NOTICE OF MEETING
VILLAGE OF FOX POINT
VILLAGE BOARD MEETING

SCHWEMER HALL – MUNICIPAL BUILDING
7200 N. SANTA MONICA BLVD
FOX POINT, WI 53217

TUESDAY
May 14, 2024
Immediately following the closed session Village Board meeting that begins at 6:30 p.m.

NOTE: THE VILLAGE BOARD 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 GOVERNING BODY MEMBERS AND CITIZENS INTENDING TO ATTEND REMOTELY THAT THE TECHNOLOGY WILL PERFORM SUFFICIENTLY TO ALLOW FOR THEIR PARTICIPATION AND THE MEETING WILL PROCEDE 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, HOWEVER THERE IS NO LARGER RIGHT TO COMMENT REMOTELY OR IN WRITING THAN IN PERSON.

Zoom Participant Information

https://us02web.zoom.us/j/83945962266
Meeting ID: 839 4596 2266
Dial: (312) 626-6799

AGENDA

1. **Roll Call**

2. **Ceremonial Oath.**

   Each newly elected or re-elected member of the Village Board will be sworn-in by the Village Clerk. This is ceremonial, as the oath has been provided previously as required by law.

3. **Persons desiring to be heard**

   At this time, individuals can address the Village Board on one or more topics for up to three-minutes with time extensions at the Village President's discretion. Citizen comment when agenda items are called will be heard at the discretion of the chair, subject to the overall three-minute limit. In connection with non-agenda items, no action will be taken except for possible referrals to individuals or committees. NOTE: No comments will be heard during this agenda item concerning a pending application for a zoning code amendment, as the appropriate time for such comments will be at the duly noticed public hearing, so that all interested persons can hear the comments and due process is preserved.

4. **Committee Reports**

   a. **Plan Commission Report**

      1. Conditional Use Permit for 8643 N Port Washington Road – Flips 4 All, LLC dba Flips 4 All, LLC.

2. Conditional Use Permit for 7922 N Port Washington Road, Suite #1, Saddle and Spoke Cyclery, LLC dba Saddle and Spoke Cycle.

5. Public Hearing

a. Conditional Use Permit for 8643 N Port Washington Road – Flips 4 All, LLC dba Flips 4 All, LLC. Pages 6-8

The Village Board will hear comments and input regarding the Conditional Use Permit for 8643 N Port Washington Road – Flips 4 All, LLC dba Flips 4 All, LLC.

b. Conditional Use Permit for 7922 N Port Washington Road, Suite #1 - Saddle and Spoke Cyclery, LLC, dba Saddle and Spoke Cycle. Pages 9-11

The Village Board will hear comments and input regarding the Conditional Use Permit for 7922 N Port Washington Road, Suite #1 - Saddle and Spoke Cyclery, LLC, dba Saddle and Spoke Cycle.

6. Consent Agenda – All items listed under the Consent Agenda will be approved in one motion without discussion unless any Board member requests that the item be removed for individual discussion and possible action. Any item(s) so removed shall be considered individually prior to consideration of any New Business agenda items in the same order in which they were originally listed in the Consent Agenda.

a. Approve the minutes of the April 9, 2024 Village Board meeting. Pages 12-21

b. Confirm and approve President Symchych's list of appointments to various Boards, Committee, and Commissions. Pages 22-24

c. Approve the Green Infrastructure Partnership Program funding agreement in the amount of $505,789.82 between the Milwaukee Metropolitan Sewerage District and the Village of Fox Point and authorize the Director of Public Works to sign the funding agreement per the Director of Public Works' memorandum dated May 8, 2024. Pages 25-42

d. Accept the proposal of Ruekert Mielke in the amount of $35,000 to perform a FEMA floodplain Letter of Map Revision for Indian Creek and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated May 8, 2024. Pages 43-50

e. Approve the Agreement for Reimbursement of Construction Costs and Other Related Costs between the Village of Fox Point and We Energies and authorize the Village President and Village Clerk/Treasurer to sign the agreement per the Director of Public Works' memorandum dated May 8, 2024. Pages 51-57

f. Approve Change Order No. 1 with UPI, LLC in the amount of $238,095 for the placement of additional storm sewer on Mohawk Road north of Bradley and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated May 8, 2024. Pages 58-60

g. Approve Amendment No. 1 from Baxter & Woodman in the amount of $42,100 for additional design and construction services associated with the placement of additional storm sewer on Mohawk Road north of Bradley and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated May 8, 2024. Pages 61-64

h. Approve the Local Roads Improvement Program (LRIP) State Municipal Agreement between the Wisconsin Department of Transportation and the Village of Fox Point and authorize the Village President and Village Clerk/Treasurer to sign the agreement per the Director of Public Works' memorandum dated May 8, 2024. Pages 65-69

i. Approve an electric and telecommunications easement with We Energies for the placement of utilities within the Bradley Road and Lake Drive green space and authorize the Village President and Village Clerk/Treasurer to sign the easement on behalf of the Village pursuant to the Director of Public Works memorandum. Pages 70-73

j. Approve payment of the bills in the amount of $473,054.50 for the period April 1, 2024 through April 30, 2024 per the report submitted by the Village Manager. Pages 74-87

7. Unfinished Business

a. Consideration and possible action regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Blvd., Fox Point, for Pickleball; matches with members, lessons with racket sports professionals, club leagues, and social mixers. Pages 88-628

8. New Business

a. Resolution 2024 - 04 of Commendation and Appreciation – Former Village Trustee Liz Sumner Page 629

The Board will consider and may act on the adoption of Resolution of Commendation and Appreciation for Former Village Trustee Liz Sumner.

b. Resolution 2024 – 05 of Commendation and Appreciation – Former Village Trustee Catie Anderson Page 630

The Board will consider and may act on the adoption of Resolution of Commendation and Appreciation for Former Village Trustee Catie Anderson.

c. PRELIMINARY BORROWING RESOLUTION 2024 - 06 Pages 631-638

"Initial Resolution Authorizing the Borrowing of Not to Exceed $5,975,000 and Providing for the Issuance and Sale of General Obligation Promissory Notes, Series 2024A

d. Resolution 2024 - 07 to Approve a Storm Water Utility Rate Increase Page 639

The Village Board may discuss and approve Resolution 2024-07, a resolution to approve Storm water rate increase as included in the approved 2024 budget.

e. Resolution 2024 - 08 to Approve a Sewer Utility Rate Increase Page 640

The Village Board may discuss and approve Resolution 2024-08, a resolution to approve Sewer utility rate increase as included in the approved 2024 budget.

f. Conditional Use Permit for 8643 N Port Washington Road – Flips 4 All, LLC dba Flips 4 All, LLC. Pages 641-643

The Village Board may discuss and approve the Conditional Use Permit for 8643 N Port Washington Road – Flips 4 All, LLC dba Flips 4 All, LLC.

g. Conditional Use Permit for 7922 N Port Washington Road, Suite #1, Saddle and Spoke Cyclery, LLC dba Saddle and Spoke Cycle Pages 644-646

The Village Board may discuss and approve the Conditional Use Permit for 7922 N Port Washington Road, Suite #1, Saddle and Spoke Cyclery, LLC dba Saddle and Spoke Cycle.

9. Future Agenda Items

The Village Board will act on any Trustee requests to place additional matters on an upcoming agenda, without discussion.

10. Announcements

The following individuals will be given the opportunity to make announcements at the meeting in regard to (i) actions taken since the previous Village Board meeting on behalf of the Village, (ii) future Village activities and (iii) communications received from citizens. These matters will not be discussed or acted on, and Board members shall not comment on matters announced by others. Referrals may be made to committees and/or individuals.

a. Village President Symchych
b. Trustee Fonstad
c. Trustee Ollman
d. Trustee Aelion
e. Trustee Stoltz
f. Trustee Freedman
g. Trustee Miller
h. Village Manager Botcher

11. Adjournment

NEXT REGULAR VILLAGE BOARD MEETING: June 11, 2024 7:00 P.M.

PLEASE NOTE:
Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aids. Also, upon reasonable notice, best efforts will be used to ensure that members of the public lacking access to the virtual meeting platform are provided alternative reasonable methods to attend. For additional information or to request these services, contact the Village Clerk at (414) 351-8900. "Persons requiring an interpreter or other assistance should contact the Village Clerk's office 72 hours prior to the meeting. Notice is hereby given that a majority any other board, commission or committee may be present at the meeting to gather information about a subject in which they are interested. This constitutes a meeting of any other board, commission or committee pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis. 2d 553, 494 2d 408 (1993), and must be noticed as such, although said boards, commissions or committees will not take any formal action at this meeting."

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 Board

From: Scott A Botcher, Village Manager

cc: Kevin Ausman, Assisant Village Manager

Date: May 9, 2024

Re: Comments on two agenda items

Good evening,

I want to offer additional detail for two items on the Village Board agenda for the May 14th meeting.

First, the storm water and sewer rate resolutions were found to have one item apeice in each chart which needed correction prior to May bills being sent. These resolutions would address those errors.

Secondly, the Preliminary Borrowing Resolution and Hypothetical Borrowing Plan will be presented by Justin Fisher and I.

A significant (positive!) opportunity with this item is that subsequent to passing the Preliminary Borrowing Resolution, we may structure the deal to borrow less than shown in the Preliminary Borrowing Resolution. As mentioned in Mr Brandmeier's memos dated May 8 (in the packet), should you agree with his recommendation, the Village may receive an additional $400,000 and $505,789.82 in support for capital projects included in this borrowing as shown. As the action necessary to receive these funds has not been taken, I did not include the offset in the borrowing. If the Board takes action so as to receive the funds, the borrowing will be reduced. (The Village has the authority to borrow less than the amount in the Resolution, but not more.)

Please ask any questions as you see fit. Thanks.

Conditional Use Order

WHEREAS, an application has been filed by **Flips 4 All, LLC** (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 **8643 N Port Washington Road, 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. **Flips 4 All, LLC will run a gymnastics business for neurotypical and neuro-diverse children in addition to special needs adults in a physical facility using occupational activities and related services. The hours of operation shall be limited to 9:00 a.m. until 8:00 p.m., 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.

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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.

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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 _____, 2024, *nunc pro tunc* the _____ day of _____, 2024.

BY THE FOX POINT VILLAGE BOARD:

_____
Christine Symchych, Village President

Attest:

_____
Sara A. Bruckman, 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 _____, 2024.

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 _____, 2024.

APPLICANT:

By: _____
Authorized Signatory

Title:_____

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Conditional Use Order

WHEREAS, an application has been filed by **Saddle and Spoke Cyclery, LLC** (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 **7922 N Port Washington Road, Suite #1, 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. **Saddle and Spoke Cyclery, LLC will perform bicycle repair and tune-ups and walk in a la carte services. They will sell bikes, bike accessories, and provide installation. Bicycle pickup and delivery for repairs and sales to be done via van. Products will include helmets, tires, tubes, bicycle components, pumps, and locks. The hours of operation shall be limited to 10:00 p.m. until 7:00 p.m., Monday through Friday, and 10:00 pm until 4 p.m. on Saturdays and Sundays 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.

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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 _____, 2024, *nunc pro tunc* the _____ day of _____, 2024.

BY THE FOX POINT VILLAGE BOARD:

_____
Christine Symchych, Village President

Attest:

_____
Sara A Bruckman, 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 _____, 2024.

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 _____, 2024.

APPLICANT:

By: _____
Authorized Signatory

Title:_____

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VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024

A meeting and public hearing of the Fox Point Village Board was held by a combination of in-person and virtual attendance via telephonic and video conferencing on Tuesday, April 9, 2024 in Schwemer Hall, 7200 N. Santa Monica Boulevard. Village President Symchych called the meeting to order at 7:00 p.m. and asked the Village Clerk Treasurer to take roll call. Roll Call of the Village Board present included:

Village President Christine Symchych
Trustee Eric Fonstad
Trustee Liz Sumner
Trustee Greg Ollman
Trustee Catie Anderson - Absent
Trustee Liz Aelion
Trustee Jennie Stoltz (7:01 pm)

Also, present were Village Attorney Eric Larson, Village Manager Scott Botcher, Public Works Director Scott Brandmeier, Village Clerk Treasurer Sara Bruckman, and Assistant Village Manager Kevin Ausman

Notice of the meeting was provided to the North Shore Now 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).

PERSONS DESIRING TO BE HEARD

Hearing no other comments, President Symchych closed public comment.

COMMITTEE REPORTS – Plan Commission

The Plan Commission meeting was April 1, 2024, all members were present except for President Symchcyh, Trustee Fonstad chaired the meeting in her absence. The Plan Commission considered the Town Club's application under section 754-10; Outdoor Recreational Areas and Facilities. This is a different section of the code that was consider at the December 12, 2023 meeting; section 745-20; F-Institutional District Zoning. The standards to be applied to the two code sections are similar. It was determined that the pickleball courts are closer than 100 feet to an adjoining property line of a property in a residential district; and the separate process for a public hearing would apply. Trustee Fonstad noted he reviewed the important events leading up to the meeting including the November 20 submission by the Town Club to use the site for pickleball, December 4 Plan Commission meeting were the application was considered under section 745-20; F-Institutional District Zoning and recommended that the Village Board find that the standards in the ordinance would be met if the Town Club installed noise dampening screens designed to reduce the pickleball noise by 50%.

On January 9, 2024 the Village Board meeting held a public hearing on the application and the Village Board directed the Village Attorney to draft two conditional use orders for review; one to approve the application and one to deny the application. On February 13, the Village Board held a Special Village Board meeting to receive legal advice on the application during a closed session but the closed session was not held because the motion to enter into close session failed on a three-to-three vote. February 13 at the

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VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024

regular Village Board meeting, the Village Board tabled action on the application to receive legal advice at the Special Village Board meeting to be held February 27, 2024.

At the March 12, 2024 regular Village Board meeting, the Village Board set April 9, 2024 for public hearing to be reopened for the for the Plan Commission to consider the application under section 745-10; Outdoor Recreational Areas and Facilities. Trustee Fonstad noted to the Plan Commission members did not have the benefit of legal advice which the Village Attorney had provided to the Village Board. If the Plan Commission members did not read the Village Board packet, they were not sent copies of the citizen comments, the Village Attorney's draft conditional use orders or comments made at the January 9, 2024 Public Hearing. Voluminous materials were distributed Friday prior to the Monday meeting.

Trustee Fonstad noted the Plan Commission would not have any evidence from tonight's public hearing. Trustee Fonstad outlined options the Plan Commission had on how to proceed including hearing from the applicant, and considering whether to recommend to the Village Board that they make the findings in section 745-10, in which case there would be no public comment or to refer the matter back to the Village Board with only the recommendations that the Village Board hold a public hearing and consider and consider the application in light of the public hearing. The third option was to take more time to consider the materials. The fourth option was to defer action until after a joint public hearing of the Plan Commission and Village Board was held. The members of the Plan Commission discussed these options and decided to hear from the applicant and then decided whether they were comfortable making a recommendation. The Commission discussed the 100-ft standard in the ordinance and decided to proceed on the assumption that the proposed courts would not violate that provision. In particular, the properties located south are not zoned residential and the residential properties to the west appear to be more than 100-ft from the courts and the residential properties to the east appear not be adjoining.

The applicant presented evidence to the Plan Commission, members of the Plan Commission asked questions and the applicant responded. There was extensive discussion on the potential effect on property values, difficulty of substantial adverse effect on the enjoyment of property standards, existence of Village pickleball courts, the lack of documented complaints, the number of Village residents who are members of the Town Club, the noise mitigating measures in the draft conditional use order, the extent of the use of courts by pickleball over the last three years, the nature of the extent of the sound dampening screening proposed by the applicant, possible sound studies, hours of operation and whether the courts will be used year-round.

The Plan Commission recommended the Village Board grant approval and finds the application meets standards of section 745-10. The motion was discussed and several amendments were proposed. The Plan Commission discussion included dealing with whether the sound mitigation actions that the Town Club takes will be enough until they actually take those steps. The Plan Commission amended the original motion to provide a review of use after one year with a determination to be made at that time whether the use meets the standards in the ordinance or further noise mitigating measures are necessary, the motion passed with a five-to-one vote.

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VILLAGE OF FOX POINT
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The Plan Commission also reviewed the land combination at 7111 N Barnett Lane and recommend the Village Board approve and accept the preliminary certified map as the final.

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem.

PUBLIC HEARING

The Village Board will hold a continuation of a public hearing which commenced on January 9, 2024 to receive additional comments and input regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

Attorney Chris Jaekels, 8040 E Ravine Lane, Bayside. The Town Club submitted for a permit to repave the former tennis courts from 1973 that have been used as pickleball courts for almost four years and were asked to apply for a conditional use permit under the F-Intuitional District. There has been a public hearing, multiple meetings, given substantial evidence in support of the application, and the Plan Commission agreed twice the Town Club should be granted the Conditional Use permit. Attorney Jaekels noted the Town Club has done everything they have been asked to do, including returning and requesting a permit under Village code 745-10. Attorney Jaekels noted the Village is operating two sets of pickleball courts and there have been no complaints at Longacre or Indian Creek Pkwy. He noted the Town Club has been asked to jump through hoops when the Village is not following its own ordinance while the Town Club has provided a thorough record. He explained the findings have been made noting a letter that was shared with the Village Board April 4, 2024 including the four factors of the F-Institutional District that had to be considered; appropriate in the location proposed, compatible with the neighborhood, not detrimental to the property values of the surrounding property and in keeping with the residential character and quality of the Village. When the Town Club was asked to consider code section 745-10 that the proposal be compatible with the area, keeping up with the residential character of the community, that is does not have an adverse effect on surrounding properties, and is not a nuisance or hazard and not detrimental to the general public welfare. He explained the Plan Commission added requirements, which the Town Club agreed too; including sound mitigation technique to eliminate the sound by 50%, limited hours from 8:00 a.m. to dusk, no sound amplifying devices, the whole matter would be revisited in 1 year. He reiterated that there have been no complaints on pickleball in the Village for three years.

Motion by Trustee Sumner, seconded by Trustee Stoltz, and carried by roll call vote (5-0), to open the public hearing at 7:32 p.m., regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

Public Comment

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Roy Wagner, 6831 N Barnett Lane, noted he has been a member of the Town Club for over 30 years. Spoke in favor of pickleball at the Town Club and Town Club continuing as a recreation outlet in Village. He noted that the mixed use of dwellings on Santa Monica Boulevard. He would like the Town Club to allowed to continue to utilize for outdoor sports activities which comes with some level of noise.

Brian Hartnett, 7801 N Boyd Way, is opposed and noted he has been a resident there for 25 years and when he moved in there were six tennis courts covered by foliage. He noted Village ordinance 579-2, eight pickleball courts similar to constantly annoying cat which is against the law. Noted tennis and pickleball are not similar sports. Pickleball can be played year-round, special balls designed for playing in winter. Would like a reasonable guarantee the sound will be muted to enjoy his property.

Jim Gray, 910 E Hyde Way, noted did not hear as a goal for a SPLA sound pressure. Needs a quantifiable goal.

Steven Check, 914 E Hyde Way, is opposed and explained this is the first club in the North Shore area that will have eight pickleball courts in a residential neighborhood. Noted that Brian Hartnett's house is 80 feet per Google maps. 32 people playing at one time is too noisy. Town Club has not provided evidence that it is not going to be a hazard or nuisance so neighbors can enjoy properties.

Mike Whittle, 7721 N Santa Monica Boulevard note he is opposed and does not believe trains are a relevant noise. Tennis and pickleball are not similar. Felt standards have not been proven. 50% reduction is not a meaningful measurement, and there should be a decibel level set.

Scott Alderton, 7937 N Fairchild Road, is in favor and a resident for 18 years. Four houses away from the swimming pool, and noted he considered proximity when the home was purchased. It has not been a nuisance. Member of Town Club and has played pickleball on those courts. Spoke in favor of adding additional courts. Paddles and balls are evolving to reduce the noise levels.

Debra Whittle, 7721 N Santa Monica Boulevard., is opposed and across the street one house away, an active gardener, and believes it will be difficult to garden with the noise. The noise will increase with tournaments. Constant dawn to dusk noise. She would like to see hours restricted somehow and a noise barrier is needed. Remarked if the Town Club has considered converting north courts by the swimming pool.

Kim Brier, 7723 N Boyd Way, is opposed and noted a question why no complaints, but pickleball has increased in popularity. Lot of disruption to a peaceful and quiet neighborhood, courts have not been used to full capacity in past. Noted studies on noise issue and pickleball issues in other communities and adverse effect on property values. Noted she has lived there for 24 years.

Kevin King, 7805 N Boyd Way, is opposed and has both pickleball and tennis courts by his yard. Train only makes noise once or twice for 90 seconds.

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Trustee Sumner was excused at 8:00 p.m.

Amy Barth, 7815 N Boyd Way, is opposed noting the Town Club proposal is not appropriate or compatible. Would like one or more sound mitigation techniques and a sound study before the courts are built. She noted sound studies in other states. There is a lack of formal complaints because residents put up with it until now. She noted someone brought their own microphone and boombox broadcasting own pickleball match at the Town Club.

Bill Ford, 1550 E Goodrich Lane, is in favor. The Village should examine everything and 173 members of Fox Point for the Town Club and should be taken in consideration. The improvement is a benefit to the community and place of employment for kids in the area. Club is an asset to the community. Will not be nuisance if implement mitigation measures.

Aaron Ginster, 804 E Hyde Way, is opposed but the Village Board needs to decide what's best for the community. When thinking of a community sport as noisy as pickleball the board needs to take what's best into account. Many people do not think this will be better for the community.

John Hughes, 7705 N Boyd Way, is opposed noting pickleball is not a racquet sport. Town Club did not notify people within 100 ft. Believes that the value of the homes within 600 feet accumulates property evaluation of $30 million and those values may drop by 5-10%. A 50% sound reduction is not much, decibel levels need to be taken into consideration. Pickleball noise is a nuisance, property values will be affected.

Tami Vincent, 8118 N Poplar Drive, is in favor, noting they chose to live in Fox Point because of the neighborhood feel, had the police called several times on her own children playing in the yard. Loves the noise of the neighborhood. Supports the Town Club proposal.

Adam Fuerst, 8017 N Links Way, is in favor and supports the resurfacing of the courts for safety. Pickleball is a lifetime sport, allows all ages to play an equalizer sport together. Noted it adds to community involvement.

Peter Coffey,6818 Barnett Lane, is in favor and he views this as putting new asphalt on courts that have been played on in the Village for years. There have been no complaints until this was brought up in February. Noted there is noise due to many other things in the Village.

Kaitlin Torres, 7460 N Lombardy Road, is in favor noting they are a young family that moved into Fox Point in 2013. Supported Fox Point and JCC Pool. The Town Club is being respectful and is a strong business in the community.

Stephen Spadafora, 7731 N Club Circle, spoke in favor, noting there is a double standard with the hoops that the Town Club has to go through versus the Village. Loves the noise of summer. Noise can't be the issue if pickleball was put in the Village parks. He noted the children tennis program at the Town Club with 600

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kids, with 30 kids per court form 9:00 a.m. to 3:00 p.m., not a single complaint about noise. The Town Club is good to the Village. He noted one Property abutting the Town Club and the home value jumped by 33%. Open to business to help mitigate taxes.

Jean Hartnett, 7801 N Boyd Way, is opposed noting they are the closet home to proposed pickleball courts; 80 feet from her backyard. She quoted from some Phoenix resident with courts near their yards. Noted health issues caused by pickleball. Can not afford to take a loss on our home, Town Club is physically stealing from us and neighbors.

Anne Sachse, 7801 N Santa Monica Boulevard, is opposed explaining she is directly across the street and the Town Club is noisy 24 hours a day, they have every right to be as loud as they want. Lived since 1996, the Town Club was respectful and quiet at night. People are now there before 8:00 am to 2:00 am. Has called the police, current manager chastised the police because a neighbor called. Town Club is starting thinks is privileged with the board, does not need to adhere to the same rules as the rest of the residents. Noted she can't leave windows open in the summer.

Joanne Ginster, 7735 N Boyd Way, is opposed and has lived behind the Town Club for over 20 years. Love the Town Club but does not want to have the constant noise and devaluation of properties. She noted this will cause discord not needed in the community.

Evan Bretzmann, 7808 N Boyd Way, is opposed noting the April 2 letter from Amy Barth. Courts should be located more than 500 feet from residences; his house is 310 feet from courts. This is high impact noise besides being able to hear conversation and music, and will disrupt his family's sleep. Noted this is human generated noise pollution.

Hillary McCabe, 7901 N Santa Monica Boulevard, is in favor noting she lives 123 feet from Town Club, noting that the Town Club is a good neighbor. She recognizes the noise, the incredible popularity, and that the sport is a community builder with health benefits. Appreciates the Town Club takes to active and engage in community and supports the permits.

Nick 7800 N Regent Road, is opposed noting the noise issue, suggested the Town Club could have conversations with members to be more respectful and mitigated.

All written submissions emails, letters, added to the written record of this public hearing

Attorney Jaekels noted there are currently six courts and the approval would bring the Town Club up to eight.

Motion by Trustee Aelion, seconded by Trustee Ollman, and carried by roll call vote (4-0), to close the public hearing at 8:43 p.m., regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N

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Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

President Symchych resumed chairing of the meeting

CONSENT AGENDA

a. Approve the minutes of the March 12, 2024 Village Board meeting.

b. Accept the bid of Advance Construction, Inc. in the amount of $263,675 for the 2024 Nokomis Court Watermain Replacement and Road Resurfacing Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated April 2, 2024.

c. Accept the proposal of Kapur & Associates in the amount of $48,450 for inspection services associated with the 2024 Nokomis Court Watermain Replacement and Road Resurfacing Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated April 2, 2024.

d. Accept the proposal of M&M Tree Care LLC in an amount not to exceed $32,000 for the 2024 Emerald Ash Borer Treatment Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Village Forester's memorandum dated March 28, 2024.

e. Approve the quote of Badger Chevrolet in the amount of $41,556.50 for the purchase of a new 2024 Chevrolet Silverado 1500 double cab work truck to replace Truck #22 and authorize the Village Manager to sign the purchase order on behalf of the Village.

f. Approve the 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District (MMSD) and the Village of Fox Point for the rehabilitation of three private property laterals at 7515, 7521 and 7535 North Beach Drive and authorize the Director of Public Works to execute the agreement with MMSD per the Director of Public Work's memorandum dated April 2, 2024

g. Approve the Land Combination Certified Survey Map for 7111 North Barnett Lane

h. Adopt the proclamation establishing Friday, April 26, 2024 as Arbor Day in the Village of Fox Point and urge all citizens to support the efforts to protect our trees and woodlands and to support our Village's urban forestry program.

i. Approve a purchase order with Thermo Scientific for a TruNarc Portable Narcotics Analyzer in the amount of $32,702.27.

j. Approve payment of the bills in the amount of $707,739.06 for the period March 1, 2024 through March 31, 2024 per the report submitted by the Village Manager.

Trustee Ollman requested the removal of consent agenda item E; President Symchych requested the withdrawal of consent agenda item f.

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Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (5-0), to approve the consent agenda, absent consent agenda items E, and F.

There was unanimous consent to move to take up New Business. The Village Board moved to New Business.

Unfinished Business

Consideration and possible action regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickleball; matches with members, lessons with racket sports professionals, club leagues, and social mixers.

The Village Board unanimously agreed to take up the rest of the agenda and move into closed session before deliberation of the matter.

NEW BUSINESS

Consent Agenda Item e, Approve purchase of 2024 Chevrolet Silverado to replace Truck #22.

Motion by Trustee Fonstad, seconded by President Symchych, and carried by roll call vote (4-1), to Approve the quote of Badger Chevrolet in the amount of $41,556.50 for the purchase of a new 2024 Chevrolet Silverado 1500 double cab work truck to replace Truck #22 and authorize the Village Manager to sign the purchase order on behalf of the Village.

Consent Agenda Item f, 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District and the Village of Fox Point.

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (5-0), to approve the 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District (MMSD) and the Village of Fox Point for the rehabilitation of three private property laterals at 7515, 7521 and 7535 North Beach Drive and authorize the Director of Public Works to execute the agreement with MMSD per the Director of Public Work's memorandum dated April 2, 2024 not to exceed $35,280.00

The Board moved to Unfinished Business

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem.

FUTURE AGENDA ITEMS – None

ANNOUNCEMENTS

VILLAGE OF FOX POINT
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President Symchych announced the Village Board is losing two trustees and good friends, Trustee Anderson and Trustee Sumner and thanked new Trustees. ICC met yesterday and discussed security measures with the RNC in July.

Trustee Fonstad announced he congratulated new candidates and shared his appreciation for Trustee Sumner and Trustee Anderson. April 18 is Arbor Day and May 14 there isa Tree planting workshop.

Trustee Sumner - Absent

Trustee Ollman - no announcements

Trustee Anderson - Absent

Trustee Aelion - no announcements

Trustee Stoltz announced the Dementia Committee met March 1 at Azura to help educate and provide dementia services to the community.

Manager Botcher announced the Open House.

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem

CLOSED SESSION

Motion made by Trustee Ollman, seconded by Trustee Stotlz, to convene into closed session regarding agenda item 6a, at 9:13 p.m., Pursuant to State Statutes Sections:19.85(1)(a) and/or (g), for deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body, and for conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved; more specifically, concerning the application of the Town Club for conditional use and outdoor recreational facility approval to construct and operate pickleball courts, which was the subject of a public hearing held by the Village Board on January 9, 2024 and April 9, 2024.

Trustee Fonstad	Aye
Trustee Sumner	Absent
Trustee Ollman	Aye
Trustee Anderson	Absent
Trustee Aelion	Aye
Trustee Stoltz	Aye
President Symchych	Recused

Carried by roll call vote (4-0).

RECONVENE INTO OPEN SESSION

DRAFT

Motion made by Trustee Ollman, seconded by Trustee Aelion and carried by roll call vote (4-0), to reconvene into open session at 10:06 p.m.

Motion by Fonstad, seconded by Ollman, and carried by roll call vote (4-0), to table the consideration of the proposed Conditional Use Permit and outdoor recreational use for the Town Club, for Pickleball until the May 14 Village Board meeting and direct staff to proceed as discussed in the closed session.

ADJOURNMENT

Motion made by Trustee Ollman, second by Trustee Aelion, and carried by roll call vote (4-0) to adjourn the Village Board meeting at 10:08 p.m.

Respectfully submitted,

Sara A. Bruckman, CMC/WCMC
Village Clerk Treasurer

DRAFT

May 3, 2024

APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS
VILLAGE OF FOX POINT, WISCONSIN

Administration Committee (confirmation requested)
(1-year term)
Eric Fonstad
Jennie J. Stoltz
David Miller

Audit Committee (confirmation requested)
(1-year term)
Mark Freedman
Terry Rindt
Kenneth J. Wirth, Jr.

Board of Appeals (confirmation requested)
(3-year term)
Scott Ratke
Adam Bazelon
Lucille Sells (Alternate #1)
Juliana Javor (Alternate #2)
Alan Polan (Alternate #3)
Averi Niemuth (Alternate #4)

Board of Review (confirmation requested)
(5-year term)
Christine Symchych
Liz Aelion
Aaron Prater
Christopher Mehring
Eric Weiner
Peggy Dickson (Alternate #1)
Mike McDunaugh (Alternate #3)

Building Board (confirmation requested)
(2-year term)
Sharon Kevil
Lucille Sells
William Feldman

Ethics Board (confirmation requested)
(3-year term)
Lars Gulbrandsen

Fair Housing Commission (confirmation requested)
(5-year term)
Katherine Corcoron

Finance Committee (confirmation requested)
(1-year term)
Mark Freedman

Fox Point Representative – ICC for County Real Estate (confirmation requested)
(1-year term)
Katherine Corcoran

North Shore Health Department (confirmation requested)
(2-year term)
Chelsea Holtz

North Shore Library Board (confirmation requested)
(3-year term)
Mark Freedman
Sandra Grady

North Shore Cable Commission (confirmation requested)
(1-year term)
Scott Botcher, Village Manager
Scott Brandmeier, (Alternate)

North Shore Water Commission (confirmation requested)
(1-year term)
Scott Botcher, Village Manager
Scott Brandmeier (Alternate)

Plan Commission (confirmation requested)
(3-year term)
Robert Smith
Ted Durant
William Langhoff
Jake Wilson

Sex Offender Residency Board (confirmation requested)
(1-year term)
Mike McDouagh

Tree Commission (confirmation requested)
(3-year term)
Catie Anderson
Kim Caviggiola

Water/Sewer Utility Committee (confirmation requested)
(1-year term)
Liz Aelion
Joel Been
Glenn Kleiman
Michael Hostad

Weed Commissioner (confirmation requested)

(1-year term)
Douglas Frazer

Respectfully submitted,

Christine Symchych
Village President

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: May 8, 2024

Re: Recommendation for Acceptance of Green Solutions (GS) funding agreement for 2024 Bradley Road project

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Village staff submitted a Green Solutions funding request to the Milwaukee Metropolitan Sewerage District (MMSD) to cover costs associated with the green infrastructure (bioswales and biofiltration basins) to be constructed along Bradley Road and adjacent to Lake Drive. MMSD has approved the Green Solutions funding expenditure and has submitted a funding agreement to the Village for consideration and execution. It is my recommendation that the Village Board, subject to the Village Attorney's comments, approve the Green Solutions Funding Agreement G98005P153 and authorize the Director of Public Works to sign the funding agreement. The funding agreement will cover $505,789.82 of the proposed approximate $850,000 cost to install the green infrastructure components.

PARTNERS FOR A CLEANER ENVIRONMENT

Green Infrastructure Funding Agreement G98005P153
Fox Point-Bradley Road Bioswales

1. The Parties

This Agreement is between the Milwaukee Metropolitan Sewerage District (District), located at 260 West Seeboth Street, Milwaukee, Wisconsin 53204-1446, and the Village of Fox Point (Fox Point), located at 7200 North Santa Monica Boulevard, Fox Point, Wisconsin 53217.

2. Basis for this Agreement

A. Wisconsin law authorizes any municipality to establish an intergovernmental cooperation agreement with another municipality for the furnishing of services (Wis. Stat. sec. 66.0301).

B. The District is responsible for collecting and treating wastewater from locally owned sewerage systems in the District's service area.

C. During wet weather, stormwater enters the sewerage system, increasing the volume of wastewater the District must collect and treat.

D. During wet weather, stormwater directly enters surface water, increasing pollution levels in those waterways and increasing the risk of flooding.

E. Green Infrastructure (GI) such as constructed wetlands, rain gardens, green roofs, bioswales, and porous pavement, reduces the volume of stormwater in the sewerage system and the amount of pollutants discharged to surface waters.

F. The District's Wisconsin Pollutant Discharge Elimination System (WPDES) permit includes a goal of fifty million gallons of GI capture capacity.

G. The District wants to expedite the amount of GI installed in its service area.

H. plans to install GI that supports the District's GI goals.

3. Date of Agreement

This Agreement becomes effective immediately upon signature by both parties and ends when Fox Point receives final payment from the District or when the parties terminate this Agreement according to Section 14 of this Agreement.

4. District Funding

The District will reimburse Fox Point for the cost of the project described in the attached project description (Project), up to $505,789.82. The District will provide funding after the District receives the Baseline Report and the Maintenance Covenant.

5. Location of Project

The project will be located in the southwest quadrant of the intersection of Bradley Road at North Lake Drive, as defined in the project description and in Figure 1.

6. Baseline Report

After completion of the project, Fox Point will provide a Baseline Report using forms provided or approved by the District. The Baseline Report will include:

A. a site drawing, showing the project as completed with GI assets defined;

B. design specifications for the project, including rainwater capture capacity (maximum per storm) and other information regarding runoff rate reduction or pollutant capture;

C. a tabulation of the bids received, including bidder name and price;

D. a copy of the executed construction contract;

E. a legal description of the property where the project is located, including parcel identification numbers, if a conservation easement is required;

F. photographs of the completed project;

G. a maintenance plan;

H. an outreach and education strategy, including a description of events or activities completed or planned;

I. an itemization of all construction costs, with supporting documentation;

J. a Small, Veterans, Women, and Minority Business Enterprise (SWMBE) and Equal Employment Opportunity (EEO) Report as attached and made part of this Agreement.

7. Procedure for Payment

Fox Point will submit an invoice to the District for the amount to be reimbursed. The invoice will document all costs to be reimbursed. Invoices from consultants will provide: their hourly billing rates, if applicable; the hours worked, by individual; and a summary of the tasks accomplished.

Fox Point will send the Baseline Report and the invoice to:

Andy Kaminski, Senior Project Manager
Milwaukee Metropolitan Sewerage District
260 West Seeboth Street
Milwaukee, Wisconsin 53204-1446

The District will not provide reimbursement until the Project is complete and the District has received all required deliverables.

8. Changes iu the Project and Modifications to the Agreement

Any changes to the Project must be approved by the District in writing in advance. The District will not reimburse for work that is not described in the original project description unless Fox Point obtains prior written approval from the District.

9. Modifications to this Agreement

Any modifications to this Agreement will be in writing and signed by both parties.

10. Project Maintenance

Fox Point will maintain the Project for at least 10 years. If the Project fails to perform as anticipated or if maintaining the Project is not feasible, then Fox Point will provide a report to the District explaining the failure of the Project or why maintenance is not feasible. Failure to maintain the Project will make Fox Point ineligible for future District funding until Fox Point corrects maintenance problems.

11. Permits, Certificates, and Licenses

Fox Point is solely responsible for compliance with all federal, state, and local laws and any required permits, certificates, or licenses.

12. Procurement

Fox Point must select professional service providers according to the ordinances and policies of Fox Point. Fox Point must procure all non-professional services, such as construction, sewer inspection, and post-construction restoration, according to State of Wisconsin statutes and regulations and the ordinances and policies of Fox Point. Whenever work valued over $25,000 is procured without the use of a public sealed bidding process, the District may request and Fox Point must provide an opinion from a licensed attorney representing Fox Point explaining why the procurement complies with State of Wisconsin law and the ordinances of Fox Point.

13. Responsibility for Work, Insurance, and Indemnification

Fox Point is solely responsible for planning, design, construction, and maintenance of the Project, including the selection of and payment for consultants, contractors, and materials.

The District will not provide any insurance coverage of any kind for the Project or Fox Point.

The Fox Point will defend, indemnify, and hold harmless the District and its Commissioners, employees, and agents against all damages, costs, liability, and expenses, including attorney's fees and related disbursements, arising from or connected with the planning, design, construction, operation, or maintenance of the Project.

14. Terminating this Agreement

The District may terminate this Agreement at any time before the commencement of construction. After the commencement of construction, the District may terminate this Agreement only for good cause, including, but not limited to, breach of this Agreement by Fox Point. Fox Point may terminate this Agreement at any time, but Fox Point will not receive any payment from the District if Fox Point does not complete the Project.

15. Maintenance Covenant

After the completion of construction, the District must receive a Maintenance Covenant from Fox Point. The Maintenance Covenant will be limited to the Project. The term of the Maintenance Covenant will be ten (10) years. Fox Point will cooperate with the District to prepare the Maintenance Covenant.

16. Exclusive Agreement

This Agreement is the entire agreement between Fox Point and the District for the project.

17. Severability

If a court holds any part of this Agreement unenforceable, then the remainder of the Agreement will continue in effect.

18. Applicable Law

The laws of the State of Wisconsin apply to this Agreement.

19. Resolving Disputes

If a dispute arises under this Agreement, then the parties will try to resolve the dispute with the help of a mutually agreed-upon mediator in Milwaukee County. The parties will equally share the costs and fees associated with the mediation, other than attorney's fees. If the dispute is not resolved within thirty days after mediation, then either party may take the matter to court.

Green Infrastructure Funding Agreement G98005P153

Fox Point-Bradley Road Bioswales

Project Description

The project will install 21,500 square feet of bioswales. The bioswale system will handle approximately 29 acres of drainage area and will provide approximately 161,250 gallons of stormwater capture.

The project will also include installation of bio-retention areas in the southwest quadrant of the intersection of Bradley Road at North Lake Drive. The proposed bio-retention areas will provide approximately 181,926 gallons of stormwater capture.

Schedule

Fox Point will complete the project by September 30, 2024.

Budget

$505,789.82 is allocated for the project.

Outreach and Education

Fox Point will post educational signage and describe the project and its benefits in a community newsletter or web page.
Educational materials will acknowledge District funding for the Project.
Signage will:
1. be either designed and provided by the District or provided by Fox Point and approved by the District,
2. be at a location approved by the District, and
3. identify the District as funding the green infrastructure by name, logo, or both.

Figure 1
Fox Point Bradley Road Bioswales

98005P153

****MAPS ON FOLLOWING PAGES****

SWMBE / EEO Data Report
Fox Point Bradley Road Bioswales

It is the District's policy to encourage equal employment opportunity practices on the part of its suppliers of goods and services. Please use this form to provide employment data for your firm.

Number of Employees

(Report employees in only one category)

Race/Ethnicity	Male	Female
Asian		
Black or African American		
Hispanic or Latino		
Native American		
Other		
White		
Total		

Local Market Availability

State the percent of minorities and females that are available in the labor market from which you draw your workforce. These figures may be obtained from your local Job Service, State Labor Department, or the U.S. Census Bureau.

The labor market availability figures for the Milwaukee-Waukesha Primary Metropolitan Statistical Area (PMSA) for 2024 are: Minorities 26%, Females 52%.

Local Market Availability: Minorities _____ % Females _____ %

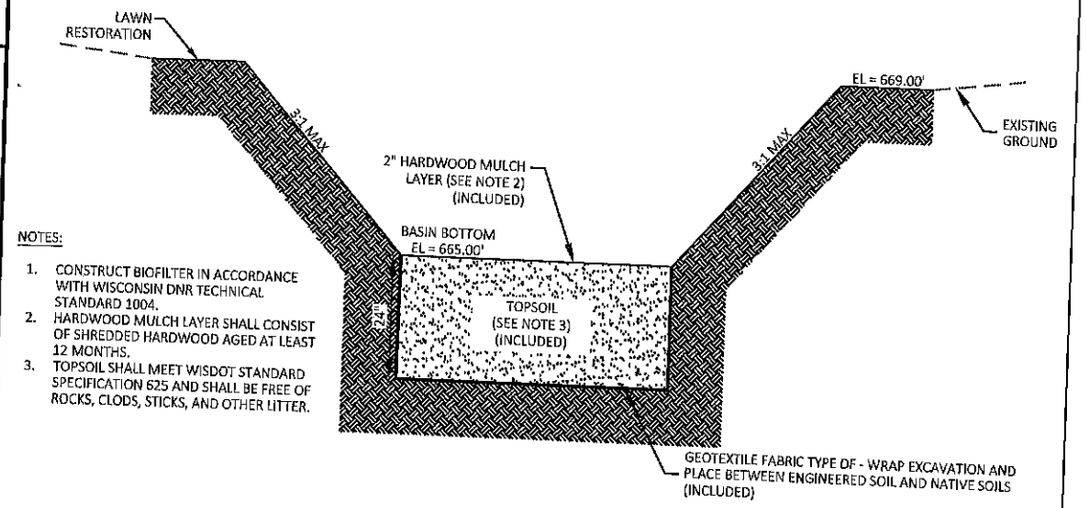
Firm Name _____

Address _____

City/State/Zip _____

Contact Person _____

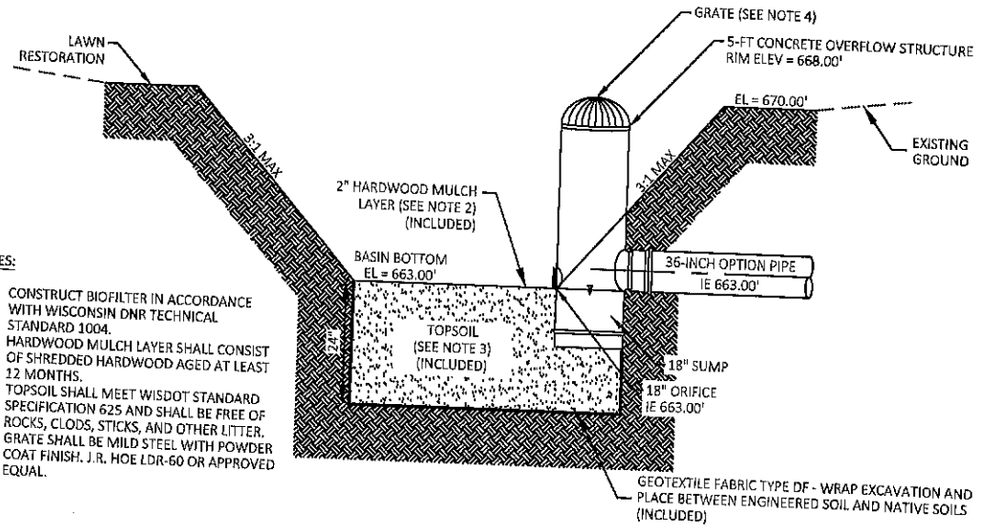
E-mail Address _____



NOTES:

1. CONSTRUCT BIOFILTER IN ACCORDANCE WITH WISCONSIN DNR TECHNICAL STANDARD 1004.
2. HARDWOOD MULCH LAYER SHALL CONSIST OF SHREDDED HARDWOOD AGED AT LEAST 12 MONTHS.
3. TOPSOIL SHALL MEET WISDOT STANDARD SPECIFICATION 625 AND SHALL BE FREE OF ROCKS, CLODS, STICKS, AND OTHER LITTER.

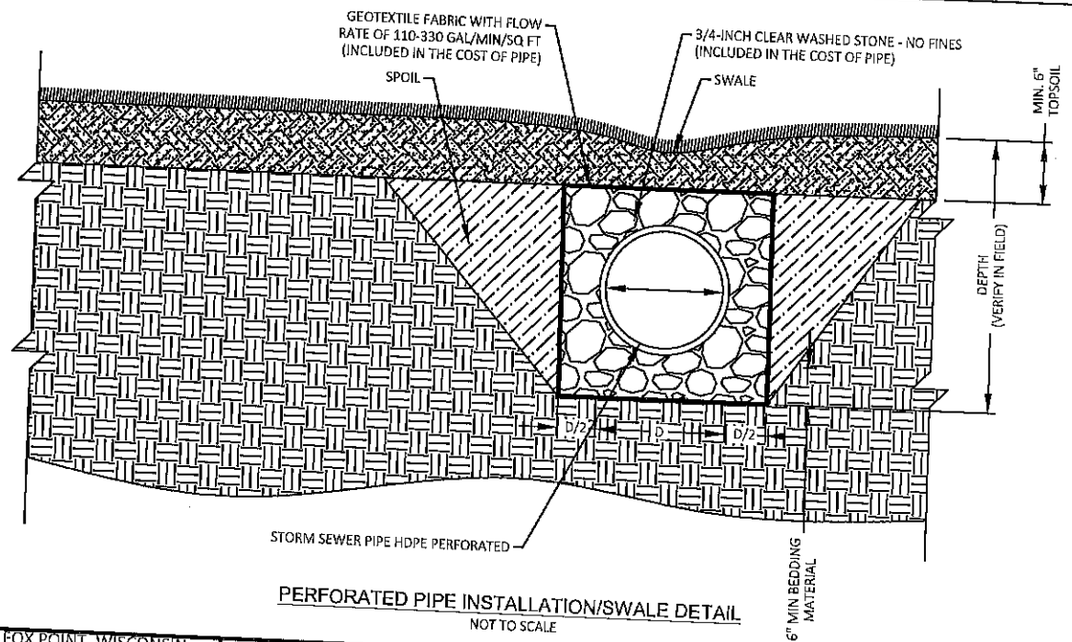
BIORETENTION BASIN WITHOUT OVERFLOW STRUCTURE DETAIL
NOT TO SCALE



NOTES:

1. CONSTRUCT BIOFILTER IN ACCORDANCE WITH WISCONSIN DNR TECHNICAL STANDARD 1004.
2. HARDWOOD MULCH LAYER SHALL CONSIST OF SHREDDED HARDWOOD AGED AT LEAST 12 MONTHS.
3. TOPSOIL SHALL MEET WISDOT STANDARD SPECIFICATION 625 AND SHALL BE FREE OF ROCKS, CLODS, STICKS, AND OTHER LITTER.
4. GRATE SHALL BE MILD STEEL WITH POWDER COAT FINISH. J.R. HOE LDR-60 OR APPROVED EQUAL.

BIORETENTION BASIN WITH OVERFLOW STRUCTURE DETAIL
NOT TO SCALE



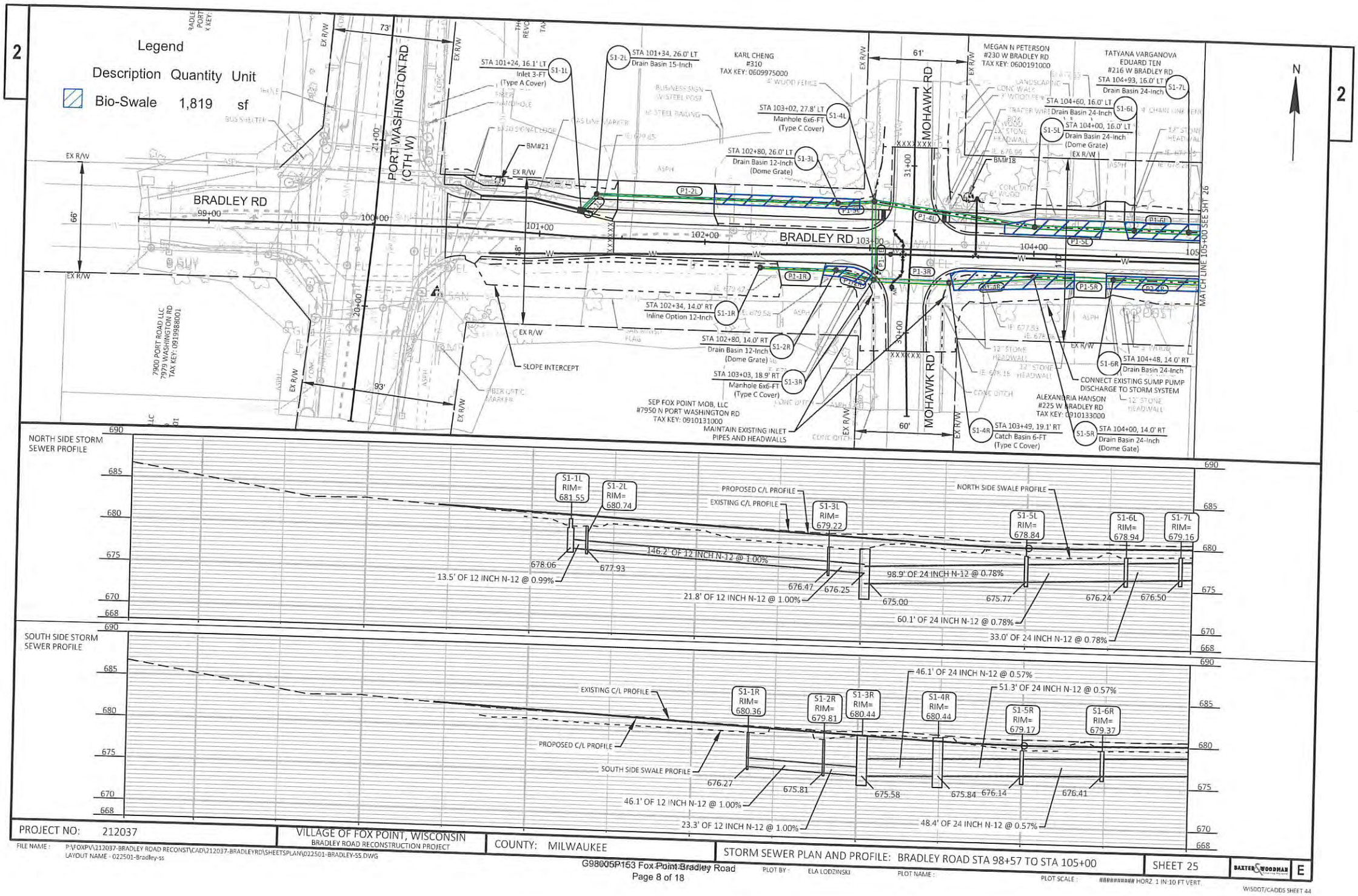
NOTES:

1. BACKFILL ALL UNDERGROUND INSTALLATIONS IN OR NEAR PAVEMENT WITH 1 1/4-INCH GRANULAR BACKFILL CONFORMING TO SECTION 205 OF THE STANDARD SPECIFICATIONS

PERFORATED PIPE INSTALLATION/SWALE DETAIL
NOT TO SCALE

PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	CONSTRUCTION DETAILS	ADDENDUM 2 (01/22/2024)

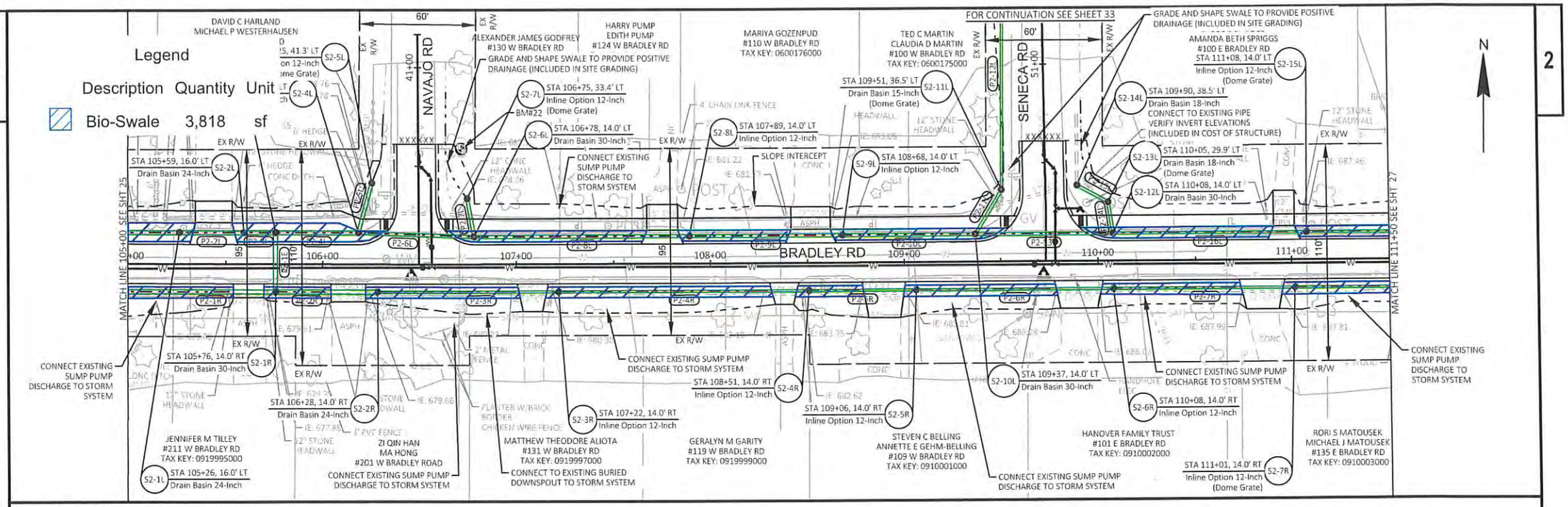
FILE NAME: P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\021001-CD (BRADLEY).DWG
LAYOUT NAME - 021006-cd
PLOT BY: MATT CERVEN PLOT NAME: PLOT SCALE: 1 IN:10 FT
SHEET 13 BAXTER & WOODMAN E
WISDOT/CADDS SHEET 42

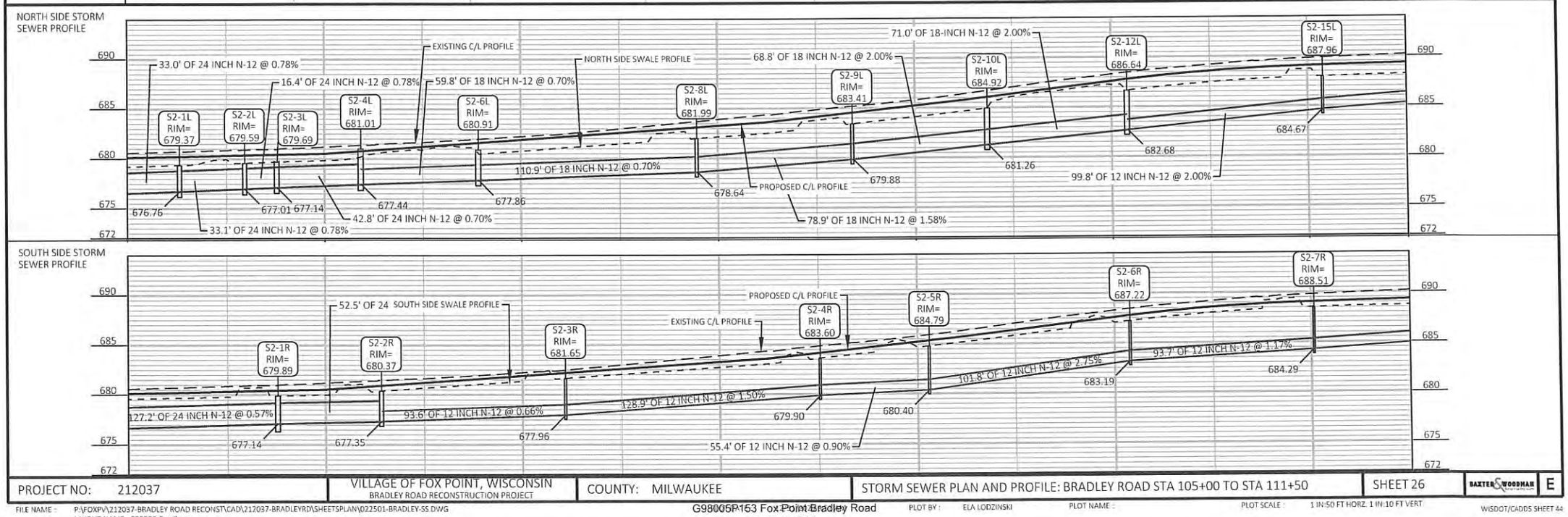


PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 98+57 TO STA 105+00
FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG LAYOUT NAME - 022501-Bradley-ss		PLOT BY : ELA LODZINSKI PLOT NAME :	SHEET 25 PLOT SCALE : ########## HORZ. 1 IN:10 FT VERT.

BAXTER & WOODMAN E

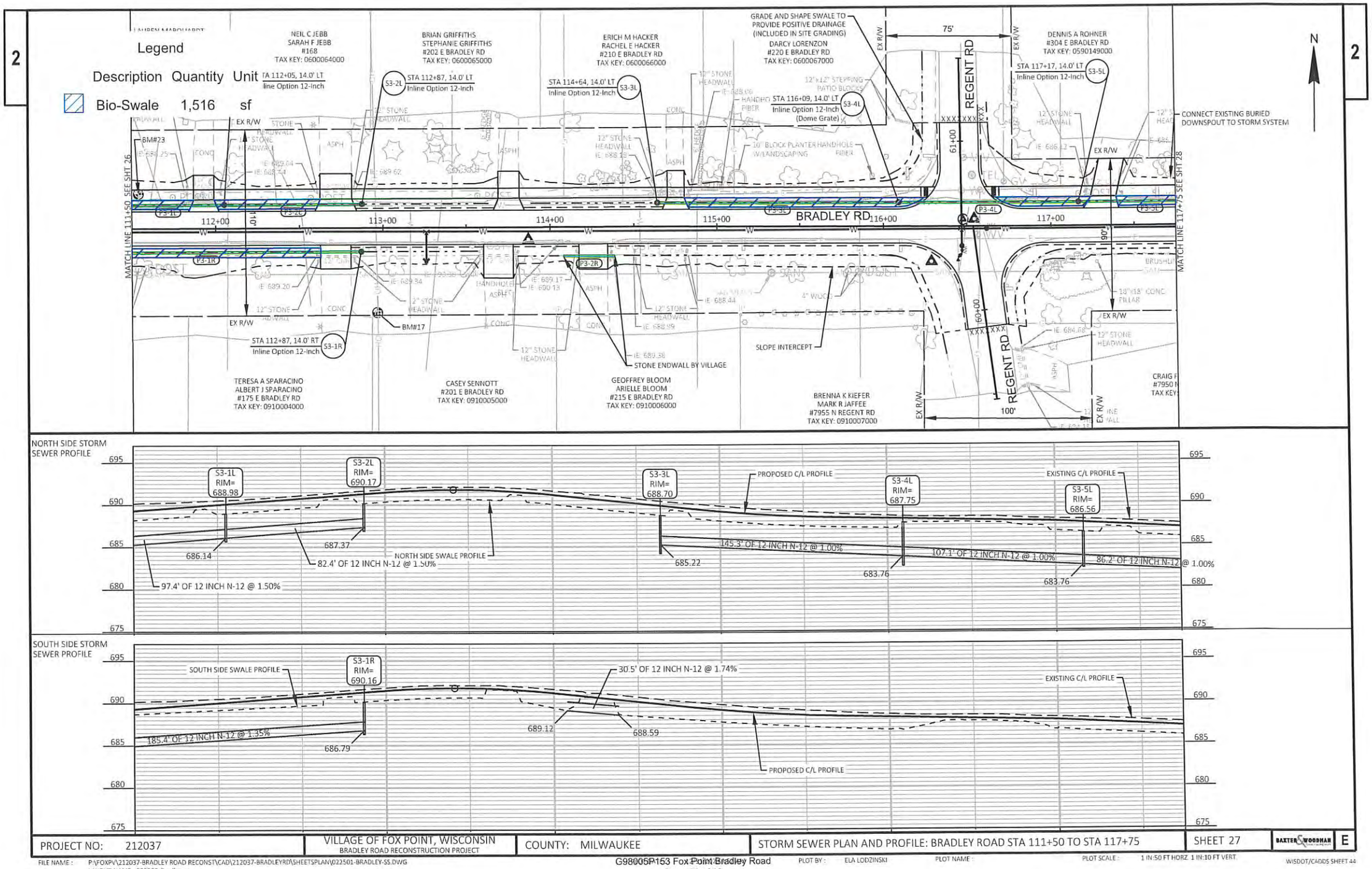
WISDOT/CADDS SHEET 44





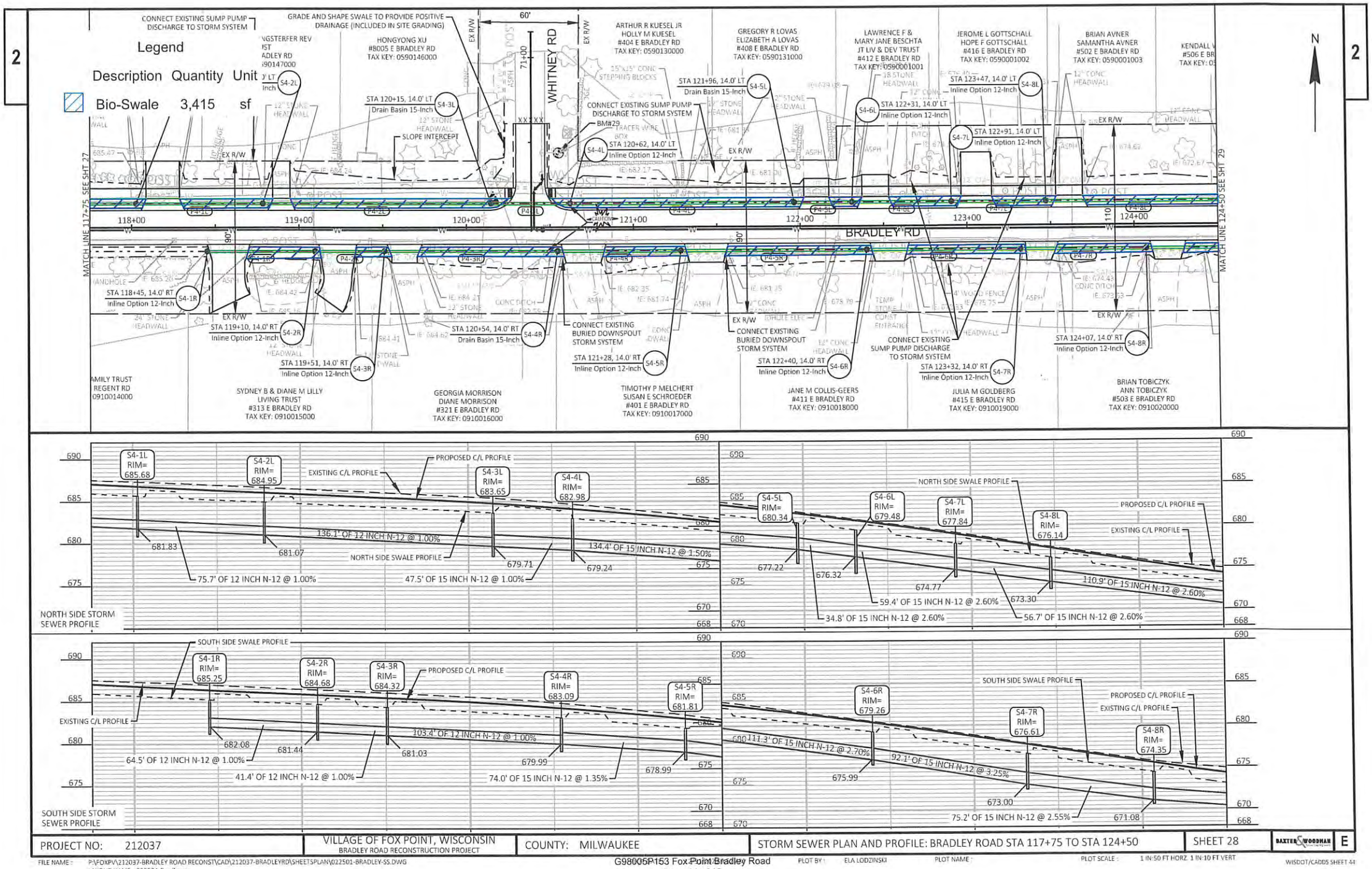
PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 105+00 TO STA 111+50	SHEET 26

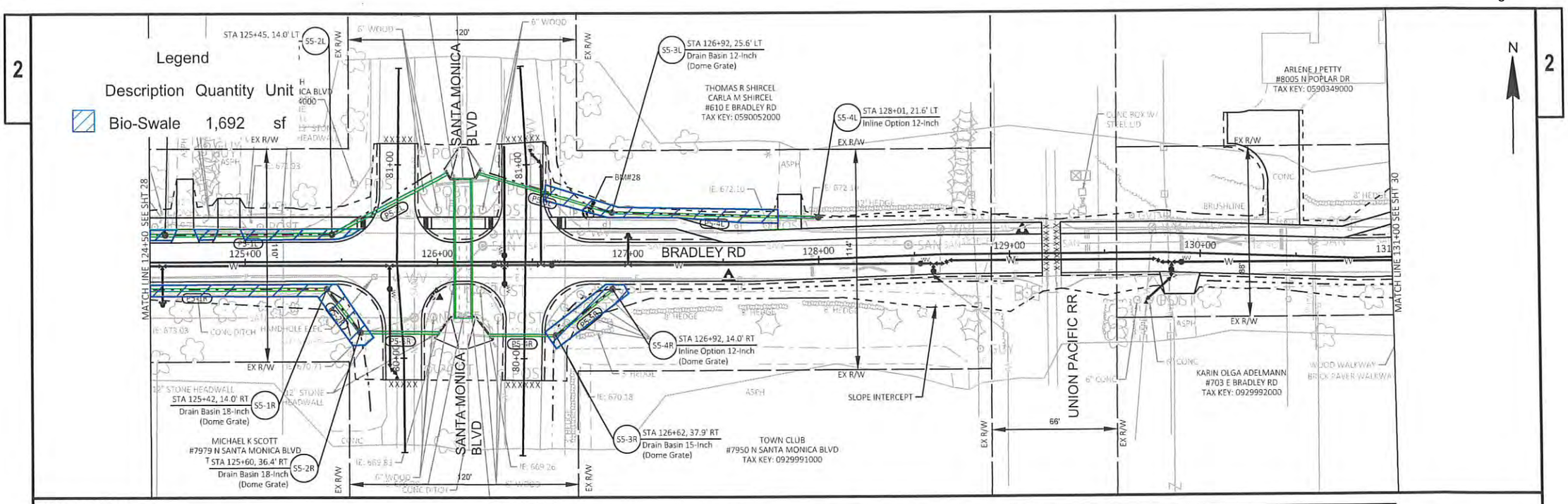
FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022502-Bradley-ss
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT HORZ. 1 IN:10 FT VERT
WISDOT/CADDS SHEET 44



PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 111+50 TO STA 117+75	SHEET 27	BAXTER & WOODMAN	E

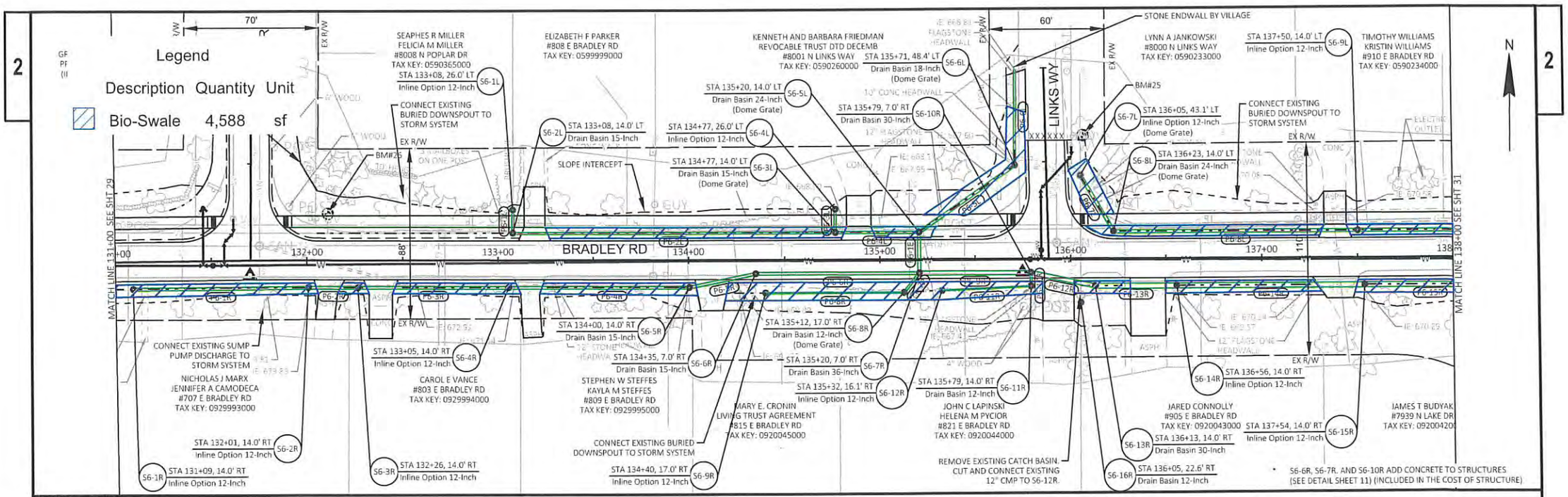
FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022503-Bradley-ss
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT HORZ. 1 IN:10 FT VERT.
WISDOT/CADDS SHEET 44


Legend
Description Quantity Unit
Bio-Swale 3,415 sf
CONNECT EXISTING SUMP PUMP DISCHARGE TO STORM SYSTEM
GRADE AND SHAPE SWALE TO PROVIDE POSITIVE DRAINAGE (INCLUDED IN SITE GRADING)
WHITNEY RD
BRADLEY RD
ARTHUR R KUESEL JR
HOLLY M KUESEL
#404 E BRADLEY RD
TAX KEY: 0590130000
GREGORY R LOVAS
ELIZABETH A LOVAS
#408 E BRADLEY RD
TAX KEY: 0590131000
LAWRENCE F &
MARY JANE BESCHTA
JT LIV & DEV TRUST
#412 E BRADLEY RD
TAX KEY: 0590001001
JEROME L GOTTSCHALL
HOPE F GOTTSCHALL
#416 E BRADLEY RD
TAX KEY: 0590001002
BRIAN AVNER
SAMANTHA AVNER
#502 E BRADLEY RD
TAX KEY: 0590001003
HONGYONG XU
#8005 E BRADLEY RD
TAX KEY: 0590146000
SYDNEY B & DIANE M LILLY
LIVING TRUST
#313 E BRADLEY RD
TAX KEY: 0910015000
GEORGIA MORRISON
DIANE MORRISON
#321 E BRADLEY RD
TAX KEY: 0910016000
TIMOTHY P MELCHERT
SUSAN E SCHROEDER
#401 E BRADLEY RD
TAX KEY: 0910017000
JANE M COLLIS-GEERS
#411 E BRADLEY RD
TAX KEY: 0910018000
JULIA M GOLDBERG
#415 E BRADLEY RD
TAX KEY: 0910019000
BRIAN TOBICZYK
ANN TOBICZYK
#503 E BRADLEY RD
TAX KEY: 0910020000
MATCH LINE 117+75 SEE SHT 27
MATCH LINE 124+50 SEE SHT 29
NORTH SIDE STORM SEWER PROFILE
NORTH SIDE SWALE PROFILE
EXISTING C/L PROFILE
PROPOSED C/L PROFILE
SOUTH SIDE STORM SEWER PROFILE
SOUTH SIDE SWALE PROFILE
PROJECT NO: 212037
VILLAGE OF FOX POINT, WISCONSIN
BRADLEY ROAD RECONSTRUCTION PROJECT
COUNTY: MILWAUKEE
STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 117+75 TO STA 124+50
SHEET 28
BAXTER & WOODMAN
E



PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 124+50 TO STA 131+00	SHEET 29 BAXTER & WOODMAN E

FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022505-Bradley-ss
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT HORZ. 1 IN:10 FT VERT. WISDOT/CADDS SHEET 44



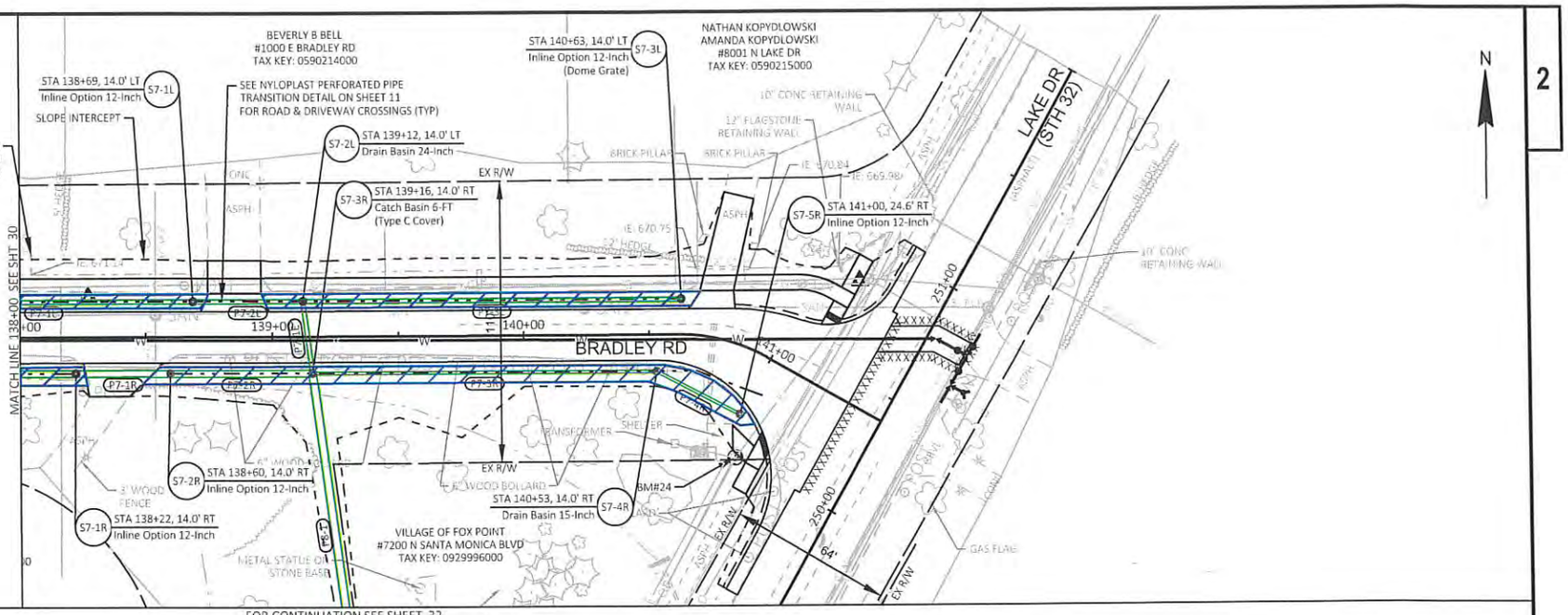
PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 131+00 TO STA 138+00	SHEET 30	BAXTER & WOODMAN E

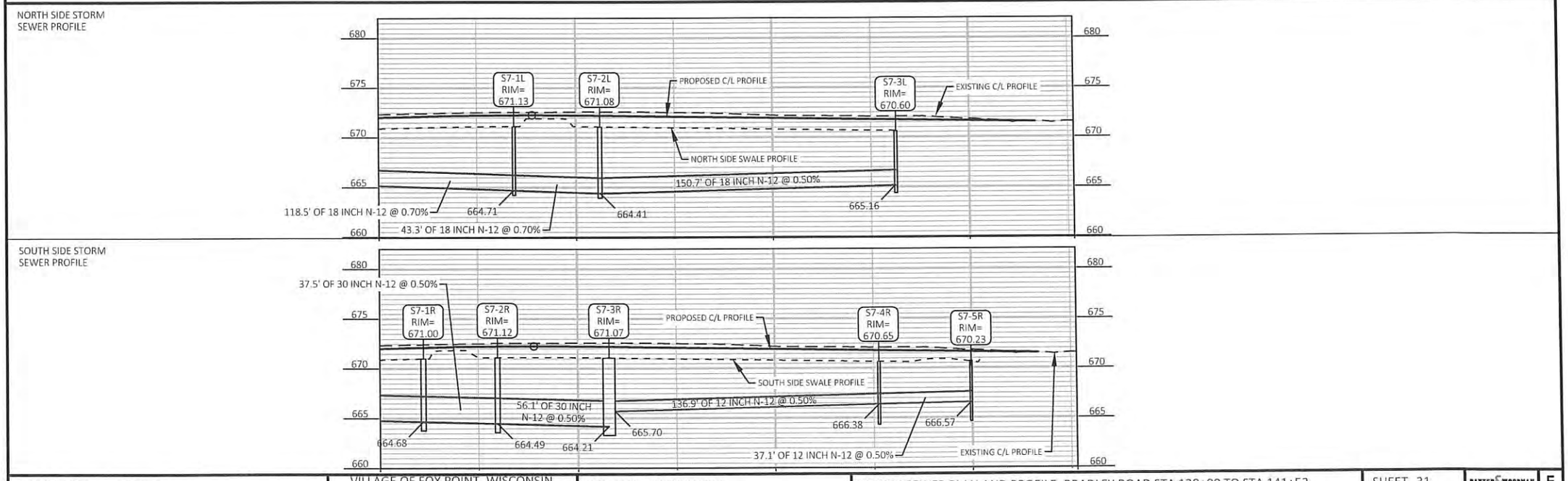
FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022506-Bradley-ss
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT HORZ. 1 IN:10 FT VERT WISDOT/CADDS SHEET 44

