ask that the Village Board weigh heavily the considerate and generous nature with which the request has been crafted, and the greater number of people who will benefit from the improvements.

The proposal aims to upgrade the existing courts to ensure they are playable and safe for the hundreds of adults and children who play on them. A significant number of these families are Fox Point residents, as I am, who value our strong sense of community and respect for others who live here. We expect our Village Board to ensure that such proposals meet the criteria of serving the community, add value to the experience of living here and pose no threat or nuisance. Our Town Club Board has taken all of that into consideration as it proposes to upgrade the courts; add no sound system or additional lighting and install a noise-reducing screen at significant additional cost. They are also willing to work with the community to establish hours of play that are reasonable and respectful. It is my understanding that Town Club members have been playing pickleball on these courts for 3 years without any complaints. The intent of the proposal is not to add to our existing footprint, but rather to keep our facility up-to-date and, more importantly, safe. I am a 70-year-old Town Club pickleball player, so the safety issue is especially important for me and my court mates.

The Town Club Board has done its homework to ensure this proposal meets all of the Village's requirements and it goes above and beyond to ensure that we will continue to be a good neighbor. My hope is that the Village Board will take this up quickly and give a green light to the proposed improvements.

Respectfully,

Ellie De Lia



100 East Wisconsin Avenue
Suite 2800
Milwaukee, Wisconsin 53202

Telephone:
(414) 276-6666
Facsimile:
(414) 273-4047

March 26, 2024

Village of Fox Point

RE: Town Club Pickleball Courts

To Whom It May Concern:

We have been residents of the Village of Fox Point for the past 17 years. During that time, we have had innumerable occasions to drive past the Town Club, probably thousands of times. Not once during the past 17 years, have we found any disturbances in the area based on the use of the club. Never once has it crossed our minds that the value of the surrounding neighborhood would decrease due to the existence of the club.

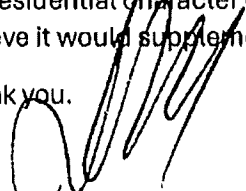
The club is located on a separate side of the street from almost all of the private residences in the area. The expansion of the club to include pickleball courts, in our opinion, would not create any nuisance or hazard. We can't imagine how the inclusion of pickleball courts would be detrimental in any way to the Village or the surrounding residences.

Rather, we find the Town Club to be a great addition to the Village. We actually joined the club a year ago since it was so close to our home and have greatly enjoyed what the club has to offer. Members who enjoy the use of the club respect the neighborhood and do not detract from the area. We belong to other country clubs in the area and find the Town Club to be very low key.

There are many members who are residents of the Village and enjoy the facilities the club offers. With the increase in interest in pickleball, we can only see it adding to what the Village has to offer.

The addition of pickleball courts would be compatible with the neighborhood and in keeping with the residential character of the Village. It would not be a detriment to the neighborhood, rather we believe it would supplement the neighborhood.

Thank you.



Nancy and David Gruber

7032 North Belmont Lane

Hi Abby,

We support the pickleball permit request and believe that the Town Club's request meets the Fox Point Code provisions for the Institutional District and meets the code for an Outdoor Recreation permit.

Jared and Megan Connolly
905 E Bradley Rd
Fox Point, WI 53217

Abby Schroeder

From: Camilla Adelman <camipeck@gmail.com>
Sent: Monday, March 25, 2024 4:14 PM
To: Abby Schroeder
Subject: [External] Pickleball Permits

Camilla and Jonathan Adelman
8041 North Gray Log Lane
Fox Point, WI 53217

Please know you have our support for the Town Clubs pending pickleball permit request. I am assured that the The Town Club will meet the following requirements to qualify for the Institutional District permit.

Fox Point Code provisions for the Institutional District require the following findings:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

If you have any further needs or questions with this matter, please don't hesitate.

Thank you,
Camilla Adelman

Sent from my iPhone

On Mar 25, 2024, at 4:03 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

Fox Point Code provisions for the Institutional District require the following findings:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

Abby Schroeder

From: Lochmann, Jessie <JLochmann@foley.com>
Sent: Monday, March 25, 2024 4:09 PM
To: Abby Schroeder
Subject: [External] Lochmann/ Allen letter of support

As residents of the Village of Fox Point, we are in support of the Town Club's pending permit request relating to the upgrade of existing facilities.

Jessica Lochmann & Jason Allen
8300 N. Allen Lane
Fox Point, WI 53217

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Friday, March 22, 2024 12:15 PM
Subject: PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

**** EXTERNAL EMAIL MESSAGE ****

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

Fox Point Code provisions for the Institutional District require the following findings:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

The Planning Commission initially unanimously approved our permit based on the Institutional District requirements, however the Village is now stating that we also need to meet with code for an Outdoor Recreation permit.

The Code for Outdoor Recreation adds:

- Not a nuisance or hazard
- Not detrimental to the general public welfare

We will be submitting letters of support to the Village prior to our April 1st Planning Commission. We will also be reaching out to members and residents for their support in person or via zoom at the Village's April Board Meeting on April 9th. We will follow up at a later date with more details regarding that meeting. If you have neighbors and friends in Fox Point, who are not members, but would be in support of our facility upgrades, please direct them to submit statements of support to Abby as well.

If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

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To Whom It May Concern:

As a resident of Fox Point and member of the Town Club, I am writing to offer my support to the proposed project to upgrade the Town Club's existing tennis and pickleball courts at the far south end of the Town Club's property.

From my perspective it is important to note that the project will not expand the existing footprint of the courts in question, or add any additional fencing around that portion of the property. It is simply a project to repair and improve the existing court configuration. Given that this project involves only work on the existing courts I feel very strongly that this is appropriate work to be done in the location proposed, compatible with the existing neighborhood, not detrimental to the value of the surrounding property and in keeping with the residential character and quality of the Village. Nothing about the surrounding property has materially changed since those courts were installed so I do not see how anyone could argue that the project does not satisfy those criteria. That is even more true when considering that in multiple places throughout Fox Point there are other tennis or pickleball courts in comparable proximity to residences.

In fact, I would contend that not allowing this project to move forward would amount to potentially denying the Town Club and its membership the use of its existing facilities over the long-term given the updates or repairs to that portion of the property which will inevitably be needed in time in order for those courts to remain in use.

I would also strongly contend that the proposed project presents no nuisance or hazard to the neighbors and is in no way detrimental to the general public welfare. While I can appreciate that homes adjacent to the Town Club property would prefer not to have any activity on those courts, one resident of a community should not be permitted to move into a home next to an existing structure and claim nuisance when that structure is used legally as intended and as it was in use when the resident purchased their home. The courts in question are already used significantly in the summer months for both tennis and pickleball. The character of how that portion of the property is used will not change as a consequence of the proposed upgrades. I live within ear shot of Lake Drive and would prefer that there was no motorcycle traffic on Lake Drive in the summer when I am having my morning coffee outside. That is not justification for denying motorcycle owners their right to legally drive along Lake Drive.

Regards,
Tom Bausch
920 East Calumet Road
Fox Point, Wisconsin 53217

Dear Village of Fox Point

I am in favor of The Town Club's proposal for pickleball and tennis facilities upgrade at the south end of the property. The Town Club has not only a deep rooted history with Fox Point, but it is one of the oldest most highly regarded racket sports clubs in the midwest.

This club was approved for racket sport recreation that dates back to 1901. As the sport of tennis evolved eventually to paddle tennis which is played primarily in the winter months, we continue to see an evolution to pickleball which is a staple of any racket sport club across the country, it would be an anomaly for a racket sport club to not have pickleball at the club. Not to mention this club has been playing pickleball on these courts for the past 8 years.

It is appropriate for this location as the remainder of the club is already approved and in line with the intended use of the property for such sport. It's deep history and contribution to the Village of Fox Point to offer such a beautiful amenity to its residents and surrounding neighbors. The property values have in fact continued to rise in every aspect in Fox Point over the past 5 years and values are projected to continue to rise due to our limited inventory in the housing market. This will not decrease property values.

The grounds are very well kept and I know they have plans to put up noise dampening screens for the courts. The courts are in need of this upgrade as they are old with many cracks and are a hazard to play.

To recap, I am in full support of the club improving their southern tennis courts and pickleball courts. The club has a deep history and great relationship with the Village of Fox Point. It is an excellent place for families in the area to unite and enjoy the many sports and facets a racket club offers. Pickleball is one of the most popular sports and only enhances this beautiful club keeping in line with the original use for this property since the beginning of the club.

Thanks,

Will Stallé
7342 N Longacre Rd, Fox Point

Hilary McCabe & Sarah Koehn
7901 N. Santa Monica Blvd.
Fox Point, WI 53217

25 March 2024

RE: The Town Club Request for Institutional District Permit & Outdoor Recreation Permit

To the Fox Point Board and Village Plan Commission:

We write in support of The Town Club's request for an Institutional District Permit and Outdoor Recreation Permit to upgrade its existing tennis and pickleball facilities on the south end of its property along N. Santa Monica Blvd.

I've been a proud Fox Point resident since 2013 and for the last five have lived across the street from the Club. After years of consideration, we joined the Club in the summer of 2021. Since that time, we have found the Club to be a vital social hub; for us, the Club has facilitated the opportunity to meet neighbors and cultivate relationships. The sound of the diving board, the splashes from the pool, and the thwack of tennis balls hitting racquets are the sounds of summer, and more importantly, the sounds of community.

A successful Town Club fosters a growing and thriving Fox Point, particularly so in a village with almost no other social houses. The demographics of Fox Point are changing; if we want to continue attracting young and active families to make Fox Point a vibrant and community-minded place to live, providing these opportunities for activity and social engagement is critical.

As we understand it, The Town Club is proposing enhancements for a bank of courts that has been used for tennis and pickleballs for years. Notably, they'd like to incorporate a sound reduction measure that will *improve* conditions for surrounding neighbors. This enhancement is a positive step forward for surrounding neighbors like ourselves and those even closer to the courts in discussion. All considered, these upgrades will help modernize the club and improve the Club's role as a focal point in this community.

It's our understanding that The Town Club must meet four criteria to qualify for the Institutional District Permit it seeks:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

Objectively, when The Town Club purchased the parcel, it was already **appropriately zoned** for the type of use it needed to operate. The Club has successfully operated in its current location since 1955. That considered, **The Town Club easily satisfies the first criteria.**

Though highly subjective, from a resident's perspective, **The Town Club is highly compatible with our neighborhood.** We'd characterize 'compatibility' as the following:

- **Community Engagement.** As mentioned above, The Town Club fosters a sense of community within Fox Point by providing a space where residents can come together for social activities. The Club hosts many social gatherings that, speaking for ourselves, have brought us closer to our neighbors.
- **Maintaining its Landscape.** The Club professionally maintains a beautifully manicured property. This contributes to the aesthetic appeal of our neighborhood, which enhances property values and enjoyment of our surroundings.
- **Noise Control.** Even before we were members of the Club, we have found its staff to be respectful of their residential surroundings and responsive to concerns. Now as a member, I have seen consistent correspondence from Club leadership about expectations around music volume, light, and noise.
- **Contribution to Fox Point's Economy.** The Club employs a handful of staff and helps offset our already high property taxes through their operations, which supports the economic vitality of Fox Point.
- **Architectural and Cultural Significance.** The Town Club has been a longstanding institution in Fox Point. Its facilities are reflective of the omnipresent midcentury architecture seen throughout our community. As people who take great pride in that aesthetic, we feel as though this also helps enhance its compatibility with Fox Point.

These factors considered, we believe The Town Club's proposal also satisfies criteria two and four.

Property Values. The Club is bordered by N. Santa Monica to its west, the railroad tracks to its east, Bradley on its north, and 7740 N. Santa Monica, a private residence, on its south.

We'd argue that the railroad tracks are far more disruptive and detrimental to property values than The Town Club.

According to Redfin, the median sale price of homes in Fox Point is \$491,250. Homes recently sold within the few blocks surrounding the Club include:

- 7860 N. Mohawk Road | Sale Price: \$665,000
- 7821 N. Lake Drive | Sale Price: \$515,000
- 7857 N. Lake Drive | Sale Price: \$750,000
- 7705 N. Lake Drive | Sale Price: \$1,225,000
- 7607 N. Lake Drive | Sale Price: \$770,000
- 7722 N. Boyd Way | Sale Price: \$520,000

- 502 E. Calumet | Sale Price: \$532,500
- 1000 E. Bradley Rd | Sale Price: \$290,000
- 7915 N. Boyd Way | Sale Price: \$390,000
- 8034 N. Whitney | Sale Price: \$215,000
- 7609 N. Bell Rd | Sale Price: \$441,875
- 7614 N. Seneca Rd. | Sale Price: \$455,000

Our appraised property value increased over 30% in the last assessment. The same is true for several of our immediate neighbors, including other members of The Town Club, per their reports. **This negates the notion that The Town Club is detrimental to its surrounding property values.**

We understand that after the Planning Commission unanimously approved The Town Club's request for its Institutional District Permit, another request was made of The Town Club to meet an Outdoor Recreation Permit. We understand that to meet the criteria for that permit, the Club must not:

- Be a nuisance or hazard; and
- Be detrimental to the general public welfare.

We believe that The Town Club also satisfies the criteria for an Outdoor Recreation Permit through these measures:

- **Noise Control.** The Town Club sets hours of play for its members, and these hours are mindful of its residential surroundings. Further, one of the enhancements The Town Club proposes with this project is the installation of a noise screen to help reduce noise from the courts. Additionally, The Town Club maintains beautiful shrubs surrounding many of its courts to assist with noise control.
- **Protection of General Public Welfare.** Most of The Town Club's activities are centered around exercise to promote the health and wellbeing of its members. These activities are key to helping maintain fitness and engage socially with neighbors and friends throughout the summer months. All tennis and pickleball players at The Town Club are known and paying members of the Club. All guests must be accompanied by Town Club members. As such, rules and regulations are enforceable up to termination of membership.

For these reasons, we find that The Town Club meets the criteria for an Outdoor Recreation Permit.

To the extent the Village of Fox Point has additional suggestions or feedback regarding the Club's scope of work for this project, we're confident that the Club would be open to considering those items.

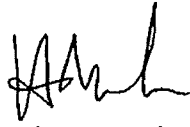
The Town Club and its many athletic and social offerings are one of the primary reasons we decided – and continue to choose Fox Point as our home. We respectfully request your approval of The Town Club's pending permit requests.

We welcome additional questions or discussion from representatives of the Village, should that be of interest.

Thank you for your consideration!



Sarah Koehn



Hilary McCabe

Jaekels, Christopher J.

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Tuesday, March 26, 2024 4:41 PM
To: Jaekels, Christopher J.
Subject: Fwd: [External] Pickleball permit

Sent via the Samsung Galaxy S22+ 5G, an AT&T 5G smartphone
Get [Outlook for Android](#)

From: Martha Olla <molla@kw.com>
Sent: Tuesday, March 26, 2024 4:26:08 PM
To: Abby Schroeder <Abby@thetownclub.com>
Subject: [External] Pickleball permit

Dear Village of Fox Point Board Members/Village Plan Commission,

As longtime village residents , we fully support the proposed improvements to the existing tennis and pickleball court. We are requesting the Pickleball Permit permit be granted for The Town Club. The footprint is not changing. Noise from the train multiple times a day is more of a noise disturbance than the sounds of play on the courts. The courts are only in use 5 months out of the year!

We strongly feel that the request of the Club meets the provisions set forth by the village:

1. **Appropriate in the location proposed;**
-The location of the courts will remain the same.
2. **Compatible with the neighborhood;**
-The courts have been in the neighborhood for 50+ years. Footprint and size of the court remain the same.
3. **Not detrimental to the property values of the surrounding property**
-The courts have been in place since the surrounding neighbors bought their homes. Again, the railroad tracks have more of an impact on real estate value than the courts.
4. **In keeping with the residential character and quality of the Village.**
- The Town Club has always held high standards for groundskeeping and aesthetic in keeping with original integrity.

The Code for Outdoor Recreation adds:

- **Not a nuisance or hazard**

The courts are in no way a hazard or nuisance. They have been standing for decades and in excellent condition and professionally maintained. They are not open to the

general public. Only members are allowed to play and with that governed by club rules.

- **Not detrimental to the general public welfare**

The courts nor the grounds are not open to the general public . This is a private club and will remain that way. These courts are not any different than the courts at Stormonth Elementary. Matter of fact, I grew up on the corner of Mall RD and Crossway (Martha) and our family frequently used the Stormonth courts. Never were they considered a nuisance.

We look forward to continued use and enjoyment of the courts. We feel fortunate to have the club in our village. The ability to walk or bike to the club is a great asset.

Thank you for your consideration,

Joseph and Martha Olla
402 E. Daphne RD.
Fox Point, WI



Martha Olla
PARTNER, LICENSED AGENT
414-550-6150 • MOLLA@KW.COM
STALLEREALTY.COM

Stallé REALTY GROUP
205 E SILVER SPRING DRIVE
WHITEFISH BAY, WI 53217

kw
KELLERWILLIAMS

This message and any attachments are for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of the email by you is prohibited.

On Mon, Mar 25, 2024 at 4:03 PM Abby Schroeder <Abby@thetownclub.com> wrote:

Hi Everyone

You received my email on Friday regarding our issues with permits with the Village of Fox Point. We need to receive the letters by **end of day tomorrow** to submit to the Planning Commission committee. PLEASE if you haven't already send Abby your support letters, detailed below. Thank you to everyone who has already submitted a letter.

Dear Members,

As you are aware, the Club has asked the Village of Fox Point for a permit to upgrade its existing tennis and pickleball facilities on the far south tennis courts. We have been met with some resistance from the surrounding residents, therefore this matter has been stalled with the Village Board. That matter is currently before the Village Plan Commission and Village Board. We are reaching out to all TC members who are also Village of Fox Point residents, to take a moment to reply to this email expressing your support for our pending pickleball permit request and that you believe that TC's request meets the provisions below. The Town Club must meet the following four requirements to qualify for the Institutional District permit.

Fox Point Code provisions for the Institutional District require the following findings:

1. Appropriate in the location proposed;
2. Compatible with the neighborhood;
3. Not detrimental to the property values of the surrounding property; and
4. In keeping with the residential character and quality of the Village.

The Planning Commission initially unanimously approved our permit based on the Institutional District requirements, however the Village is now stating that we also need to meet with code for an Outdoor Recreation permit.

The Code for Outdoor Recreation adds:

- Not a nuisance or hazard
- Not detrimental to the general public welfare

We will be submitting letters of support to the Village prior to our April 1st Planning Commission. We will also be reaching out to members and residents for their support in person or via zoom at the Village's April Board Meeting on April 9th. We will follow up at a later date with more details regarding that meeting. If you have neighbors and friends in Fox Point, who are not members, but would be in support of our facility upgrades, please direct them to submit statements of support to Abby as well.

If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Jaekels, Christopher J.

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Tuesday, March 26, 2024 5:52 PM
To: Jaekels, Christopher J.
Subject: Fwd: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Sent via the Samsung Galaxy S22+ 5G, an AT&T 5G smartphone
Get [Outlook for Android](#)

From: Taylor Garrett <taylorpgarrett@gmail.com>
Sent: Tuesday, March 26, 2024 5:48:30 PM
To: Abby Schroeder <Abby@thetownclub.com>
Cc: Sarah Ellsworth <sarahjaneellsworth@gmail.com>
Subject: Re: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Hi Abby,

Taylor and Sarah Garrett support Town Club's application for permits.

7729 N Links Way Fox Point 53217

On Mon, Mar 25, 2024 at 4:21 PM Abby Schroeder <Abby@thetownclub.com> wrote:

HI Everyone

You received my email on Friday regarding our issues with permits with the Village of Fox Point. We need to receive the letters by end of day tomorrow to submit to the Planning Commission committee. PLEASE if you haven't already send Abby your support letters, detailed below. Thank you to everyone who has already submitted a letter.

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Peter Klug and Ryan Savage

Jaekels, Christopher J.

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Tuesday, March 26, 2024 5:52 PM
To: Jaekels, Christopher J.
Subject: Fwd: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Sent via the Samsung Galaxy S22+ 5G, an AT&T 5G smartphone
Get [Outlook for Android](#)

From: Kimberly Forster <forsterkimberly98@gmail.com>
Sent: Tuesday, March 26, 2024 5:30:55 PM
To: Abby Schroeder <Abby@thetownclub.com>
Subject: Re: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

We are in full support of bettering the courts and overall club improvement with the proposed "refresh". We have come to love our time spent with friends and each other and to enhance what is there today only makes sense.

All our best

Kimberly Forster

Sent from my iPhone

On Mar 25, 2024, at 4:03 PM, Abby Schroeder <Abby@thetownclub.com> wrote:

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If you agree, please reply to this email and send your statement of support to Abby Schroeder and include your name and address.

Thank you for your continued support of our Club.

Peter Klug and Ryan Savage

Exhibit 5

Link to Acoustiblok Webpage Regarding Pickle Ball Issues and Answers

(<https://acoustiblok.com/2013/04/08/pickleball-court-reduced-noise/>)

Exhibit 6

**March 20, 2024, Letter From Counsel for Town Club to
Scott Botcher Agreeing to Proceed Under 745-10 and 745-20 of
the Fox Point Code**



March 20, 2024

Via Email: sbotcher@villageoffoxpoint.com

Scott Botcher
Village Manager
Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

Via Email: elarson@ammr.net

Attorney Eric J. Larson
Municipal Law and Litigation Group, S.C.
720 N. East Avenue
Waukesha, WI 53186

Re: Conditional Use Permit: The Town Club – 7950 N. Santa Monica Blvd

Gentlemen,

We write to advise you that we understand that this matter is now proceeding as a single permit under both Sections 745-10 and 745-20 of the Village Zoning Code.

We further understand that the prior proceedings remain in the record, the public hearing has been reopened, and the matter is scheduled for the Plan Commission on April 1. Additional submittals and comment will be received (including a projected reconvened Public Hearing on April 9).

If we are mistaken with regard to the proceedings as set forth, or if you have any questions or comments, please do not hesitate to call or email.

Thank you.

Very truly yours,

Amundsen Davis, LLC

Christopher J. Jaekels

CJJ/das

Exhibit 7

National Hearing Conservation Association Decibel Chart



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Decibel (Loudness) Comparison Chart

Here are some interesting numbers, collected from a variety of sources, that help one to understand the volume levels of various sources and how they can affect our hearing.

Environmental Noise	
Weakest sound heard	0dB
Whisper Quiet Library	30dB
Normal conversation (3-5')	60-70dB
Telephone dial tone	80dB
City Traffic (inside car)	85dB
Train whistle at 500', Truck Traffic	90dB
Subway train at 200'	95dB
<i>Level at which sustained exposure may result in hearing loss</i>	<i>90 - 95dB</i>
Power mower at 3'	107dB
Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
<i>Pain begins</i>	<i>125dB</i>
Pneumatic riveter at 4'	125dB
<i>Even short term exposure can cause permanent damage - Loudest recommended exposure <u>WITH</u> hearing protection</i>	<i>140dB</i>
Jet engine at 100', Gun Blast	140dB
Death of hearing tissue	180dB
Loudest sound possible	194dB

OSHA Daily Permissible Noise Level Exposure	
Hours per day	Sound level
8	90dB
6	92dB
4	95dB
3	97dB
2	100dB
1.5	102dB
1	105dB
.5	110dB

.25 or less	115dB
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Perceptions of Increases in Decibel Level	
Imperceptible Change	1dB
Barely Perceptible Change	3dB
Clearly Noticeable Change	5dB
About Twice as Loud	10dB
About Four Times as Loud	20dB

Sound Levels of Music	
Normal piano practice	60 -70dB
Fortissimo Singer, 3'	70dB
Chamber music, small auditorium	75 - 85dB
Piano Fortissimo	84 - 103dB
Violin	82 - 92dB
Cello	85 -111dB
Oboe	95-112dB
Flute	92 -103dB
Piccolo	90 -106dB
Clarinet	85 - 114dB
French horn	90 - 106dB
Trombone	85 - 114dB
Tympani & bass drum	106dB
Walkman on 5/10	94dB
Symphonic music peak	120 - 137dB
Amplifier rock, 4-6'	120dB
Rock music peak	150dB

NOTES:

- One-third of the total power of a 75-piece orchestra comes from the bass drum.
- High frequency sounds of 2-4,000 Hz are the most damaging. The uppermost octave of the piccolo is 2,048-4,096 Hz.
- Aging causes gradual hearing loss, mostly in the high frequencies.
- Speech reception is not seriously impaired until there is about 30 dB loss; by that time severe damage may have occurred.
- Hypertension and various psychological difficulties can be related to noise exposure.

- The incidence of hearing loss in classical musicians has been estimated at 4-43%, in rock musicians 13-30%.

Statistics for the Decibel (Loudness) Comparison Chart were taken from a study by Marshall Chasin, M.Sc., Aud(C), FAAA, Centre for Human Performance & Health, Ontario, Canada. There were some conflicting readings and, in many cases, authors did not specify at what distance the readings were taken or what the musician was actually playing. In general, when there were several readings, the higher one was chosen.

Exhibit 8

**Public Pickle Ball Courts in North Shore Residential
Neighborhoods Including Two Sets of Courts Operated by the
Village of Fox Point**

(Permit Status Unknown)

News Headlines

Posted on: March 4, 2024

Longacre and Indian Creek Tennis Courts are ready for play!!

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nis court nets were put up at both Longacre and Indian Creek parks, making them ready for play. The wind screens will not be put up until later this spring.

The 2023 project to resurface the facilities was completed at the Indian Creek courts, with Pickle Ball lines added. The work on the Longacre courts had to be delayed to 2024 but will be resurfaced this summer with Pickle Ball lines also added to these courts. During the resurfacing project, the Longacre courts will not be available for play. The dates for this work is not yet know.

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The original item was published from 10/11/2023 8:37:00 AM to 11/1/2023 12:00:03 AM.

News Headlines

Posted on: September 29, 2023

[ARCHIVED] Village Tennis Courts – UPDATE

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k tennis courts were open for play October 1st with the courts lined for both tennis and pickle ball. Due to the recent significant drop in temperatures and the upcoming forecast of rain, repair to the Longacre tennis courts will be delayed. Initiation of the work on these courts will depend on the forecast of consistent temperatures above 55 degrees and dry weather. The Longacre courts will be available for play until the repair work is initiated or the nets are taken down for the season. Further updates will be

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posted here. Staff appreciates your patience as this project is completed.

Other News in News Headlines

Village Hall/Police Department Phone Upgrade



Posted on: February 27, 2024

Bradley Road Project – Phase 2 Gas Main Work



Posted on: February 16, 2024

Message from the Village Forester: Honeylocust Seed Pods

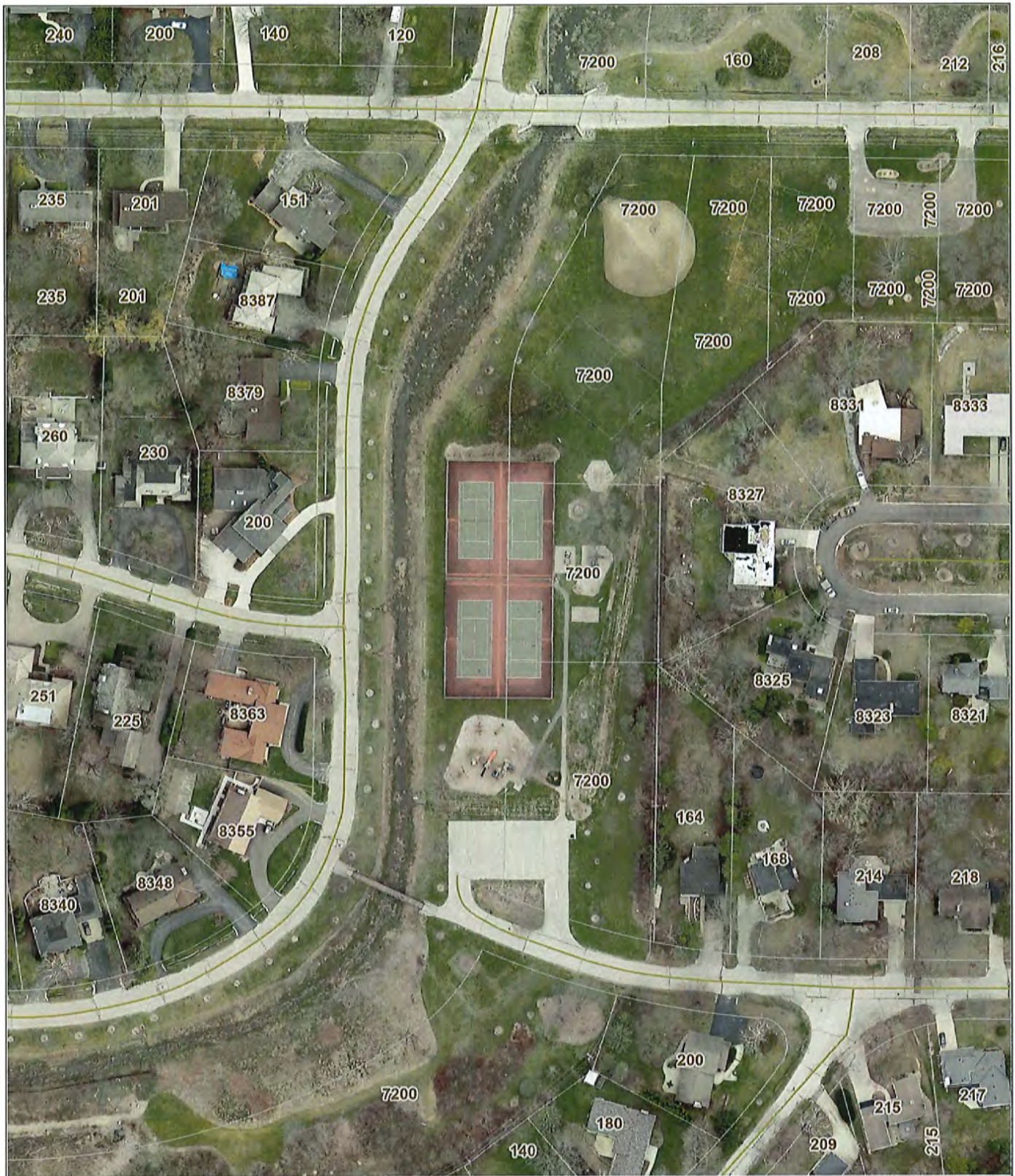


Posted on: February 22, 2024

Milwaukee City/County Sales Tax



Posted on: January 11, 2024



Village of Fox Point - Indian Creek Parkway

DISCLAIMER: The Village of Fox Point Does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1" = 188'



VILLAGE OF FOX POINT

7200 North Santa Monica Blvd
Fox Point, WI 53217
(414) 351-8900

Print Date: 3/26/2024



Village of Fox Point - Longacre Park



VILLAGE OF FOX POINT

7200 North Santa Monica Blvd
Fox Point, WI 53217
(414) 351-8900

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SCALE: 1" = 188'

Print Date: 3/26/2024

milwaukee journal sentinel

NEWS

Looking for pickleball courts in Milwaukee? Here's where you can play



Drew Dawson

Milwaukee Journal Sentinel

Published 1:37 p.m. CT May 26, 2023

Pickleball is one of the fastest growing sports across the country. That growth has absolutely found its way to the Milwaukee metro area.