2

Legend

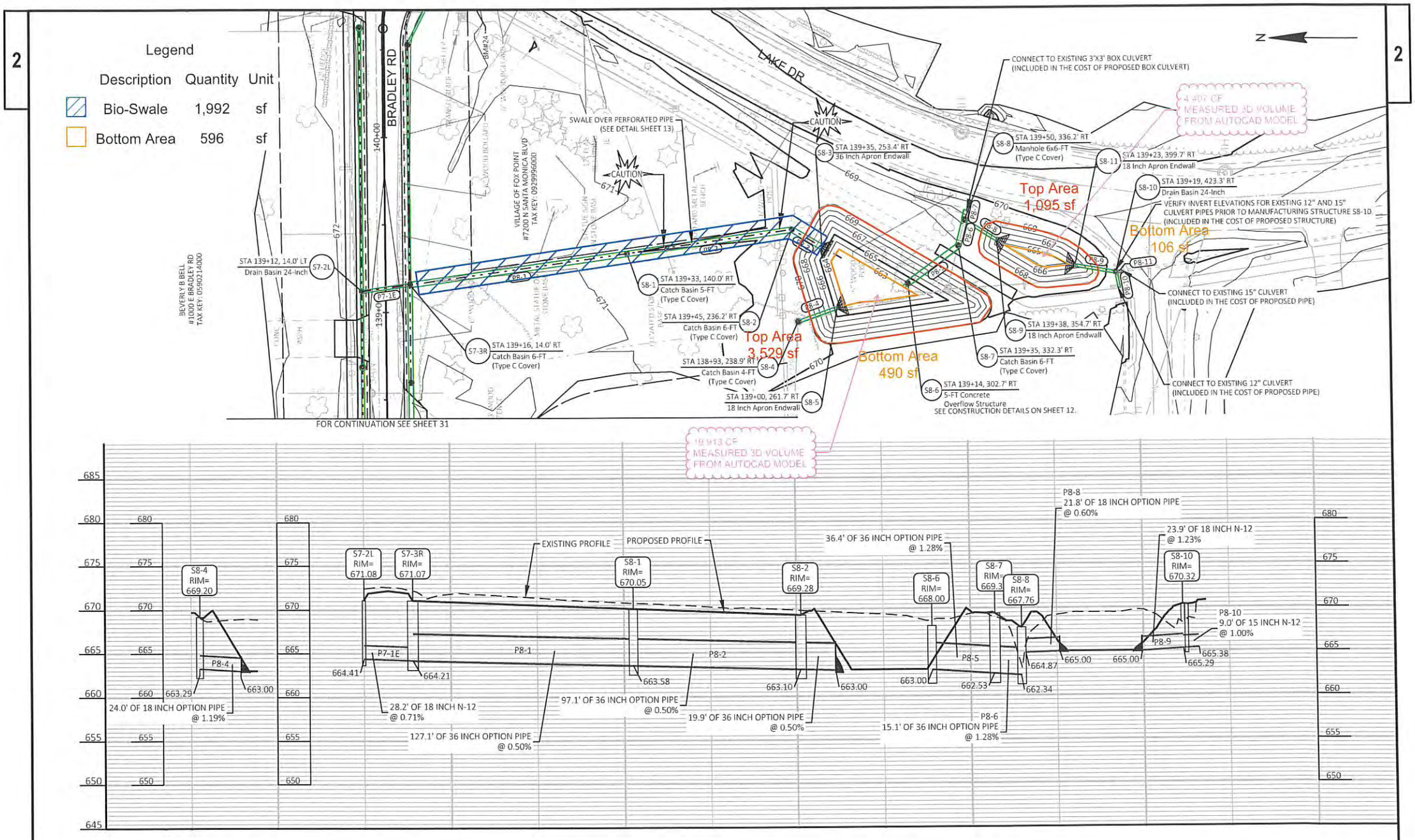
Description	Quantity	Unit
Bio-Swale	2,072	sf





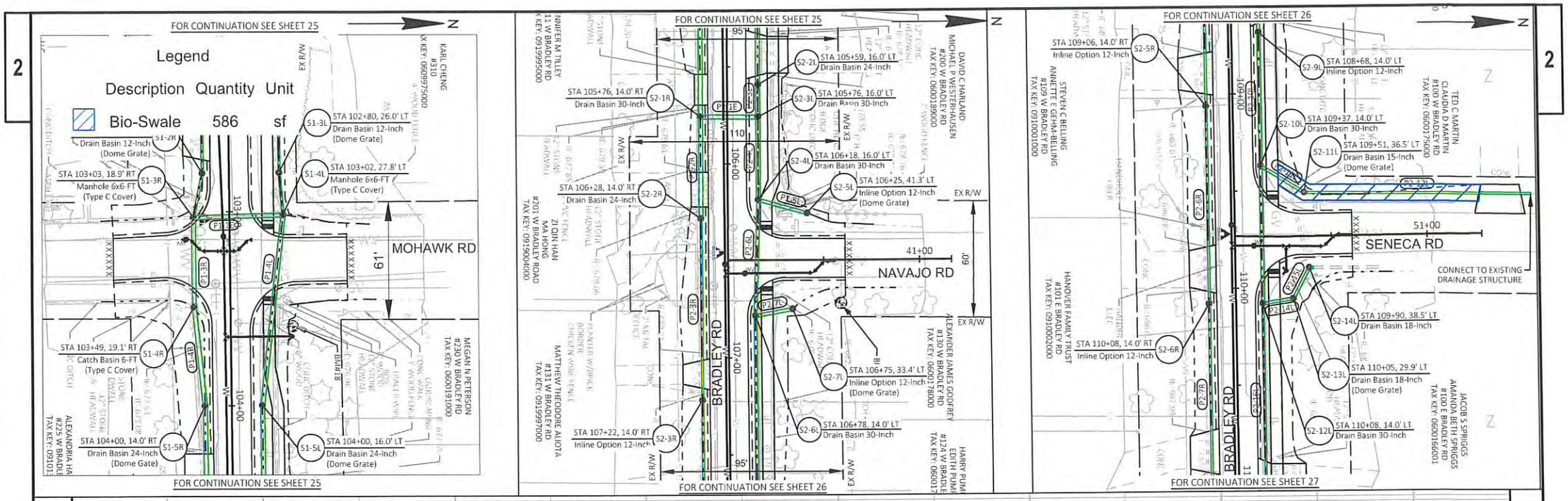
PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 138+00 TO STA 141+53	SHEET 31	BAXTER & WOODMAN	E

FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022507-Bradley-ss
PLOT BY : ELA LODZINSKI
PLOT NAME :
PLOT SCALE : 1 IN:50 FT HORZ. 1 IN:10 FT VERT.
WISDOT/CADDS SHEET 44



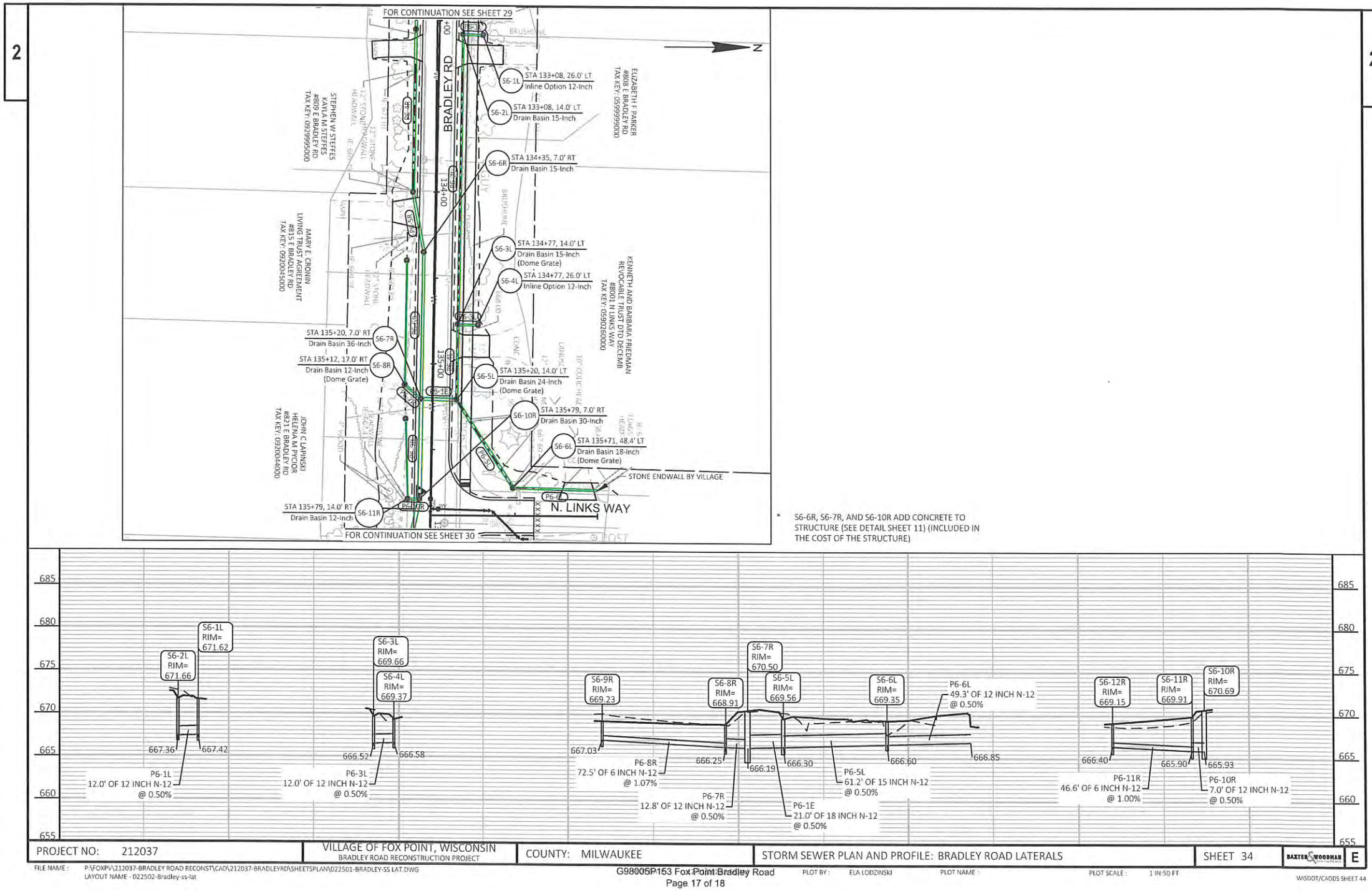
PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: LAKE DRIVE	SHEET 32	BAXTER & WOODMAN	E

FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022502-LAKE-SS.DWG
LAYOUT NAME - 022508-Bradley-ss
PLOT BY : MATT CERVEN PLOT NAME : PLOT SCALE : 1 IN:50 FT WISDOT/CADDS SHEET 42



PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD LATERALS	SHEET 33 BAXTER & WOODMAN E

FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS LAT.DWG
LAYOUT NAME - 022501-Bradley-ss-lat
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT
WISDOT/CADDS SHEET 44



PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD LATERALS	SHEET 34	BAXTER & WOODMAN E

FILE NAME : P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS LAT.DWG
LAYOUT NAME - 022502-Bradley-ss-lat
PLOT BY : ELA LODZINSKI PLOT NAME : PLOT SCALE : 1 IN:50 FT
WISDOT/CADDS SHEET 44

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 SB

Through: Scott Botcher, Village Manager SAB

Date: May 8, 2024

Re: Recommendation for Acceptance of LOMR Map Revision Services agreement

---

Ruekert Mielke Inc. had been retained in 2022 and 2023 to address the proposed 100-year floodplain remapping project undertaken by the DNR and FEMA. Staff worked with Ruekert Mielke to file an appeal to the maps that had been drawn and, after many discussions with the DNR, withdrew our objections based on the comments they provided. One comment was that we could resubmit (and redo) the Letter of Map Revision (LOMR) after the Department of Transportation completed the construction of the bridge over Indian Creek as that will have a significant, positive impact on the drainage of Indian Creek for the Village.

Ruekert Mielke has submitted an agreement for services related to LOMR map revision that will be submitted to the Wisconsin DNR and FEMA to prepare updated maps based on the expected improvements in flood plain elevations associated with the DOT work. The cost to perform this work is $35,000. I have reviewed the hours and fees and find the cost to be reasonable. Therefore, it is my recommendation that the Village Board approve the agreement from Ruekert Mielke Inc. in an amount not to exceed $35,000 and authorize the Village President and Village Clerk/Treasurer to sign the contract on behalf of the Village.

Ruekert • Mielke
W233 N2080 Ridgeview Parkway, Waukesha, WI 53188-1020 262-542-5733

April 12, 2024

Mr. Scott P. Brandmeier, P.E.
Director of Public Works/Village Engineer
Village of Fox Point
7200 North Santa Monica Boulevard
Fox Point, WI 53217

Re: FEMA Letter of Map Revision (LOMR) Services Agreement

Dear Scott,

In response to our discussions and work pertaining to the Preliminary FIRM Mapping for your community, we are presenting you this Agreement for our services pertaining to performing all work necessary to compile a LOMR submittal package to the Wisconsin Department of Natural Resources (WDNR), and the Federal Emergency Management Agency (FEMA). It is the desire of the Village to have this compiled and submitted as our prior hydraulic modeling work has shown that incorporation of the Interstate 43 bridge over Indian Creek, currently under construction, will significantly reduce 100-Year water surface elevations within Indian Creek, upstream of the bridge within the Village limits. On this page, we are describing the effort that we have discussed in our previous conversations and providing the following to breakdown the price:

Category	Recommended Budget
1. Core Services	**$35,000**

This project will be paid for on a Time and Materials, Not to Exceed basis. We anticipate starting the work on this project upon completion of the construction of the Interstate 43 bridge over Indian Creek. The project will be completed within four months of your notice to proceed.

Item 1 – Core Services

R/M's Core Services include:

- R/M will conduct three project meetings; including a Project Kick-Off meeting, one meeting during the project, and one to review the final submittal, it is assumed all meetings will include travel. R/M will also participate in a Village Board Meeting and a Public Information Meeting to discuss the work.

- As part of the LOMR requirements, R/M will perform the following:
  - An as-built survey of the constructed bridge, and all other related construction that has modified Indian Creek and its banks.
  - A brief investigation of local topography and development to determine if a Pre-Project Conditions hydraulic model is required per NR 116 of the Wisconsin Administrative Code. This is included in our fee presented above.
  - Incorporation of the newly constructed Interstate 43 bridge and related work into an as-built hydraulic model per NR 116 of the Wisconsin Administrative Code.

Ruekert · Mielke

- Update the current MT-2 forms based on the hydraulic as-built modeling.
- Develop a revised Certified Topographic Work Map for the Village based on the as-built hydraulic modeling of Indian Creek.
- Develop revised Annotated Firm Mapping based on the as-built hydraulic modeling of Indian Creek.
- This work includes the required submittals to WDNR and FEMA, as well as any revisions requested by these agencies.

Item 2 – Anticipated Schedule

Construction of the I-43 bridge over Indian Creek is anticipated to begin in August of 204, with an anticipated completion date of mid to late November of 2024. WDNR and FEMA will not allow the bridge to be incorporated into the hydraulic analysis in support of the LOMR until construction of the bridge is completed, and an as-built survey is completed.

We anticipate that this project can commence as soon as this agreement is signed, we can perform as much of the tasks as possible until the construction of the bridge is completed. Upon completion of the bridge construction, we will perform the as-built survey within one week of the anticipated completion of the bridge; the as-built survey will be completed by early December.

Project hydraulics and mapping will commence as soon as the survey is completed, and the data is processed. .We anticipate that the modeling and mapping will be completed by the end of December. As the remaining portions of the project will be completed prior to completion of the modeling and mapping, we anticipate that the entire LOMR submittal package will be made to the WDNR by late December/early January 2025.

Item 2 – Modifications to the Agreement

Exclusions: Attendance at meetings outside of those listed under the Core Services. These services can be provided with an amendment to this proposal.

We appreciate the opportunity to serve you and welcome your feedback and ideas on how we can provide even greater products and services. If you have any questions, please contact our office.

The above described professional services will be provided to you in accordance with the attached **RM Standard Terms & Conditions** dated January 1, 2024, which are made part of this agreement by reference. Please indicate your acceptance of this agreement by having the appropriate authorized official(s) affix their signature(s) where indicated and returning one fully executed copy to our office.

Respectfully,

RUEKERT & MIELKE, INC.

Ryan W. Kloth

Ryan W. Kloth, PE, CFM, CPESC, CDT
Water Resources Senior Project Manager
rkloth@ruekert-mielke.com

Ruekert • Mielke

RWK:acl

Enclosure(s)

cc: Stan Sugden, P.E., Ruekert & Mielke, Inc.

Ruekert • Mielke

CLIENT NAME:	ENGINEER:
Village of Fox Point	Ruekert & Mielke, Inc.
By: _____	By: Ryan T. Amtmann Ryan T. Amtmann, P.E.
Title: _____	Title: Vice President
Date: _____	Date: April 12, 2024

ATTEST:

By: _____

Title: _____

Date: _____

Designated Representative:	Designated Representative:
Name: _____	Name: Ryan W. Kloth
Title: _____	Title: Water Resources Senior Project Manager
Phone Number: _____	Phone Number: (262) 953-3078

Ruekert & Mielke, Inc. Standard Terms and Conditions (Consulting Services) *Effective January 1, 2024*

A. Standards of Performance

The standard of care for all Consultant services performed or furnished Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with Consultant's services.

B. Designated Representatives

With the execution of this Agreement, Consultant and Client shall designate specific individuals to act as Consultant's and Client's representatives with respect to the services to be performed or furnished by Consultant and duties and responsibilities of Client under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Assignment on behalf of the respective party whom the individual represents.

C. Payments to Consultant

Invoices will be prepared in accordance with Consultant's standard invoicing practices and will be submitted to Client by Consultant monthly, unless otherwise agreed. Invoices are due and payable within 30 days of receipt. If Client fails to make any payment due Consultant for services and expenses within 30 days after receipt of Consultant's invoice therefore, the amounts due Consultant will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Consultant may, after giving seven days written notice to Client, suspend services under this Agreement until Consultant has been paid in full all amounts due for services, expenses, and other related charges. Consultant's standard hourly rates are subject to annual adjustment.

D. Ownership and Reuse of Documents

All documents and services prepared or furnished by Consultant pursuant to this Agreement are instruments of service, and Consultant shall retain an ownership and property interest therein (including the copyright and the right of reuse) whether or not the Project is completed. Consultant grants Client a limited license to use the deliverable documents on the Project, extensions of the Project, and for related uses of the Client, subject to receipt by Consultant of full payment due and owing for all services relating to preparation of the documents. Such limited license shall not create any rights in third parties. Reuse of any documents pertaining to this Agreement by Client shall be at Client's sole risk; and Client agrees to indemnify, defend, and hold Consultant harmless from all claims, damages, and expenses including reasonable attorney's fees arising out of such reuse of documents by Client or by others acting through Client.

E. Permits and Approvals

It is the responsibility of the Client to obtain all necessary permits and approvals for the Project. Consultant will assist the Client in obtaining permits and approvals as mutually agreed to in writing.

F. Opinions of Probable Cost

Consultant's opinions of probable construction cost (if any) are to be made on the basis of Consultant's experience, qualifications, and general familiarity with the construction industry. However, because Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from opinions of probable construction cost prepared by Consultant. If Client requires greater assurance as to probable construction costs, then Client agrees to obtain an independent cost estimate.

G. Client and Third Party Provided Information

Consultant shall have the right to rely on the accuracy of any information provided by Client and third parties. Consultant will not review this information for accuracy.

H. Access

Client shall arrange for safe access to and make all provisions for Consultant and Consultant's subconsultants to enter upon public and private property as required for Consultant to perform services under this Agreement.

I. Construction Observation

Consultant will observe the work as agreed to for general compliance with the construction documents. Consultant shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Consultant have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's furnishing and performing of its work. Consultant shall not be responsible for the acts or omissions of any contractor. Consultant has no stop work authority. Consultant shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents, other than those made by Consultant.

J. Environmental

The parties acknowledge that Consultant's services do not include any services related to unknown or undisclosed Constituents of Concern. Consultant assumes no liability for the detection or removal of any hazardous substances found at or adjacent to the Project site.

K. Termination of Contract

1. Either party may at any time terminate this Agreement with 7 days written notice for cause in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

2. Client may terminate this Agreement for convenience with 30 days written notice, or the Project may be suspended by Client with 30 days written notice.

3. Consultant may terminate this Agreement for cause with 7 days written notice (a) if Consultant is requested to furnish or perform services contrary to Consultant's responsibilities as a licensed professional, (b) if Consultant's services are delayed or suspended for more than 90 days for reasons beyond Consultant's control, (c) if payment due Consultant remains unpaid for 90 days, or (d) as the result of the presence of undisclosed Constituents of Concern. Consultant will have no liability to Client on account of any termination by Consultant for cause.

4. In the event of any termination, Client shall pay to Consultant all amounts owing to Consultant under this Agreement, for all work performed up to the effective date of notice.

L. Insurance

Consultant will maintain insurance at a minimum in the amounts following. Insurance certificates will be provided if requested by Client.

- General Liability — $1,000,000 Each Occurrence / $2,000,000 General Aggregate
- Auto Liability — $1,000,000 Combined Single Limit
- Workers Compensation — Statutory
- Employers Liability — $1,000,000 Each Accident / $1,000,000 Each Employee / $1,000,000 Policy Limit
- Umbrella — $1,000,000 Occurrence / Aggregate
- Professional Liability — $1,000,000 Per Claim / Aggregate

M. Indemnification and Allocation of Risk

1. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Client, Client's officers, directors, partners, and employees from damages and judgments (including reasonable fees), but only to the extent caused by any negligent act or omission of Consultant or Consultant's officers, directors, partners, employees, and subconsultants in the performance of Consultant's services under this Agreement.

2. To the fullest extent permitted by law, Client shall indemnify and hold harmless Consultant, Consultant's officers, directors, partners, employees, and subconsultants from damages and judgments (including reasonable fees), but only to the extent caused by any negligent act or omission of Client or Client's officers, directors, partners, employees, and consultants with respect to this Agreement.

3. To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Client, Consultant, and all other negligent entities and individuals.

4. The indemnification provision of paragraph M.1. is subject to and limited by the provisions agreed to by Client and Consultant in paragraph N. "Limit of Liability," of this Agreement.

N. Limit of Liability

To the fullest extent permitted by law, the total liability, in the aggregate, of Consultant and Consultant's officers, directors, partners, employees, agents, and subconsultants, or any of them to Client and anyone claiming by, through, or under Client, for any and all injuries, losses, damages and expenses, whatsoever arising out of, resulting from, or in any way related to this Agreement from any cause or causes including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, express or implied, of Consultant or Consultant's officers, directors, partners, employees, agents, and subconsultants, or any of them, shall not exceed the total amount of $1,000,000, or the Consultant's total fee for services rendered on this project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action, including without limitation active and passive negligence, however alleged or arising, unless otherwise prohibited by law. In no event shall the Consultant's liability exceed the amount of available insurance proceeds.

O. Consequential Damages

To the fullest extent permitted by law, Client and Consultant waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, consultants and subconsultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, any Task Order, or a Specific Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

P. Third Party Beneficiaries

All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Consultant and not for the benefit of any other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either Client or the Consultant. Consultant's services under this Agreement are being performed solely for the Client's benefit, and no other entity shall have any claim against Consultant because of this Agreement or the performance or nonperformance of services hereunder. Client agrees to include a provision in all contracts with contractors and other entities involved in this Project to carry out the intent of this paragraph.

Q. Severability and Waiver of Provisions

Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

R. Hold Harmless

Consultant's commitments as set forth in this Agreement are based on the expectation that all of the services described in this Agreement will be provided. In the event Client later elects to reduce the Consultant's scope of services, Client hereby agrees to release, hold harmless, defend and indemnify Consultant from any and all claims, damages, losses, or costs associated with or arising out of such reduction in services.

S. Consultant's Services

Consultant's Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

T. Changed Conditions

If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the Consultant are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the Consultant may call for renegotiation of appropriate portions of this Agreement. The Consultant shall notify the Client of the changed conditions necessitating renegotiation, and the Consultant and the Client shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the right to terminate this Agreement in accordance with the Termination provision hereof.

U. Delays

Consultant shall not be liable for any loss or damage arising directly or indirectly from any delays for causes beyond the Consultant's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; pandemics, failure of any government agency to act in timely manner; failure of performance by the Client or the Client's contractors or consultants; or discovery of any hazardous substances or differing site conditions. If the delays resulting from any such causes increase the cost or time required by the Consultant to perform its services in an orderly and efficient manner, the Consultant shall be entitled to a reasonable adjustment in schedule and compensation.

V. Entire Agreement

This Agreement is the entire Agreement between the Client and the Consultant. It supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by both the Client and the Consultant.

W. Assignment

Neither party to this Agreement shall transfer, sublet, or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by the Consultant as a generally accepted business practice shall not be considered an assignment for purposes of this Agreement.

X Dispute Resolution

Client and Consultant agree to negotiate all disputes between them in good faith for a period of 60 days from the date of notice, prior to invoking mediation. Subsequent to negotiation, Client and Consultant agree to submit any and all unsettled claims, counterclaims, disputes, and other matters in questions between them arising out or relating to this Agreement or the breach thereof ("disputes") to mediation as a condition precedent to litigation. Client and Consultant agree to participate in the mediation process in good faith and on a confidential basis.

Y. Governing Law

This Agreement will be governed by the laws of the state in which the project is located.

Z. Definitions

1. Contractor - Any person or entity (not including the Consultant, its employees, agents, representatives, subcontractors, and subconsultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Client's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

2. Constituent of Concern – any substances, including without limitation asbestos, asbestos-containing materials, toxic or hazardous substances, PFASs, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable state, provincial or federal statutes), pollutants, viruses, bacteria or pathogens of any kind, or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

END OF DOCUMENT

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: May 8, 2024

Re: Recommendation to authorize agreement with Wisconsin Electric Company for reimbursement of Utility improvements

---

In March, Fox Point staff was informed by We Energies that our proposed storm sewer along Bradley Road would be in conflict with one of their duct packages (a series of conduits and wires buried underground that provide electrical service to the community). In discussing the matter with We Energies, there were two options available – We Energies relocate their duct package or Fox Point determine whether an alternate existed that would allow us to reroute our storm sewer drainage.

After further discussions, it was determined that the cost for We Energies to relocate their duct package would be significant so we started looking at alternatives for Fox Point to reroute the storm water drainage. However, this was contingent on We Energies paying for the rerouting of the storm sewer due to the fact that our originally proposed storm sewer was to be installed adjacent to a pedestrian path which would improve the public health, safety and welfare of the community.

I am recommending that the Village accept the Agreement for Reimbursement of Construction and other costs with Wisconsin Electric Company (WE Energies) for utility improvement included in the Bradley Road project, subject to modifications that may be proposed by We Energies and approved by the Village Attorney, and authorize the Village President and Village Clerk/Treasurer to sign the agreement on behalf of the Village.

Document Number	**AGREEMENT FOR REIMBURSEMENT OF CONSTRUCTION COSTS AND OTHER RELATED COSTS BETWEEN THE VILLAGE OF FOX POINT AND WE ENERGIES** Document Title

WHEREAS, this Agreement is between the VILLAGE OF FOX POINT (Village) and Wisconsin Electric Power Co. ("WE Energies") regarding the construction of improvements on Bradley Road located in the Village of Fox Point; and

WHEREAS, the Village of Fox Point is constructing improvements along Bradley Road in the Village of Fox Point (the "Improvements"), and these improvements conflict with WE Energies utility locations (the "Conflict Infrastructure"); and

WHEREAS, WE Energies has agreed that to avoid relocation of the Conflict Infrastructure at the intersection of Bradley Road and Mohawk Road, it would pay for the costs of engineering and construction for an alternative design which would allow the WE Energies Conflict Infrastructure to remain in the current location, which said plans are attached hereto and incorporated herein as Exhibit A (the "Alternative Design"); and

Recording Area

Name and Return Address:
Scott Brandmeier
7200 N. Santa Monica Blvd.
Fox Point, WI 53217

Tax Identification Number:
FPV 0609977000

WHEREAS, the parties acknowledge that the Alternative Design will be a benefit to both parties, as relocation of Conflict Infrastructure would be substantially more expensive and would create significant delays in the completion of the improvements on Bradley Road; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Actual Costs. WE Energies shall pay and reimburse the Village promptly upon billing for all engineering, construction and inspection fees, expenses, costs and disbursements which shall be incurred by the Village in connection with the Alternative Design. Any costs for outside consultants or contractors shall be charged at the rate the consultant charges the Village. These costs have been estimated in the amount of $206,000, but actual costs shall be invoiced and paid. Any such charge not paid by WE Energies within thirty (30) days of being invoiced may be charged against the WE Energies property located on Mohawk Road in the Village of Fox Point, currently known as FPV 0609977000, as a special charge, pursuant to Wisconsin Statutes Section 66.0627 and collected as a special tax.

[*signatures on following pages*]

Dated as of this _____ day of _____, 2024.

VILLAGE OF FOX POINT

_____
Christine Symchych, Village President

ATTEST:

_____
Sara Bruckman, Village Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF WAUKESHA)

Personally came before me on this _____ day of _____, 2024, the above-named Christine Symchych as Village President and Sara Bruckman as Village Clerk executed the foregoing instrument and acknowledged the same.

_____
NOTARY PUBLIC, STATE OF WI
Print Name: _____
My Commission Expires: _____

Drafted by:
Eric J. Larson
Municipal Law & Litigation Group, SC
730 N. Grand Avenue
Waukesha, WI 53186

WISCONSIN ELECTRIC POWER CO.

_____
(signature)

_____
(print name and title)

State of Wisconsin)
: SS
_____ County)

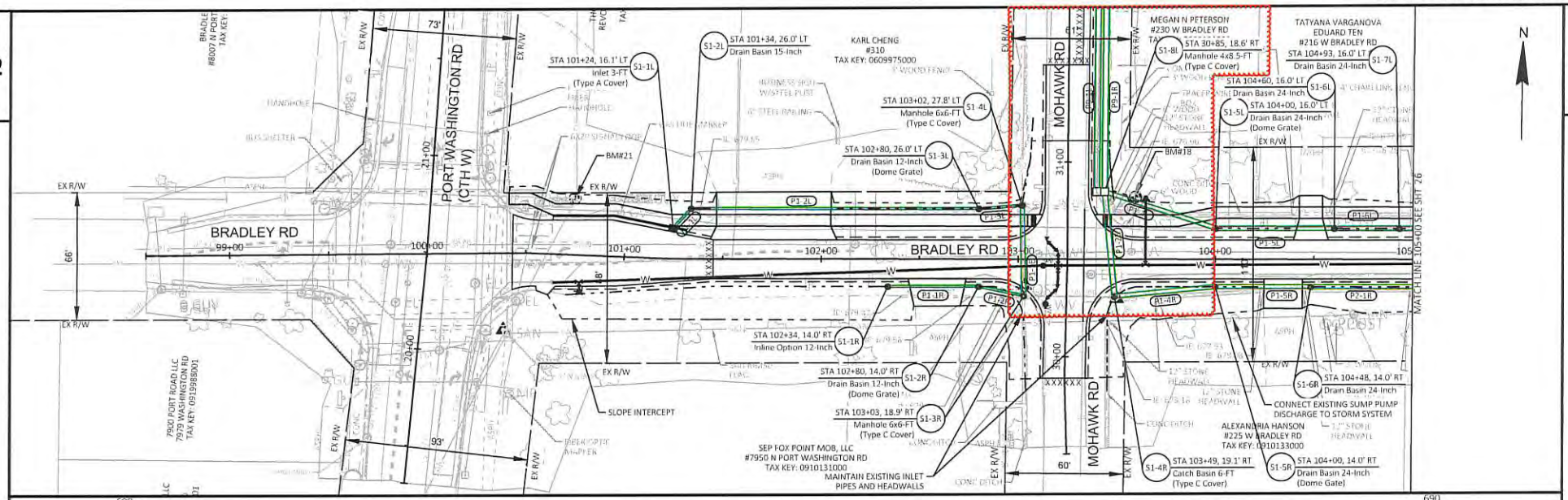
Personally came before me on this _____ day of _____, 2024, the above-named _____ executed the foregoing instrument and acknowledged the same.

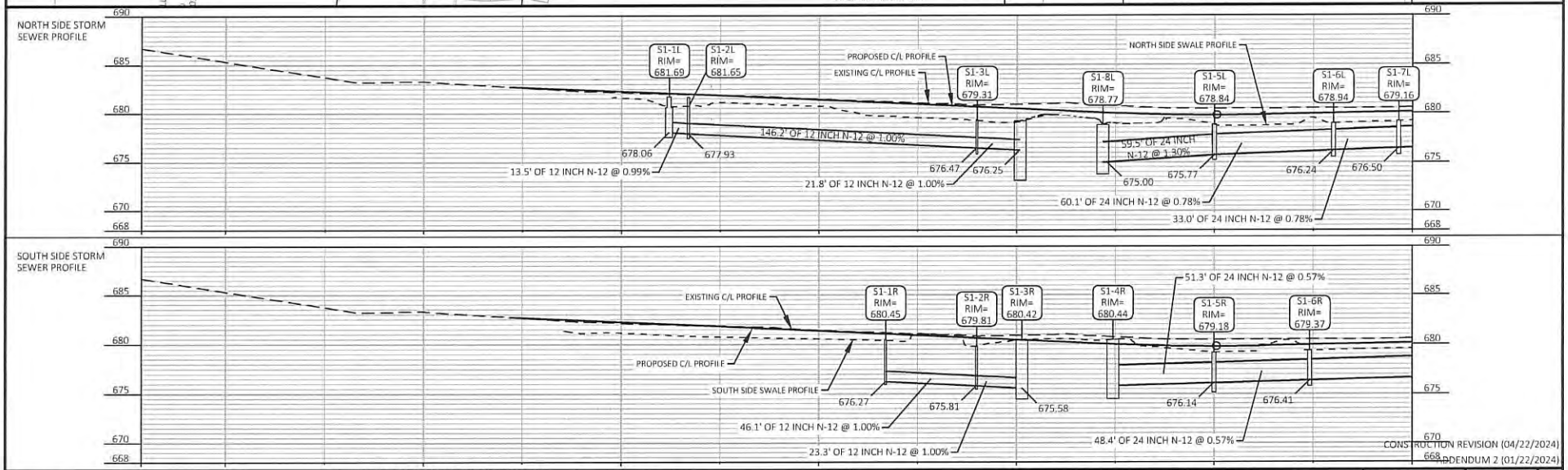
NOTARY PUBLIC:

_____
Name: _____
Notary Public, State of Wisconsin
My commission expires on _____

EXHIBIT A
(Insert finalized design from Baxter & Woodman)

FOR CONSTRUCTION - 04/22/2024



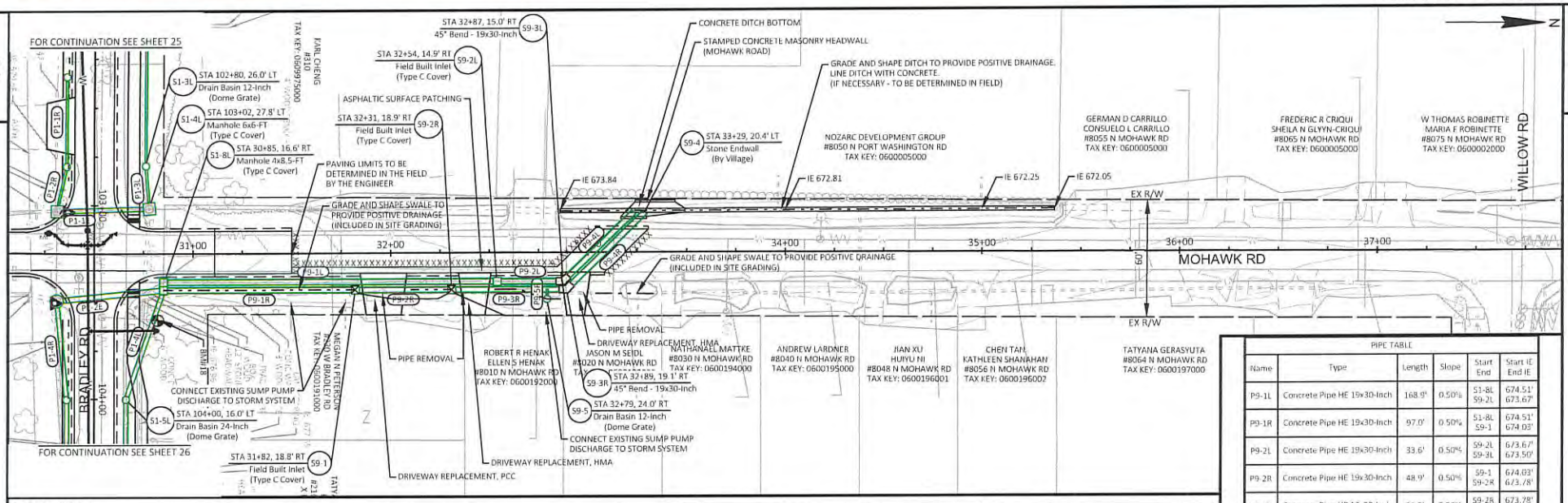


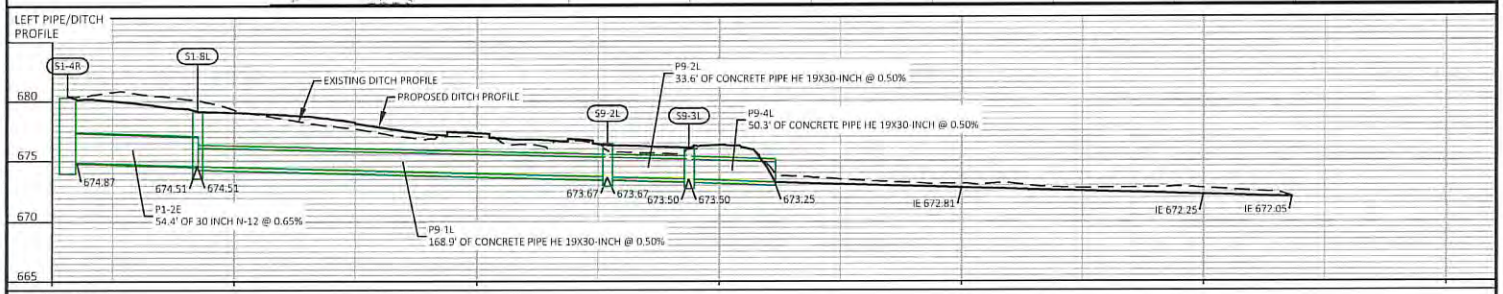
CONSTRUCTION REVISION (04/22/2024)
ADDENDUM 2 (01/22/2024)

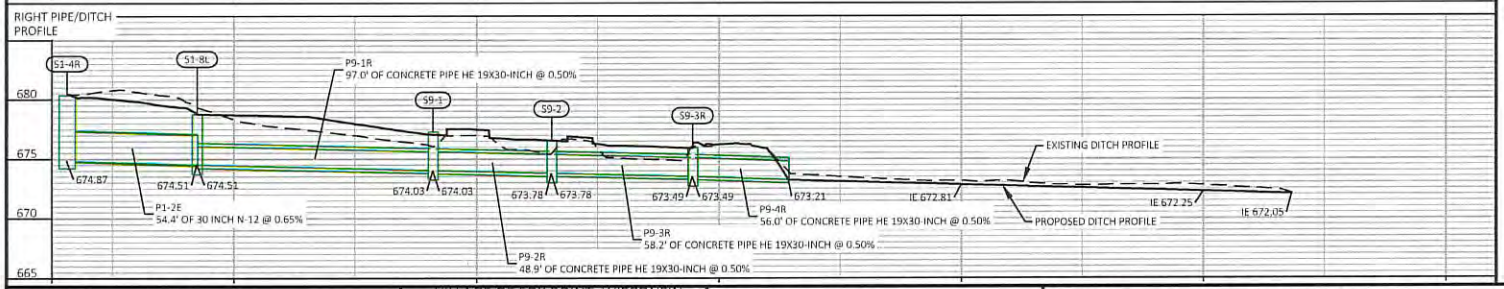
PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: BRADLEY ROAD STA 98+57 TO STA 105+00	SHEET 25	BAXTER & WOODMAN E

FILE NAME: P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022501-BRADLEY-SS.DWG
LAYOUT NAME - 022501-Bradley-ss
PLOT DATE: 4/22/2024 2:14 PM
PLOT BY: ELA LODZINSKI
PLOT NAME:
PLOT SCALE: ########## HORZ. 1 IN:10 FT VERT.
WISDOT/CADDS SHEET 44

FOR CONSTRUCTION - 04/22/2024







PIPE TABLE

Name	Type	Length	Slope	Start End	Start IE End IE
P9-1L	Concrete Pipe HE 19x30-Inch	168.9'	0.50%	S1-8L S9-2L	674.51' 673.67'
P9-1R	Concrete Pipe HE 19x30-Inch	97.0'	0.50%	S1-8L S9-1	674.51' 674.03'
P9-2L	Concrete Pipe HE 19x30-Inch	33.6'	0.50%	S9-2L S9-3L	673.67' 673.50'
P9-2R	Concrete Pipe HE 19x30-Inch	48.9'	0.50%	S9-1 S9-2R	674.03' 673.78'
P9-3R	Concrete Pipe HE 19x30-Inch	58.2'	0.50%	S9-2R S9-3R	673.78' 673.49'
P9-4L	Concrete Pipe HE 19x30-Inch	50.3'	0.50%	S9-3L S9-4	673.50' 673.25'
P9-4R	Concrete Pipe HE 19x30-Inch	56.0'	0.50%	S9-3R S9-4	673.49' 673.21'
P9-5R	12-Inch N-12	5.0'	0.50%	S9-5 P9-3R	674.17' 674.14'

STRUCTURE TABLE

NAME	TYPE	DETAILS	STATION OFFSET
S1-8L	Manhole 4x8.5-FT (Type C Cover)	RIM = 678.77 P1-2E INV IN = 674.513 P9-1R INV OUT = 674.513 P9-1L INV OUT = 674.513	30+84.99 16.6' RT
S9-1	Field Built Inlet (Type C Cover)	RIM = 677.05 P9-1R INV IN = 674.028 P9-2R INV OUT = 674.028	31+82.02 18.8' RT
S9-2L	Field Built Inlet (Type C Cover)	RIM = 676.32 P9-1L INV IN = 673.669 P9-2L INV OUT = 673.669	32+53.87 14.9' RT
S9-2R	Field Built Inlet (Type C Cover)	RIM = 676.54 P9-2R INV IN = 673.784 P9-3R INV OUT = 673.784	32+30.92 18.9' RT
S9-3L	45° Bend - 19x30-Inch	P9-2L INV IN = 673.501 P9-4L INV OUT = 673.501	32+87.49 15.0' RT
S9-3R	45° Bend - 19x30-Inch	P9-3R INV IN = 673.493 P9-4R INV OUT = 673.493	32+89.15 19.1' RT
S9-4	Stone Endwall (By Village)	P9-4R INV IN = 673.213 P9-4L INV IN = 673.250	33+26.00 20.4' LT
S9-5	Drain Basin 12-Inch (Dome Grate)	RIM = 675.79 P9-5R INV OUT = 674.165	32+79.20 24.0' RT

CONSTRUCTION REVISION (04/22/2024)

PROJECT NO: 212037	VILLAGE OF FOX POINT, WISCONSIN BRADLEY ROAD RECONSTRUCTION PROJECT	COUNTY: MILWAUKEE	STORM SEWER PLAN AND PROFILE: MOHAWK RD	SHEET 34A	BAXTER & WOODMAN	E

FILE NAME: P:\FOXPV\212037-BRADLEY ROAD RECONST\CAD\212037-BRADLEYRD\SHEETSPLAN\022503-MOHAWK SS.DWG
LAYOUT NAME - 022503-Mohawk-ss (1)
PLOT DATE 4/22/2024 1:07 PM PLOT BY ELA LODZINSKI PLOT NAME PLOT SCALE 1 IN:50 FT
WISDOT/CADDS SHEET 44

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: May 8, 2024

Re: Recommendation for UPI, LLC Change Order to Bradley Road agreement

---

In March, Fox Point staff was informed by We Energies that our proposed storm sewer along Bradley Road would be in conflict with one of their duct packages (a series of conduits and wires buried underground that provide electrical service to the community). In discussing the matter with We Energies, there were two options available – We Energies relocate their duct package or Fox Point determine whether an alternate existed that would allow us to reroute our storm sewer drainage.

After further discussions, it was determined that the cost for We Energies to relocate their duct package would be significant so we started looking at alternatives for Fox Point to reroute the storm water drainage. However, this was contingent on We Energies paying for the rerouting of the storm sewer due to the fact that our originally proposed storm sewer was to be installed adjacent to a pedestrian path which would improve the public health, safety and welfare of the community. The cost for UPI, LLC to perform the work ($238,095) is about one-third the cost We Energies estimated it would cost them to relocate the duct package and, more importantly, can be done within the timeframe additional identified in the contract documents (with a completion date of late August into September).

UPI, LLC has submitted a change order to the Village to include storm sewer improvements along Mohawk Rd to avoid conflict with existing electrical structures at the intersection of Bradley Rd and Mohawk . The cost to perform this work is $238,095. I have reviewed the cost and find it to be reasonable. Therefore, it is my recommendation that the Village Board approve Change Order No. 1 from UPI, LLC in an amount not to exceed $238,095 and authorize the Village President and Village Clerk/Treasurer to sign the contract on behalf of the Village.

00 63 63
CHANGE ORDER FORM

Change Order No. 01

Date of Issuance:	04/23/2024	Effective Date:	05/1/2024
Owner:	Village of Fox Point	Owner's Contract No.:	
Contractor:	UPI, LLC	Contractor's Project No.:	
Engineer:	Baxter & Woodman, Inc.	Engineer's Project No.:	2326472.00
Project:	2024 Bradely Road Reconstruction	Contract Name:	

The Contract is modified as follows upon execution of this Change Order:

Description: Addition of storm sewer along Mohawk Rd. and the adjustments to the proposed water main to avoid conflict with the existing electric utility in the intersection of Bradely Road and Mohawk Road.

Attachments: Cost estimates of the additional work by UPI.

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ 3,545,457.00	Original Contract Times: Substantial Completion: August 25, 2024 Ready for Final Payment: September 15, 2024 days or dates
~~[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___:~~ NA	~~[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___:~~ ~~Substantial Completion: _____~~ ~~Ready for Final Payment: _____~~ ~~days~~
Contract Price prior to this Change Order: $ 3,545,457.00	~~Contract Times prior to this Change Order:~~ ~~Substantial Completion: _____~~ ~~Ready for Final Payment: _____~~ ~~days or dates~~
Increase/Decrease of this Change Order: $ 238,095.00	Increase of this Change Order: Substantial Completion: August 25, 2024 Ready for Final Payment: September 15, 2024 days or dates
Contract Price incorporating this Change Order: $ 3,783,552.00	Contract Times with all approved Change Orders: Substantial Completion: August 25, 2024 Ready for Final Payment: September 15, 2024 days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: James T Fowler ~~By:~~	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: Project Manager	Title:	Title:
Date:	Date:	Date:

Approved by Funding Agency (if applicable)

By: _____ Date:

Title: _____

UPI, LLC (P) 262-548-9451 (F) 262-548-0904

2160 S. SPRINGDALE RD , NEW BERLIN, WI 53146

To: **Ryan Wallace - Baxter and Woodman** **26-Apr-24**
From: **Ian Dretzka - Project Manager**
Re: **Mowhawk Dr Additonal Work**

Item #	Description	Quantity	Units	Unit Price	Ext. Price
	Change Order				
1	4'x8.5' Box Structure	1.00	Each	$18,757.00	$18,757.00
2	Field Built Inlet	2.00	Each	$4,951.00	$9,902.00
3	19"x30" HERCP Pipe	510.00	L.F.	$221.00	$112,710.00
4	19x30 Bend	2.00	Each	$4,464.00	$8,928.00
5	Stamped Concrete Wall	1.00	L.S.	$16,173.00	$16,173.00
6	Added Grading	1.00	L.S.	$19,998.00	$19,998.00
7	Added Removals	1.00	L.S.	$9,469.00	$9,469.00
8	Concrete Ditch Liner	1.00	L.S.	$11,931.00	$11,931.00
9	PCC Driveway Replacement	49.00	S.Y.	$92.00	$4,508.00
10	HMA Driveway Replacement	63.00	S.Y.	$28.00	$1,764.00
11	3LT Binder	125.00	TON	$79.00	$9,875.00
12	4LT Surface	84.00	TON	$85.00	$7,140.00
13	Private Discharge Connection	3.00	Each	$1,836.00	$5,508.00
14	Drain Basin 12"	1.00	Each	$1,432.00	$1,432.00
				Total Change Order:	**$238,095.00**

TRAFFIC CONTROL BY UPI.
PRICE EXCLUDES BOND FEES
QUANTITIES LISTED ARE "PROPOSED" QUANTITIES, U.P.I. WILL BE PAID ON A PER UNIT INSTALLED BASIS.
ALL TRENCH SPOIL MATERIAL IS TO BE HAULED OFF SITE BY UPI.
ENGINEERING, SURVEY FOR THE ABOVE LISTED ITEMS IS INCLUDED.
PERMITS ARE NOT INCLUDED
ROCK EXCAVATION (IF REQUIRED) WILL BE AT $260.00 PER C.Y.
HEAVY OR FORMAL DEWATERING (IF REQUIRED) WILL BE CHARGED ON A TIME AND MATERIAL BASIS.
PAYMENT TO BE RECEIVED WITHIN 30 DAYS OF MONTHLY INVOICE.
1 1/2% INTEREST CHARGED ON ALL PAST DUE BALANCES

AGREED & ACCEPTED BY:_____ **DATE:**_____

RETURN VIA FAX TO U.P.I. (262)-548-0904

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: May 8, 2024

Re: Recommendation for Baxter & Woodman Constructing Engineering Services Amendment No. 1 to Bradley Road agreement

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In March, Fox Point staff was informed by We Energies that our proposed storm sewer along Bradley Road would be in conflict with one of their duct packages (a series of conduits and wires buried underground that provide electrical service to the community). In discussing the matter with We Energies, there were two options available – We Energies relocate their duct package or Fox Point determine whether an alternate existed that would allow us to reroute our storm sewer drainage.

After further discussions, it was determined that the cost for We Energies to relocate their duct package would be significant so we started looking at alternatives for Fox Point to reroute the storm water drainage. However, this was contingent on We Energies paying for the rerouting of the storm sewer due to the fact that our originally proposed storm sewer was to be installed adjacent to a pedestrian path which would improve the public health, safety and welfare of the community.

Baxter & Woodman has submitted Amendment No. 1 to the Village to include the design and construction inspection services of storm sewer improvements along Mohawk Rd, north from the Bradley Rd intersection and for adjustments to avoid conflict with existing electrical structures at the intersection of Bradley Rd and Mohawk . The cost to perform this work is $42,100. I have reviewed the hours and fees and find the cost to be reasonable. Therefore, it is my recommendation that the Village Board approve Amendment No. 1 from Baxter & Woodman in an amount not to exceed $42,100 and authorize the Village President and Village Clerk/Treasurer to sign the contract on behalf of the Village.

BAXTER & WOODMAN
Consulting Engineers
115 South 84th Street, Suite 220, Milwaukee Wisconsin 53214 • 414.257.3150 • baxterwoodman.com

April 23, 2024

Mr. Scott Brandmeier
Director of Public Works
Village of Fox Point
7200 North Santa Monica Blvd
Fox Point, WI 53217

Subject: Village of Fox Point – Bradley Road Reconstruction Project
Construction Engineering Services – Amendment 1

Dear Mr. Brandmeier:

Baxter & Woodman, Inc. is pleased to submit Amendment No. 1 for the construction engineering services for Bradley Road reconstruction project. Our amended scope of services and engineering fees are presented below.

LOCATION

The project is located on Bradley Road within the Village of Fox Point. The area for project includes the following:

AMENDED ENGINEERING SERVICES

The scope of service is amended to include the additional design and construction services of a new storm sewer from the intersection of Bradley Road and Mohawk Road extended north along Mohawk Road to accommodate electric utility in conflict with the original scope of Project.

The original scope of the Project was to install a new storm sewer and connect to the existing storm sewer that runs along west side of Mohawk Road north of Bradley Road. Due to a conflict with the proposed storm sewer location, and an existing electric utility in the intersection of Bradley Road and Mohawk Road, the electric utility requested a change of the proposed storm sewer to avoid a conflict.

The revised proposed storm sewer consists of adding a new storm sewer along Mohawk Road north of Bradely Road to a point the new storm can be connected with the existing line with no conflict.

AMENDED SCOPE OF SERVICES

1. Design services of new proposed storm sewer to avoid conflict with existing electrical utility conflict:
    a. The addition of storm sewer along Mohawk Road to accommodate conflicting utilities
    b. The alterations of the water main and the addition of a hydrant to accommodate conflicting utilities and allow for main to be flushed properly
    c. The additional road and right-of-way construction on Mohawk Road north of Bradley Road in the area of utility construction

BAXTER & WOODMAN Consulting Engineers

2. Construction services of construction oversight of the additional work not in the original Project scope:
    a. Construction time is estimated at approximately 3 weeks with standard full-time construction services with construction management oversight

ENGINEERING FEE

Our amended engineering fee for the amended scope of services is estimated to total an additional **$42,100.00** for an amended not to exceed amount of **$257,870.00.**

The Engineer's fee for the Project shall be amended as follows:

Village of Fox Point							
Plan Number: 2326472.00 - AMENDMENT No. 1							
Plan Name: Bradley Road Reconstruction							
Level 2	**Level3**	**Labor Category**	**Employee**	**Planned Hrs**	**Planned Labor Bill**	**Reimb Allowance**	**Total Compensation**
			Overall Project Total	**400.00**	**$41,400.00**	**$700.00**	**$42,100.00**
CS106 WE Energies Coordination				400.00	$41,400.00		
	01020 Attend Meeting				$1,575.00		
		Engineer IV	Ryan Wallace	5.00	$1,000.00	$25.00	
		Engineer I	Matthew Cerven	5.00	$575.00	$25.00	
	01150 CADD			0.00	$3,125.00		
		Cadd Tech III	Ursula Botsch	5.00	$750.00		
		Cadd Tech I	Nathan Harvey	25.00	$2,375.00		
	01230 Engineering			100.00	$16,900.00		
		Engineer IV	Ryan Wallace	40.00	$8,000.00	$60.00	
		Engineer III	Tyler Gates	20.00	$3,500.00		
		Engineer II	Ela Lodzinski	20.00	$3,100.00		
		Engineer I	Matthew Cerven	20.00	$2,300.00	$60.00	
	01360 Manage Project			0.00	$6,000.00		
		Construction Manager II	James Frederick	40.00	$6,000.00	$150.00	
	1260 Inspections			0.00	$13,800.00		
		Engineer I	Matthew Cerven	120.00	$13,800.00	$380.00	

All terms and conditions of the Original Agreement dated February 15, 2024, between the Engineer and the Village of Fox Point shall apply.

If you find this Amendment acceptable, **please sign and return one copy for our files**.

If you have any questions or need additional information, please do not hesitate to contact me at jfrederick@baxterwoodman.co, or 815-444-3343.

Sincerely,

BAXTER & WOODMAN, INC.
CONSULTING ENGINEERS

Gary A. Vogel, PE
Vice President

James Frederick
Wisconsin Construction Manager

Attachment

VILLAGE OF FOX POINT, WI

ACCEPTED BY: _____

TITLE: _____

DATE: _____

P:\FOXPV\2326472-Bradley Road Reconst\Contracts\Work\2326472.00_Proposal_Amendmnet1_BradleyRoadConstruction.docx

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: May 8, 2024

Re: Recommendation for Acceptance of the Wisconsin Department of Transportation State Municipal Project Agreement

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Last fall, staff submitted a Local Roads Improvement Program (LRIP) Supplemental grant application to the Department of Transportation for the Bradley Road project (road and storm sewer work). Staff was under the impression we would learn whether our application was selected in mid- to late-January (which would allow us to coordinate the appropriate language in the official notice and contract documents). Unfortunately, we did not receive any notification that our application was selected until April 17, 2024.

On or about April 21, 2024 staff received additional information from the DOT that included the State Municipal Project Agreement which, in addition to the contract award letter on April 17, noted that the Village is eligible to receive $400,000 toward the storm water and road improvements on Bradley Road. However, award of the funding appears to be contingent on placing appropriate notifications in the official notice and in the contract documents – neither of which were performed due to the fact we had not received timely notification of the award prior to the project being bid and awarded.

Nonetheless, staff has made multiple attempts to speak with the LRIP Program Manager for the DOT including leaving a voice mail and sending multiple emails. The Program Manager has not returned the calls or emails (to date). Staff is trying to determine whether the funds can still be used for Bradley Road in spite of the exclusion of language in the official notice and contract documents and, if not, can the funds be allocated to a different project in the Village.

In order to expedite the funding agreement, it is my recommendation the Village Board approve the State Municipal Project Agreement subject to modifications as may be necessary pursuant to subsequent conversations with the DOT and as reviewed and approved by the Village Manager, Director of Public Works and Village Attorney.

2024 - 2025
Local Roads Improvement Program (LRIP)
State Municipal Project Agreement

Date:	**April 20, 2024**	Program Type:	**MSID**
LRIP Project Number:	**18583**	Project ID:	**39508802507**
County:	**Milwaukee**	Appropriation:	**27000**
Recipient:	**Village of Fox Point**	Account:	**8700140**

The signatory city, village, town or county, hereinafter called the MUNICIPALITY, through its duly authorized officers or officials via the signed LRIP application form and terms and conditions, and the State of Wisconsin Department of Transportation, hereinafter called the STATE, enter into this agreement to accomplish the described project.

The authority for the MUNICIPALITY and the STATE to enter into this agreement is provided by the *Wisconsin Administrative Code TRANS 206.03(12)*.

Improvement Type: **Reconstruction**

Surface Type: **70 - Hot Mix Asphalt Pavement (HMAC)**

On Route 1: **Bradley Rd**
At Route: **Port Washington Rd**
Toward Route: **Lake Dr (Termini)**

Need for Improvement: **Failed Asphalt Pavement**

Other Work: **Adjust manholes, Binder Mat, Clearing and grubbing, Culverts, Establish drainage, Pavement marking, Realign roadway (vertically and/or horizontally), Re-grade ditches, Sidewalk, Storm sewer, Undercutting, Water main***

Thickness	Travel Width (Per Lane)	Left Shoulder	Curb & Gutter	Right Shoulder	Curb & Gutter
5.00 in	**10 ft 0 in**	**1 ft 6 in**	**N**	**1 ft 6 in**	**N**

Project Cost Summary	Estimated Costs	LRIP/State Funds	Municipal Funds (includes ineligible costs)
Engineering:	**$308,000.00**		
Right-of-Way Acquisition:	**$0.00**		
Construction:	**$2,563,000.00**		
Total Eligible Costs:	**$2,871,000.00**		
Total Ineligible Costs	**$1,484,000.00**		
Total Improvement Costs:	**$4,355,000.00**	**$400,000.00**	**$3,955,000.00**

This request is subject to the terms and conditions agreed to at the time of application for the designated MUNICIPALITY and upon acceptance by the STATE, per signature below, shall constitute agreement between the MUNICIPALITY and the STATE.

Accepted for the State of Wisconsin, Department of Transportation:

By: Merrill Mechler-Hickson — April 20, 2024
Local Transportation Programs and Finance — Date

2024 - 2025
Local Roads Improvement Program (LRIP)
State Municipal Project Agreement

Project Funding						
Funding Type	From Project	Program Type	Biennium	Sunset Date	Approved Amount	Date
New Biennium Project	N/A	MSID	2024 - 2025	**June 30, 2029**	$400,000.00	April 20, 2024
				Total	$400,000.00	

2024 - 2025
Local Roads Improvement Program (LRIP)
State Municipal Project Agreement

Terms and Conditions

1. The Wisconsin Department of Transportation ("State") shall not be liable to the Municipality/County for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Municipality/County for damages or delays resulting from injunctions or other restraining orders obtained by third parties.

2. The State will not be liable to any third party for injuries or damages resulting from work under or for the Project. The Municipality/County and the Municipality's/County's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Municipality/County and its sureties; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Municipality/County or its sureties; or because of any claims or amounts recovered for any infringement by the Municipality/County and its sureties of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act, relating to the employees of the Municipality/County and its sureties; or any other law, ordinance, order or decree relating to the Municipality's/County's operations.

3. Contract modification: This Agreement can only be modified by written instruments duly executed by both parties. No term or provision of neither this Agreement nor any of its attachments may be changed, waived or terminated orally.

4. Binding effects: All terms of this Agreement shall be binding upon and inure to the benefits of the legal representatives, successors and executors. No rights under this State/Municipal Agreement may be transferred to a third party. This State/Municipal Agreement creates no third-party enforcement rights.

5. Choice of law and forum: This Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin. The parties hereby expressly agree that the terms contained herein and in any deed executed pursuant to this Agreement are enforceable by an action in the Circuit Court of Dane County, Wisconsin.

6. Non-appropriation of funds: With respect to any payment required to be made by the State under this Agreement, the parties acknowledge the State's authority to make such payment is contingent upon appropriation of funds and required legislative approval sufficient for such purpose by the Wisconsin Legislature. If such funds are not so appropriated, either the Municipality/County or the State may terminate this Agreement after providing written notice not less than thirty (30) days before the termination is to take effect. (Reference 66 OAG 408; State ex rel. LaFollette v. Reuter, 36 Wis. 2d 96, 119 [1967])

7. The initiation and accomplishment of the improvement will be subject to the applicable federal, state and local laws, administrative policy and program rules, ordinances, standards, and contract bidding requirements. Please note that if any portion of an improvement is funded using federal funds (including design, real estate, or other related work activities), the entire improvement will be subject to federal requirements. All components of the improvement must be defined in the environmental document if any portion of the project is federally funded.

8. The construction of the improvement will be in accordance with the appropriate standards unless an exception to standards is granted by the state prior to construction. The entire cost of the improvement not constructed to standards will be the responsibility of the Municipality/County unless such exception is explicitly granted in writing by the State.

9. The Municipality/County will assume all responsibility for complying with all applicable environmental requirements for the improvement.

10. The work, which is eligible for state participation, will be administered by the Municipality/County. The authority for the State to delegate this responsibility is described in Wis. Admin. Code Trans 206.

11. The Municipality/County agrees to comply with the relevant applicable statutes as it relates to advertisements for bids. The State encourages the Municipality/County to post advertisement longer than the minimum requirement to provide the widest possible coverage.

12. All Municipality/County contracts for this project will be let by competitive bid and awarded to the lowest responsible bidder in accordance with the provisions of Wis. Stat. § 86.31(2) and all other municipal/county bidding requirements.

13. State financing will be limited to up to 50 percent (%) participation in eligible items or to the limit approved for the improvement - whichever is less.

14. Payments to the Municipality/County will be made after the improvement is completed, and the contractor(s) is/are fully reimbursed.

15. In order to guarantee the Municipality's/County's foregoing agreements to pay the State, the Municipality/County, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality/County.

16. The Municipality/County will keep records of the cost of the improvement together with letting documents and will have them available for inspection by representatives of the State and will furnish copies when requested.

2024 - 2025
Local Roads Improvement Program (LRIP)
State Municipal Project Agreement

17. The design and construction of the improvement must be certified by a registered professional engineer, if the cost of the improvement exceeds $65,000 per Wis. Stat. § 86.31(2)(e).

18. Federal Single Audits of Local Government Units:

a. The Municipality/County shall have a single organization audit performed by a qualified independent auditor if required to do so under federal law and regulations. (See Federal Circular No. A-133)

b. This audit shall be performed in accordance with Federal Circular A-133 issued by the Federal Office of Management and Budget (OMB) and state single audit guidelines issued by the Wisconsin Department of Administration (DOA).

c. The Municipality/County will keep records of costs of construction, inspection tests and maintenance done by it to enable the State to review the amount and nature of the expenditure for those purposes. Such accounting records and any other related records shall be subject to a project review or audit as directed by the State within ten (10) years of project closing.

19. The Municipality/County will maintain, at its own cost and expense, all portions of the project that lie within its jurisdiction and will make ample provision of such maintenance as long as the road remains open to traffic.

20. In accordance with the State's sunset policy for Local Road Improvement Program projects, the subject improvement must be constructed and submitted for reimbursement within three biennia.

21. Nothing in this Agreement shall be deemed a waiver of the State's Sovereign Immunity.

22. In connection with the performance of work under this Agreement, the Municipality/County agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities. The Municipality/County agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause.

X Checking this box indicates that the Preparer is authorized to conduct official business for the Municipality/County identified below and upon acceptance by the State shall constitute agreement between the Municipality/County and the State, subject to the terms and conditions above.

Recipient:	Village of Fox Point	**County:** Milwaukee		
Head of Government:	CHRISTINE SYMCHYCH	**Title:**	Head of Government	
Preparer:	Scott Brandmeier	**Title:**	Public Works Director/Municipal Engineer/Public Works Staff	**Date:** 10/31/2023
Reviewer:	Jeff Sponcia	**Title:**	Administrative/Finance	**Date:** 01/12/2024

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: May 10, 2024

Re: Approval of Distribution Easement Underground Electric and Communications

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As part of the Bradley Road reconstruction project, We Energies has identified an area along Lake Drive, south of Bradley Road, that requires their underground utilities to be relocated in order to accommodate our infrastructure. Namely, the current location of their underground electric is in conflict with the proposed construction of the biofiltration basin proposed along the southern end of the green space the Village owns (Parcel ID 092-9996).

Wisconsin Electric Power Company (We Energies) and Wisconsin Bell (AT&T Wisconsin) are requesting an underground electric and communications easement across the parcel in order to relocate their existing facilities. Normally, the Village will grant permission to utilities to be in our ROW by permit. However, after discussing the request with the Village Attorney and the representative from We Energies, granting an easement is the most appropriate manner in which to approve the request because this area is identified by a tax key number (parcel ID).

We Energies has submitted the attached proposed easement to the Village for consideration and approval. The Village Attorney briefly reviewed the proposed easement and indicated it appears to be a standard easement document for utilities. Staff has noted and requested a couple of modifications to the easement though:

- In the third paragraph, the address is listed as 7200 North Santa Monica Boulevard and I have asked that the location be updated to reflect the Tax Key Number in the document.
- Paragraph 5 addresses restoration and I have asked that consideration be given to existing and proposed bushes planned to be planted adjacent to the biofiltration basin, some of which may encroach upon the easement.

The Village Attorney may have additional comments and, therefore, it is my recommendation that the Village Board approve the distribution easement subject to review and approval by the Village Attorney and authorize the Village President and Village Clerk/Treasurer to sign the distribution easement.

Document Number

DISTRIBUTION EASEMENT UNDERGROUND ELECTRIC AND COMMUNICATIONS

WR NO. **4976312** IO NO. **76680**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Village of Fox Point,** hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies and WISCONSIN BELL, INC. doing business as AT&T Wisconsin, a Wisconsin corporation,** hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as a strip of land 12 feet in width being a part of grantor's premises in the **Northwest 1/4 of Section 16, Township 8 North, Range 22 East**, Village of Fox Point, Milwaukee County, Wisconsin.

For informational purposes the address of the above premise is 7200 N Santa Monica Blvd, Fox Point, WI 53217

The location of the easement area with respect to Grantor's land is as shown on the attached drawing, marked Exhibit "A", and made a part of this document.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM P277
PO BOX 2046
MILWAUKEE, WI 53201-2046

092-9996-000
(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.

2. **Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.

3. **Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.

4. **Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.

5. **Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.

6. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.

7. **Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

8. **Easement Review**: Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document *or* voluntarily waives the five day review period.

Grantor:

Village of Fox Point

By _____

(Print name and title): _____

By _____

(Print name and title): _____

Personally came before me in _____ County, Wisconsin on _____, _____,

the above named _____, the _____

and _____, the _____

of the Village of Fox Point, for the municipal corporation, by its authority, and pursuant to Resolution File

No. _____ adopted by its _____ on _____, _____.

_____
Notary Public Signature, State of Wisconsin

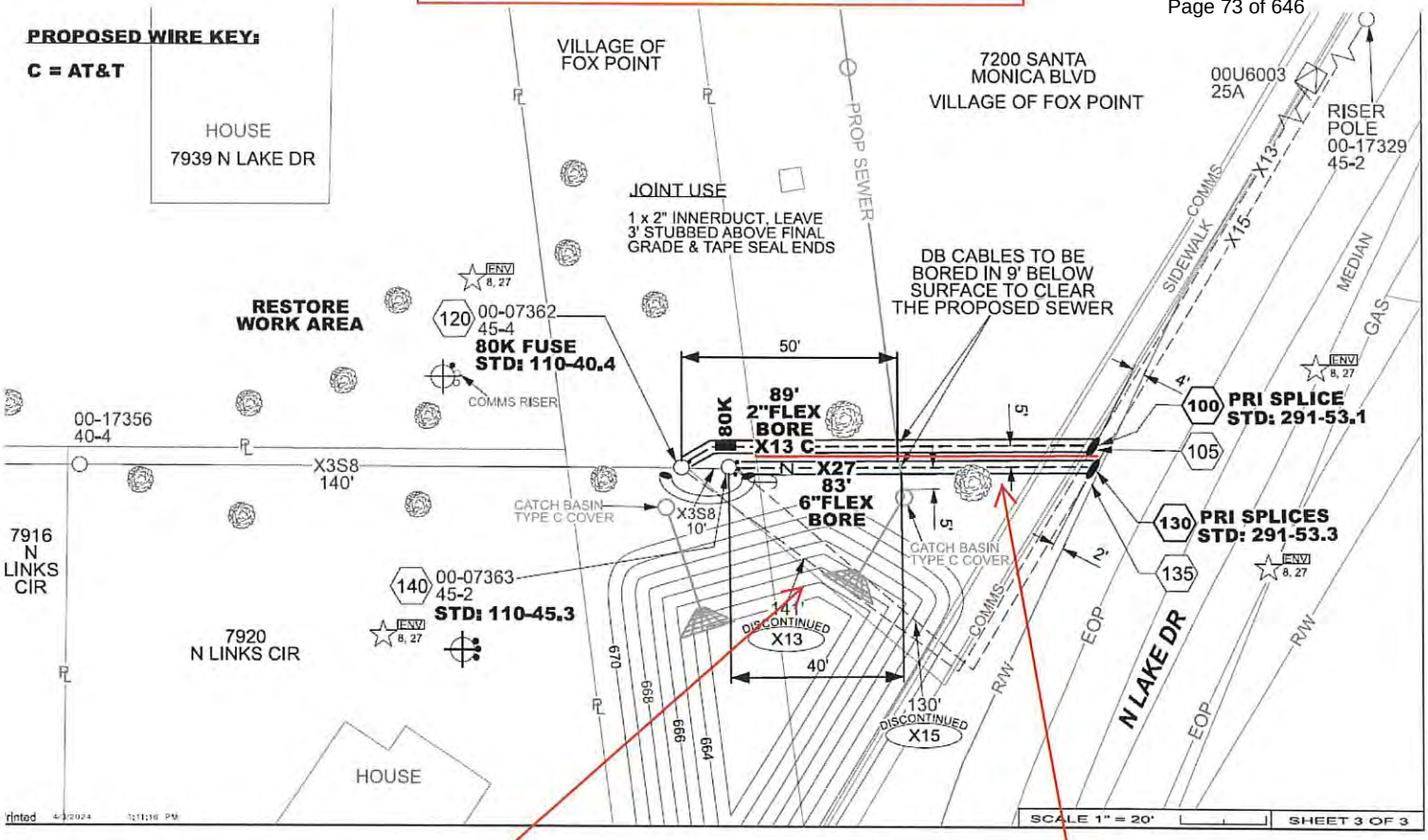
_____
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

This instrument was drafted by Matt Nault on behalf of Wisconsin Electric Power Company, PO Box 2046, Milwaukee, Wisconsin 53201-2046.

Temporary Exhibit A



old facilities to be discontinued for new road project

centerline of new 12 foot wide easement

This is to certify that the attached is true and correct list of bills due for a period from April 1-30, 2024, in the total amount of $473,054.50. Each bill has been approved in writing by the official department head or employee authorized to incur the obligations and which bills have been audited by the undersigned pursuant to resolution of the Village Board.

Scott Botcher
Village Manager
Village of Fox Point

This is to certify that the above listed accounts and demands have been presented and allowed and ordered paid by the Village Board at a meeting thereof held on May 14, 2024

Christine Symchych
Village President

Sara A. Bruckman
Village Clerk/Treasurer
Village of Fox Point

VILLAGE OF FOX POINT | Payment Approval Report - by GL - Board Report | Page: 1
Report dates: 04/01/2024-04/30/2024 | Apr 30, 2024 08:25AM

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
10-13100 ACCOUNTS RECEIVABLE - SUNDRY						
57	JPMORGAN CHASE BANK NA	04/10/2023	REIMBURSE	04/04/2024	16.44	04/05/2024
Total 10-13100 ACCOUNTS RECEIVABLE - SUNDRY:					16.44	
10-21520 GROUP LIFE						
18	SECURIAN FINANCIAL GROUP I	MAY 2024	LIFE INSURANCE	04/04/2024	804.20	04/05/2024
Total 10-21520 GROUP LIFE:					804.20	
10-21521 SUPPLEMENTAL PLANS						
1227	AFLAC	479763	ACCT #G8B41	04/11/2024	890.19	04/12/2024
Total 10-21521 SUPPLEMENTAL PLANS:					890.19	
10-21525 UNION DUES						
185	FOX POINT POLICE PROT. ASS	APRIL 2024	POLICE DUES	04/04/2024	525.00	04/05/2024
Total 10-21525 UNION DUES:					525.00	
10-21530 DEFERRED COMPENSATION						
77	MissionSquare - 303753	PR0411241	Deferred Comp ICMA-PRETAX	04/10/2024	1,160.14	04/12/2024
77	MissionSquare - 303753	PR0425241	Deferred Comp ICMA-PRETAX	04/23/2024	1,160.14	04/23/2024
375	NORTH SHORE BANK, FSB	PR0411242	Deferred Comp NORTH SHORE	04/10/2024	2,260.00	04/12/2024
375	NORTH SHORE BANK, FSB	PR0425242	Deferred Comp NORTH SHORE	04/23/2024	2,260.00	04/23/2024
814	GREAT-WEST TRUST COMPAN	PR0411241	Deferred Comp WI DEFER - PRE	04/10/2024	3,622.60	04/12/2024
814	GREAT-WEST TRUST COMPAN	PR0411241	Deferred Comp WI DEFER - RO	04/10/2024	1,265.00	04/12/2024
814	GREAT-WEST TRUST COMPAN	PR0425241	Deferred Comp WI DEFER - PRE	04/23/2024	3,622.60	04/23/2024
814	GREAT-WEST TRUST COMPAN	PR0425241	Deferred Comp WI DEFER - RO	04/23/2024	1,265.00	04/23/2024
Total 10-21530 DEFERRED COMPENSATION:					16,615.48	
10-21540 GARNISHMENT						
797	WI SCTF	04/12/2024	REMIT 217318 CASE PIN 217318	04/11/2024	149.60	04/12/2024
Total 10-21540 GARNISHMENT:					149.60	
10-44530 PEDDLER'S PERMIT						
727	WI DEPT. OF JUSTICE	04/18/2024	PEDDLERS	04/18/2024	84.00	04/19/2024
Total 10-44530 PEDDLER'S PERMIT:					84.00	
10-46710 PAVILION RENTALS						
878	ONEILL, VICTORIA	1.059912	REFUND PAV. DEPOSIT	04/15/2024	50.00	04/19/2024
Total 10-46710 PAVILION RENTALS:					50.00	
10-51100-321 PROFESSIONAL DUES/MEETINGS						
57	JPMORGAN CHASE BANK NA	04/10/2023	BOARD	04/04/2024	200.55	04/05/2024
Total 10-51100-321 PROFESSIONAL DUES/MEETINGS:					200.55	
10-51200-395 COUNTY COURT FEES						
330	MILWAUKEE COUNTY TREASU	MARCH 2024	DRIVER SUR/JAIL FEE	04/01/2024	2,421.90	04/05/2024
552	WISCONSIN, STATE OF - COUR	MARCH 2024	MARCH	04/01/2024	4,857.86	04/05/2024
Total 10-51200-395 COUNTY COURT FEES:					7,279.76	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
10-51300-211 LABOR ATTORNEY						
1692	VON BRIESEN & ROPER, S. C.	453414	PROFESSIONAL SRVCS	04/04/2024	1,311.00	04/05/2024
Total 10-51300-211 LABOR ATTORNEY:					1,311.00	
10-51300-218 VILLAGE ATTORNEY						
535	MUNICIPAL LAW & LITIGATION	11836	VLG ATTORNEY	04/11/2024	9,174.80	04/12/2024
Total 10-51300-218 VILLAGE ATTORNEY:					9,174.80	
10-51300-219 VILLAGE PROSECUTOR						
965	PADWAY & PADWAY LTD	03/28/2024	PROSECUTOR	04/11/2024	1,125.00	04/12/2024
Total 10-51300-219 VILLAGE PROSECUTOR:					1,125.00	
10-51420-321 PROFESSIONAL DUES/MEETINGS						
57	JPMORGAN CHASE BANK NA	04/10/2023	CLERK	04/04/2024	50.00-	04/05/2024
Total 10-51420-321 PROFESSIONAL DUES/MEETINGS:					50.00-	
10-51420-322 TRAINING						
57	JPMORGAN CHASE BANK NA	04/10/2023	CLERK	04/04/2024	195.00	04/05/2024
Total 10-51420-322 TRAINING:					195.00	
10-51440-310 SUPPLIES/EXPENSES						
57	JPMORGAN CHASE BANK NA	04/10/2023	ELECTIONS	04/04/2024	180.76	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	ELECTIONS	04/04/2024	13.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	ELECTIONS	04/04/2024	82.51	04/05/2024
477	TAYLOR COMPUTER SERVICES	26200	ELECTIONS	04/17/2024	390.00	04/19/2024
Total 10-51440-310 SUPPLIES/EXPENSES:					667.26	
10-51520-322 TRAINING						
57	JPMORGAN CHASE BANK NA	04/10/2023	FINANCIAL	04/04/2024	67.50	04/05/2024
Total 10-51520-322 TRAINING:					67.50	
10-51530-210 CONTRACT SERVICES						
57	JPMORGAN CHASE BANK NA	04/10/2023	CREDIT	04/04/2024	299.50-	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	SAM SUPPORT	04/04/2024	900.00	04/05/2024
Total 10-51530-210 CONTRACT SERVICES:					600.50	
10-51600-210 CONTRACT SERVICES						
57	JPMORGAN CHASE BANK NA	04/10/2023	ZOOM	04/04/2024	40.00	04/05/2024
194	BAKER TILLY VIRCHOW KRAUS	BT2727440	PROGRESS BILLING	04/04/2024	2,600.00	04/05/2024
265	GREATAMERICAN FINANCIAL S	36359780	MONTHLY COPIER	04/22/2024	232.00	04/23/2024
477	TAYLOR COMPUTER SERVICES	26200	COMPUTER	04/17/2024	911.75	04/19/2024
1353	FORWARD TS, LTD	AE224045	MONTHLY COPIES	04/11/2024	546.69	04/12/2024
Total 10-51600-210 CONTRACT SERVICES:					4,330.44	
10-51600-220 GAS-HEAT						
536	WE-ENERGIES	03/25/24	0702787382-00002	04/01/2024	726.04	04/05/2024
Total 10-51600-220 GAS-HEAT:					726.04	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
10-51600-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	03/25/24	0702787382-00002	04/01/2024	1,363.55	04/05/2024
536	WE-ENERGIES	04/04/2024	0702787382-00009	04/08/2024	20.40	04/12/2024
Total 10-51600-221 ELECTRIC UTILITIES:					1,383.95	
10-51600-222 TELEPHONE UTILITIES						
2691	CENTURYLINK-BUSINESS SVC.	684264849	ACCOUNT #87619173	04/10/2024	.30	04/12/2024
5312	AT & T- VILLAGE	03/22/2024	414 351-8900 758 7	04/04/2024	63.50	04/05/2024
Total 10-51600-222 TELEPHONE UTILITIES:					63.80	
10-51600-234 VILLAGE HALL MAINTENANCE						
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	3.38	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	150.00	04/05/2024
477	TAYLOR COMPUTER SERVICES	26200	PD FACILITIES	04/17/2024	97.50	04/19/2024
502	VILLAGE HARDWARE - VH	237683/1	MISC	04/17/2024	10.79	04/19/2024
742	NELCO ELECTRIC INC	23362	REPAIR	04/02/2024	1,211.90	04/05/2024
892	SPECTRUM	04/7/2024	8348 10 012 0042231 VLG	04/16/2024	13.78	04/19/2024
1001	PROFESSIONAL AUDIO DESIGN	5265 REVISED	SERVICE	04/22/2024	430.00	04/23/2024
1235	J.M. BRENNAN, INC.	11008021	REPAIR	04/02/2024	271.35	04/05/2024
1235	J.M. BRENNAN, INC.	11008023	REPAIR	04/02/2024	723.90	04/05/2024
1710	UP NORTH SERVICES	4513	PEST CONTROL VLG	04/17/2024	50.00	04/19/2024
Total 10-51600-234 VILLAGE HALL MAINTENANCE:					2,962.60	
10-51600-310 SUPPLIES/MISC EXPENSES						
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	109.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	16.19	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	17.98	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	16.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	23.47	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	9.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	VILLAGE	04/04/2024	19.43	04/05/2024
1766	CONFLUENCE GRAPHICS	81222	BUSINESS CARDS	04/17/2024	30.00	04/23/2024
Total 10-51600-310 SUPPLIES/MISC EXPENSES:					244.04	
10-51700-511 GROUP HEALTH - RETIREES						
270	LAMM, GERALD	4	Health Insurance	04/01/2024	426.28	04/05/2024
433	RESNICK, AMY	51	HEALTH INSURANCE REIMBUR	04/01/2024	831.27	04/05/2024
435	RIES, DANIEL	67	HEALTH	04/01/2024	466.80	04/05/2024
446	SCHELLING JUDITH	30	REIMBURSEMENT	04/01/2024	306.75	04/05/2024
520	WICHMAN, MICHELLE	12	MONTHLY	04/01/2024	386.76	04/05/2024
1227	AFLAC	479763	ACCT #G8B41	04/11/2024	250.47	04/12/2024
2194	OBREMSKI, DANIEL	16	SUPPLEMENTAL PAY	04/01/2024	386.76	04/05/2024
Total 10-51700-511 GROUP HEALTH - RETIREES:					3,055.09	
10-52100-210 POLICE MAINTENANCE CONTRACTS						
707	FIRST RESPONDERS PSYCHOL	0324FPPD	INDV THERAPY	04/05/2024	200.00	04/12/2024
1710	UP NORTH SERVICES	4514	POLICE PEST CONTROL	04/22/2024	50.00	04/23/2024
Total 10-52100-210 POLICE MAINTENANCE CONTRACTS:					250.00	
10-52100-217 DISPATCHING CONTRACT SERVICES						
61	BAYSIDE, VILLAGE OF	2400001800	DISPATCH	04/05/2024	79,194.82	04/12/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
	Total 10-52100-217 DISPATCHING CONTRACT SERVICES:				79,194.82	
10-52100-222 TELEPHONE UTILITIES						
892	SPECTRUM	070433001040124	070433001	04/12/2024	950.95	04/23/2024
892	SPECTRUM	20240401OTA	8348 10 012 0041845 POLICE	04/12/2024	14.72	04/19/2024
2691	CENTURYLINK-BUSINESS SVC.	684264849	ACCOUNT #87619173	04/10/2024	.30	04/12/2024
5312	AT & T- VILLAGE	03/22/2024	414 351-8900 758 7	04/04/2024	39.69	04/05/2024
5312	AT & T- VILLAGE	287329447591x031	287329447591-PD	04/03/2024	427.67	04/05/2024
	Total 10-52100-222 TELEPHONE UTILITIES:				1,433.33	
10-52100-233 EQUIPMENT MAINTENANCE						
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	129.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	27.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	24.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	267.80	04/05/2024
473	STREICHER'S	1690342	CLEANING KIT	04/03/2024	28.00	04/05/2024
5839	LEXISNEXIS	1246411-20231131	MONTHLY FEE	04/03/2024	30.00	04/05/2024
5839	LEXISNEXIS	1246411-20240331	MONTHLY FEE	04/05/2024	30.50	04/12/2024
	Total 10-52100-233 EQUIPMENT MAINTENANCE:				539.27	
10-52100-234 BUILDING MAINTENANCE						
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	17.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	11.27	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	96.20	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	37.36	04/05/2024
503	VILLAGE HARDWARE - DPS	2374000	NUTS BOLTS	04/03/2024	34.18	04/05/2024
	Total 10-52100-234 BUILDING MAINTENANCE:				197.00	
10-52100-310 SUPPLIES/EXPENSES						
57	JPMORGAN CHASE BANK NA	04/10/2023	POLICE	04/04/2024	223.44	04/05/2024
	Total 10-52100-310 SUPPLIES/EXPENSES:				223.44	
10-52100-330 CLOTHING ALLOWANCE						
473	STREICHER'S	1690340	TRAINING GUNS	04/03/2024	489.98	04/05/2024
473	STREICHER'S	1692995	BASTRESS	04/12/2024	250.00	04/19/2024
473	STREICHER'S	1692998	BASTRESS	04/12/2024	56.99	04/19/2024
	Total 10-52100-330 CLOTHING ALLOWANCE:				796.97	
10-52100-334 JANITORIAL SUPPLIES						
1585	QUILL CORPORTATION	37782017	PAPER TOWELS	04/03/2024	42.99	04/05/2024
	Total 10-52100-334 JANITORIAL SUPPLIES:				42.99	
10-53100-233 GIS MAINTENANCE						
2010	AMPLIFY GRAPHICS & BRANDI	178149	OPAQUE BOND	04/12/2024	62.00	04/19/2024
	Total 10-53100-233 GIS MAINTENANCE:				62.00	
10-53100-322 TRAINING						
57	JPMORGAN CHASE BANK NA	04/10/2023	ENGINEER	04/04/2024	399.57	04/05/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
Total 10-53100-322 TRAINING:					399.57	
10-53300-221 STREET LIGHTS - ELECTRIC						
536	WE-ENERGIES	04/04/2024	0702787382-00001	04/08/2024	185.63	04/12/2024
536	WE-ENERGIES	04/10/2024	0702787382-00013	04/16/2024	17.19	04/19/2024
Total 10-53300-221 STREET LIGHTS - ELECTRIC:					202.82	
10-53300-405 STREET MATERIALS						
4888	CARLIN SALES	3053816-00	MISC	04/08/2024	174.97	04/12/2024
5508	HANKE TERMINALS	172524A	MISC	04/15/2024	726.17	04/19/2024
Total 10-53300-405 STREET MATERIALS:					901.14	
10-53300-495 MISCELLANEOUS SUPPLIES & TOOLS						
327	MENARD'S - MILWAUKEE	85127	MISC	04/12/2024	37.41	04/19/2024
4529	NEU'S BUILDING CENTER, INC.	4685113	MISC	04/12/2024	699.99	04/19/2024
Total 10-53300-495 MISCELLANEOUS SUPPLIES & TOOLS:					737.40	
10-53310-400 MATERIALS						
2830	COMPASS MINERALS	1323213	RESERVE SALT	04/15/2024	21,215.11	04/19/2024
Total 10-53310-400 MATERIALS:					21,215.11	
10-53400-221 BUS STOP-ELECTRIC						
536	WE-ENERGIES	04/10/2024	0702787382-00005	04/16/2024	15.23	04/19/2024
536	WE-ENERGIES	04/10/2024	0702787382-00016	04/16/2024	15.23	04/19/2024
536	WE-ENERGIES	04/10/2024	0702787382-00003	04/16/2024	17.24	04/19/2024
Total 10-53400-221 BUS STOP-ELECTRIC:					47.70	
10-53630-370 LANDFILL FEES						
1298	WASTE MANAGEMENT OF WI-M	0000972-1996-8	MSW	04/08/2024	7,149.60	04/12/2024
Total 10-53630-370 LANDFILL FEES:					7,149.60	
10-53641-400 MATERIALS						
4888	CARLIN SALES	3051063-00	MISC	04/08/2024	1,600.00	04/12/2024
Total 10-53641-400 MATERIALS:					1,600.00	
10-53642-400 MATERIALS						
1298	WASTE MANAGEMENT OF WI-M	0069634-2286-4	YARDWASTE	04/08/2024	301.75	04/12/2024
1298	WASTE MANAGEMENT OF WI-M	0069745-2286-1	YARDWASTE	04/22/2024	588.40	04/23/2024
Total 10-53642-400 MATERIALS:					890.15	
10-53700-300 MISCELLANEOUS EXPENSE						
1074	MATHESON TRI-GAS, INC	52332249	OXYGEN	04/02/2024	49.90	04/05/2024
2241	ITU ABSORB TECH, INC	8304921	SHOP	04/02/2024	12.20	04/05/2024
2241	ITU ABSORB TECH, INC	8312958	SHOP	04/08/2024	12.20	04/12/2024
Total 10-53700-300 MISCELLANEOUS EXPENSE:					74.30	
10-53700-341 REPAIR PARTS						
51	BADGER TRUCK CENTER, INC.	1005541	MISC	04/17/2024	317.38	04/19/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
57	JPMORGAN CHASE BANK NA	04/10/2023	SHOP	04/04/2024	35.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	SHOP	04/04/2024	135.00	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	SHOP	04/04/2024	10.07	04/05/2024
327	MENARD'S - MILWAUKEE	84804	MISC	04/02/2024	95.88	04/05/2024
436	RITTER TECHNOLOGY LLC	d63455-001	O RINGS	04/08/2024	1,407.08	04/12/2024
547	ROLAND MACHINERY	40124956	LUBE SPIN	04/02/2024	6.01	04/05/2024
591	CUMMINS INC.	F6-72003	PARTS LESS CREDIT	04/08/2024	448.76	04/12/2024
591	CUMMINS INC.	F6-72737	PARTS	04/08/2024	371.85	04/12/2024
631	FACTORY MOTOR PARTS	13-1727406	PARTS	04/17/2024	41.64	04/19/2024
631	FACTORY MOTOR PARTS	160-204312	MISC	04/02/2024	7.35	04/05/2024
631	FACTORY MOTOR PARTS	160-206229	MISC	04/17/2024	14.22	04/19/2024
631	FACTORY MOTOR PARTS	160-206523	MISC	04/17/2024	109.21	04/19/2024
631	FACTORY MOTOR PARTS	50-5210106	PARTS	04/08/2024	27.33	04/12/2024
665	LAKESIDE INTERNATIONAL TR	1417723P	MISC	04/02/2024	355.70	04/05/2024
665	LAKESIDE INTERNATIONAL TR	1419359P	MISC	04/17/2024	2.80	04/19/2024
931	RAYS TOWING INC	676890	LIGHT DUTY TOWING	04/02/2024	120.00	04/05/2024
1099	HYDROTEX	524966	ACCULUBE	04/17/2024	325.96	04/19/2024
1179	MILWAUKEE RUBBER PRODUC	0116763-IN	PARTS	04/02/2024	334.50	04/05/2024
1248	SECURE FIRE & SAFETY LLC	43516	RECHARGE	04/17/2024	180.15	04/19/2024
4838	REINDERS, INC.	6049073-00	PARTS	04/08/2024	198.87	04/12/2024
102169	TRUCK COUNTRY OF WISCON	X207066617:01	MISC PARTS	04/17/2024	24.55	04/19/2024
	Total 10-53700-341 REPAIR PARTS:				4,570.30	
10-53700-342 TIRES						
413	POMP'S TIRE SERVICE, INC.	60334121	TIRES	04/08/2024	292.29	04/12/2024
413	POMP'S TIRE SERVICE, INC.	60334557	TIRES	04/17/2024	466.54	04/19/2024
	Total 10-53700-342 TIRES:				758.83	
10-53700-343 FUEL						
631	FACTORY MOTOR PARTS	160-206229	DEF	04/17/2024	50.92	04/19/2024
2179	EDWARD H. WOLF & SON'S INC	776382	FUEL	04/08/2024	2,531.63	04/12/2024
2179	EDWARD H. WOLF & SON'S INC	776436	FUEL	04/08/2024	1,207.46	04/12/2024
2179	EDWARD H. WOLF & SON'S INC	790273	FUEL	04/22/2024	1,959.48	04/23/2024
2179	EDWARD H. WOLF & SON'S INC	790284	FUEL	04/22/2024	888.21	04/23/2024
	Total 10-53700-343 FUEL:				6,637.70	
10-53700-344 OIL						
631	FACTORY MOTOR PARTS	160-206267	OIL	04/17/2024	67.91	04/19/2024
	Total 10-53700-344 OIL:				67.91	
10-53700-346 MISC DPW SHOP TOOLS						
2025	DOUBLE Z TOOLS LLC	4918	CABINET	04/17/2024	1,881.18	04/19/2024
5528	TODD A GAULKE AUTHORIZE D	040224114913	SMALL TOOLS	04/02/2024	62.75	04/05/2024
	Total 10-53700-346 MISC DPW SHOP TOOLS:				1,943.93	
10-53800-220 GAS UTILITIES						
536	WE-ENERGIES	03/25/24	0702787382-00002	04/01/2024	726.03	04/05/2024
	Total 10-53800-220 GAS UTILITIES:				726.03	
10-53800-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	03/25/24	0702787382-00002	04/01/2024	1,363.55	04/05/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
	Total 10-53800-221 ELECTRIC UTILITIES:				1,363.55	
10-53800-222 TELEPHONE UTILITIES						
5312	AT & T- VILLAGE	03/22/2024	414 351-8900 758 7	04/04/2024	55.57	04/05/2024
	Total 10-53800-222 TELEPHONE UTILITIES:				55.57	
10-53800-224 CELL PHONES						
57	JPMORGAN CHASE BANK NA	04/10/2023	APPLE	04/04/2024	.99	04/05/2024
2136	VERIZON WIRELESS	368000050738	100000186946 GPS	04/08/2024	26.77	04/12/2024
2136	VERIZON WIRELESS	9960580296	787000169-00001	04/09/2024	17.43	04/12/2024
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	130.00	04/19/2024
	Total 10-53800-224 CELL PHONES:				175.19	
10-53800-300 MISCELLANEOUS EXPENSE						
727	WI DEPT. OF JUSTICE	XwpQCOKD	BACKGROUND CHECK DPW	04/11/2024	7.00	04/12/2024
2005	BADGER CDL., LLC	1185	CDL TRAINING	04/03/2024	1,437.50	04/15/2024
2241	ITU ABSORB TECH, INC	8304923	DPW	04/02/2024	28.51	04/05/2024
2241	ITU ABSORB TECH, INC	8312960	TOWELS/MATS	04/08/2024	223.99	04/12/2024
	Total 10-53800-300 MISCELLANEOUS EXPENSE:				1,697.00	
10-53800-333 SAFETY PROGRAM						
3240	FEHR GRAHAM ENGINEERING	121987	SAFETY PROGRAM	04/16/2024	2,000.00	04/19/2024
	Total 10-53800-333 SAFETY PROGRAM:				2,000.00	
10-54100-214 HUMANE SOCIETY/MADACC						
619	MADACC	2228	DEBT SERVICE	04/11/2024	368.28	04/15/2024
619	MADACC	2228	2ND QUARTER	04/11/2024	861.62	04/15/2024
	Total 10-54100-214 HUMANE SOCIETY/MADACC:				1,230.90	
10-54100-215 CONTRACT - HEALTH						
2091	NORTH SHORE HEALTH DEPT	24-0001446	2ND QUARTER	04/11/2024	12,520.50	04/12/2024
	Total 10-54100-215 CONTRACT - HEALTH:				12,520.50	
10-55100-210 CONTRACT SERVICES						
61	BAYSIDE, VILLAGE OF	2400001800	LIBRARY OPERATIONS	04/05/2024	64,185.11	04/12/2024
	Total 10-55100-210 CONTRACT SERVICES:				64,185.11	
10-55200-445 TENNIS COURT MAINTENANCE						
57	JPMORGAN CHASE BANK NA	04/10/2023	MISC	04/04/2024	109.90	04/05/2024
	Total 10-55200-445 TENNIS COURT MAINTENANCE:				109.90	
10-55400-430 LX CLUB MATERIALS						
890	FOX POINT BAYSIDE LX CLUB	3.28.2024	LX CLUB FEES	03/29/2024	60.78	04/05/2024
	Total 10-55400-430 LX CLUB MATERIALS:				60.78	
10-55440-220 GAS UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00011	04/16/2024	374.40	04/19/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
Total 10-55440-220 GAS UTILITIES:					374.40	
10-55440-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00010	04/16/2024	162.55	04/19/2024
Total 10-55440-221 ELECTRIC UTILITIES:					162.55	
10-56100-125 FORESTRY CONSULTANT						
5933	WACHTEL TREE SCIENCE & SE	129626	FORESTRY REQUESTS	04/02/2024	3,781.25	04/05/2024
Total 10-56100-125 FORESTRY CONSULTANT:					3,781.25	
21-53100-233 GIS MAINTENANCE						
2010	AMPLIFY GRAPHICS & BRANDI	178149	OPAQUE BOND	04/12/2024	62.00	04/19/2024
Total 21-53100-233 GIS MAINTENANCE:					62.00	
21-71000-400 MATERIALS						
1043	THE WANASEK CORP	15183	VAC TRUCK	04/08/2024	851.00	04/12/2024
Total 21-71000-400 MATERIALS:					851.00	
21-72000-220 GAS UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00004	04/16/2024	10.76	04/19/2024
Total 21-72000-220 GAS UTILITIES:					10.76	
21-72000-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00007	04/16/2024	36.24	04/19/2024
536	WE-ENERGIES	04/10/2024	0702787382-00004	04/16/2024	243.45	04/19/2024
Total 21-72000-221 ELECTRIC UTILITIES:					279.69	
21-72000-400 MATERIALS						
1043	THE WANASEK CORP	15183	VAC TRUCK	04/08/2024	1,013.00	04/12/2024
Total 21-72000-400 MATERIALS:					1,013.00	
21-73000-400 MATERIALS						
50	BADGER METER, INC.	80156079	ORION	03/28/2024	226.09	04/12/2024
1766	CONFLUENCE GRAPHICS	81222	BUSINESS CARDS	04/17/2024	30.00	04/23/2024
2136	VERIZON WIRELESS	368000050738	100000186946 GPS	04/08/2024	26.78	04/12/2024
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	70.21	04/19/2024
Total 21-73000-400 MATERIALS:					353.08	
21-75000-210 CONTRACT SERVICES						
2005	BADGER CDL, LLC	1185	CDL TRAINING	04/03/2024	1,437.50	04/15/2024
Total 21-75000-210 CONTRACT SERVICES:					1,437.50	
22-13200 ACCOUNTS RECEIVABLE - RECYLING						
2007	NIETS PROPERTY MANAGEME	03/26/2024	BRADLEY PLACE	04/09/2024	594.07	04/12/2024
Total 22-13200 ACCOUNTS RECEIVABLE - RECYLING:					594.07	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
22-53800-310 SUPPLIES/EXPENSES						
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	39.85	04/19/2024
Total 22-53800-310 SUPPLIES/EXPENSES:					39.85	
23-55420-220 GAS UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00012	04/16/2024	9.90	04/19/2024
Total 23-55420-220 GAS UTILITIES:					9.90	
23-55420-221 ELECTRIC UTILITIES						
536	WE-ENERGIES	04/10/2024	0702787382-00012	04/16/2024	41.79	04/19/2024
Total 23-55420-221 ELECTRIC UTILITIES:					41.79	
23-55420-400 MATERIALS						
1440	PARKITECTURE & PLANNING L	2024 #1	RENDERINGS	04/10/2024	1,600.00	04/12/2024
1440	PARKITECTURE & PLANNING L	2024-#3	CONCEPTUAL DESIGN	04/10/2024	460.00	04/12/2024
Total 23-55420-400 MATERIALS:					2,060.00	
24-52400-210 CONTRACT SERVICES						
2256	SAFEBUILT	333967	INSPECTIONS	03/31/2024	413.46	04/12/2024
Total 24-52400-210 CONTRACT SERVICES:					413.46	
24-52400-218 VILLAGE ATTORNEY						
535	MUNICIPAL LAW & LITIGATION	11836	VLG ATTORNEY	04/11/2024	84.00	04/12/2024
Total 24-52400-218 VILLAGE ATTORNEY:					84.00	
24-52400-224 CELL PHONES						
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	29.92	04/19/2024
Total 24-52400-224 CELL PHONES:					29.92	
24-52400-322 TRAINING						
57	JPMORGAN CHASE BANK NA	04/10/2023	INSPECTOR	04/04/2024	98.00	04/05/2024
Total 24-52400-322 TRAINING:					98.00	
25-13300 ACCT RECEIVABLE - COMMERICAL						
2007	NIETS PROPERTY MANAGEME	03/26/2024	BRADLEY PLACE	04/09/2024	325.21	04/12/2024
Total 25-13300 ACCT RECEIVABLE - COMMERICAL:					325.21	
25-53420-400 MATERIALS						
5506	HANKE TERMINALS	172524A	MISC	04/15/2024	726.18	04/19/2024
Total 25-53420-400 MATERIALS:					726.18	
25-53420-483 LANDSCAPING						
4888	CARLIN SALES	3051063-00	MISC	04/08/2024	956.85	04/12/2024
Total 25-53420-483 LANDSCAPING:					956.85	
25-53800-210 CONTRACT SERVICES						
2005	BADGER CDL, LLC	1185	CDL TRAINING	04/03/2024	1,437.50	04/15/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
2136	VERIZON WIRELESS	368000050738	100000186946 GPS	04/08/2024	26.77	04/12/2024
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	70.21	04/19/2024
	Total 25-53800-210 CONTRACT SERVICES:				1,534.48	
25-53800-233 GIS MAINTENANCE						
2010	AMPLIFY GRAPHICS & BRANDI	178149	OPAQUE BOND	04/12/2024	62.00	04/19/2024
	Total 25-53800-233 GIS MAINTENANCE:				62.00	
25-53800-234 GREEN INSFRASTRUCT MAINTENANCE						
2824	MAREK LANDSCAPING	5587	MIXED INVASIVES	04/10/2024	1,328.63	04/12/2024
	Total 25-53800-234 GREEN INSFRASTRUCT MAINTENANCE:				1,328.63	
25-91500-800 WPDES COMPLIANCE PROGRAM						
776	GRAINGER, INC.	9074950487	PET WASTE BAGS	04/15/2024	285.27	04/19/2024
	Total 25-91500-800 WPDES COMPLIANCE PROGRAM:				285.27	
25-91500-833 STORM SEWER SYSTEM IMPROVE.						
535	MUNICIPAL LAW & LITIGATION	11836	VLG ATTORNEY	04/11/2024	307.33	04/12/2024
	Total 25-91500-833 STORM SEWER SYSTEM IMPROVE.:				307.33	
40-91100-807 COMPUTERS						
57	JPMORGAN CHASE BANK NA	04/10/2023	WESTERN DIGITAL	04/04/2024	698.90	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	MISC	04/04/2024	29.97	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	MISC	04/04/2024	1,497.00	04/05/2024
	Total 40-91100-807 COMPUTERS:				2,225.87	
40-91100-816 SMALL EQUIPMENT PURCHASES						
57	JPMORGAN CHASE BANK NA	04/10/2023	BESTBUY	04/04/2024	259.99	04/05/2024
	Total 40-91100-816 SMALL EQUIPMENT PURCHASES:				259.99	
40-91100-818 TELEPHONE SYSTEM						
477	TAYLOR COMPUTER SERVICES	26200	PHONE CAPITAL	04/17/2024	422.50	04/19/2024
	Total 40-91100-818 TELEPHONE SYSTEM:				422.50	
40-91200-801 SQUAD CARS						
57	JPMORGAN CHASE BANK NA	04/10/2023	BLACKOUT WINDOW	04/04/2024	174.00	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	STROBES AND MORE	04/04/2024	460.43	04/05/2024
	Total 40-91200-801 SQUAD CARS:				634.43	
40-91200-835 MOBILE VIDEO SYSTEMS						
266	AXON ENTERPRISES	INUS61432	CAMERAS	04/12/2024	100,335.19	04/19/2024
	Total 40-91200-835 MOBILE VIDEO SYSTEMS:				100,335.19	
40-91500-801 STREET RESURFACING						
9	SINGLE SOURCE INC.	4.3.2024	APPRAISALS	04/09/2024	8,125.00	04/12/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	CALDERONE	04/04/2024	81.02	04/05/2024
535	MUNICIPAL LAW & LITIGATION	11836	VLG ATTORNEY	04/11/2024	372.74	04/12/2024
2016	BAXTER & WOODMAN INC.	0257546	BRADLEY RD	04/09/2024	2,459.37	04/12/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
	Total 40-91500-801 STREET RESURFACING:				11,038.13	
40-91600-800 STORMWATER ROAD PROJECT						
57	JPMORGAN CHASE BANK NA	04/10/2023	DNR	04/04/2024	8.75	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	DNR	04/04/2024	350.00	04/05/2024
2016	BAXTER & WOODMAN INC.	0257546	BRADLEY RD	04/09/2024	2,459.36	04/12/2024
	Total 40-91600-800 STORMWATER ROAD PROJECT:				2,818.11	
40-91600-830 SIGN REPLACEMENT						
327	MENARD'S - MILWAUKEE	85127	MISC	04/12/2024	111.86	04/19/2024
	Total 40-91600-830 SIGN REPLACEMENT:				111.86	
40-91600-833 TREE REPLACEMENT						
327	MENARD'S - MILWAUKEE	85408	MISC	04/18/2024	38.37	04/19/2024
2824	MAREK LANDSCAPING	5588	VEGETATION MAINTENANCE	04/10/2024	108.82	04/12/2024
4888	CARLIN SALES	3051063-00	MISC	04/08/2024	956.85	04/12/2024
5933	WACHTEL TREE SCIENCE & SE	129625	EAB	04/02/2024	825.00	04/05/2024
	Total 40-91600-833 TREE REPLACEMENT:				1,929.04	
50-53100-233 GIS MAINTENANCE						
2010	AMPLIFY GRAPHICS & BRANDI	178149	OPAQUE BOND	04/12/2024	62.00	04/19/2024
	Total 50-53100-233 GIS MAINTENANCE:				62.00	
50-81000-601 SOURCE OF WATER SUPPLY						
378	NORTH SHORE WATER COMMI	96	MONTHLY	04/01/2024	22,939.74	04/05/2024
	Total 50-81000-601 SOURCE OF WATER SUPPLY:				22,939.74	
50-81000-640 OPERATIONS LABDR WATER MAINS						
2839	CITY WATER LLC	1081	MONTHLY MANAGEMENT FEE	04/08/2024	6,300.00	04/12/2024
	Total 50-81000-640 OPERATIONS LABOR WATER MAINS:				6,300.00	
50-81000-641 OPERATIONS SUPPLY AND EXPENSE						
57	JPMORGAN CHASE BANK NA	04/10/2023	WATER DEPT	04/04/2024	85.64	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	WATER DEPT	04/04/2024	104.90	04/05/2024
	Total 50-81000-641 OPERATIONS SUPPLY AND EXPENSE:				190.54	
50-81000-651 MAINTENANCE OF MAINS						
57	JPMORGAN CHASE BANK NA	04/10/2023	WATER DEPT	04/04/2024	7.99	04/05/2024
474	CORE & MAIN LP	U544537	HYMAX	03/15/2024	1,219.02	04/12/2024
474	CORE & MAIN LP	U611424	PARTS	04/10/2024	3,850.00	04/23/2024
1535	WISCONSIN UTILITY EXPOSUR	68361	VAC EXCAUATE	03/31/2024	975.00	04/23/2024
2241	ITU ABSORB TECH, INC	8304922	WATER DEPT	04/02/2024	8.80	04/05/2024
2241	ITU ABSORB TECH, INC	8312959	WATER	04/08/2024	47.87	04/12/2024
4888	CARLIN SALES	3051063-00	MISC	04/08/2024	956.85	04/12/2024
5508	HANKE TERMINALS	172406A	STONE	04/15/2024	1,370.08	04/19/2024
	Total 50-81000-651 MAINTENANCE OF MAINS:				8,435.61	
50-81000-800 CAPITAL OUTLAY						
535	MUNICIPAL LAW & LITIGATION	11836	VLG ATTORNEY	04/11/2024	307.33	04/12/2024

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid
1397	MID CITY CORP	pay app 2	PAY APP 1	04/08/2024	23,614.62	04/12/2024
2016	BAXTER & WOODMAN INC.	0257546	BRADLEY RD	04/09/2024	2,459.36	04/12/2024
	Total 50-81000-800 CAPITAL OUTLAY:				26,381.31	
50-81000-903 SUPPLIES AND EXPENSE						
50	BADGER METER, INC.	80156079	ORION	03/28/2024	226.09	04/12/2024
	Total 50-81000-903 SUPPLIES AND EXPENSE:				226.09	
50-81000-921 OFFICE SUPPLIES AND EXPENSE						
57	JPMORGAN CHASE BANK NA	04/10/2023	APPLE	04/04/2024	.99	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	WATER DEPT	04/04/2024	435.25	04/05/2024
57	JPMORGAN CHASE BANK NA	04/10/2023	WATER DEPT	04/04/2024	87.50	04/05/2024
2136	VERIZON WIRELESS	368000050738	100000186946 GPS	04/08/2024	26.78	04/12/2024
2136	VERIZON WIRELESS	9960580296	787000169-00001	04/09/2024	17.43	04/12/2024
5312	AT & T- VILLAGE	03152024	287334403697 VLG	04/16/2024	132.73	04/19/2024
	Total 50-81000-921 OFFICE SUPPLIES AND EXPENSE:				680.68	
50-81000-930 MISC GENERAL EXPENSE						
2005	BADGER CDL, LLC	1185	CDL TRAINING	04/03/2024	1,437.50	04/15/2024
2385	WISCONSIN RURAL WATER AS	04/17/2024	WATER EXAM REVIEW	04/05/2024	110.00	04/12/2024
	Total 50-81000-930 MISC GENERAL EXPENSE:				1,547.50	
50-81420 ACCOUNTS RECEIVABLES WATER						
2007	NIETS PROPERTY MANAGEME	03/26/2024	BRADLEY PLACE	04/09/2024	789.92	04/12/2024
	Total 50-81420 ACCOUNTS RECEIVABLES WATER:				789.92	
70-12100 TAXES RECEIVABLES						
1659	CORELOGIC TAX SERVICES LL	35801	409 E SPOONER - ZIEBELMAN	04/11/2024	1,990.77	04/19/2024
	Total 70-12100 TAXES RECEIVABLES:				1,990.77	
	Grand Totals:				473,054.50	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Amount Paid	Date Paid

Date Approved: _____

Village Manager: _____

Village Board: _____

_____

_____

_____

_____

_____

_____

_____

VILLAGE OF FOX POINT
APPLICATION FOR CONDITIONAL USE PERMIT

Section 1

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

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

Section 2

Legal name of corporation	Corporate email
The Town Club	abby@thetownclub.com
Corporate headquarters address	Corporate phone #
7950 N Santa Monica Blvd, Fox Point WI 53217	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	Address of corporate agent
Abby Schroeder	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

VILLAGE OF FOX POINT
APPLICATION FOR CONDITIONAL USE PERMIT

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 parking and lighting have been previously addressed and approved - SB 11/27/23

Is there proper exterior lighting?

Are there any existing code violations? LOT 1 & 2 NEEDS 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. 1059709

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

Ryan Santos
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

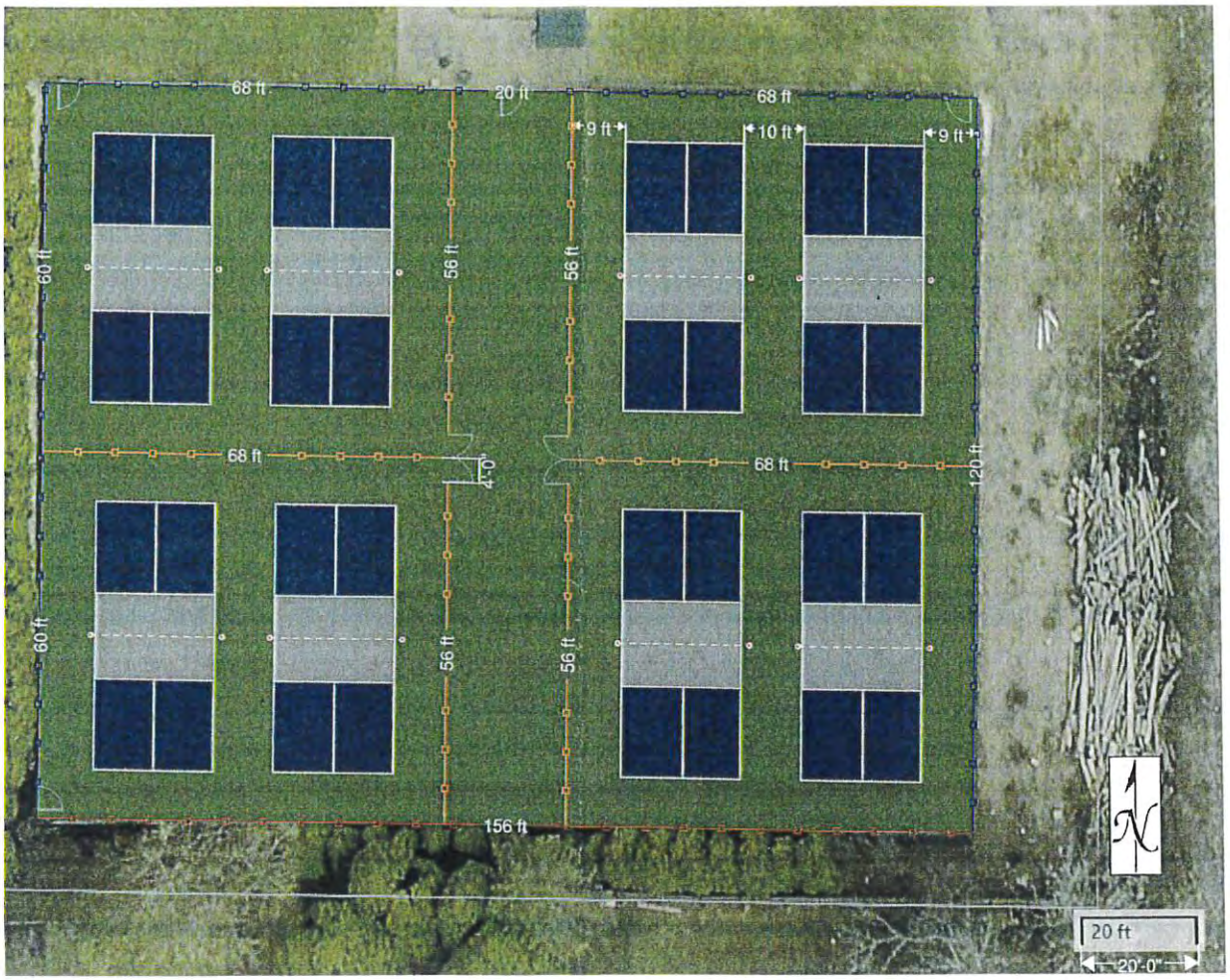
I hereby accept the terms and conditions of this Conditional Use in its entirety.

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

MEMBER AMERICAN SPORTS BUILDERS ASSOCIATION

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

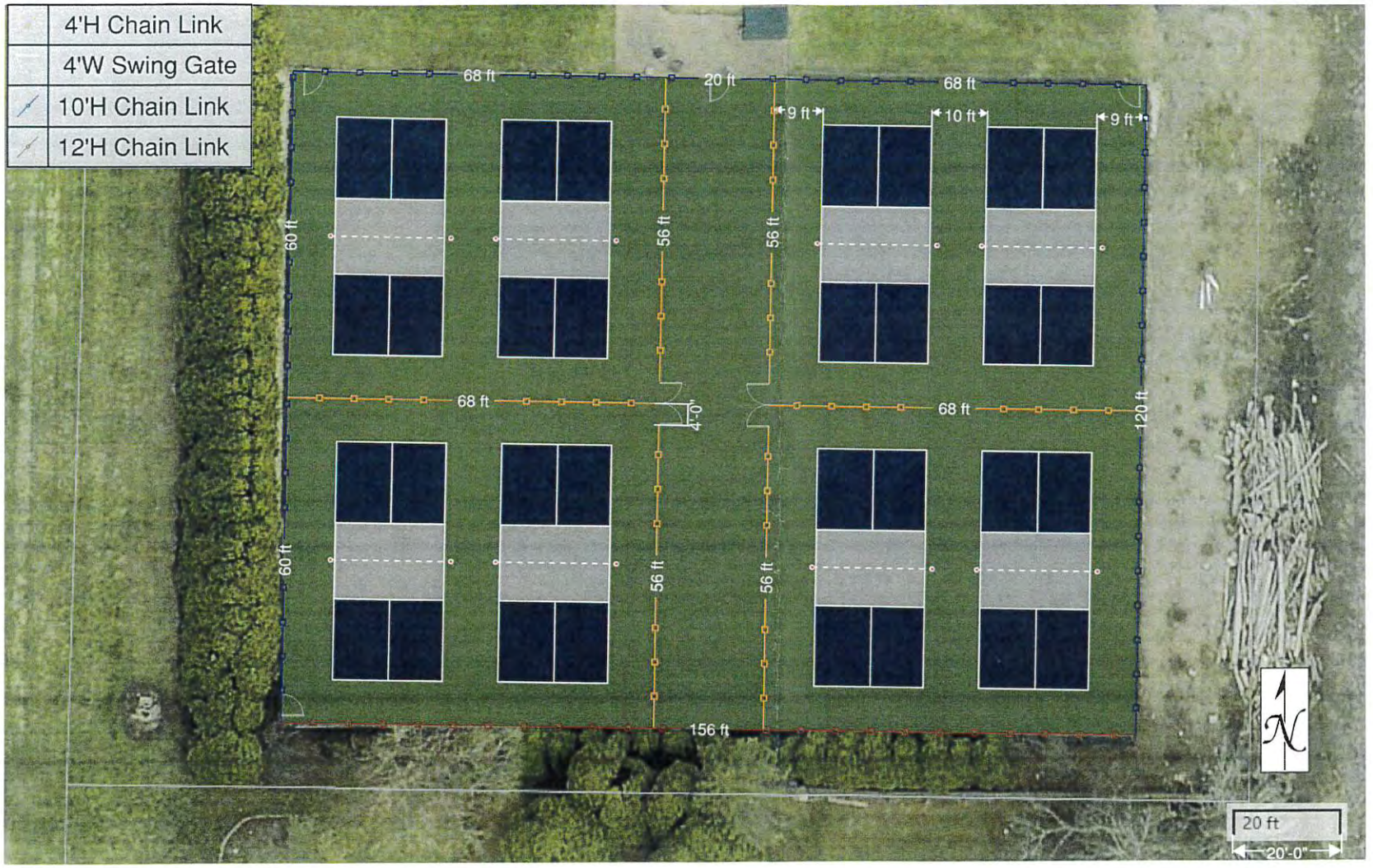
PICKLEBALL COURT RECONSTRUCTION

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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VILLAGE OF FOX POINT
7200 N. SANTA MONICA BLVD
FOX POINT WI 53217 414-351-6900

Receipt No: 1.059709 Nov 21, 2023

7950 N Santa Monica Blvd

Previous Balance:	.00
LICENSES & PERMITS - CONDITIONAL USE PERMIT	300.00
24-44550 CONDITIONAL USE PERMIT	
Total:	300.00
CHECK Check No: 34046	300.00
Payor: The Town Club	
Total Applied:	300.00
Change Tendered:	.00

Duplicate Copy

11/21/2023 12:46 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

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

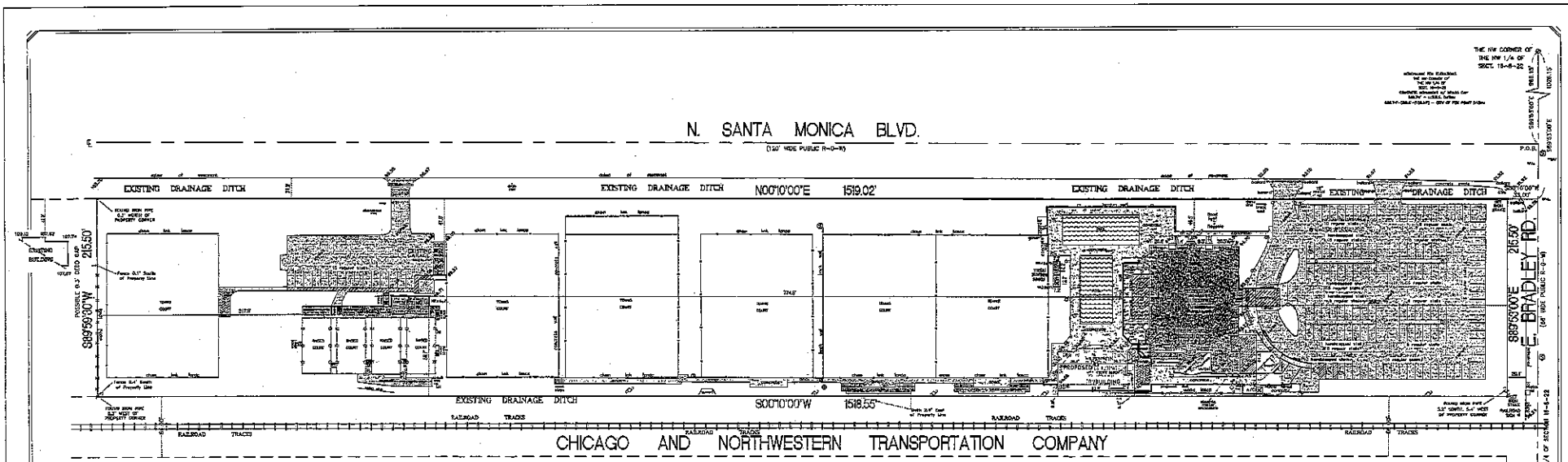
Through: Scott Botcher, Village Manager

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.



TOTAL AREA:
327,296.9 Sq. Ft.
7.51 Acres

NORTH

GRAPHIC SCALE
(IN FEET)
1 inch = 50 ft.

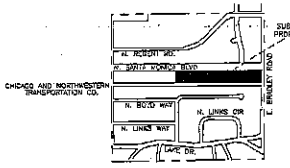
"I have surveyed the above described property from the legal description furnished by the client named on this survey."

"This survey is made for the exclusive use of the present owners of the property, and also those who purchase, mortgage, or guarantee the title thereto within one (1) year from date hereof."

WISCONSIN REGISTERED LAND SURVEYOR

NOTE: THIS IS NOT AN ORIGINAL SURVEY UNLESS THIS SEAL IS RED

Surveying Associates, Inc.	FREDERICK W. ZIMBLIAN S-1164 WAUWATOSA WI	Scale 1" = 50'	Date 06/20/06	Revised 12/04/06
		Project Number 31573	Field Work KDF	Drafted By MCP
		Project Completed For: TOWN CLUB		



VICINITY MAP
NW 1/4 SECT. 16-8-22
SCALE: 1" = 1000'

LEGEND

- Denotes Existing Power Pole
- Denotes Existing Light Pole
- Denotes Existing Catchbasin
- Denotes Existing Gas Meter
- Denotes Existing Electric Meter
- Denotes Existing Water Valve
- Denotes Existing Gas Valve
- Denotes Existing Sewer Manhole
- Denotes Existing Flood Light
- Denotes Existing Drain
- Denotes Existing Spot Elevation on Village Datum
- Denotes Proposed Spot Elevation on Village Datum

PARKING NOTE
124 REGULAR
7 HANDICAPPED

LEGAL DESCRIPTION

That part of the Northwest ¼ of Section 16, in Township 8 North, Range 22 East, in the Village of Fox Point, bounded and described as follows, to-wit: Commencing at the intersection of the center line of Santa Monica Blvd., with the North line of said ¼ Section, said point being 998.16 feet South 89° 53' East of the Northwest corner of said ¼ Section, running thence South 89° 53' East along the North line of said ¼ Section, 275.50 feet to a point; thence South 0° 10' West 1326.21 feet to a point in the South line of the North ½ of said ¼ Section; thence North 89° 57' 30" West along said South line of 275.50 feet to a point in the center line of Santa Monica Blvd., thence North 0° 10' East along the center line of Santa Monica Blvd. 1328.57 feet to the place of commencement; reserving the West 50.0 feet which has been deeded for public street purposes (being Santa Monica Blvd.) and that portion on the North line within the limits of East Bradley Road. Situated in the County of Milwaukee, State of Wisconsin.

ALSO, that part of the Northwest ¼ of Section 16, Town 8 North, Range 22 East, in the Village of Fox Point, Milwaukee County, Wisconsin bounded and described as follows, to-wit: Commencing at the intersection of the centerline of N. Santa Monica Blvd. with the North line of said ¼ section, said point being 998.16 feet, South 89° 53' 00" East of the Northwest corner of said ¼ Section; running thence South 0° 10' 00" West along said centerline of N. Santa Monica Blvd., 1326.27 feet to a point in the South line of the North ½ of said ¼ Section; thence South 89° 57' 30" East along said South line of the North ½ of said ¼ Section, 60.00 feet to the East line of N. Santa Monica Blvd., said point being the point of beginning of the lands about to be described; continuing thence South 89° 57' 30" East along said South line of the North ½ of said ¼ Section, 215.50 feet to a point in the West line of the Chicago and Northwestern Railway right-of-way; thence South 0° 10' 00" West along said right-of-way line 225.35 feet to a point in a line 1100.86 feet Northerly (as measured parallel to the West line of said ¼ Section) of the South line of said ¼ Section; thence South 89° 53' 30" West and parallel to the South line of said ¼ Section, 215.50 feet to a point in the East line of N. Santa Monica Blvd., thence North 0° 10' 00" East along said East line of N. Santa Monica Blvd., 225.54 feet to the point of beginning. Said parcel containing 1.115+ acres as described.

Address: 7950 N. Santa Monica Boulevard

Note 1: The property hereon described is the same as the pertinent property as described in Title Guaranty Company of Wisconsin, No. 194686, effective date October 2, 1954.

Note 2: Survey traverse closure exceeds 1:15,000.

Note 3: "The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from information available. The surveyor has not physically located the underground utilities."

8-22-16-2-0056

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

WISCONSIN
DANIEL
BEDNAR
S-2812
GERMANTOWN
WI
LAND SURVEYOR

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

Survey No. 5247-lpm
Sheet 3 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.

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.

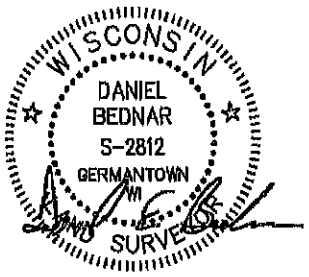
_____
Notary Public
State of Wisconsin
My commission expires:_____
My commission is permanent.

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._____

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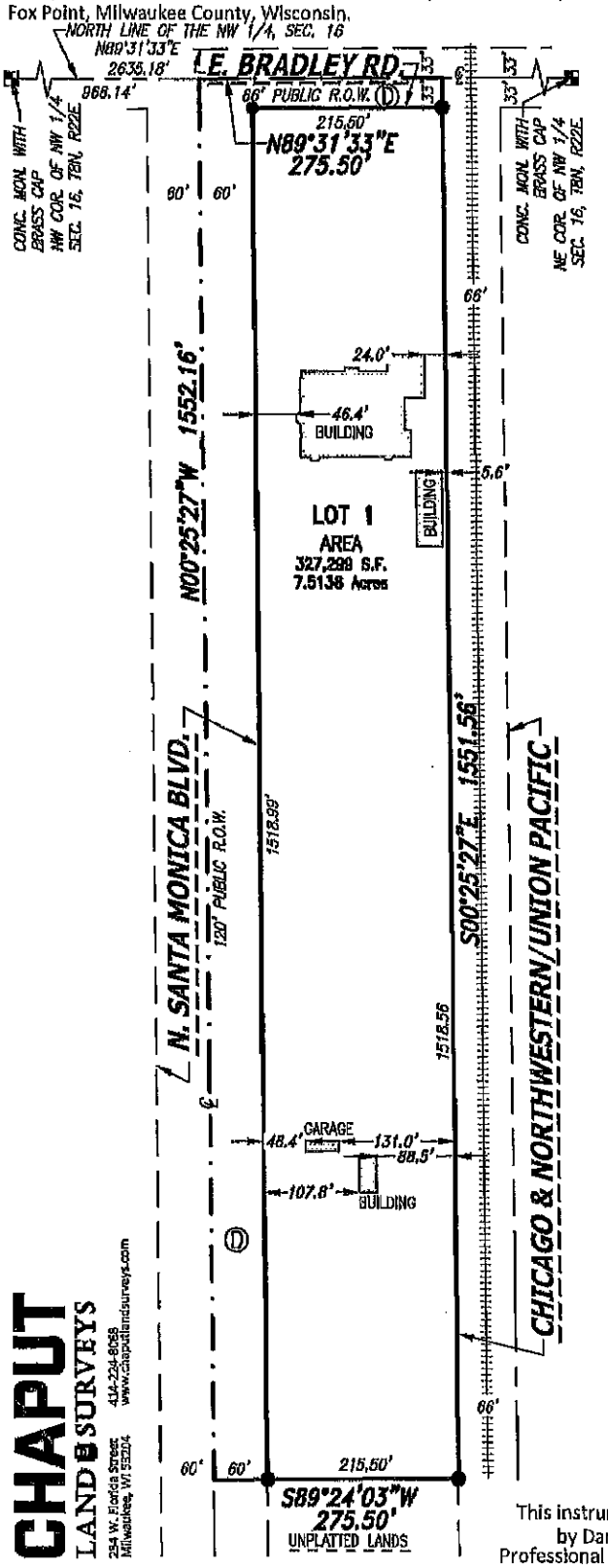
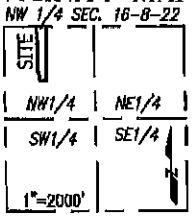


Owner : The Town Club
7950 N. Santa Monica Blvd.
Fox Point, WI 53217

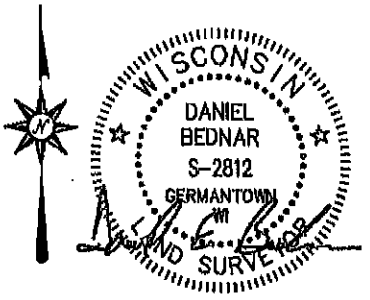
VICINITY MAP
NW 1/4 SEC. 16-8-22



- Indicates found 1" iron pipe.
- Indicates set 1" iron pipe, 18" in length, 1.13 lbs. per lineal foot.
- (D) 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.

Graphic Scale
0 150 300
1" = 150'



CHAPUT LAND SURVEYS
254 W. Florida Street
Milwaukee, WI 53204
414-224-8065
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 1 of 4 Sheets

CERTIFIED SURVEY MAP NO._____

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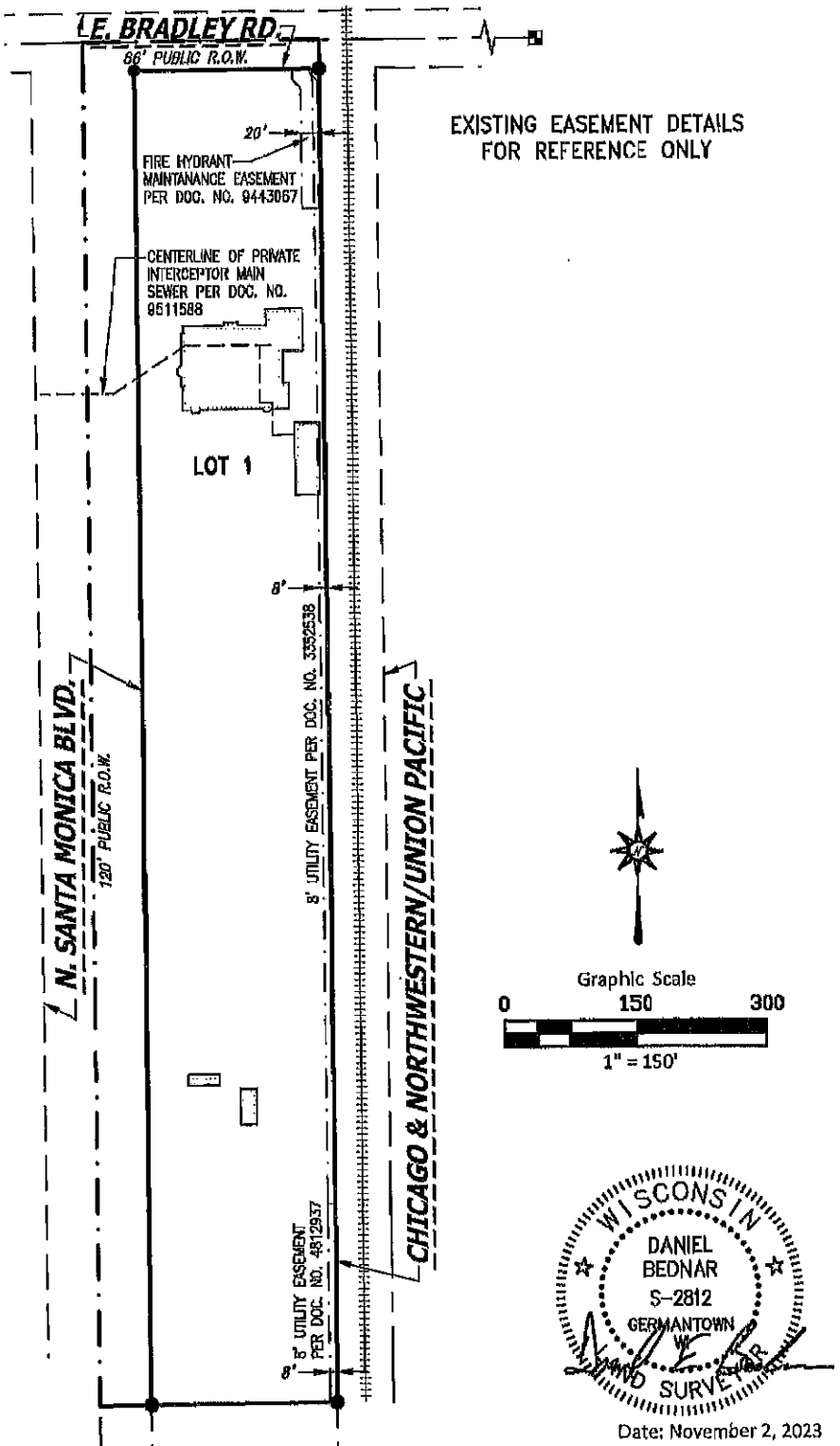

CHAPUT LAND SURVEYS
234 W. Florida Street
Milwaukee, WI 53204
414-224-8083
www.chaputlandsurveys.com

WISCONSIN
DANIEL BEDNAR
S-2812
GERMANTOWN
LAND SURVEYOR

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

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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

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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.

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(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.

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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

111 East Kilbourn Avenue, Suite 1400, Milwaukee, Wisconsin 53202
cjaekels@amundsendavislaw.com
414-225-1409

List of Exhibits

Exhibit 1	Applicable Ordinances: Sections 745-10 and 745-20
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Exhibit 5	Link to Acoustiblok Webpage Regarding Pickle Ball Issues and Answers (https://acoustiblok.com/2013/04/08/pickleball-court-reduced-noise/)
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Exhibit 13	Union Pacific Railroad Schedule and Train Horn Decibel Information

AMUNDSEN DAVIS

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**.

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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.

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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.

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

Respectfully,

Amundsen Davis, LLC

Christopher J. Jaekels
Attorneys for the Town Club

CJJ/jfd

Enclosures

List of Exhibits

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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 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 Overly 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

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 setbacks 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 an average minimum width of 80 feet.

(6) No single-family residence 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. 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]

§ 745-18. D Business District.

A. Intent. This section is adopted for the promotion of the public health, safety and welfare such as to provide for adequate light, pure air, safety and ample parking facilities. It is intended that the uses specified in Subsection **C** shall be permitted, and the uses specified in Subsection **D** shall be conditional. It is further intended that site plan review is required for all conditional uses, per Subsection **D(2)(e)**, and site plan review is required for all permitted uses and conditional uses when exterior work is proposed per Subsection **E** and § **745-19**.
[Amended 6-11-2013 by Ord. No. 2013-04]

B. In a D Business District, no building, structure or premises shall be used nor shall any building or structure be erected, altered or enlarged except as provided below.

C. Permitted uses. The following uses are permitted in the D Business District:

(1) Business offices, defined as follows. A business office is use of a tenant space or building solely for administrative functions of an organization, with no retail or wholesale sales or services on site.

(2) Computer services, defined as follows: "computer service" is use of a tenant space or building for repair, maintenance and ancillary sales of computers, computer components, computer hardware and computer software, for retail customers.

(3) Financial service institutions, defined as follows. Financial services institutions are banks, savings banks, savings and loan associations, credit unions, and trust companies, as further defined and regulated by Chapter 404, Wisconsin Statutes, titled "Uniform Commercial Code - Bank Deposits and Collections," specifically excluding payday loan businesses, licensed lenders, pawnbrokers and community currency exchanges that are subject to licensure under § 138.09, 138.10 or 218.05, Wis. Stats., and institutions similar thereto.

(4) Offices of trade and professions licensed by a governmental agency, subject to the following limitations. For purposes of this subsection, trade offices are the use of a tenant space or building by an electrician, plumber, carpenter or person in a similar building or construction trade that provides licensed services off site within the Village and its environs. For purposes of this subsection, professional offices are the use of a tenant space or building by an architect, dentist, doctor, lawyer or other licensed person that offers services to people within the Village and its environs by a person with a degree from a four-year college or university that is listed on the U.S. Department of Education Database of Accredited Postsecondary Institutions and

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

not been met and the Village Board has not agreed with the report of the Plan Commission, then the Village Board shall schedule a public hearing on the application.

(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.

C. Exceptions. No review pursuant to Subsection **B** is required in the following limited circumstances:

(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.

D. Regulation. In an F Institutional District, no building may be erected or enlarged, and no exterior alterations shall be made to an existing building, except in conformity with the following:

(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 lets 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,

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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.

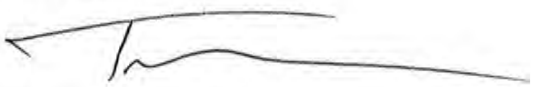
It is my understanding that pickleball has been played on the outdoor courts at The Town Club for the past 3 years.

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 anInstitutional 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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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

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,

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 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,

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: 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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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: 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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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,

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 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: 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 Insitutional District Requirements and the Outdoor Recreation permit requirements.

Mark Witt and Kelly Reilly 1076 E. Thome 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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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: 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 ate 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,

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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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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,
>
> 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: 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.

8078 N. Links Way

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

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:

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: 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.

425 E Apple Tree Rd

Mark Short

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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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

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,

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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 Platfom 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 Comittee'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/hazard or detrimental to the general public welfare. Rather, this work will help keep the Town Club as a top notch facilities for Fox Point residents. We strongly recommend approving this work. Thank you for the consideration.

Sincerely,
Daniel, Molly, Henry, Megan, & 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

ONE CALL G THAT'S ALL
GRUBER
LAW OFFICES LLC

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 decease 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

The information contained in this message, including but not limited to any attachments, may be confidential or protected by the attorney-client or work-product privileges. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message and any attachments or copies. Any disclosure, copying, distribution or reliance on the contents of this message or its attachments is strictly prohibited, and may be unlawful. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party. Unless expressly stated otherwise, nothing contained in this message should be construed as a digital or electronic signature, nor is it intended to reflect an intention to make an agreement by electronic means.

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 to 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 an 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

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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>
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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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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: 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:

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

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

AMUNDSEN DAVIS

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

111 East Kilbourn Avenue, Suite 1400, Milwaukee, Wisconsin 53202
cjaekels@amundsendavislaw.com
414-225-1409

Exhibit 7

National Hearing Conservation Association
Decibel Chart

NHCA
NATIONAL HEARING CONSERVATION ASSOCIATION

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
Level at which sustained exposure may result in hearing loss	*90 - 95dB*
Power mower at 3'	107dB
Snowmobile, Motorcycle	100dB
Power saw at 3'	110dB
Sandblasting, Loud Rock Concert	115dB
Pain begins	*125dB*
Pneumatic riveter at 4'	125dB
Even short term exposure can cause permanent damage - Loudest recommended exposure WITH hearing protection	*140dB*
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

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!!

On Friday, March 1st, the tennis 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

The repaired Indian Creek 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

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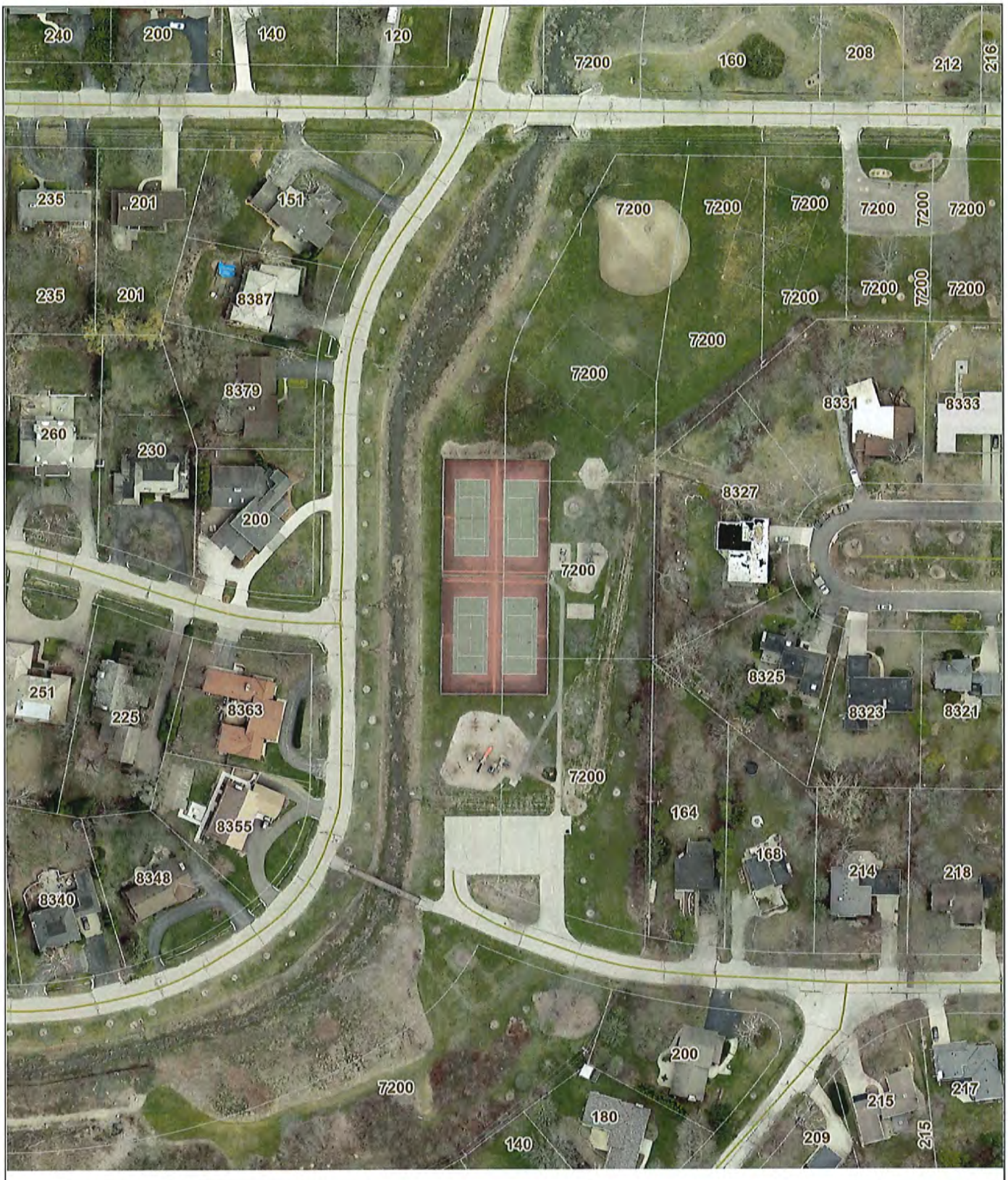

Village of Fox Point - Indian Creek Parkway

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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

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SCALE: 1" = 188'

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

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).

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.

♥ Helpful

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Sitemap (https://www.baysidewi.gov/sitemap/)

Village of Bayside

(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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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

[redacted]

NICOLET
RECREATION DEPARTMENT

[redacted]

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)

AMUNDSEN DAVIS

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

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

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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
Get Outlook for Android

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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AMUNDSEN DAVIS

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

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

Tuesday, March 5, 2024 16:15:37
** For official use only **

Fox Point Police Department

Roll Call Report

21-000247 **Noise Complaint**
01/17/21 18:4236 8620 N Port Washington Rd,313
Disposition **Finish**
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**
02/03/21 22:3406 7950 N Santa Monica Blvd,BLDG
Disposition **Finish**
Unit **516**
Officer **vw3317**

Upon arrival, Town club members finishing a bonfire, would be leaving soon, No Names obtained.

21-000692 **Noise Complaint**
02/17/21 05:2459 6940 N Santa Monica Blvd,LOT
Disposition **Finish**
Unit **513**
Officer **sg7147**

Subjects advised. stopping for night. no names obtained.

21-000817 **Noise Complaint**
02/25/21 00:0500 1811 E Dean Rd
Disposition **Finish**
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**
03/20/21 19:3154 7545 N Lake Dr
Disposition **Finish**
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 ordnance. 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**
03/21/21 15:2203 1443 E Goodrich Ln
Disposition **Finish**
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**
04/09/21 23:0956 N Boyd Way/E Calumet Rd
Disposition **Finish**
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**
09/02/21 01:5958 314 E Green Tree Rd
Disposition **Written Warning Issued**
Unit **522**
Officer **ln4461**

Caller reports dog barking for 45+ minutes. Contact made with with dog owner, warned and advised of complaint.

21-004172 **Noise Complaint**
09/03/21 20:4649 164 E Willow Rd
Disposition **Finish**
Unit **518**
Officer **jh2765**

Area checked UTL

21-004188 **Noise Complaint**
09/04/21 14:5028 500 W Bradley Rd,LOT
Disposition **Finish**
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**
10/23/21 22:3304 7415 N Beach Dr
Disposition **Finish**
Unit **515**
Officer **JR8159** **ln4461**

2 vehicles unrelated. All subjects advised of parking violation and subjects stated they would be heading home.

21-005191 **Noise Complaint**
10/30/21 22:0148 6747 N Holly Ct
Disposition **Finish**
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 ORDNANCE. NOISE LEVEL WAS LIMITED WHEN OFFICER LEFT.

21-005229 **Noise Complaint**
11/01/21 20:2714 7415 N Beach Dr
Disposition **Finish**
Unit **520**
Officer **jp5735**

Vehicle parked playing loud music. Vehicle left prior to officer's arrival. No name obtained.

21-005370 **Noise Complaint**
11/08/21 20:0438 N Santa Monica Blvd/E Dean Rd
Disposition **Finish**
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**
11/08/21 22:0537 7950 N Santa Monica Blvd,BLDG Unit **516**
Officer **vw3317**

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 ordnance.

22-000400 **Noise Complaint** Disposition **Finish**
01/29/22 23:3917 6747 N Holly Ct Unit **511**
Officer **cb4174**

Parked squad on roadway with windows rolled down and squad turned off. Could hear loud audio and bass coming form residence. Made contact with resident who agreed to turn down the music for the remainder of the night.

22-000402 **Noise Complaint** Disposition **Finish**
01/30/22 01:3718 6747 N Holly Ct Unit **511**
Officer **cb4174**

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**
02/22/22 23:0706 6747 N Holly Ct Unit **513**
Officer **sg7147**

Heard music coming from rear of house. made contact. res stated he would turn off music.

22-000973 **Noise Complaint** Disposition **Finish**
03/10/22 02:5429 8165 N Port Washington Rd Unit **522**
Officer **ln4461**

Barking dog complaint. Officers checked area, did not hear any barking. VM left for CM.

22-001964 **Noise Complaint** Disposition **Finish**
05/12/22 23:2557 6741 N Holly Ct Unit **513**
Officer **sg7147**

STOOD OUTSIDE HOME, NO NOISE HEARD

22-002028 **Noise Complaint** Disposition **Finish**
05/15/22 22:5822 7124 N Beach Dr Unit **504**
Officer **mm1249**

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 interupting her trying to eat dinner. Neighbor was advised and verbally warned of ordanince. 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**
07/09/22 21:1551 7950 N Santa Monica Blvd,BLDG
Disposition **Finish**
Unit **516**
Officer **vw3317**

Live band till 10pm, all in order

22-003205 **Noise Complaint**
07/14/22 21:5125 1811 E Dean Rd
Disposition **Finish**
Unit **520**
Officer **jp5735**

Group of teens were playing games in the park, all in order no names in call.

22-003239 **Noise Complaint**
07/16/22 23:1020 8254 N Gray Log Ln
Disposition **Citation Issued**
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**
07/25/22 00:4842 7538 N Navajo Rd
Disposition **Finish**
Unit **513**
Officer **sg7147**

No noise heard. no one in area.

22-003415 **Noise Complaint**
07/25/22 14:3357 7513 N Navajo Rd
Disposition **Finish**
Unit **514**
Officer **ja3050**

CM wanted to complain further about neighbor at 7529 N Navajo Rd.

22-003485 **Noise Complaint**
07/28/22 20:3945 8200BLK N Gray Log Ln
Disposition **Finish**
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**
08/13/22 22:2228 E Green Tree Rd/N Yates Rd
Disposition **Finish**
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**
08/15/22 23:3330 8100BLK N Lake Dr
Disposition **Finish**
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**
05/16/23 19:4018 7530 N Port Washington Rd,202 Unit **511**
Officer **cb4174**

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**
06/09/23 20:2636 1600BLK E Fox Ln Unit **518**
Officer **jh2765**

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**
06/16/23 16:2340 7704 N Port Washington Rd,301C Unit **505**
Officer **bb1307**

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**
07/09/23 00:4046 7950 N Santa Monica Blvd,BLDG Unit **512**
Officer **rr0200**

Spoke with GM from the Town Club, it was staff swimming in the pool, everyone is leaving

23-003401 **Noise Complaint** Disposition **Cancelled**
07/15/23 07:2345 E Mall Rd/N Lombardy Rd Unit
Officer

Noise was from freeway construction at I43 and Good Hope Rd.

23-003412 **Noise Complaint** Disposition **Finish**
07/15/23 21:0032 8308 N Indian Creek Pkwy Unit **518**
Officer **jh2765**

O/P was advised of noise ord. and she shut off the pressure washer for the night.

23-003952 **Noise Complaint** Disposition **Finish**
08/07/23 20:4941 8700 N Port Washington Rd,209 Unit **504**
Officer **mm1249**

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** Disposition **Finish**
01/25/24 02:2920 7704 N Port Washington Rd,207C Unit **513**
Officer **sg7147**

Res was talking loud on phone after receiving bad news. only person in apt

24-000998 **Noise Complaint** Disposition **Finish**
02/24/24 20:2455 7950 N Santa Monica Blvd,BLDG 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** Disposition **Finish**
02/24/24 21:4751 7950 N Santa Monica Blvd,BLDG 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

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MEMBER AMERICAN SPORTS BUILDERS ASSOCIATION

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.B. Total Night Thru Trains (6 PM to 6 AM)	1.C. Total Switching Trains	1.D. Total Transit Trains	1.E. Check if Less Than One Movement Per Day ☐ How many trains per week?
1	1	0	0	

2. Year of Train Count Data (YYYY)	3. Speed of Train at Crossing
2019	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?	7.A. Event Recorder	7.B. Remote Health Monitoring
☒ Yes ☐ No	☐ Yes ☒ No	☐ 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.B. Total Night Thru Trains (6 PM to 6 AM)	1.C. Total Switching Trains	1.D. Total Transit Trains	1.E. Check if Less Than One Movement Per Day ☐ How many trains per week?
1	1	0	0	

2. Year of Train Count Data (YYYY)	3. Speed of Train at Crossing
2019	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?	7.A. Event Recorder	7.B. Remote Health Monitoring
☒ Yes ☐ No	☐ Yes ☒ No	☐ 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.B. Total Night Thru Trains (6 PM to 6 AM)	1.C. Total Switching Trains	1.D. Total Transit Trains	1.E. Check if Less Than One Movement Per Day ☐ How many trains per week?
1	1	0	0	

2. Year of Train Count Data (YYYY)	3. Speed of Train at Crossing
2019	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?	7.A. Event Recorder	7.B. Remote Health Monitoring
☒ Yes ☐ No	☐ Yes ☒ No	☐ 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
eview manual, submit projects at Public Projects Contact Center
Click here for Third-party Flagging Info

Phone: 402-544-3992
Mobile: 402-598-4981
Email: msdubay@up.com

1400 Douglas Street MS910
Omaha, NE 68179
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
(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

Beach Bliss Awaits You
Indulge in Puerto Rico's unspoile

AD Discover Puerto Rico

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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

Easy Caribbean Escape

Discover Puerto Rico's charm; no passport needed for a tropical U.S. getaway!

AD Discover Puerto Rico

LEARN MO

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	
Whispering	20 dB	
Light rain	30 dB	
Quiet office	40 dB	
Refrigerator	50 dB	All sounds that are 60 dB or lower do not cause any hearing damage.
A regular conversation	60 dB	
A vacuum cleaner	70 dB	These noises might be annoying but will not cause any hearing damage.
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: Piqsels

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: Piqsels

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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By Mazda

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/)

What's the Noise Level of a Construction Site? (Decibel Guide)

[redacted]
(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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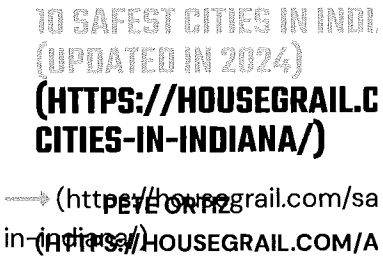

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Scott Botcher

From: Amy Barth <jumpingpoo@hotmail.com>
Sent: Monday, April 1, 2024 11:47 PM
To: Christine Symchych; Catie Anderson; Eric Fonstad; Jennie Stoltz; Elizabeth Aelion; Greg Ollman; Elizabeth Sumner; Scott Botcher
Subject: Town Club - Information in Support of a DENIAL
Attachments: Complaint -Barbera v City of Newport RI.pdf; pickleball letter to board Apr 1 23.pdf; Glenhaven Park Noise Impact Study-Spendiarian-Willis Acoustics.pdf; Noise Con 103.pdf

To all members of the village board and Scott,

(Scott, please add this to the public record)

I have done some additional research and provide you additional evidence that the Conditional Use Permit as written must be denied.

I have inventoried the homes within 500 ft of the courts to give you a better understanding of just how many residents will be impacted.