There are many plans for pickleball courts in the works at the moment and more likely to come. For now, we wanted to compile a list of places that beginners and advanced players can enjoy the popular game.

From bars to parks, here is a list of places that have pickleball courts in the Milwaukee area.

Riverwalk Commons Pickleball Courts (Milwaukee)

The Riverwalk Commons is one of the few places to play in the downtown area. There are two pickleball courts under the Interstate 794 bridge across the street from the Milwaukee Public Market. The courts are first come, first served.

Address: 423 N. Water St., Milwaukee

Sijan Pickleball & Tennis Courts (Milwaukee)

There are six pickleball-lined courts at this Bay View spot next to Kinnickinnic Park. The courts are free to use. However, you will need to bring your own net.

Address: 2800-2898 S. California St., Milwaukee

Juneau Playfield (Milwaukee)

There are six pickleball courts lined on the tennis courts at Juneau Playfield. They are open and free to the public, but you'll need to bring your own net.

Address: 6500 W. Mt. Vernon Ave., Milwaukee

Dale Z.'s On Tour (Milwaukee)

A bar with a pickleball court? That's right. In 2022, owner Dale Zbieranek installed two outdoor pickleball courts at the Tippecanoe bar. The courts are free to use. To get more info, text "pickle" to (414) 812-4400. Walk-ins are also welcome.

Address: 3585 S. Howell Avenue, Milwaukee

Atwater Elementary School (Shorewood)

There are four pickleball courts lined on the tennis courts at Atwater Elementary. Courts are first-come, first-serve all the time except for during the Saturday program. This takes place from 8 a.m. to noon every Saturday between June 3 and Aug. 19. For the Saturday program, you can purchase an eight-uses punch card for \$30 as a Shorewood resident and \$45 as a non-resident.

You can find more information [here](#).

Address: 2100 E. Capitol Drive, Milwaukee

Hart Park (Wauwatosa)

There are four courts lined in the tennis courts. You'll use the same nets that are up for both sports. Courts are first-come, first served.

Address: 7300 W Chestnut Street, Wauwatosa

More: Chin Up: Packers football hero Mark Tauscher has passion for a new game: pickleball

Klode Park (Whitefish Bay)

There are four courts drawn into the tennis courts here. Portable nets are available, but you can also bring your own.

Address: 5960 N. Lake Drive, Whitefish Bay

Liberty Heights Park (West Allis)

There are two courts at this West Allis park. There is a group that meets every Sunday at 10 a.m. to play if you're interested.

Address: 1540 S. 62nd St., West Allis

Village Park (Menomonee Falls)

There are two dedicated pickleball courts that are free and open to the public. Courts are first-come, first served.

Address: N87 W16749 Garfield Drive, Menomonee Falls

Banting Park (Waukesha)

There are eight pickleball courts at this Waukesha park. They are open and free to the public year round.

Address: 2101 Butler Drive, Waukesha

Valley View Park (New Berlin)

There are eight lined courts at this park in New Berlin. The courts are only open at specific times and you must register to ahead of time to use them, which you can do here. There is a fee when you register. The court are open to reserve from May through August. For open play, the courts are open Monday, Wednesday and Friday from 7 a.m. to 11:30 a.m. (it is closed on Memorial Day), Tuesday and Thursday from 8 a.m. to 10 a.m. and 5 p.m. to 7 p.m.

Address: 5051 S. Sunnyslope Road, New Berlin

Lions Park (New Berlin)

These courts are coming to New Berlin in summer 2023. Four to six courts are expected to be lined there. It is unclear if they will require registration like the courts at Valley View Park.

Address: 14900 W. Overland Trail, New Berlin

This story will be updated as more courts come to the area and to our attention. If you'd like us to add a place not included on this list, please reach out to the reporter whose

information is below.

Drew Dawson can be reached at ddawson@jrn.com or 262-289-1324.

Ellsworth Park



Ellsworth Park is the Village's main park and holds

many recreation opportunities. The park features playground equipment, an open-air pavilion and restrooms, a baseball/softball field, soccer fields, and four full-sized tennis courts, bounce boards, and pickleball courts.

Doctors Park

Doctors Park, part of the Milwaukee County Parks System, is located on the border of Bayside and Fox Point on the shoreline of Lake Michigan. For more information about Doctors Park, visit them [online](https://county.milwaukee.gov/files/county/parks-department/Park-Maps/Doctors1.pdf) (<https://county.milwaukee.gov/files/county/parks-department/Park-Maps/Doctors1.pdf>).

Mount Bayside

Mount Bayside is located just north of Village Hall on the corner of Fairy Chasm Road and Regent Road. Parking is available in the lot located off of Fairy Chasm Road, on the west side of the sled hill. Please do not park on the street.

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Welcome

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Village of Bayside



[\(414\) 206-3915 \(tel:\(414\) 206-3915\)](tel:(414)206-3915)



9075 N Regent Rd
Bayside, WI 53217



Monday-Thursday: 8:00am-4:00pm
Friday: 8:00am-12:00pm

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Fox Point-Bayside, WI

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This post was contributed by a community member. The views expressed here are the author's own.

[Community Corner](#)

Nicolet Rec Dept Offering Pickleball Lessons

Register online for these lessons or any other program starting on 8/7 at:
<https://web2.vermontsystems.com/nicolet.html>



Nicolet Recreation Department, Community Contributor ✓

Posted Tue, Aug 1, 2023 at 9:17 am CT



ADVERTISEMENT

Beginner Pickleball Lessons

This class is for first time pickleball players. Come join the fun and learn how to play the game and develop your strokes under the instruction of the Nicolet tennis staff. The class will be divided between instruction and play.

Date: September 6 – October 11

Day: Wednesdays

Time: 6:00 – 7:00pm

Location: Nicolet High School – Tennis & Pickleball Courts

Fee: \$90.00R/\$100.00NR

Program#: 131023-01

Min/Max: 4/30

Instructor: Kobe Holdren and Tim Koppa

ADVERTISEMENT

Intermediate Pickleball Lessons

Players should know how to score and have the ability to play matches. Players should have prior experience playing competitively. This is not a beginner lesson but it is not advanced either. We will drill and play. We will work on taking your game to the next level. Email me with questions:
tim.koppa@nicolet.us

ADVERTISEMENT

Exhibit 9

**Response of Bayside Communications Center to
Open Records Request**

**(No Complaints about Pickle Ball anywhere in Village, March
2021 to March 2024)**



Christopher J. Jaekels, Esq.
Amundsen Davis, LLC
111 East Kilbourn Avenue – Suite 1400
Milwaukee, WI 53202
Email: cjaekels@amundsendavislaw.com

March 4, 2024

Via Email and US Mail

Liane Scharnott
Communications Center Director
9075 N. Regent Road
Bayside, WI 53217
Email: lscharnott@baysidewi.gov

Dear Ms. Scharnott:

Under the **Wisconsin Open Records Law, §19.31 et seq.**, I hereby request an opportunity to inspect or obtain copies of the following public records:

Records of complaints received within the last three years by the Communications Center regarding noise or other issues arising from the playing of pickleball in the Village of Fox Point.

If there are any fees for searching or copying these records, please inform me if the cost will exceed one hundred dollars (\$100.00). Transmission via email is acceptable. This information is not being sought for commercial purposes.

Please provide a response in writing, as soon as possible. If you expect significant delay in fulfilling this request, please contact me with information about when I might expect copies or be able to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Very truly yours,

Amundsen Davis, LLC

Christopher J. Jaekels

CJJ/das

Jaekels, Christopher J.

From: Liane Scharnott <lscharnott@baysidewi.gov>
Sent: Monday, March 11, 2024 11:43 AM
To: Jaekels, Christopher J.
Subject: Re: Open Records Request Pickleball in Fox Point.

Chris,

I searched for the information you requested and was not able to locate any calls or complaints regarding pickleball. I followed up with FPPD to make sure I wasn't missing anything. They got back to me today and confirmed this.

Please advise if you need anything further.

Respectfully,

Liane

Liane Scharnott, RPL

Director of Communications
Bayside Communications Center
9075 N Regent Road
Bayside, WI. 53217
Tel. 414-206-3922
Fax. 414-351-8810
lscharnott@baysidewi.gov

Integrity-Service-Solutions



CONFIDENTIALITY NOTICE: This communication with its contents, including attachments, may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not a named recipient, please contact the sender immediately and do not disclose the contents to another, use it for any purpose, store or copy the information in any medium. Please destroy all copies of the communication.

From: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Sent: Monday, March 11, 2024 11:02 AM
To: Liane Scharnott <lscharnott@baysidewi.gov>
Subject: RE: Open Records Request Pickleball in Fox Point.

You don't often get email from cjaekels@amundsendavislaw.com. [Learn why this is important](#)

Hi Liane,
Any news?

Thanks,
Chris

From: Liane Scharnott <lscharnott@baysidewi.gov>
Sent: Wednesday, March 6, 2024 7:46 AM
To: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Subject: Re: Open Records Request Pickleball in Fox Point.

Good morning,

I received your request and have started to look for any records relating to this. I will be in contact with you shortly.

Respectfully,

Liane

Liane Scharnott, RPL

Director of Communications
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From: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Sent: Monday, March 4, 2024 6:19 PM
To: Liane Scharnott <lscharnott@baysidewi.gov>
Subject: Fwd: Open Records Request Pickleball in Fox Point.

You don't often get email from cjaekels@amundsendavislaw.com. [Learn why this is important](#)

Sent from my Verizon, Samsung Galaxy smartphone
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Hi Liane,
Hope this isn't too much bother.
Thanks,
Chris

Christopher J. Jaekels

Partner

Direct: 414.225.1409

cjaekels@amundsendavislaw.com

[111 East Kilbourn Avenue, Suite 1400](#)

[Milwaukee, Wisconsin 53202](#)

<http://www.amundsendavislaw.com> | LinkedIn



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CAUTION: This email originated from outside of the North Shore Consolidated O365 Email System (Bayside, Glendale, Shorewood and North Shore Fire & Rescue). Do not click links or open attachments unless you recognize the sender and know the content is safe.

Exhibit 10

**Response of Village of Fox Point Police Department to
Open Records Request**

**(No Complaints about Pickle Ball anywhere in Village, March
2021 to March 2024)**

Jaekels, Christopher J.

From: Salahadyn, Dyer A.
Sent: Tuesday, March 5, 2024 4:26 PM
To: Jaekels, Christopher J.
Subject: FYI Chief Freedy of Fox Point Police Dept. re Request for Records

From: Chris Freedy <cfreedy@villageoffoxpoint.com>
Sent: Tuesday, March 5, 2024 4:14 PM
To: Salahadyn, Dyer A. <DSalahadyn@amundsendavislaw.com>
Subject: Request for Records

Dear Attorney Jaekels;

Our agency received your e-mailed request for records related to any complaints received by the village or police department related to noise arising from pickleball play occurring in the village. As a courtesy to get a prompt response back to you, a response was provided by administrative staff without completing a full analysis of the request.

In direct response to your request for records, specifically, any complaints received within the last three years by the Village or Police Department regarding noise or other issues arising from the playing of pickleball in the Village;

1. The police department does not maintain records outside of law enforcement related activities and cannot respond on behalf of the Village administration. Requests for records from the Village of Fox Point should be directed to Clerk / Treasurer Sara Bruckman.
2. Your request for records from the police department is overly broad to include "noise or other issues arising from the playing of pickleball." The police department does not have any method to search our records to identify "issues arising from the playing of pickleball," nor noise complaints related to pickleball.

I am not denying your request for records, or access to records from our agency. However, I am unable to provide any records related to your request without staff completing a manual review of each call for service occurring during the 3-year time period which would create an undue burden on our agency and would be sufficiently excessive. Pursuant to Wisconsin § 19.35(1)(h), the excessiveness of the request would warrant rejection of the request.

Per your request, I contacted you by telephone to clarify the specifics of your request and identified a narrower scope for a different request. Per the conversation, please resubmit a request for records for police response to noise complaints in Fox Point, or at a specific location, and we will fulfill the request.

Thank you,

Chris Freedy

Christopher Freedy
Chief of Police
Fox Point Police Department
Fox Point, Wisconsin 53217
(414) 351-8911 admin

FBI National Academy
254th Session



Jaekels, Christopher J.

From: Salahadyn, Dyer A.
Sent: Monday, March 4, 2024 3:57 PM
To: policerecords@villageoffoxpoint.com
Cc: Jaekels, Christopher J.
Subject: ATTORNEY JAEKELS: FOIA Public Records Request re Village of Fox Point (Pickleball)
Attachments: FOIA Public Records Request to Fox Point Police Dept. re Pickleball issues.PDF

Dear Chief Freedy,

On behalf of Attorney Chris Jaekels, please find attached a request for public records pertaining to the above-referenced matter.

Any complaints received within the last three years by the Village or Police Department regarding noise or other issues arising from the playing of pickleball in the Village.

If you have any questions regarding the attached, please contact Attorney Jaekels.

Thank you for your time and attention to this matter.

Respectfully submitted,

Dyer Salahadyn
Legal Administrative Assistant to
Attorney Christopher J. Jaekels

Dyer Salahadyn
Legal Administrative Assistant
Direct: 414.225.7519
dsalahadyn@amundsendavislaw.com
[111 East Kilbourn Avenue, Suite 1400](#)
[Milwaukee, Wisconsin 53202](#)
<http://www.amundsendavislaw.com> | LinkedIn



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Christopher J. Jaekels, Esq.
Amundsen Davis, LLC
111 East Kilbourn Avenue – Suite 1400
Milwaukee, WI 53202
Email: cjaekels@amundsendavislaw.com

March 4, 2024

Via Email and US Mail

Christopher Freedy
Chief, Fox Point Police Department
7300 North Santa Monica Boulevard
Fox Point, WI 53217
Email: policerecords@villageoffoxpoint.com

Dear Chief Freedy:

Under the **Wisconsin Open Records Law, §19.31 et seq.**, I hereby request an opportunity to inspect or obtain copies of the following public records:

Any complaints received within the last three years by the Village or Police Department regarding noise or other issues arising from the playing of pickleball in the Village.

If there are any fees for searching or copying these records, please inform me if the cost will exceed one hundred dollars (\$100.00). Transmission via email is acceptable. This information is not being sought for commercial purposes.

Please provide a response in writing, as soon as possible. If you expect significant delay in fulfilling this request, please contact me with information about when I might expect copies or be able to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Very truly yours,

Amundsen Davis, LLC

A handwritten signature in blue ink, appearing to read "C. Jaekels", written over the printed name.

Christopher J. Jaekels

CJJ/das

Jaekels, Christopher J.

From: Jaekels, Christopher J.
Sent: Tuesday, March 5, 2024 2:47 PM
To: Candace Maxim
Cc: Salahadyn, Dyer A.
Subject: RE: Records Request

Thank you Candace.