I also provide details about a number of cases across the country that have a great deal of similarity to what's happening here in Fox Point. In several of these, a sound study has deemed the site unsuitable for pickleball. I've included maps of these locations and you can see that all of them have less than the 8 courts being requested here. These are just a few of the municipalities across the country that are facing issues with pickleball noise.

Please read the attached letter (I've provided in PDF form, please let me know if you prefer a word doc) and give the points that I raise some thought. I'm not just spouting out here saying "it's loud" – I'm bringing you facts and cases.

I also included a sound study done for GlenHaven Park, research materials presented at an annual noise abatement conference, and a recent lawsuit filed in Newport RI.

Amy Barth
7815 N Boyd Way

To: Christine Symchych, Catie Anderson, Liz Sumner, Eric Fonstad, Liz Aelion, Jennie Stoltz, Greg Ollman, Scott Botcher

From: Amy Barth , 7815 N Boyd Way

Re: Town Club Pickleball Courts - Additional Findings in Support of a DENIAL

Date: April 1, 2024

Scott and all members of the board,

I have done some additional research and provide to you some additional evidence that the Conditional Use Permit as written must be denied. I have also read the documentation submitted by the club and have feedback on some of the materials provided.

I have inventoried the homes within 500 ft of the club to give you a better understanding of how many residents will be impacted. I also provide details about several cases across the country that have a great deal of similarity to what's happening here in Fox Point.

1) Lack of Formal Complaints in the last 3 years

This is not a completely valid argument for several reason:

- Pickleball has shot up in popularity in the last year or two. Three years ago there weren't nearly as many people playing.
- The Town Club admits that the courts are currently in disrepair and are not being used to their full extent.
- At the Plan Commission meeting they said they have been used at full capacity for only 3 hrs a week until now. I would expect that to significantly increase with the resurfacing and addition of more courts, leagues, lessons, etc.
- I have heard the noise, found it annoying, but didn't realize that it wasn't a permitted use; therefore I didn't call the police to complain.

I would also like to bring to your attention a few recent incidents regarding Town Club members playing paddleball. While it's not the same sport, it is indicative of the players lack of consideration for their neighbors:

- Feb 24 2024. I was inside my house (windows closed) around 8pm. The screams from the paddleball courts were so loud I really thought there was something bad happening. Nope, just players screaming and yelling. After 20 minutes of that nonsense I called the police.
- Mid-March. Paddleball is supposed to end at 10pm. The lights are supposed to go off at that time. For a few nights in a row the lights were not going off until around 10:15, and the players did not respect the 10pm time. I finally called the police one night and it seems that the timers have been fixed.
- Players coming onto private property to retrieve balls. Paddleballs routinely come into our yards. On several occasions I've seen players cross the tracks and come onto our properties to retrieve balls.

2) Pickleball Mitigation Experts Say that Courts Should be More than 500 FT from Homes

Exhibit A: More information and links to sources.

3) **There are 39 homes within 500 ft of the proposed courts**. These homes are on N Santa Monica, E MacArthur, N Regent, E Hyde Way and N Boyd Way. 13 of these homes are within 250 ft.

Exhibit B: Maps showing these homes as well as a list of addresses.

4) Many Town Club members submitted letters of support as part of the submission to the planning commission. <u>None</u> of them live within 500 ft.

Exhibit C : A map showing the addresses of the club members as well as some feedback on the general theme of the comments.

5) The Town Club has Not Provided Proof that Sound Will be Within Reason

The Town Club has only provided a link to information provided by ONE vendor of a sound blanket type of product. This is marketing material, and nothing less. No evidence has been provided to indicate that this will be a sufficient form of sound abatement.

They say that the product they want to purchase will reduce sound by 50%. But 50% of what? Without a sound study, what are we starting with? How will we KNOW that the product is reducing it by that much? How do we know that 50% still isn't too loud?

At the April 1 Plan Commission meeting, Mr. Freedman asked the Town Club if they have done a sound study. The club's attorney replied that sound studies are expensive, and they didn't want to spend the money on it. That just doesn't seem like a reasonable excuse. <u>Are they afraid to have a study performed?</u>

6) Sound Abatement Plan is Crucial

Given the proximity of homes (including one house to the south within 20' and 2 story homes within 250 ft to the east) more than one abatement technique may be required, and perhaps the site may simply be ill-suited for the sport.

Exhibit D: Information presented at the **2023 conference of the Institute of Noise Control and Engineering (NOISE-CON).** Pickleball courts more than 100 ft from a home will require one or more sound mitigation measures to not be considered a nuisance. At 1000 ft or more from a home, pickleball courts will not require any sound mitigation.

7) Sound Studies and Planning Lead to Informed Decisions

Exhibit E: **Libertyville IL.** Neighborhood complaints about 4 new courts. Appears as if there was no sound mitigation plan before construction.

Exihibit F**:** Ce ntennial **CO.** A sound study led to new ordinance which prohibits cou rts within 250 ft of residences and impose restrictions on courts beyond that.

Exhibit G: **Glen HavenPark , LaCanada CA**. A site with just one tennis court was found to be unsuitable for pickleball even with noise abatement techniques. There are homes within 100 ft and a freeway on one side.

Exhibit H: **GreenBriar Hills Country Club, Kirkwood MO.** The courts were built under the caveat that a sound study was to be conducted before use. The study was performed Oct 23 and the courts are closed as the noise exceeds the noise ordinance.

Exhibit I: **Eisenhower Park, Denver CO**. After complaints from neighbors, limiting hours and investigating sound mitigation options, 4 courts were closed.

Exhibit J: **Mona Barbera vs City of Newport (RI).** In 2012 Dr. Barbera purchased a house adjacent to the tennis courts at a park. As long as the courts were used for tennis, there was no noise issue. Once the courts were converted to pickleball the noise problems started. This is a 2024 lawsuit that is in progress.

8) Assessor Letter is Inconclusive

The letter from the assessor retained by the Town Club simply states that a few homes in the vicinity of the Town Club a Ellsworth recently sold for more than they did the last time the house was sold. This is insignificant given the current market and the number of courts being proposed.

Would they have sold for more? When the market changes and there are excess homes available, and a buyer has the choice of a home near 8 pickleball courts and one that is not, which will they choose?

Also it is important to consider the number of pickleball courts.

- Ellsworth has **TWO** pickleball courts
- Town Club is currently (without permit) playing on **FOUR or FIVE** courts that are in need of repair and as the club has admitted are not being used to their full extent.
- Town Club is seeking to have **EIGHT** courts, along with leagues, lessons and social mixers.

The amount of noise that will be generated will be significantly increased and will have an impact on the neighborhood property values.

9) Why has the Town Club Been Allowed to Play without Necessary Permit?

Last week I spoke with Scott Botcher and asked why the Town Club has been allowed to play pickleball without a permit. Scott stated that this is police business, so I called Chief Freedy.

Chief Freedy explained that it is a zoning matter, and that the PD doesn't always know what conditions are in place for each business. They do not monitor such things and would react only based on complaints or direction from the village.

What good is a Conditional Use Permit if nobody monitors / enforces compliance?

10) Any Limitations Must be Clear and Include a Means of Monitoring/Enforcement

In the case that the Town Club does provide an acceptable sound study and mitigation plan, any restrictions that the Village places on the use must have a clear means of monitoring and enforcement. If there is an end time, who will ensure that the players are aware of and abide by them? What if they don't? Who will monitor and take actions? This should not be left to the neighbors.

11) Plan Commission Recommendation is Not Measurable

At the April 1 meeting the planning commission moved to recommend to approve the application with the condition:

- That sound mitigation efforts be applied to reduce the pickleball sound by 50%.
    - I've addressed this earlier, but again I'll say "50% of what? " and "is that enough"?
- Have a formal review of the noise level and nuisance level at the end of the season.
    - This is vague. What kind of review? By whom? A sound study? How will this be performed and measured?

To be honest, I was more than a bit disappointed, as the Town Club has not provided any facts to support their request.

I'll end by saying that the residents in the neighborhood ARE entitled to the "right to quiet enjoyment" We have the right to inhabit and use our property without disturbance.

The Town Club attorney even went so far as to say that resident's enjoyment of property is not something that is measurable and some people will always complain. That is disrespectful to the residents and frankly to the village as a whole – this statement tells me that the Club doesn't care about the neighbors.

Thank you again for your time in reading and considering the documentation I submit.

Amy Barth

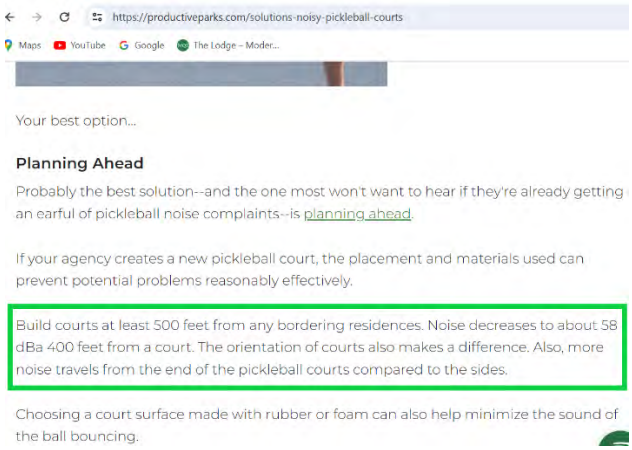
7815 N Boyd Way

Exhibit A

Pickleball Courts Should be More than 500 FT from Homes.

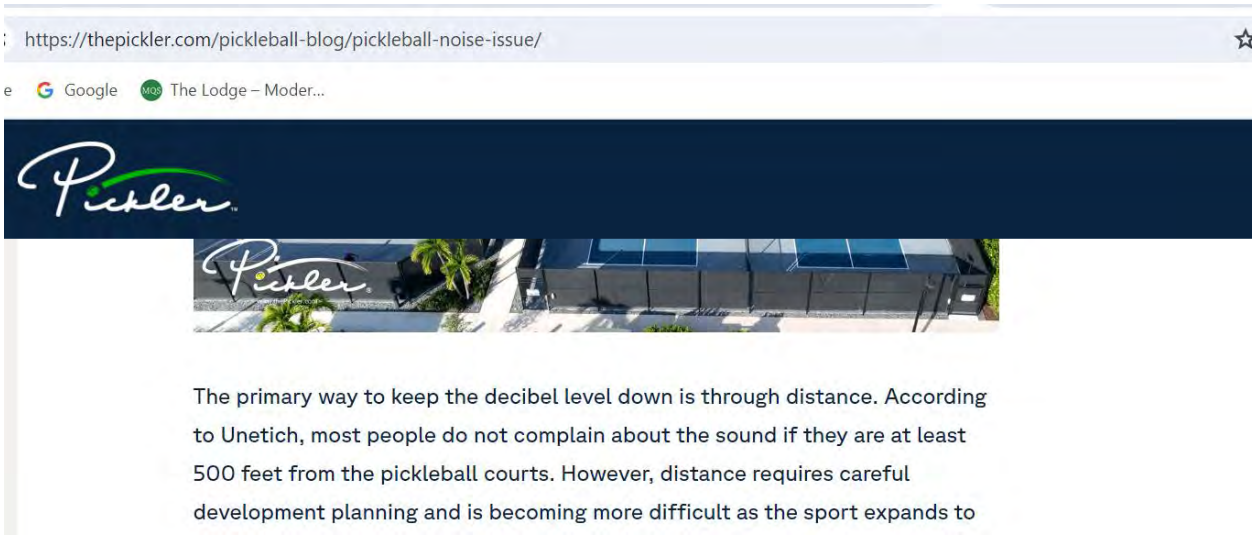
I have found several legitimate sources that state that pickleball courts, even with sound mitigation need to be at least 500 ft from residences. Here are a few references:

Productive Parks – a company that specializes in parks and rec maintenance and asset management systems. An article on their site https://productiveparks.com/about-productive-parks states that courts should be built at least 500 ft from any residences.



Bob Unetich . An electrical engineer by training, active now as a consulting engineer specializing in pickleball sound mitigation. https://pickleballsound.com/about/

In this pickleball blog post https://thepickler.com/pickleball-blog/pickleball-noise-issue/ Mr Unetich is credited for saying that "most people do not complain about the sound if they are at least 500 feet from the pickleball courts."



A study by Yale University and Mr Unetich shows that that at 100 ft the sound of pickleball is slightly less than that of a vacuum cleaner. That level of noise should not be imposed on any neighbors, at any time of the day. This chart was published in https://thehustle.co/ne-mans-quest-to-make-pickleball-quiet

,

Exhibit B

39 Homes Within 500 FT of the Proposed Pickleball Courts.

Using the radius tool within mapdevelopers.com I created a map showing a 500ft radius from each of the 4 corners of the proposed courts. I then added a green dot on each property within the circles.

I did a similar map to identify the homes within 250 ft. There are 13 homes within 250 ft. The maps can be found on the following pages.

There are 39 homes within 500 ft, including homes on 5 streets:

- N Santa Monica,
- MacArthur,
- Regent,
- E Hyde Way
- N Boyd Way

Fox Point Homes Within 500 Ft of Proposed Town Club Pickleball Courts

Homes within 250 FT are identified with **

West of the Town Club	East of the Town Club
1. 7711 N Santa Monica 2. 7720 N Santa Monica ** 3. 7721 N Santa Monica 4. 7740 N Santa Monica ** 5. 7751 N Santa Monica ** 6. 7801 N Santa Monica ** 7. 7807 N Santa Monica ** 8. 7815 N Santa Monica 9. 7821 N Santa Monica 10. 480 E MacArthur 11. 510 E MacArthur 12. 520 E MacArthur ** 13. 511 E MacArthur 14. 7710 N Regent 15. 7760 N Regent 16. 7765 N Regent 17. 7800 N Regent 18. 7801 N Regent 19. 7808 N Regent 20. 7816 N Regent	21. 804 E Hyde Way 22. 805 E Hyde Way 23. 808 E Hyde Way 24. 7711 N Boyd Way 25. 7716 N Boyd Way 26. 7717 N Boyd Way 27. 7722 N Boyd Way 28. 7723 N Boyd Way ** 29. 7735 N Boyd Way ** 30. 7745 N Boyd Way ** 31. 7801 N Boyd Way ** 32. 7805 N Boyd Way ** 33. 7808 N Boyd Way 34. 7811 N Boyd Way ** 35. 7814 N Boyd Way 36. 7815 N Boyd Way ** 37. 7820 N Boyd Way 38. 7823 N Boyd Way 39. 7829 N Boyd Way

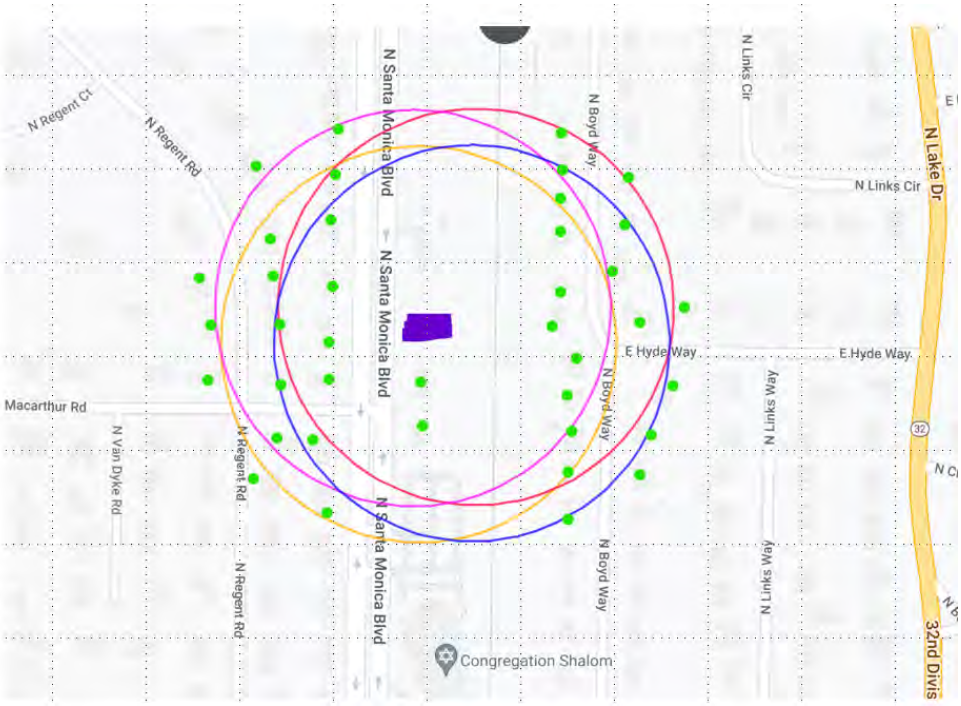
500 Ft Radius – 39 Homes:

39 Homes Within 500 Ft of the Proposed Town Club Pickleball Courts

Each circle represents a **500 ft radius** from a corner of the tennis courts .

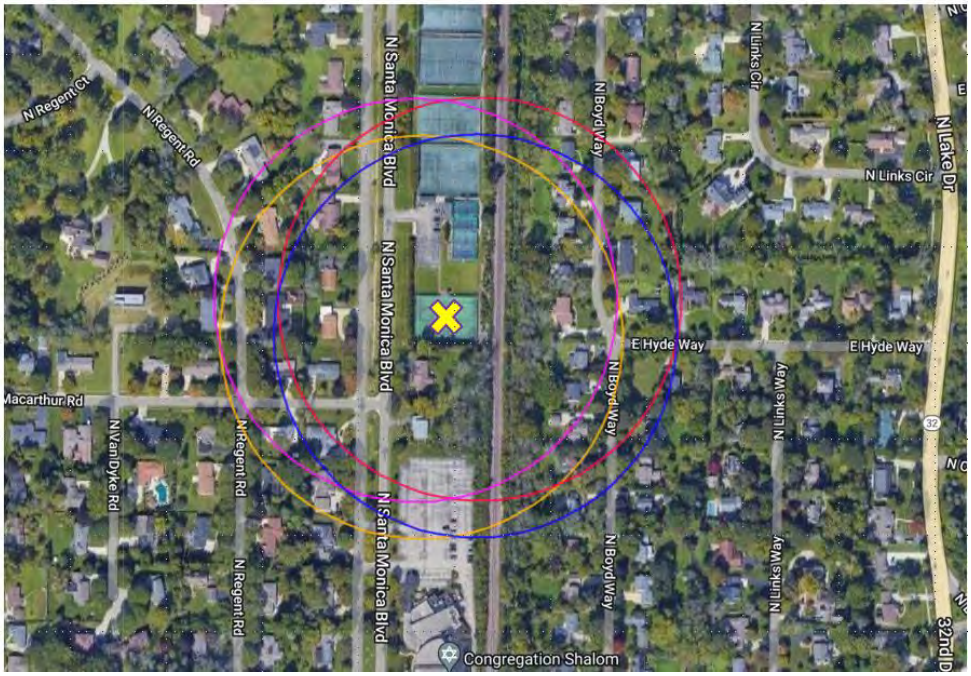
Purple: The proposed courts
Green: The 39 homes

Properties are included when the home is just outside a circle but it's clear that at least part of the property is in a circle.



Satellite View of the Same Map, with the exact same circles.

Yellow X marks the proposed courts.



250 Ft Radius – 13 Homes

13 Homes Within 250 Ft of the Proposed Town Club Pickleball Courts

Each circle represents a **250 ft radius** from a corner of the tennis courts .

Purple: The proposed courts
Green: The 13 homes

Properties are included when the home is just outside a circle but it's clear that at least part of the property is in a circle.

Satellite View of the 250 ft Map, with the exact same circles.

Yellow X marks the proposed courts.

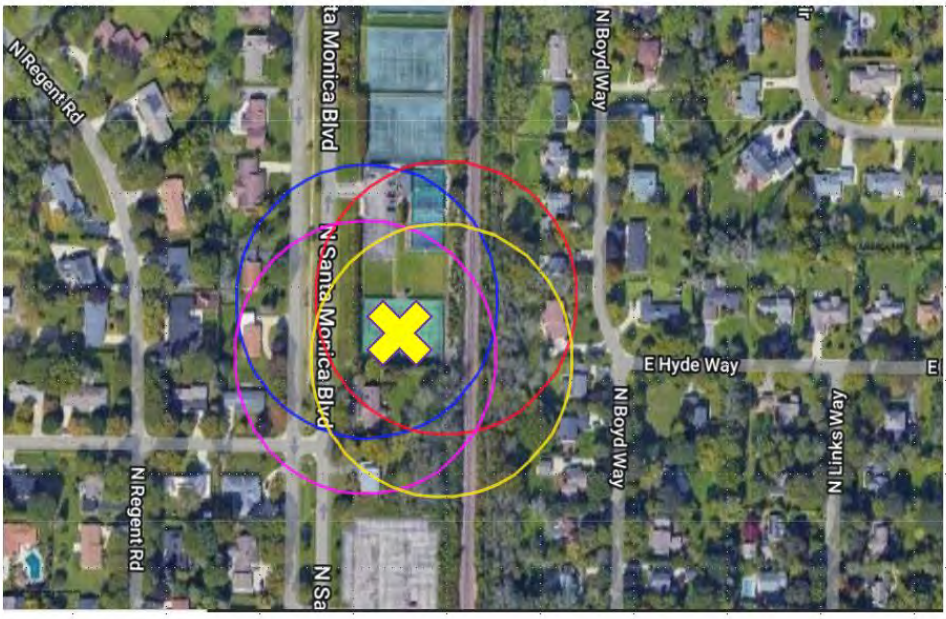


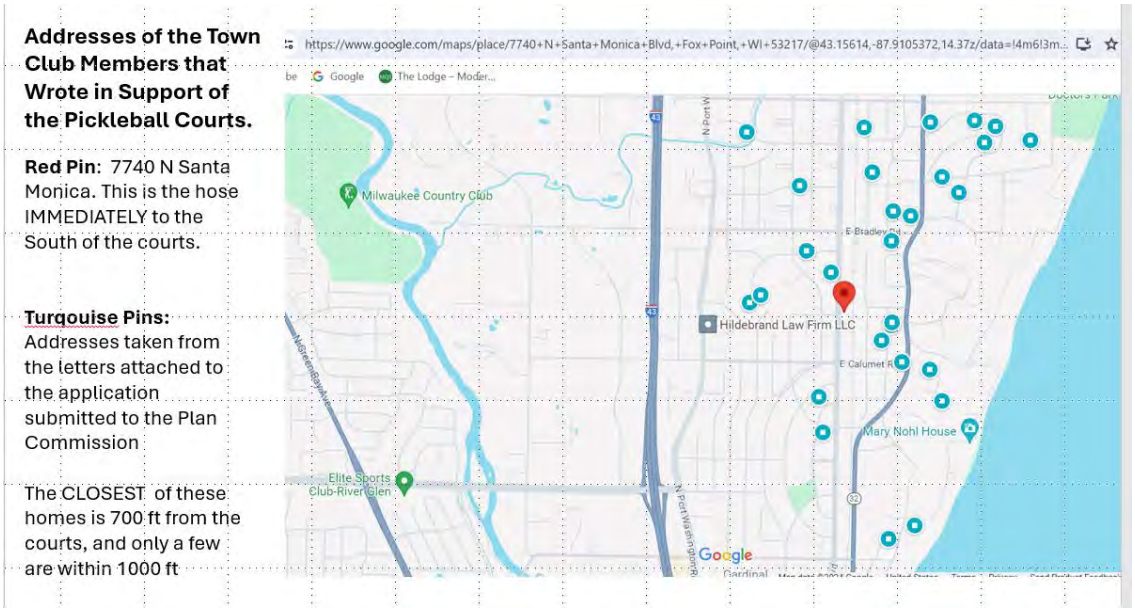
Exhibit C

TC Letters of Support: None From Members within 500 ft of Courts

In Exhibit 4 of the most recent submission the plan commission, the Town Club included letters from 59 signatories indicating their support.

I created a map showing these addresses in relation to the courts. Note that I was not able to pin the exact location of the courts as they do not have an address, so I pinned the house that is immediately to the south of the courts (within 20 ft),

NONE of these supporters live within 500 ft of the courts. The closest home is 7901 N Santa Monica with is 700 ft away



It's very easy to say that the noise will not be a nuisance when it doesn't affect you.

Some of the comments also mentioned, and I paraphrase for summary purposes:

- **"The courts are across the street from most of the houses**". This ignores the fact that there are houses next to and behind the courts, and that sound travels.
- **"The railroad is noisier".** No, no it's not. The train comes through at a rumble at most 2-3 times a day. It is loud, but it is not a high pitched sound and it passes within 5 minutes. So at most, if I'm home 24 hrs a day I would hear the train for about 15 minutes. Pickleball will be for hours and hours a day, every day. They cannot be compared.
- **"They bought their houses knowing the courts were there".** Yes, that is true. No one is complaining about tennis. The sounds of tennis are significantly quieter and at a less irritating frequency. Tennis has a lower density of people and the ball strikes are not as frequent. You cannot compare 4 tennis courts to 8 pickleball courts. See Exhibit J for a current lawsuit regarding the conversion of tennis courts.

Exhibit D

Information Presented at NOISE-CON 2023

One of the topics at NOISE-CON 2023 was: Pickleball Sound 103 - Mitigating Pickleball Sound - Is Pickleball Compatible with Residential Environments?

I am attaching a copy of the 11 page report. (Note that the handwritten notes on the document are NOT from me – they were on the copy of the report I downloaded)

Here is the conclusion on this report:

> Conclusions:
>
> Tests show that a pickleball impact is 4 times louder than a tennis impact and has more frequency content. This makes pickleball play on tennis courts a potential noise problem for nearby homes. Noise ordinances do not properly quantify the sound from pickleball impacts and often understate the level of this impact .....
>
> ... In general, pickleball courts less than 100 ft from a home will require extreme sound mitigation measures to be compatible with a residental environment. Pickleball courts more than 100 ft from a home will require one or more sound mitigation measures to not be considered a nuisance. At 1000 ft or more from a home, pickleball courts will not require any sound mitigation.

Exhibit E:

City of Libertyville IL Paul Neal Park Pickleball Courts

In 2023 the City of Libertyville added 4 courts in Paul Neal Park. Neighbors as far as 4 blocks away have complained about the noise. As of August 2023 the city is looking for solutions.

https://patch.com/illinois/libertyville/pickle-ball-noise-causes-headaches-neighbors-libertyville

https://www.msn.com/en-us/tv/news/neighbors-blast-new-pickleball-courts-for-making-such-a-racket/ar-AA1d42Rc

A map shows far fewer homes and more green space than we have here. The pickleball courts are shown in blue on this map.

Exhibit F:

City of Centennial Colorado Bans Courts within 250 FT of Residences After Conducting Sound Study

In March 2023 the city council passed a six-month moratorium on new applications or approvals for outdoor pickleball courts within 500 feet of residential uses.

The Sound Study can be found here:
https://www.centennialco.gov/files/sharedassets/public/v/1/documents/city-projects-and-initiatives/centennial-pickleball-noise-assessment.pdf

In September 2023 the ban was lifted with the introduction of new rules and regulations that ban outdoor courts within 250 ft of residences, and require a noise impact assessment for any courts between 250-600 ft and limit hours.

https://www.centennialco.gov/Government/City-Projects-and-Initiatives/Pickleball

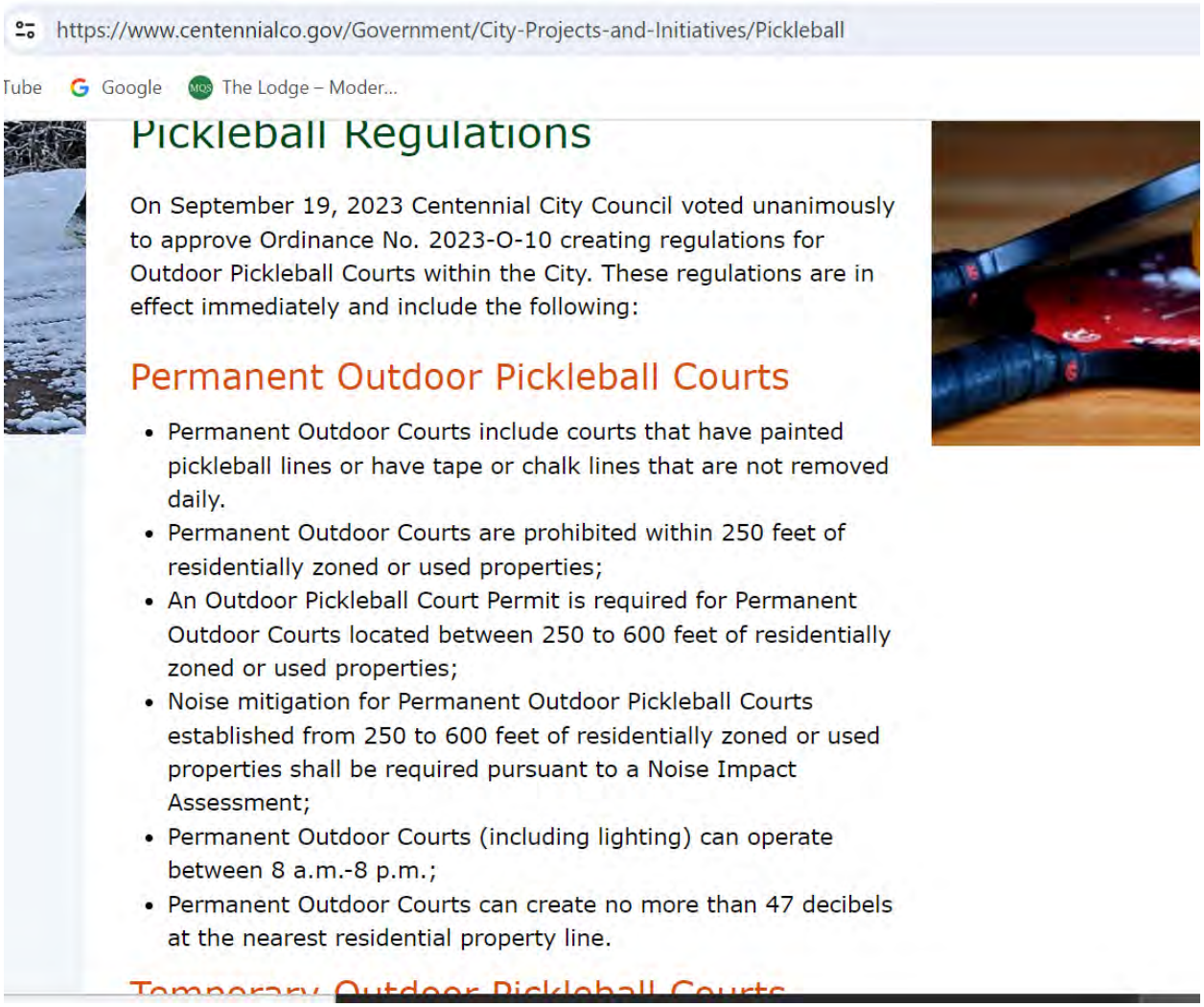


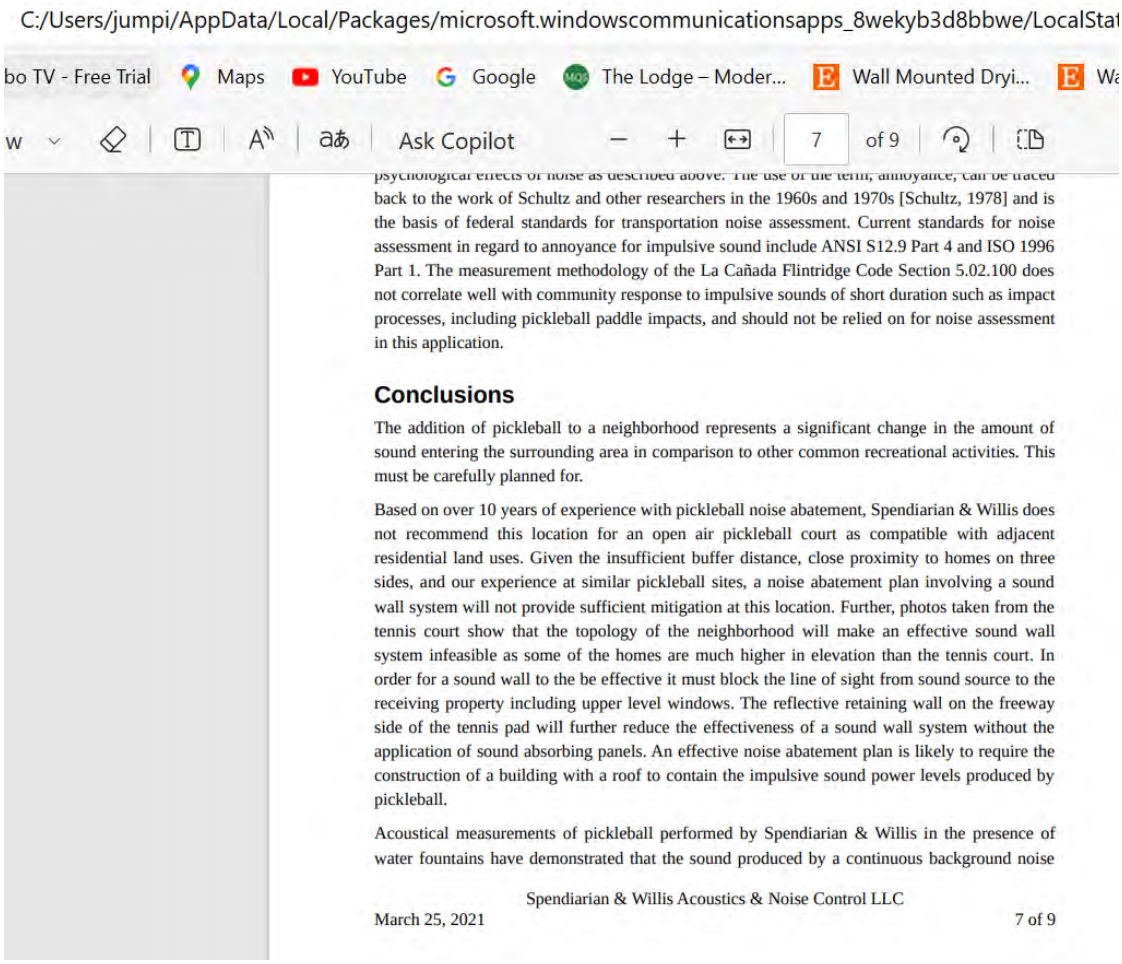
Exhibit G

GlenHaven Park, LaCanada CA: Pickleball Program Shut Down

After complaints from the neighbors and a sound study that showed that even with noise abatement measures the site was not suitable for pickleball, the program was discontinued.

A map of the park shows that there are several homes in close proximity (similar to The Town Club). There is only 1 tennis court, so at most they had 2 pickleball courts. This site is also abutting the San Fernando freeway.

The full sound study conducted in March 2021 sound study by Spendiarian and Willis Acoustics and Noise Control is attached and led to the following conclusions: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psychological effects of noise as described above. The use of the term, annoyance, can be traced back to the work of Schultz and other researchers in the 1960s and 1970s [Schultz, 1978] and is the basis of federal standards for transportation noise assessment. Current standards for noise assessment in regard to annoyance for impulsive sound include ANSI S12.9 Part 4 and ISO 1996 Part 1. The measurement methodology of the La Cañada Flintridge Code Section 5.02.100 does not correlate well with community response to impulsive sounds of short duration such as impact processes, including pickleball paddle impacts, and should not be relied on for noise assessment in this application.

Conclusions

The addition of pickleball to a neighborhood represents a significant change in the amount of sound entering the surrounding area in comparison to other common recreational activities. This must be carefully planned for.

Based on over 10 years of experience with pickleball noise abatement, Spendiarian & Willis does not recommend this location for an open air pickleball court as compatible with adjacent residential land uses. Given the insufficient buffer distance, close proximity to homes on three sides, and our experience at similar pickleball sites, a noise abatement plan involving a sound wall system will not provide sufficient mitigation at this location. Further, photos taken from the tennis court show that the topology of the neighborhood will make an effective sound wall system infeasible as some of the homes are much higher in elevation than the tennis court. In order for a sound wall to the be effective it must block the line of sight from sound source to the receiving property including upper level windows. The reflective retaining wall on the freeway side of the tennis pad will further reduce the effectiveness of a sound wall system without the application of sound absorbing panels. An effective noise abatement plan is likely to require the construction of a building with a roof to contain the impulsive sound power levels produced by pickleball.

Acoustical measurements of pickleball performed by Spendiarian & Willis in the presence of water fountains have demonstrated that the sound produced by a continuous background noise

Spendiarian & Willis Acoustics & Noise Control LLC

March 25, 2021 7 of 9

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TV - Free Trial | Maps | YouTube | Google | The Lodge – Moder... | Wall Mounted Dryi... | Wall

Ask Copilot | 8 of 9

source must be at a very high level in order to mask the peak sound pressures produced by the impact between a pickleball and paddle. This may be on the order of 65 dBA background noise level for pickleball courts located 200 feet away. For the homes surrounding the Park, the background noise level would need to be considerably higher since they are much closer than this. Freeway noise levels this high would normally trigger a noise assessment and possible requirements to install mitigation along the roadway. It should therefore not be assumed that the road noise from the freeway will act as a masker for the pickleball courts.

The use of foam balls will reduce the need for noise abatement; however, given the residential properties within 75 feet, and in particular 1904 Parkdale Place which is approximately 25 feet from the tennis court pad, sound abatement will be needed. Unfortunately, this site is not conducive to using a sound wall system for the reasons stated above.

In summary, Spendiarian & Willis does not recommend conversion of the tennis court at Glenhaven Park to open air pickleball courts due to the difficulties in creating an effective noise abatement plan for this site. In practice, it has been our observation that enforcement of the use of specific equipment such as foam balls is difficult to ensure. Pickleball clubs that have employed this policy have found it a challenge to maintain over time and the foam balls are eventually replaced by regulation equipment. Without a clear plan for monitoring the pickleball courts the amount of sound produced on the site is likely to increase over time.

regards,

R. Lance Willis, PhD
Principle Acoustical Engineer

References

In an October 2022 city council meeting, the topic was discussed and the program at the park ended https://lacanadaflintridge-ca.granicus.com/MetaViewer.php?view_id=4&clip_id=1076&meta_id=36574

Pickleball Program At Glenhaven
October 18, 2022
Page 2 of 3

Complaints/Comments from the Community

The pickleball program proved very popular among the community of pickleball players. The LCF Pickleball Association and resident pickleball players have voiced their support to continue the pilot until the permanent courts are built.

The City has continued to receive multiple complaints from the neighbors near/immediately adjacent to the courts throughout the pilot program and the current pickleball program. Similar to the objections presented when the initial pilot discussions occurred, the major complaint is the noise level due to the introduction of pickleball in the area. The City has also received a complaint regarding increased parking due to the activity. Finally, a complaint has been submitted that some players are not using "quiet" gear during their play. As previously stated, the City would not be able to enforce such rules without having a City staff person present to enforce the gear being used. Based on the sound study, it is also important to note that the noise level did not exceed most of the audio receptors, regardless of the gear used.

Based on the professional sound study, receptor NM3 exceeded the ambient noise levels by 3 dB or more during all measured pickleball hours.

https://cityoflcf.org/pickleball-program-at-glenhaven-park-to-end-october-28/

Exhibit H

GreenBriar Hills Country Club, Kirkwood MO

Before the courts were built, the neighbors asserted that the sound would be a problem. The city granted permission to build the courts under the caveat that a sound study was to be conducted before use. The study was performed Oct 2023 and the courts are closed as the noise exceeds the noise ordinance.

https://www.timesnewspapers.com/webster-kirkwoodtimes/greenbriar-hills-pickleball-courts-fail-sound-test/article_b75ed300-6e80-11ee-ad60-e718bb1dd805.html

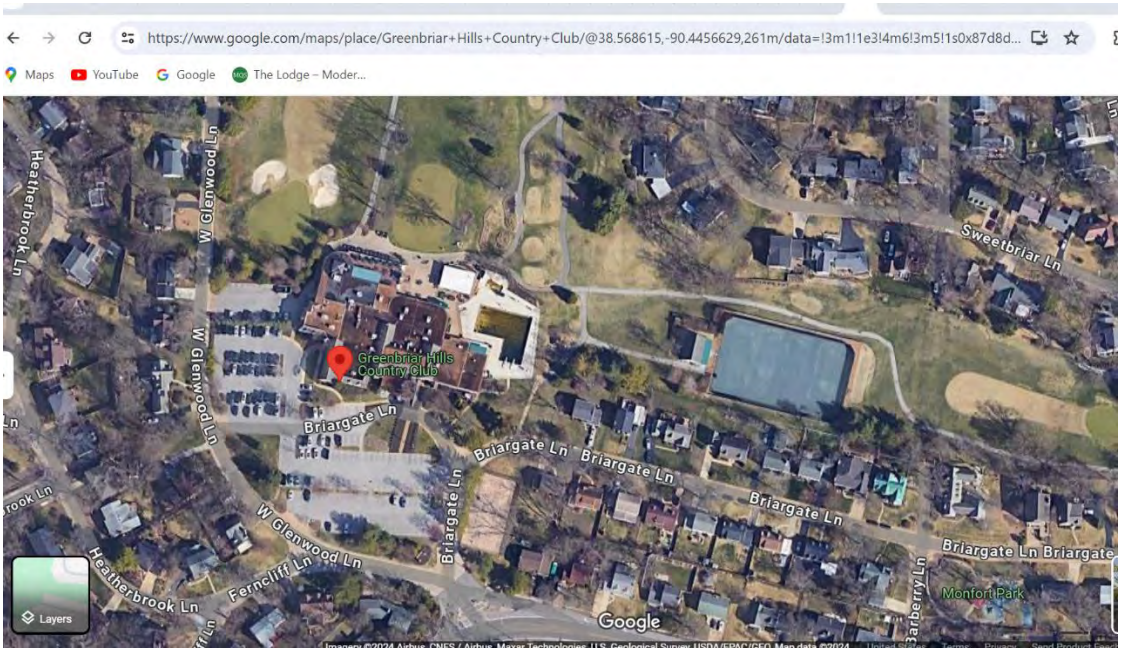


Exhibit I

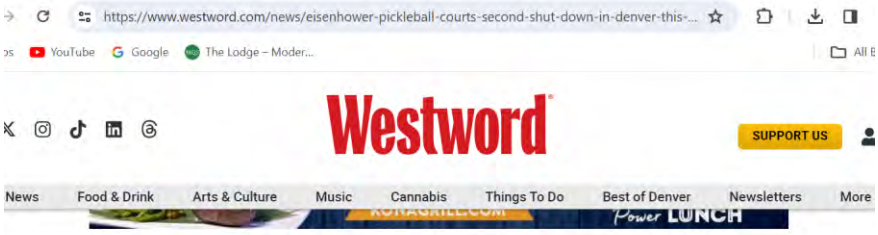
Eisenhower Park, Denver CO

Four courts at this Denver park were permanently closed in Nov 2023 and will be repainted back to tennis courts.

In the articles below, you will see that the city learned that:

- Courts should be at least 600 ft from homes.
- Fence mounted noise abatement is not likely to be successful at very close proximities
- Fence mounted noise abatement would not be successful because the fences are not high enough to block sound from nearby two-story homes

https://www.westword.com/news/eisenhower-pickleball-courts-second-shut-down-in-denver-this-year-18129976



He also told those gathered at Eisenhower that the parks department knows it didn't initially do the right thing when it came to pickleball; it didn't anticipate how the sport would grow or how intense game play would become, he said.

"We made mistakes because we built courts that were too close to people's homes," Gilmore admitted. "We're trying to now take the steps to make sure that we don't do that anymore and we build courts in the right place."

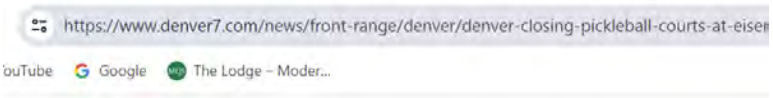
The city is now looking at courts at least 500 feet away from homes and in locations not occupied by tennis courts, according to Gilmore, who calls it progress.

https://www.cbsnews.com/colorado/news/pickleball-courts-eisenhower-park-denver-close-noise-violations/

For those interested in further information on sound mitigation considered at the Eisenhower Park location, here are some of the research and investigation findings:

- Based on guidance from DDPHE and sound engineering studies, DPR recommends that pickleball court sites be at least 600 feet away from residential properties. The homes to the north of the Eisenhower pickleball courts are roughly 195 feet from the courts, while the homes to the south are 175 feet away.
- Fence-mounted sound mitigation, such as baffling or heavy screening, is highly unlikely to be successful at these close proximities.
- In this particular location, sound mitigation would be required on all

https://www.denver7.com/news/front-range/denver/denver-closing-pickleball-courts-at-eisenhower-park-amid-noise-complaints



As it turns out, there may be ways to "turn pickleball down," so to speak, in the coming years. Denver7 looked into three of the potential solutions most often suggested to facilitate continued growth of pickleball, and how they apply at Eisenhower Park.

The first is the installation of noise mitigation treatments along the fencing of pickleball courts. Gilmore said this has been discussed by the city, but wasn't considered a viable option at Eisenhower because the fencing isn't tall enough to block the sound from two-story houses adjacent to the park. Even if taller fences were built, he said, the department isn't sure if the noise-mitigation treatments would reduce noise enough to make them worth the money.

Another possible solution coming down the pipe are new paddles and balls, designed to make less noise.

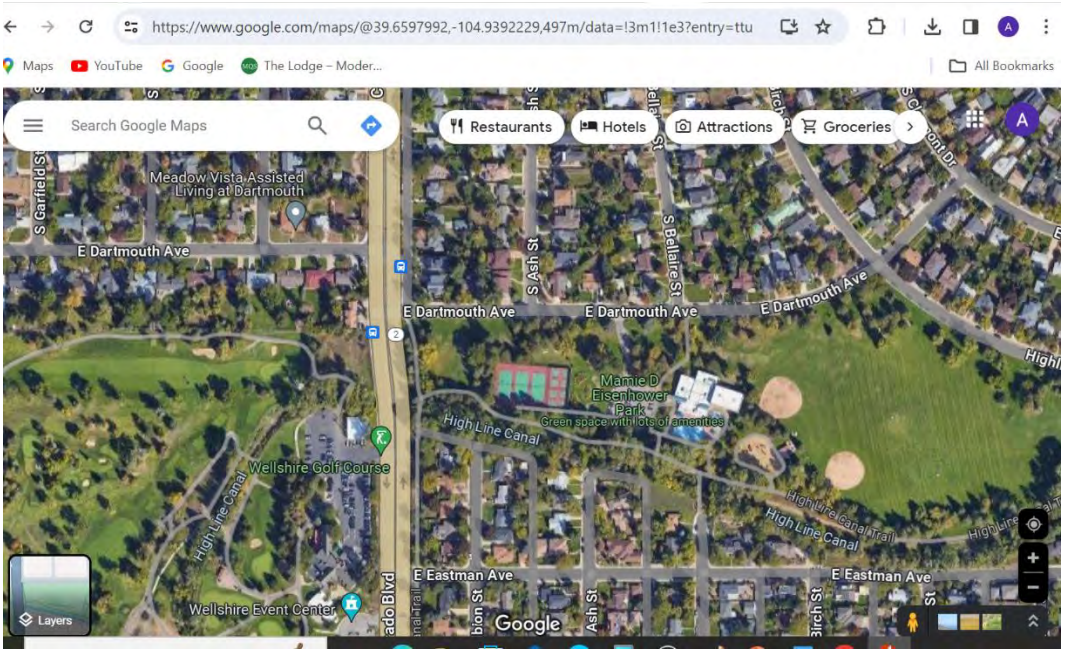


Exhibit J

Barbera vs City of Newport RI

When Dr. Barbera purchased her home in 2012, the adjacent courts in the city park were used for tennis only. There were no noise issues until the courts were converted to and became popular for pickleball.

This Feb 2024 lawsuit filed in RI complains that the close proximity and the excessive noise is clear and continuous nuisance which necessitates injuctive relief. The noise emanating from the pickleball courts, both from the play of the game and from the vocalizations of the steady flow of participants, has completely hindered Plaintiff's use and enjoyment of their residence.

PDF of the filing is attached.

COMPLAINT

INTRODUCTION

This action arises out of the City of Newport's decision to install, maintain, and continue to operate and allow unreasonable daily, year-round use of pickleball courts at Hunter Park in Newport, which directly abut the property of the Plaintiffs. As detailed herein, the close proximity of these courts to the Plaintiffs' residence and the excessive noise generated therefrom is a clear and continuous nuisance which necessitates injunctive relief and the other relief prayed for herein. The noise emanating from the pickleball courts, both from the play of the game and also from the vocalizations of the steady flow of participants, has completely hindered Plaintiffs' use and enjoyment their residence, where Dr. Barbera also has been severely negatively impacted in her ability to conduct virtual meetings and other business from her home. Despite being made aware that the noise generated by these courts is clearly and consistently in excess of the City's Noise Abatement Ordinance, Chapter 8.12, and despite the City's representatives and staff expressly recognizing and documenting the noise issues caused by the courts, the City has failed to appropriately remedy and abate such nuisance and has unlawfully permitted courts that

14. The constant shouting from the pickleball players, a very social activity, can be heard throughout the day in all rooms of the Residence, regardless of whether the windows are open or closed.

15. In addition to the noise created by the additional players, the surface of a pickleball paddle is harder than that of a tennis racket, and the ball that is used is hard plastic, resulting in a constant piercing and disturbing popping sound, as the balls are struck by paddles, which can be heard in every room of the Residence, at all times of the day.

16. The noise has prevented Plaintiffs from reading in peace, having conversations with guests, resting during the day, sitting or walking in their gardens, having holiday or social daytime gatherings, and performing professional work in the home such as phone calls and video conferences.

17. In addition to the disruptions, the popping sounds, which are close to the most sensitive audible frequency range of human hearing, have caused stress, fatigue, anxiety, impairment of concentration, headaches, mental distress and loss of sleep.

18. From the time the Courts were converted from tennis-only courts to pickleball courts, Plaintiffs have been constructively evicted from their Residence.

Note that the residence is also close to a freeway, but that is not a sound issue – the pickleball is.

Sara Bruckman

From: Amy Barth <jumpingpoo@hotmail.com>
Sent: Tuesday, April 2, 2024 10:36 PM
To: Christine Symchych; Catie Anderson; Eric Fonstad; Jennie Stoltz; Elizabeth Aelion; Greg Ollman; Elizabeth Sumner; Scott Botcher
Subject: Town Club - Information in Support of a Denial (Replaces the email I sent yesterday)
Attachments: Complaint -Barbera v City of Newport RI.pdf; Glenhaven Park Noise Impact Study-Spendiarian-Willis Acoustics.pdf; Noise Con 103.pdf; pickleball letter to board Apr 2 (replaces Apr 1).docx

Hello Scott and members of the board,

I reread the email that I sent yesterday, and had a few edits to make.
Can you please disregard the email that I sent yesterday (April fools!) and replace it with this one in your records?

I have re-attached all of the PDFs here.

Thank you

Sent from Mail for Windows

2024-6

Ans Due
3/11/24

STATE OF RHODE ISLAND JUDICIARY

SUPERIOR COURT

SUMMONS

	Civil Action File Number NC-2024-0056
Plaintiff Mona Barbera et al. v. City of Newport et al. **Defendant**	**Attorney for the Plaintiff or the Plaintiff** Michael Louis Mineau **Address of the Plaintiff's Attorney or the Plaintiff** Partridge Snow & Hahn LLP 40 Westminster Street Suite 1100 PROVIDENCE RI 02903
Murray Judicial Complex Newport County 45 Washington Square Newport RI 02840 (401) 841-8330	**Address of the Defendant** No Known Address

TO THE DEFENDANT, Laura Sitrin:

The above-named Plaintiff has brought an action against you in said Superior Court in the county indicated above. You are hereby summoned and required to serve upon the Plaintiff's attorney, whose address is listed above, an answer to the complaint which is herewith served upon you within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Your answer must also be filed with the court.

As provided in Rule 13(a) of the Superior Court Rules of Civil Procedure, unless the relief demanded in the complaint is for damage arising out of your ownership, maintenance, operation, or control of a motor vehicle, or unless otherwise provided in Rule 13(a), your answer must state as a counterclaim any related claim which you may have against the Plaintiff, or you will thereafter be barred from making such claim in any other action.

This Summons was generated on 2/16/2024.	/s/ John Graziano Clerk

Witness the seal/watermark of the Superior Court

A true copy attest
Robert J. [illegible] 6070
Date 2/20/24

SC-CMS-1 (revised November 2022)

STATE OF RHODE ISLAND JUDICIARY

SUPERIOR COURT

Upon a private corporation, domestic or foreign:

☐ By delivering said papers to an officer or a managing or general agent.
Name of person and designation _____

☐ By leaving said papers at the office of the corporation with a person employed therein.
Name of person and designation _____

☐ By delivering said papers to an agent authorized by appointment or by law to receive service of process.
Name of authorized agent _____
If the agent is one designated by statute to receive service, further notice as required by statute was given as noted below.

_____

☐ I was unable to make service after the following reasonable attempts: _____

_____

SERVICE DATE: ____/____/____ (Month Day Year) | SERVICE FEE $_____

Signature of SHERIFF or DEPUTY SHERIFF or CONSTABLE

SIGNATURE OF PERSON OTHER THAN A SHERIFF or DEPUTY SHERIFF or CONSTABLE MUST BE NOTARIZED.

_____
Signature

State of _____
County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ ☐ personally known to the notary or ☐ proved to the notary through satisfactory evidence of identification, which was _____, to be the person who signed above in my presence, and who swore or affirmed to the notary that the contents of the document are truthful to the best of his or her knowledge.

Notary Public: _____
My commission expires: _____
Notary identification number: _____

STATE OF RHODE ISLAND

NEWPORT, SC. SUPERIOR COURT

MONA R. BARBERA;
and WARREN GARNER,

Plaintiffs,

v.

CITY OF NEWPORT; and LAURA SITRIN, in her official capacity as Finance Director of the City of Newport,

Defendants.

C.A. No.

COMPLAINT

INTRODUCTION

This action arises out of the City of Newport's decision to install, maintain, and continue to operate and allow unreasonable daily, year-round use of pickleball courts at Hunter Park in Newport, which directly abut the property of the Plaintiffs. As detailed herein, the close proximity of these courts to the Plaintiffs' residence and the excessive noise generated therefrom is a clear and continuous nuisance which necessitates injunctive relief and the other relief prayed for herein. The noise emanating from the pickleball courts, both from the play of the game and also from the vocalizations of the steady flow of participants, has completely hindered Plaintiffs' use and enjoyment their residence, where Dr. Barbera also has been severely negatively impacted in her ability to conduct virtual meetings and other business from her home. Despite being made aware that the noise generated by these courts is clearly and consistently in excess of the City's Noise Abatement Ordinance, Chapter 8.12, and despite the City's representatives and staff expressly recognizing and documenting the noise issues caused by the courts, the City has failed to appropriately remedy and abate such nuisance and has unlawfully permitted courts that

were originally designed and intended for tennis to be used for pickleball matches, in this case as close as eleven (11) feet from the Plaintiff's property.

Plaintiffs seek certain declaratory and injunctive relief to regain the use and enjoyment of their residence, to preliminarily and permanently abate this nuisance through an injunction ordering closure of these courts to pickleball play, and to protect the drastically diminishing value of the Plaintiffs' property, as well as damages.

PARTIES

1. Plaintiffs, Mona R. Barbera, Ph.D. ("Dr. Barbera"), and Warren Garner (Mr. Garner") are individuals and residents of Newport, Rhode Island.

2. Defendant, City of Newport (the "City"), is a municipality of the State of Rhode Island.

3. Defendant, Laura Sitrin, is the Finance Director of the City and is being sued in that capacity.

History of the Courts

4. Dr. Barbera and Mr. Garner's home is located at the address of 10 Dyers Gate, Assessor's Plat 9, Lot 303 (the "Residence"). The Residence is part of a residential neighborhood (the "Neighborhood") adjacent to Dyers Date in Newport, which abuts Hunter Park.

5. Dr. Barbera and Mr. Garner purchased and began occupying the Residence on or about March 21, 2012.

6. The Residence directly abuts Hunter Park and is located extremely close to the courts at issue (the "Courts"). Specifically, the nearest portion of the fence on the

Barbera/Garner property is located only eleven (11) feet from the Courts, and the home is located only thirty-two (32) feet from the Courts.

7. At the time Plaintiffs purchased the Residence, and for many years thereafter, the Courts were used solely for tennis. On a typical day, the Courts would be typically used by, at most, eight (8) tennis players, if the courts were used for double play, or four (4) tennis players, if they were being used for singles play.

8. In or around 2016, the entire tennis court area was reconfigured by the City, reducing the number of tennis courts to one (1) and installing three (3) dedicated pickleball courts and painted lines for two (2) additional courts which can be used for pickleball with temporary nets.[1]

9. The popularity of Pickleball grew dramatically during the Covid-19 pandemic, and now the Courts are used nearly entirely for pickleball matches.

Injury to Plaintiffs

10. While to one unfamiliar with the sport of pickleball, the change in use and reconfiguration of the Courts may seem minor; the unfortunate reality is that the introduction of pickleball to the Courts, given the proximity to the Residence, has created an untenable and unbearable condition which negatively impacts the Plaintiffs on an almost daily basis throughout the entire year in a myriad of ways.

11. Contrary to the sport of tennis, the sport of pickleball is almost always played with four (4) players, often resulting in twenty (20) people on the Courts when the Courts are being fully used, not including the additional players crowding the sidelines waiting to play.

[1] Pickleball is an indoor or outdoor game that is played on a level court with short-handled, often hollow, paddle and a perforated plastic ball volleyed over a low net by two players or pairs of players.

12. Upon information and belief, the Courts are the only dedicated outdoor pickleball courts of their kind on Aquidneck Island and in the surrounding region. Therefore, players have, for years, been travelling from all over New England and beyond to play at these Courts.

13. Upon information and belief, a large majority of the pickleball players who have been regularly utilizing the Courts are not even residents of the City of Newport.

14. The constant shouting from the pickleball players, a very social activity, can be heard throughout the day in all rooms of the Residence, regardless of whether the windows are open or closed.

15. In addition to the noise created by the additional players, the surface of a pickleball paddle is harder than that of a tennis racket, and the ball that is used is hard plastic, resulting in a constant piercing and disturbing popping sound, as the balls are struck by paddles, which can be heard in every room of the Residence, at all times of the day.

16. The noise has prevented Plaintiffs from reading in peace, having conversations with guests, resting during the day, sitting or walking in their gardens, having holiday or social daytime gatherings, and performing professional work in the home such as phone calls and video conferences.

17. In addition to the disruptions, the popping sounds, which are close to the most sensitive audible frequency range of human hearing, have caused stress, fatigue, anxiety, impairment of concentration, headaches, mental distress and loss of sleep.

18. From the time the Courts were converted from tennis-only courts to pickleball courts, Plaintiffs have been constructively evicted from their Residence.

19. Plaintiffs are not the only members of the Neighborhood who have been impacted by this impermissible behavior.

20. The issue of excessive pickleball noise has plagued residential areas throughout the country and has been covered extensively in national media; one of many examples, is the case recently publicized in nearby Falmouth, Massachusetts, in which an injunction was issued closing the pickleball courts.

21. Moreover, a review of national media and published articles shows that pickleball popularity is a national phenomenon, and that many communities struggle to solve noise and other challenges associated with pickleball matches.

22. Although the Newport City Council amended the City of Newport Codified Ordinance, Chapter 12.32.061, to restrict the hours of pickleball play at Hunter and Vernon Parks from 8:30AM to 7:00PM and Sunday from 10:00AM to 6:00PM, the use of commercial equipment to be used on the Courts (i.e., leaf blowers, shovels, etc.), and the marking of temporary lines without the written permission of the City's Recreation Administrator, these amendments have not reduced the amount of noise and, in fact, the amount of excessive noise has continued to increase with the growth of the sport since these amendments were approved. Further, the City has not adequately and consistently enforced these restrictions.

The Noise Abatement Ordinance and the Noise Evaluation Report

23. Plaintiffs, at great personal expense, commissioned a noise evaluation report (the "Noise Evaluation Report") from an acoustical engineer, Lawrence G. Copley, P.E., Ph.D. (Dr. Copley). Dr. Copley's firm is L.G. Copley Associates, and Dr. Copley is a member of the Institute of Noise Control Engineering. A copy of the Noise Evaluation Report is attached hereto as **Exhibit 1**.

24. The City's existing Noise Abatement Ordinance, Chapter 8.12 of the Newport City Code (the "City's Noise Ordinance"), cites allowable decibel levels.

25. As concluded by Dr. Copley after thoroughly and objectively studying the noise impacts from the Courts, the regular noise emanating from the Courts as a result of the Courts being utilized for pickleball are a clear and continuing violation of the City's Noise Ordinance.

26. Dr. Copley cites to multiple sections of the City's Noise Ordinance and opines, in pertinent part:

City of Newport Chapter 8.12: Noise Abatement

Quoting from 8.12.010 (G)

> ***It is the declared policy of the city to promote an environment free from excessive, unreasonably loud, or disturbing noise, otherwise properly called noise pollution, which unreasonably jeopardizes the health and welfare of the public, violates and disturbs the well-being, tranquility and privacy of the home, or otherwise degrades the quality of the lives of the residents of this community***

It is apparent from the foregoing investigation that the pickleball activity is violating this City policy with respect to the residence at #10 Dyers Gate. Considering the similar proximity of the other residences in this neighborhood, it is reasonable to conclude that they also are exposed to pickleball noise in violation of the City noise policy.

It is noted that 8.12.040. *Definitions* lists many of the terms used in this report, with the same meaning, including "dBA", "impulsive sound", and "ambient sound level". This section also contains

> ***"Physical characteristics of sound" means the steady, impulsive or narrow band property of a sound, the level of the sound and the extent to which it exceeds the background sound level.***

This report has demonstrated the impulsive and narrow band characteristics of pickleball bat sound, and also the extent to which these impact sounds exceed the background ambient sound level.

Section 8.12.080. *Maximum permissible sound levels by receiving land use.* This section defines the maximum allowable sound level received by residential uses as 65 dBA. Moreover, in 8.12.080 (C),

> ***For any source of sound which emits narrow band sound, the maximum sound level limits set forth hereinabove shall be reduced by five dBA.***

Thus, according to the Noise Abatement chapter, the maximum allowable level for pickleball bat sound is 60 dBA. The patio measurements show sound levels in the range 70-80 dBA, which is a clear violation.

27. In addition to his analyses and conclusions on the noise impacts of the pickleball Courts, Dr. Copley also detailed the shortcomings and inadequacy of any potential mitigation options, confirming that relocation of these Courts is the only solution which will adequately abate this nuisance and the continuing harms being suffered by Plaintiffs.

Attempts to Resolve the Issue Amicably

28. Dr. Barbera and Mr. Garner have made numerous attempts to resolve these issues amicably.

29. Notably, Dr. Barbera met with the City Manager at the time, Joseph Nicholson Jr.; the Director of Public Services, William Riccio, Jr.; the Recreation Administrator, Erik Reis; and a representative of the Finance Department to discuss the above issues and to present them with a copy of the Noise Evaluation Report.

30. On July 17, 2023, Plaintiff's counsel issued a letter (the "July 17, 2023 Letter") to the Mayor of the City of Newport, Xaykham Khamsyvoravong (the "Mayor"), detailing the above issues. The letter also enclosed the Noise Evaluation Report. A copy of the July 17, 2023 Letter is attached hereto as **Exhibit 2**.

31. Then, on August 3, 2023, Plaintiff's counsel sent a similar letter (the "August 3, 2023 Letter") to the Newport City Council (the "City Council") to be distributed to the members of the City Council and to be placed on an agenda for an upcoming City Council meeting.

32. During the August 23, 2023 City Council meeting, Plaintiffs and Plaintiff's counsel presented the August 3, 2023 Letter.

33. After the August 23, 2023 City Council Meeting, Plaintiff and Plaintiff's counsel became aware of a memorandum prepared by the City's Director of Public Services,

William R. Riccio, Jr., PE, issued to the City's Interim City Manager, Laura Sitrin (the "Memorandum"). The Memorandum was dated August 21, 2023 and acknowledged that "[d]ue to the social interactions of [pickleball] in addition to the equipment used, noise levels during play time regularly exceed established noise ordinances," and that "[t]his matter is particularly evident at Hunter Park where residents lie in close proximity to courts, and included both short-term and long-term recommendations "to address the noise issues related to pickleball play." A copy of the Memorandum is attached hereto as **Exhibit 3**.

34. The Memorandum recommended the following short-term solutions:

> Beginning October 1, 2023, the Department of Public Services recommends returning the Hunter and Vernon Tennis/Pickleball Courts to "tennis only" facilities. The Hunter and Vernon courts received RJDEM recreation grants to assist in their creation; in order to not forfeit grant monies back to RIDEM, the city has proposed (and RIDEM has approved) returning the two courts to tennis only facilities so a recreational amenity is not lost. The estimated cost to return the two court to tennis only facilities would cost approximately $25,000, which includes removing pickleball posts, patching asphalt, installing tennis posts and repainting the courts with tennis only line.
>
> The Department of Public Services recommends an amendment to the City of Newport Codified Ordinance, Chapter 12.32.061, Public Tennis courts and Running Tracks – Regulations to include a restriction of pickleball play at any city owned property within 750 feet of any residence within the City. The industry standard suggests that pickleball courts located within 500-600 feet from residential properties and sensitive areas be reviewed by an acoustical engineer during the site selection phase in order to avoid choosing a site that is expensive to mitigate, results in unexpected limitations on court use or leads to ongoing disputes with neighbors – all to which we are currently dealing with on a daily basis.
>
> To accommodate play, the Department of Public Services recommends extending the use of the Martin Recreation Center gymnasium for pickleball programs as a temporary solution. . . .

35. A copy of the ordinance amendment referenced in the Memorandum (the "Ordinance Amendment") is attached hereto as **Exhibit 4**.

36. At the September 9, 2013 City Council Meeting, after Plaintiff and Plaintiff's counsel had continued to express their concerns outlined in the August 3, 2023 Letter,

the Council deferred a vote on the Ordinance Amendment and directed the Tree and Open Space Commission (the "Commission") to review, research, and recommend actions regarding the Ordinance Amendment.

37. The Commission subsequently issued a letter on October 27, 2023, attaching the Commission's report entitled Pickleball in Newport's Parks and Open Spaces (the "Commission's Report") which acknowledged the daily injurious and obnoxious noise levels caused by the pickleball play at the Courts:

> Over the years, pickleball has experienced an extraordinary growth in popularity, both nationally and locally. It has become part of some school sports programs, is offered indoors through the City of Newport Recreation Department and is expected to grow in popularity due to the wide range of players it attracts.
>
> The current locations for pickleball play are not adapted to this growth in demand and use, nor to serving as centers of regional pickle ball play. Occasional play by local residents has been replaced with constant play by people from throughout Newport County and beyond. Courts are often continuously active during all allowed pickleball play times. Parking on neighborhood streets can become congested. Socialization surrounding the courts can involve many people waiting in clusters near homes. Absence of restrooms results in what one player said is "using the bushes-men over here, women over there."

38. A copy of the Commission's Report is attached hereto as **Exhibit 5**.

39. However, despite noting that based on the experiences of other municipalities and the opinions of sound engineers, pickleball-related noise at the Hunter Park location cannot be adequately mitigated unless the Courts are located a substantial distance—at least 500-600 feet—away from abutters, and even then, will likely require acoustic walls; noting that the City has expressed that it does not have the bandwidth to schedule, monitor, and enforce pickleball hours and court time, *the Commission merely recommended temporary changes to the rules regarding pickleball play while City staff evaluate pickleball play options*.

40. The Commission's recommendations, and the failure of the City to appropriately mitigate the noise issues through relocation of the Courts, provided a grossly

inadequate response. Notably, under the recommended temporary changes to the rules regarding pickleball play, pickleball players could continue to play pickleball on holidays including Thanksgiving, Christmas, and Easter.

41. Despite Plaintiffs commissioning the Noise Evaluation Report and communicating their concerns to City representatives, there has been no progress to date in alleviating the daily nuisances cause by the Courts in Hunter Park.

42. After the City failed to act, the noise from the Courts, and improper use of the Courts, has continued unabated and, if anything, has increased.

43. Accordingly, the Plaintiffs have suffered and continue to suffer irreparable harm.

COUNT 1
(Declaratory Judgment)

44. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

45. The actions of the City and the pickleball players that are being allowed to play pickleball on the Courts, have and will continue to cause both a private nuisance and a public nuisance based upon factors including, but not limited to, loud, disturbing, excessive and unreasonable noise which can be heard year-round and at all times of the day.

46. Plaintiffs are aggrieved parties who have suffered, and will continue to suffer, injury in fact, including, but not limited to, diminution in value of their property, violation of their property rights, violation to their right to quiet enjoyment of their property, loss of profit from Dr. Barbera's business, and mental distress, including stress, fatigue, anxiety, impairment of concentration, headaches, and loss of sleep.

47. Plaintiffs have suffered, and continue to suffer, injury greater than the injury suffered by the general public as a result of this nuisance, given Plaintiffs' proximity to the causes of the nuisance.

48. The City has actual knowledge that the actions of the individuals playing pickleball, and the related noise caused by the games, has caused a nuisance to residents of the Neighborhood and, in particular, Plaintiffs.

49. The City has consented to and permitted pickleball players to cause nuisance to the residents of the Neighborhood, including Plaintiffs, by opening and maintaining the Courts for play pickleball and refusing to take appropriate action remedy and abate this nuisance created and perpetuated by the City.

50. Plaintiffs are without an adequate remedy at law to stop this nuisance.

51. There exists a justiciable controversy, ripe for this Court's adjudication.

WHEREFORE, Plaintiffs respectfully pray that this Court enter judgment:

a. Declaring that the use of the Courts for pickleball matches constitutes a public nuisance;

b. Declaring that the use of the Courts for pickleball matches constitutes a private nuisance;

c. Ordering the City to immediately close the Courts for all pickleball activity;

d. Awarding Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

e. Granting any and all other such relief as this Court deems fair and just.

COUNT 2
(Injunctive Relief)

52. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

53. As a direct and proximate result of the City's repeated and unreasonable allowance of significant invasion of the Plaintiff's private use and enjoyment of the Residence through the allowance of individuals to use the Courts for pickleball, Plaintiffs will continue to sustain irreparable loss, damage, and injury, and such loss will increase each day that the City's acts and omissions continue.

54. Greater harm will result if the relief herein is not granted than would result if the relief is granted, because if the relief sought herein is granted, the parties will be restored to the status quo as it existed prior to the repurposing of the Courts for pickleball play by the City.

55. Plaintiffs have a reasonable likelihood of success on the merits for their claim of nuisance.

56. Plaintiffs are without an adequate remedy at law.

57. Plaintiffs are serving a copy of the Complaint and related pleadings on the City, further advising that Plaintiffs will be filing these pleadings with this Honorable Court and seeking a hearing thereon.

WHEREFORE, Plaintiffs respectfully pray that this Court:

a. Enter a Preliminary and Permanent Injunction restraining and enjoining the City from permitting the Courts to be used for pickleball activity;

b. Award Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

c. Grant any and all other such relief as this Court deems fair and just.

COUNT 3
(Private Nuisance)

58. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

59. Plaintiff did serve notice to the City in accordance with Rhode Island General Law 45-15-5.

60. Presentment letters have been mailed to the Mayor on July 17, 2023 and the City Council on August 3, 2023, both of whom are agents of the City.

61. In their presentment letters, Plaintiffs claimed a nuisance and disturbance to residents of the Neighborhood trying to peacefully enjoy their homes, including Plaintiffs, from the use of the Courts for pickleball play.

62. More than forty (40) days have passed since the presentment letter was mailed.

63. Despite being made aware that there exists past and continuing exceedances of the City's Noise Ordinance occurring on City owned and managed property, the City has taken insufficient action and has unreasonably permitted the Courts to continue to be used for pickleball play.

64. Allowing the use of the Courts for pickleball play has, and is, causing substantial and unreasonable interference with the use and enjoyment of Plaintiffs' Residence.

65. The City's maintenance and provision of the Courts for pickleball use the amounts to a private nuisance and is actionable under the laws of Rhode Island.

66. Plaintiffs are entitled to compensatory and punitive damages in amounts sufficient to establish the jurisdiction of this Court.

WHEREFORE, Plaintiffs respectfully pray that this Court:

a. Adjudge that the City has caused a private nuisance to persist, which has caused Plaintiffs damages;

b. Order the City to immediately close the Courts for all pickleball uses;

c. Award damages to Plaintiffs in an amount provable at trial;

d. Awarding Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

e. Granting any and all other such relief as this Court deems fair and just.

COUNT 4
(Public Nuisance)

67. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

68. Plaintiff did serve notice to the City pursuant to Rhode Island General Law 45-15-5.

69. Presentment letters have been mailed to the Mayor on July 17, 2023 and the City Council on August 3, 2023, both of whom are agents of the City.

70. In their presentment letters, Plaintiffs claimed a nuisance and disturbance to residents of the Neighborhood trying to peacefully enjoy their homes, including Plaintiffs, from the use of the Courts for pickleball play.

71. More than forty (40) days have passed since the presentment letter was mailed.

72. Despite being made aware that there exists a violation of the City's ordinances, the City has taken no appropriate remedial action and has unlawfully permitted the Courts to be used for pickleball use.

73. Allowing the use of the Courts for pickleball play constitutes a public nuisance, which has created unreasonable interference with the public's rights.

74. Plaintiffs have suffered, and continue to suffer, injury greater than the injuries suffered by the general public as a result of this public nuisance, given Plaintiffs' proximity to the causes of the nuisance.

WHEREFORE, Plaintiffs respectfully pray that this Court:

a. Adjudge that the City has caused a public nuisance to persist, which has caused Plaintiffs damages;

b. Order the City to immediately close the Courts for all pickleball uses;

c. Award damages to Plaintiffs in an amount provable at trial;

d. Award Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

e. Grant any and all other such relief as this Court deems fair and just.

COUNT 5
(Negligence)

75. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

76. The City has a duty to use, operate, and maintain its property in a manner so as to not cause damage and harm to neighboring properties, including Plaintiffs' Residence.

77. The City also has a duty to enforce its ordinances, including the City's Noise Ordinance.

78. The City has negligently and repeatedly failed use its property in a manner so as to not cause damage and harm to neighboring properties and has also negligently and repeatedly failed to enforce the City's Noise Ordinance.

79. As a result of the City's actions and omissions, Plaintiffs have suffered damages in amount sufficient to establish jurisdiction of this Court.

WHEREFORE, Plaintiffs respectfully pray that this Court:

a. Adjudge that the City negligently failed to use its property in a manner so as to not cause damage and harm to neighboring properties, which has caused Plaintiffs damages.

b. Adjudge that the City negligently failed to enforce the City's Noise Ordinance, which has caused Plaintiffs damages.

c. Ordering the City to immediately close the Courts for all pickleball uses;

d. Award damages to Plaintiffs in an amount provable at trial;

e. Award Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

f. Granting any and all other such relief as this Court deems fair and just.

COUNT 6
(Intentional Infliction of Emotional Distress)

80. The Plaintiffs repeat and reallege each and every one of the preceding Paragraphs above as if fully stated herein.

81. The City, by its acts and/or omissions, intentionally inflicted emotional distress upon Plaintiffs.

82. The City has intentionally and/or recklessly ignored the City's Noise Abatement Ordinance and all violations associated therewith.

83. The City's actions and/or omissions are intentional in a reckless disregard of the probability of causing emotional distress to Plaintiffs.

84. The City's wrongful actions were extreme and outrageous and have caused Plaintiffs to suffer extreme emotional distress.

WHEREFORE, Plaintiffs respectfully pray that this Court:

a. Adjudge that the City has intentionally inflected emotional distress upon Plaintiffs, which has caused Plaintiffs damages;

b. Order the City to immediately close the Courts for all pickleball uses;

c. Award damages to Plaintiffs in an amount provable at trial;

d. Award Plaintiffs any and all attorney's fees, costs, and other expenses reasonably incurred in connection with prosecuting the instant action; and

e. Grant any and all other such relief as this Court deems fair and just.

Dated: February 16, 2024

MONA R. BARBERA
and WARREN GARNER

By Their Attorneys,

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The Form and Function of Sound
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Thursday, March 25, 2021

Sergio Mendoza
[redacted]
La Cañada Flintridge, CA 91011

Mr. Mendoza,

This letter comments on the noise impact on surrounding homes resulting from the planned conversion of the existing tennis court at Glenhaven Park to pickleball. The tennis court is located within 100 feet of several homes. This is rarely an issue in regard to noise from tennis activities; however, pickleball will represent a substantial increase in sound emitted from the site. While it may seem counterintuitive, even the significant background noise level produced by the nearby freeway may not be an effective sound masking source for pickleball due to the high peak sound pressure levels created by the impact of the paddle and hard plastic ball.

Qualifications in Regard to Pickleball Sound Abatement

I am the Principal Acoustical Engineer at Spendiarian & Willis Acoustics & Noise Control, LLC. In that capacity, I regularly perform on site acoustical testing, community noise impact assessment, acoustical site planning, and noise abatement design for commercial and industrial sites, often near residential areas. I have been working as a consultant in environmental acoustics and noise control since 2005.

I have Bachelor, Master of Science, and PhD degrees from the Woodruff School of Mechanical Engineering at the Georgia Institute of Technology with a specialization in physical and engineering acoustics. I also received a multidisciplinary certificate in acoustics from the same institute. After finishing my PhD, I completed distance learning at the Pennsylvania State University in psychological acoustics and experimental design. This coursework covered the human sensation of hearing and the perception of sound. I have been a member of the Acoustical Society of America and the Audio Engineering Society since 1994.

Since 2010 I have assisted pickleball clubs, site planners, and home owners associations in site selection and noise abatement planning for pickleball courts. Some of these projects include: ABREGO AT GREEN VALLEY, AZ; CANOA RANCH, GREEN VALLEY, AZ; DESERTVIEW AT SADDLEBROOKE ROBSON RESORT COMMUNITY, AZ; RIDGEVIEW

AT SADDLEBROOKE ROBSON RESORT COMMUNITY, AZ; MOUNTAINVIEW AT SADDLEBROOKE ROBSON RESORT COMMUNITY, AZ; THE PRESERVE AT SADDLEBROOKE ROBSON RESORT COMMUNITY, AZ; ROBSON AT SUN LAKES / IRON OAKS, PHOENIX, AZ; ROBSON AT PEBBLE CREEK, PHOENIX, AZ; TRILOGY AT ENCANTERRA, PHOENIX, AZ; TRILOGY AT VERDE RIVER, PHOENIX, AZ; TRILOGY AT VISTANCIA, PHOENIX, AZ; SUNFLOWER DEVELOPMENT, TUCSON, AZ; YAVAPAI HILLS HOA, PRESCOTT, AZ; OUTDOOR RECREATION PALM SPRINGS, PALM SPRINGS, CA; ELKHORN HOA, SUN VALLEY, ID; PELICAN PRESERVE, FORT MYERS, FL;and PELICAN LANDING, BONITA SPRINGS, FL.

I have also assisted home owners and home owners associations when pickleball courts have been placed close to residential properties without adequate noise abatement planning. The sites of these pickleball courts were COLUMBINE COUNTRY CLUB, LITTLETON, CO; ST MICHAEL'S BY-THE-SEA CHURCH, CARLSBAD, CA; and TRILOGY AT POWER RANCH, GILBERT, AZ.

Characteristics of Pickleball Sound

The main concern in regard to noise from the pickleball courts is the sound produced by the impact of the hard plastic ball on the paddles. This sound is characterized by a sudden onset and brief duration, typically on the order of two thousandths of a second for the direct path sound (see Figure 1) thus classifying it as impulsive sound. The spectral content of the paddle impact is narrowband with a center frequency typically between 1,000 and 2,000 Hertz. This is near the most sensitive frequency range of human hearing. Although it does not meet most guidelines for tonal prominence such Annex C of ANSI S12.9 Part 4 or ANSI S1.13, it does impart a vague sensation of pitch. The acoustic radiation pattern of the paddle is more or less a dipole or figure eight pattern.

Using a foam ball such the Foam Quiet Ball made by Gamma can reduce the amount of sound from paddle impacts significantly. Spendiarian & Willis has done a comparative study of this ball and the most common regulation ball, the Dura Fast 40. The foam ball was found to be 8 to 9 dBA quieter. While this will reduce the amount of sound abatement needed, it will not necessary eliminate the need for it completely. This is especially true where homes are within 75 feet of the pickleball courts. Use of the foam ball can still be expected to produce more noise complaints than tennis.

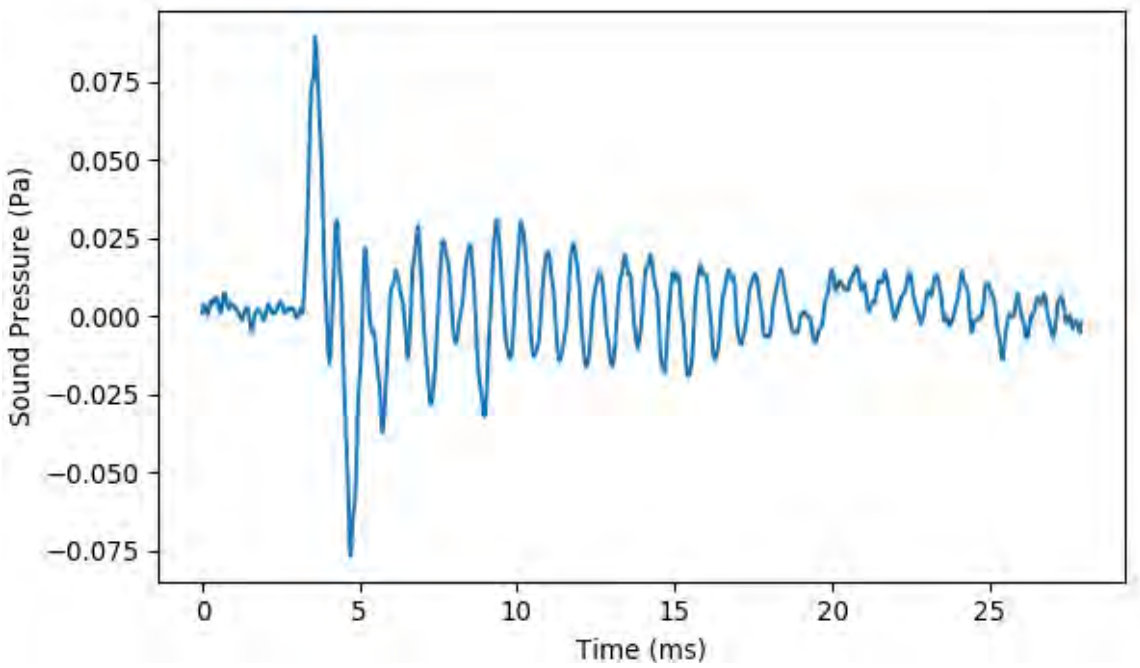

Figure 1. Sound Pressure Impulse Produced by Pickleball and Paddle Impact. Time is in milliseconds (0.001 seconds)

Comparison of Pickleball to Other Activities

There is a common misconception that pickleball is acoustically equivalent to tennis, volleyball, or many of the other activities typically found at outdoor recreation centers and parks. Numerous news articles covering disputes over pickleball noise, many of which originate when existing tennis courts are converted to pickleball, demonstrate that this is not the case:

- Adler, Erin, “Apple Valley neighbors in a pickle over pickleball noise.” Star Tribune, Minneapolis, Minnesota. March 27, 2019. <http://www.startribune.com/apple-valley-neighbors-in-a-pickle-over-pickleball-noise/507726242/>
- Maryniak, Paul, “Pickleball lights plan puts two HOAs at loggerheads.” Ahwatukee Foothills News, Tempe, Arizona. November 29, 2017. <https://www.ahwatukee.com/news/article_9056a946-d48e-11e7-9838-8b69fb2d50b2.html>

- Bottemiller, Kitty, “Too loud! Pickleball noise upsets neighbors.” Green Valley News, Green Valley, Arizona. August 28, 2013. <https://www.gvnews.com/news/local/too-loud-pickleball-noise-upsets-neighbors/article_542c2aac-0f91-11e3-acdc-0019bb2963f4.html>
- Clay, Joanna, “Woman sues Newport Beach over pickleball noise at park near her home.” Orange County Register, California. April 7, 2016. <https://www.ocregister.com/2016/04/07/woman-sues-newport-beach-over-pickleball-noise-at-park-near-her-home/>
- Shanes, Alexis, “Village in a pickle: How Ridgewood plans to tone down the pickleball court noise.” northjersey.com, California. January 16, 2020. <https://www.northjersey.com/story/news/bergen/ridgewood/2020/01/16/ridgewood-nj-pickleball-noise-reduction-measures/4480463002/>
- Monterey Herald Staff, “Pickleball noise controversy goes before city leaders Pacific Grove neighbors object to game at nearby tennis courts.” The Mercury News, California. September 19, 2019. <https://www.mercurynews.com/2019/09/19/pickleball-noise-controversy-goes-before-city-leaders/>
- Fraser, Patrick and Rodriguez, Ambar, “What to do about constant pickleball noise?” WSVN 7 News Miami, Miami, Florida. March 27, 2019. <https://wsvn.com/news/help-me-howard/what-to-do-about-constant-pickleball-noise/>
- Sutphin, Daniel, “Nixing the noise: Sound fence construction underway at Gilchrist pickleball courts.” Port Charlotte Sun, Charlotte Harbor, Florida. May 20, 2019. <https://www.yoursun.com/charlotte/news/nixing-the-noise-sound-fence-construction-underway-at-gilchrist-pickleball/article_79a764de-7b1c-11e9-b4d4-6bcaa919f3f3.html>

It should be clear from the above list of references that pickleball constitutes a significant change in the acoustic environment of the area surrounding the courts in comparison to tennis and must be planned for accordingly. In particular, the impulsive sound produced by the impact of the hard plastic ball on the paddle can cause significant noise impact for those living near the courts.

Effects of Impulsive Sound

Persistent impulsive sounds create annoyance because they are similar to sounds that contain important information about our environment such as footsteps, a door opening, a tap at the window, or speech. We are sensitive to these types of sounds because they alert us to events occurring nearby that we may need to respond to. Continuous false alarms such as the popping

sound created by pickleball paddle impacts make it difficult to relax, concentrate, or sleep soundly without disturbance as each time a pop is heard it draws the attention, creating distraction.

While it is well known that high amplitude acoustical pressures can cause hearing impairment as well as other types injury to the body, lower amplitude sound can also have adverse long term physiological effects. The World Health Organization recognizes that low level noise exposure has measurable health effects.

> Sound/noise is a psychosocial stressor that activates the sympathetic and endocrine system. Acute noise effects do not only occur at high sound levels in occupational settings, but also at relatively low environmental sound levels when, more importantly, intended activities such as concentration, relaxation or sleep are disturbed. [WHO p. 61]

The sympathetic nervous system is part of the autonomic nervous system and is involved in the body's fight or flight arousal response. Chronic activation of the sympathetic system leads to stress, fatigue, and anxiety.

In addition to nervous system activation, sleep disturbance from noise can involve difficulty in falling asleep as well as awakenings that occur during sleep. Frequent awakenings lead to sleep fragmentation. This disrupts the normal stages of sleep and may lead to further neurocognitive manifestations not limited to daytime tiredness, loss of concentration, morning confusion, irritability, anxiety, and depression. [WHO p. 48, 26]

Environmental noise also has implications for the cardiovascular system, metabolism, and homeostasis, the ability of the body to regulate itself.

> The auditory system is continuously analyzing acoustic information, which is filtered and interpreted by different cortical and subcortical brain structures. The limbic system, including the hippocampus and the amygdala, plays an important role in the emotional processing pathways. It has a close connection to the hypothalamus that controls the autonomic nervous system and the hormonal balance of the body. Laboratory studies found changes in blood flow, [blood pressure] and heart rate in reaction to noise stimuli as well as increases in the release of stress hormones... Acoustic stimulation may act as an unspecific stressor that arouses the autonomic nervous system and the endocrine system... The arousal of the sympathetic and endocrine system is associated with changes in the physiological functions and the metabolism of the organism, including [blood pressure], cardiac output, blood lipids (cholesterol, triglycerides, free fatty acids, phosphatides), carbohydrates (glucose), electrolytes (magnesium, calcium), blood clotting factors (thrombocyte, aggregation, blood viscosity, leukocyte count) and others. In the long term, functional changes and

> dysregulation may occur, thus increasing the risk of manifest diseases. [WHO p. 62-63]

The effects of stress can take many forms as seen above. Low level noise exposure that disturbs sleep and concentration are known to produce a range of diagnosable illnesses and disorders.

Assessing the Impulsive Sound of the Pickleball Courts

Based on our experience working with pickleball facilities, courts located within 350 feet of residential structures often require noise abatement. Pickleball court sites within 500 to 600 feet of noise sensitive areas should be reviewed by a qualified acoustical engineer in the site selection phase of the project. Courts located within 150 feet of homes require careful and often extensive noise abatement design to avoid complaints. I have measured peak sound pressure levels from pickleball courts at a distance of approximately 75 feet exceeding 80 dBA. Recurrent peak sound pressure levels this high present a high level of distraction and noise impact for the occupants of the receiving property.

At least four residential properties are within 75 feet of the tennis court and nine within 150 feet. These homes can be expected to experience a significant increase in sound with the introduction of pickleball. At this distance the pickleball paddle impacts easily penetrate the interior of a home and will prevent the quiet enjoyment of the residents' use of their living rooms, dining rooms, bedrooms, and other spaces used for rest, family activities, and activities requiring concentration such as reading.

Applicable Codes and Regulations

Chapter 5.02 of the La Cañada Flintridge Municipal Code, Regulation of Community Noise, discusses two types of sound relevant to pickleball: impulsive sound and intrusive sound. For the reasons described above, the impact of the pickleball on the paddles qualifies as impulsive sound. Intrusive sound is defined as,

> noise which intrudes over and above the existing normal background noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, time of occurrence, and tonal or informational content, as well as the prevailing background noise level. [Section 5.02.030]

Impulsive sound that penetrates a home and affects the use of outdoor spaces such as patios meets the cited definition for intrusive sound.

Further, a 'noise disturbance' is defined as,

> sound which: (1) endangers or injures the safety or health of humans or animals; (2) annoys, disturbs, causes, or tends to cause an adverse psychological or physiological effect on a reasonable person of normal sensitivity; (3) is so harsh or prolonged as to be injurious to the health, peace and comfort of any reasonable person of normal sensitiveness residing in the area; or (4) which causes excessive noise vibrations that endangers or injures personal or real property. [Section 5.02.030]

Subsection (2) refers to annoyance as a metric for assessment in addition to the physiological and psychological effects of noise as described above. The use of the term, annoyance, can be traced back to the work of Schultz and other researchers in the 1960s and 1970s [Schultz, 1978] and is the basis of federal standards for transportation noise assessment. Current standards for noise assessment in regard to annoyance for impulsive sound include ANSI S12.9 Part 4 and ISO 1996 Part 1. The measurement methodology of the La Cañada Flintridge Code Section 5.02.100 does not correlate well with community response to impulsive sounds of short duration such as impact processes, including pickleball paddle impacts, and should not be relied on for noise assessment in this application.

Conclusions

The addition of pickleball to a neighborhood represents a significant change in the amount of sound entering the surrounding area in comparison to other common recreational activities. This must be carefully planned for.

Based on over 10 years of experience with pickleball noise abatement, Spendiarian & Willis does not recommend this location for an open air pickleball court as compatible with adjacent residential land uses. Given the insufficient buffer distance, close proximity to homes on three sides, and our experience at similar pickleball sites, a noise abatement plan involving a sound wall system will not provide sufficient mitigation at this location. Further, photos taken from the tennis court show that the topology of the neighborhood will make an effective sound wall system infeasible as some of the homes are much higher in elevation than the tennis court. In order for a sound wall to the be effective it must block the line of sight from sound source to the receiving property including upper level windows. The reflective retaining wall on the freeway side of the tennis pad will further reduce the effectiveness of a sound wall system without the application of sound absorbing panels. An effective noise abatement plan is likely to require the construction of a building with a roof to contain the impulsive sound power levels produced by pickleball.

Acoustical measurements of pickleball performed by Spendiarian & Willis in the presence of water fountains have demonstrated that the sound produced by a continuous background noise

source must be at a very high level in order to mask the peak sound pressures produced by the impact between a pickleball and paddle. This may be on the order of 65 dBA background noise level for pickleball courts located 200 feet away. For the homes surrounding the Park, the background noise level would need to be considerably higher since they are much closer than this. Freeway noise levels this high would normally trigger a noise assessment and possible requirements to install mitigation along the roadway. It should therefore not be assumed that the road noise from the freeway will act as a masker for the pickleball courts.

The use of foam balls will reduce the need for noise abatement; however, given the residential properties within 75 feet, and in particular 1904 Parkdale Place which is approximately 25 feet from the tennis court pad, sound abatement will be needed. Unfortunately, this site is not conducive to using a sound wall system for the reasons stated above.

In summary, Spendiarian & Willis does not recommend conversion of the tennis court at Glenhaven Park to open air pickleball courts due to the difficulties in creating an effective noise abatement plan for this site. In practice, it has been our observation that enforcement of the use of specific equipment such as foam balls is difficult to ensure. Pickleball clubs that have employed this policy have found it a challenge to maintain over time and the foam balls are eventually replaced by regulation equipment. Without a clear plan for monitoring the pickleball courts the amount of sound produced on the site is likely to increase over time.

regards,

R. Lance Willis, PhD
Principle Acoustical Engineer

References

ANSI S12.9-2005, *Quantities and Procedures for Description and Measurement of Environmental Sound – Part 4: Noise Assessment and Prediction of Long Term Community Response*, American National Standards Institute, 2005.

ISO 1996-1, *Acoustics - Description, measurement and assessment of environmental noise - Part 1: Basic quantities and assessment procedures*, International Organization for Standardization (ISO), 2016.

Schultz, T. J., “Synthesis of Social Surveys on Noise Annoyance,” Journal of the Acoustical Society of America v. 64, pp. 377-405, 1978.

World Health Organization, Night Noise Guidelines for Europe, http://www.euro.who.int, 2009.

Pickleball Sound 103 - Mitigating Pickleball Sound - Is Pickleball Compatible with Residential Environments?

Barry Wyerman[1] and Robert Unetich[2]
Pickleball Sound Mitigation LLC
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ABSTRACT

The popularity of pickleball has created many avid players seeking more pickleball courts in community parks, apartment complexes, homeowners' associations, country clubs, and residential neighborhoods. Existing tennis courts are often used for both tennis and pickleball. Nearby residents accustomed to sounds from tennis will hear a louder sound from pickleball and a sound with different tonal qualities. Depending on the sound level and the distance from the pickleball court, pickleball sound can be a source of annoyance. Several explanations are given why community noise ordinances fail to properly address pickleball sounds. Sound mitigation strategies for pickleball play are described that follow traditional approaches for noise control at the source, along the path, and at the receiver. These approaches include use of commercially available acoustical materials, reorientation of courts, preferred paddles and balls, new site locations, and play schedules. The expected noise reductions for each option are outlined to help determine if pickleball noise can be compatible with residential environments. Estimates of minimum distances from courts where pickleball sound will not be an annoyance are made considering the background sound and the sound mitigation in place.

1. INTRODUCTION

Pickleball is a game played with two to four players using paddles, a ball, and a net on a court that is approximately one half the length and width of a tennis court (1). Each paddle and ball impact during a game creates a short pulse of sound that varies in intensity, duration, and frequency content (2,3). For homeowners near pickleball courts, pickleball sounds can become bothersome and intrusive.

Pickleball was created in 1965 in Bainbridge Island, Washington (4) and now has a worldwide following. Its growth is a result of players being introduced to this sport during winters in Florida or Arizona and then returning to their homes in search of pickleball courts. The rapid growth of pickleball has created a demand for more pickleball courts in communities across the United States and globally. Because the game is easy to learn and is very engaging, pickleball players are passionately committed to this sport. Apps exist to locate the closest pickleball courts for any zip code.

A common solution for adding pickleball courts in many communities is to use existing tennis courts and create dual purpose courts. Tennis courts found in community parks, apartment complexes,

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homeowners' associations, country clubs, and residential neighborhoods are being used for pickleball. In some cases, tennis courts have been re-purposed as pickleball courts. In this case, up to four pickleball courts can be added in the space of one tennis court.

The popularity of pickleball has also created community and homeowner awareness of the unmistakable "popping" sound when a paddle strikes a ball. The unique time and spectral characteristics of pickleball play make these sounds easily distinguishable from other sounds. Pickleball sound levels and sound mitigation options are important to communities faced with a growing demand for more pickleball courts and to residents living close to any court where pickleball is played.

The location and design of these courts then becomes critical to avoiding noise complaints from residents who live nearby. A common question on social media is, "How far away do pickleball courts need to be to avoid noise problems?" There is no simple answer other than, "It depends."

The purpose of this study is to show the differences between sound from pickleball and tennis, to review how noise ordinances address pickleball sound, to outline a measurement method and noise limit to properly quantify pickleball sound, and to describe pickleball sound mitigation strategies.

2. THE SOUNDS OF PICKLEBALL AND TENNIS

To compare the sounds from pickleball and tennis, the impact sound was measured with a ball drop onto a pickleball paddle and a tennis racquet mounted in a test chamber. The ball speed was 18.9 miles per hour at impact. Figure 1 shows the 1/3 octave spectrum and the maximum sound level for A-weighted, fast response (LAFmax) measurements for the paddle and the racquet impacts. The pickleball impact generates a higher overall sound level and has more high frequency content than the tennis impact.

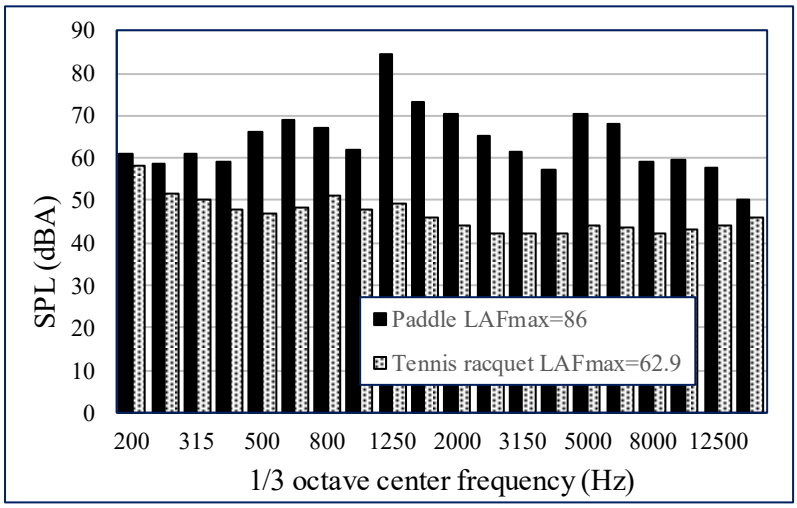

Figure 1 – Pickleball and tennis impact from a dropped ball at 18.9 MPH

The pickleball impact at 86 LAFmax is over 20 dB higher than the tennis impact at 62.9 LAFmax. This difference shows that pickleball can be 4 or more times louder than tennis. It explains why pickleball sound is receiving attention when former tennis courts are used for pickleball. The loudness of each pickleball impact can further vary based on the paddles and balls being used, the skill level of each player, and the force of each impact.

3. NOISE ORDINANCES AND PICKLEBALL

3.1. Community noise ordinances

Noise is sound that annoys. Community noise ordinances establish noise limits so that sound is neither annoying nor bothersome, even though it may be audible. These ordinances are not intended to establish a limit where sound is inaudible. They are intended to establish a limit where the presence of sound above a background sound level will not be objectionable. The background sound level is the result of wind, birds, normal ambient activity, and traffic.

Noise ordinances vary in their ability to quantify annoyance from pickleball noise. A survey of several noise standards for US cities shows several common themes.

- Failure to address impulsive noise – Measurement methods for continuous noise understate pickleball impacts and can conclude that these impacts are in compliance with a noise limit.
- A 5 dB penalty for any noise that is impulsive noise – This adjustment adds more substance to an ordinance but often omits the noise measurement settings. Even when a 5 dB penalty is added to an impulse measurement made with a slow meter setting, this will understate the loudness of a pickleball impact.
- Limits based on average values from fast settings – Average or mean values are several standard deviations below the maximum sound that can occur. These maximum sound levels are typically the cause of annoyance.
- Limits based on dB peak – Peak noise measurements are not applicable to pickleball noise because they do not capture the duration of the impact.
- Limits based on a subjective response – Wording such as, “It is unlawful for any noise that interferes with the enjoyment of life of a reasonable person” means that a noise complaint could only be resolved with a court case.
- Exclusion of noise limits for public parks or sporting events – This exclusion would assume that a prior noise study was completed with no noise issues identified before a pickleball court was constructed.

3.2. Recommended noise ordinance

A recommended noise limit for pickleball has been established based on an average LAFmax from several measurements and the background sound level. When the background sound level is below 47 dBA, the limit is an average of 50 LAFmax. The average LAFmax comes from 4 individual LAFmax measurements of 60 seconds each. When the background sound level is above 47 dBA, the limit is LAFmax = background sound + 3 dB. This variable limit accounts for the presence of high background sound. This limit has been successfully used to quantify sound from pickleball, to evaluate the risk of pickleball noise complaints, to perform site studies for pickleball courts, and to evaluate the effectiveness of pickleball sound mitigation strategies.

4. PICKLEBALL SOUND MITIGATION STRATEGIES

The common approach to solving any noise control problem is to investigate solutions involving the source, the path, and the receiver (SPR). Effective noise control at the source can eliminate the need for noise control along the path or at the receiver. This can mean either reducing the sound power of the noise or controlling the noise at the source before it travels along multiple paths to a receiver. Often, all three approaches must be used to achieve the desired noise reduction.

Several sound mitigation strategies are available for reducing pickleball sound. These options can be applied at the source, along the path, or at the receiver. Some options are more effective in reducing sound. Some are easier to implement. Some are lower in cost. Some are easier to control. Each option will be described, and then, all of these will be compared.

5. PICKLEBALL NOISE CONTROL AT THE SOURCE

5.1. Recommended paddles

As pickleball technology has evolved, so have the new composites and materials that are being used in paddle construction. This has resulted in many different paddle designs with over 1700 paddles approved by USA pickleball for tournament play. Some paddles produce lower sound levels than others. However, the technology has not evolved to the point where any paddle can be considered a stealth paddle.

Several paddles have been tested in a chamber to identify paddles with lower noise signatures than older, louder paddles (3). These recommended paddles can be from 3 to 7 dBA quieter than the loudest paddles. The key to reducing paddle noise is to reduce paddle vibration, shift the sound energy to frequency bands below 1000 Hz, and increase damping. The green paddle list by Sun City (5) includes recommended paddles for lower noise. These paddles will reduce but not eliminate pickleball sounds.

A mandate to use paddles from an approved list is always hard to enforce for recreational players who are accustomed to playing with a preferred paddle. To help with enforcement, a community could purchase enough loaner paddles so that all players would use the same model of a quieter paddle.

5.2. Recommended balls

While many plastic balls are approved for pickleball play, some balls produce slightly lower sound levels when struck with a paddle. The sound level difference among balls is much less than the difference among paddles. Balls have been tested in a chamber to select balls with lower noise signatures than some of the louder balls. These recommended balls can be from 1 to 3 dBA quieter than the loudest balls. These balls will reduce but not eliminate pickleball sounds.

A mandate to use balls from an approved list is always hard to enforce for recreational players. To help with enforcement, a community could purchase and supply balls that are considered quieter than the loudest balls and only allow pickleball play with this model of ball.

A recommended paddle and ball combination for lowest noise should be evaluated for noise at a pickleball court to compare sound levels and reactions before any restrictions or community decisions are made.

5.3. Court time

Restricting court time has the effect of an on-off switch for pickleball. This can be controlled on courts with a gated entry that can be locked. However, restricted play time limits the hours of court availability. This is something a community should review based on the availability of alternate courts, the number of pickleball players, and critical times for noise such as early morning or late evening.

5.4. Enclosures

A simple solution to any noise problem is to build a box around the sound source so that sound does not escape. For pickleball, this means an indoor facility. The preferred enclosure for pickleball play could be a repurposed warehouse, a vacant commercial building, or a metal building. Air supported structures (known as tennis bubbles and often used for winter tennis or golf) can also enclose pickleball. The walls of an air supported structure do not provide as much transmission loss as a traditional building structure, but they may be sufficient for pickleball sound reduction. These enclosures keep the sound inside and shield nearby homeowners from pickleball sounds. An indoor pickleball facility could also provide year round pickleball play. The cost of such a facility is often offset by a membership fee or daily player fee.

5.5. New Site Selection

A new site is the equivalent of moving the noise source to a new location. Any new pickleball site should be far enough away from homes to avoid complaints from residents without incurring the added cost of sound mitigation. This does not mean that a new pickleball site must be remote from a city center. Alternative pickleball sites within a city center that are less likely to have noise complaints are sites near a highway, near an airport, or near an industrial zone. The higher noise limits of industrial zones, the higher background sound levels, and the lower land values of these sites often make them attractive sites for expansion of pickleball play.

Table 1 shows estimates for the minimum distance between a court and a home to avoid pickleball complaints by considering both background sound and sound mitigation. These minimum distances are determined using a reference LAFmax measured at 100 feet, sound attenuation at 6 dB per doubling of distance, sound mitigation, and a variable background sound limit. For example, if the background sound level is 45 dBA and no mitigation is in place, the minimum distance to the nearest residence should be 977 feet. At higher background sound levels and with added sound mitigation, this distance can be reduced.

Table 1 – Estimates of the minimum distance in feet from courts to avoid pickleball complaints (1)

Background sound (dBA)	45 dBA	50 dBA	55 dBA	60 dBA
Distance (ft)– no mitigation	977	687	377	202
Distance (ft)– 10 dB mitigation	292	202	103	48
Distance (ft)– 20 dB mitigation	77	48	17	1

(1) The distances in Table 1 are based on standard sound attenuation with distance. Variations in sound attenuation with distance occur due to wind direction and speed and to atmospheric refraction. The temperature profile above the ground can bend the sound waves upward or downward (6). This can result in increases or decreases in these minimum distances.

5. PICKLEBALL NOISE CONTROL ALONG THE PATH

5.1. Acoustical Barriers

Acoustical barriers block the direct path of sound that travels from a source to a receiver. A barrier must be massive enough to block sound that could pass through it. The recommended weight for a barrier is one pound per square foot. Even with a massive barrier, a small amount of sound still passes over the

top or around the edges of the barrier via diffraction. The sound reduction with a barrier is limited by the height and width of the barrier. If the barrier height is restricted due to a local code or due to the support strength of an existing fence, then the sound reduction over the barrier will be reduced. In this case, the weight of the barrier may be reduced below one pound per square foot.

The barrier must be solid with no holes, no gaps at the bottom, and no gaps between adjoining panels. Any holes or openings will allow sound to leak to the other side. Earth mounds and buildings can function as barriers if they disrupt a direct path of sound. Shrubs, bushes, and trees are not barriers even though they block a line of sight. They are not massive and solid enough to block sound. A small amount of sound attenuation may be achieved with a dense planting of hedges, but this would not provide more than 2 to 3 dB sound reduction.

The effectiveness of any barrier is controlled primarily by its height and then by its width. The barrier must be tall enough and wide enough to minimize the sound that is diffracted or bent over the top and around the edge. Figure 1 shows multiple ray paths between one sound source and one receiver over a 30 foot tall barrier around a pickleball court using sound mapping software (6).

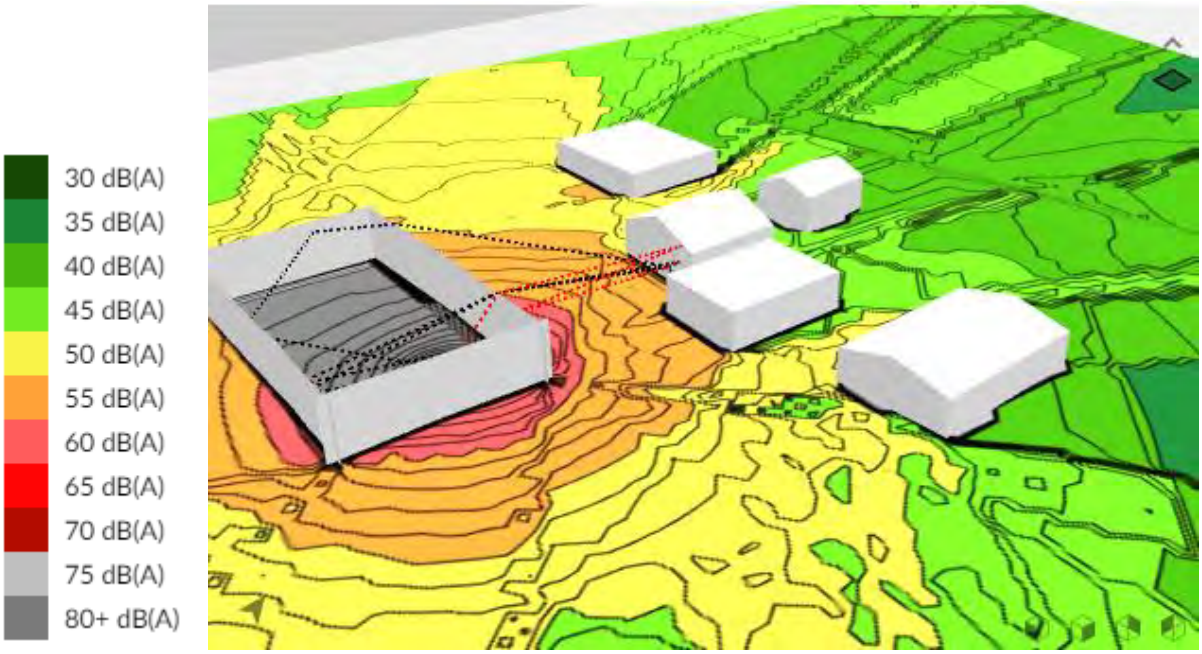

Figure 1 – Three dimensional sound map showing ray paths over 30 foot barriers to receiver

The sound attenuation by barriers 5, 10, 20, and 30 feet high was determined with the use of noise modeling software. Figure 2 shows the omnidirectional sound field from a pickleball impact with no barrier in place. Sound attenuation with distance is evident. The receiver positions are at 20 and 40 feet behind the source and at 20, 40, 80, and 160 feet in front of the source.

Figure 3 shows the sound field at the same receiver locations with a 10 foot barrier placed 10 feet from the source. On the source side of the barrier, a slight increase in dB level is seen. This is due to the sound from the front of the paddle being reflected from the barrier and combining with the direct sound from the rear. On the receiver side of the barrier, the sound level decreases with distance. At each receiver location, the difference between the sound level with no barrier and the sound level with the barrier is the barrier attenuation. Comparing Figure 3 to Figure 2, the change in sound level at each receiver

location is the added sound attenuation by the barrier. Similar sound fields were created for barrier heights of 5, 20, and 30 feet.

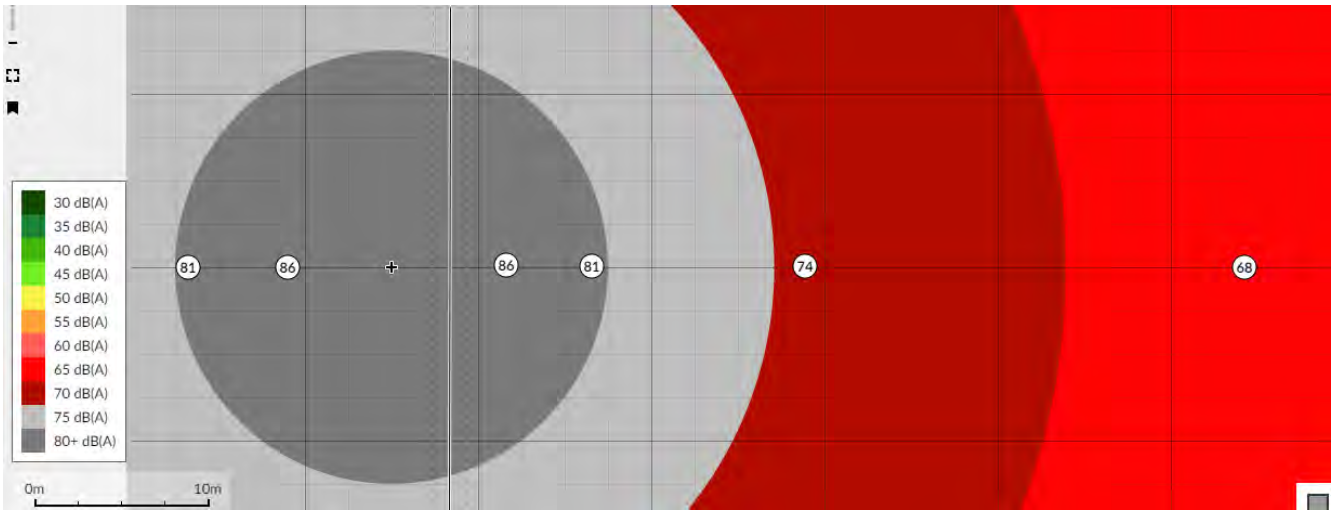

Figure 2 – Sound field with no barrier

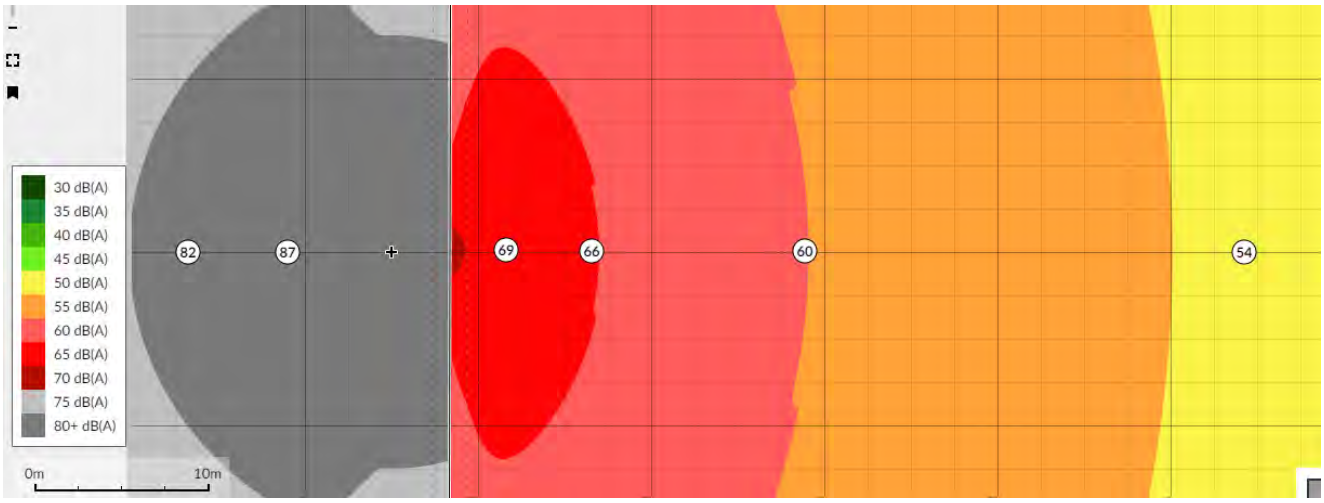

Figure 3 – Sound field with 10 foot barrier and at 10 feet from source

Figure 4 shows the added barrier attenuation at several distances from the barrier. This attenuation is in addition to the normal noise attenuation with distance. The greatest attenuation with a barrier occurs when the receiver is closest to the barrier. This is the shadow zone. At greater distances from each barrier, the added sound attenuation by each barrier is constant. A 5 foot barrier provides minimal sound attenuation, and a 30 foot barrier is unlikely to be feasible. Nevertheless, these heights are displayed to show where sound attenuation with a barrier reaches a limit. Therefore, further evaluation of 20 and 30 foot barriers will be investigated. Figure 5 shows the attenuation with 10 foot and 20 foot high barriers as the sound source is moved farther from the barrier.

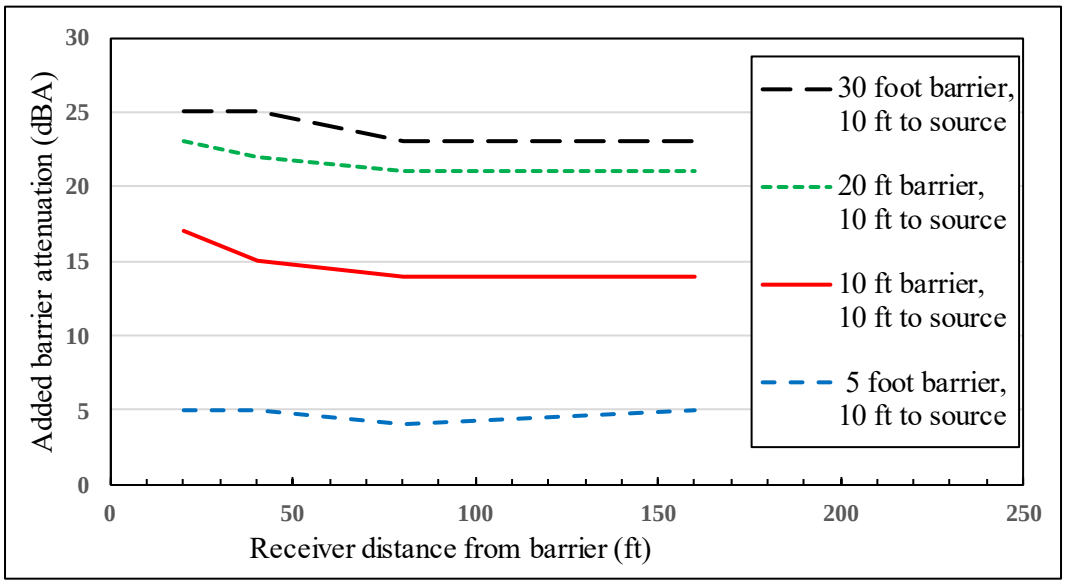

Figure 4 – Barrier attenuation with height for source at 10 feet from barrier

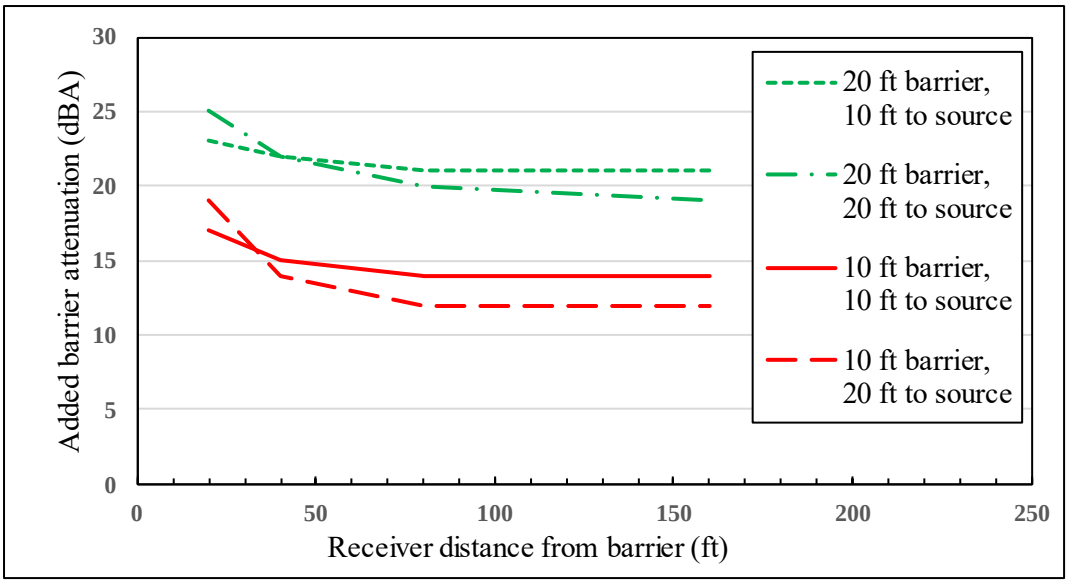

Figure 5 – Sound attenuation for 10 and 20 foot barriers for source at 10 and 20 feet from the barrier

These results from Figures 4 and 5 show the following conclusions for barriers.

- The greatest sound reduction with any barrier height occurs closest to the barrier - this is the shadow zone.
- The sound reduction with a barrier decreases as a receiver is farther from a barrier.
- An increase in barrier height from 5 feet to 10 feet provides an additional 10 dB of sound reduction.
- Smaller improvements in sound reduction occur with an increase from 10 feet to 20 feet.
- Beyond 20 feet in barrier height, the incremental sound reduction becomes less with barrier height.

The general guideline for a barrier is that lowest sound level will be measured with a receiver as close as possible to the highest possible barrier If there are no homes exposed to direct pickleball sound on any side of a court, then a barrier can be eliminated on that side. In some cases, it may be best to enclose all four sides of a pickleball court with the highest barrier possible. A detailed acoustical mapping of any site is recommended to evaluate the noise reduction benefits of any barrier before a purchase is made. A contractor must be consulted to assure that an existing fence or a new fence can support the added weight of a barrier. Wind loads on the barrier are also to be considered.

5.2. Higher Barriers

Any increase in the height of an existing barrier will provide more sound reduction. Figure 4 shows that heights beyond 20 feet will yield lower incremental sound reduction.

5.3. Acoustical Barriers with Sound Absorbing Liners

Acoustical barriers block sound. but this blocked sound is then reflected in the opposite direction. If the reflected sound must be controlled for receivers in the path of the reflected sound, then barrier walls with sound absorbing surfaces should be used. The sound absorbing surface includes a weather resistant fiber covered by a weather resistant, protective, porous cloth. If reflected sound to an opposite side of the court is a problem, this can add 3 dB of additional noise reduction in this direction.

5.4. Court Reorientation

Changing the court orientation 90 degrees can achieve a small reduction in sound levels due to the directivity of the pickleball sound. The sound level to the side of a paddle is 3 to 5 dB less than from the front of the paddle but this is not a constant due to the movement of players on the court. If tennis courts are being converted to pickleball or new pickleball courts are being considered, then the court orientation should be considered for sound propagation.

6. PICKLEBALL NOISE CONTROL AT THE RECIVER

6.1. Barriers

Barriers near the receiver provide the same sound attenuation with height and distance as barriers near the source. Figures 4 and 5 can be used to estimate barrier sound reduction near the source.

6.2. Sound masking

Sound masking is the introduction of a second sound that will override or interfere with the bothersome sound. Common outdoor masking sounds include the sound from a fountain, a waterfall, ocean waves, or highway traffic. Masking sound can also be artificially created with speakers to simulate any ambient sound. For masking sound to be effective with pickleball, it must be 6 to 10 dB or more louder than the pickleball sound. These masking sounds can literally “swallow up” a lower level offensive sound, but the offending sound is now replaced by a higher level masking sound. Even at a higher sound level, the continuous masking sound may be more acceptable than intermittent pickleball impulses. If this is to be considered, a trial is recommended using a Bluetooth speaker and several masking sounds like a waterfall or a fountain at different elevated sound levels. This is because the ear can selectively differentiate between sounds with different tonal characteristics.

7. NOISE MITIGATION COMPARISONS

Table 2 shows a comparison of each noise mitigation strategy at the source, along the path, and at the receiver. The legend shows how each strategy can be compared. The player and resident reaction are estimates based on responses experienced from these groups on multiple projects. In some cases, applying multiple strategies will have an additive effect. This means that 10 dB barrier reduction plus 4 dB paddle reduction plus 2 dB ball reduction can achieve a total reduction of 16 dB – if paddles and balls can be controlled.

Table 2 – Comparisons of pickleball sound mitigation strategies

Pickleball noise mitigation strategy	Maximum dB reduction	Cost to City	Ease of Control	Player Reaction	Resident Reaction
Control at source					
Paddles	< 7 dB	0	- - -	-	+ +
Balls	< 3 dB	0	- - -	+	+
Court time	on or off	0	+ + +	- - -	+
Enclosure	> 30 dB	- - -	+ + +	+ + +	+
Tennis bubble	> 20 dB	- - -	+ + +	+ + +	+
New site selection	unlimited	- - -	+ + +	+ + +	+ + +
Control along path					
Acoustical barriers 10 ft	up to 15 dB	- -	+ + +	+ +	+ +
Higher barriers	< 5 dB	- - -	+ + +	+ +	+
Barriers with absorption	< 3 dB	- - -	+ + +	+ +	+ +
Site re-orientation	< 3 dB	-	+ + +	+ +	0
Control at receiver					
Acoustical barriers 10 ft	up to 15 dB	- -	+ + +	+ +	+ +
Sound masking	6 to 10 dB louder	- -	+ + +	0	-

Key	Description
+ + +	Most favorable
+ +	More favorable
+	Favorable
0	Neutral
-	Unfavorable
- -	More unfavorable
- - -	Most unfavorable

The amount of sound mitigation required should always consider an ambient background sound level. A location near a busy highway or in an industrial zone with a higher ambient sound level than near a country club or community park will not require as much noise reduction. At a known distance from a pickleball court, Table 1 shows the sound mitigation required to have pickleball at an acceptable level depending on background sound level.

The question of whether pickleball can be compatible with residential environments therefore depends on the distance from the court to the nearest home, on the background sound level, and the sound mitigation in place. Experience has shown that pickleball courts at 100 feet or less from a home will require extreme sound control measures to be compatible with a residential environment. Pickleball courts at 100 or more feet from a home will require moderate sound mitigation for pickleball sound to be compatible. Pickleball courts at 1000 feet or more from a home will be compatible without any mitigation required. In some cases, the distance to the nearest home may be too close to allow pickleball play even with multiple noise reduction strategies in place.

8. CONCLUSIONS

Tests show that a pickleball impact is 4 times louder than a tennis impact and has more high frequency content. This makes pickleball play on tennis courts a potential noise problem for nearby homes. Noise ordinances do not properly quantify the sound from pickleball impacts and often understate the level of

this impact. A variable noise limit based on the relationship between LAFmax and background sound level has been successfully used to evaluate the annoyance of pickleball sound and the amount of sound mitigation required to avoid annoyance. Several sound mitigation strategies have been described when sound from pickleball play must be reduced to be compatible with a residential environment. The most effective strategy is the use of acoustical barriers which must be as tall and as close to the sound source as possible for maximum effectiveness. Quieter paddles and balls can help reduce noise but may be difficult to enforce. In general, pickleball courts less than 100 feet from a home will require extreme sound mitigation measures to be compatible with a residential environment. Pickleball courts more than 100 feet from a home will require one or more sound mitigation measures to not be considered an annoyance. At 1000 feet or more from a home, pickleball courts will not require any sound mitigation. As the number of courts increases to meet the needs of avid pickleball players, acoustical engineers must consider these sound mitigation options for pickleball to be considered a good neighbor.

ACKNOWLEDGEMENTS

The authors gratefully acknowledge the pickleball players and the communities that have helped to evaluate and validate these strategies to achieve successful results for pickleball sound.

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7. https://noisetools.net/dbmap/ - Noise Mapping Tool

To: Christine Symchych, Catie Anderson, Liz Sumner, Eric Fonstad, Liz Aelion, Jennie Stoltz, Greg Ollman, Scott Botcher

From: Amy Barth , 7815 N Boyd Way

Re: Town Club Pickleball Courts - Additional Findings in Support of a DENIAL

Date: April 2 , 2024 (Replaces my letter of April 1)

Scott and all members of the board,

I have done some additional research and provide you with some additional evidence that the Conditional Use Permit as written must be denied. I have also reviewed the documentation submitted by the club and have feedback on some of the materials provided.

I have inventoried the homes within 500 ft of the club to give you a better understanding of how many residents will be impacted. I also provide details about several cases across the country that have a great deal of similarity to what's happening here in Fox Point.

1) Lack of Formal Complaints in the last 3 years

This is not a valid argument for several reason:

- Pickleball has shot up in popularity in our area in the last year or two. Three years ago, there weren't nearly as many people playing.
- The Town Club admits that the courts are currently in disrepair and are not being used to their full extent.
- At the Plan Commission meeting representatives of the Town Club stated they have been used at full capacity for only 3 hrs. a week until now. It is expected that the usage would significantly increase with the resurfacing and addition of more courts, leagues, lessons, etc.
- The noise was quite audible and disruptive to neighboring property enjoyment, but at the time it was unknown that it was not permitted use; therefore, I nor other neighbors did not call the police to complain.

I would also like to bring to your attention a few recent incidents regarding Town Club members playing paddleball. While it's not the same sport, it is indicative of the players lack of consideration for their neighbors:

- Feb 24 2024. I was inside my house (windows closed) around 8pm. The screams from the paddleball courts were so loud I had thought a serious accident or assault was occurting. Upon further investigation I discovered it was the sound of the players screaming and yelling. After 20 minutes of the disruption I called the police.
- Mid-March. Paddleball is supposed to end at 10pm. The lights are supposed to go off at that time. For several nights in a row the lights were not going off until around 10:15, and the players did not respect the 10pm time until a call to the police was made.
- Paddleballs routinely come into our yards which leads players to trespass on private property to retrieve balls. This creates a safety liability for all parties in the event someone is injured, or property is damaged. Who will accept the liability of cost in the event this occurs.

2) Environmental Protection Agency

- levels of 55 decibels outdoors and 45 decibels indoors are identified as preventing activity interference and annoyance. These levels of noise are considered those which will permit spoken conversation and other activities such as sleeping, working and recreation, which are part of the daily human condition.

3) Village of Fox Point Ordinance § 670-2. Loud and unnecessary noise.

A. Loud and unnecessary noise prohibited. No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof except as described in subsection C.

The exceptions listed in subsection C do not apply to Town Club

4) Pickleball measured noise levels.

- Noise levels from a standard game have been measured at 65-70 decibels and at times reaching 85 decibels.

5) Pickleball Mitigation Experts Say that Courts Should be More than 500 FT from Homes

Exhibit A: More information and links to sources.

6) **There are 39 homes within 500 ft of the proposed courts**.

- These homes are on N Santa Monica, E MacArthur, N Regent, E Hyde Way and N Boyd Way. 13 of these homes are within 250 ft.

Exhibit B: Maps showing these homes as well as a list of addresses.

7) Many Town Club members submitted letters of support as part of the submission to the planning commission. <u>None of those members live within 500 ft of the proposed courts</u>

Exhibit C : A map showing the addresses of the club members as well as some feedback on the general theme of the comments.

8) The Town Club Has Not Provided Any Evidence That Sound Will be Within Reason

- The Town Club needs to provide substantial evidence that there will be no adverse affects on the neighborhood. This means they need to provide facts and information other than merely personal preferences or speculation..
- The Town Club has only provided a link to information provided by ONE vendor of a sound blanket type of product. This is marketing material, and nothing less. No evidence has been provided to indicate that this will be a sufficient form of sound abatement. The Town Club believes it will be sufficient, but that is just speculation.
- Town Club states that the product they want to purchase will reduce sound by 50%. But 50% of what? Without a sound study, what are we starting with? How will we KNOW that the product is reducing it by that much? How do we know that 50% still isn't too loud?

- At the April 1 Plan Commission meeting, one member of the commission asked the Town Club if they have done a sound study. The club's attorney stated that sound studies are expensive, and they did not want to spend the money on it. This is not a rational response to a situation affecting numerous residents in the surrounding area who have the right under law to use property and the right to enjoy said property.

9) Sound Abatement Plan is Crucial

Given the proximity of homes (including one house to the south within 20' and 2 story homes within 250 ft to the east) more than one abatement technique may be required, and perhaps the site may simply be ill-suited for the sport.

Exhibit D: Information presented at the **2023 conference of the Institute of Noise Control and Engineering (NOISE-CON).** Pickleball courts more than 100 ft from a home will require one or more sound mitigation measures to not be considered a nuisance. At 1000 ft or more from a home, pickleball courts will not require any sound mitigation.

10) Sound Studies and Planning Lead to Informed Decisions

Exhibit E: **Libertyville IL.** Neighborhood complaints about 4 new courts. Appears as if there was no sound mitigation plan before construction.

Exhibit F**: Centennial CO.** A sound study led to a new ordinance which prohibits courts within 250 ft of residences and imposes restrictions on courts beyond that.

Exhibit G: **Glen Haven Park , LaCanada CA**. A site with just one tennis court was found to be unsuitable for pickleball even with noise abatement techniques. There are homes within 100 ft and a freeway on one side.

Exhibit H: **GreenBriar Hills Country Club, Kirkwood MO.** The courts were built under the caveat that a sound study was to be conducted before use. The study was performed Oct 23 and the courts are closed as the noise exceeds the noise ordinance.

Exhibit I: **Eisenhower Park, Denver CO**. After complaints from neighbors, limiting hours and investigating sound mitigation options, 4 courts were closed.

Exhibit J: **Mona Barbera vs City of Newport (RI).** In 2012 Dr. Barbera purchased a house adjacent to the tennis courts at a park. As long as the courts were used for tennis, there was no noise issue. Once the courts were converted to pickleball the noise problems started. This is a 2024 lawsuit that is in progress.

11) Assessor Letter is Inconclusive

The letter from the assessor retained by the Town Club simply states that a few homes in the vicinity of the Town Club a Ellsworth recently sold for more than they did the last time the house was sold. This is insignificant given the current market and the number of courts being proposed.

Would they have sold for more? When the market changes and there are excess homes

available, and a buyer has the choice of a home near 8 pickleball courts and one that is not, which will they choose?

Also it is important to consider the number of pickleball courts.

- Ellsworth has **TWO** pickleball courts
- Town Club is currently (without permit) playing on **FOUR or FIVE** courts that are in need of repair and as the club has admitted are not being used to their full extent.
- Town Club is seeking to have **EIGHT** courts, along with leagues, lessons and social mixers.

The amount of noise that will be generated will be significantly increased and will have an impact on the neighborhood property values.

12) Why has the Town Club Been Allowed to Play without a Necessary Permit?

Last week I spoke with Scott Botcher and asked why the Town Club has been allowed to play pickleball without a permit. Scott stated that this is police business, so I called Chief Freedy.

Chief Freedy explained that it is a zoning matter, and that the PD doesn't always know what conditions are in place for each business. They do not monitor such things and would react only based on complaints or direction from the village.

What good is a Conditional Use Permit if nobody monitors / enforces compliance?

13) Any Limitations Must be Clear and Include a Means of Monitoring/Enforcement

In the case that the Town Club does provide an acceptable sound study and mitigation plan, any restrictions that the Village places on their use must have a clear means of monitoring and enforcement. If there is an end time, who will ensure that the players are aware of and abide by them? What if they don't? Who will monitor and take action? This should not be left to the neighbors.

14) Plan Commission Recommendation is Not Measurable

At the April 1 meeting the planning commission moved to recommend approving the application with the condition:

- That sound mitigation efforts be applied to reduce the pickleball sound by 50%.
    - I've addressed this earlier, but again I'll say "50% of what? " and "is that enough"?
- Have a formal review of the noise level and nuisance level at the end of the season.
    - This is vague. What kind of review? By whom? A sound study? How will this be performed and measured?

To be honest, I was more than a bit disappointed, as the Town Club has not provided any facts to support their request.

I'll end by saying that the residents in the neighborhood ARE entitled to the "right to quiet enjoyment" We have the right to inhabit and use our property without disturbance.

The Town Club attorney even went so far as to say that resident's enjoyment of property is not something that is measurable and some people will always complain. That is disrespectful to the residents and frankly to the village as a whole – this statement tells me that the Club doesn't care about the neighbors.

Thank you again for your time in reading and considering the documentation I submit.

Amy Barth

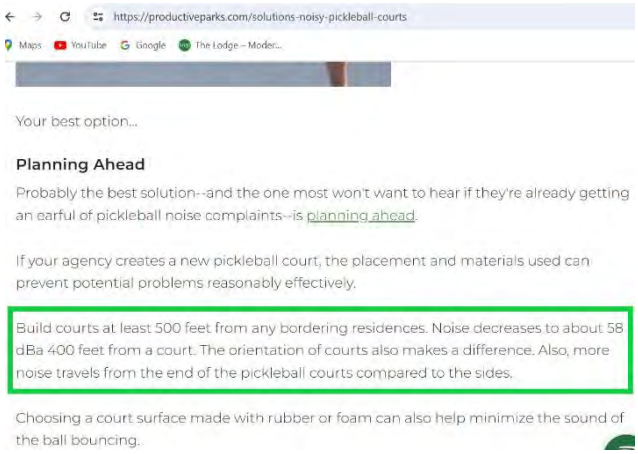
7815 N Boyd Way

Exhibit A

Pickleball Courts Should be More than 500 FT from Homes.

I have found several legitimate sources that state that pickleball courts, even with sound mitigation need to be at least 500 ft from residences. Here are a few references:

Productive Parks – a company that specializes in parks and rec maintenance and asset management systems. An article on their site https://productiveparks.com/about-productive-parks states that courts should be built at least 500 ft from any residences.


https://productiveparks.com/solutions-noisy-pickleball-courts

Maps YouTube Google The Lodge – Moder...

Your best option...

Planning Ahead

Probably the best solution--and the one most won't want to hear if they're already getting an earful of pickleball noise complaints--is planning ahead.

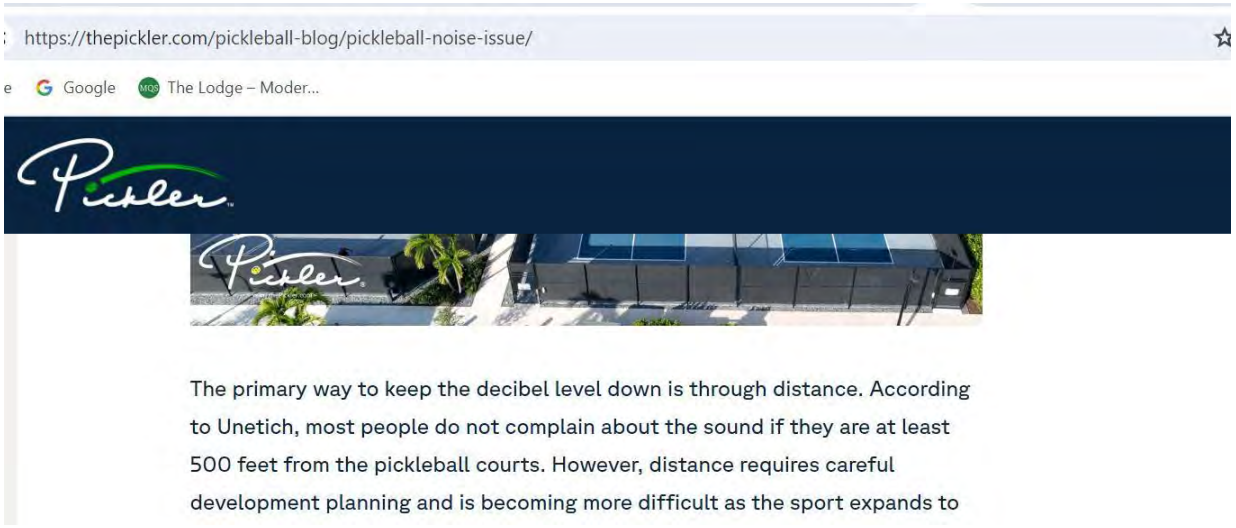
If your agency creates a new pickleball court, the placement and materials used can prevent potential problems reasonably effectively.

Build courts at least 500 feet from any bordering residences. Noise decreases to about 58 dBa 400 feet from a court. The orientation of courts also makes a difference. Also, more noise travels from the end of the pickleball courts compared to the sides.

Choosing a court surface made with rubber or foam can also help minimize the sound of the ball bouncing.

Bob Unetich . An electrical engineer by training, active now as a consulting engineer specializing in pickleball sound mitigation. https://pickleballsound.com/about/

In this pickleball blog post https://thepickler.com/pickleball-blog/pickleball-noise-issue/ Mr Unetich is credited for saying that "most people do not complain about the sound if they are at least 500 feet from the pickleball courts."


https://thepickler.com/pickleball-blog/pickleball-noise-issue/

Google The Lodge – Moder...

Pickler

Pickler

The primary way to keep the decibel level down is through distance. According to Unetich, most people do not complain about the sound if they are at least 500 feet from the pickleball courts. However, distance requires careful development planning and is becoming more difficult as the sport expands to

A study by Yale University and Mr Unetich shows that that at 100 ft the sound of pickleball is slightly less than that of a vacuum cleaner. That level of noise should not be imposed on any neighbors, at any time of the day. This chart was published in https://thehustle.co/ne-mans-quest-to-make-pickleball-quiet

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Exhibit B

39 Homes Within 500 FT of the Proposed Pickleball Courts.

Using the radius tool within mapdevelopers.com I created a map showing a 500ft radius from each of the 4 corners of the proposed courts. I then added a green dot on each property within the circles.

I did a similar map to identify the homes within 250 ft. There are 13 homes within 250 ft. The maps can be found on the following pages.

There are 39 homes within 500 ft, including homes on 5 streets:

- N Santa Monica,
- MacArthur,
- Regent,
- E Hyde Way
- N Boyd Way

Fox Point Homes Within 500 Ft of Proposed Town Club Pickleball Courts

Homes within 250 FT are identified with **

West of the Town Club	East of the Town Club
1. 7711 N Santa Monica 2. 7720 N Santa Monica ** 3. 7721 N Santa Monica 4. 7740 N Santa Monica ** 5. 7751 N Santa Monica ** 6. 7801 N Santa Monica ** 7. 7807 N Santa Monica ** 8. 7815 N Santa Monica 9. 7821 N Santa Monica 10. 480 E MacArthur 11. 510 E MacArthur 12. 520 E MacArthur ** 13. 511 E MacArthur 14. 7710 N Regent 15. 7760 N Regent 16. 7765 N Regent 17. 7800 N Regent 18. 7801 N Regent 19. 7808 N Regent 20. 7816 N Regent	21. 804 E Hyde Way 22. 805 E Hyde Way 23. 808 E Hyde Way 24. 7711 N Boyd Way 25. 7716 N Boyd Way 26. 7717 N Boyd Way 27. 7722 N Boyd Way 28. 7723 N Boyd Way ** 29. 7735 N Boyd Way ** 30. 7745 N Boyd Way ** 31. 7801 N Boyd Way ** 32. 7805 N Boyd Way ** 33. 7808 N Boyd Way 34. 7811 N Boyd Way ** 35. 7814 N Boyd Way 36. 7815 N Boyd Way ** 37. 7820 N Boyd Way 38. 7823 N Boyd Way 39. 7829 N Boyd Way

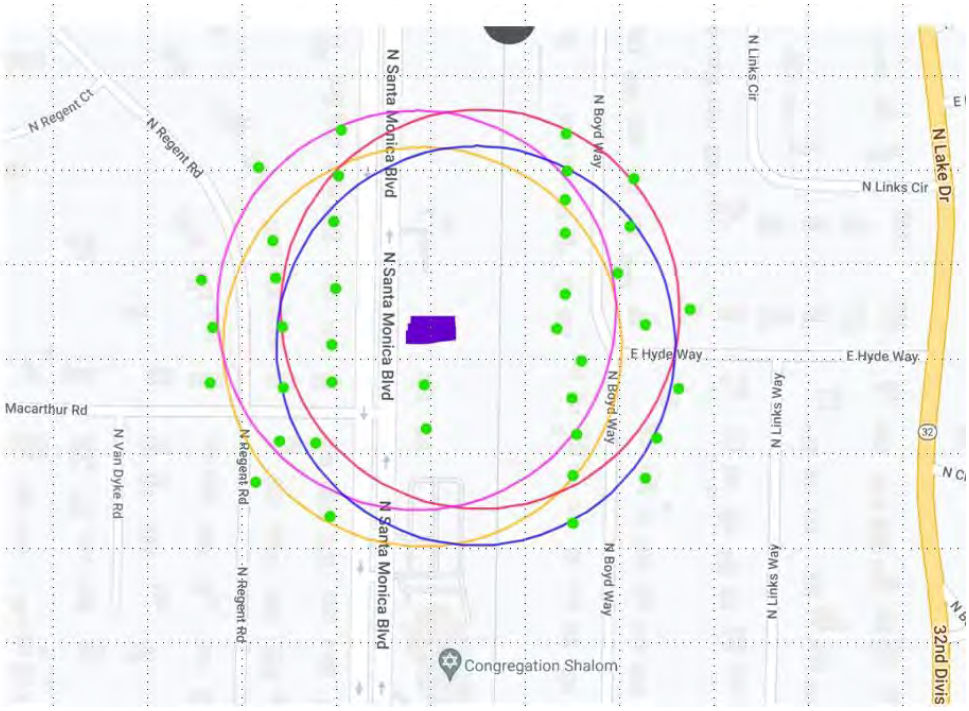
500 Ft Radius – 39 Homes:

39 Homes Within 500 Ft of the Proposed Town Club Pickleball Courts

Each circle represents a **500 ft radius** from a corner of the tennis courts .

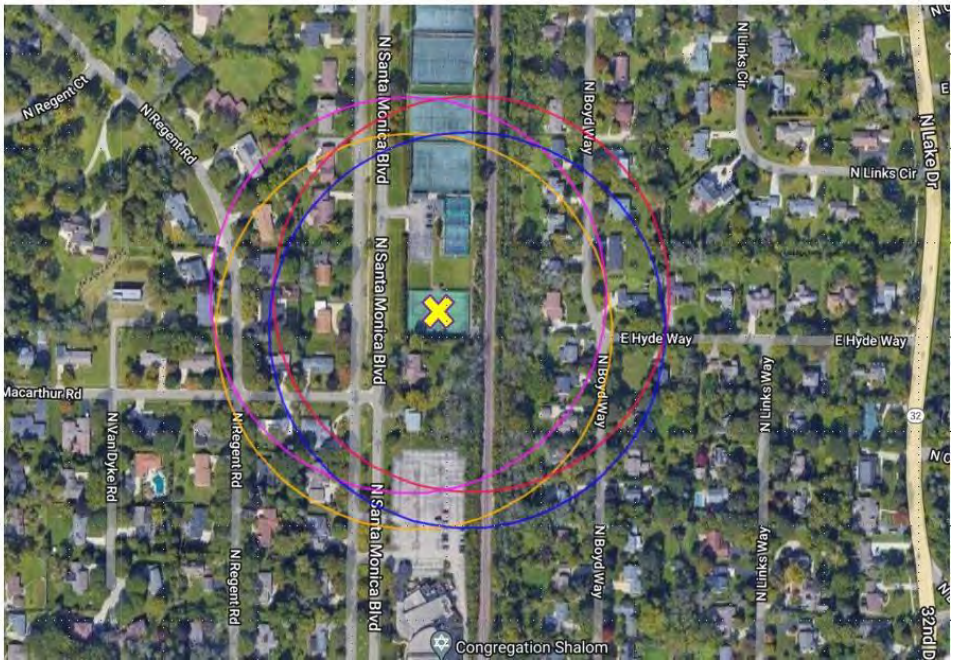
Purple: The proposed courts
Green: The 39 homes

Properties are included when the home is just outside a circle but it's clear that at least part of the property is in a circle.



Satellite View of the Same Map, with the exact same circles.

Yellow X marks the proposed courts.



250 Ft Radius – 13 Homes

13 Homes Within 250 Ft of the Proposed Town Club Pickleball Courts

Each circle represents a **250 ft radius** from a corner of the tennis courts .

Purple: The proposed courts
Green: The 13 homes

Properties are included when the home is just outside a circle but it's clear that at least part of the property is in a circle.

Satellite View of the 250 ft Map, with the exact same circles.

Yellow X marks the proposed courts.

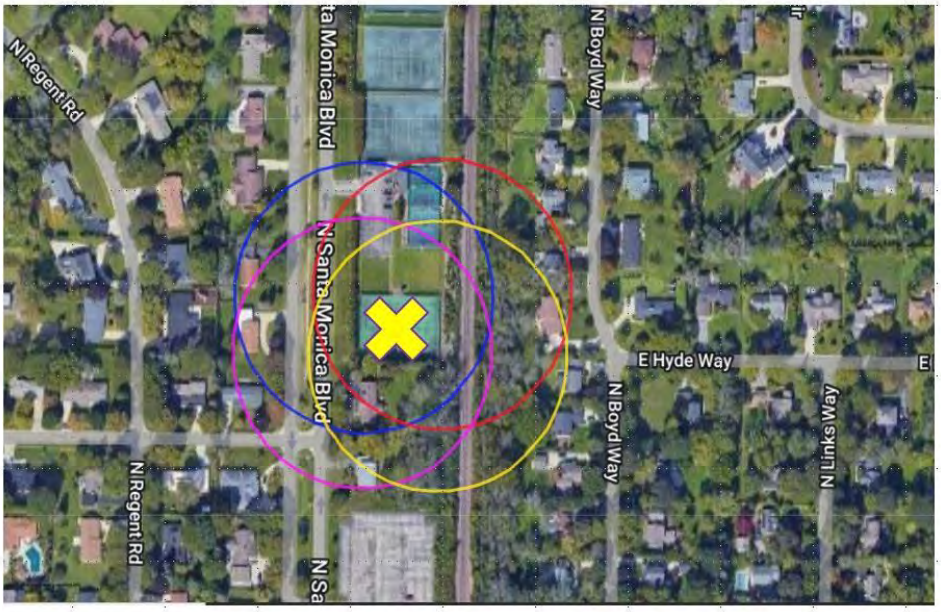


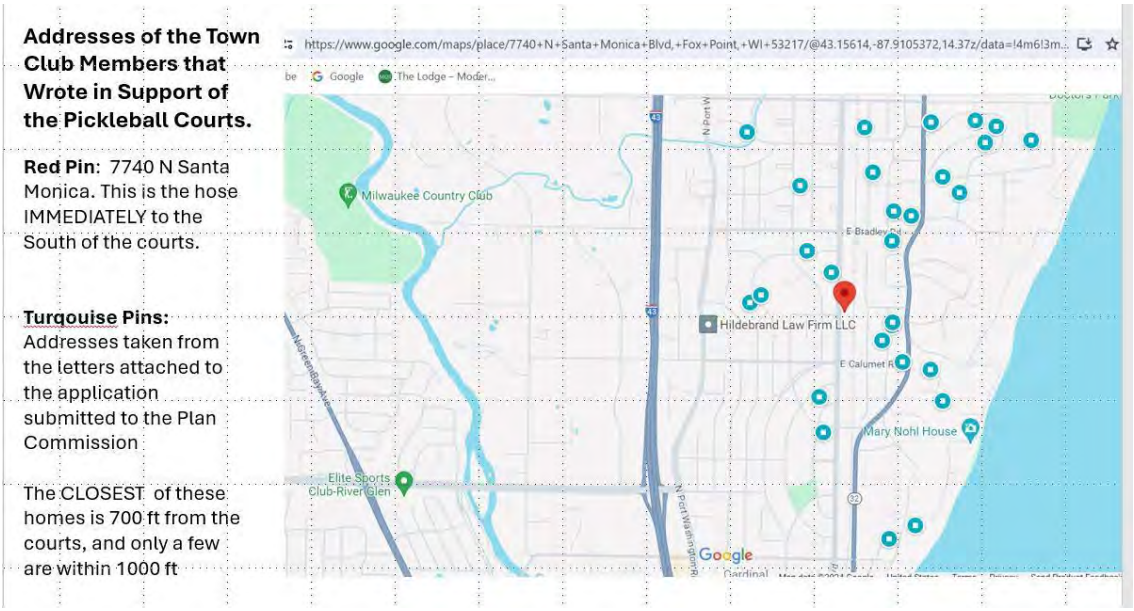
Exhibit C

TC Letters of Support: None From Members within 500 ft of Courts

In Exhibit 4 of the most recent submission the plan commission, the Town Club included letters from 59 signatories indicating their support.

I created a map showing these addresses in relation to the courts. Note that I was not able to pin the exact location of the courts as they do not have an address, so I pinned the house that is immediately to the south of the courts (within 20 ft),

NONE of these supporters live within 500 ft of the courts. The closest home is 7901 N Santa Monica with is 700 ft away



It's very easy to say that the noise will not be a nuisance when it doesn't affect you.

Some of the comments also mentioned, and I paraphrase for summary purposes:

- **"The courts are across the street from most of the houses**". This ignores the fact that there are houses next to and behind the courts, and that sound travels.
- **"The railroad is noisier".** No, no it's not. The train comes through at a rumble at most 2-3 times a day. It is loud, but it is not a high pitched sound and it passes within 5 minutes. So at most, if I'm home 24 hrs a day I would hear the train for about 15 minutes. Pickleball will be for hours and hours a day, every day. They cannot be compared.
- **"They bought their houses knowing the courts were there".** Yes, that is true. No one is complaining about tennis. The sounds of tennis are significantly quieter and at a less irritating frequency. Tennis has a lower density of people and the ball strikes are not as frequent. You cannot compare 4 tennis courts to 8 pickleball courts. See Exhibit J for a current lawsuit regarding the conversion of tennis courts.

Exhibit D

Information Presented at NOISE-CON 2023

One of the topics at NOISE-CON 2023 was: Pickleball Sound 103 - Mitigating Pickleball Sound - Is Pickleball Compatible with Residential Environments?

I am attaching a copy of the 11 page report. (Note that the handwritten notes on the document are NOT from me – they were on the copy of the report I downloaded)

Here is the conclusion on this report:

> Conclusions:
>
> Tests show that a pickleball impact is 4 times louder than a tennis impact and has more frequency content. This makes pickleball play on tennis courts a potential noise problem for nearby homes. Noise ordinances do not properly quantify the sound from pickleball impacts and often understate the level of this impact …..
>
> … In general, pickleball courts less than 100 ft from a home will require extreme sound mitigation measures to be compatible with a residental environment. Pickleball courts more than 100 ft from a home will require one or more sound mitigation measures to not be considered a nuisance. At 1000 ft or more from a home, pickleball courts will not require any sound mitigation.

Exhibit E:

City of Libertyville IL Paul Neal Park Pickleball Courts

In 2023 the City of Libertyville added 4 courts in Paul Neal Park. Neighbors as far as 4 blocks away have complained about the noise. As of August 2023 the city is looking for solutions.

https://patch.com/illinois/libertyville/pickle-ball-noise-causes-headaches-neighbors-libertyville

https://www.msn.com/en-us/tv/news/neighbors-blast-new-pickleball-courts-for-making-such-a-racket/ar-AA1d42Rc

A map shows far fewer homes and more green space than we have here. The pickleball courts are shown in blue on this map.

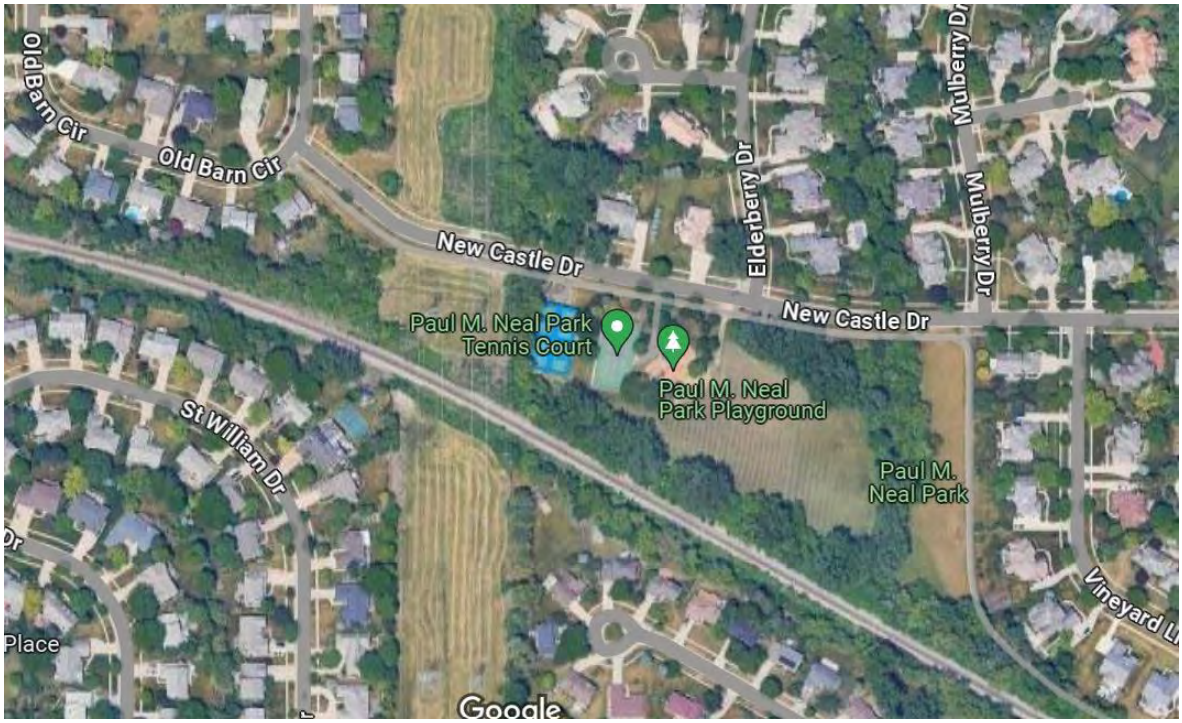


Exhibit F:

City of Centennial Colorado Bans Courts within 250 FT of Residences After Conducting Sound Study

In March 2023 the city council passed a six-month moratorium on new applications or approvals for outdoor pickleball courts within 500 feet of residential uses.