Can you confirm that you have no records of a complaint in the last three years anywhere in the Village concerning "Pickleball"?

Your assistance is most appreciated.

Chris Jaekels

From: Candace Maxim <cmaxim@villageoffoxpoint.com>
Sent: Tuesday, March 5, 2024 10:10 AM
To: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Subject: Records Request

March 5, 2024

Dear Christopher Jaekels,

I am in receipt of your request for records pursuant to Wisconsin state statute chapter 19. After conducting a search of our records management system, I was able to locate the records listed below that match your search criteria. As outlined in our records retention policy, the records you requested are being delivered electronically so no fees are associated with the production of records.

Records provided:

Fox Point Police Department: 21.001945

If you have any questions, or you require anything further, feel free to call.

Best regards,

Candace Maxim

Administrative Assistant | Fox Point Police

7300 N Santa Monica Boulevard | Fox Point, Wisconsin 53217

(414)351-8911 Administration

(414)351-9900 Dispatch



Fox Point Police Department
Roll Call Report



21-000247	Noise Complaint	Disposition Finish
01/17/21 18:4236	8620 N Port Washington Rd,313	Unit 505
		Officer bb1307

Resident complaining of loud neighbor that has been occurring since the summer. CM is in constant contact with management regarding it. CM was advised to contact police when loud an unnecessary noise is occurring, in order to take action.

21-000517	Noise Complaint	Disposition Finish
02/03/21 22:3406	7950 N Santa Monica Blvd,BLDG	Unit 516
		Officer vw3317

Upon arrival, Town club members finishing a bonfire, would be leaving soon, No Names obtained.

21-000692	Noise Complaint	Disposition Finish
02/17/21 05:2459	6940 N Santa Monica Blvd,LOT	Unit 513
		Officer sg7147

Subjects advised. stopping for night. no names obtained.

21-000817	Noise Complaint	Disposition Finish
02/25/21 00:0500	1811 E Dean Rd	Unit 522
		Officer ln4461

Caller reports hearing indistinct yelling coming from Doctor's Park for approximately 10 minutes. Caller advised two vehicles were observed leaving Doctor's park and traveling westbound Dean. Officers checked the area, GOA. No other callers. Caller was advised.

21-001186	Noise Complaint	Disposition Finish
03/20/21 19:3154	7545 N Lake Dr	Unit 516
		Officer vw3317

Caller stated his neighbor to the north was playing loud music an he could hear it in his home and stated this was an on going issue last year. Officer arrived and could hear music from lake drive. Officer made contact with 921 Calumet and advised them of the music level and noise ordinance. Resident advised music would be turned off for the night and attempted to be kept at a reasonable level prior to 10pm in the future.

21-001200	Noise Complaint	Disposition Finish
03/21/21 15:2203	1443 E Goodrich Ln	Unit 516
		Officer vw3317

Noise complaint due to cutting down trees. Contact made with caller and advised of they would be able to finish. All in order.

21-001508	Noise Complaint	Disposition Finish
04/09/21 23:0956	N Boyd Way/E Calumet Rd	Unit 522
		Officer ln4461

Caller, not wanting police contact, reports subjects down the street being loud and using flashlights in their yard. Caller reported the subjects then went inside. Officer checked the area, all appeared in order. No names obtained.

Fox Point Police Department

Roll Call Report

**21-001791****Noise Complaint**

04/26/21 04:0740

7529 N Navajo Rd

Disposition **Finish**
Unit **511**
Officer **cb4174**

Heard dog barking while in kennel but the dog was in the garage. Garage door was closed but side door was open. Spoke with owner who stated the dog had been outside for 5 minutes. Explained to owner to keep all doors closed while dog was in the garage, provided other alternatives when letting the dog outside. Owner agreed to move the dog inside.

21-001945**Noise Complaint**

05/05/21 22:5332

7950 N Santa Monica Blvd,BLDG

Disposition **Finish**
Unit **503**
Officer **ka1794**

Caller reported audible noise coming from the Paddle Ball courts at the Town Club. Spoke with subjects who had already shut music off and were advised to keep the noise down. No names obtained

21-002495**Noise Complaint**

06/09/21 19:1108

7600 N Port Washington Rd,LOT

Disposition **Finish**
Unit **516**
Officer **vw3317**

Event going on, No Names

21-002501**Noise Complaint**

06/09/21 22:3145

8108 N Santa Monica Blvd

Disposition **Finish**
Unit **516**
Officer **vw3317**

Caller stated he heard what sounded like construction going on to the south of him. Officer arrived and listened, heard nothing going on. All in order, no names.

21-002581**Noise Complaint**

06/14/21 00:0845

7500BLK N Mohawk Rd

Disposition **Finish**
Unit **513**
Officer **sg7147**

Parked in area for several minutes, no music heard.

21-002618**Noise Complaint**

06/15/21 22:4732

8108 N Santa Monica Blvd

Disposition **Finish**
Unit **513**
Officer **sg7147**

no music/noise heard since arrival.

21-002832**Noise Complaint**

06/28/21 09:4518

7529 N Navajo Rd

Disposition **Written Warning Issued**
Unit **515**
Officer **do8848 JR8159**

Anon caller states in the backyard at this address dog has been barking for about 30 min now. 515/512 spoke with dog owner who placed the dog inside the residence. Verbal warning

21-002939**Noise Complaint**

07/03/21 21:4021

1443 E Goodrich Ln

Disposition **Finish**
Unit **520**
Officer **jp5735**

Fox Point Police Department

Roll Call Report



Family party with live music. Advised to turn down volume try to wrap up sound system use at 10 pm. Caller advised.

21-002941	Noise Complaint	Disposition Finish
07/03/21 22:2624	1443 E Goodrich Ln	Unit 520
		Officer jp5735

Party advised of second complaint. Music ended for the evening.

21-002959	Noise Complaint	Disposition Finish
07/05/21 00:4929	131 W Bradley Rd	Unit 511
		Officer cb4174

Caller complained loud music coming from listed address. Made contact with homeowner who agreed to turn music off for the night.

21-003091	Noise Complaint	Disposition Finish
07/12/21 22:2519	7307 N Beach Dr	Unit 518
		Officer jh2765

Veh parked in turn around with 6 juveniles. Parties were advised to leave and parents notified. Subjects advised they heard loud music coming from a residence to the west of 7328 N Beach. I located the music at 7307 N Beach and the resident turned it off.

21-003193	Noise Complaint	Disposition Finish
07/17/21 23:3955	7950 N Santa Monica Blvd,BLDG	Unit 503
		Officer ka1794

Report of loud music coming from the Town Club. Wedding reception was underway, and DJ advised by Town Club management to turn down the volume. No names obtained.

21-003307	Noise Complaint	Disposition Finish
07/23/21 22:3059	425 W Willow Ct,149	Unit 518
		Officer jh2765

Caller complained about the surround sound noise of his neighbor to the west. Contact made with the neighbor and I was unable to hear loud excessive noise coming from his condo. Neighbor was advised, no action.

21-003437	Noise Complaint	Disposition Finish
07/30/21 22:0235	1447 E Goodrich Ln	Unit 520
		Officer jp5735

Upon arrival, heard what sounded like several people talking in the backyard of the property. Resident advised of noise complaint. No enforcement action taken.

21-003592	Noise Complaint	Disposition Finish
08/08/21 13:3634	7301 N Longacre Rd,LOT	Unit 515
		Officer JR8159 js9460

Fox Point Police Department
Roll Call Report

Vehicle/Homeowner was on their way back from Seattle. Contact with key holder. issue resolved.

21-003712	Noise Complaint	Disposition Finish
08/12/21 04:3549	1006 E Spooner Rd	Unit 504
		Officer mm1249

Anonymous resident reported her neighbor has a loud generator. No cause. No contact made.

21-003740	Noise Complaint	Disposition Finish
08/13/21 06:1255	7301 N Longacre Rd,BLDG	Unit 513
		Officer sg7147

Caller was wondering why construction at stormonth stated so early. Some repairs for storm damage and other crew stared as well. Crews advised of ordnance. All in order.

21-003778	Noise Complaint	Disposition Finish
08/14/21 23:2913	8200BLK N Whitney Rd	Unit 516
		Officer vw3317

Complaint of loud music, north of Whitney and Willow. Officer checked the area and was not able to hear any music. All in order, no names

21-003779	Noise Complaint	Disposition Finish
08/15/21 00:3306	164 E Willow Rd	Unit 516
		Officer vw3317

Complaint of loud music coming from this address. Officer checked the area and was not able to hear any music. All in order, no names

21-003801	Noise Complaint	Disposition Finish
08/16/21 08:2629	7529 N Navajo Rd	Unit 502
		Officer ch9917

Neighbor reported a dog barking for a time outside. No dog outside barking upon arrival. The resident was advised of the complaint.

21-004035	Noise Complaint	Disposition Finish
08/27/21 22:0039	6700BLK N Holly Ct	Unit 518
		Officer jh2765

Checked the area UTL loud music. Anon caller

21-004037	Noise Complaint	Disposition Finish
08/28/21 00:3124	6747 N Holly Ct	Unit 511
		Officer cb4174

Sat in front of residence with windows open and squad turned off. Did not hear any loud music or noise coming from residence. No contact made, no names obtained.

Fox Point Police Department

Roll Call Report



21-004138	Noise Complaint	Disposition Written Warning Issued
09/02/21 01:5958	314 E Green Tree Rd	Unit 522
		Officer In4461

Caller reports dog barking for 45+ minutes. Contact made with with dog owner, warned and advised of complaint.

21-004172	Noise Complaint	Disposition Finish
09/03/21 20:4649	164 E Willow Rd	Unit 518
		Officer jh2765

Area checked UTL

21-004188	Noise Complaint	Disposition Finish
09/04/21 14:5028	500 W Bradley Rd, LOT	Unit 518
		Officer jh2765

Observed a ticking sound coming for willows condos. I will attempt to contact maintenance staff to have the problem repaired.

**9-5-21 VM left for Hunt Property Management.

21-005082	Noise Complaint	Disposition Finish
10/23/21 22:3304	7415 N Beach Dr	Unit 515
		Officer JR8159 In4461

2 vehicles unrelated. All subjects advised of parking violation and subjects stated they would be heading home.

21-005191	Noise Complaint	Disposition Finish
10/30/21 22:0148	6747 N Holly Ct	Unit 516
		Officer vw3317

ANONYMOUS CALLER STATING THERE WAS A LOUD PARTY AT THIS ADDRESS. OFFICER HEARD MUSIC UPON ARRIVAL AND MADE CONTACT WITH RESIDENT. RESIDENT LATER NOTICED HIS PATIO SPEAKERS WERE ON. RESIDENT WAS VERBALLY WARNED AND ADVISED OF NOISE ORDINANCE. NOISE LEVEL WAS LIMITED WHEN OFFICER LEFT.

21-005229	Noise Complaint	Disposition Finish
11/01/21 20:2714	7415 N Beach Dr	Unit 520
		Officer jp5735

Vehicle parked playing loud music. Vehicle left prior to officer's arrival. No name obtained.

21-005370	Noise Complaint	Disposition Finish
11/08/21 20:0438	N Santa Monica Blvd/E Dean Rd	Unit 516
		Officer vw3317

Fox Point Police Department

Roll Call Report



Anonymous caller stated dog barking somewhere between dean, bradley, and santa monica.
UTL, no names

21-005374**Noise Complaint**

Disposition **Finish**
Unit **516**
Officer **vw3317**

11/08/21 22:0537 7950 N Santa Monica Blvd,BLDG

3 adult females, talking around fire at Town Club. Music was turned off and they advised they would be leaving shortly. Party reminded of noise ordinance.

22-000400**Noise Complaint**

Disposition **Finish**
Unit **511**
Officer **cb4174**

01/29/22 23:3917 6747 N Holly Ct

Parked squad on roadway with windows rolled down and squad turned off. Could hear loud audio and bass coming from residence. Made contact with resident who agreed to turn down the music for the remainder of the night.

22-000402**Noise Complaint**

Disposition **Finish**
Unit **511**
Officer **cb4174**

01/30/22 01:3718 6747 N Holly Ct

Did not hear bass from turned off squad car with windows rolled down on roadway. Walked in between the properties and slightly heard bass coming from the residence. Subject was told to turn off the music for the night, if another complaint citation would be issued. Subject was cooperative and agreed to turn off music for the rest of the night.

22-000750**Noise Complaint**

Disposition **Finish**
Unit **513**
Officer **sg7147**

02/22/22 23:0706 6747 N Holly Ct

Heard music coming from rear of house. made contact. res stated he would turn off music.

22-000973**Noise Complaint**

Disposition **Finish**
Unit **522**
Officer **ln4461**

03/10/22 02:5429 8165 N Port Washington Rd

Barking dog complaint. Officers checked area, did not hear any barking. VM left for CM.

22-001964**Noise Complaint**

Disposition **Finish**
Unit **513**
Officer **sg7147**

05/12/22 23:2557 6741 N Holly Ct

STOOD OUTSIDE HOME, NO NOISE HEARD

22-002028**Noise Complaint**

Disposition **Finish**
Unit **504**
Officer **mm1249**

05/15/22 22:5822 7124 N Beach Dr

Anonymous caller reported people were outside talking loudly and the caller was trying to sleep. No noise heard, no name.

Fox Point Police Department

Roll Call Report



22-002064	Noise Complaint	Disposition Finish
05/17/22 23:3524	7488 N Lombardy Rd	Unit 511
		Officer cb4174

Contact made with subject who agreed to stop working for the night. Contact made with caller.

22-002109	Noise Complaint	Disposition Finish
05/20/22 20:5835	8234 N Port Washington Rd	Unit 516
		Officer vw3317

Caller stated dogs barking in the area. Area checked no dogs barking, No Names.

22-002230	Noise Complaint	Disposition Verbal Warning Issued
05/28/22 20:0034	164 E Willow Rd	Unit 516
		Officer vw3317

Caller complained her neighbor was cutting the grass at 8PM and it was interrupting her trying to eat dinner. Neighbor was advised and verbally warned of ordinance. All in order.

The use of lawn equipment between the hours of 8:00 p.m. and 7:00 a.m. within the corporate limits of Fox Point shall be prima facie evidence of a violation of Subsection

22-002233	Noise Complaint	Disposition Finish
05/28/22 22:2649	N Lombardy Rd/N Santa Monica Blvd ↑	Unit 516
		Officer vw3317

Anon caller for loud music near Lombardy and Santa Monica, officer checked area, no loud music, All in order, no names

22-002352	Noise Complaint	Disposition Finish
06/02/22 20:4000	7545 N Lake Dr	Unit 516
		Officer vw3317

Caller stated neighbor to the north had been playing music loudly for hours. Upon arrival, resident was observed from the street and music could be heard. Resident stated he was aware of ordinance and would be turning the music off shortly. All in order.

22-002594	Noise Complaint	Disposition Finish
06/15/22 17:4738	7755 N Seneca Rd	Unit 516
		Officer vw3317

Caller was worried about a person on a scooter in front of there house playing music, Greenix Pest Control employee with permit, was on the phone, all in order

22-002958	Noise Complaint	Disposition Finish
07/02/22 17:5851	1870 E Fox Ln	Unit 520
		Officer jp5735

No violation observed at Doctor's Park.