The Sound Study can be found here:
https://www.centennialco.gov/files/sharedassets/public/v/1/documents/city-projects-and-initiatives/centennial-pickleball-noise-assessment.pdf

In September 2023 the ban was lifted with the introduction of new rules and regulations that ban outdoor courts within 250 ft of residences, and require a noise impact assessment for any courts between 250-600 ft and limit hours.

https://www.centennialco.gov/Government/City-Projects-and-Initiatives/Pickleball

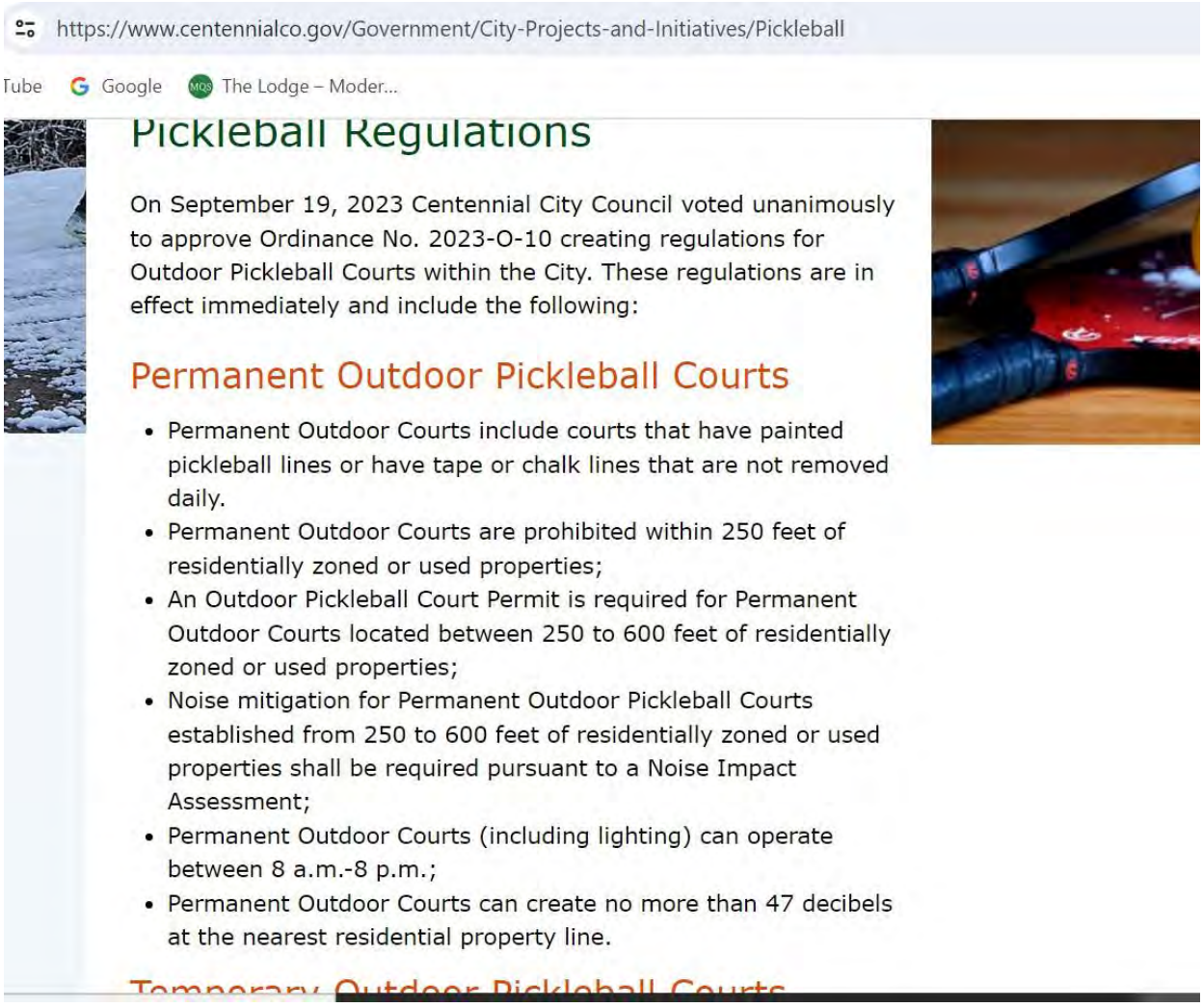


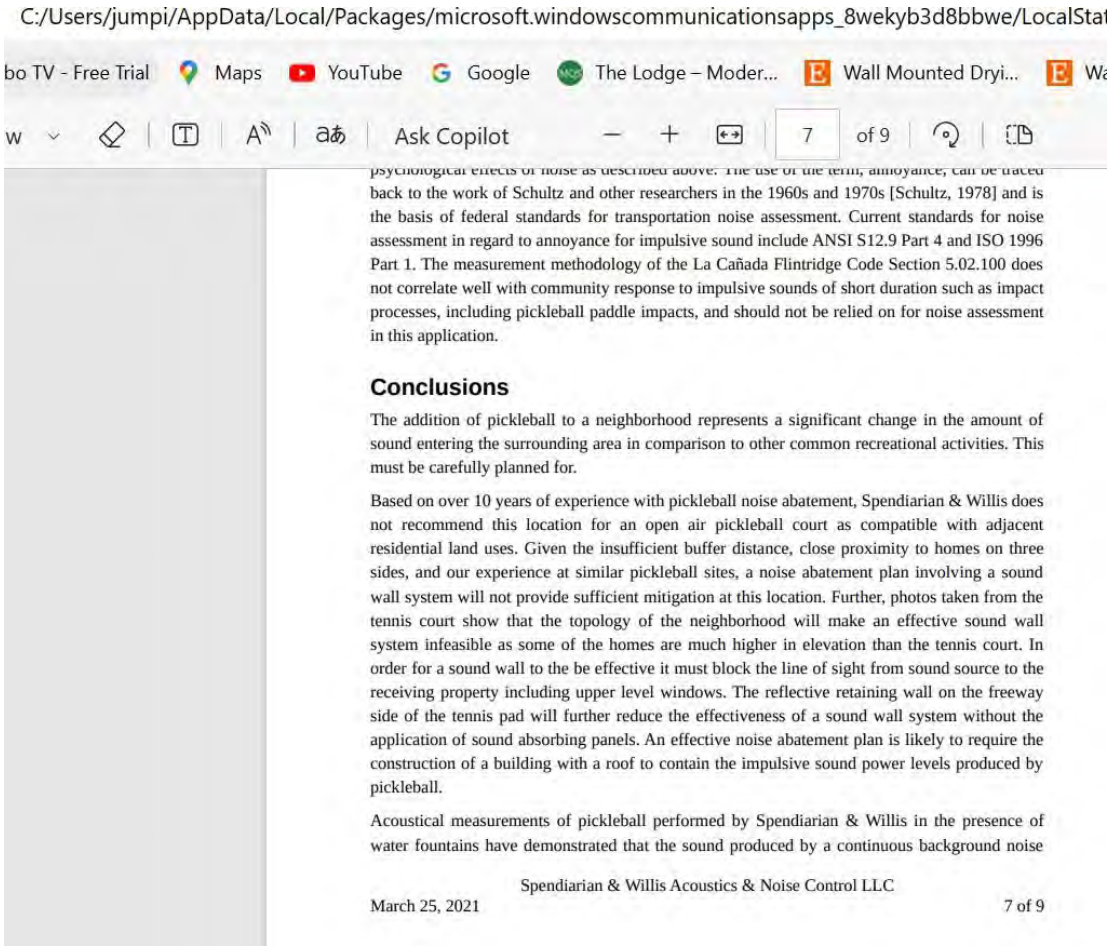
Exhibit G

GlenHaven Park, LaCanada CA: Pickleball Program Shut Down

After complaints from the neighbors and a sound study that showed that even with noise abatement measures the site was not suitable for pickleball, the program was discontinued.

A map of the park shows that there are several homes in close proximity (similar to The Town Club). There is only 1 tennis court, so at most they had 2 pickleball courts. This site is also abutting the San Fernando freeway.

The full sound study conducted in March 2021 sound study by Spendiarian and Willis Acoustics and Noise Control is attached and led to the following conclusions:


C:/Users/jumpi/AppData/Local/Packages/microsoft.windowscommunicationsapps_8wekyb3d8bbwe/LocalStat

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w | Ask Copilot | 7 of 9

psychological effects of noise as described above. The use of the term, annoyance, can be traced back to the work of Schultz and other researchers in the 1960s and 1970s [Schultz, 1978] and is the basis of federal standards for transportation noise assessment. Current standards for noise assessment in regard to annoyance for impulsive sound include ANSI S12.9 Part 4 and ISO 1996 Part 1. The measurement methodology of the La Cañada Flintridge Code Section 5.02.100 does not correlate well with community response to impulsive sounds of short duration such as impact processes, including pickleball paddle impacts, and should not be relied on for noise assessment in this application.

Conclusions

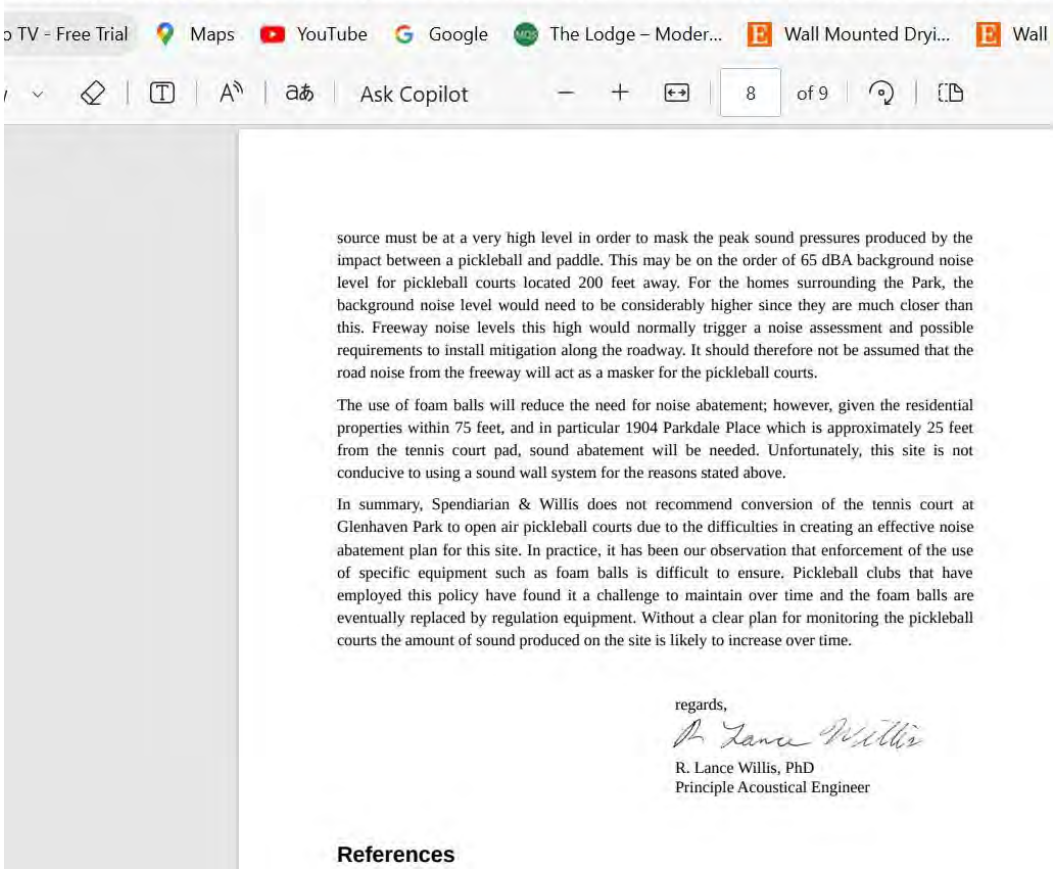
The addition of pickleball to a neighborhood represents a significant change in the amount of sound entering the surrounding area in comparison to other common recreational activities. This must be carefully planned for.

Based on over 10 years of experience with pickleball noise abatement, Spendiarian & Willis does not recommend this location for an open air pickleball court as compatible with adjacent residential land uses. Given the insufficient buffer distance, close proximity to homes on three sides, and our experience at similar pickleball sites, a noise abatement plan involving a sound wall system will not provide sufficient mitigation at this location. Further, photos taken from the tennis court show that the topology of the neighborhood will make an effective sound wall system infeasible as some of the homes are much higher in elevation than the tennis court. In order for a sound wall to the be effective it must block the line of sight from sound source to the receiving property including upper level windows. The reflective retaining wall on the freeway side of the tennis pad will further reduce the effectiveness of a sound wall system without the application of sound absorbing panels. An effective noise abatement plan is likely to require the construction of a building with a roof to contain the impulsive sound power levels produced by pickleball.

Acoustical measurements of pickleball performed by Spendiarian & Willis in the presence of water fountains have demonstrated that the sound produced by a continuous background noise

Spendiarian & Willis Acoustics & Noise Control LLC
March 25, 2021 7 of 9

C:/Users/jumpi/AppData/Local/Packages/microsoft.windowscommunicationsapps_8wekyb3d8bbwe/LocalState/



source must be at a very high level in order to mask the peak sound pressures produced by the impact between a pickleball and paddle. This may be on the order of 65 dBA background noise level for pickleball courts located 200 feet away. For the homes surrounding the Park, the background noise level would need to be considerably higher since they are much closer than this. Freeway noise levels this high would normally trigger a noise assessment and possible requirements to install mitigation along the roadway. It should therefore not be assumed that the road noise from the freeway will act as a masker for the pickleball courts.

The use of foam balls will reduce the need for noise abatement; however, given the residential properties within 75 feet, and in particular 1904 Parkdale Place which is approximately 25 feet from the tennis court pad, sound abatement will be needed. Unfortunately, this site is not conducive to using a sound wall system for the reasons stated above.

In summary, Spendiarian & Willis does not recommend conversion of the tennis court at Glenhaven Park to open air pickleball courts due to the difficulties in creating an effective noise abatement plan for this site. In practice, it has been our observation that enforcement of the use of specific equipment such as foam balls is difficult to ensure. Pickleball clubs that have employed this policy have found it a challenge to maintain over time and the foam balls are eventually replaced by regulation equipment. Without a clear plan for monitoring the pickleball courts the amount of sound produced on the site is likely to increase over time.

regards,

R. Lance Willis, PhD
Principle Acoustical Engineer

References

In an October 2022 city council meeting, the topic was discussed and the program at the park ended https://lacanadaflintridge-ca.granicus.com/MetaViewer.php?view_id=4&clip_id=1076&meta_id=36574

Pickleball Program At Glenhaven
October 18, 2022
Page 2 of 3

Complaints/Comments from the Community

The pickleball program proved very popular among the community of pickleball players. The LCF Pickleball Association and resident pickleball players have voiced their support to continue the pilot until the permanent courts are built.

The City has continued to receive multiple complaints from the neighbors near/immediately adjacent to the courts throughout the pilot program and the current pickleball program. Similar to the objections presented when the initial pilot discussions occurred, the major complaint is the noise level due to the introduction of pickleball in the area. The City has also received a complaint regarding increased parking due to the activity. Finally, a complaint has been submitted that some players are not using "quiet" gear during their play. As previously stated, the City would not be able to enforce such rules without having a City staff person present to enforce the gear being used. Based on the sound study, it is also important to note that the noise level did not exceed most of the audio receptors, regardless of the gear used.

Based on the professional sound study, receptor NM3 exceeded the ambient noise levels by 3 dB or more during all measured pickleball hours.

https://cityoflcf.org/pickleball-program-at-glenhaven-park-to-end-october-28/

Exhibit H

GreenBriar Hills Country Club, Kirkwood MO

Before the courts were built, the neighbors asserted that the sound would be a problem. The city granted permission to build the courts under the caveat that a sound study was to be conducted before use. The study was performed Oct 2023 and the courts are closed as the noise exceeds the noise ordinance.

https://www.timesnewspapers.com/webster-kirkwoodtimes/greenbriar-hills-pickleball-courts-fail-sound-test/article_b75ed300-6e80-11ee-ad60-e718bb1dd805.html

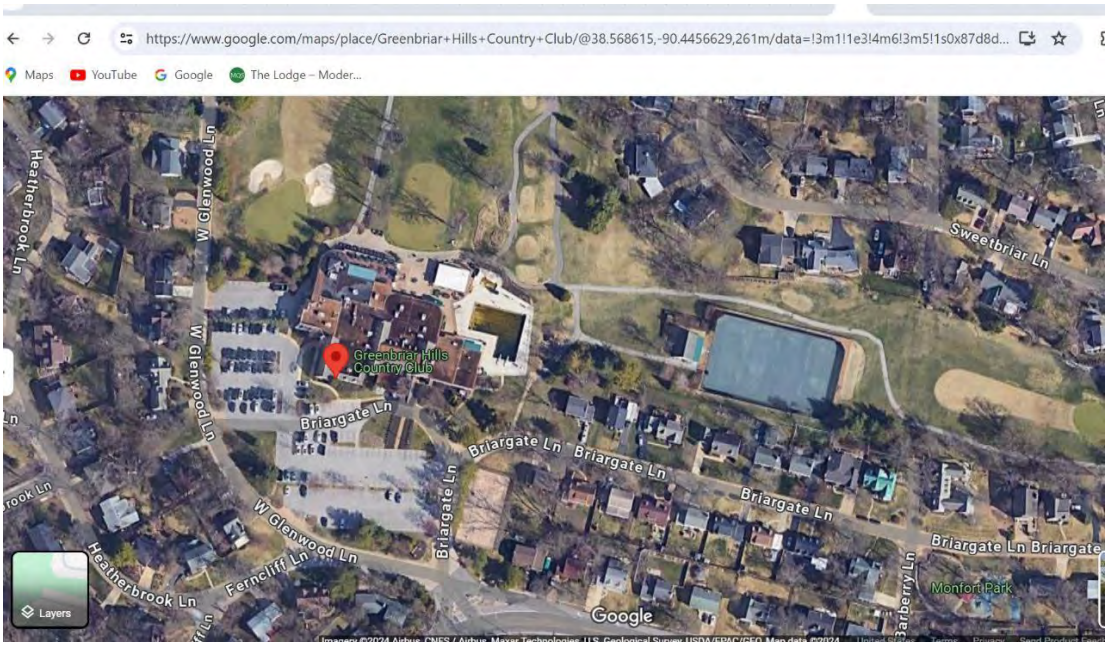


Exhibit I

Eisenhower Park, Denver CO

Four courts at this Denver park were permanently closed in Nov 2023 and will be repainted back to tennis courts.

In the articles below, you will see that the city learned that:

- Courts should be at least 600 ft from homes.
- Fence mounted noise abatement is not likely to be successful at very close proximities
- Fence mounted noise abatement would not be successful because the fences are not high enough to block sound from nearby two-story homes

https://www.westword.com/news/eisenhower-pickleball-courts-second-shut-down-in-denver-this-year-18129976

He also told those gathered at Eisenhower that the parks department knows it didn't initially do the right thing when it came to pickleball; it didn't anticipate how the sport would grow or how intense game play would become, he said.

"We made mistakes because we built courts that were too close to people's homes," Gilmore admitted. "We're trying to now take the steps to make sure that we don't do that anymore and we build courts in the right place."

The city is now looking at courts at least 500 feet away from homes and in locations not occupied by tennis courts, according to Gilmore, who calls it progress.

https://www.cbsnews.com/colorado/news/pickleball-courts-eisenhower-park-denver-close-noise-violations/

For those interested in further information on sound mitigation considered at the Eisenhower Park location, here are some of the research and investigation findings:

- Based on guidance from DDPHE and sound engineering studies, DPR recommends that pickleball court sites be at least 600 feet away from residential properties. The homes to the north of the Eisenhower pickleball courts are roughly 195 feet from the courts, while the homes to the south are 175 feet away.
- Fence-mounted sound mitigation, such as baffling or heavy screening, is highly unlikely to be successful at these close proximities.
- In this particular location, sound mitigation would be required on all

https://www.denver7.com/news/front-range/denver/denver-closing-pickleball-courts-at-eisenhower-park-amid-noise-complaints

As it turns out, there may be ways to "turn pickleball down," so to speak, in the coming years. Denver7 looked into three of the potential solutions most often suggested to facilitate continued growth of pickleball, and how they apply at Eisenhower Park.

The first is the installation of noise mitigation treatments along the fencing of pickleball courts. Gilmore said this has been discussed by the city, but wasn't considered a viable option at Eisenhower because the fencing isn't tall enough to block the sound from two-story houses adjacent to the park. Even if taller fences were built, he said, the department isn't sure if the noise-mitigation treatments would reduce noise enough to make them worth the money.

Another possible solution coming down the pipe are new paddles and balls, designed to make less noise.

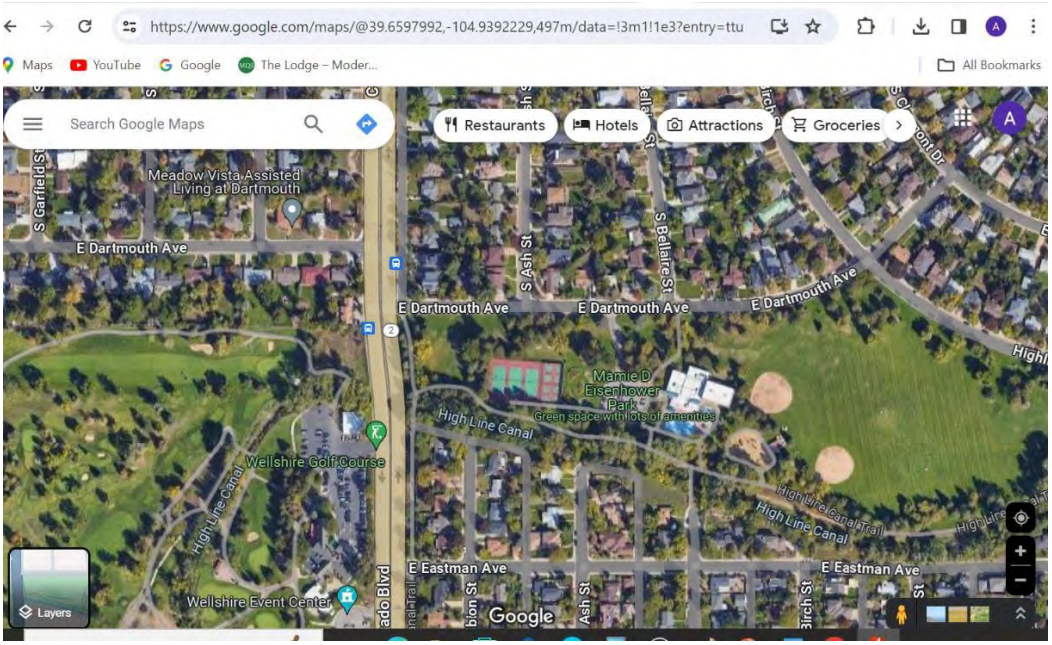


Exhibit J

Barbera vs City of Newport RI

When Dr. Barbera purchased her home in 2012, the adjacent courts in the city park were used for tennis only. There were no noise issues until the courts were converted to and became popular for pickleball.

This Feb 2024 lawsuit filed in RI complains that the close proximity and the excessive noise is clear and continuous nuisance which necessitates injuctive relief. The noise emanating from the pickleball courts, both from the play of the game and from the vocalizations of the steady flow of participants, has completely hindered Plaintiff's use and enjoyment of their residence.

PDF of the filing is attached.

COMPLAINT

INTRODUCTION

This action arises out of the City of Newport's decision to install, maintain, and continue to operate and allow unreasonable daily, year-round use of pickleball courts at Hunter Park in Newport, which directly abut the property of the Plaintiffs. As detailed herein, the close proximity of these courts to the Plaintiffs' residence and the excessive noise generated therefrom is a clear and continuous nuisance which necessitates injunctive relief and the other relief prayed for herein. The noise emanating from the pickleball courts, both from the play of the game and also from the vocalizations of the steady flow of participants, has completely hindered Plaintiffs' use and enjoyment their residence, where Dr. Barbera also has been severely negatively impacted in her ability to conduct virtual meetings and other business from her home. Despite being made aware that the noise generated by these courts is clearly and consistently in excess of the City's Noise Abatement Ordinance, Chapter 8.12, and despite the City's representatives and staff expressly recognizing and documenting the noise issues caused by the courts, the City has failed to appropriately remedy and abate such nuisance and has unlawfully permitted courts that

14. The constant shouting from the pickleball players, a very social activity, can be heard throughout the day in all rooms of the Residence, regardless of whether the windows are open or closed.

15. In addition to the noise created by the additional players, the surface of a pickleball paddle is harder than that of a tennis racket, and the ball that is used is hard plastic, resulting in a constant piercing and disturbing popping sound, as the balls are struck by paddles, which can be heard in every room of the Residence, at all times of the day.

16. The noise has prevented Plaintiffs from reading in peace, having conversations with guests, resting during the day, sitting or walking in their gardens, having holiday or social daytime gatherings, and performing professional work in the home such as phone calls and video conferences.

17. In addition to the disruptions, the popping sounds, which are close to the most sensitive audible frequency range of human hearing, have caused stress, fatigue, anxiety, impairment of concentration, headaches, mental distress and loss of sleep.

18. From the time the Courts were converted from tennis-only courts to pickleball courts, Plaintiffs have been constructively evicted from their Residence.

Note that the residence is also close to a freeway, but that is not a sound issue – the pickleball is.

Sara Bruckman

From: Evan Bretzmann <ejbretzmann@me.com>
Sent: Tuesday, April 2, 2024 10:53 AM
To: Scott Botcher
Subject: Please Do Not Allow Pickleball in My Backyard

Hi Scott,

I'm writing again to ask you to not allow the private club to put pickleball courts in my front yard, lower my quality of life, keep my three girls from napping, force me to close my windows in the summer, lower my property value.

I hope I live in a village in which the primary obligation of that village is to its residents—the families and individuals who purchased property and entered into 30-year commitments that largely determine the quality of their lives—not a private club where members come and go for a few hours at a time.

The anecdotal evidence of the damage pickleball does to communities is *everywhere* and *undisputable:*

> "It's like having a pistol range in your backyard," said John Mancini, 82, whose Wellesley, Mass., home abuts a cluster of public courts.

> "It's a torture technique," said Clint Ellis, 37, who lives across the street from a private club in York, Maine.
>
> "Living here is hell," said Debbie Nagle, 67, whose gated community in Scottsdale, Ariz., installed courts a few years ago.
>
> "It creates vibrations in a range that can be extremely annoying to humans," Unetich said.

Shattered Nerves, Sleepless Nights: Pickleball Noise Is Driving Everyone Nuts
nytimes.com

Please don't turn our neighborhood into a place we refer to as a living hell.

Evan

Begin forwarded message:

From: Evan Bretzmann <ejbretzmann@icloud.com>
Date: February 19, 2024 at 10:19:13 AM CST
To: lsumner@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, sbotcher@villageoffoxpoint.com
Subject: Please Do Not Allow Pickleball in My Backyard

Hi,

I'm at 7808 N Boyd Way. I've recently been made aware that the Town Club is trying to put pickleball courts in. Please no.

The Town Club is already loud enough with court tennis. They play until 10pm. They're loud. I can hear every word of their conversations in my yard, and I can definitely hear their music.

I have two girls (5 and 3) and one on the way. Pickleball would definitely interrupt their sleep.

I do not understand how a private entity could do something that has such a negative impact on so many residents. I cannot move my house. I cannot create a noise barrier in my yard.

I work downtown at Northwestern Mutual. I love Fox Point. I love our community's connection to the natural world—to plant life, wildlife, its preservation of quiet, dark nights. This would adversely affect these values.

Please help.

Evan Bretzmann

To: Christine Symchych, Catie Anderson, Liz Sumner, Eric Fonstad, Jennie Stoltz, Greg Ollman, Scott Botcher

From: Kim Brier, 7723 N. Boyd Way

Re: Town Club Pickleball courts

Date: April 9, 2024

Good evening:

My name is Kim Brier and I live at 7723 N. Boyd Way. Thank you for the opportunity to voice my concerns.

I had the opportunity to attend last week's planning committee meeting and learned quite a bit.

For example:

1. There were a lot of issues discussed, including TC currently playing w/o permit, and the proposed plan to make changes to the existing courts that includes expanding # of courts to 8, some of which are being re-surfaced and does this cause an adverse effect on property values or enjoyment of property.
2. It was mentioned that to date, there were Zero noise complaints and several of the FP planning commission felt this was solid enough for a vote of yes :
    a. The following could help to explain reasons for that for that:

i. According to many sources: PB is the fastest growing sport, in terms of popularity, some suggest by as much 223% increase, since 2021. 3 years ago there were far fewer players, which meant far less noise and also playing on less than ideal courts. If you have 4 children playing on the playground vs 32 children playing, I'm going to guess that the noise is going to be way louder coming from the playground with 32 children than with 4. This is exactly what the TC is proposing. More players = more noise. More noise = more complaints., and yes, we live behind the RR tracks but this is NOT a continuous noise lasting for 10-12 hours, like the TC is proposing, with hours of play , 8 am to approx.. 8 pm, exactly in line with my hours of enjoyment or work. It stands to reason the fewer players will result in fewer complaints.

b. The amount of complaints, regarding noise, has also increased exponentially, across the country, as a result of the increase in play. There are dozens, maybe in the 100's of complaints raised on the internet : YouTube, Google, etc. I'm sure you are aware of this. If not, I'll be happy to provide you with dozens of hyperlinks that support this.

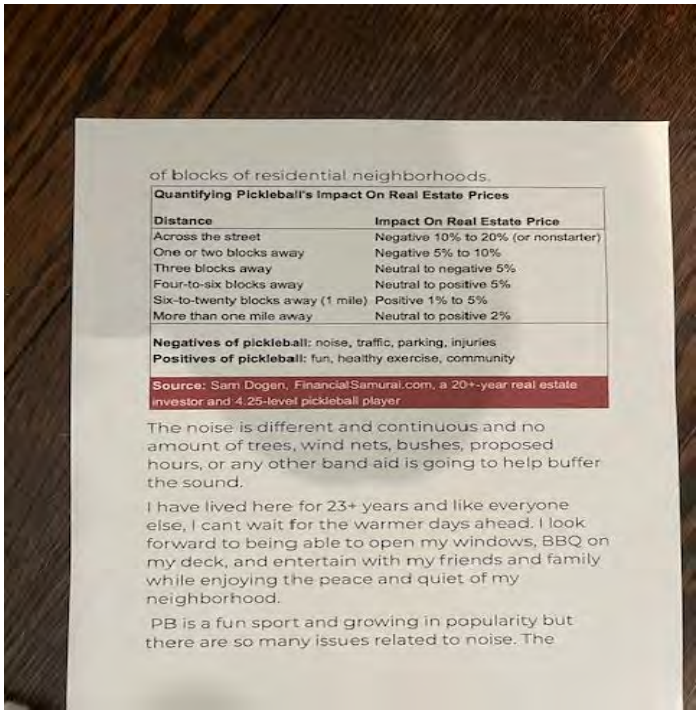
c. Bottom line is as the popularity has increased , so too have the complaints, so much so that many

communities/neighborhoods are involving professional engineering firms to evaluate ways to mitigate noise and ask the question of " how far should homes be away from PB courts" and what is the impact on neighbors? Neighbors are fed up.

3. Which brings me to next topic of "what would be the downside, other than $, in asking TC to reach out to an engineering firm that specializes in acoustics and sound to evaluate the level of noise and the impact on the neighborhood"?
    a. In my research, I was able to find multiple articles that suggest this should happen.
        i. Spendiarian and Willis (acoustic and sound engineers) -said this to the LA Times: " we are called in all the time with complaints of PB" Willis advises against converting courts. He states that PB needs to be planned for differently because of the sound that is similar to other high impact sounds. April, 2018
    b. According to professor Sakar or George Washington University who studies PB strikes says: it is Not equivalent to tennis, it has a higher noise impact with in excess of 70 decibles @ 100 ft away. In most communities with a noise ordinance enforced, the norm is 55 db before considered a nuisance.
    c. Bob Unetich: (Tackling PB sound) – You Tube article: Retired Engineer (PB sound mitigation) and expert in

radio waves: Hired an acoustics firm to study noise and available options: Findings:

i. Consider sound before you convert courts
ii. Lawsuits on the rise
iii. Noise complaints on the rise
iv. Recommends a noise impact study
v. Complaints are real and need to be considered
vi. We know the noise negatively affects human health and well being

4. This is not just a noise issue but studies also indicate a negative impact on property values.
    a. Samurai Financial.com, (Sam Dogen) - 20+ years in real estate investing and a 4.5 level PB player, published an article entitled: Quantifying PB impact on real estate prices:
        i. 

of blocks of residential neighborhoods.

Quantifying Pickleball's Impact On Real Estate Prices

Distance	Impact On Real Estate Price
Across the street	Negative 10% to 20% (or nonstarter)
One or two blocks away	Negative 5% to 10%
Three blocks away	Neutral to negative 5%
Four-to-six blocks away	Neutral to positive 5%
Six-to-twenty blocks away (1 mile)	Positive 1% to 5%
More than one mile away	Neutral to positive 2%

Negatives of pickleball: noise, traffic, parking, injuries
Positives of pickleball: fun, healthy exercise, community

Source: Sam Dogen, FinancialSamurai.com, a 20+-year real estate investor and 4.25-level pickleball player

The noise is different and continuous and no amount of trees, wind nets, bushes, proposed hours, or any other band aid is going to help buffer the sound.

I have lived here for 23+ years and like everyone else, I cant wait for the warmer days ahead. I look forward to being able to open my windows, BBQ on my deck, and entertain with my friends and family while enjoying the peace and quiet of my neighborhood.

PB is a fun sport and growing in popularity but there are so many issues related to noise. The

5. In summary,

a. The planning commission asked the question of: Does this have an adverse affect on property values or enjoyment of property or detrimental to one's general welfare and the answer has to be yes. We would not be here voicing our concerns if we were not negatively impacted. If you do not believe me, I would encourage all of you to go to a community that has 8 courts, potentially 32 people playing, for 12 hours per day and ask yourself, if this is what you would want to hear this from your backyard? In fact, it would even be difficult to find this many courts in one location but that is what the TC is asking for. So yes, there were 0 complaints, 3 years ago but it is far from an apples to apples comparison and yes, we are negatively impacted by this proposal.

6. I have lived here for 24 years and I look forward to warmer days ahead when I can sit on my deck, windows wide open, BBQ on the grill and relax with my friends and family while enjoying the peace and quiet of my back yard.
7. I play all kinds of sports, including PB. I know how loud it is, just with one court and to hear this from 4 -500 ft away, every day, all day, is simply not fair to those of us live nearby and the answer is not to propose restrictions on hours of play or plant shrubs or trees or noise reducing nets. They don't work and potentially create other problems.

Thank you for your time and consideration,

Kim Brier

414-331-0808

Kbrier21@gmail.com

Michael and Deborah Whittle
7721 N. Santa Monica Blvd.
Fox Point, WI 53217

April 3, 2024

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

Fox Point Village Board
Village of Fox Point
7200 N. Santa Monica Blvd.
Fox Point, WI 53217

To Scott Botcher and the Fox Point Village Board:

We object to the proposed Conditional Use Permit for Pickle Ball at The Town Club. The proposed use will create a nuisance and result in a substantial adverse effect on the surrounding property values, which violates Section 745-10 (A) (1) of the Village Code.

The conversion of tennis courts to pickleball courts and the construction of new pickleball courts have triggered lawsuits and disputes all over the United States. A simple internet search provides many results discussing noise problems, their causes and possible remediation. I have attached an article on the issues from The New York Times and a more technical article about the sound issues from an engineer and pickleball enthusiast. The link in Exhibit 5 of the March 27, 2024, letter from Amundsen Davis states the following about pickleball noise:

> The noise generated by the game is louder, sharper and at a higher pitch than tennis, which generates a deeper "thwack" sound that registers far lower on a sound meter.

The application attempts to equate the existing three tennis courts occasionally used for pickleball with the proposed eight pickleball courts used for leagues, lessons, and social events. The proposed use is a much higher intensity activity, that apparently will occur from 8am to potentially 9pm or 10pm, depending on the timing of dusk.

The noise from the proposed courts would also violate Section 670-2 of the Village Code, which prohibits loud and unnecessary noise.

Many of the exhibits attached in support of the application are flawed.

Exhibit 3 is based on the appraiser's "understanding" that pickleball has been played on the outdoor courts for the past three years. That is not the same as the intensive use proposed, so is not relevant. He also apparently measures property distances from The Town Club grounds, not the site of the proposed courts. The radius used is 1,320 feet; only two properties are within 500 feet of the grounds. The appraiser provides no details as to specific properties, distances from the proposed courts and actual sale dates and prices, so there is no way to evaluate his conclusions. Finally, a finding that no property identified in his methodology sold for less than the prior selling price does not support the conclusion that pickleball had no detrimental effect on property values. Property values in Fox Point have risen dramatically in the last few years, as evidenced by the recent village wide reassessment. Not appreciating in that period is evidence of a detrimental impact on property value.

Exhibit 4 consists of emails from Town Club members who will benefit directly or indirectly from the proposed courts. Most of them live far from the proposed courts and we are not sure any are as close as we are. These amount to emails from the applicant in support of the application, which is to be expected, but not relevant.

Exhibits 8, 9 and 10 attempt to equate existing pickleball courts in the area with the proposed courts. However, no information is provided as to distances from houses, court density, noise mitigation or hours of operation, so these exhibits are not evidence of anything relevant to the application.

Exhibit 11 is a list of Fox Point residents who are Town Club residents. This is not relevant to compatibility with the neighborhood, since Fox Point is clearly too large to be considered one neighborhood. It also has nothing to do with appropriate location, residential quality and character, nuisance, or the general public welfare.

Exhibit 13 concerning train horns has no relevance. The exhibit indicates two trains pass through Fox Point each day, which is not at all comparable to a proposed facility that will be open from 8am until dark, with leagues, lessons and social events.

The March 27, 2024, letter from Amundsen Davis cites its attached exhibits as evidence that the six code requirements listed have been satisfied, but only one exhibit (Exhibit 12) is not deeply flawed. The letter also references "the record to date" but the proposed courts do not exist, so there is no record to date for them. The existing tennis courts and occasional pickleball use (without a permit for this substantially different activity) are not reasons to approve or grandfather a use that does not qualify under the Village Code.

Please feel free to contact us with any comments.

Very truly yours,

Michael Whittle Deborah Whittle

Michael Whittle and Deborah Whittle

Enclosures

A lesson in measuring sound

Sound can be characterized in several ways, but the three terms we should use when describing pickleball sounds are “pitch” and “loudness” which is also known as “sound level”. The reality is that most sounds are combinations of multiple pitches and sound levels.

You probably have heard of music notes such as “middle C”. When you tune a piano key to middle C, it has the pitch of middle C, plus components of higher pitch sounds. Pitch is quite different from loudness or sound level. A faint middle C and a very loud middle C are both of similar pitch, but of different sound levels.

Pickleball sounds heard outside the courts are mostly the result of a ball hitting a paddle. The pitch we hear varies with the ball model and the paddle model. This is independent of loudness, so having an agreed upon way of measuring loudness is helpful.

To make this measurement, we need an agreed upon a reference sound level and a set of units of measurement. An accepted unit of sound pressure is the pascal, but human hearing is quite sensitive, so we need to measure some pressure changes that are 1 million times weaker, or a micro-pascal, which has been selected as the normal reference for sound level measurements.

In addition to our hearing being sensitive, we also have an amazing ability to hear and make sense of both very low levels, all the way up to very high levels, without incurring damage to our hearing.

Dealing with this wide range of pressures requires cumbersome arithmetic, so it is common to compare one level to another by using a base 10 logarithmic scale. Don’t worry about forgetting high school math, since we can just use the defined terms to easily compare any two sound levels, even if they are millions of times apart in level.

The term we will use is the decibel. The selected reference for sound measurements is 1 micro-pascal which we set to equal zero decibels, or 0 dB as commonly written. Humans perceive an increase of 10 decibels in sound level to be roughly 2x as loud. This is quite helpful since we can then simply use a meter calibrated in decibels to take measurements, and then easily estimate how the sound levels will be perceived.

You can read more about this in Wikipedia at: https://en.wikipedia.org/wiki/Sound_level_meter

As it relates to pickleball

The noise problem pickleball causes is due to the fact that humans are more annoyed by higher pitch sounds in general. A beeping sound is more annoying than a rumble sound, even if those two sounds are of the same level. Tennis and some other common sports produce sounds that are usually lower pitch than in pickleball, therefore less annoying.

One aspect of this reality is that paddles that vibrate a little slower will produce a sound that is somewhat less annoying to the neighbors. This is usually the case for thicker paddles. As paddle technology evolves, we may see more paddles become available with lower pitch sound production, and these sounds should be less annoying.

So, what does this all mean to us as pickleball enthusiasts? The quietest sounds some people can hear (with excellent hearing), are about 20 decibels above the reference level of 0dB. A problem with that simplification is that human hearing sensitivity varies with pitch, so the threshold of hearing also varies. An agreed upon adjustment to this measurement method is to use a weighted sensitivity called the A curve. Sound meters usually have a reading capability of decibels adjusted for the A curve. This adjusted unit of measurement level is referred to as dBA or often as dBa.

Now we are ready to use the numbers for comparison purposes. Here are some points of reference from the website, https://noiseawarness.org:

0 dBA – The softest sound a person can hear with normal hearing
10 dBA – normal breathing
20 dBA – whispering at 5 feet
30 dBA – soft whisper
40 dBA – quiet residential area on a calm day
50 dBA – steady rainfall
60 dBA – normal conversation
70 dBA – freeway traffic
85 dBA – noisy restaurant
90 dBA – shouted conversation
100 dBA – nearby snowmobile
110 dBA – shouting into an ear
120 dBA – nearby thunder

As you know, at some level our hearing can be damaged. It is recommended that we avoid extended periods of exposure to levels above 80 dBa. Above 90 dBa is considered dangerous according to the Occupational Safety and Health Association (OSHA) standards. Loud music fans beware!

Frequent pickleball sounds are typically about 70 dBa at about 100 feet away from the strike of the ball. Residents in homes located in a quiet residential area, that are within 100 feet from pickleball courts are used to noise levels of 40 dBa, therefore the level of pickleball noise is 30 decibels louder. And, remember, each time you increase a sound level by 10 decibels, it will sound twice as loud. So, an increase of 30 decibels is (10dB+10dB+10dB) or 2x as loud x 2x as loud x 2x as loud, or 8 times as loud. That's a significant increase in loudness. Would that be annoying? Probably.

Making sound level measurements requires calibrated accurate equipment. Do not rely upon sound level apps downloaded to your phone, except for simple relative readings. A good sound level meter, like the Sper840015, costs about $500 with calibration and it needs to have its calibration checked yearly or so.

So, what can you do?

What can be done to reduce complaints? First of all, courts that are expected to get lots of use should not be located close to homes! When we increase the distance to homes, things get better. Doubling the distance drops sound levels by 6 decibels in open areas and even more when there are obstructions to sound propagation, like hills and shrubs. Barriers can help as well. A 10 ft high wall can provide about 10 decibels of reduction, cutting the perceived sound level in half. Higher barriers help even more.

Using the quietest balls and paddles available can cut the sound as much as 10 more decibels or in half again, but many players will resist using other gear. Restricting play hours can also help reduce complaints.

Barriers can be absorbing or reflecting. Sound reflecting barriers, like that known as Acoustifence, are less expensive, but they will send pickleball sound back towards the courts or perhaps towards other homes. Absorbing barriers, like the sound blankets made by eNoise Control, are thicker, heavier and more expensive but they may be the best choice in some cases.

The reality is that most residential neighborhoods have background sound levels, known as ambient noise, close to 50 dBa. If all homes are 200 or more feet away from courts, the expected sound level will be about 64 dBa. If a sound barrier and quieter balls and paddles are used, we soon approach the typical sound level of average neighborhoods, under 50 dBa. To do more is difficult since sound will travel over a sound barrier. The solution to that problem might be a roof, basically making the courts an indoor facility and adding greatly to the cost, and an unrealistic option.

Determining what sound level is acceptable is not simple. Local ordinances can be consulted and sometimes this will set the specific sound level limits that apply, but other times an ordinance will simply state that any repetitive sound must not be “annoying”, and becomes a difficult goal to achieve. Sound level predictions and neighbor tolerance predictions must be part of designing a pickleball facility.

Summary:

Pickleball sound levels within 100 feet of courts will usually be around 70 dBa with no sound reduction efforts applied. This is as loud as freeway traffic sound.

At 200 feet, (using the 6 dB drop for doubling the distance) the level will be about 64 dBa. That’s louder than normal conversation.

At 400 feet it will be about 58 dBa. That’s quieter than normal conversation levels. By limiting use of paddles and ball brands based on sound testing, you can achieve below 50 dBa, and usually below local background level at that distance.

Adding a 10 ft. high barrier can drop that to below 40 dBa, a level below normal library sound levels.

Even at 100 feet, with consideration for equipment and sound barriers, the level could be about 52 dBa, and may be an acceptable sound level in many neighborhoods. This means that barriers and distance are the most effective tools. It also means that sound levels can be predicted in advance of having complaints, so consider your location and work with your pickleball community to make the sport a welcome addition to your neighborhood.

I hope the above will be helpful to those of you with current or potential sound problems. I am available to help with making sound levels estimates so send me an email if you have questions and I invite you to join the Facebook group Pickleball Noise (Mitigation) for much more pickleball sound information.

Bob Unetich,
Facebook Pickleball Sound Mitigation Group Admin
USA P Ambassador-at-large
USA P Certified Referee
A Registered Professional Engineer in Pennsylvania

Contact Bob at itsrmu@aol.com

Shattered Nerves, Sleepless Nights: Pickleball Noise Is Driving Everyone Nuts

nytimes.com/2023/06/30/sports/pickleball-noise-complaints-lawsuits.html

It sounded like popcorn warming in a microwave: sporadic bursts that quickened, gradually, to an arrhythmic clatter.

“There it is,” Mary McKee said, staring out the front door of her home in Arlington, Va., on a recent afternoon.

McKee, 43, a conference planner, moved to the neighborhood in 2005 and for the next decade and a half enjoyed a mostly tranquil existence. Then came the pickleball players.

She gestured across the street to the Walter Reed Community Center, less than 100 feet from her yard, where a group of players, the first of the day, had started rallying on a repurposed tennis court. More arrived in short order, spreading out until there were six games going at once. Together they produced an hourslong ticktock cacophony that has become the unwanted soundtrack of the lives of McKee and her neighbors.

“I thought maybe I could live with it, maybe it would fade into the background,” she said of the clamor, which began around the height of the coronavirus pandemic and now reverberates through her home, even when her windows are closed. “But it never did.”

The Sounds of the Court

Pickleball players at the Walter Reed Community Center on Wednesday.
Listen 1:02

Image
Pickleball at the Walter Reed Community Center is played on repurposed tennis courts.Credit...Jason Andrew for The New York Times

Image
Mary McKee, who lives across the street from the Walter Reed Community Center, has been fighting the noise pollution.Credit...Jason Andrew for The New York Times

Image
Armand Ciccarelli, 51, another resident who has complained about the noise.Credit...Jason Andrew for The New York Times

Sports can produce all kinds of unpleasant noises: referees’ whistles, rancorous boos, vuvuzelas. But the most grating and disruptive sound in the entire athletic ecosystem right now may be the staccato *pop-pop-pop* emanating from America’s rapidly multiplying pickleball courts.

The sound has brought on a nationwide scourge of frayed nerves and unneighborly clashes — and those, in turn, have elicited petitions and calls to the police and last-ditch lawsuits aimed at the local parks, private clubs and homeowners associations that rushed to open courts during the sport's recent boom.

The hubbub has given new meaning to the phrase racket sport, testing the sanity of anyone within earshot of a game.

"It's like having a pistol range in your backyard," said John Mancini, 82, whose Wellesley, Mass., home abuts a cluster of public courts.

"It's a torture technique," said Clint Ellis, 37, who lives across the street from a private club in York, Maine.

"Living here is hell," said Debbie Nagle, 67, whose gated community in Scottsdale, Ariz., installed courts a few years ago.

Modern society is inherently inharmonious — think of children shouting, dogs barking, lawn mowers roaring. So what makes the sound of pickleball, specifically, so hard to tolerate?

For answers, many have turned to Bob Unetich, 77, a retired engineer and avid pickleball player, who became one of the foremost authorities on muffling the game after starting a consulting firm called Pickleball Sound Mitigation. Unetich said that pickleball whacks from 100 feet away could reach 70 dBA (a measure of decibels), similar to some vacuum cleaners, while everyday background noise outside typically tops off at a "somewhat annoying 55."

But decibel readings alone are insufficient for conveying the true magnitude of any annoyance. Two factors — the high pitch of a hard paddle slamming a plastic ball and the erratic, often frantic rhythm of the smacks — also contribute to its uncanny ability to drive bystanders crazy.

"It creates vibrations in a range that can be extremely annoying to humans," Unetich said.

Image
Hayden Sealander, 26, reaches for a ball while playing.Credit...Jason Andrew for The New York Times

These bad vibrations have created an unforeseen growing pain for pickleball, which emerged from relative obscurity in recent years to become the fastest-growing sport in the country.

The sounds were even dissected last month at Noise-Con 2023, the annual conference of North American noise control professionals, which featured an opening-night session called "Pickleball Noise."

"Pickleball is the topic of the year," said Jeanette Hesedahl, vice chair for the conference.

The same story, the same jarring sound, has echoed across American communities like rolling thunder.

Sue-Ellen Welfonder, 66, a best-selling romance novelist from Longboat Key, Fla., once enjoyed listening to the singing birds and the gentle swish of trees during her daily walks — her “soul balm time” — through a local park. The *thump-thump* of a tennis match never bothered her, either. But the arrival of pickleball this spring, she said, shattered her idyll.

“Pickleball has replaced leaf blowers as my No. 1 noise nuisance,” said Welfonder, who has been sketching the outlines of a new novel, set in the present day, with a couple of pickleball-loving characters: “I’m making them really nasty people.”

The complaints were equally dramatic at a Feb. 6 city council meeting in West Linn, Ore., where residents have been vexed by the constant click-clacking from Tanner Creek Park.

“One of our neighbors who lived directly across from the courts and was dying from cancer noted the pickleball noise was worse than his cancer,” Dan Lavery, a West Linn resident, said at the meeting. “Sadly, he recently passed.”

Scores of similarly suffering Americans are finding their way to a rapidly growing Facebook group, also started by Unetich, where upward of 1,000 frazzled users exchange technical advice, let off steam and engage in a sort of group therapy.

“We try to keep it civil,” Unetich said, “because it gets pretty emotional.”

A few lessons have crystallized within the group. Soundproof barriers — a go-to solution for many at first — can be expensive and are often improperly deployed. New paddles and balls designed to dampen noise have had marginal uptake among players. Moving pickleball far away from human life may be the only surefire solution — but many are slow to reach that conclusion, which presents its own hurdles.

More Court Sounds

Pickleball players at the Walter Reed Community Center on Wednesday.
Listen 0:46

Image
The tennis courts at the Walter Reed Community Center are now primarily used for pickleball, allowing six games to happen simultaneously.Credit...Jason Andrew for The New York Times

Image
Credit...Jason Andrew for The New York Times

Irritated homeowners, as a result, often resort to fighting pickleball courts in the courts of law.

Last year, Rob Mastroianni, 58, and his neighbors in Falmouth, Mass., filed a lawsuit against their town claiming that the courts near their homes violated local sound ordinances. They won a temporary injunction, which has closed the facility for now. By then Mastroianni had already sold his house and moved to a different part of town to escape the noise.

“I was Google Mapping the new house, making sure there were no courts nearby,” Mastroianni said.

In Arlington, McKee and her neighbors around the community center are waiting to see what happens next. They shared their pain with the county, which for now appears to be moving forward with plans to spend close to $2 million to make the pickleball courts permanent.

The players there sympathized with the residents’ plight — but only to an extent.

“If I had that home, I’d be mad, because it is annoying — it’s obnoxious,” Jordan Sawyer, 25, a dietitian from Arlington and an avid player, said between games this month. “But I don’t feel bad because I want to play, and this is the best place to play. Honestly, I just feel like it’s unfortunate. It’s unlucky for these people.”

Sawyer described herself as a “rule follower.” But McKee and the others recounted being woken up at 3 a.m. by middle-of-the-night pickleball matches. Another time they listened to a player banging a tambourine on the court, apparently to taunt those who had complained.

Armand Ciccarelli, 51, who often walks his dog, Winona, around the community center, said that anybody downplaying pickleball noise should try hearing it for 12 hours a day.

“I know this seems like a small thing in the grand scheme of the world, where we’re dealing with big things, like climate change,” Ciccarelli said. “But, as you can see, it’s a nationwide problem.”

Kitty Bennett contributed research.

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Sara Bruckman

From: Steve Check <scheck5227@ameritech.net>
Sent: Friday, March 22, 2024 8:27 AM
To: Scott Botcher
Cc: Steve Check
Subject: Town Club Pickleball
Attachments: centennial-pickleball-noise-assessment (1) (4).pdf

My name is Steve Check. I live on East Hyde Way and I am adding my name to the list of residents objecting to the Town Club request to add Pickleball.

Planning open air pickleball courts begins with selecting an appropriate site that has sufficient setbacks from adjacent residents to ensure an effective noise reduction plan is possible. Several homes behind the proposed courts are less than 200 feet from the courts. In my research, I found that communities across the country, strictly forbid courts that are within 200 - 250 feet from neighbors. And some prohibit courts up to 500 feet.

I read the agenda minutes from a recent Village board meeting and found the responses very interesting. All of the people against this live on Boyd Way east of the courts. The railroad tracks are the only buffer as there are almost no trees in this area. None of the people in favor live near the proposed courts. One of the comments was that "the Town Club is a great place for the community to gather and socialize." Does that statement mean the club will open the courts to Fox Point residents? I think not. The Town Club representative stated that noise reduction would be installed. I have not seen the Town Club's plans for noise reduction. When will that be shared? Since there are few trees in this area, very tall Arbor Vitae trees should also be installed.

Before the Board considers this request, the Board should require a sound study to determine the expected noise level, should visit the proposed site, and offer impacted residents on Boyd Way an opportunity to visit the site. And any trustees that have not experienced the noise level of Pickleball should seek out an experience, so they get an appreciation for the obnoxious noise level. If you consider the 63 homes within 500 feet of the courts, you need to consider not only those on Boyd Way, but also homes on Santa Monica, Hyde Way. Links Way, McArthur and Regent.

The noise made by playing Pickleball is noteworthy. There have been ample articles recently about the noise level of Pickleball. The Wall Street Journal, the New York Times and many other periodicals have posted recent articles about how disruptive noise from pickleball is to the neighbors. There is also plenty of research and You Tube videos available demonstrating the noise level to neighbors. My golf club installed Pickleball last summer, and I can hear the noise a fairway away. I feel sorry for the neighbors.

In my research, I discovered a study prepared for the City of Centennial, Colorado titled "Pickleball Noise Impact Assessment and Abatement Planning." This provides an excellent explanation of the noise issues created by pickleball courts. This document will be invaluable to the Village Board as they evaluate this request. While the report is long and very technical, the Executive Summary provides an excellent overview. Please forward my E mail and the attached document to the Village Board as input to their next meeting.

I look forward to attending the next meeting. Thank you in advance for your assistance.

Please decline this request.

Steve Check
414-588-5750
scheck5227@ameritech.net

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
JANUARY 9, 2024

A meeting and public hearing of the Fox Point Village Board was held by a combination of in-person and virtual attendance via telephonic and video conferencing on Tuesday, January 9, 2024 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Symchych called the meeting to order at 7:00 p.m. and asked the Village Clerk Treasurer to take roll call. Roll call of the Village Board present included:

Village President Christine Symchych
Trustee Eric Fonstad
Trustee Liz Sumner (via Zoom)
Trustee Greg Ollman
Trustee Catie Anderson (via Zoom)
Trustee Liz Aelion
Trustee Jennie Stoltz

Also, present were Village Attorney Eric Larson, Village Manager Scott Botcher, Public Works Director Scott Brandmeier, Assistant Village Manager Kevin Ausman and Village Clerk Treasurer Kelly Meyer.

Notice of the meeting was provided to the North Shore Now 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).

PERSONS DESIRING TO BE HEARD

No comments were made; therefore, President Symchych closed public comment.

COMMITTEE REPORTS

PLAN COMMISSION

The Village Board received a report from Trustee Fonstad. The Plan Commissions' review and recommendation at the January 1, 2024 meeting with the following:

The Land Combination and Certified Survey Map regarding 6990 N Barnett Lane, Fox Point concerning a combination of lots at 6990 N Barnett Lane.

The land combination was presented with a memo from Director of Public Works regarding it involving a vacated portion of Green Tree Road. Subsequent to the first distribution of the material for the Plan Commission, the village staff distributed some additional information which clarified that the land that is subject to this proposed land combination was vacated by the village in 1978. By law, it was required to be deeded to the property owner. The property line was never removed and that was the subject of the land combination. During the Plan Commission's review of this application, it was noted that the survey map that was submitted by the land owner had a different dimension in it than from the 1978 map that was included in some of the materials. The Plan Commission was not able to resolve that discrepancy so the Plan Commission recommended the land combination be approved, subject to the staff investigating the discrepancy between the survey in the village records and report to the Board at the time the land combination is brought before the Board. It is not on the agenda this month, so staff is still looking into that.

POOL COMMITTEE

President Symchych announced the Pool Committee met and there is a report submitted by Chair Tirado; it is included in the Village Board packet.

PUBLIC HEARINGS

Conditional Use Permit per F-Institutional District Requirements for The Town Club, d/b/a, The Town Club, 7950 N Santa Monica Blvd.

Open Public Hearing

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to open the public hearing at 7:05 p.m., regarding the consideration of a Conditional Use Permit per the F-Institutional district requirements for The Town Club, d/b/a, The Town Club, 7950 N Santa Monica Blvd.

Public Comment

Amy Barth, 7815 N Boyd Way
Ms. Barth is opposed to the conditional use permit to allow pickleball, due to the noise, which is extremely loud and intense. It is extremely loud with volume and intensity.

Stephen Spadafora, 7731 N Club Circle
Mr. Spadafora supports the Town Club conditional use permit to allow for pickleball.

Kevin King, 7805 N Boyd Way
Mr. King is opposed to the conditional use permit to allow for pickleball, due to the noise.

Brian Hartnett, 7801 N Boyd Way
Mr. Hartnett is opposed to the conditional use permit due to the noise and lights, which have been difficult. the noise has been difficult.

Sarah Koehn, 7901 N Santa Monica Blvd.
Ms. Koehn is in full support of the conditional use permit allowing pickleball. The social aspect and activities the club offers is vital to maintaining young families in the community.

Andrew Roberts, 413 E Appletree Rd
Mr. Roberts is in full support of The Town Club and their proposal to upgrade the courts to support pickleball. The Town Club is a safe, social environment for children. The stewardship of the club is that they are willing to do this in a way that works for the community.

William Stalle, 7342 N Longacre Rd
Mr. Stalle stated he is in full support. The Town Club is a great place for the community to gather and socialize.

Vice President Peter Klug, Representative of The Town Club, 7950 N Santa Monica Blvd.

Mr. Klug is in support of the pickleball courts with the updates to the courts. They are a vital part of the community and work to be a place for the community. The bank of courts is unplayable right now. The courts would need to be restarted and retreaded, due to foundation shifting, to be used for pickleball. The courts would be restriped at this time. Pickleball has been played for the last 3 years and tennis for the last 10 years. Noise reduction screening around the court is being fully supported by the Town Club. This is only a daytime sport and will not be played at night.

Paula Rivet, 7957 N Fairchild Rd

Ms. Rivet suggested reducing hours with a later start in the morning and an earlier closing time for the pickleball courts.

Peter Coffey, 6818 N Barnett Ln

Mr. Coffey is in support as the benefits are significant for Fox Point and having access offers quality of life.

There were no other comments.

Close Public Hearing

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to close the public hearing at 7:26 p.m., regarding the consideration of a Conditional Use Permit per the F-Institutional district requirements for The Town Club, d/b/a, The Town Club, 7950 N Santa Monica Blvd.

CONSENT AGENDA

a. Approve the minutes of the December 12, 2023 Village Board and Public Hearing meeting.

b. Accept the quotes from multiple vendors in an amount not to exceed $22,497.75 for the spring tree order purchase and authorize the Village Manager to execute the necessary purchase orders per the Village Forester's memorandum dated January 4, 2024.

c. Accept the proposals of Wachtel Tree Science in the amount of $45,000 for performing a 5-year Village Street tree re-inventory and in the amount of $3,250 for staff training and public engagement and authorize the Village President and Village Clerk/Treasurer to sign the contracts per the Director of Public Works' memorandum dated January 4, 2024.

d. Adopt Resolution to designate International Migratory Bird Day to be on May 18, 2024 in the Village of Fox Point.

e. Approve pipeline crossing agreement with Union Pacific Railroad and authorize the Director of Public Works to sign the agreement per the Director of Public Works memorandum dated January 4, 2024.

f. Approve payment of the bills in the amount of $1,012,593.07 for the period December 1, 2023 through December 31, 2023 per the report submitted by the Village Manager.

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
JANUARY 9, 2024

The following consent agenda items were withdrawn: Trustee Stoltz withdrew Item 5d, Trustee Aelion withdrew Item 5c, and Trustee Ollman withdrew Item 5e.

Motion by President Symchych, seconded by Trustee Aelion, and carried by roll call vote (7-0), to approve the consent agenda, to include consent agenda items 5a, 5b, and 5e.

APPROVE WASTE MANAGEMENT CONTRACT

Motion by Trustee Fonstad, seconded by President Symchych, and carried by roll call vote (7-0), to approve the contract as proposed in the agenda packet with such other changes and clarifications that staff make and are determined appropriate.

PROPOSALS OF WACHTEL TREE SCIENCE IN THE AMOUNT OF $45,000 FOR PERFORMING A 5-YEAR VILLAGE STREET RE-INVENTORY AND THE AMOUNT OF $3,250 FOR STAFF TRAINING AND PUBLIC ENGAGEMENT (Consent Agenda Item 5c)

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to Accept the Wachtel Tree Science proposal, as presented.

RESOLUTION TO DESIGNATE INTERNATIONAL MIGRATORY BIRD DAY (Consent Agenda Item 5d).

Motion by President Symchych, seconded by Trustee Anderson, and carried by roll call vote (7-0), to adopt a Resolution to Designate International Migratory Bird Day to be on May 18, 2024 in the Village of Fox Point.

PIPELINE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD (Consent Agenda Item 5e)

Motion by Trustee Fonstad, seconded by Trustee Ollman, and carried by roll call vote (7-0), to approve pipeline crossing agreement with Union Pacific Railroad and authorize the Director of Public Works to sign the agreement per the Director of Public Works memorandum dated January 4, 2024.

RESOLUTION OF COMMENDATION FOR RETIRING VILLAGE CLERK-TREASURER KELLY MEYER

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to adopt a Resolution of Commendation for Retiring Village Clerk-Treasurer Kelly Meyer honoring her nearly 10-year employment with the Village.

APPOINTMENT OF VILLAGE CLERK-TREASURER

Motion by Trustee Anderson, seconded by Trustee Fonstad, and carried by roll call vote (7-0), to confirm Village President Christine Symchych 's appointment of Sara A. Bruckman to the office of Village Clerk/Treasurer, effective on January 29, 2024.

FOUR-WAY STOP SIGN AT THE INTERSECTION OF CALUMET ROAD AND SANTA MONICA BLVD.

Village President Symchych declared the agenda item out of order; no discussion took place.

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
JANUARY 9, 2024

CONDITIONAL USE PERMIT PER F-INSTITUTIONAL DISTRICT REQUIREMENTS FOR THE TOWN CLUB, D/B/A, THE TOWN CLUB, 7950 N SANTA MONICA BLVD

Village Attorney Eric Larson reminded the Board the four standards that were applied to this application and met. As recalled, the Plan Commission recommended in favor and found that these four standards were met. The standards that the ordinance applies are:

1. Whether it is appropriate in the location proposed
2. Compatible with the neighborhood
3. Not detrimental to the property values of surrounding property
4. Keeping with the residential character and quality of the village

Village Attorney Eric Larson asked that as the Board proceeds, consider the four standards of the ordinance.

Trustee Fonstad gave a synopsis of the Plan Commissions consideration of the conditional use permit and conditional use order. The Town Club pointed out there are arborvitaes surrounding the court and they would put up a wind screen designed to reduce the sound of the pickleball by 50 percent.

Trustee Fonstad stated there are a few things missing in the conditional use order and asked that staff work on this prior to the Board's approval of the following:

1. The noise screen was suggested to be a condition that is explicitly in the conditional use order.
2. The arborvitaes are not continuous and should completely surround the courts; it appears the southwest corner has a gap.
3. The court side facing the railroad tracks, does not seem to have vegetation like arborvitaes.
4. No lights around the court should be added as a restriction on the conditional use order.

Leagues, social mixers and lessons is a scaling up of the operation considerably. The village should find a way to mitigate the noise and residents should have the ability to have the quiet enjoyment of their property.

Other points brought up by Board members were the following:

1. A potential change in the hours of the pickleball activity
2. Encourage The Town Club and Neighbors to discuss together
3. Complete the planting of arborvitaes surrounding the pickleball court
4. Club Leagues and Social Mixers need to be defined
5. Neighbors should not be prohibited from filing a noise complaint, if necessary
6. Limit the hours of court time
7. Verification the sound is reduced

Without objection and by unanimous consent the Board asked Village Attorney Eric Larson to prepare both a denial of the conditional use order, specifying the reasons for the denial and a new conditional use order clarifying the appropriate restrictions.

FUTURE AGENDA ITEMS – None

Without objection and by unanimous consent, President Symchych moved the announcement up prior to the closed session to allow non-necessary staff members to head home due to the weather.

ANNOUNCEMENTS

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
JANUARY 9, 2024

President Symchych announcements were as follows:

I. Yesterday, January 8, 2024 was a fascinating ICC meeting. Fox Point has had some tax issues this year and it has certainly not been favorable. The tax software LandNav issues have been exponentially larger than Fox Point's issues. ICC demanded that LandNav show up. All 17 of the municipalities admonished them for over an hour. LandNav tax software will be on the next agenda until the issues are fixed. While Fox Point's issue is not good and President Symchych would not prefer to have our Nicolet UHS issue again, other municipalities are having huge issues. President Symchych is thankful that we were an early adopter of the software last year and that our Clerk Treasurer Kelly Meyer worked very, very hard to make sure that Fox Point had not nearly the issues that other municipalities are having right now.

II. Sales tax issue has changed since 1/1/2024. The City of Milwaukee is now different than Milwaukee County. Because we are in Fox Point, we have a shared zip code of 53217. If you go and buy something online, it populates sometimes as Milwaukee instead of Fox Point. The Mayor of Glendale was on the news last night because Netflix is billing Glendale residents with City of Milwaukee's tax rate, where it shouldn't be. That was also an issue at the ICC. Many of the municipalities have shared zip codes with the City of Milwaukee. Some business straddle municipal lines. They received a lot of information on how that is generated from third party vendors. Fox Point will be receiving standard language from the Department of Revenue that will be placed in the weekly notifications to send out to our residents and that will inform them of what to do if they have been inappropriately billed with City of Milwaukee's sales tax. Legal language will be passed on to Assistant Manager Kevin Ausman to be placed in the weekly notifications.

Trustee Fonstad had no announcements.

Trustee Sumner had no announcements.

Trustee Ollman wished Village Clerk Treasurer Kelly Meyer farewell.

Trustee Anderson announced the North Shore Library Board typically meets the third Thursday at 9:00 a.m. For the next two onset meetings, in January and February, the Board will meet at 8:00 a.m.

Trustee Aelion had no announcements.

Trustee Stoltz had no announcements.

Manager Botcher had no announcements.

Village Clerk Treasurer announced her retirement and said farewell to the Fox Point Community.

CLOSED SESSION

Motion made by President Symchych, seconded by Trustee Fonstad, to convene into closed session at 8:31 p.m., Pursuant to State Statutes Sections:8:31 pm:

a. *Pursuant to State Statutes Section 19.85(1)(c), to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, more specifically concerning the Village Manager. Participating in this portion of the closed session will be the Village Board and Village Manager.*

VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
JANUARY 9, 2024

Trustee Fonstad	*Aye*
Trustee Sumner	*Aye*
Trustee Ollman	*Aye*
Trustee Knight	*Aye*
Trustee Aelion	*Aye*
Trustee Stoltz	*Aye*
President Symchych	*Aye*

Carried by roll call vote (7-0).

Respectfully submitted,

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

RECONVENE INTO OPEN SESSION

Motion made by President Symchych, seconded by Trustee Fonstad and carried by roll call vote (7-0), to reconvene into open session at 9:28 p.m.

President Symchych announced that the Village Board has completed its review of the Village Manager and approves his performance. Effective January 1,2024 the Village Manager's compensation will be increased to $149,350 per annum. Motion by Symchych, second by Fonstad, and carried by roll call vote (7-0)

ADJOURNMENT

Motion made by Trustee Fonstad, second by Trustee Ollman, and carried by roll call vote (7-0) to adjourn the Village Board meeting at 9:31 p.m.

Respectfully submitted,

Scott A. Botcher
Village Manager

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
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PAUL E. ALEXY
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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

January 25, 2024

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

Re: Town Club Conditional Use
Legal Recommendations

Dear Mr. Botcher:

I received the Village Board's direction to draft two conditional use orders as a result of the public hearing for the Town Club. I have had an opportunity to carefully consider this matter.

Enclosed please find a conditional use order that grants the Town Club conditional use and a second that denies that use. Please carefully review these to ensure they are consistent with the Village's intent.

If you should have any questions or concerns regarding these matters, please do not hesitate to contact me.

Very truly yours,
MUNICIPAL LAW & LITIGATION GROUP, S.C.

Eric J. Larson

Eric J. Larson

EJL/BTC/em
Enclosure
cc: Christine Symchych, Village President
Kevin Ausman, Assistant Village Manager
Kelly Meyer, Village Clerk

*** DRAFT APPROVAL – For Discussion Purposes Only ***

Document Number	CONDITIONAL USE ORDER Document Title

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

CONDITIONAL USE ORDER: GRANT
Pickleball Courts

[date]

Petitioner: The Town Club

Tax Key: [ ]

Recording Area

Name and Return Address:
Eric J. Larson
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

Tax Identification Number:

FINDINGS OF FACT[1]

1. On or about November 20, 2023, the Petitioner submitted an application for a conditional use permit to the Plan Commission to construct eight (8) pickleball courts on the property.

2. Pursuant to Section 745-20(B)(1) of the Village of Fox Point Zoning Code, the Petitioner's application included all required materials, and the filing fee required by Chapter 63 of the Village of Fox Point Code was paid at the time of filing the application.

3. At its December 4, 2023 meeting, the Plan Commission studied the Petitioner's application, and considered the four standards in Section 745-20(B)(2) of the Village of Fox Point Zoning Code, which are as follows:

   (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.

4. The Plan Commission found that the standards of Section 745-20(B)(2) of the Village of Fox Point Zoning Code have been met, and pursuant to Section 745-20(B)(7) of the Village of Fox Point Zoning Code, recommended the Village Board conditionally approve the conditional use permit with an amendment to the language of the conditional use order

[1] To the extent that findings of fact shown herein represent conclusions of law, these shall be deemed to be conclusions of law. To the extent that conclusions of law shown herein represent findings of fact, these shall be deemed to be findings of fact. The heading under which the statements are made shall not be controlling.

adding that the continued use of tennis be allowed; and that the addition of sound reduction screens ("sound screens") be used to reduce the sound.

5. Pursuant to Section 745-20(B)(4), the Village Board scheduled a public hearing on the Petitioner's application.

6. Upon publication of the required "Notice of Public Hearing" and mailing of said "Notice of Public Hearing" to all parties-in-interest as required by Section 745-20(B)(5) of the Village of Fox Point Zoning Code, & Wisconsin Statutes Sections 61.35 & 62.23(7)(de), the Village Board held a public hearing on January 9, 2024, as required by Section 745-20(B)(6) of the Village of Fox Point Zoning Code.

7. The purpose of the scheduled Public Hearing was to consider said application.

8. Residents Amy Borch and Kevin King provided letters in opposition to the proposed use that were incorporated into the record. Ms. Borch's letters included videos from her property which highlighted the amount of noise coming from The Town Club's current property, as well as articles from the New York Times and NPR which discuss the noise problems resulting from pickleball. These videos and articles were included as part of the record.

9. Several residents spoke at the Public Hearing, with some expressing support and others expressing concerns about the proposed use.

    a. Amy Borch spoke in opposition of the application at the public hearing due to the noise caused by pickleball, and the frequency and duration of the noise.

    b. Karen King spoke in opposition due to the frequent noise that she said would result from the pickleball courts.

    c. Brian Hartman spoke in opposition due to the noise, and the disruption that he said will be caused by the lights at the court.

    d. Paula Rivet spoke in opposition due to the noise caused by the courts, asserting that the frequency of noise is similar to garbage trucks. Ms. Rivet also raised concerns of the proposed hours the courts will be open.

    e. Steve Spadafora spoke in support of the proposed use, stating that pickleball is a growing sport and this will provide further courts in the Village.

    f. Sara Koehn spoke in support of the proposed use, noting that the courts will provide a social hub, will attract growing families, and the proposed sound screen shows the Petitioner is mindful of their surroundings.

    g. Archer Roberts spoke in support of the proposed use.

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h. Will Stalle spoke in support in support of the proposed use, stating that it provides a place for community members to gather and play sports.

i. Peter Klug spoke in support of the proposed use. He noted that the Petitioner will keep the exact same footprint, and with the sound screens, the sound will be reduced to an acceptable level, and that there will be no lights, so pickleball will only be a daytime activity.

j. Mr. Peter Coffey spoke in support of the proposed use, noting that similar uses around the Village, such as the Fox Point Municipal Pool, are louder than this proposed use.

10. The Village Board closed the public hearing and discussed the matter. Trustee Fonstad noted that the Plan Commission heard no complaints or issues regarding noise of The Town Club, and that Village Staff reported to the Plan Commission that they had received no complaints. As part of the proposed use, the Town Club intends to maintain the Arbor Vitae, and it intends to install sound screens to further decrease potential sound from the proposed use. There was no discussion regarding the sound impact of the adjacent active railroad on the adjoining properties.

11. The Village Board finds that with the installation of sound screens, maintenance of the Arbor Vitae, and limiting the hours of operation, the proposed use is appropriate in the location proposed, it is compatible with the neighborhood, it is not detrimental to surrounding property values, and is in keeping with the residential character and quality of the Village because these conditions will decrease or eliminate any potential deleterious effects, and the proposed use will provide further recreational activities in the Village.

12. Ultimately, upon consideration of all of the information provided at the public hearing, the Village Board finds that the Petitioner has shown by substantial evidence that all standards of the Village of Fox Point Zoning Ordinance would be met, and substantial evidence to the contrary has not been provided.

CONCLUSIONS OF LAW[2]

1. Section 745-20(B)(2)(a) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: Whether the proposed use is appropriate in the location proposed. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner owns a recreational club that includes swimming pools, tennis courts, and paddle ball courts. The construction and use of pickleball courts is consistent with the other uses on the property, and is appropriate in the location proposed.

2. Section 745-20(B)(2)(b) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use

[2] See footnote 1.

permit: Whether the proposed use is compatible with the neighborhood. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner owns a recreational club that includes swimming pools, tennis courts, and paddle ball courts. The construction and use of pickleball courts is consistent with the other uses on the property, and is compatible with the surrounding neighborhood. The Petitioner will maintain the Arbor Vitae and install sound screens between the courts and the abutting properties to decrease any potential sound from the property. Further, with the exception of emergencies, no sound amplification equipment will be used on the pickleball courts, and the Petitioner's hours for use will be limited to specific hours.

3. Section 745-20(B)(2)(c) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is not detrimental to the property values of surrounding property. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner's use will not be detrimental to the property values of surrounding properties because any deleterious effects will be minimized by the Arbor Vitae, the sound screens, the prohibited use of sound amplification equipment, and the limited hours the pickleball courts can be used.

4. Section 745-20(B)(2)(d) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is consistent in keeping with the residential character and quality of the Village. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner's pickleball courts will provide further recreational activities to its property and residents of the Village. Recreational activities such as tennis, paddle ball, and pickleball are consistent with keeping the residential character and quality of the Village, as these activities increase the desirability of the Village and are ultimately a benefit to the quality of the Village.

5. Wisconsin Statutes Section 62.23(7)(de)2.b., states, in part: "The applicant must demonstrate that the application and all requirements and conditions established by the [village] relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." The Village Board finds that the Petitioner made the required demonstration in support of the application.

6. In 2006 the Village and the Petitioner entered into an agreement which allowed certain uses on what was then the parcel adjacent and to the south of the Subject Property. That agreement is unchanged and remains in effect. This current petition is being addressed by conditional use permit rather than agreement because of 2017 Wisconsin Act 67 which broadly defined conditional uses and imposed procedural and substantive limitations on local authority, which apply to this petition and have been followed in this matter.

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THEREFORE, IT IS ORDERED AS FOLLOWS:

CONDITIONS

Commencing on the date hereof, a Conditional Use Order for the Subject Property is hereby granted. The Conditional Use granted applies only to the use of the Subject Property as described below and shall continue in existence only so long as the conditional use is operated in compliance with these conditions. The Conditional Use is subject to initial and continued compliance with each and every one of the following conditions, restrictions and limitations.