Fox Point Police Department

Roll Call Report



22-003091	Noise Complaint	Disposition Finish
07/09/22 21:1551	7950 N Santa Monica Blvd,BLDG	Unit 516
		Officer vw3317

Live band till 10pm, all in order

22-003205	Noise Complaint	Disposition Finish
07/14/22 21:5125	1811 E Dean Rd	Unit 520
		Officer jp5735

Group of teens were playing games in the park, all in order no names in call.

22-003239	Noise Complaint	Disposition Citation Issued
07/16/22 23:1020	8254 N Gray Log Ln	Unit 504
		Officer mm1249

Caller reported a loud party from her neighbor's house. Contact made with homeowner citation for UAL was issued. Homeowner's parents were notified via phone.

22-003405	Noise Complaint	Disposition Finish
07/25/22 00:4842	7538 N Navajo Rd	Unit 513
		Officer sg7147

No noise heard. no one in area.

22-003415	Noise Complaint	Disposition Finish
07/25/22 14:3357	7513 N Navajo Rd	Unit 514
		Officer ja3050

CM wanted to complain further about neighbor at 7529 N Navajo Rd.

22-003485	Noise Complaint	Disposition Finish
07/28/22 20:3945	8200BLK N Gray Log Ln	Unit 505
		Officer bb1307

Report of tree work (noise) being done after 8:00 PM. U[on arrival, worker was putting gear away. Worker was advised 8pm end time for next time. DSantiago Landscaping. No names.

22-003779	Noise Complaint	Disposition Finish
08/13/22 22:2228	E Green Tree Rd/N Yates Rd	Unit 516
		Officer vw3317

Parents having a going away party for child going to college, advised to turn music off and keep level down.

22-003817	Noise Complaint	Disposition Finish
08/15/22 23:3330	8100BLK N Lake Dr	Unit 513
		Officer sg7147

Firework appear to be launched in Bayside.

Fox Point Police Department
Roll Call Report**22-003876****Noise Complaint**

08/19/22 10:1505

6707 N Santa Monica Blvd

Disposition **Finish**Unit **514**Officer **ja3050**

Neighbor complained about barking dog. OP advised she has tried classes for the dog and will look into more training. OP advised of barking dog ordinance.

22-004116**Noise Complaint**

09/01/22 22:3223

7480 N Lombardy Rd

Disposition **Finish**Unit **511**Officer **cb4174**

Officers sat outside of residence with vehicles turned off. Did not hear any noise violations.

22-004179**Noise Complaint**

09/04/22 21:0838

W Bergen Dr/N Port Washington Rd

Disposition **Finish**Unit **516**Officer **vw3317**

Wedding on Bergen Ct, music finishing soon

22-004401**Noise Complaint**

09/17/22 23:4648

7449 N Mohawk Rd

Disposition **Finish**Unit **513**Officer **sg7147**

Res advised to torn off music.

22-004541**Noise Complaint**

09/25/22 22:3903

1200 E Bywater Ln

Disposition **Finish**Unit **522**Officer **ln4461**

Caller unsure where loud engine sound was coming from. Determined to be from a home generator on Gray Log Ln. Caller advised. No names.

22-005011**Noise Complaint**

10/24/22 05:5517

215 W Blackhawk Rd

Disposition **Finish**Unit **503**Officer **ka1794**

Resident heard loud bang coming from the area of Nic Ehr Landscaping and requested the area be checked. Businesses in the area were checked, and nothing was located. No workers were on scene at any of the businesses, and no workers were actively working on the Port Washington Road/Bradley Road construction project. Caller was advised of findings, and stated she would follow up with the businesses in the area regarding the matter.

22-005118**Noise Complaint**

10/29/22 22:2519

500 W Bradley Rd,A

Disposition **Finish**Unit **516**Officer **vw3317**

Anon caller stated car playing loud music in lot of A building. Source of music was coming from 503 Bradley rd in Glendale, Mutual Aid requested to stand by for officer to arrive. Officer arrived, resident advised, no names.

Fox Point Police Department

Roll Call Report

**22-005148****Noise Complaint**

10/31/22 12:4859

7851 N Regent Ct

Disposition **Finish**
Unit **517**
Officer **js9460**

No dog barking heard, no one home at residence in question

22-005414**Noise Complaint**

11/17/22 23:0814

425 W Willow Ct,133

Disposition **Finish**
Unit **516**
Officer **vw3317**

Caller advised neighbors upstairs were being loud, upon arrival officer could hear noise from down the hall, contact made at apt 233, advised of ordinance, resident stated they would keep the noise down, all in order.

22-005534**Noise Complaint**

11/25/22 23:3744

308 E Spooner Rd

Disposition **Finish**
Unit **511**
Officer **cb4174**

Noise complaint 2 males being loud outside residence. Sat outside with vehicle off and windows down. No noise heard.

22-005857**Noise Complaint**

12/17/22 21:3014

7424 N Longacre Rd

Disposition **Finish**
Unit **516**
Officer **vw3317**

Caller was hearing odd noises from across the street (booming sounds), Officer checked the area and did not hear anything, all appeared in order. No Names

23-000219**Noise Complaint**

01/13/23 22:4744

6936 N Barnett Ln

Disposition **Finish**
Unit **516**
Officer **vw3317**

Transfer from GLPD, Upon arrival, no music playing, lights off at homes in the area, area checked, appeared to be in order. No Names

23-001460**Noise Complaint**

04/01/23 22:5944

7600BLK N Seneca Rd

Disposition **Finish**
Unit **513**
Officer **sg7147**

Area ckd. no music heard.

23-001780**Noise Complaint**

04/20/23 21:4936

7706 N Port Washington Rd,101A

Disposition **Finish**
Unit **504**
Officer **mm1249**

Report of alarm sounding from neighboring apartment. Determined to be fire alarm from burnt food. NSFD requested. TOT NSFD.

23-002138**Noise Complaint**

05/12/23 01:0050

7131 N Lombardy Rd

Disposition **Finish**
Unit **505**
Officer **bb1307**

Fox Point Police Department

Roll Call Report



Resident heard a bell, thought it it was from the freeway, called 911, and went back to sleep. no contact, several construction noises heard in the area, coming from construction area.

23-002222**Noise Complaint**

Disposition **Finish**
Unit **511**
Officer **cb4174**

05/16/23 19:4018 7530 N Port Washington Rd,202

Caller wished to document an on going issue with the tenant in the condo directly above her. Caller stated the volume of her neighbors TV has been too loud on multiple occasions keeping her awake at night. Caller has addressed issue with the actual owner of the condo as well as the board of the condo association. Caller was advised of Fox Point noise ordinance and to call if problem continues.

23-002671**Noise Complaint**

Disposition **Finish**
Unit **518**
Officer **jh2765**

06/09/23 20:2636 1600BLK E Fox Ln

Caller stated his neighbor is using an electric leaf blower after 7 and would like them to stop. Call canceled prior to arrival as the neighbor stopped blowing yard waste.

23-002806**Noise Complaint**

Disposition **Finish**
Unit **505**
Officer **bb1307**

06/16/23 16:2340 7704 N Port Washington Rd,301C

A group of anonymous residents complained about the three small children in apartment 301c, regarding them playing loudly in the building. they had tried to solve the issue with the mother in the past, and also advised management. They were advised to audio record the noise when they can to provide to management. No noise heard while on scene. no names com CMs obtained.

23-003249**Noise Complaint**

Disposition **Finish**
Unit **512**
Officer **rr0200**

07/09/23 00:4046 7950 N Santa Monica Blvd,BLDG

Spoke with GM from the Town Club, it was staff swimming in the pool, everyone is leaving

23-003401**Noise Complaint**

Disposition **Cancelled**
Unit
Officer

07/15/23 07:2345 E Mall Rd/N Lombardy Rd

Noise was from freeway construction at I43 and Good Hope Rd.

23-003412**Noise Complaint**

Disposition **Finish**
Unit **518**
Officer **jh2765**

07/15/23 21:0032 8308 N Indian Creek Pkwy

O/P was advised of noise ord. and she shut off the pressure washer for the night.

23-003952**Noise Complaint**

Disposition **Finish**
Unit **504**
Officer **mm1249**

08/07/23 20:4941 8700 N Port Washington Rd,209

Fox Point Police Department

Roll Call Report



Caller reported someone was using a lawn mower. Area checked, no noise observed. No names.

23-004063**Noise Complaint**Disposition **Finish**

08/12/23 18:3820

8148 N Gray Log Ln

Unit **518**Officer **jh2765**

Residents having an end of summer party. Advised to turn music down and of noise ordinance. Residents stated they would comply.

23-004212**Noise Complaint**Disposition **Finish**

08/19/23 23:2629

139 E Good Hope Rd

Unit **516**Officer **vw3317**

Residents were having a party for there son. Advised of noise ordinance and stated they understood, all was in order when officers left.

23-005145**Noise Complaint**Disposition **Finish**

10/05/23 17:3748

7704 N Port Washington Rd,101C

Unit **522**Officer **ln4461**

Ongoing issues with upstairs neighbor's children that continue to "stomp and jump" while they are playing in their apartment. Neighbors have filed formal complaints with the management. No issues observed while officer on scene. Advised to continue to document instances and contact management. Unable to make contact with neighbor.

23-005442**Noise Complaint**Disposition **Finish**

10/22/23 18:0102

7704 N Port Washington Rd,101C

Unit **522**Officer **ln4461**

Ongoing issues with upstairs neighbors in unit #201. CM reports children continue to "stomp and jump" while they are playing in their apartment. Normal walking/running stomps observed by officer on scene. CM requested neighbor be made aware of complaint. Officer made contact with neighbor who was made aware of complaint and did not wish to speak with officer. Advised CM to continue to document instances and contact management. 505 later spoke with neighbor via phone.

23-006619**Noise Complaint**Disposition **Finish**

12/21/23 19:1214

511 W Dean Ct

Unit **511**Officer **cb4174**

Caller complaint of loud bass coming from vehicle in driveway. Officer did not observe any noise violation upon arrival. Spoke with resident who stated he was coming home from work and pulling into his driveway, not idling in the driveway with loud music.

24-000277**Noise Complaint**Disposition **Finish**

01/17/24 03:1948

8649 N Port Washington Rd,LOT

Unit **515**Officer **wb0161**

Large piles of snow next to Jose's. 2 Dump trucks are dumping snow into the pile. Snow is coming from area of 1515 Mequon Rd, Mequon. Contact made with one of the drivers, advised him of the noise ordinance. The driver stated they had 1 or 2 more loads each before being done. They stated they would prevent rear door from banging after they dump snow. No Names.

Fox Point Police Department

Roll Call Report

**24-000406****Noise Complaint**

01/25/24 02:2920

7704 N Port Washington Rd,207C

Disposition **Finish**
Unit **513**
Officer **sg7147**

Res was talking loud on phone after receiving bad news. only person in apt

24-000998**Noise Complaint**

02/24/24 20:2455

7950 N Santa Monica Blvd,BLDG

Disposition **Finish**
Unit **518**
Officer **jh2765**

I did not hear any music while parked in the parking lot. Courts were busy and there was a lot of talking and yelling from the players. No action, no violation occurring.

24-001001**Noise Complaint**

02/24/24 21:4751

7950 N Santa Monica Blvd,BLDG

Disposition **Finish**
Unit **518**
Officer **jh2765**

Music was turned off. Members advised they are leaving at 10PM. No names

Exhibit 11

**Roster of Adult Town Club Members Who Are
Fox Point Residents**

(173 Total)

Jaekels, Christopher J.

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Monday, March 25, 2024 4:13 PM
To: Jaekels, Christopher J.

Here is the list of members. I removed email, address and first names—is that ok?

If not let me know. I also left Christine Symchych on the list not sure if you want her removed.

I emailed everyone again and then sent the list so far of letters.

Last Name	Address City	Address State/Province	Zip Postal Code
Prater	Fox Point	Wisconsin	53217
Prater	Fox Point	Wisconsin	53217
Darragh	Fox Point	Wisconsin	53217
Darragh	Fox Point	Wisconsin	53217
Ward	Fox Point	Wisconsin	53217
Ward	Fox Point	Wisconsin	53217
Stratton	Fox Point	Wisconsin	53217
Stratton	Fox Point	Wisconsin	53217
De Lia	Fox Point	Wisconsin	53217
Schuele	Fox Point	Wisconsin	53217
Schuele	Fox Point	Wisconsin	53217
Coffey	Fox Point	Wisconsin	53217
Coffey	Fox Point	Wisconsin	53217
Erlandson	Fox Point	Wisconsin	53217
Erlandson	Fox Point	Wisconsin	53217
Stallè	Fox Point	Wisconsin	53217
Stallè	Fox Point	Wisconsin	53217
Horsfield	Fox Point	Wisconsin	53217
Horsfield	Fox Point	Wisconsin	53217
Vielehr	Fox Point	Wisconsin	53217
Vielehr	Fox Point	Wisconsin	53217
Miller	Fox Point	Wisconsin	53217
Miller	Fox Point	Wisconsin	53217
Fritz	Fox Point	Wisconsin	53217
Fritz	Fox Point	Wisconsin	53217
Fuldner	Fox Point	Wisconsin	53217
Garmer	Fox Point	Wisconsin	53217
Garmer	Fox Point	Wisconsin	53217
Goelzer	Fox Point	Wisconsin	53217
Goelzer	Fox Point	Wisconsin	53217
Nelson	Fox Point	Wisconsin	53217

Nelson	Fox Point	Wisconsin	53217
Haker	Fox Point	Wisconsin	53217
Terlizzi	Fox Point	Wisconsin	53217
Terlizzi	Fox Point	Wisconsin	53217
Terlizzi	Fox Point	Wisconsin	53217
Roberts	Fox Point	Wisconsin	53217
Roberts	Fox Point	Wisconsin	53217
Seymour	Fox Point	Wisconsin	53217
Poehling Seymour	Fox Point	Wisconsin	53217
Seymour	Fox Point	Wisconsin	53217
Alderton	Fox Point	Wisconsin	53217
Alderton	Fox Point	Wisconsin	53217
Bomhack	Fox Point	Wisconsin	53217
Bomhack	Fox Point	Wisconsin	53217
Buckley	Fox Point	Wisconsin	53217
Buckley	Fox Point	Wisconsin	53217
Schweitz	Fox Point	Wisconsin	53217
McGauran	Fox Point	Wisconsin	53217
McGauran	Fox Point	Wisconsin	53217
Corcoran	Fox Point	Wisconsin	53217
Corcoran	Fox Point	Wisconsin	53217
Meyers	Fox Point	Wisconsin	53217
Meyers	Fox Point	Wisconsin	53217
Garrett	Fox Point	Wisconsin	53217
Garrett	Fox Point	Wisconsin	53217
Mellowes	Fox Point	Wisconsin	53217
Mellowes	Fox Point	Wisconsin	53217
Witt	Fox Point	Wisconsin	53217
Witt	Fox Point	Wisconsin	53217
Minahan	Fox Point	Wisconsin	53217
Minahan	Fox Point	Wisconsin	53217
Pecoraro	Fox Point	Wisconsin	53217
Pecoraro	Fox Point	Wisconsin	53217
Ford	Fox Point	Wisconsin	53217
Ford	Fox Point	Wisconsin	53217
Schley	Fox Point	Wisconsin	53217
Schley	Fox Point	Wisconsin	53217
Allen	Fox Point	Wisconsin	53217
Allen	Fox Point	Wisconsin	53217
Mandell	Fox Point	Wisconsin	53217
Mandell	Fox Point	Wisconsin	53217
Vincent	Fox Point	Wisconsin	53217
Vincent	Fox Point	Wisconsin	53217
Williams	Fox Point	Wisconsin	53217

Williams	Fox Point	Wisconsin	53217
Bausch	Fox Point	Wisconsin	53217
Bausch	Fox Point	Wisconsin	53217
Olla	Fox Point	Wisconsin	53217
Olla	Fox Point	Wisconsin	53217
Friedman	Fox Point	Wisconsin	53217
Sennett	Fox Point	Wisconsin	53217
Sennett	Fox Point	Wisconsin	53217
Mooney	Fox Point	Wisconsin	53217
Mooney	Fox Point	Wisconsin	53217
Smith	Fox Point	Wisconsin	53217
Smith	Fox Point	Wisconsin	53217
Larsen	Fox Point	Wisconsin	53217
Larsen	Fox Point	Wisconsin	53217
Koehn	Fox Point	Wisconsin	53217
McCabe	Fox Point	Wisconsin	53217
Olla	Fox Point	Wisconsin	53217
Mussak	Fox Point	Wisconsin	53217
Mussak	Fox Point	Wisconsin	53217
Wagner	Fox Point	Wisconsin	53217
Wagner	Fox Point	Wisconsin	53217
Krausen	Fox Point	Wisconsin	53217
Krausen	Fox Point	Wisconsin	53217
Short	Fox Point	Wisconsin	53217
Short	Fox Point	Wisconsin	53217
Hayssen	Fox Point	Wisconsin	53217
Hayssen	Fox Point	Wisconsin	53217
Redden	Fox Point	Wisconsin	53217
Redden	Fox Point	Wisconsin	53217
Brunner	Fox Point	Wisconsin	53217
Brunner	Fox Point	Wisconsin	53217
Rohmer	Fox Point	Wisconsin	53217
Rohmer	Fox Point	Wisconsin	53217
Donner	Fox Point	Wisconsin	53217
Donner	Fox Point	Wisconsin	53217
Bloom	Fox Point	Wisconsin	53217
Barrett Bloom	Fox Point	Wisconsin	53217
Schuett	Fox Point	Wisconsin	53217
Spadafora	Fox Point	Wisconsin	53217
Spadafora	Fox Point	Wisconsin	53217
Shovers	Fox Point	Wisconsin	53217
Shovers	Fox Point	Wisconsin	53217
Bruce	Fox Point	Wisconsin	53217
Bruce	Fox Point	Wisconsin	53217

Coleman	Fox Point	Wisconsin	53217
Coleman	Fox Point	Wisconsin	53217
Adelman	Fox Point	Wisconsin	53217
Adelman	Fox Point	Wisconsin	53217
Deveneau	Fox Point	Wisconsin	53217
Newton	Fox Point	Wisconsin	53217
Williams	Fox Point	Wisconsin	53217
Williams	Fox Point	Wisconsin	53217
Adelman	Fox Point	Wisconsin	53217
Marks	Fox Point	Wisconsin	53217
Marks	Fox Point	Wisconsin	53217
Dorn	Fox Point	Wisconsin	53217
Dorn	Fox Point	Wisconsin	53217
Dunst	Fox Point	Wisconsin	53217
Dunst	Fox Point	Wisconsin	53217
Kruger- Gruendyke	Fox Point	Wisconsin	53217
Gruendyke	Fox Point	Wisconsin	53217
Finley	Fox Point	Wisconsin	53217
Pruitt	Fox Point	Wisconsin	53217
Pruitt	Fox Point	Wisconsin	53217
Elson	Fox Point	Wisconsin	53217
Elson	Fox Point	Wisconsin	53217
Legarza	Fox Point	Wisconsin	53217
Legarza	Fox Point	Wisconsin	53217
Connolly	Fox Point	Wisconsin	53217
Connolly	Fox Point	Wisconsin	53217
Dabrowski	Fox Point	Wisconsin	53217
Dabrowski	Fox Point	Wisconsin	53217
Fuerst	Fox Point	Wisconsin	53217
Fuerst	Fox Point	Wisconsin	53217
Gruber	Fox Point	Wisconsin	53217
Gruber	Fox Point	Wisconsin	53217
Hoelzle	Fox Point	Wisconsin	53217
Hoelzle	Fox Point	Wisconsin	53217
Simon	Fox Point	Wisconsin	53217
Simon	Fox Point	Wisconsin	53217
Torres	Fox Point	Wisconsin	53217
Torres	Fox Point	Wisconsin	53217
Forster	Fox Point	Wisconsin	53217
Forster	Fox Point	Wisconsin	53217
Adelman	Fox Point	Wisconsin	53217
Adelman	Fox Point	Wisconsin	53217
Mullin	Fox Point	Wisconsin	53217
Mullin	Fox Point	Wisconsin	53217

Wanta	Fox Point	Wisconsin	53217
Wilson	Fox Point	Wisconsin	53217
Miller	Fox Point	Wisconsin	53217
Miller	Fox Point	Wisconsin	53217
Symchych	Fox Point	Wisconsin	53217
McNulty	Fox Point	Wisconsin	53217
Nelson	Fox Point,	Wisconsin	53217
Nelson	Fox Point,	Wisconsin	53217

Exhibit 12

Site Plans

(One Current, Two Proposed)



7950 N. Santa Monica Blvd.
Existing Conditions

DISCLAIMER: The Village of Fox Point Does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



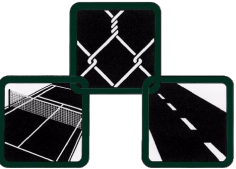
SCALE: 1" = 94'



VILLAGE OF FOX POINT
7200 North Santa Monica Boulevard
Fox Point, WI 53217
(414) 351-8900

Print Date: 3/27/2024

	4'H Chain Link
	4'W Swing Gate
	10'H Chain Link
	12'H Chain Link



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THE TOWN CLUB
7950 N. SANTA MONICA BLVD.
MILWAUKEE, WI 53217

PICKLEBALL COURT RECONSTRUCTION

COURT
SITE PLAN

Date: 08/08/2023

Drawn by: K. Meerdink

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TOWN CLUB - 7950 N SANTA MONICA BLVD.



Legend

- Cadastral
 - Parcel Dimension Labels
 - Note
 - ParcelDimension
 - <all other values>
- Parcel Key Labels
 - Note
 - ParcelKey
 - <all other values>
- Carto Line Labels
 - CivilDivision
 - Easement
 - Note
 - <all other values>
- Condo Labels
 - CondoName
 - CondoPhase
 - Note
 - <all other values>
- CSM Labels
 - CSMLot
 - CSMNumber
 - RoadResDimension
 - <all other values>
- ROW Labels
 - Note
 - ROWDimension
 - ROWName

Notes

0 250 500 ft

This map is a user generated static output from an Internet mapping site and is for reference only.
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

MILWAUKEE COUNTY GIS AND LAND INFORMATION

Exhibit 13

Union Pacific Railroad Schedule and Train Horn Decibel Information

Jaekels, Christopher J.

From: Blumenberg, Tina (FRA) <tina.blumenberg@dot.gov>
Sent: Wednesday, March 6, 2024 3:18 PM
To: Jaekels, Christopher J.
Cc: Salahadyn, Dyer A.; Domres, Thomas (FRA); Diaz, Cecilia (FRA)
Subject: RE: Frequency of Trains in Fox Point, Wisconsin [IWOV-Active.FID1448431]
Attachments: CrossingInventory - Fox Point, WI.pdf

Hi Chris,

According to the inventory records indicate that it appears to be only 2 trains per day (1 during the day and 1 at night), but you might want to reach out to UP Railroad to verify that since that data is dated as of 2019.

DOT# 180107W Dean Rd

Part II: Railroad Information				
1. Estimated Number of Daily Train Movements				
1.A. Total Day Thru Trains (6 AM to 6 PM) 1	1.B. Total Night Thru Trains (6 PM to 6 AM) 1	1.C. Total Switching Trains 0	1.D. Total Transit Trains 0	1.E. Check if Less Than One Movement Per Day How many trains per week? ☐
2. Year of Train Count Data (YYYY) 2019		3. Speed of Train at Crossing 3.A. Maximum Timetable Speed (mph) 25 3.B. Typical Speed Range Over Crossing (mph) From 12 to 25		
4. Type and Count of Tracks Main 1 Siding 0 Yard 0 Transit 0 Industry 0				
5. Train Detection (Main Track only) ☐ Constant Warning Time ☒ Motion Detection ☐ AFO ☐ PTC ☐ DC ☐ Other ☐ None				
6. Is Track Signaled? ☒ Yes ☐ No		7.A. Event Recorder ☐ Yes ☒ No		7.B. Remote Health Monitoring ☐ Yes ☒ No

FORM FRA F 6180.71 (Rev. 08/03/2016)

OMB approval expires 11/30/2022

Page 1 OF 2

DOT# 180103U Green Tree Rd

Part II: Railroad Information				
1. Estimated Number of Daily Train Movements				
1.A. Total Day Thru Trains (6 AM to 6 PM) 1	1.B. Total Night Thru Trains (6 PM to 6 AM) 1	1.C. Total Switching Trains 0	1.D. Total Transit Trains 0	1.E. Check if Less Than One Movement Per Day How many trains per week? ☐
2. Year of Train Count Data (YYYY) 2019		3. Speed of Train at Crossing 3.A. Maximum Timetable Speed (mph) 25 3.B. Typical Speed Range Over Crossing (mph) From 12 to 25		
4. Type and Count of Tracks Main 1 Siding 0 Yard 0 Transit 0 Industry 0				
5. Train Detection (Main Track only) ☐ Constant Warning Time ☒ Motion Detection ☐ AFO ☐ PTC ☐ DC ☐ Other ☐ None				
6. Is Track Signaled? ☒ Yes ☐ No		7.A. Event Recorder ☐ Yes ☒ No		7.B. Remote Health Monitoring ☐ Yes ☒ No

FORM FRA F 6180.71 (Rev. 08/03/2016)

OMB approval expires 11/30/2022

Page 1 OF 2

DOT# 180106P Bradley Rd

Part II: Railroad Information				
1. Estimated Number of Daily Train Movements				
1.A. Total Day Thru Trains (6 AM to 6 PM) 1	1.B. Total Night Thru Trains (6 PM to 6 AM) 1	1.C. Total Switching Trains 0	1.D. Total Transit Trains 0	1.E. Check if Less Than One Movement Per Day How many trains per week? ☐
2. Year of Train Count Data (YYYY) 2019		3. Speed of Train at Crossing 3.A. Maximum Timetable Speed (mph) 25 3.B. Typical Speed Range Over Crossing (mph) From 12 to 25		
4. Type and Count of Tracks Main 1 Siding 0 Yard 0 Transit 0 Industry 0				
5. Train Detection (Main Track only) ☐ Constant Warning Time ☒ Motion Detection ☐ AFO ☐ PTC ☐ DC ☐ Other ☐ None				
6. Is Track Signaled? ☒ Yes ☐ No		7.A. Event Recorder ☐ Yes ☒ No		7.B. Remote Health Monitoring ☐ Yes ☒ No

FORM FRA F 6180.71 (Rev. 08/03/2016)

OMB approval expires 11/30/2022

Page 1 OF 2

To verify or to request an updated train count, you can contact Melinda DuBay at UP: Melinda DuBay MSDUBAY@UP.COM and if it's for a quiet zone, then cc' their quiet zone consultant: Jonathan Turner jturner@moffattnichol.com. Here is the rest of her contact info.

Melinda S. DuBay

Union Pacific | Manager I, Engineering-Public Projects

Click here for [Public Projects Manual](#)

review manual, submit projects at [Public Projects Contact Center](#)

Click here for [Third-party Flagging Info](#)

Phone: 402-544-3992

1400 Douglas Street MS910

Mobile: 402-598-4981

Omaha, NE 68179

Email: msdubay@up.com

www.up.com

I have cc'd Tom Domres and Cecilia Diaz. They are our FRA Inspectors that cover Wisconsin and can assist you more directly.

Thanks,

Tina Blumenberg

Railroad Safety Supervisory Specialist

Grade Crossing & Trespasser Outreach

Federal Railroad Administration

District 4 – Chicago

312-502-1605

From: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>

Sent: Wednesday, March 6, 2024 3:05 PM

To: Blumenberg, Tina (FRA) <tina.blumenberg@dot.gov>

Cc: Salahadyn, Dyer A. <DSalahadyn@amundsendavislaw.com>

Subject: Frequency of Trains in Fox Point, Wisconsin [IWOV-Active.FID1448431]

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Blumenberg,

Could you tell me how many trains per day/week/month/year pass through the Village of Fox Point Wisconsin on the Union Pacific Railroad? The crossings are Green Tree Road, Bradley Road, and Dean Road.

I would like to get an accurate tally if possible but would settle for the best estimate possible.

Thank you in advance for your assistance.

Chris Jaekels

Christopher J. Jaekels

Partner

Direct: 414.225.1409

cjaekels@amundsendavislaw.com

111 East Kilbourn Avenue, Suite 1400

Milwaukee, Wisconsin 53202

<http://www.amundsendavislaw.com> | LinkedIn



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Train Horns

"Village of Fox Point Train Horn FAQ"

1. I thought the railroad could not use the horn / whistle in Fox Point.

The Village of Fox Point passed an ordinance that prohibited the use of the train horn during the evening and overnight hours of 8:00pm to 6:00am; except for southbound trains at East Dean Road. This long standing ordinance was adopted by the Federal Railroad Administration when they developed Railroad Quiet Zones. Railroad Quiet Zones are a part of the Federal Code and now govern the railroads use of horns / whistles in a community. Quiet Zones have been adjusted several times in the Federal Code, with the most recent rule changes that affect Fox Point occurring in 2008. Fox Point is grandfathered by the code and designated a Pre-Rule Partial Quiet Zone.

When the train does sound the horn it will be done in compliance with the Federal Code. The Federal rule enacted in 2005 requires that railroad employees must blow the horn 15-20 seconds prior to occupying a public highway-rail crossing. The same Federal rule specifies the volume, length, and pattern of the sound of train horns.

2. Can we get the hours adjusted or silence the horns 24 hours?

Select Language ↕

Google Translate

Yes. The village is currently grandfathered as a Pre-Rule Partial Quiet Zone. In order to make adjustments to the hours or silence the horns 24 hours a day the village would need to update the Supplemental Safety Measures at each grade crossing in the quiet zone. The updates needed depend on a safety analysis which would be completed in cooperation with Union Pacific. The four types of Supplemental Safety Measures include:

- Four-Quadrant Gate Systems
- Medians or Channelization Devices
- One-Way Streets with Gates
- Permanent Closure

3. Fox Point has not had any accidents at the railroad crossing, why don't we get a 24 hour quiet zone?

The changes to the existing quiet zone would require an application for a new quiet zone and a review by the Federal Railroad Administration. Many items are considered in an application for a new quiet zone including the safety / risk to the public at a grade crossing (compared to national standards) along with safety measures in place at the grade crossing. Public authorities are responsible for the cost of preliminary engineering, construction, maintenance and replacement of active warning devices or their components, including wayside horn systems installed at crossings to meet quiet zone standards.