1. The Conditional Use approval is (including Site Plan/Plan of Operation (SPPO) approval) limited to the Petitioner for the property located at 7950 North Santa Monica Boulevard, Fox Point, Wisconsin 53217 for the following uses: construction and creation of pickleball courts, and all other currently lawfully existing uses on the subject property, including the use of tennis courts, in accordance with plans, documents, and specifications presented to the Village of Fox Point on January 9, 2024.
2. The Conditional Use approval is subject to the hours of operation for pickleball activities being restricted to 8:00 a.m. to dusk daily.
3. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner obtains the necessary approvals and satisfies all comments, conditions, and concerns of the:
    a. Village of Fox Point Plan Commission for a landscape plan including screening and fencing. The plan shall depict the location of Arbor Vitae, or equivalent as approved by the Plan Commission, which are required to be located along all outer boundaries of the pickle ball courts to the extent practicable, to screen the fence from the surrounding neighbors, along with a maintenance plan ensuring that screening vegetation continues in such locations for the duration of this conditional use permit. The Petitioner's plan must also include details of the proposed sound screens, which are subject to Plan Commission approval, and are required to be installed and maintained for the duration of the conditional use permit to decrease sound coming from the property. The sound screens shall be depicted on the landscape plan. Should the sound screens become damaged or deteriorated they shall be replaced to ensure they remain as visually appealing and as effective as new for the duration of the conditional use permit, reasonable wear and tear excepted.
4. The Petitioner shall not install or use outdoor lights on the pickleball courts.
5. With the exception of emergencies (such as storm warnings), there will be no sound amplification system used on or near the pickleball courts.
6. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new Site Plan/Plan of Operation permit with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, sound,

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dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.

7. The Petitioner shall keep the exterior condition of the premises in a neat and orderly condition at all times so the premises will not detract from neighboring premises. There shall be no outside storage of junk, debris, or other refuse materials within the property and all such materials shall be disposed of promptly and properly.
8. The Petitioner shall allow Village of Fox Point representatives to inspect the premises upon reasonable notice for the purposes of determining compliance with this approval.
9. The Petitioner shall obtain all required permits from the Village of Fox Point prior to commencing the pickle ball court construction work.
10. This conditional use permit is subject to the Petitioner acknowledging receipt of this Conditional Use Order and agreeing to comply with all conditions imposed in writing, prior to the conditional use permit being effective.
11. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of Fox Point for all costs and expenses of any type incurred by the Village of Fox Point in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village of Fox Point for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Village of Fox Point by the Subject Property Owner and/or Agent, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees or forfeitures owed to the Village of Fox Point must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Village of Fox Point, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to Village of Fox Point, including possible cause for termination of the conditional approval.
12. Uses previously approved for the Subject Property may continue. The Agreement and Plan of Operation dated November 30, 2006 between the Village and the Petitioner remains in effect and is unchanged by this Conditional Use Order.
13. Other Conditions.
    a. 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 of Fox Point ordinance or other law.

*** DRAFT APPROVAL – For Discussion Purposes Only ***

b. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village of Fox Point Plan Commission as being in compliance with all pertinent ordinances.

c. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for eighteen (18) months, or continued other than in strict conformity with the conditions of the original approval, or should the Petitioner be delinquent in payment of any monies due and owing to 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 of Fox Point Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order.

d. 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, structures, lands or owners, other than as specifically authorized herein, shall require a permit amendment or restated permit as set forth below and all procedures in place at the time must be followed.

e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Order may be amended upon the prior approval of the Village of Fox Point Plan Commission if the Village of Fox Point Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Village of Fox Point Plan Commission feels, in its sole discretion, to be substantial, shall require a restated permit, and all procedures in place at the time must be followed.

f. 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.

g. 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 Village of Fox Point Plan Commission.

The Petitioner provided substantial evidence of meeting or agreeing to meet these conditions. There was insufficient substantial evidence from opponents to the contrary.

[*signatures on following pages*]

*** DRAFT APPROVAL – For Discussion Purposes Only ***

Petitioner hereby acknowledges the conditions imposed by the Conditional Use Order and agrees to comply with all such conditions.

Dated this _____ day of _____, 20___.

THE TOWN CLUB

By:_____

Print Name:

STATE OF WISCONSIN)
) ss.
COUNTY OF [ ])

Personally came before me on this ____ day of _____ , 20_____, the above-named, _____ , executed the foregoing instrument and acknowledged the same.

_____
NOTARY PUBLIC, STATE OF WI
Print Name: _____
My Commission Expires: _____

*** DRAFT APPROVAL – For Discussion Purposes Only ***

Dated this ___ day of_____ , 20___.

VILLAGE OF FOX POINT

By:
Christine Symchych, Village President

ATTEST:

_____
Sara A. Bruckman, Village Clerk

STATE OF WISCONSIN)
)ss
COUNTY OF MILWAUKEE)

Personally came before me on this ____ day of _____ , 20_____, the above-named Christine Symchych, Village President and Sara A. Bruckman, Village Clerk executed the foregoing instrument and acknowledged the same.

_____
NOTARY PUBLIC, STATE OF WI
Print Name: _____
My Commission Expires: _____

This instrument was drafted by
Attorney Eric J. Larson
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

*** DRAFT DENIAL – For Discussion Purposes Only ***

Document Number	CONDITIONAL USE ORDER Document Title

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

CONDITIONAL USE ORDER: DENIAL
The Town Club

[date]

Petitioner: The Town Club

Tax Key: [___]

Recording Area

Name and Return Address:
Eric J. Larson
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

Tax Identification Number:

FINDINGS OF FACT[1]

1. On or about November 20, 2023, the Petitioner submitted an application for a conditional use permit to the Plan Commission to construct eight (8) pickleball courts on the property.

2. Pursuant to Section 745-20(B)(1) of the Village of Fox Point Zoning Code, the Petitioner's application included all required materials, and the filing fee required by Chapter 63 of the Village of Fox Point Code was paid at the time of filing the application.

3. At its December 4, 2023 meeting, the Plan Commission studied the Petitioner's application, and considered the four standards in Section 745-20(B)(2) of the Village of Fox Point Zoning Code, which are as follows:

   (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.

4. The Plan Commission found that the standards of Section 745-20(B)(2) of the Village of Fox Point Zoning Code have been met, and pursuant to Section 745-20(B)(7) of the Village of Fox Point Zoning Code, recommended the Village Board approve conditional approval of the

[1]To the extent that findings of fact shown herein represent conclusions of law, these shall be deemed to be conclusions of law. To the extent that conclusions of law shown herein represent findings of fact, these shall be deemed to be findings of fact. The heading under which the statements are made shall not be controlling.

conditional use permit with an amendment to the language of the conditional use order adding that the continued use of tennis be allowed; and that the addition of windscreens be used to reduce the sound.

5. Pursuant to Section 745-20(B)(4), the Village Board scheduled a public hearing on the Petitioner's application.

6. Upon publication of the required "Notice of Public Hearing" and mailing of said "Notice of Public Hearing" to all parties-in-interest as required by Section 745-20(B)(5) of the Village of Fox Point Zoning Code, & Wisconsin Statutes Sections 61.35 & 62.23(7)(de), the Village Board held a public hearing on January 9, 2024, as required by Section 745-20(B)(6) of the Village of Fox Point Zoning Code.

7. The purpose of the scheduled Public Hearing was to consider said application.

8. Residents Amy Borch and Kevin King provided letters in opposition to the proposed use that were incorporated into the record. Ms. Borch's letters included videos from her property which highlighted the amount of noise coming from The Town Club's current property, as well as articles from the New York Times and NPR which discuss the noise problems resulting from pickleball. These videos and articles were included as part of the record.

9. Several residents spoke at the Public Hearing, with some expressing support and others expressing concerns about the proposed use.

    a. Amy Borch spoke in opposition of the application at the public hearing due to the noise caused by pickleball, and the frequency and duration of the noise.

    b. Karen King spoke in opposition due to the frequent noise that would result from the pickleball courts.

    c. Brian Hartman spoke in opposition due to the noise, and the disruption that will be caused by the lights at the court.

    d. Paula Rivet spoke in opposition due to the noise caused by the courts, noting that the frequency of noise is similar to garbage trucks. Ms. Rivet also raised concerns of the proposed hours the courts will be open.

    e. Steve Spadafora spoke in support of the proposed use, noting that pickleball is a growing sport and this will provide further courts.

    f. Sara Koehn spoke in support of the proposed use, noting that the courts will provide a social hub, the sounds of community, will attract growing families, and the proposed wind screen shows the Petitioner is mindful of their surroundings.

    g. Archer Roberts spoke in support of the proposed use.

h. Will Stalle spoke in support in support of the proposed use, noting it provides a place for community members to gather and play sports.

i. Peter Klug spoke in support of the proposed use. He noted that the Petitioner will keep the exact same footprint, with the noise reduction screen, the noise will be reduced to an acceptable level, and that there will be no lights, so pickleball will only be a daytime activity.

j. Mr. Peter Coffey spoke in support, of the proposed use, noting that similar uses around the Village, such as the Fox Point Municipal Pool, are louder than this proposed use.

10. The Village Board closed the public hearing and discussed the matter. Trustee Fonstad noted that the Plan Commission heard no complaints to the Plan Commission or issues regarding the noise of The Town Club. As part of the proposed use, the Town Club intends to maintain the Arbor Vitae, and it intends to install a wind screen to further decrease potential noise from the proposed use.

11. The Village Board finds that the Petitioner failed to present substantial evidence that the use is appropriate in the location proposed. The location backs up to a residential neighborhood. The noise caused from pickleball will create disruptions and lower the overall quality of life for these neighboring properties. The opponents did provide substantial evidence that the location of the pickleball courts is inappropriate in relation to the residential neighborhood and the disruptions it will cause.

12. The Village Board finds that the Petitioner failed to present substantial evidence that the proposed use is compatible with the neighborhood. The location backs up to a residential neighborhood. The opponents provided substantial evidence that the proposed use is not compatible with the neighborhood, due to the deleterious effects it will cause to the residents. The noise resulting from the pickleball courts will disrupt abutting property owners day-to-day lives, diminish these residents ability to enjoy their property, and may cause disputes between the Petitioner and abutting property owners.

13. The Village Board finds that the Petitioner failed to present substantial evidence that the proposed use is not detrimental to the surrounding property values. The Petitioner did not present any evidence that the proposed use would not be detrimental to the surrounding property values.

14. The Village Board finds that the Petitioner did not provide substantial evidence that the proposed use keeps with the residential character and quality of the Village. The proposed use will cause disruptions to residents' everyday life, and it will decrease the quality of life for the residents that abut the Petitioner's property.

15. Ultimately, upon consideration of all of the information provided at the public hearing, the Village Board finds that the Petitioner has not shown by substantial evidence that all standards of the Village of Fox Point Zoning Ordinance would be met, and substantial evidence to the contrary has been provided.

*** DRAFT DENIAL – For Discussion Purposes Only ***

CONCLUSIONS OF LAW[2]

1. Section 745-20(B)(2)(a) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: Whether the proposed use is appropriate in the location proposed. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has not met this standard because the proposed use will create disruptions and lower the overall quality of life of the abutting residents due to the noise caused by pickleball.

2. Section 745-20(B)(2)(b) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: Whether the proposed use is compatible with the neighborhood. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has not met this standard because the close proximity to residential properties and the resulting noise will disrupt abutting property owners day-to-day lives, diminish these residents ability to enjoy their property, and may cause disputes between the Petitioner and abutting property owners.

3. Section 745-20(B)(2)(c) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is not detrimental to the property values of surrounding property. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has not met this standard. The Petitioner did not present evidence in this regard.

4. Section 745-20(B)(2)(d) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is consistent in keeping with the residential character and quality of the Village. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has not met this standard because the proposed use will cause disruptions to residents' everyday life, and it will decrease the quality of life for those residents that abut the Petitioner's property.

5. Wisconsin Statutes Section 62.23(7)(de)2.b., states, in part: "The applicant must demonstrate that the application and all requirements and conditions established by the [village] relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." The Village Board finds that the Petitioner failed to make the required demonstration in support of the application.

[2] See footnote 1.

*** DRAFT DENIAL – For Discussion Purposes Only ***

THEREFORE, IT IS ORDERED AS FOLLOWS:

The conditional use permit application of The Town Club for pickleball courts, **IS HEREBY DENIED**.

Dated this _____ day of _____, 20___.

VILLAGE OF FOX POINT

By:_____
Christine Symchych, Village President

ATTEST:

_____
Sara A. Bruckman, Village Clerk

STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)

Personally came before me on this ____ day of _____, 20_____, the above-named Christine Symchych, Village President and Sara A. Bruckman, Village Clerk executed the foregoing instrument and acknowledged the same.

_____
NOTARY PUBLIC, STATE OF WI
Print Name: _____
My Commission Expires: _____

This instrument was drafted by
Attorney Eric J. Larson
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

THE TOWN CLUB
7950 NORTH SANTA MONICA BOULEVARD

MILWAUKEE
WISCONSIN 53217
352-6800

JOHAN C. R. SEGERDAHL, PRESIDENT
TIMOTHY R. AIK, VICE PRESIDENT
RAND B. ROHMER, SECRETARY-TREASURER

November 29, 2006

Fox Point Village Board
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

Re: Town Club Policies Regarding Paging Hours and Platform Tennis Hours

Ladies and Gentlemen:

We write regarding the Town Club's application for a building permit to construct a new bathhouse adjacent to its eastern swimming pool, and to remodel the east side of its main Clubhouse. You have specifically asked that we address the Club's policies with regard to paging hours and platform tennis hours.

Please be advised that from this day forward under Town Club policy:

1. Staff are prohibited from non-essential paging by outdoor loudspeaker at any time of day or night between November 1 and April 30, and between 6:00 p.m. and 7:00 a.m. between May 1 and October 31.

2. Club rules prohibit the use of the platform tennis courts before sunrise or 7:00 a.m. whichever is later and after 10:00 p.m., year round. The lights on the courts are only turned on when the courts are in use, and they have been set to automatically turn off at 10:00 p.m. when they are in use at that time.

These policies are in effect as of the date of this letter and shall remain in effect until further notice.

Very truly yours,

Johan C.R. Segerdahl
President

369751:571

RECEIVED
DEC 18 2006
COUNTERSINKE

AGREEMENT AND PLAN OF OPERATION

This Agreement and Plan of Operation ("Agreement") is entered into this 30th day of November, 2006 by and between The Village of Fox Point, a Wisconsin municipal corporation ("Village") and The Town Club, a Wisconsin non-stock corporation ("Town Club").

RECITALS

WHEREAS, the Town Club has applied to the Village for a building permit to construct a new bathhouse to replace the existing bathhouse at its current location immediately east of and adjacent to its easternmost swimming pool and to remodel the east side of its main Clubhouse (the "Project"); and

WHEREAS, Section 14.23 of the Fox Point Municipal Code ("Code") provides that in the F institutional district, the district in which the Town Club is currently zoned, the Town Club must make written application to the Village Board for a permit for the Project; and

WHEREAS, Section 14.23 requires that the Plan Commission study the application and hold a joint meeting with the Building Board after which it is to advise the Village Board as to whether four standards have been met, to wit whether the proposed construction is: (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; and

WHEREAS, the Village Board is required under Section 14.23 (5) to issue a permit for the Project if it finds that the four standards have been met with regard to the Project; and

WHEREAS, the Plan Commission voted favorably to refer the building permit to the Village Board for approval having found that the four standards in the Code had been met; and

WHEREAS, the Building Board has approved the Project as proposed; and

WHEREAS, the Village Board conducted a public hearing on October 10, 2006 after which it found that the four standards had been met and further by motion approved the application subject to Village Board approval for a Plan of Operation addressing paging and platform tennis hours and compliance with noise and lighting ordinances; and subject to the Town Club and the Village entering into this Agreement; and

WHEREAS, the Village and the Town Club enter into this Agreement as part of the issuance of the building permit for the Project;

NOW, THEREFORE, be it resolved, it is hereby agreed as follows:

1. This Agreement shall constitute the Plan of Operation and Agreement called for in the Village Board's October 10, 2006 approval of the Project.

2. The Town Club agrees that it will comply with Village noise ordinances and lighting ordinances.

3. The Village agrees that it will notify the manager of the Town Club upon receipt of complaints of violations of the lighting or noise ordinances by the Town Club.

4. The Town Club agrees that it will be subject to the penalties outlined in the Code for any and all violations of the noise ordinance and lighting ordinance.

5. The Village acknowledges receipt from the Town Club of the Town Club's current policies regarding outdoor loudspeaker paging hours and platform tennis hours of play.

6. The Town Club agrees that it will notify the Village in advance of any proposed change in club rules or policies with regard to paging hours or platform tennis hours of play.

7. The Town Club agrees that it will manage all swimming pool chemicals in accordance with all state and federal laws and Village ordinances regarding health, safety, and hygiene.

8. In the event of any breach of this Agreement constituting a violation of Village ordinances, the Village's remedy shall be enforcement of the Code, whether by civil forfeiture in municipal court, or by circuit court action seeking enforcement of the terms of the Code.

9. In the event of any breach of this Agreement constituting a violation of state or federal law, the Village may report such breach to the proper authorities as complainant.

10. The recitals, captions, and section headings in this Agreement are hereby incorporated by reference into this Agreement in its substantive terms.

11. If any portion or provision of this Agreement found to be invalid, prohibited, or unenforceable by a court of competent jurisdiction, such invalidity, prohibition or unenforceability shall apply only to the portion or portions of a provision or provisions of this Agreement so adjudged without invalidating the remaining provisions (and portions thereof) of this Agreement.

12. This Agreement shall be governed and interpreted in accordance with the laws of the State of Wisconsin.

13. The Town Club remains in all other respects subject to all of the requirements of the Code. In the event of inconsistencies between the Code and this Agreement, the Code shall control.

14. There are no exhibits or addenda to this Agreement.

15. All written notices or correspondence under this Agreement or with regard to compliance with the Code shall be delivered to the respective parties at the following addresses:

To the Town Club:
Edward V. Mixdorf
Club Manager
Town Club
7950 North Santa Monica Blvd.
Fox Point, WI 53217

To the Village of Fox Point:
Village Manager
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

16. This Agreement represents the entire Agreement between the parties. All prior agreements whether oral or written are hereby merged into this Agreement and superseded. This Agreement can only be amended in writing and signed by duly authorized representatives of both parties.

17. The parties hereto have had full and fair opportunity for review of this Agreement by their counsel. As such, neither party will claim nor enjoy any presumption with regard to the interpretation of the terms of this Agreement based upon the authorship or draftsmanship of one party or the other.

18. The undersigned are duly authorized under the laws of the State of Wisconsin and the respective ordinances or bylaws of the respective parties to enter into this Agreement on behalf of the parties.

VILLAGE OF FOX POINT

By: _____
Michael A. West
Village President

THE TOWN CLUB

By: _____
Johan C.R. Segerdahl
President

Attest: _____
Constance K. McHugh
Village Clerk

By: _____
Timothy R. Aik
Vice President

[Attest:]
By: _____
Rand B. Rohmer
Secretary-Treasurer

To: Fox Point Village Board
From: Amy Barth
Date: Feb 6, 2024

After the last board meeting I was talking to some neighbors and realized that only those of us whose property immediately abuts the Town Club were notified of this potential use.

Homeowners even one or two houses away from the proposed courts were not aware that this was under discussion, and these people should have an opportunity to weigh in on this use.... they are very close and will be impacted as much as any of us that have abutting property..

I talked to neighbors on:

- N Boyd Way: North of Hyde Way to the dead end.
- N Boyd Way: South of Hyde Way about 1/3 of the block towards Calumet
- Hyde Way: The block between Links and Boyd.

Overwhelmingly, the people I talked to were concerned about the impact of pickleball on property values and the impact the noise will have on us and are opposed to the conditional use.

I gathered over 20 signatures from concerned neighbors, and of course there were quite a few homes where I wasn't able to speak to anyone.

Please take this under advisement and carefully consider this before making any decision that could have a long term negative impact on so many members of our community.

I've attached the list here and will bring the original copy to village hall later today.

Amy Barth

RECEIVED
FEB 07 2024
Village of Fox Point
7200 N Santa Monica Blvd.
Fox Point, WI 53217
9:12
NS

We Oppose Pickleball at the Town Club

The Town Club is seeking a conditional use permit that would allow Pickleball games, matches, leagues, lessons and social mixers on their southern tennis courts. These courts are very close to our homes.

- Pickleball courts reduce property values for several blocks, & reduces pool of future buyers
- The noise level and frequency of pickleball sounds are incompatible with our ability to enjoy our homes/yards.
- High density of players means more social noise (up to 16 players per tennis court)

There are pickleball lawsuits and complaints all around the country. Let's tell the Fox Point village board know about the negative impact this will have on us.

Date	Name	Address	Phone #	Signature
1/21/24	Amy Barth	7815 N Boyd Way Fox Point	414-477-8527	Amy Barth
1/21/24	Jim Pykett	7811 N Boyd Way Fox Point	414-882-0064	Jim Pykett
1/21/24	Kevin King	7805 N Boyd Way Fox Point	414-331-9116	Kevin King
1/21/24	Mirah King	7805 N. Boyd Way Fox Point WI 53217	859-321-1015	Mirah King
1/21/24	Joe Greig	7541 N Boyd Way	512-426-5177	
1/21/24	Chris Kondrick	7901 N Boyd Way	414-228-0947	Chris Kondrick
1.21.24	[illegible]	7901 N. Boyd Way	4142280447	[illegible]
1-21	Caroline [illegible]	7919 N Boyd Way	303-803-6073	[illegible]
1/21/24	Celeste Bigger	7837 N Boyd Way	262-416-2193	[illegible]
1/21/24	Shane Bigger	7837 N Boyd Way	[illegible]	[illegible]
1/21/24	Evan Bretzmann	7808 N Boyd Way	262-707-1884	[illegible]

We Oppose Pickleball at the Town Club

The Town Club is seeking a conditional use permit that would allow Pickleball games, matches, leagues, lessons and social mixers on their southern tennis courts. These courts are very close to our homes.

- Pickleball courts reduce property values for several blocks, & reduces pool of future buyers
- The noise level and frequency of pickleball sounds are incompatible with our ability to enjoy our homes/yards.
- High density of players means more social noise (up to 16 players per tennis court)

There are pickleball lawsuits and complaints all around the country. Let's tell the Fox Point village board know about the negative impact this will have on us.

Date	Name	Address	Phone #	Signature
1/21/24	Ginster	804 E Hyde Way Fox Point, WI 53217	608-392-5999	
	Schunker	808 E Hwy	414 559 3315	
1/21/24	Terry Blech	805 E. Hyde Way	352-7002	Terry Blech
1/21/24	Roy Levisay	7829 N. Boyd	414 75[illegible]289	
1/27/24	Kim Brier	7723 N. Boyd Way	414-331-0888	
1/27/27	Mc Shane	7838 N. Boyd Way	414 352-1984	Tom Mc Shane
1/28/24	Brian Hartnett	7901 N. Boyd Way	414 228-7047	
1/28/24	Vin Murray	7823 N Boyd Way	262 573 0720	
2/3/2024		7745 N. Boyd Way 53217	917-373-4201	
2/3/24	Jim Krahn	7633 N. Boyd Way 53217	626 825-1661	
2/5/24	Jon Huettes	7705 N. Boyd Way 53217	414-979-1482	

Scott Botcher

From: boydway4@aol.com
Sent: Monday, January 29, 2024 1:10 PM
To: Scott Botcher
Subject: Pickleball at the Town Club

Hello Scott. My name is Chris Kondrick. I live at 7901 N. Boyd Way. My wife and I have lived here for 30+ years.

Regarding Pickleball, I know that the game is exceptionally loud. It is the nature of the hardness of the paddles and the balls. Every time the ball strikes the paddle it makes a high pitched knock that is very piercing. Players usually make the typical grunts and screams of joy and frustration.

While my home is approximately a block away, I suspect the noise will carry, especially on a day with a south to north breeze. The light pollution from night time lights could also alter the night sky.

For these reasons, if Town Club wants to have pickleball courts right next to neighboring homes, I feel they should proceed only in there are total sound and light barriers. Without such protection, neighboring properties will surely lose value and be harder to sell when that time comes.

If questions, feel free to contact me.

Sent from the all new AOL app for iOS

Scott Botcher

From: Kim Brier <kbrier21@gmail.com>
Sent: Saturday, January 27, 2024 3:17 PM
To: Scott Botcher
Subject: Town Club - pickle ball plans

Hi Scot,

This is Kim Brier at 7723 N. Boyd Way. It has been brought to my attention that the Town Club is possibly looking to expand their pickle ball courts. I would NOT be in favor of this as the noise, currently, is annoying and loud. I have a short time to enjoy my time on my deck and all I hear is the plastic ball hitting the racket and echoing into my back yard, along with their voices. It's already loud enough and disturbing so please do not allow any expansion or additional allowances for more pickleball. There are a lot of empty parcels of land, outside of residential neighborhoods, for pickleball lovers to play their sport. We just had a huge increase in our property taxes, as you know. I want to enjoy my quiet neighborhood for as long as I can. I understand that the Town Club was there before I bought my house but the idea of expanding any courts just increases the noise level and I am very opposed to the idea, not to mention the possible affect on the value of our homes. I am one of those whose yards are affected by the noise. I play pickleball, tennis, etc and love the sport but not in my backyard. Please consider our point of view. I'm not in favor of the expansion or placing a time restriction on it either. It never works and not sure who is going to police that. It's an unnecessary project and will only cause problems.
Thank you for listening and considering those of us who are affected.
Sent from my iPhone

Kim Brier
414-331-0808
Kbrier21@gmail.com

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 and Tennis; matches between members, lessons with racket sports professionals, club leagues, and social mixers. Pickle Ball is contingent on the use of windscreens to dampen noise. 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.

DRAFT

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.

DRAFT

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:_____

DRAFT

Hi Scott,
I plan to attend the meeting on Feb 9th, but I'm sending these comments in advance in case I don't get the opportunity to speak.

I live at 7815 N Boyd Way, and have done so since 2005. My home is directly behind the paddle ball courts and the tennis courts that are just directly north of the paddle ball courts. I love the peaceful, quiet village and my yard that backs up to the train tracks.

Summary:

I oppose the conditional use permit. Those of us on Boyd Way are already subject to the noise from the paddle ball courts. When I first moved here, the paddle ball court noise wasn't a problem but over years I've found the players to be louder, and the noise has increased in the last year or so, ever since the electric company has cleared the trees under the power lines.

Pickle ball is a much louder and more popular sport. It is played during the seasons when we want to open our windows and enjoy our patios.
I see there is mention of a "windscreen", but we would need more information about the proposed windscreen and how much it would reduce the noise.

I'm concerned that approving the request will have a negative impact on:

- my ability to enjoy my home and yard
- my mental health
- my property values

I've provided more detail about my specific concerns below, including some video that I took from my patio and an open bedroom window today.

Details:

1) Pickle ball is loud resulting in complaints and lawsuits around the country.

A quick google search for "pickle ball noise" brings up literally thousands of hits, including many local news stories where neighbors are complaining about the constant and irregular pattern of "pop-pop-pop". It is a loud sound and a much higher frequency than tennis – it's in the frequency that humans find most annoying.

It's been compared to gunshots, a vacuum cleaner, a constant faucet drip, the beep-beep of a backing up garbage truck. Neighbors complain that they cannot focus, their kids cant nap, they can't enjoy their private outdoor space and it brings stress and anxiety and impacts property values.

Here are a few links:
https://www.nytimes.com/2023/06/30/sports/pickleball-noise-complaints-lawsuits.html

- “It’s like having a pistol range in your backyard,” said John Mancini, 82, whose Wellesley, Mass., home abuts a cluster of public courts.
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www.nytimes.com

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On several occasions (as recently as this summer) I've called the Town Club management the next day and they say they'll try to deal with the issue but it's not really possible for them to know exactly who was there making the noise. Nothing changes. Some nights I can stand on my patio at 10:30 at night and play name that tune.

In Conclusion:

Let's do the right thing for the neighborhood and not allow this use of the Town Club tennis courts.

Amy Barth
7815 N Boyd Way

Scott,

I live at 7805 N Boyd Way. The Town Club paddle courts and tennis courts are directly in my backyard. We have been here nearly 10 years and I find it unfathomable that the Village is considering allowing the Town Club to install pickle ball courts. I am not sure if I can make the meeting next Tuesday to discuss this, so I wanted to get my thoughts to you beforehand.

In no way should this club be allowed to expand anything. We should be looking to tear down the Paddle Ball courts that were somehow allowed to be installed. As I write this, I am listening to the music and screaming of two groups currently playing. It's 30 degrees outside, so my windows are closed, but I can still hear all the noise pollution. The noise starts at 8am everyday and continues typically until after 11pm. It's a constant source of irritation and frustration, and these words aren't even strong enough. My wife and I have talked of moving, but with the market the way it is we are stuck. There is no way to peacefully enjoy our backyard. Our windows never come open from the spring all the way to the fall when most people would enjoy such things. The quality of life in the blocks anywhere near this club is significantly diminished.

There is no repercussion to any of the abhorrent behaviour shown by the members of this club. I have tried to call the clubhouse directly to ask the members to turn down the music and stop the noise. This doesn't work. I have tried to call the Town Club management to see if they can assist or at least turn off the music. (Again, I can't believe we allowed speakers to be installed). This does not work. I have on a few occasions called the Fox Point Police Department so see if they could quiet them down. This also does not work.

Now onto the pickle ball courts. So many news stories from across the country have reported how pickle ball has completely ruined neighborhoods. The noise would be 10 times worse than the already unacceptable paddle courts. There is no curtain in the world that will make this alright. It astonishes me that this is even being considered. Please do not allow this to happen. This club is already ruining quality of life in this neighborhood that is supposedly one of the best in Southeast Wisconsin.

Thank you for your time and consideration,

Kevin King

Sara Bruckman

From: Christine Symchych
Sent: Monday, April 8, 2024 4:47 PM
To: Scott Botcher
Subject: Fw: Town Club request for pickleball permit

for the record

From: Emily <emilybarrett@gmail.com>
Sent: Monday, April 8, 2024 4:45 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Town Club request for pickleball permit

Dear Members of the Fox Point Village Board,

I hope you will approve the Town Club's request for a permit to build pickleball courts on its property.

The Town Club has met and satisfied all the requirements of the village ordinances in regards to a pickleball permit.

The Town Club and its members try their best to be good neighbors. We have been so in the past and will continue to be so in the future. It is a big part of our culture to be respectful of our members, our guests, our employees, and our neighbors.

In the last three years, there have been no (zero) complaints to the Village or the Club about pickleball noise or anything else related to pickle ball. There are no outdoor lights for pickleball. Playing times are 8 am to dusk.

The specific courts in question (the three hard court tennis courts on the south end of the property) have been there since the 1970s in full use, and pickle ball has been played on these for the last three years. The courts are in serious disrepair and need to be resurfaced.

The Village itself operates pickleball courts at two locations in the Village, (Longacre Park and Indian Creek Parkway) both of which are part of a two-year program schedule for repairing and renovation. The Village has not applied for a permit for the operation of those courts or for their renovation even though it is required to by the Village code.

There are at least 173 adult residents of Fox Point that are also members of the Town Club. The Club welcomes guests from the Village and employs Village residents.

The Town Club was built for mostly outdoor recreational activities (tennis, platform tennis, swimming) and has been there since the 1950s on a parcel of land specifically zoned for that. The railroad tracks have been there since the 1850s.

Thank you,
Emily Barrett

8207 N Gray Log Ln,
Fox Point, WI 53217

Hi Scott,
I plan to attend the meeting on Feb 9th, but I'm sending these comments in advance in case I don't get the opportunity to speak.

I live at 7815 N Boyd Way, and have done so since 2005. My home is directly behind the paddle ball courts and the tennis courts that are just directly north of the paddle ball courts. I love the peaceful, quiet village and my yard that backs up to the train tracks.

Summary:

I oppose the conditional use permit. Those of us on Boyd Way are already subject to the noise from the paddle ball courts. When I first moved here, the paddle ball court noise wasn't a problem but over years I've found the players to be louder, and the noise has increased in the last year or so, ever since the electric company has cleared the trees under the power lines.

Pickle ball is a much louder and more popular sport. It is played during the seasons when we want to open our windows and enjoy our patios.
I see there is mention of a "windscreen", but we would need more information about the proposed windscreen and how much it would reduce the noise.

I'm concerned that approving the request will have a negative impact on:

- my ability to enjoy my home and yard
- my mental health
- my property values

I've provided more detail about my specific concerns below, including some video that I took from my patio and an open bedroom window today.

Details:

1) Pickle ball is loud resulting in complaints and lawsuits around the country.
A quick google search for "pickle ball noise" brings up literally thousands of hits, including many local news stories where neighbors are complaining about the constant and irregular pattern of "pop-pop-pop". It is a loud sound and a much higher frequency than tennis – it's in the frequency that humans find most annoying.

It's been compared to gunshots, a vacuum cleaner, a constant faucet drip, the beep-beep of a backing up garbage truck. Neighbors complain that they cannot focus, their kids cant nap, they can't enjoy their private outdoor space and it brings stress and anxiety and impacts property values.

Here are a few links:
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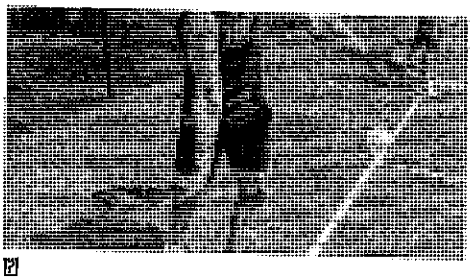

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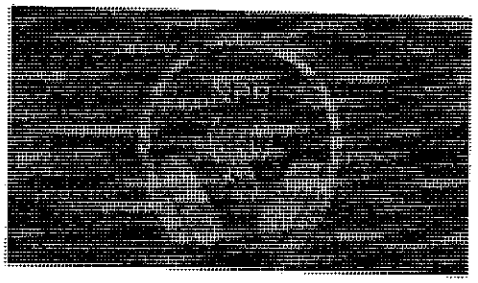

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In Conclusion:

Let's do the right thing for the neighborhood and not allow this use of the Town Club tennis courts.

Amy Barth
7815 N Boyd Way

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In Conclusion:

Let's do the right thing for the neighborhood and not allow this use of the Town Club tennis courts.

Amy Barth
7815 N Boyd Way

From: **Amy Barth** jumpingpoo@hotmail.com
Subject: Paddleball Noise Feb 25 2024 - Reported to Police
Date: February 25, 2024 at 3:34 PM
To: csymchych@villageoffoxpoint.com, eforstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eaellon@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, sbotcher@villageoffoxpoint.com

To all Village Trustees and Scott,

I am aware that you aren't taking any more comments on the topic of pickleball. This email isn't about pickleball, but rather to share with you the paddleball noise that we experienced yesterday evening (Feb 24 2024).

Around 8pm I was in my house (windows closed obviously). I heard all sorts of screaming. Went outside and recorded some video of the noise coming from the paddleball courts. Yelling, screaming, loud music.
This went on for a while (I took a few video clips between 8 and 8:20). At that point I had had enough and called the police.

https://youtu.be/ruTpwSxCNzU?feature=shared

I presume the police paid them a visit as the music was turned off and the yelling reduced after that.
But then, at 10pm the lights turned off and they were still outside and were making a lot of noise. At that point I called the clubhouse and told them to get things under control or the police would be back out. That seemed to do the trick, and the rest of the evening was quiet. In retrospect, I should have just called the police.

This is not the first time they've been this loud, but going forward myself and other Boyd Way neighbors will be calling the police when these disturbances occur so that there is a record of them for future review and consideration of the Town Club activities.

The paddleball court time, lights and all outdoor activities need to end earlier ,with a provision to put any club CUP up for review on a regular basis, or when an significant number of neighborhood disturbances are reported.

Amy Barth
7815 N Boyd Way
414 477-8527

From: **Amy Barth** jumpingpoo@hotmail.com
Subject: Town Club Conditional Use Permit
Date: February 16, 2024 at 11:29 PM
To: csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, sbotcher@villageoffoxpoint.com

To all members of the Village Board

At the January meeting, during the discussion of the Town Club topic, Trustee Ollman asked the club and neighbors to work together to see if we could come up with a solution. Immediately after the meeting a member of the club asked the three of us (Kevin King, Brian Hartnett and myself) for our contact information. We provided it, but none of us have been contacted. The club says they want to be a good neighbor, but they never reached out. Actions speak louder than words.....

I was also at the February meeting, and was frankly surprised at the way this ended up, and that it was tabled for another month.

I understand there are laws that apply to the granting of CUPs that have gotten tighter over the recent years. While I'm not an attorney, I would venture to guess that the law does not require that the CUP be granted when the activity will adversely affect the neighborhood, and in this case violate our own noise ordinance. "Developers rights" were put in place to prevent towns from willy-nilly just turning down things they didn't want in their town. This is different – there are many documented reports regarding the noise problems that come with pickleball, and this use will have serious negative consequences for many residents on Boyd Way, Hyde Way and Santa Monica.

This is not about:

- "just resurfacing existing courts" – they don't need approval from the village board put down some blacktop and paint.
- "they've already been playing" – just because they have been doing so doesn't make it right. A club member also admitted that they don't play too much on the courts because the condition is poor. Once the courts are resurfaced, they will be used.. a lot - the use will go up, and the noise will be greatly increased.
- "they already play racquet sports, it fits". Pickleball is a whole different story. If they wanted to play badmitton or put in a putting green, I would be 100% ok with that.
- Putting arbor vitae around the courts. Those trees won't offer any significant noise reduction.

This is about

retaining the value in our homes that we have all worked hard for and

- retaining the value in our homes that we have all worked hard for and invested in.
- retaining the existing standard of living in the neighborhood
- being able to have our windows open and enjoy our property without listening to the irritating sounds of pickleball

The way the Conditions are currently written, there are few restrictions on the club and a significant amount of vagueness. For example

- There is no definition of this "sound screen" nor how much sound it needs to block. They could put up almost anything and it would meet the condition in the CUP.
- There is no requirement that the "sound screen" be designed by an engineer experienced with sound mitigation techniques. The wrong solution, or the wrong implementation of a product could result in no sound reduction at all.

- There is no maximum decibel level stated, nor any plan for measuring the amount of noise coming into the neighborhood.
- Limiting hours to " 8am to dusk 7 days a week" is really not limiting at all. For those of that are not early risers, this is essentially every daylight hour, and "dusk" is up to individual interpretation, and would probably be defined by the players as "until I can no longer see the ball"

I would like clarification on Statement #6 within the Conditions, where it says: "The allowed uses of the property must at no time be hazardous, harmful, *obnoxious, offensive, or a nuisance by reasons of appearance, sound,* dust, smoke, odor or other similar factors.". How will this be evaluated and by whom?

The Town Club has everything to gain here by offering more activities and being able to increase their membership.
The neighborhood has everything to lose here. Most of the Town Club players will drive over, play for a few hours and leave. To them, it will be a great thing. They won't have to listen to it for 13 hrs a day in the peak of the summer. They won't have their property values decrease or lose potential buyers because of the proximity of the courts.

I ask each of you, and would really like to hear your personal thoughts on this.

- What if they wanted to put 8 pickleball courts in your backyard?
- Would you want it?
- Would you be satisfied with the conditions in the current proposal?
- What if it's granted and then we have noise problems? Then what? What would be the neighbors recourse?

It sounds as if there may already be a threat of litigation coming from the Town Club. I certainly hope that the village elected officials are looking out for the best interests of the residents of village and that you don't give in to the pressure of a

interests of the residents of village and that you don't give in to the pressure of a lawsuit from the club. The negative impact on the neighborhood should make "DENY" the correct vote.

I look forward to hearing from you,

Amy Barth
7815 N Boyd Way
414 477-8527

To: Members of the Fox Point Village Board
From: Amy Barth, 7815 N Boyd Way Fox Point
Date: Jan 11, 2024
Re: Town Club Conditional Use Permit for Pickleball

Thank you very much for listening to the community input at the Jan 9 meeting. I was the first to speak and after listening to the comments from the other community members as well as the thoughtful dialog amongst the board, I would like to provide some additional comments in opposition to the conditional use permit.

1) Allowing pickleball will violate two of the four standards that must be met.

a) Adverse economic impact on the neighborhood

i) Property Values

In this article by a real estate investor Sam Dogan (and self-proclaimed avid pickleball player), he states that real estate values within 2 blocks of the courts will be negatively impacted by up to 20%! https://www.financialsamurai.com/quantifying-pickleball-impact-on-real-estate-prices/

For those of us whose homes are adjacent to the club this is downright scary. Who will want to buy our homes when it's time for us to move? This article goes on to say that up to 30% of potential buyers will walk away when there are pickle ball courts in close proximity. He does say that there can be an up to 5% positive impact on value for those people 4-6 blocks away or more, but that doesn't really apply in this situation as these are not public courts. These courts are available only to club members.

Quantifying Pickleball's Impact On Real Estate Prices

Distance	Impact On Real Estate Price
Across the street	Negative 10% to 20% (or nonstarter)
One or two blocks away	Negative 5% to 10%
Three blocks away	Neutral to negative 5%
Four-to-six blocks away	Neutral to positive 5%
Six-to-twenty blocks awey (1 mile)	Positive 1% to 5%
More than one mile away	Neutral to positive 2%

Negatives of pickleball: noise, traffic, parking, injuries
Positives of pickleball: fun, healthy exercise, community

Source: Sam Dogen, FinancialSamurai.com, a 20+-year real estate investor and 4.25-level pickleball player

ii) Projected Additional Utility Costs

One of the things I love about this community is the cooler summers, and I rarely have a need to turn on my air conditioning. If pickleball is played in my backyard, I expect that I would be closing up my house more often, just to block out the noise. This will generate a higher electric bill over the summer months (and reduce my enjoyment of my yard).

b) Compatibility to Neighborhood

The way in which the Town Club wants to use these courts is not compatible with the neighborhood for a number of reasons and should be deemed a nuisance.

i) What is a nuisance?

Cornell Law School Legal Information Institute
https://www.law.cornell.edu/wex/nuisance defines a nuisance as:

"Nuisance refers to actions by someone or something within their control that interfere with rights of either the public or private citizens outside of their property. This can be in many forms such as creating loud noises or letting water run onto another person's property."

It goes on to say:

"A private nuisance is when the plaintiff's use and enjoyment of her land is interfered with substantially and unreasonably through the actions of another. Courts use several factors to determine reasonableness including whether the plaintiff had the property before the nuisance began, the level of harm versus the usefulness of the defendant's activity, and whether the action would be annoying to the average person. For example, a person mowing their lawn once a week in a neighborhood, while loud, will likely not be a nuisance given the utility of keeping grass mowed and expectations of the average person. However, a person that has a loud generator outside running all day for over a week could very well be considered a nuisance to neighbors."

In the Wisconsin State Statute, https://docs.legis.wisconsin.gov/statutes/statutes/823, you will find this definition:

" A nuisance is an unreasonable activity or use of property that interferes substantially with the comfortable enjoyment of life, health, or safety of others." State v. Quality Egg Farm, Inc. 104 Wis. 2d 506, 311 N.W.2d 650 (1981).

ii) Noise level and frequency of pickleball sounds

In this article, a sound engineer (and avid pickle ball player) https://crazypickleballlady.com/2021/07/13/the-sound-of-pickleball-a-detailed-explanation-and-what-you-need-to-consider-before-building-courts/
says that pickleball sound levels:

"Within 100 feet of courts will usually be around 70 dBa with no sound reduction efforts applied. This is as loud as freeway traffic sound.
At 200 feet, (using the 6 dB drop for doubling the distance) the level will be about 64 dBa. That's louder than normal conversation."
And in this article, https://pickleballscience.org/pickleball-noise-propagation/ the author dives into the science of how sound carries. While it gets a bit scientific, it's a good read. A few key points made by this sound engineer:

"Pickleball courts that are surrounded by acoustically hard surfaces, such as sound barrier blankets or cinderblock walls may actually amplify low frequency sound because of reflection, reverberation, and constructive interference of the pickleball impact noise. This noise can eventually diffract over the sound barrier and into the environment, causing problems for nearby residents."

"Community planners have only limited alternatives to control the propagation of pickleball impact noise. As we have seen above, pickleball courts would need to be located a long

distance from residential communities, or they would need to be located in areas where there is already a significant amount of background noise, such as near major highways, transportation hubs, commercial, or industrial areas."

"Some researchers have studied the effects of vegetative barriers on traffic noise, but these studies indicate that only a modest amount of sound attenuation is achievable (4 dB), particularly at frequencies in the 250 Hz to 2500 Hz range. The use of vegetation such as trees is somewhat of a two-edge sword, as branches and leaves can re-direct acoustic energy from being transmitted upward into the atmosphere to downwards towards the earth."

"The only other alternative to interrupting the propagation of pickleball impact noise into communities is to erect artificial structures such as sound barriers and walls around pickleball courts. These sound barriers will need to be capable of reflecting and absorbing sound, while being sufficiently high so as to limit diffraction over the top of them."

iii) Density of players (and player noise)
When 2 tennis courts are used to play doubles tennis, there is a maximum of 8 players hitting 2 balls.

When those same two tennis courts are used to play pickleball doubles on 8 pickleball courts, the number of players grows to 32 concurrent players hitting 8 balls!

During league /match play it is reasonable to expect that there could be additional people/ teams waiting their turn to play.

iv) Parking concern
Can the clubhouse parking lot support this volume of parking? Will parking spill over onto Santa Monica?

2) Unauthorized Use of Those Courts / Lack of Official Complaints to Date

The members of the club admitted that they've been playing pickleball on those courts for a few years, which is an activity that is not permitted under their current conditional use permit. They said that during this time they have not heard any complaints.

Those of us on Boyd Way have indeed heard that noise. I would expect that with the resurfaced courts, and the addition of lessons, leagues and social events, court use for pickleball will substantially increase. I would fully expect that the club would use the new courts as a sales tool in recruiting new members, further increasing the traffic.

Regarding complaints, personally I am sensitive to the amount of work that our police officers do, and haven't felt it necessary to call them. Instead, I did the more neighborly thing and called the Town Club directly. Unfortunately, I do not have a record of the dates, but I have called at least once or twice in the last 6 months.

3) Violation of Village Noise Ordinance

Pickleball would violate the village noise ordinance. Section A of ordinance "§ 670-2. Loud and unnecessary noise" states:

A. Loud and unnecessary noise prohibited. No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof except as described in subsection C.

4) Regarding the existing use of the property for year round sports.

No one will argue with the longevity of the Town Club and the use of that property as a sports facility for many years. We bought our homes fully aware of the club's existence. Pickleball is a new proposed use. It also a much louder and more irritating to neighbors than the other sports. Just because the property has always generated some noise does not mean it's ok to subject neighbors to the sounds of pickleball.

I would like to make the board aware that in the past year, the noise and light intrusion from paddleball has significantly increased from what it was the previous 17 years that I have lived here. This increase happened right after the electric company and railroad cleaned out all the trees/brush under the power lines.

After the meeting I learned:

- From Kevin King (7805 N Boyd Way) that his young daughter had been consistently woken up by paddle ball noise and they had to move her to a front bedroom with Kevin and his wife taking the smaller room.

- From Brian Hartnett (7801 N Boyd Way). Ever since the trees have been cleared, the headlights of the cars coming and going from the clubhouse parking lot shine directly into his house.

Recommendations:

I would ask:

- If any board member(s) have an existing relationship with the Town Club (club member, providing or receiving a service, etc) that they recuse themselves from the voting on this issue, as it would be a conflict of interest.

- The board to consider bringing in an independent sound engineer. To be hired by the village but paid for by the Town Club to provide an independent assessment. As you can see from the articles I referenced above, there are a lot of things to consider in designing a sound mediation plan. We need more information than just that "there will be a sound screen."

- The board to consider including provisions in any newly drafted conditional use permit to address pickleball noise. Here are a few ideas (not an inclusive list)

  - Sufficient sound reduction based on independent sound engineer study/recommendations
  - Limiting hours of play
  - Ensuring that social activities will not continue after dark and there will be no lighting
  - Ensuring that there will be no use of loudspeaker or other sound system
  - Limiting number of concurrent people gathered
  - Requiring the use of equipment designed to reduce the sound of the ball hitting the paddle

- The board to consider including provisions in any newly drafted conditional use permit to address the paddleball noise and light issues that came about after the trees came down. Here are a few ideas (not an inclusive list)
  - Soundproofing around the paddle ball courts
  - A fence to block the headlights from Brian and Jeannie's family room window
  - Revisions to the lighting to minimize impact to neighbors.
  - Reducing the night time paddle ball hours
  - Limiting the volume/hours on the loudspeaker / entertainment system

- Should pickleball be allowed, all of the properties adjoining and within several blocks of the courts should be re-assessed, lowering property values accordingly. Something then needs to be done to make us whole, as we can't afford to, nor should we have to take that hit to our personal finances.

- In a previous email I included video from my patio and bedroom window. If any board member would like to visit and see for yourself, I would welcome the opportunity to have you come over.

Amy Barth
7815 N Boyd Way
414-477-8527

Sara Bruckman

From: Christine Symchych
Sent: Monday, April 8, 2024 4:46 PM
To: Scott Botcher
Subject: Fw: Letter Of Support

for the record

From: Jonathan T. Bloom, CFA <jbloom@fmimgt.com>
Sent: Monday, April 8, 2024 3:25 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Cc: abarrettbloom@gmail.com <abarrettbloom@gmail.com>
Subject: Letter Of Support

Dear Village Board,

We are writing a letter of support for The Town Club's pickleball court proposal. We think it would be a great addition to the community. We do not think it will be disruptive given it can only be played during daytime hours.

Best regards,
Abigail & Jonathan Bloom
7125 N Barnett Ln

Jonathan T. Bloom, CFA | Partner, CIO
Fiduciary Management, Inc.
790 N. Water Street, #2100 | Milwaukee, Wisconsin 53202
414.226.4545 | jbloom@fmimgt.com | www.fmimgt.com

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Sara Bruckman

From: Evan Bretzmann <ejbretzmann@me.com>
Sent: Tuesday, April 2, 2024 10:53 AM
To: Scott Botcher
Subject: Please Do Not Allow Pickleball in My Backyard

Hi Scott,

I'm writing again to ask you to not allow the private club to put pickleball courts in my front yard, lower my quality of life, keep my three girls from napping, force me to close my windows in the summer, lower my property value.

I hope I live in a village in which the primary obligation of that village is to its residents—the families and individuals who purchased property and entered into 30-year commitments that largely determine the quality of their lives—not a private club where members come and go for a few hours at a time.

The anecdotal evidence of the damage pickleball does to communities is *everywhere* and *undisputable:*

> "It's like having a pistol range in your backyard," said John Mancini, 82, whose Wellesley, Mass., home abuts a cluster of public courts.

"It's a torture technique," said Clint Ellis, 37, who lives across the street from a private club in York, Maine.

"Living here is hell," said Debbie Nagle, 67, whose gated community in Scottsdale, Ariz., installed courts a few years ago.

"It creates vibrations in a range that can be extremely annoying to humans," Unetich said.

Shattered Nerves, Sleepless Nights: Pickleball Noise Is Driving Everyone Nuts
nytimes.com

Please don't turn our neighborhood into a place we refer to as a living hell.

Evan

Begin forwarded message:

From: Evan Bretzmann <ejbretzmann@icloud.com>
Date: February 19, 2024 at 10:19:13 AM CST
To: lsumner@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, sbotcher@villageoffoxpoint.com
Subject: Please Do Not Allow Pickleball in My Backyard

Hi,

I'm at 7808 N Boyd Way. I've recently been made aware that the Town Club is trying to put pickleball courts in. Please no.

The Town Club is already loud enough with court tennis. They play until 10pm. They're loud. I can hear every word of their conversations in my yard, and I can definitely hear their music.

I have two girls (5 and 3) and one on the way. Pickleball would definitely interrupt their sleep.

I do not understand how a private entity could do something that has such a negative impact on so many residents. I cannot move my house. I cannot create a noise barrier in my yard.

I work downtown at Northwestern Mutual. I love Fox Point. I love our community's connection to the natural world—to plant life, wildlife, its preservation of quiet, dark nights. This would adversely affect these values.

Please help.

Evan Bretzmann

From: **Kim Brier** kbrier21@gmail.com
Subject: Fwd: FW: PB
Date: April 1, 2024 at 10:11 AM
To: Christine Symchych csymchych@villageoffoxpoint.com, Catie Anderson canderson@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, Elizabeth Aelion eaelion@villageoffoxpoint.com, Jennie Stoltz jstoltz@villageoffoxpoint.com, goltman@villageoffoxpoint.com, Scott Botcher sbotcher@villageoffoxpoint.com, Kim Brier kbrier21@gmail.com

Thank you,

Kim Brier
kbrier21@gmail.com
414-331-0808

---------- Forwarded message ---------
From: **Brier, Kim**
Date: Sun, Mar 31, 2024 at 5:12PM
Subject: FW: PB
To: Kim Brier <kbrier21@gmail.com>,

Dear Fox Point Village Board members,

First of all, I want to thank for the opportunity for our voices to be heard, regarding the current proposal to expand/re-surface some of the tennis courts, at Town Club, for Pickleball use. I have researched the feedback from neighborhoods that are or have undergone this type of proposal. I will highlight just a few examples of the concerns that most neighbors have shared. I am looking forward to the general meeting on April 9th and if history is any indication of a good predictor of the future then hopefully you will understand why we have many concerns. There are many articles that are available and a lot of feedback from neighborhoods like ours. I have yet to find a positive article from those neighbors who are most impacted, other than, "it's fun to play." No amount of trees, shrubs, wind nets or time restrictions will reduce the noise and may potentially present other problems.

Here is just a short list of concerns. The message is loud and clear: Noise, traffic and property values are contributing to many complaints and lawsuits across the country. Multiply these complaints tenfold with the proposed expansion or re-surfacing of courts at Town Club. There are options for these players to play elsewhere but not in one's back yard. There is not one person on this board that would want it in their back yard so please have the same consideration for us.

Thank you,

Kim Brier

kbrier21@gmail.com

414-331-0808

---------- Forwarded message ---------
From: **Brier, Kim** <kim.brier@astrazeneca.com>
Date: Fri, Mar 29, 2024 at 5:52PM
Subject: PB
To: Kim Brier <kbrier21@gmail.com>, Brier, Kim <kim.brier@astrazeneca.com>

https://www.youtube.com/watch?v=1AI6uiFqbmM

https://www.google.com/search?q=pickleball+noise&rlz=1C1GCEB_enUS1029US1030&oq=pickleball+&gs_lcrp=EgZjaHJvbWUqBggAEEUYOzIGC

https://www.google.com/search?sca_esv=c9bece44728e7380&sca_upv=1&rlz=1C1GCEB_enUS1029US1030&tbm=vid&q=pickleball+noise&sa=

https://www.youtube.com/watch?v=vdri9QuT3Vg

https://www.youtube.com/watch?v=yijane3ksjs

https://www.latimes.com/california/story/2022-03-03/pickleball-noise-fueling-neighborhood-drama

A 2018 Spendiarian & Willis Acoustics & Noise Control LLC report said that pickleball courts built within 350 feet of residential homes need some kind of sound reduction and those built within 150 feet need "careful abatement design to avoid complaints." This generally means adding walls to help reduce sounds.

How far should pickleball be from homes?

Data from one of Unetich's papers estimates that even in a wide-open space the sound of pickleball will likely be tolerable to people living at a distance of 977 feet or farther from a court, and anecdotally he has rarely heard complaints from people living more than roughly 500 feet away.Jun 7, 2023

Pickleball whacks are loud — they have been registered to reach 85 decibels, though games usually peak at about 70 decibels or about as noisy as a vacuum cleaner or a freeway. But that's not loud enough to damage the ears, professor Nicole Laffan told Northeastern Global News

How Loud Is Pickleball Compared to Other Sports?

SPORT	AVERAGE DECIBEL COUNT (DB)
Pickleball	**70 – 90**
Baseball	90 – 100
Lacrosse	90 – 100
Ice Hockey	90 – 100

How Much Will Pickleball Affect Real Estate Prices

The impact pickleball may have on property prices depends on the distance between the pickleball courts and the properties. There is also an optimal distance where pickleball courts can actually *boost* real estate prices.

Another variable is the number of pickleball courts near a property. The fewer the pickleball courts, the less impact they will have on real estate prices. For reference, when pickleball courts are constructed, usually 4-8 are constructed at once. If there's only one pickleball court nearby, the impact is much less.

Let's go through how much pickleball will affect real estate prices by various distances. Below is a chart I came up with to summarize and then a discussion on why.

Quantifying Pickleball's Impact On Real Estate Prices

Distance	Impact On Real Estate Price
Across the street	Negative 10% to 20% (or nonstart
One or two blocks away	Negative 5% to 10%

One or two blocks away	Negative 5% to 10%
Three blocks away	Neutral to negative 5%
Four-to-six blocks away	Neutral to positive 5%
Six-to-twenty blocks away (1 mile)	Positive 1% to 5%
More than one mile away	Neutral to positive 2%

Negatives of pickleball: noise, traffic, parking, injuries

Positives of pickleball: fun, healthy exercise, community

Source: Sam Dogen, FinancialSamurai.com, a 20+-year real estate investor and 4.25-level pickleball player

Thank you again for taking the time to listen to our concerns.

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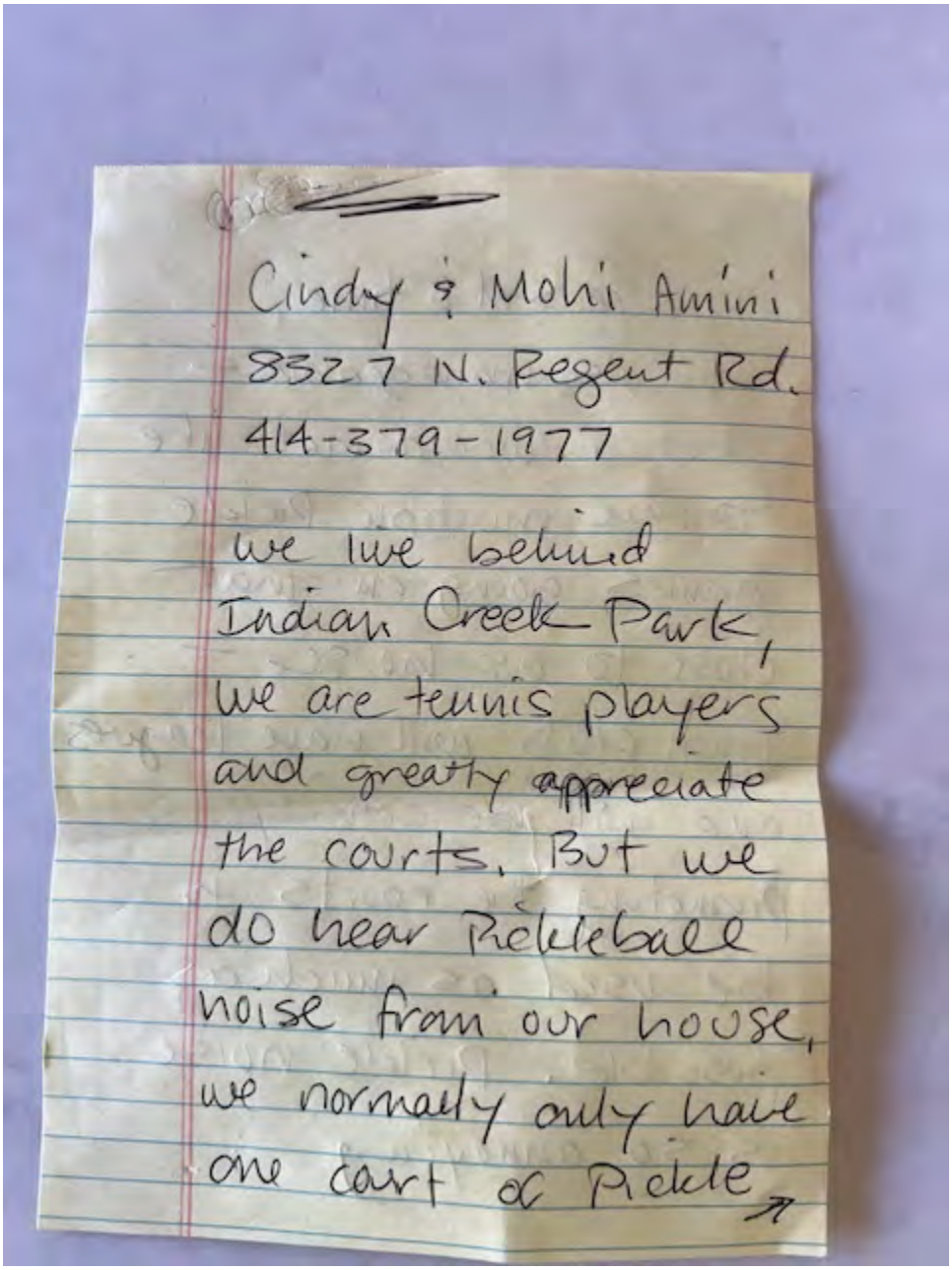
Sara Bruckman

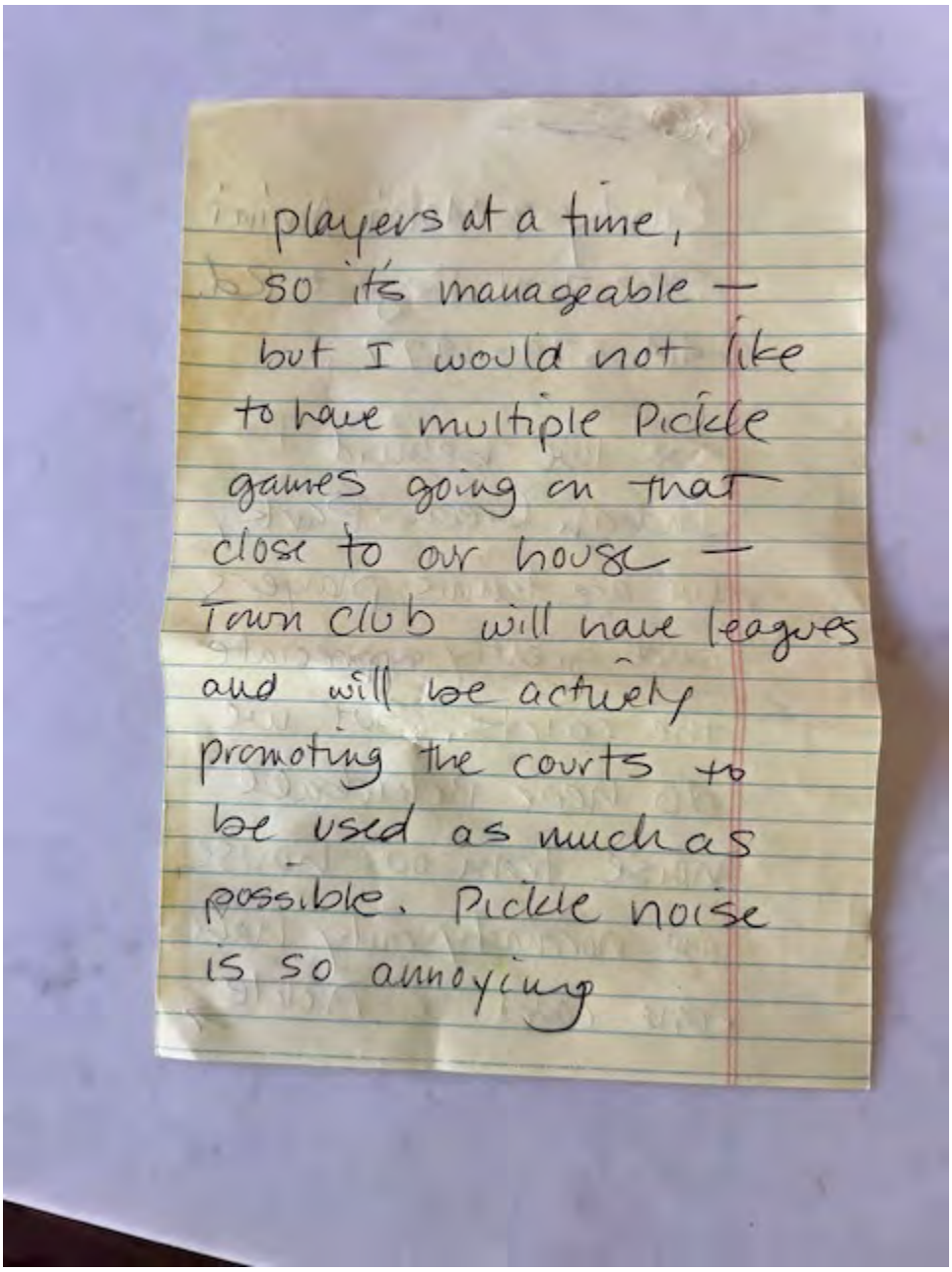
From: Kim Brier <kbrier21@gmail.com>
Sent: Saturday, April 6, 2024 1:08 PM
To: Scott Botcher
Subject: Testimony of FP neighbor

Hi Scott:

Here is a note, from neighbor, right behind Indian Creek Park. I asked her about her thoughts on the noise from PB vs tennis. I wanted to forward to you, just to include for Tuesday, April 9th meeting for your files. I know you needed documents prior.

Thank you -





Sent from my iPhone

Kim Brier
414-331-0808
Kbrier21@gmail.com

From: **Kim Brier** kbrier21@gmail.com
Subject: Town Club - Pickleball
Date: February 19, 2024 at 1:02 PM
To: Christine Symchych csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, Scott Botcher sbotcher@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, sbrandmeier@villageoffoxpoint.com
Cc: Kim Brier kbrier21@gmail.com

Good morning, (please forward to Mr. Larson).

Yes, it's me again. I realized that after talking with some of you that my concerns regarding the proposed " re-surfacing" (a joke in itself) of the some of the tennis courts , for Pickleball use, will not be considered, since the public hearing has been closed but I'm going to continue to voice my concerns and hope you will listen. I had an opportunity to listen to the Zoom meeting on 12-4-23 and was pretty upset at the lackadaisical manner in which this proposal was handled.
First of all, in my opinion, anyone with close ties to the Town Club, (including any member) should recuse themselves from voting or being part of the planning committee for TheTown Club. That is a conflict of interest and hope that this was indeed followed, even if it is legal. Sometimes, optics are an even bigger issue.
After listening to the recorded zoom call, I could not believe that the board, mostly Mr. Fonstad (absent 3 members) decided to move forward with the proposal. I heard the gentleman, from Town Club, assure you that wind nets will reduce the noise by "almost 50%" and you bought it hook, line and sinker without any evidence. I play tennis and pickleball and play at Nicolet/ Ellsworth, etc. all with wind nets and it virtually does nothing to reduce noise. The nets are there to reduce wind and they work for that but truly have very little impact on reducing noise. I suggest you come to my backyard and the neighbors backyards and see for yourself how noisy pickleball can be. I would also suggest you be my guest at River Glen, played tennis there yesterday, right next to a court that was playing Pickleball. We couldn't hear the score or hear an out call, etc. It was so noisy. I recorded it for you, if you would like to hear it. It's ok to propose this in our backyard but I know you would feel different if it was suggested for your backyard. From the Zoom call in December, you looked at 1 house and asked if the neighbor had ever complained. Are you kidding me? This is how you propose to give a thumbs up or down? We didn't complain because as it is currently, most people don't want to play on the makeshift tennis courts now used as a Pickleball court. It requires taping the courts for lines and putting up different nets,etc.. As a result, they may go elsewhere. However, that will change with the proposed conditional use. We will now go from 1 court to 8 courts x 4 people, per court, potentially, 32 players. I may be off on these numbers but the fact remains that more players = more noise. This is ridiculous. When Mr. Larson spoke, he talked about: is it compatible with the neighborhood, the answer is NO with the new proposal. Is it detrimental to the neighborhood, the answer is a resounding YES. If I am looking to buy a house, this would factor in my decision and probably be a NO. Is it appropriate in the area, the answer is NO, which is why these types of courts should be placed in parks. You asked the poor lady who wanted to set up shop next to Lou Malnati's , a small business owner looking to earn a living, more questions about noise, etc. than you did the gentleman representing the Town Club. You asked for no evidence to support the ridiculous 50% noise reduction with wind nets. Unless there is 100% noise reduction, this should be a non- starter.
I realize Town Club is a club with racket sports but there is no louder racket sport than Pickleball, just spend a day listening to it and imagine that in your backyard, from morning to dusk, another ridiculous proposal to police. Do you now suggest I call the village hall or police to control noise in my backyard and only then will you take me seriously? I pay a lot in taxes, keep my house in good condition and never complain but now I will. I love the Town Club and know many who belong. This is strictly a noise issue and the more people who play, the more noise we will hear. Yes, you get your tax revenue and we get a decrease in our property value.
I'm sorry I came late to the game but I was never notified of this, simply because the statue says I'm outside of the parameters. However, I'm very much in the noise zone and should therefore have a say so. There is no upside for us while Town Club gets to enjoy 6-8 newly resurfaced courts with a new conditional permit that will be re-written to accommodate them. They have been playing pickleball on tennis courts and now they get to change the terms?You are elected to protect us and our rights and it seems like we have no rights. You had 1 meeting and now it's closed? The downside to the surrounding neighborhood should be your first concern and it seems like a lot more education and thought needs to go into this decision. Please take the time to visit a busy pickleball court and listen to the noise and the detriment to my neighborhood, before you decide to vote yes to this. This doesn't affect those in favor of the proposed courts or those who drive in from Mequon or Barnett Lane or anywhere else that is not directly behind the club.They get to have fun and go back home to their quiet and peaceful homes.

Once again, I'm sorry for the nasty tone of my message but it truly appears that you have given more consideration in favor of this than to the negative impact on those who are truly affected. I have heard all the arguments in favor but are you really considering us? The wind nets do nothing, except block wind.
Please read , if you haven't done so, all the many arguments that describe the annoying noise that erupts from pickleball where decibel levels can reach up to 70 and the distance it travels, well beyond those directly in the back of the courts.
Thank you for your time and consideration and I would truly appreciate your feedback. I no longer want to be educated on the process but rather how far you have really researched this and the negative impact for us.

Kim Brier
kbrier21@gmail.com
414-331-0808

NO

From: **Kim Brier** kbrier21@gmail.com
Subject: Town Club Pickleball expansion proposal
Date: February 14, 2024 at 5:27 PM
To: csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eallon@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, Scott Botcher sbotcher@villageoffoxpoint.com

Good afternoon, Village Board Members: (sorry, Scott -included you but know we have spoken)
I attended last night's meeting with the hope of hearing about the possible Town Club proposal for additional pickleball courts. I was also prepared to express my concern over this project and I was extremely disappointed that the committee punted and decided to table this matter. I was never notified of a meeting that was held in January. I was also told this morning (spoke with Sarah) that you will no longer consider any more discussion surrounding this matter. That is also disappointing, given the fact that I wasn't notified. Apparently, my house is just outside the parameters but I'm here to tell you that I am close enough to the Town Club to hear the sound of tennis, the sound of swim meets, and the sound of paddle tennis. If I can hear all of that, I should certainly have a right to express my opposition to increasing the volume there. I love pickleball, tennis and most sports but the noise from Pickleball is like no other and should no way be allowed in my backyard or my neighbor's backyard. The constant popping of the ball hitting a racket is so annoying and disturbing. There is no way any of these members would want it in their backyard. If I was a member, yes, it sounds great and how fun it could be but their upside no way compares to the downside we will endure. I am truly angry and hope that you will NOT consider this expansion to take place. I can't believe this is even up for discussion. The negative impact on the neighbors should be the greatest concern. There are other places to put up pickleball courts. Those on Barnett Lane or Mequon, etc. are not the ones that will be affected by the noise. They just get to enjoy playing, at our expense and by no means is it satisfying to suggest wind nets, ugly arborvitae (like I can't hear through that), trees or any other proposed objects that are intended to reduce noise, but fall from that. They don't work.

I am going to attach all of my bullet points to this email and hope that all of you will read it. I am well aware that The Town Club is in a bit of hurt, financially and this might be one way to pull themselves out of that but the downside to those who are close enough to hear the

Thank you,

Kim Brier
kbrier21@gmail.com
414-331-0808

Fox Point - rev. PB exp...n.docx

Fox Point – PB expansion

- Thank you for the opportunity to allow us to express our concerns over the possible expansion of PB courts at TC.
- My name is Kim Brier – I live at 7723 n. Boyd Way , so not even directly behind TC but close enough to hear the swim meets, in the summer, the paddle courts at nights and the sound of summer tennis.
- All sounds great for the members but not for those of us whose once quiet neighborhoods are quickly becoming less quiet and less private.
- The impact of expanding these courts directly affects me and my neighbors and should be considered before any decisions are made. This is an uncomfortable position for all of us to be in. I get why TC wants to do this but with more PB courts comes more noise, despite any attempt to tell me otherwise. I hear it everyday. I hear the conversations, the yelling as result of a good point, the music playing loudly and the constant sound of the ball. Its annoying and disturbing. I'm not even sure why we are engaging in these conversations. This should be a non starter. Move the courts elsewhere. I often work from home and I have to shut my windows so as to not be distracted or avoid all the background noise when on a virtual call.

- I am an avid sports enthusiast. I play PB, paddle tennis, regular tennis but I play all of these sports at a club or in a park that is typically far enough away from a residents house so as to not disturb them.
- You cannot possibly defend the amount of noise from a PB court. The sound of the plastic ball hitting a racket, all day long, usually accompanied by loud music and all the other noise, all resulting in one's decrease in property value. This should be enough for you to NOT consider this proposal.I spent all last summer listening to the freeway construction project. This woke me up in the morning, it was heard all afternoon, and into the evening but I knew it would come to an end. I cant even believe that this is on the dockett as a possibility. I made a huge decision about 24 years ago to buy my house in a quaint and safe neighborhood. I have spent my hard earned dollars to invest in my house. To live in a safe and quiet neighborhood and now you want the members of TC to enjoy an upgrade at my expense? This is ridiculous. If you told me that you had a house for sale but the back yard butts up to 8 pickleball courts or a playground or a baseball field, all noisy, I would tell you I'm not interested.
- This is a sport that should be played at a park or in an empty warehouse that someone built to accommodate this sport but away from a residential area, I would say that's great and sign me up.

- We have a short window of time to enjoy the nice weather and the last thing I want is to hear the very disruptive noise of PB. I love the sport just like the thousands of others but this should not be at the expense of a neighborhood. It should never be built in anyone's backyard and that is exactly what the TC is proposing and you can stop this. It is a noise nuisance. It ruins any chance at peace and quiet. And I will never buy into the idea that wind nets(that don't work and are always ripped or torn, eventually), planting more trees or bushes to block the noise or proposing time limitations or any other ridiculous argument will solve the problem. It will not. Trees cause leaves to blow all over, bushes need to be trimmed to look nice and none of these reduce the sound. I play tennis at River Glen and whenever I am on the court next to PB ers, we are always distracted by the amount of noise. It has no place in anyone's backyards. This shouldn't even be up for consideration and yet I am here tonight because apparently it is.
- Like everyone else here, I enjoy my summers too and want to continue to be able to open my windows, BBQ on my deck and listen to music, while enjoy the peace and quiet of my neighborhood. I turn my music on low. I keep to myself. I don't have loud parties because I respect my neighbors and know we are all here for the same reason – safety, privacy, and pride in our neighborhood.

- Ideally, these courts should be placed in a public park, far enough away from any residential area. You have the ability to stop this ridiculous proposal. These TC members want the expansion but I bet if you asked them how they would like it in their backyard, 98% would say , not in my backyard, so please give us the same consideration.

Thank you for your time and I hope you are hearing our voices, those of us who pay a tremendous amount of taxes, to live in Fox Point – want a peaceful, safe and quiet neighborhood. We need to respect our neighbors and is precisely why we have laws in place, including a noise ordinance. TC should not have the right to build their mansion (expansion of courts) in an effort to increase their membership while negatively affecting my property values. Please know, I love the sport too but please be respectful of the negative impact in our neighborhood. If I haven't made myself clear, I'm a no to the expansion.

From: **Kim Brier** kbrier21@gmail.com
Subject: Re: Town Club Pickleball expansion proposal
Date: February 16, 2024 at 11:34 AM
To: csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, Scott Botcher sbotcher@villageoffoxpoint.com, eaelion@villageoffoxpoint.com

Good morning,

This is just a follow-up to my email sent Wednesday evening. Thank you to those who did reply. I am hoping the remainder of board members will take a look at my email and letter and have a chance to respond. I know you are all very busy and it's really tough to reply to every email, so thank you for any feedback. This is just so important to me and my neighbors and I feel so strongly about the reasons for my opposition. In my opinion, the only upside to this proposal favors Town Club but the tremendous downside is to me and my neighbors. This is a very loud sport and there is no way to muffle the sound. It appears as though a decision has NOT yet been made but I hope you will consider this letter before rendering a favorable vote for the Town Club. They have many other choices for pickleball courts, a popular sport today but what's next? This does not belong in a residential area.
Thank you for your time and consideration and I look forward to hearing your responses in addition to why some chose NOT to seek legal advice. No need to respond, if already done so.