Examples of costs as estimated by Union Pacific:

- Four-Quadrant Gate Systems – \$300,000 to \$500,000
- Basic Active Warning System* – \$185,000 to \$400,000
(*Includes Flashing Lights and Gates, Constant Warning Time, Power Out Indicator and Cabin.)
- Basic Inter-Connect – \$5,000 to \$15,000
- Annual Maintenance – \$4,000 to \$10,000

4. The train is sounding the horn in the quiet zone. Will the police department issue tickets to the railroad?

Historically the police department would follow-up on any concerns brought forward regarding the railroads violation of the quiet zone. A change to the federal rules took the authority from the municipality and transferred the responsibility to the Federal Railroad Administration. The contact information to file a complaint with the railroad is:

Tina Blumenberg
Railroad Safety Specialist
(Grade Crossing Safety/Trespass Prevention)

Federal Railroad Administration - District 4
200 West Adams Street
Chicago, Illinois 60606

Email [Tina Blumenberg](mailto:Tina.Blumenberg@fra.dot.gov)
(312) 502-1605 Work

5. I usually take a shortcut along the railroad tracks. Can I walk on the tracks or be under the bridge adjacent to the railroad tracks?

No. The railroad owns all of the property adjacent to the tracks and prohibits anyone from being on the property. This is primarily for the safety of the public. Trains take a long distance to stop and can not avoid people who might be on or adjacent to the tracks. The Union Pacific Railroad has requested Fox Point Police take enforcement action against people who might be on the tracks.

6. I want to know more about these rules and how Fox Point can silence the railroad horns.

- The current Fox Point ordinance that establishes the hours of our quiet zone are outlined in village code 670-3.
- The Federal Railroad Administration has a website dedicated to quiet zones.
- Union Pacific Railroad explains quiet zones on this website.
- The Federal Code governing railroad quiet zones can be found at 49 CR 222. A shortcut to the Federal Register is available from the FRA website.



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HOW LOUD IS A TRAIN HORN IN DECIBELS (DB)? WITH NOISE COMPARISON CHART



PETE ORTIZ



LAST UPDATED: FEB 27 2024



Federal law requires train horns to be loud so that people at all public crossings can hear the train approaching. The Department of Transportation vehicle safety guidelines suggests that every train needs to have a horn that emits sounds passengers can hear from 200 feet away. That's why **most train horns produce a sound that ranges from 96 decibels to 110 decibels.**

Sounds that loud can significantly impact our hearing, so it's essential to be aware of loud noises in your surroundings and know what kind of impact they have on your hearing.



Which Sounds Are Safe for Our Ears?

Hearing a loud noise close by can result in immediate hearing loss



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hearing a loud noise close by can result in immediate hearing loss. Typically, 70 decibels and lower sounds are entirely safe for our ears. Any sound over 75 decibels can irritate you, while sounds over 90 decibels can damage your hearing.

Of course, just because a sound may seem loud, its intensity is what decides the impact on your hearing. You're more prone to hearing loss when the intensity of the sound is higher, but not when the sound gets louder.

Your distance from the sound will also depend on how it will affect your hearing. If the sound is far away from you, likely, you won't even notice it, while you could suffer severe damage if you hear it close by.

Another thing to remember is that even sounds that are not too loud in decibels can harm your hearing if you listen to them for extended periods. Noises at around 85 decibels can cause hearing damage in a couple of hours, sounds at 100 decibels can cause severe damage in 15 minutes, while sounds at 110 decibels will cause hearing loss in 2 minutes.



Image Credit: jozuadouglas, Pixabay

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Train Horn Noise Compared to Other Sounds

A train horn needs to be very loud to raise the attention of all people that get near the train. Compared to other everyday sounds, a train horn is relatively loud but not as loud as rifles and other guns, (<https://housegrail.com/how-loud-is-gunshot-decibels/>) which can cause permanent damage and pain after less than one second. If you were to expose yourself to the sound of a train horn for a continuous 2 minutes, you would experience permanent hearing damage.

Common sounds	Loudness(dB)	Amount of damage after continuous exposure
Quiet breathing	10 dB	All sounds that are 60 dB or lower do not cause any hearing damage.
Whispering	20 dB	
Light rain	30 dB	
Quiet office	40 dB	
Refrigerator	50 dB	
A regular conversation	60 dB	These noises might be annoying but will not cause any hearing damage.
A vacuum cleaner	70 dB	
Traffic	80–85 dB	
Sander	90 dB	Hearing damage may occur after 2 hours.
Motorcycle	95 dB	Hearing damage is possible after an hour of exposure.
Electric drill	100 dB	Hearing damage or loss is possible after 15 minutes of exposure.
A train horn	110 dB	Hearing loss may occur in less than 2 minutes of continuous exposure.
Concert, ambulance siren	120–125 dB	Hearing damage and loss may occur in less

		than 10 seconds of being exposed.
Squeaky toy held to ear, Jackhammer	130–135 dB	Hearing damage may occur after more than a second.
Airplane taking off	140 dB	
Firecrackers	150 dB	Exposure to these sounds for only a second can result in hearing loss and permanent damage.
Rifle	163 dB	
Handgun, shotgun	166–170 dB	
Rocket Launch	189 dB	



Image Credit: Pqsels

Signs That It's Way Too Loud at Your Location

When you're at a party, nightclub, or a concert, things can become loud due to the music and atmosphere, so you'll probably need to raise your voice to talk to your friends. You should be able to hear people 3 feet away from you clearly. This is also the case for working near trains or near railroads. If you are exposed to the sounds of trains daily and constantly, you may already have some hearing damage.

Whenever you notice that you can't use your regular voice to communicate, the area is way too loud.

We expose ourselves to loud sounds daily, such as listening to music on headphones, and although we don't notice any changes, our hearing can suffer later. The more frequent exposure to loud noises means quicker hearing loss.

Image Credit: Piquesels

Side Effects of Frequently Being Exposed to Train Horns

Over time, many sounds can cause issues with your hearing, and they may begin as a minor irritation but could end up in hearing loss. Below you can see a list of the most common side effects of frequent exposure to train horns since their sound is one of the loudest in everyday life.

Side effects of exposure to loud sounds

- ★ Buzzing/ringing sound in your ears
- ★ Headaches
- ★ Stress
- ★ Anxiety
- ★ Depression
- ★ High blood pressure
- ★ Isolation
- ★ Sleep disturbances
- ★ Hearing loss

Since these issues can happen when you least expect them, it's best to be

prepared and know how to protect your hearing when you encounter loud train horns.

Image Credit: Pixabay



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How to Protect Your Hearing From Loud Noises?

Many jobs require wearing ear protection for handling loud equipment (<https://housegrail.com/chainsaw-safety-gear-overview/>), especially for construction workers and people exposed to train horns frequently. It is essential to wear ear protection when dealing with sounds higher than 90 dB. There are a couple of simple ways to protect your hearing when you find yourself in this situation.

How to protect your hearing

- ★ **Reduce exposure to loud noises:** You should reduce your exposure to loud noises by turning down your stereo or TV or moving away from loud noises. If you are exposed to train horns daily, using hearing protection can help save your hearing in the

long run.

- ★ **Avoid too much noise:** You can still go to loud parties or concerts, but avoid going to too many loud spots in one week. It's best to be moderate and give your ears a rest now and then.
- ★ **Get hearing protection gear:** Earplugs, earmuffs, and noise-canceling headphones can sometimes be your best friend. You should use them if your workspace is too loud.
- ★ **Let your ears rest:** Even when you expose yourself to loud noises, try to rest your ears for about 12+ hours daily.

Image Credit: Virrage Images, Shutterstock

Conclusion

After reading this article, we hope you understand the loudness of train horns a little better. Train horns are very loud and can cause hearing damage and hearing loss if you are exposed to them for extended periods. When dealing with train horns and other air horns, it is crucial to wear proper ear protection (<https://housegrail.com/best-hearing-protection-for-lawn-mowing/>) to save your hearing from damage. Comparing different sounds may give you a clear view of just how loud a train horn can be.

See also:

[How Loud Is a Jackhammer In Decibels \(dB\)?](#)

[\(https://housegrail.com/how-loud-is-jackhammer-in-decibels/\)](https://housegrail.com/how-loud-is-jackhammer-in-decibels/)

[What's the Noise Level of a Construction Site? \(Decibel Guide\)](#)

(<https://housegrail.com/whats-the-noise-level-of-a-construction-site/>)

+ Sources

Featured Image Credit: Ray Miller, Pixabay

WRITER



PETE ORTIZ

Pete has been working in the trades since high school, where he first developed a passion for woodworking. Over the years, he has developed a keen interest in a wide variety of DIY projects around the home. Fascinated by all sort of tools, Pete loves reading and writing about all the latest gadgets and accessories that hit the market. His other interests include astronomy, hiking, and fishing. As the founder of House Grail, Pete's primary goal is to help consumers make educated decisions about DIY projects at home, in the garage, and in the garden.

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VILLAGE OF FOX POINT

MILWAUKEE COUNTY

WISCONSIN

VILLAGE HALL

7200 N. SANTA MONICA
BLVD.

FOX POINT WI 53217-3505

414-351-8900

FAX 414-351-8909

To: Village of Fox Point Village Board

From: Scott Brandmeier, Director of Public Works 

Through: Scott Botcher, Village Manager 

Date: March 26, 2024

Re: Land Combination – 7111 N Barnett Lane

An application was submitted by Craig Adelman, owner of the property at 7111 North Barnett Lane, to combine Parcels A and B on his property. The parcels are shown on the Plat of Survey (Attachment A) and the owner is requesting that they be combined into one parcel as shown on the Certified Survey Map (CSM) (Attachment B). The Applicant has submitted this application in accordance with Section 738 of the Village Code.

Based upon correspondence from the Village Attorney, it is my understanding that the application requires a filing fee (\$300) and the appropriate CSM but does not require an appraisal as it is a land combination nor notice to property owners within 500 feet of the proposed land combination. As the filing fee has been paid and the Plat of Survey and CSM have been submitted depicting the land combination, it appears that the requirements for the land combination have been met and, therefore, is referred to the Plan Commission for action on the matter.

Village of Fox Point
Plan Commission
7200 North Santa Monica Boulevard
Fox Point, WI 53217

March 20, 2024

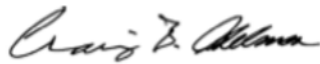
Subject: Homeowner Letter of Intent – Purpose of Merger

Dear Plan Commission Members:

I am submitting the following Certified Survey Map for the location at 7111 North Barnett Lane for your review and approval. The property consists of 2 parcels (per recorded deed as doc. no. 9803549) which I desire to combine into one parcel to facilitate my property improvement needs.

I have been informed that Wisconsin state law requires the combination of parcels for building improvements to occur and to be approved by the Village Building Inspection Department. As I have been assured that all other requirements have been met, I am now requesting your approval of the Certified Survey Map to allow these property improvements to be achieved.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig B. Adelman". The signature is fluid and cursive, with the first name "Craig" being the most prominent.

Craig Adelman

CERTIFIED SURVEY MAP NO.

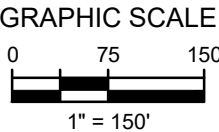
A division of a part of Government Lot 1 and lands being in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin.

- INDICATES FOUND 1" IRON PIPE
- INDICATES SET 1.315" O.D. IRON PIPE AT LEAST 18" IN LENGTH, 1.68 LBS. PER LINEAL FOOT.
- △ INDICATES SET 3/4" IRON ROD

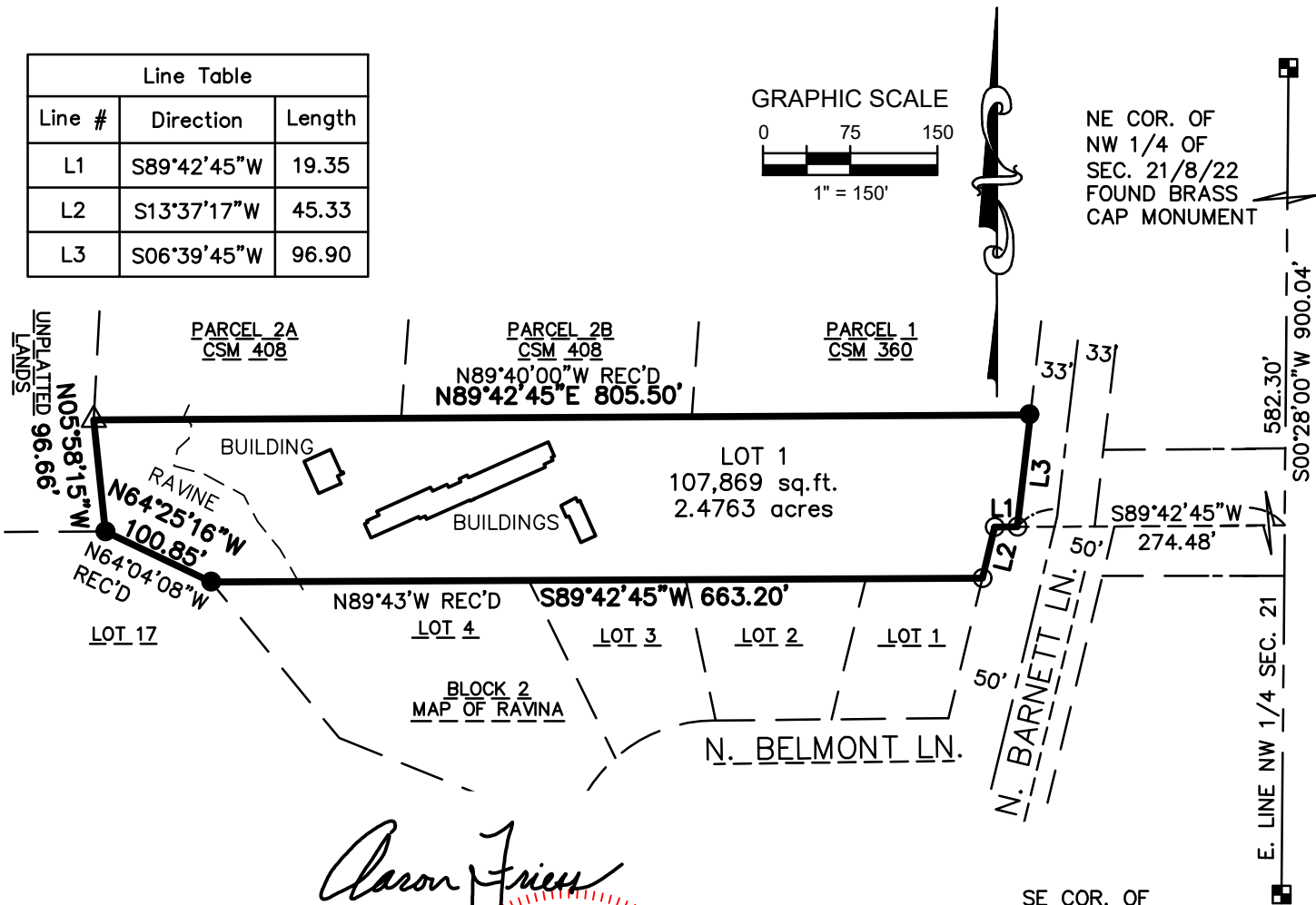
ALL DIMENSIONS SHOWN ARE MEASURED TO THE NEAREST HUNDREDTH OF A FOOT.
ALL BEARINGS ARE REFERENCED TO THE EAST LINE OF THE NW 1/4 OF SECTION 21, T8N, R22E, WHICH BEARS S00°28'00"W. WISCONSIN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE (NAD 83/2011).

OWNER:
CRAIG B. ADELMAN LIVING TRUST
7111 N. BARNETT LANE
FOX POINT, WI.

Line Table		
Line #	Direction	Length
L1	S89°42'45"W	19.35
L2	S13°37'17"W	45.33
L3	S06°39'45"W	96.90



NE COR. OF
NW 1/4 OF
SEC. 21/8/22
FOUND BRASS
CAP MONUMENT

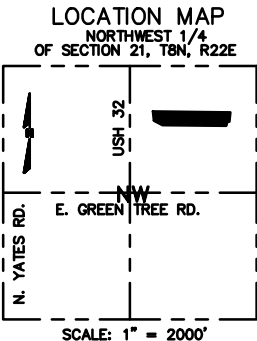


Aaron Friess



03/20/2024

SE COR. OF
NW 1/4 OF
SEC. 21/8/22
FOUND BRASS CAP
WITNESS MONUMENT



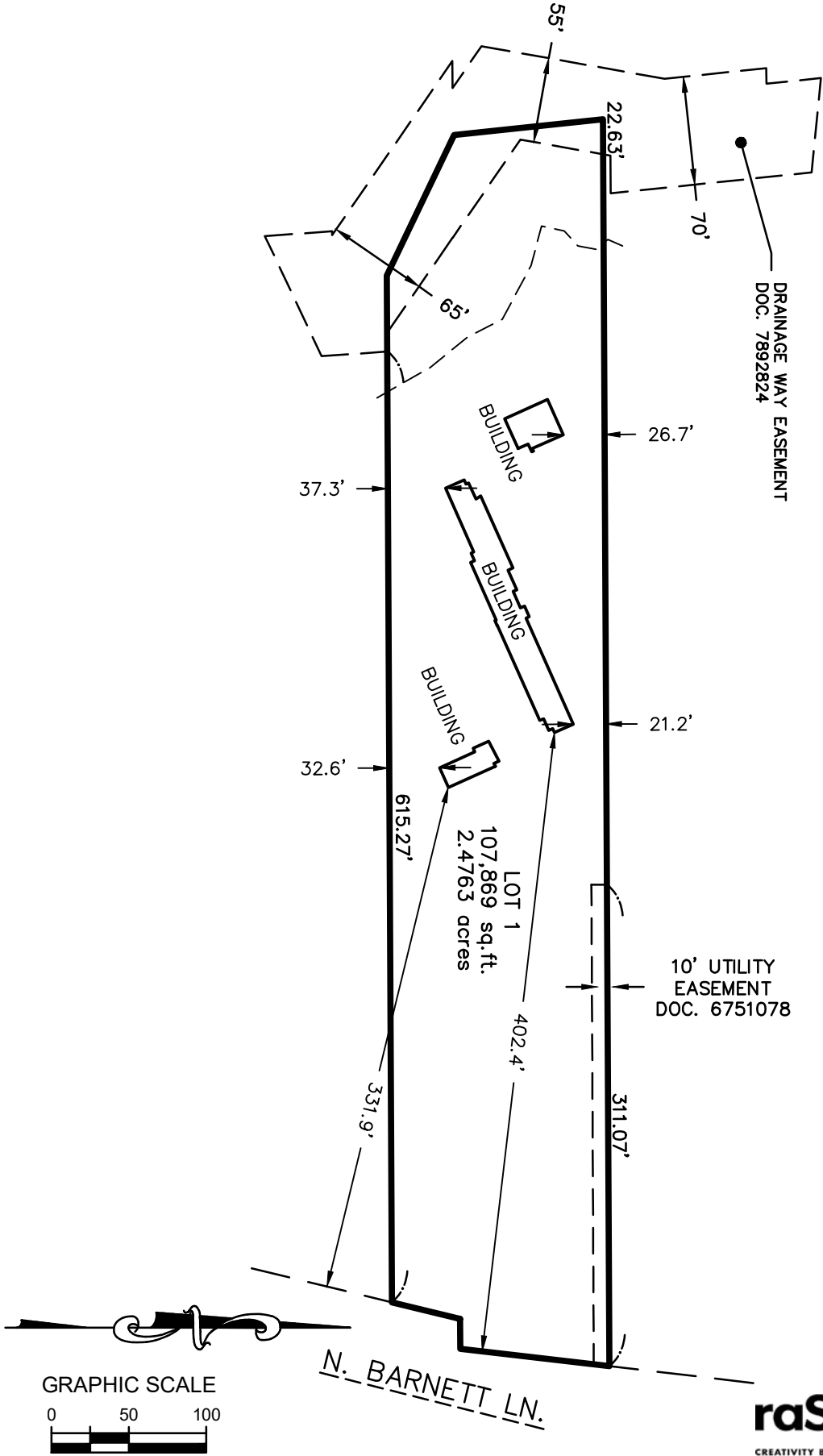
raSmith
CREATIVITY BEYOND ENGINEERING

16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000
rasmith.com

CERTIFIED SURVEY MAP NO.

A division of a part of Government Lot 1 and lands being in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin.

Dimensioning of existing Easements are required by Wisconsin State Statue 236.20(2)(c) per 236.34(c). Easements dimensions are approximate, and are not intended to supersede the intent, location or verbiage as stated in the original Easement creation documents.



CERTIFIED SURVEY MAP NO.

A division of a part of Government Lot 1 and lands being in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin.

SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN .
:SS
WAUKESHA COUNTY

I, AARON T. FRIESS, Professional Land Surveyor, do hereby certify:

THAT I have surveyed, divided and mapped a division of a part of Government Lot 1 and lands, being in the Northeast 1/4 of the Northwest 1/4 of Section 21, in Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin, bounded and described as follows:

Commencing at the Northeast corner of the Northwest 1/4 of said Section 21; thence South 00° 28' 00" West along the East line of said 1/4 Section a distance of 582.30 feet to a point; thence South 89° 42' 45" West 274.48 feet to a point in the West line of North Barnett Lane and the point of beginning of lands to be described;

thence South 89° 42' 45" West along said West line 19.35 feet to a point;
thence South 13° 37' 17" West along said West line 45.33 feet to a point in the North line of Map of Ravina, a recorded subdivision;
thence South 89° 42' 45" West along said North line 663.20 feet to a point;
thence North 64° 25' 16" West along said North line 100.85 feet to a point;
thence North 05° 58' 15" West 96.66 feet to a point in the South line of Certified Survey Map No. 408;
thence North 89° 42' 45" East along said South line 805.50 feet to a point in the West line of North Barnett Lane;
thence South 06° 39' 45" West along said West line 96.90 feet to the point of beginning.

Said land contains 107,869 square feet or 2.4763 acres.

THAT I have made the survey, land division and map by the direction of CRAIG B. ADELMAN LIVING TRUST, owner.

THAT the map is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

THAT I have complied with Chapter 236 of the Wisconsin Statutes and the Land Division Regulations of the Village of Fox point in surveying, dividing and mapping the same.

Field date

AARON T. FRIESS
PROFESSIONAL LAND SURVEYOR S-3260

CERTIFIED SURVEY MAP NO.

A division of a part of Government Lot 1 and lands being in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin.

OWNER CERTIFICATE

CRAIG B. ADELMAN LIVING TRUST, a trust duly organi ed and existing under and by virtue of the laws of the State of Wisconsin, as owner, certifies that said corporation has caused the land described on this map to be surveyed, divided, and mapped as represented on this map in accordance with the Ordinances of the Village of Fox Point.

CRAIG B. ADELMAN LIVING TRUST, does further certify that this map is re uired by S.236.10 or S.236.12 to be submitted to the following for approval or ob ection: Village of Fox Point.

IN Witness Whereof, CRAIG B. ADELMAN LIVING TRUST, has caused these presents to be signed by Craig B. Adelman, Trustee, on this _____ day of _____, 2024.

CRAIG B. ADELMAN LIVING TRUST

Craig B. Adelman, Trustee

PERSONALLY came before me this _____ day of _____, 2024,

Craig B. Adelman, the Trustee of the above named trust, to me known to be the person who executed the foregoing instrument, and acknowledged that he/she executed the foregoing instrument as such officer on behalf of the entity, by its authority.

(Notary Seal)

(print name)
Notary Public, State of Wisconsin
My commission expires_____

CERTIFIED SURVEY MAP NO.

A division of a part of Government Lot 1 and lands being in the Northeast 1/4 of the Northwest 1/4 of Section 21, Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin.

VILLAGE OF FOX POINT PLAN COMMISSION APPROVALS

This Certified Survey Map is hereby approved by the Plan Commision of the Village of Fox point

on this _____ day of _____,2024.

Preliminary Approval _____

Christine Symchych,Chair

VILLAGE OF FOX POINT VILLAGE BOARD APPROVAL

RESOLVED that the Certified Survey Map of CRAIG B. ADELMAN LIVING TRUST, owner of said lands, being a division of a part of Government Lot 1 and lands, being in the Northeast 1/4 of the Northwest 1/4 of Section 21, in Township 8 North, Range 22 East, in the Village of Fox point, Milwaukee County, Wisconsin, having been approved by the Plan Commission and the same is hereby accepted by the Village Board of the Village of Fox point on

this _____ day of _____,2024.

Date: _____

Christine Symchych, Village President

Date: _____

Sara Bruckman, Village Clerk

PLAT OF SURVEY

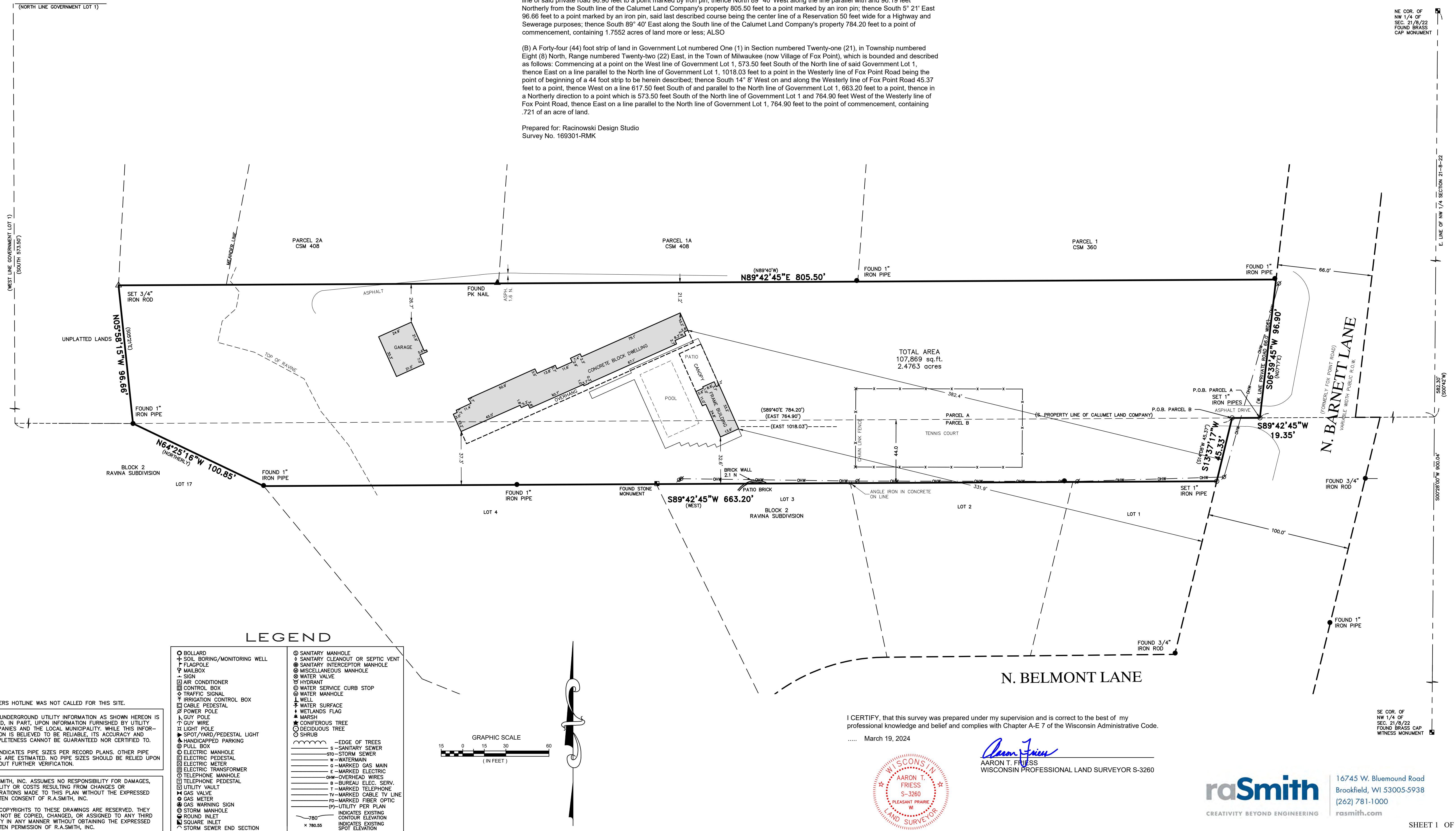
Known as 7111 North Bennett Lane, in the Village of Fox Point, Milwaukee County, Wisconsin

Trustee's Deed Document No. 9803549

(A) All that part of the North East One-Quarter (NW1/4) of Section numbered Twenty-One (21), in Township numbered Eight (8) North, Range numbered Twenty-two (22) East, bounded and described as follows: Commencing at a point which is 582.30 feet South 0° 42' West of and 273.12 feet North 89° 40' West of the North East corner of said 1/4 Section said point being the point of the intersection of the West line of the private road 66 feet wide, with the Southerly line of the property of the Calumet Land Company; thence North 77° 17' East along the Westerly line of the property of the Calumet Land Company 100 feet to a point parallel with and 92.15 feet North of the West line of the private road; thence North 89° 40' West along the West line of the property of the Calumet Land Company 805.50 feet to a point marked by an iron pin; thence South 55° 21' East 96.66 feet to a point marked by an iron pin, said last described course being the center line of a Reservation 50 feet wide for a Highway and Sewerage purposes; thence South 89° 40' East along the South line of the Calumet Land Company's property 784.20 feet to a point of commencement, containing 1.7552 acres of land more or less; ALSO

(B) A Forty-four (44) foot strip of land in Government Lot numbered One (1) in Section numbered Twenty-one (21), in Township numbered Eight (8) North, Range numbered Twenty-two (22) East, in the Town of Milwaukee (now Village of Fox Point), which is bounded and described as follows: Commencing at a point on the West line of Government Lot 1, 573.50 feet South of the North line of said Government Lot 1, thence East on a line parallel to the North line of Government Lot 1, 1018.03 feet to a point in the Westerly line of Fox Point Road being the North line of said 44 foot strip to be herein described; thence South 14° 15' West on and along the Westerly line of Fox Point Road 45.37 feet to a point, thence West on a line 617.50 feet South of and parallel to the North line of Government Lot 1, 663.20 feet to a point, thence in a Northerly direction to a point which is 573.50 feet South of the North line of Government Lot 1 and 764.90 feet West of the Westerly line of Fox Point Road, thence East on a line parallel to the North line of Government Lot 1, 764.90 feet to the point of commencement, containing .721 of an acre of land.

Prepared for: Racinowski Design Studio
Survey No. 169301-RMK



VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217

414-361-8900

Receipt No: 1.060066

Mar 21, 2024

7111 N Barnett Lane

Previous Balance:	.00
LICENSES & PERMITS - OTHER PERMIT	300.00
10-44640 OTHER PERMIT	
Total:	300.00
CHECK	300.00
Check No: 106460	
Payor: raSmith	
Total Applied:	300.00
Change Tendered:	.00

03/21/2024 8:08 AM