Kim Brier
kbrier21@gmail.com
414-331-0808

On Wed, Feb 14, 2024 at 5:26PM Kim Brier <kbrier21@gmail.com> wrote:

> Good afternoon, Village Board Members: (sorry, Scott -included you but know we have spoken)
> I attended last night's meeting with the hope of hearing about the possible Town Club proposal for additional pickleball courts. I was also prepared to express my concern over this project and I was extremely disappointed that the committee punted and decided to table this matter. I was never notified of a meeting that was held in January. I was also told this morning (spoke with Sarah) that you will no longer consider any more discussion surrounding this matter. That is also disappointing, given the fact that I wasn't notified. Apparently, my house is just outside the parameters but I'm here to tell you that I am close enough to the Town Club to hear the sound of tennis, the sound of swim meets, and the sound of paddle tennis. If I can hear all of that, I should certainly have a right to express my opposition to increasing the volume there. I love pickleball, tennis and most sports but the noise from Pickleball is like no other and should no way be allowed in my backyard or my neighbor's backyard. The constant popping of the ball hitting a racket is so annoying and disturbing. There is no way any of these members would want it in their backyard. If I was a member, yes, it sounds great and how fun it could be but their upside no way compares to the downside we will endure. I am truly angry and hope that you will NOT consider this expansion to take place. I can't believe this is even up for discussion. The negative impact on the neighbors should be the greatest concern. There are other places to put up pickleball courts. Those on Barnett Lane or Mequon, etc. are not the ones that will be affected by the noise. They just get to enjoy playing, at our expense and by no means is it satisfying to suggest wind nets, ugly arborvitae (like I can't hear through that), trees or any other proposed objects that are intended to reduce noise, but fall from that. They don't work.
> I am going to attach all of my bullet points to this email and hope that all of you will read it. I am well aware that The Town Club is in a bit of hurt, financially and this might be one way to pull themselves out of that but the downside to those who are close enough to hear the
> Thank you,
>
> Kim Brier
> kbrier21@gmail.com
> 414-331-0808

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Pickleball Noise Impact Assessment and Abatement Planning

Prepared for

City of Centennial
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Lance Willis, PhD
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R. 0, July 11, 2023

Executive Summary

As pickleball grows in popularity across North America it has become necessary to define more accurate methods of assessing the noise impact of the sport on the surrounding community and plan effective strategies for integrating it into various recreational venues. The purpose of this document is to provide descriptions of measurement protocols appropriate for assessing short duration impulsive sound such as pickleball and paddle impacts, definitions of terms and acoustical metrics, and guidance for acoustical planning of new pickleball courts. Basic methodologies and best practices for community noise assessment, environmental acoustics measurements, and noise regulation documents are described.

The main concern for neighbors living close to pickleball courts is the popping sound produced by the paddle when it strikes the ball. This sound is narrowband, imparting a sensation of pitch, and very short in duration. For the latter reason, measurement techniques that involve averaging the sound pressure over time tend to underestimate the noise impact of the impulsive sound produced by the paddles. For this type of sound, the noise assessment methodology described in ANSI S12.9 Part 4 for the highly impulsive classification of sound, based on adjusted sound exposure level, is recommended as the most accurate means of assessing the community response to pickleball paddle impacts.

Planning open air pickleball courts begins with selecting an appropriate site that has sufficient setbacks to ensure an effective noise abatement plan will be possible. Most of the work of reducing sound levels at the neighbors is done by noise barriers in the form of sound walls or mass-loaded vinyl (MLV) fence covers. These are, however, limited in the amount of noise reduction they can provide making setbacks a critical component for success of the overall noise abatement plan. In order for a noise barrier to provide acoustical shielding it must be able to block the line of sight from the players on the pickleball courts to the surrounding noise sensitive areas including upper level windows and raised decks. These geometrical considerations, which will include topography as well as the neighboring structures themselves, may affect the minimum setbacks needed in a particular application.

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1. Introduction

1.1 Pickleball and Pickleball Sound

Pickleball is popular and rapidly growing paddle sport in the United States and Canada. It is played with a hard plastic ball similar to a wiffle ball. A pickleball court is 44 feet long and 20 feet wide compared to a tennis court at 78 feet long and 36 feet wide. A tennis court can be converted into four pickleball courts.

Figure 1.1. Pickleball Game

As the sport has grown so have concerns from those living near pickleball courts over noise. The impact of the pickleball on the paddle causes a sharp popping sound that can be heard hundreds

of feet from the courts. Unfortunately, poor siting and inadequate noise impact assessment and abatement at many locations have made open air pickleball courts controversial additions in many neighborhood settings. This document will provide guidance on noise impact assessment in general, how to accurately measure the sound produced by pickleball courts, site selection, and effective mitigation treatments.

1.2 Properties of Sound

Sound, for the purposes of the this document, is a small pressure disturbance in the atmosphere producing the sensation of hearing. It may be produced by the vibration of a surface or by the pulsation of an airstream such as a rotating fan blade or the human vocal cords. Sound propagates through the atmosphere as a compression wave with a speed that increases with the temperature of the air. The characteristics of a particular sound are described in terms of amplitude (loudness), frequency (pitch), and the change of amplitude and frequency with time (impulsiveness, modulation, onset rate, or rise time).

Noise is unwanted sound. This may be a subjective assessment or it may imply effects on health, well being, and speech communication. Community noise impact is assessed in terms of both annoyance and public safety.

1.3 Annoyance

The subjective aspect of noise is known as “annoyance.” Annoyance describes the quality of a sound that is perceived as objectionable. It differs from loudness, the perceived amplitude of a sound. Annoyance is often influenced by nonacoustic factors such as habituation or sensitization to the sound, involvement in activities that require concentration, attitudes towards sound sources and their operators, and the perceived necessity of the noise intrusions. For these reasons, reports of annoyance will have varying degrees of response bias.

Annoyance as a basis for determining acceptable noise levels can be traced to a paper by T. J. Schultz [Schultz, 1978] and the work of other researchers in the 1960's and 1970's. Schultz aggregated a group of social surveys regarding transportation noise in different cities and found that the results could be explained using a noise dosage relationship. This method has since been adopted by federal agencies tasked with regulating and evaluating road, rail, and air transportation noise.

Early research into the community impact of noise focused mainly on road traffic noise. As a result, other sound sources studied later were compared to traffic noise impact studies to determine their level noise impact. It was found that the sound pressure levels of sound sources having special characteristics such as impulsiveness and tonality did not correlate well with community questionnaires when directly compared to traffic sound pressure levels. The annoyance of these sources was often higher than the traffic noise for the same sound pressure level.

For this reason, the sound pressure levels of sound sources having these special characteristics are given an adjustment to compensate for the difference in noise impact. Part 4 of the ANSI S12.9 standard gives adjustments and measurement methodologies for a variety of sound

classifications and is used as the basis for the sound pressure level adjustments in this document.

1.4 Physiological Effects of Sound

While it is well known that high amplitude acoustical pressures can cause hearing impairment as well as other types injury to the body, lower amplitude sound can also have adverse long term physiological effects.

The World Health Organization recognizes that low level noise exposure has measurable health effects:

> Sound/noise is a psychosocial stressor that activates the sympathetic and endocrine system. Acute noise effects do not only occur at high sound levels in occupational settings, but also at relatively low environmental sound levels when, more importantly, intended activities such as concentration, relaxation or sleep are disturbed. [WHO, *Night Noise Guidelines,* p. 61]

The sympathetic nervous system is part of the autonomic nervous system and is involved in the body's fight or flight arousal response. Chronic activation of the sympathetic system leads to stress, fatigue, and anxiety.

In addition to nervous system activation, sleep disturbance from noise can involve difficulty in falling asleep as well as awakenings that occur during sleep. Frequent awakenings lead to sleep fragmentation. This disrupts the normal stages of sleep and may lead to further neurocognitive manifestations not limited to daytime tiredness, loss of concentration, morning confusion, irritability, anxiety, and depression. [WHO, *Night Noise Guidelines,* p. 48, 26]

Environmental noise also has implications for the cardiovascular system, metabolism, and homeostasis, the ability of the body to regulate itself.

> The auditory system is continuously analyzing acoustic information, which is filtered and interpreted by different cortical and subcortical brain structures. The limbic system, including the hippocampus and the amygdala, plays an important role in the emotional processing pathways. It has a close connection to the hypothalamus that controls the autonomic nervous system and the hormonal balance of the body. Laboratory studies found changes in blood flow, [blood pressure] and heart rate in reaction to noise stimuli as well as increases in the release of stress hormones... Acoustic stimulation may act as an unspecific stressor that arouses the autonomic nervous system and the endocrine system... The arousal of the sympathetic and endocrine system is associated with changes in the physiological functions and the metabolism of the organism, including [blood pressure], cardiac output, blood lipids (cholesterol, triglycerides, free fatty acids, phosphatides), carbohydrates (glucose), electrolytes (magnesium, calcium), blood clotting factors (thrombocyte, aggregation, blood viscosity, leukocyte count) and others. In the long term, functional changes and dysregulation may occur, thus increasing the risk of manifest diseases. [WHO, *Night Noise Guidelines,* p. 62-63]

The effects of stress can take many forms as seen above. Low level noise exposure that disturbs

sleep and concentration are known to produce a range of diagnosable illnesses and disorders.

1.5 Long Term and Short Term Community Impact

Community response to noise is different for short term and long term exposures. Short term impact refers to sounds that occur occasionally for a limited period of time, usually on an irregular basis, that are not part of the normal activities on a property. These types of sounds are generally addressed in the municipal code.

Zoning or land use regulations focus on long term community noise impact. These sounds occur regularly over a period of time measured in weeks, months, or years and are usually part of the normal activities on a property. In most cases, however, this would not include construction activities as these are temporary and not a normal part of the usage of the site.

Municipal code noise regulations and land use code noise regulations serve different purposes, but compliment each other to protect the community from excessive noise under differing circumstances. The land use code governs long term community noise exposure and is directed mainly to developers and commercial property owners. A municipal code applies to short term noise sources that generally do not operate on a regular basis. The table below shows a comparison of how these two codes work separately and together to provide a more complete community noise policy.

Table 1.1. Application of Short and Long Term Noise Regulation

	Municipal Code	Land Use Code
Assessment Type:	Short term noise impact	Long term noise impact
Directed Toward:	Residents, public gatherings, noise control officers, police officers	Developers, architects, acoustical engineers, planning & development dept., noise control officers
Purpose:	• Set threshold for offenses • Define penalties	• Guidance for site planning • Standards for noise abatement • Long term noise assessment
Main Area of Law:	Criminal	Civil
Findings:	• Made by officer on scene • Immediate determination of required action	• Assessment of all sound sources affecting surrounding properties by acoustical engineer • Analysis presented in detailed report
Expected Outcomes:	• Immediate action • Possible cease and desist order, citation, or arrest	• Comprehensive plan to bring the site into compliance • Installation of noise abatement treatments

2. Definitions

A-weighted sound level

A measurement of a sound level obtained using “A” frequency weighting. This weighting curve approximates the frequency response of human hearing for low to moderate sound pressure levels. The frequency weighting characteristics of the A-weighting filter are defined in ANSI S1.42 and ANSI S1.4.

Background sound

Sound from all existing sources near and far that may interfere with a sound pressure level measurement, not to include the sound source being evaluated.

Decibel (dB)

Ten times the logarithm to the base ten of the ratio of two quantities that are proportional to power. Quantities denoted as a “level” are decibel quantities, e.g. sound pressure level.

Ensemble sound

Sound from all normal existing sources near and far at a given location, including the sound source being evaluated. The union of all sound sources observable at the point of assessment.

Equivalent-continuous sound pressure level

The sound pressure level of a steady, continuous sound having the same sound energy as the time varying sound measured. Ten times the logarithm to the base ten of the time average over the period of a measurement of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals expressed in decibels (dB).

Fast exponential time weighting

A lowpass filter for the purpose of averaging or smoothing a signal having a time constant of 0.125 seconds applied to the square of the sound pressure as specified in ANSI S1.4-1983.

Highly impulsive sound

Impulsive sound having very rapid onset rate or rise time typically resulting from impact processes or small arms gunfire including, but not limited to: metal hammering, wood hammering, drop hammering, pile driving, drop forging, pneumatic hammering, pickleball paddle and ball impacts, pavement breaking, metal impacts during rail-yard shunting operation, and riveting. ISO 1996 differentiates highly impulsive sound from regular impulsive sound by its noted level of intrusiveness.

Impulsive sound

Sound that is characterized by brief excursions of sound pressure, typically less than one second, whose peak pressure noticeably exceeds the background sound pressure.

Insertion loss (IL)

For a sound attenuator, noise barrier, or other noise abatement treatment, the decrease in sound level at a point of observation when the noise abatement treatment is inserted between the sound source and point of observation.

Noise

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse effect on humans, domesticated animals, or livestock.

Noise abatement plan

A detailed plan demonstrating the mitigation measures to be taken in order to meet the requirements of this noise regulation. The noise abatement plan should describe the construction and locations of abatement treatments with the expected sound pressure levels at the receiving properties.

Noise impact assessment

An analysis performed by a qualified acoustical engineer which determines the potential noise impacts of a proposed use.

Peak sound pressure

The largest absolute value of the instantaneous sound pressure in pascals (Pa) in a stated frequency band during a specified time interval.

Regular impulsive sound

Impulsive sound that is not highly impulsive sound. This includes speech and music.

Sound exposure level (SEL)

Sound exposure level is a descriptor for characterizing the sound from individual acoustical events. The sound exposure is the time integral of the square of the sound pressure over a time interval equal to or greater than an acoustical event having units of pascal squared seconds. The sound exposure level is ten times the logarithm to the base ten of the ratio of the sound exposure to the product of the square of the reference sound pressure of 20 micropascals and the reference time of one second expressed in decibels (dB).

Sound level meter (SLM)

An instrument used to measure sound pressure levels meeting the Type 1 standards for accuracy in ANSI S1.4-1983. Integrating sound level meters shall comply with ANSI S1.43-1997 Type 1. If octave band or fractional octave band filters are used, they shall comply with ANSI S1.11-2004 Class 1.

Sound pressure

A disturbance or perturbation of the atmospheric pressure with respect to the mean barometric pressure producing the sensation of hearing or vibration measured in units of pascal (Pa).

Sound pressure level (SPL)

20 times the logarithm to the base 10 of the ratio of the sound pressure to the reference sound pressure of 20 micropascals (μPa) expressed in decibels (dB).

Tonal sound

Sound having one or more single frequency oscillations (pure tones) or that is confined to a narrow band of frequencies meeting the criteria for tonal prominence. See ANSI S12.9 Part 4 Annex C or ANSI S1.13 Annex A.

3. Noise Regulation Best Practices

3.1 Purpose

A community is made up of individuals, families, businesses, government, land owners, tenants, and other groups conducting activities for their livelihoods and enjoyment. The purpose of noise regulation is to find a balance between the legitimate activities of one group and the need for peace and quiet of another and to provide a clear process for resolving disputes when they arise. Zoning noise regulations provide design goals for developers in planning a site for a specific activity and serve as criteria for assessing the community noise impact of existing sites. Clear guidance with regard to acceptable sound pressure levels is essential for ensuring new projects conform to community standards and for evaluating the compliance of existing land uses.

Noise regulations should set clear and enforceable limits on community noise exposure that accurately reflect the community response to a variety of common sound sources. Overly strict regulations lead to arbitrary and selective enforcement while overly simplistic sound pressure level limits lead to the impact of certain classifications of sound being underestimated or ignored completely.

A well provisioned noise regulation will therefore provide a comprehensive and accurate methodology for assessing the most common classifications of sound that impact a community. This ensures that community noise impact will be evaluated in a way that is representative of the experience of living and working in the community and also protects property owners from unreasonable demands for mitigation. Most importantly the noise regulations should provide a definitive means for bringing noise disputes to resolution.

Key goals of noise regulation include:

- Provide quantitative design targets for noise abatement
- Provide protections for neighbors for all classifications of sound
- Protect property owners from drawn out noise disputes

Benefits of good noise regulation:

- Defined design requirements for developers
- Easier to get financing for projects due to lower risk and uncertainty
- Enforceable standards for compliance
- No cutting corners for contractor at risk

3.2 Measurement Procedures

Noise regulation generally takes the form of specifying maximum allowable A-weighted sound pressure levels at a given location. It is important that the locations specified for assessment and compliance be accessible such as at a property boundary.

Property boundary regulations protect the receiving property in its entirety against noise intrusions from adjacent sites. They also do not require entering private property in order to conduct acoustical testing. Performing acoustical measurements on the offending site creates bias due to the closer proximity to the sound source. Creating a noise abatement plan for new developments using noise assessment locations on the receiving property or inside a structure makes ensuring compliance more complicated. This will be discussed further in Section 3.3.

3.3 Common Ordinance Noise Descriptors

Noise ordinances often do not have objective limits on sound pressure level, but instead use subjective criteria to evaluate noise impact. This leads to a great deal of difficulty in resolving noise disputes since neither side can agree on what the terms mean.

One common term is “audible” or “plainly audible.” The problem with this criterion is that neighbors will always be audible at certain times depending on meteorological conditions, time of day, etc. This places everyone in violation of the noise code leading to arbitrary and selective enforcement. The threshold of audibility depends on the background noise level at a specific location and time. It is therefore unpredictable for site planning purposes and unrepeatable. There is also no practical way to monitor without setting up a surveillance style recording system and reviewing the playback to identify the source in question.

Another common ordinance criterion is “excessive, unnecessary or offensive noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.” This regulation puts the arbiter in the position of deciding who is a reasonable person and what constitutes normal sensitivity. It turns an engineering problem of assessing noise impact based on decades on scientific field studies into a personal problem with no clear guidance on consistent application or how to reach resolution.

The Maricopa County, Arizona Code, section P-23, prohibits sounds that can be “heard from within closed residential structures.” This code is unenforceable because it is untestable. First, it requires access to a private home or place of business. The home or business must then be searched to verify that all doors and windows are closed. For a developer it is impossible to plan for or ensure compliance with such an ordinance because it is dependent on the construction of the receiving structures.

The subjective criteria described above may be difficult to enforce due to vagueness. Under the vagueness doctrine a statute may be void if it leads to arbitrary enforcement, does not provide fair notice of what is and is not punishable, or does not detail the procedures followed by officers or judges of the law.

3.4 Reducing Vagueness

The first step in reducing vagueness in noise regulation is to adopt a comprehensive, objective standard that addresses the most common sources of noise complaints, particularly impulsive and tonal sounds. There should be separate criteria for short and long term noise impacts. The zoning or land use code should focus on long term impacts while the municipal code addresses short term nuisance noise. The standards should not be overly restrictive such that common, everyday activities cause violations leading to arbitrary enforcement.

Sounds that are subjectively negative and disturbing for contextual reasons may require enumeration and specific restrictions in addition to sound pressure level limits. This may involve use limitation to certain times of day, complete prohibition, or other policies as deemed appropriate to the situation. A 5 to 10 dB adjustment for the enumerated sound sources may also be an effective means to address their greater noise impact.

3.5 Current Standards in Noise Regulation

3.5.1 European Union Directive 2002/49

The current, most up to date noise regulations with regard to scientific research have been enacted through European Union Directive 2002/49. This directive implements the noise assessment methodology in International Organization for Standardization standard ISO 1996. The American adaptation of ISO 1996 is ANSI S12.9 Part 4. These standards provide a comprehensive, objective method to assess the community noise impact of the most common sources of noise complaints including broadband continuous, impulsive, and tonal sounds.

In addition to the assessment methodology, ANSI S12.9 Part 5 provides guidance for acceptable day-night levels for a variety of land uses. In practice, setting sound pressure level limits for residential, commercial, and industrial zoning areas is usually sufficient.

4. Classification of Environmental Sound

The impact of noise on a community is not always simply determined by the amplitude of the sound. Sounds that vary rapidly with time or have certain frequency characteristics can have an additional impact. This chapter discusses the classification of sounds with special characteristics and how they relate to community noise response.

4.1 Amplitude Characteristics

4.1.1 Sound Pressure

The most fundamental characteristic of sound is its pressure amplitude measured in units of Pascals (Pa). Due to the extremely wide sensitivity range of human hearing, sound pressure is normally presented on a logarithmic scale known as the decibel scale and denoted by the symbol, dB.

It is important to note that the decibel is a scale or unit of level, not a unit of measure. A decibel quantity must therefore have a reference value to define it. Any acoustic quantity described as a "level" is by definition on a decibel scale. The sound pressure level (SPL) is the sound pressure in Pascals normalized to the standard acoustical reference pressure of $20 \cdot 10^{-6}$ Pascals as follows,

$$SPL = 20\log_{10}\left(\frac{p}{20\cdot 10^{-6}}\right)$$

where p is the sound pressure in Pascals and SPL is the sound pressure level in dB.

Figure 4.1 shows some typical sound pressure levels of common sound sources. Sound pressure levels in the blue range are very quiet and usually found only in special environments such as anechoic test chambers or remote forest areas. The green range is typical of quiet environments. For outdoor sound, most daytime noise regulations begin to apply in the yellow range at starting 55 dBA. The U.S Department of Housing and Urban Development will require a noise abatement before funding residential projects above 65 dBA. Above 75 dBA they will require a stringent approval process. At 90 dBA in the workplace, OSHA will require a hearing protection program for workers.

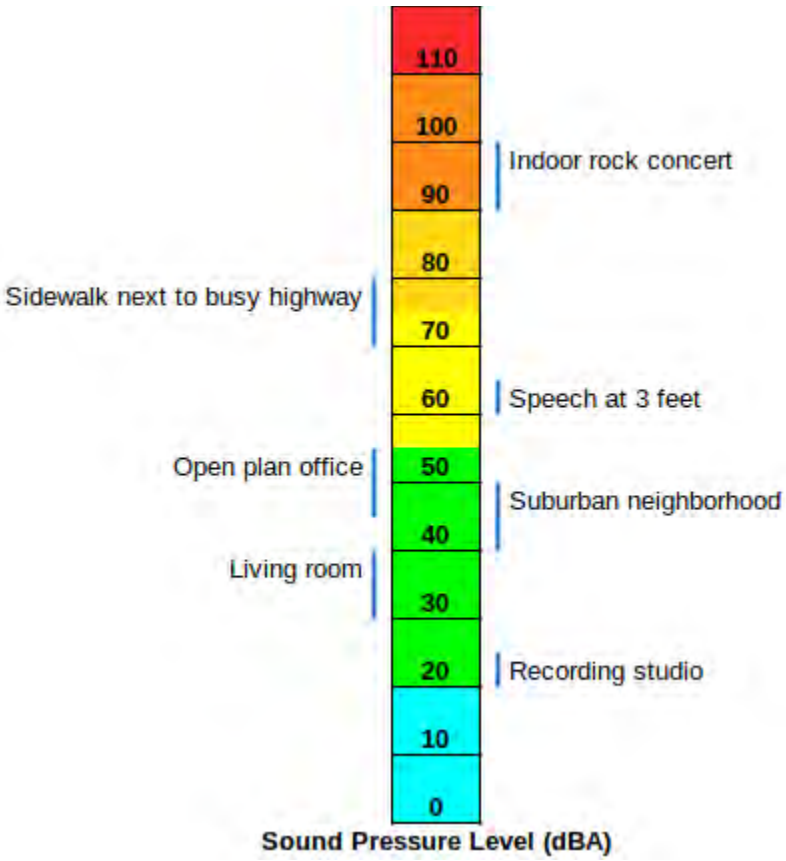


Figure 4.1. Sound Pressure Levels of Some Common Sources

4.1.2 Broadband Continuous Sound

A sound pressure level reading that does not change rapidly with time, does not contain tones, and covers a wide frequency range is said to be broadband with respect to frequency and continuous with respect to time. Broadband continuous sounds are characterized primarily by their sound pressure level. Common examples are fans, well pumps, and traffic noise.

Broadband continuous sounds are the simplest to quantify and are used as a point of comparison for other types of sound. That is, they provide a stable and relatively neutral basis for comparing tonal, impulsive, and other special sound classifications. The sound pressure level limits set in most noise regulations apply to this type of sound. Other sound classifications are adjusted so that their impact can be compared to a broadband continuous sound pressure level. This greatly simplifies noise regulations; however, it requires methodologies to be defined to accurately normalize sounds with special characteristics on the basis of community response to those characteristics.

4.2 Spectral Characteristics

The spectrum of an acoustic wave refers to its frequency content. The frequency range that a sound occupies may cover a wide band of frequencies, only a very narrow band, or even a single frequency in the case of a tone. Frequency is measured in units of Hertz (Hz) which are equivalent to one cycle per second.

4.2.1 Broadband

As described above, broadband means that the sound covers a broad spectrum of frequencies. This type of sound is in general the most neutral in terms of subjective sound quality. A broadband source with emphasis on the frequencies above 1,000 Hz may, however, be characterized as sharp or shrill.

4.2.2 Narrowband

Sounds occupying only a narrow portion of the auditory spectrum are said to be narrowband. Narrowband can be regarded as having a bandwidth less than 1/3 of an octave. This type of sound is sometimes encountered in impact processes where the impact excites a structural resonance, but the duration of the sound is very short due to damping in the structure. Narrowband sounds will require a sound pressure level adjustment due to their spectral characteristics in relation to broadband continuous sounds if they have tonal prominence (see Section 5.5.1 Assessing Tonal Sounds).

4.2.3 Tonal

Sounds containing pure tonal frequencies are usually produced by rotating machinery, but can also be electrically amplified signals such as those created by a backup alarm. Human hearing is sensitive to tones. Sounds having tonal prominence will require an adjustment in order to be compared to broadband continuous levels (see Section 5.5.1 Assessing Tonal Sounds).

4.2.4 Infrasound and Ultrasound

The nominal range of human hearing is 20 Hz to 20,000 Hz. Sounds outside this range are referred to as infrasound if below 20 Hz and ultrasound if above 20,000 Hz. Objectionable infrasound can sometimes be generated by wind turbines or industrial sound sources.

4.3 Temporal Characteristics

The way sound changes with time can have a significant influence on the noise impact. Accounting for these characteristics is important for accurately predicting community response.

4.3.1 Stationary or Continuous

Sound that changes slowly in amplitude with time is known as continuous or in statistical terms, stationary. In practice, sounds that do not meet the criteria for impulsive, rapid onset, or modulated are considered continuous and do not require any sound pressure level adjustment for

their temporal characteristics.

4.3.2 Impulsive

Impulsive sound is characterized by brief excursions of sound pressure whose peak pressure noticeably exceeds the continuous sound pressure. The duration of a single impulsive event is usually less than one second.

Impulsive sounds often create annoyance because they are similar to sounds that contain important information about our environment such as a sound outside the house or a door closing. We are sensitive to these types of sounds because they alert us to events occurring nearby that we may need to respond to. Continuous false alarms make it difficult to relax, concentrate, or sleep soundly without disturbance.

Many researchers have found that impulsive sound requires a level adjustment to properly account for the special characteristics and sensitivity to this class of sound [Buchta, Smoorenburg, Vos] and that listeners are able to differentiate between loudness and annoyance for sounds with temporal variance [Dittrich].

Impulsive sound is considered to have three subcategories: regular impulsive, highly impulsive, and high energy impulsive. Each of these categories has a different sound pressure level adjustment.

Highly Impulsive

Highly impulsive sound is characterized by a sudden onset and high degree of intrusiveness. This is common for impact processes and small arms fire. Highly impulsive sound in general has a duration too short to be accurately measured using maximum fast exponential time weighting. Impulses with a regular repetition rate greater than 20 Hertz may be perceived as tonal rather than impulsive and require a tonal level adjustment.

Research has indicated that highly impulsive sound should receive a 12 to 13 dB adjustment [Buchta, Smoorenburg]. ANSI S12.9 Part 4 and ISO 1996 Part 1 recommend a 12 dB adjustment.

High Energy Impulsive

High energy impulsive sound is usually produced by explosive sources where the equivalent mass of dynamite exceeds 25 grams. Common sources are blasting or artillery fire. Sonic booms not produced by small arms fire are also included in this subcategory. High energy impulsive sound differs from highly impulsive sound mainly in the amount of low frequency energy produced.

Regular Impulsive

Impulsive sound not categorized as high energy or highly impulsive is categorized as regular impulsive. ANSI S12.9 Part 4 and ISO 1996 Part 1 recommend a 5 dB adjustment for regular impulsive sound.

Modulated

Another type of transient sound is characterized by amplitude modulation. These sounds consist of a continuous series of impulsive events such as speech or music. Human hearing is most sensitive to amplitude modulation at a rate of about 4 Hz [Zwicker & Fastl, p. 177, 247-8]. This, not surprisingly, is the rate at which talkers typically produce syllables when speaking. Sounds having amplitude modulation near this rate may cause higher annoyance than continuous sounds at the same sound pressure level and should be treated as regular impulsive. When a large number of conversations is occurring at once such that the words of individual speakers cannot be understood, the noise impact may be more similar to a broadband continuous sound source.

4.3.3 Time of Occurrence

Sounds that occur at certain times may become more objectionable. The community noise impact of sounds that occur at night is higher than in the daytime. Community noise impact is also higher during times when people are normally at home than when they are normally away at work.

4.4 Ensemble and Background Sound Pressure Levels

Noise complaints usually involve a specific sound source. In any outdoor environment the source of interest will be among many background sources. Since it is in general not possible to remove the background sources, acoustical measurements must be performed in the presence of all active sound sources. “Ensemble sound pressure level” will refer to the sound produced by all sources at a given location including the source of interest. “Background sound pressure level” will refer to the sound present with the source of interest deactivated.

5. Measurement and Assessment of Environmental Sound

5.1 Quantification of Sound

5.1.1 Sound Pressure

The measurement of sound in regard to noise regulation focuses on the sound pressure level (SPL) as described in Section 4.1.1. The human ear is a pressure sensor; therefore, the SPL most directly relates to the community response to noise. The human sensation of hearing does not, however, work in the same way that a microphone does. Spectral and temporal characteristics of a sound source can have a significant effect on the community response to that source. Signal processing must be applied to the measured sound pressure in order to adjust the measurement to the actual sensitivities of human hearing.

5.1.2 Frequency Weighting

The first step in accurately representing the perceived loudness of sound is to simulate the frequency response of the human ear. Human hearing has lower sensitivity to sounds below 250 Hz and above 8,000 Hz as seen in Figure 5.1 [ISO 226]. Hearing sensitivity as a function of frequency is, however, also a function of amplitude. Different frequency weighting filters must therefore be used for different amplitude ranges. Figure 5.2 illustrates the A and C frequency weighting curves [ANSI S1.4] that simulate the equal loudness contours of human hearing with respect a 1,000 Hz tone at sound pressure levels of 40 and 100 dB respectively. Noise regulations generally specify the A-weighted sound pressure level since this curve most closely matches the target noise level goal for broadband sound sources.

A-weighted sound pressure levels are commonly expressed as dBA, dB(A), or L_A.

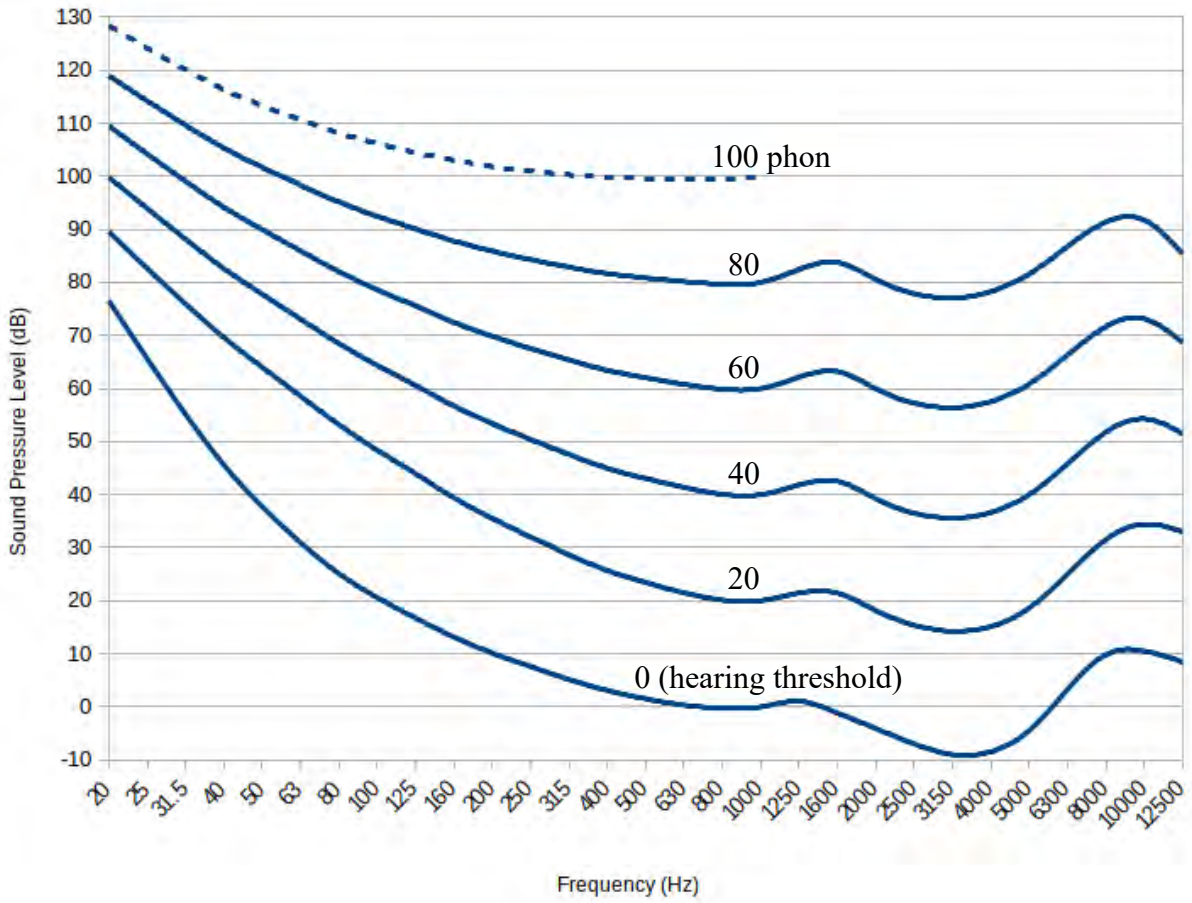


Figure 5.1. ISO 226 Equal Loudness Contours

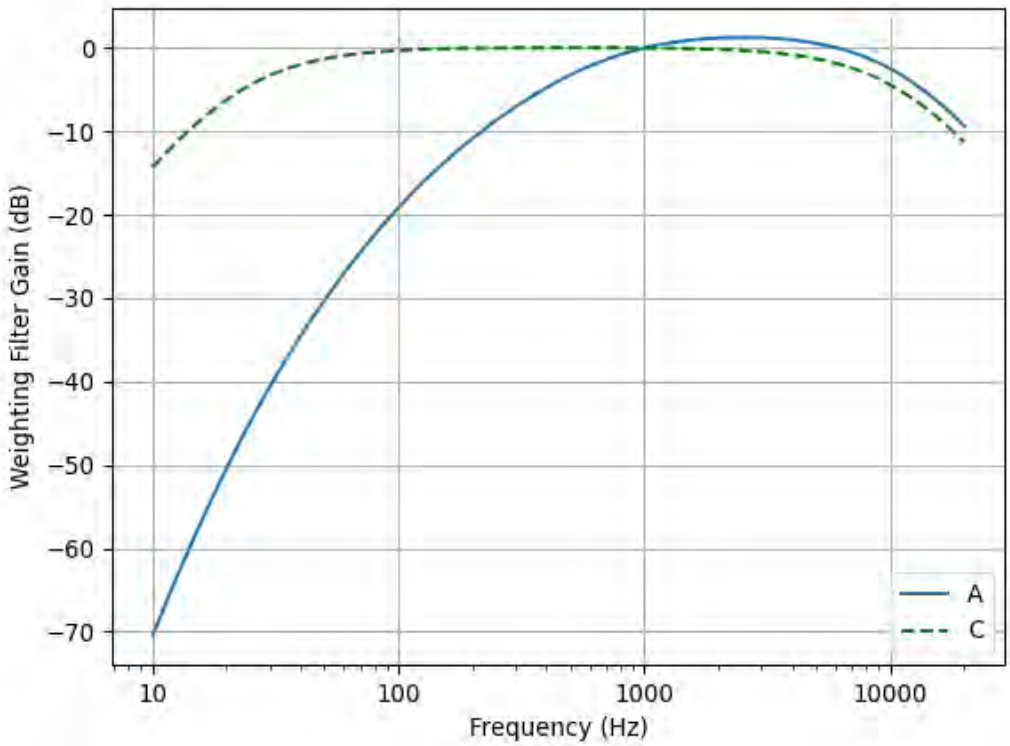


Figure 5.2. ANSI S1.4-2014 Frequency Weighting Curves

5.1.3 Equivalent-continuous Sound Pressure Level

The equivalent-continuous sound pressure level is the principal acoustical quantity measured for long term noise impact assessment. This is a root-mean-squared average of the sound pressure over a period of time expressed as a sound pressure level. Equivalent sound pressure levels may represent the average level over a period of minutes, an hour, or some other interval.

The A-weighted equivalent sound pressure level is represented as LA_{eq}. The equivalent-continuous sound pressure level does not use exponential time weighting (see below).

5.1.4 Day Night Level

A variation of the A-weighted equivalent sound pressure level is the day night level (DNL or L_{dn}). This metric incorporates the increased sensitivity to noise at night by adding a 10 dBA adjustment to sound occurring between 10:00 pm and 7:00 am. DNL is the most common metric used for transportation noise and is often applied to other broadband continuous sound sources.

5.1.5 Percentiles

To gain more insight into the noise environment during a long term measurement, some statistical quantities may be employed. The quantities LA_{10} and LA_{90} represent the A-weighted sound pressure level exceeded during 10% and 90% of the time of the measurement. LA_{90} is often used as an indication of the minimum background noise level without the presence of single noise events. LA_{10} indicates the highest sustained levels.

5.1.6 Sound Exposure Level

The sound exposure level (SEL) is used to quantify single noise events. It is particularly useful when the duration of an impulsive sound is too short to be accurately measured with an equivalent-continuous or exponential time weighted sound pressure level measurement. The equivalent-continuous level represents the mean squared average sound pressure. It does not account for instantaneous peak pressures. Impulses with short durations tend to get averaged out although the peak pressure may be significant. This can sometimes lead to the mistaken conclusion that the impulse has no greater noise impact than the background noise.

The sound exposure level also allows single noise events to be extracted from the measurement so that adjustments for special characteristics can be applied to more accurately represent the community response.

5.1.7 Peak Sound Pressure Level

For impulsive sounds with rapid onset, the instantaneous peak sound pressure level may be important. This metric may be used to supplement the sound exposure level for highly impulsive noise events that do not occur frequently enough to accumulate a substantial amount of sound energy, but nevertheless do present a significant noise impact due to their high peak pressure levels.

It should be noted that peak sound pressure level alone does not necessarily differentiate between intrusive highly impulsive and regular impulsive sounds. Different impulsive sound sources with the same peak sound pressure may have different noise impacts. Noise impact assessment of impulsive sound is often multidimensional involving onset rate, frequency range, and impulse duration.

5.2 Acoustical Instrumentation

5.2.1 The Sound Level Meter

In the regulation of community noise, a sound level meter (SLM) meeting prescribed standards for accuracy and conformity is used. The meter consists of a microphone and a signal processing unit that performs frequency weighting (usually A and C) and time weighting functions. The sound pressure level is displayed on the meter. An SLM that can log sound pressure levels and compute an equivalent-continuous level is called an integrating SLM. Modern SLMs incorporate digital signal processing capable of logging many acoustical metrics at the same time and can save simultaneous calibrated audio recordings for source confirmation and further analysis.

Most professional acousticians use, and many noise regulations require, a meter meeting the ANSI S1.4 Type 1 standard. This is the highest accuracy used for field work. Type 2 meters meet a lower standard of accuracy and are allowed by OSHA and some municipal codes.

5.2.2 Exponential Time Weighting

When taking sound pressure level measurements in the field, the reading on the meter can fluctuate rapidly for some sound sources. Exponential time weighting is a method of stabilizing the reading by applying a smoothing filter to the sound pressure envelop. Professional sound level meters will typically have three exponential time weighting settings: fast, slow, and impulse. The slow setting has time constant of 1 second. The fast setting time constant is 0.125 seconds (1/8 of a second). For most measurements the fast setting is preferred with the exception of impulsive sounds with a rapid onset rate.

Impulse time weighting uses a 0.035 second time constant on the rise of the sound pressure envelop with a peak hold having a 1.5 second time constant on the decay. The purpose of this setting is to allow a faster response on the rise of the signal to reduce the attenuation of the maximum pressure of the impulse, but have a slow decay to hold the reading on the meter display so it can be read and recorded. This time weighting is, however, still much slower than the impulse produced by typical highly impulsive sound source such as a pickleball paddle impact.

5.2.3 Integrating Sound Level Meters

Integrating SLMs integrate the sound pressure over the time period of a measurement in order to calculate the equivalent-continuous sound pressure level (LAeq). An integrating meter is required for noise regulations that specify metrics based on equivalent-continuous sound pressure level such as the day night level (DNL) or hourly sound pressure level.

5.2.4 Frequency Band Analysis

Some sound level meters include filters for obtaining octave band and fractional octave band sound pressure levels. Frequency band data is needed for designing sound walls and other noise abatement treatments. Unweighted octave band sound pressure levels may also be used to assess low frequency sound in regard to acoustically induced vibration caused by air handling units or subwoofers.

5.2.5 Calibration

The calibration of the sound level meter should be recertified by a qualified, independent metrology laboratory at intervals recommended by the manufacturer of the meter, usually one year. The sound level meter shall be used as provided in the manufacturer’s instructions.

It is standard practice when carrying out sound pressure level measurements to place a calibration device recommended by the meter manufacturer over the microphone before and after testing to verify that the sensitivity of the microphone has not changed and that the equipment has not been damaged prior to or during testing. The field calibrator should also be sent to a

qualified metrology laboratory to have the calibration certified at intervals specified by the equipment manufacturer. This period is usually one year.

5.3 Calculation Methods

5.3.1 Decibel Addition

When working with multiple sound sources, it may be necessary to understand how each individual source contributes to the total sound pressure level. Decibel levels do not add arithmetically, but must be combined logarithmically. Figure 5.3 shows a chart for adding two levels. First, calculate the difference in the levels. Next, find the level difference on the horizontal axis of Figure 5.3 and find the corresponding level addition of the vertical axis. Add this number to the highest of the two levels. For example, to add two levels, 50 and 56 dB, together, find the difference, 6 dB, on the chart. The addition is 1 dB. Therefore, the decibel sum of 50 and 56 dB is 57 dB. If the level difference is greater than 10 dB, the contribution of the lower level source is negligible.

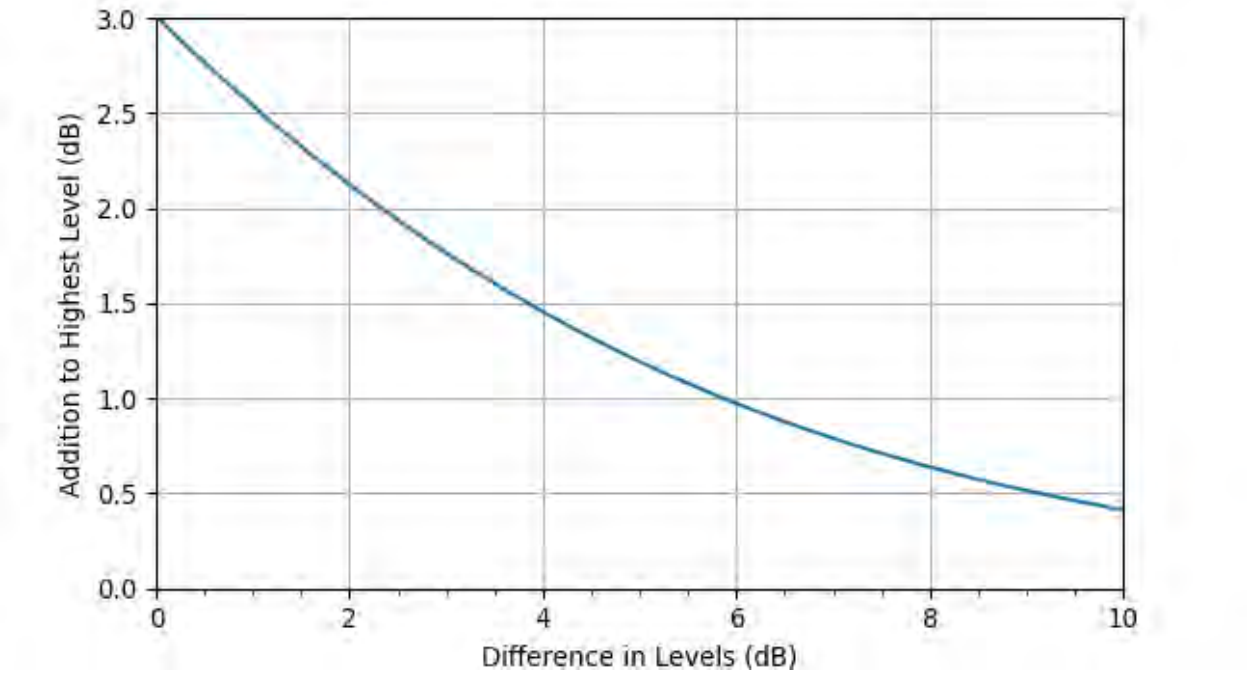


Figure 5.3. Decibel Addition

Equation 5.1 gives the direct calculation for the decibel sum, L_S, of levels, L_1 and L_2.

$$L_S = 10\log_{10}\left(10^{0.1L_1} + 10^{0.1L_2}\right) \quad (5.1.1)$$

5.3.2 Background Noise Correction

When assessing a noise issue it is common to measure the sound source of interest in the presence of other background sources. If the background noise level is within 10 dB of the ensemble noise level (see Section 4.4) a background noise correction should be applied to avoid overestimating the sound pressure level produced by the source of interest.

The corrected source level, L_{Source}, is found by the decibel subtraction of the background noise level, L_{bgn}, from the ensemble level, L_{ens}.

$$L_{Source} = 10\log_{10}\left(10^{0.1L_{ens}} - 10^{0.1L_{bgn}}\right) \quad (5.2)$$

The background corrected sound pressure level of the source can also be found using Figure 5.4. Subtract the background sound pressure level from the ensemble level. Find this level difference on the horizontal axis of the figure and locate the corresponding decibel value on the vertical axis. Subtract this number from the ensemble sound pressure level to get the background corrected level of the source.

If the ensemble sound pressure level is within 3 dB of the background noise level, the source of interest is producing less sound pressure than the background sources and cannot be accurately assessed. When the conditions on the site prevent the background sound pressure level from being measured it should be noted in the measurement report.

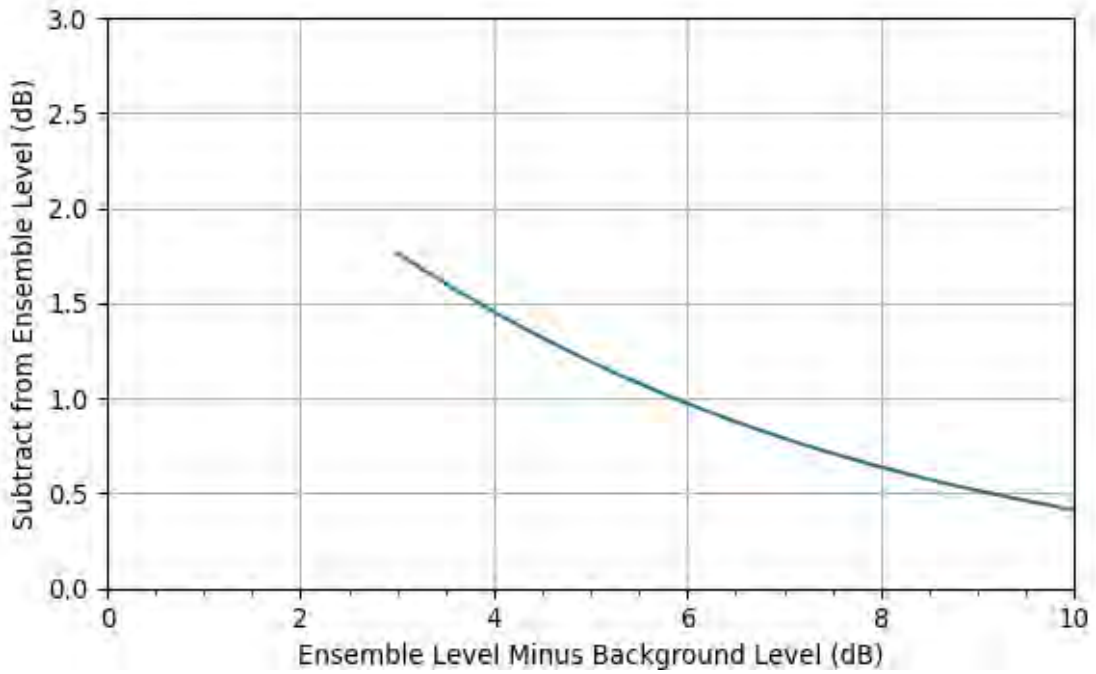


Figure 5.4. Background Noise Correction

Example:

An exhaust fan located on the exterior wall of a warehouse building runs continuously. A sound pressure level measurement taken at the nearest residential property line with the fan running reads 64 dBA. The fan is then shut off and the measurement repeated. The sound pressure level now reads 58 dBA due to a nearby roadway.

Subtracting the background noise level (58 dBA) from the ensemble level (64 dBA), which includes the fan and all other sound sources in the area, gives a difference of 6 dBA. From Figure 5.4, a 6 dB level difference on the horizontal axis corresponds to 1.0 dB on the vertical axis. Subtracting this number from the ensemble sound pressure level gives a result of 63 dBA for the sound pressure level of the exhaust fan by itself.

5.4 Measurement Procedures

5.4.1 Field Calibration

The calibration of the sound level meter shall be recorded before and after each series of measurements using a field calibrator or method recommended by the manufacturer of the meter.

5.4.2 Measurement Conditions

To the extent practical, all sound sources contributing to the ensemble sound pressure level at the point of measurement should be identified.

Measurements should not be performed when wind speeds exceed 10 knots (11 miles per hour, 5 meters per second), the SLM may become wet, or temperatures are outside the tolerance range of the SLM as specified by the manufacturer. A properly fitted windscreen shall be attached to the microphone.

Unless necessary, hourly or shorter duration measurements at distances greater than 100 feet (30 meters) should be performed on sunny days in order to avoid acoustic shadow zones formed by thermal inversions caused by ground heating. When the sun heats the ground, the relatively warm layer of air near the ground can cause sound to refract upward creating a complete or partial shadow. Measurements taken in the shadow zone can underestimate the sound pressure levels present at other times of the day.

5.4.3 Measurement Locations

The preferred noise assessment location is at the property line of the receiving property at the point most impacted by the sound source in question. More than one measurement location may be necessary for multiple sound sources or some noise sensitive areas.

In some situations the area most affected by the sound source of interest may be inside the boundaries of the receiving property. This is sometimes for the case, for example, if there is a wall blocking sound at the property line. Measuring the sound directly behind the wall may not be representative of the sound levels farther from the wall inside the receiving property or at the upper floors of a building located on the property.

5.4.4 Sound Level Meter Placement

The microphone of the sound level meter should be placed at a minimum height of 45 inches (1.1 meters) above ground level and a minimum distance of 12 feet (3.6 meters) from any other reflecting surface. The microphone should not be placed closer than 12 feet (3.6 meters) from any sound source.

Other microphone placements may be used as necessary to assess a specific noise sensitive area, but their acoustical characteristics must be specified.

5.4.5 One Hour Equivalent-continuous Sound Pressure Level Measurements

One hour equivalent-continuous sound pressure level measurements shall be conducted using an integrating sound level meter. For sound sources that do not change in level over time, a shorter measurement period may be used provided the sound pressure level measured is typical of the source in question, but not less than 2 minutes. If a sound source has a regular operating cycle, the time period of the operating cycle, including both time on and time off, may be used for the measurement.

5.5 Adjusted Sound Pressure Levels

Sound sources that have special characteristics including impulsiveness and tonality have been found to have a noise impact greater than that indicated by the equivalent-continuous level. To account for this a set of adjustments to the equivalent-continuous sound pressure level have been defined based on the recommendations of ANSI S12.9 Part 4. These adjustments apply to equivalent-continuous sound pressure level measurement such as one hour A-weighted sound pressure levels (LAeq) and octave band equivalent-continuous sound pressure levels.

5.5.1 Assessing Tonal Sounds

Sounds having tonal prominence receive a 5 dB adjustment. Tonal prominence is determined according to ANSI S12.9 Part 4 Annex C by comparing adjacent unweighted one-third octave band equivalent-continuous sound pressure levels to the one-third octave band containing the tonal frequency. If the adjacent band level differences are greater than 15 dB for the 25 to 125 Hz bands, 8 db for the 160 to 400 Hz bands, or 5 dB for the 500 to 10,000 Hz bands, the tone has prominence and a tonal adjustment shall be applied to the one-third octave band containing the tonal component.

Tonal prominence may also be determined using the narrowband methods in ANSI S1.13-2005 Annex A. This method may be necessary for tones that are close to the separation between two one-third octave bands resulting in bleed over into both bands.

5.5.2 Assessing Impulsive Sounds

Two categories of impulsive sound are addressed in this document: regular impulsive and highly impulsive.

Regular impulsive sound includes speech and music. It receives a 5 dB adjustment.

Highly impulsive sounds receive a 12 dB adjustment. Highly impulsive sounds occurring at a rate greater than 20 per second are usually not perceived as distinct impulses and no impulse adjustment shall apply; however, if the repetitions are regular in time a tonal sound adjustment may be necessary.

Equivalent-continuous sound pressure level alone is not sufficient to assess sounds characterized by impulsiveness. Highly impulsive and sporadic single events may produce a relatively small amount of energy compared to the background noise level. This does not necessarily mean they will not have a significant impact. Equivalent-continuous levels are often insensitive to short duration events even though the impulses may be clearly noticeable. In these instances the sound exposure method may be necessary to assess these events (see Section 5.5.3).

5.5.3 Applying Adjustments Using Sound Exposure Level

Impulsive sounds are usually spread out in time whereas background noise is continuous. The background noise will therefore often contribute more to an energy averaging metric like the equivalent-continuous sound pressure level than the impulses even though an observer on the site may report the impulses as the primary sound source due to their high peak sound pressures. In

cases like this a windowing method such the sound exposure must be used to separate the impulses from the background noise so that adjustments can be appropriately applied to the part of the ensemble sound containing the impulses.

One common use for the sound exposure level (SEL) is the comparison of two discrete sound events; however, in the context of applying adjustments to impulsive sound the SEL will be used to overcome the influence of the background noise by separating out the individual impulse events from the rest of the measurement data. The SEL of a single event, SEL_{event}, can be found from the background noise corrected equivalent-continuous sound pressure level over just the time of the event, $L_{eq,event}$,

$$SEL_{event} = L_{eq,event} + 10\log_{10}(T_{event}/T_0) \quad (5.3)$$

where T_{event} is the duration of the event in seconds and T_0 is the reference time of 1 second. T_{event} should be inclusive of the entire event. In situations where the background noise level fluctuates it may be necessary to find the background noise level in the immediate vicinity of each impulse event in order to do the corrections.

The appropriate regular or highly impulsive adjustment can now be added directly to the SEL of the event. This process can be repeated for each impulse to obtain a set of SELs.

In order to compare the resulting sound exposures to the level limits in the regulations, the SELs must be converted to an equivalent-continuous level over the time period of the original measurement. The adjusted equivalent-continuous level of the impulses during the time of the measurement, $L_{eq,adj}$, is therefore the decibel sum of each event's background corrected sound exposure level, $SEL_{event,i}$, and its adjustment, K_i, minus the measurement time, T, in decibels.

$$L_{eq,adj} = \sum_i 10^{(0.1(SEL_{event,i} + K_i))} - 10\log_{10}(T/T_0) \quad (5.4)$$

An alternative form of Eq. 5.4 is useful in when the mean SEL and the number of events over a period of time are known for an impulsive sound source.

$$L_{eq,adj} = SEL_{src} + K_{impulse} + 10\log_{10}(N) - 10\log_{10}(T/T_0) \quad (5.5)$$

Here $L_{eq,adj}$ is equal to the sum of the sound exposure level for one event occurrence, SEL_{src}, the adjustment for the type of impulse, $K_{impulse}$, the number of occurrences, N, in decibels, and total time period over which the impulses occur, T, in decibels.

$L_{eq,adj}$ can now be combined with the other adjusted sound source levels in the project using Eq.

5.1 to obtain the total adjusted equivalent-continuous sound pressure level. This level can then compared to the level limits in the noise regulations.

For more information on sound exposure level see ANSI S12.9 Part 4 and Harris, Chapter 12.

5.5.4 Time of Day Adjustments

For noise impact assessment, the day is typically divided into three segments: day, evening, and night. For residential land uses, each of these time periods will have different noise sensitivities. During the daytime, usually defined as 7:00 am to 7:00 pm, many people are at work or busy with other activities away from home. In the evening, 7:00 pm to 10:00 pm, people tend to be at home and are more aware of noise in the area. Nighttime is the most noise sensitive time as people are sleeping. Weekends also have a higher noise sensitivity similar to evenings when people tend to be at home, but not sleeping.

For residential land uses, time of day adjustments include a 5 dB adjustment for the evening and a 10 dB adjustment for the nighttime hours. Weekend daytime hours also receive a 5 dB adjustment similar to evening hours.

5.6 Measurement Reports

After a set of field measurements have been completed, a report of the findings should be issued containing the following information:

1. Make, model, and serial number of each piece of measuring equipment
2. Date and location of the most recent laboratory calibrations
3. Site plan showing measurement locations
4. Statement of on-site calibration verification before and after each series of measurements
5. Name of the engineer conducting the tests

For each measurement location the following information should be noted:

1. Date and time of the measurement
2. Acoustical metrics measured
3. Time and frequency weighting used
4. Microphone location and height
5. Windscreen used
6. Description of the test location including the type of ground and any reflecting surfaces near the SLM or sound source being investigated
7. Primary and secondary sound sources contributing to the measurement

8. Background noise level if investigating a specific sound source
9. Weather conditions: temperature, humidity, wind speed and direction, cloud cover, and sun exposure
10. Photo image showing the sound level meter and intervening ground between the meter and the sound source of interest

5.7 Noise Impact Assessments

5.7.1 Purpose and Methods

A noise impact assessment provides a determination of the likely effects of introducing a new activity on the surrounding area. For new developments or modifications of existing developments involving on site activities that are likely to have a noise impact on the surrounding area, a noise impact assessment should be prepared by a qualified acoustical engineer. ISO 9613 and ANSI S12.62 provide a basic methodology for predictive acoustical site assessment; however, other methodologies may be used as appropriate for the area, conditions, and sound sources being evaluated. A noise impact assessment may be based on measurements of similar sound sources at a different location; however, differences in propagation paths that may affect the noise impact must be accounted for.

5.7.2 Present and Future Noise Exposure

With many sound sources, the noise impact may increase over time, e.g. roadways and other modes of transportation whose usage can be expected to increase in the future. In preparing noise impact assessments for proposed developments, future usage patterns should be included in the analysis.

5.8 Existing Noise Regulations

Best practices and current standards for noise assessment have been covered in Chapter 3. These criteria will be used here to evaluate noise regulations that apply within the City of Centennial.

5.8.1 City of Centennial Municipal Code, Chapter 10, Article 12

The City of Centennial does not currently have a land use noise regulation. Noise violations are defined in the Municipal Code. Two sections of the Code relate to noise assessment.

> **Sec. 10-12-10. - Legislative declaration.**
>
> It is hereby declared that protection and preservation of the home is of the highest importance; that unnecessary and excessive noise is a significant source of environmental pollution that threatens the public health, welfare, tranquility and good order of the community; and that the prohibitions and other protections set forth in this Article are enacted to secure and promote public peace, welfare, comfort and health.

Sec. 10-12-20. - General prohibition.

It shall be unlawful for any person to make, continue or cause to be made or continued any excessive or unusually loud noise which:

(1) Disturbs, annoys or endangers the peace, repose, comfort, safety or health of others; or

(2) Endangers or injures personal or real property.

These Code sections do not prescribe an objective measure of excessive noise, but state that "protection and preservation of the home is of the highest importance." Section 10-12-20(1) prohibits sound that "disturbs, annoys or endangers the peace, repose, comfort, safety or health of others." No guidance is given for compliance with the Code; however, ANSI S12.9 Part 4 is a standard for assessing annoyance in a community setting caused by noise and would be in alignment, as an objective assessment methodology, with the criteria in Section 10-12-20(1).

5.8.2 Colorado Revised Statues 25-12-101

The Colorado Revised Statues seeks to provide statewide minimum standards for noise levels.

25-12-101. Legislative declaration

The general assembly finds and declares that noise is a major source of environmental pollution which represents a threat to the serenity and quality of life in the state of Colorado. Excess noise often has an adverse physiological and psychological effect on human beings, thus contributing to an economic loss to the community. Accordingly, it is the policy of the general assembly to establish statewide standards for noise level limits for various time periods and areas. Noise in excess of the limits provided in this article constitutes a public nuisance.

C.R.S. 25-12-103(1) provides some objective maximum limits on permissible sound pressure levels. For residential land uses, the daytime limit is 55 dBA. Evening hours are not defined; however, nighttime hours are from 7:00 pm to 7:00 am. This includes hours that would normally be considered evening. The nighttime sound pressure level limit is 50 dBA which is more typical of a 5 dBA evening penalty than the more customary 10 dBA nighttime level limit reduction.

Acoustical measurements are to be made 25 feet inside the receiving property boundary. This is problematic for a number of reasons. First, it requires entering private property in order to assess the sound level. This makes assessment, monitoring, and enforcement more difficult. It also does not protect the entire receiving property. This can be especially impactful for residents on small lots or rental properties where the back patio may be within this distance.

While C.R.S. 25-12-103(3) does include provisions for impulsive sound,

Periodic, impulsive, or shrill noises shall be considered a public nuisance when such noises are at a sound level of five db(A) less than those listed in subsection (1) of this section.

with a 5 dBA reduction in the allowable sound pressure level, this approach is overly simplistic

and will underestimate the noise impact of highly impulsive sounds.

Overall, the noise assessment procedure in C.R.S. 25-12 appears to be a compromise between simplicity of noise assessment and completeness. While adequate for many sound sources, it will underestimate the noise impact some classifications of sound that include highly impulsive sound and sounds that occur during regular nighttime hours of 10:pm to 7:00 am when most residents are sleeping. The choice of noise assessment location 25 feet inside the receiving property increases the difficulty of monitoring and decreases the level of protection afforded to home owners for the use of their outdoor spaces.

6. Characteristics of Pickleball Sound

Spendiarian & Willis has prepared many noise assessments and abatement plans for pickleball courts. This chapter summarizes some of the knowledge gained over the years of working with this sound source.

The main concern in regard to noise from the pickleball courts is the sound produced by the impact of the hard plastic ball on the paddles. This sound is characterized by a sudden onset and brief duration, thus classifying it as impulsive sound. The spectral content of the paddle impact is narrowband with a center frequency typically between 1,000 and 2,000 Hertz. This is near the most sensitive frequency range of human hearing.

6.1 Comparison of Pickleball to Other Activities

There is a common misconception that pickleball is acoustically equivalent to tennis, volleyball, or many of the other activities typically found at outdoor recreation centers and parks. Numerous news articles covering disputes over pickleball noise, many of which originate when existing tennis courts are converted to pickleball, demonstrate that this is not the case:

- Cutler, Amy, “Rise of pickleball pitting neighbor against neighbor, leading to lawsuits,” Arizona's Family, Phoenix, Arizona. February 13, 2023. <https://www.azfamily.com/2023/02/13/rise-pickleball-pitting-neighbor-against-neighbor-leading-lawsuits/>
- Arden, Amanda, “Lake Oswego shuts down city pickleball courts indefinitely due to noise complaints.” KION 6 News, Portland, Oregon. January 23, 2023. <https://www.koin.com/local/lake-oswego-shuts-down-city-pickleball-courts-indefinitely-due-to-noise-complaints/>
- Columbo, Mike, “Pickleball plan pits Kirkwood residents against neighboring country club.” Fox 2 Now, Saint Louis, Missouri. January 26, 2023. <https://fox2now.com/news/contact-2/pickleball-plan-pits-kirkwood-residents-against-neighboring-country-club/>
- Sheets, Connor, “Pickleball noise is fueling neighborhood drama from coast to coast.” Los Angeles Times, Los Angeles, California. March 3, 2022. <https://www.latimes.com/california/story/2022-03-03/pickleball-noise-fueling-neighborhood-drama>
- Adler, Erin, “Apple Valley neighbors in a pickle over pickleball noise.” Star Tribune, Minneapolis, Minnesota. March 27, 2019. <http://www.startribune.com/apple-valley-neighbors-in-a-pickle-over-pickleball-noise/507726242/>
- Bartel, Mario, “Pickleball banished from Port Moody court after neighbours complain of

rising stress, anxiety." The Tri-City News, Coquitlam, British Columbia, Canada. April 24, 2021. <https://www.tricitynews.com/local-sports/these-games-are-loud-port-moody-pickleball-neighbours-revolt-against-rising-stress-anxiety-3662369>

- City of Lakewood, "Green Mountain Courts Closure." <https://www.lakewoodtogether.org/pickleball/news_feed/green-mountain-courts-update>
- Higgins, Sean, "No vote on residential pickleball until city adopts new land management code." KPCW News, Park City, Utah. January 27, 2022. <https://www.kpcw.org/park-city/2022-01-27/no-vote-on-residential-pickleball-until-city-adopts-new-land-management-code>
- Maryniak, Paul, "Pickleball lights plan puts two HOAs at loggerheads." Ahwatukee Foothills News, Tempe, Arizona. November 29, 2017. <https://www.ahwatukee.com/news/article_9056a946-d48e-11e7-9838-8b69fb2d50b2.html>
- Bottemiller, Kitty, "Too loud! Pickleball noise upsets neighbors." Green Valley News, Green Valley, Arizona. August 28, 2013. <https://www.gvnews.com/news/local/too-loud-pickleball-noise-upsets-neighbors/article_542c2aac-0f91-11e3-acdc-0019bb2963f4.html>
- Clay, Joanna, "Woman sues Newport Beach over pickleball noise at park near her home." Orange County Register, California. April 7, 2016. <https://www.ocregister.com/2016/04/07/woman-sues-newport-beach-over-pickleball-noise-at-park-near-her-home/>
- Wheatley, Mike, "Noisy pickleball courts cause upset with homeowners." Realty Biz News. March 15, 2022. <https://realtybiznews.com/noisy-pickleball-courts-cause-upset-with-homeowners/98768719/#:~:text=In one lawsuit in Newport Beach%2C Calif.%2C a,are causing them less enjoyment of their home.>
- Lazaruk, Susan, "Pickleballers face off with residents over noise in Metro Vancouver." Vancouver Sun, Toronto, Ontario, Canada. February 2, 2022. <https://vancouversun.com/news/local-news/pickleballers-face-off-with-residents-over-noise-in-metro-vancouver>
- Shanes, Alexis, "Village in a pickle: How Ridgewood plans to tone down the pickleball court noise." northjersey.com, California. January 16, 2020. <https://www.northjersey.com/story/news/bergen/ridgewood/2020/01/16/ridgewood-nj-pickleball-noise-reduction-measures/4480463002/>
- Monterey Herald Staff, "Pickleball noise controversy goes before city leaders Pacific Grove neighbors object to game at nearby tennis courts." The Mercury News, California. September 19, 2019. <https://www.mercurynews.com/2019/09/19/pickleball-noise-controversy-goes-before-city-leaders/>
- Fraser, Patrick and Rodriguez, Ambar, "What to do about constant pickleball noise?" WSVN 7 News Miami, Miami, Florida. March 27, 2019. <https://wsvn.com/news/help-me-howard/what-to-do-about-constant-pickleball-noise/>

- Sutphin, Daniel, “Nixing the noise: Sound fence construction underway at Gilchrist pickleball courts.” Port Charlotte Sun, Charlotte Harbor, Florida. May 20, 2019. <https://www.yoursun.com/charlotte/news/nixing-the-noise-sound-fence-construction-underway-at-gilchrist-pickleball/article_79a764de-7b1c-11e9-b4d4-6bcaa919f3f3.html>
- Corrigan, James, “York residents complain noise from pickleball club is hurting quality of life.” WMTW News 8, Portland, Maine. November 16, 2021. <https://www.wmtw.com/article/york-residents-complain-noise-from-pickleball-club-is-hurting-quality-of-life/38271921>

It should be clear from the above list of references that pickleball constitutes a significant change in the acoustic environment of the area surrounding the courts in comparison to tennis and must be planned for accordingly. In particular, the impulsive sound produced by the impact of the hard plastic ball on the paddle can cause significant noise impact for those living near the courts.

6.2 Effects of Impulsive Sound

Persistent impulsive sounds create annoyance because they are similar to sounds that contain important information about our environment such as footsteps, a door opening, a tap at the window, or speech. We are sensitive to these types of sounds because they alert us to events occurring nearby that we may need to respond to. Continuous false alarms such as the popping sound created by pickleball paddle impacts make it difficult to relax, concentrate, or sleep soundly without disturbance as each time a pop is heard it draws the attention, creating distraction.

6.3 Acoustical Characteristics

The sound produced by the impact between a pickleball and paddle is characterized by a rapid onset and brief duration, typically on the order of 2 to 10 milliseconds (0.002 to 0.010 seconds) for the direct path sound. This classifies it as impulsive sound. Figure 6.1 shows a time trace of a pickleball paddle impact measured near Phoenix, Arizona. The main part of the direct sound impulse can be seen to be less than two milliseconds followed by a rapid decay and some later reverberant arrivals.

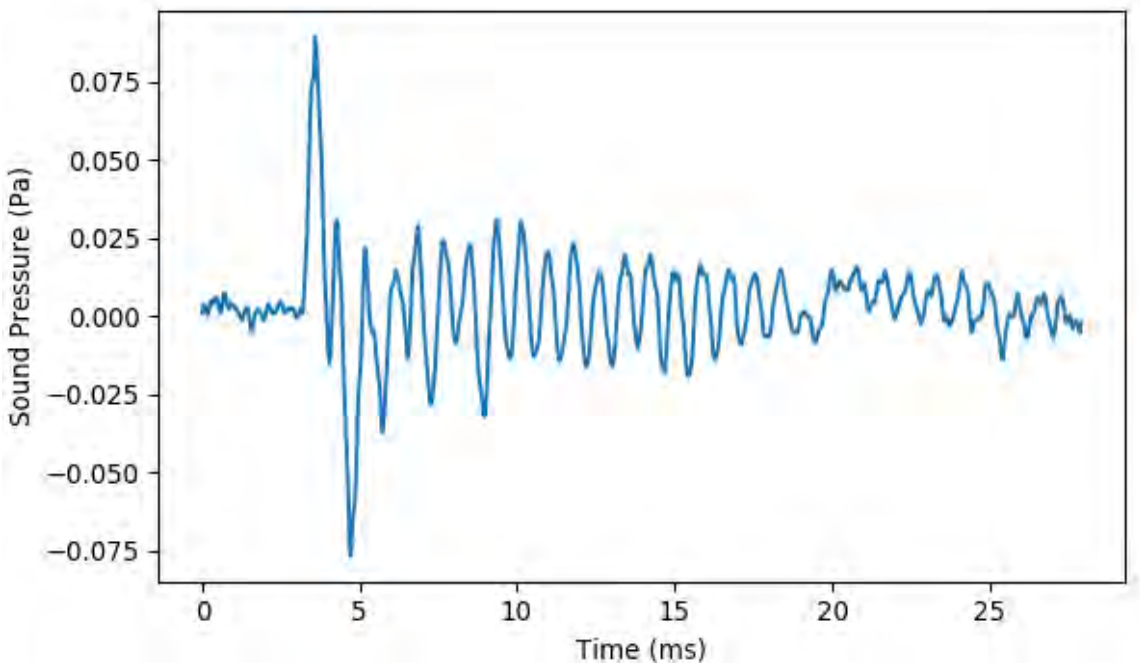


Figure 6.1. Pickleball Paddle and Ball Impact Sound Pressure Trace
1 millisecond (ms) = 0.001 seconds.

The spectral content of the paddle impact is narrowband with a center frequency typically near 1,000 Hz (see Figure 6.2). Although it does not meet most guidelines for tonal prominence such as Annex C of ANSI S12.9 Part 4 or ANSI S1.13, it does impart a vague sensation of pitch similar to a wood block percussion musical instrument. The radiation pattern of the paddle is more or less a dipole, i.e. the sound from the front and back of the paddle is of opposite polarity and cancels itself in the plane of the paddle. Therefore, orienting the courts so that the direction of play faces away from noise sensitive areas can provide some attenuation.

The sound power spectrum of the pickleball and paddle impact has two basic shapes depending on how the ball is hit. Figure 6.2 and Figure 6.3 show the power spectra of a 'sharp' hit and a 'dull' hit. The curves are not calibrated for absolute level, but can be compared relatively.

The sharp hit spectrum shows a narrowband signature. The frequency of the peak typically varies between 1,000 and 2,000 Hz. The energy in the dull hit is more spread out, but still peaks between 1,000 and 2,000 Hz.

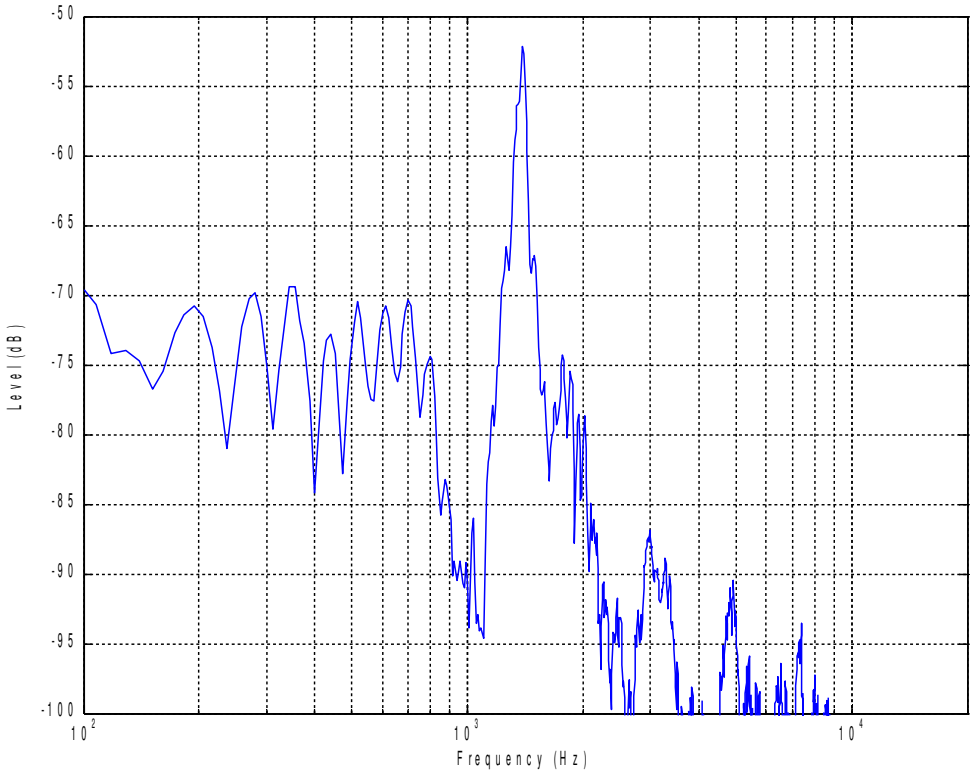


Figure 6.2. Spectral Response of a Sharp Hit

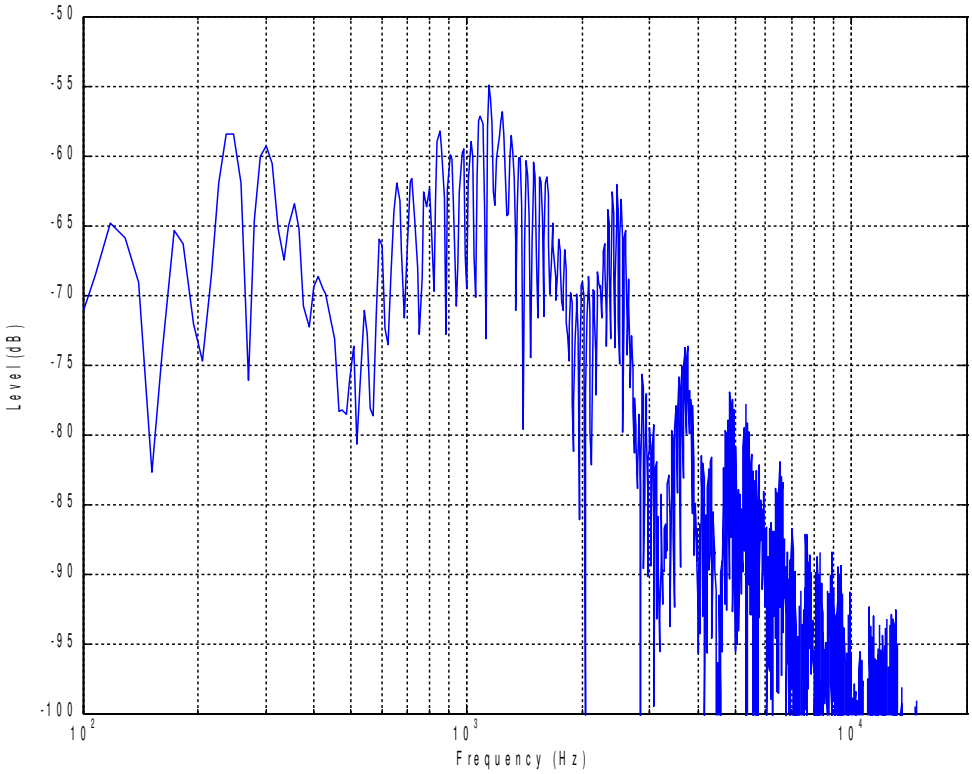


Figure 6.3. Spectral Response of a Dull Hit

A sound wall design will require effective attenuation in the 1,000 Hz octave band and above. In most applications, any material having a sound transmission class meeting STC 20 can be used to construct a sound wall or fence for pickleball provided best practices for sound barrier construction are followed.

6.4 Directivity of Pickleball Courts

The impulsive sound of the paddle impacts is radiated mainly by the large, flat paddle surface. Since both faces of the paddle are connected internally by a honeycomb structure and move together in vibration, one side of the paddle will produce a positive sound pressure while the other produces a negative sound pressure similar to a loudspeaker diaphragm that is not mounted in a cabinet. The result is that these two pressure waves having opposite polarity will cancel in the plane of the paddle where the path length from each face is the same to all receiver locations. This is known as a dipole or figure eight radiation pattern.

The positions of the paddles relative to the court change with each hit; however, the object of the game is to hit the ball to the opposite half of the court. Therefore, the dipole axis of each paddle impact will be in the general direction of play and not completely random. Measurements of

several pickleball facilities have shown that this results in a null depth of 4 to 5 dB. Figure 6.4 compares a typical pickleball court directivity pattern to a mathematical dipole where 0º and 180º are in the direction of play and the null is on the 90º and 270º bearings. Several decibels of attenuation can often be obtained simply by optimizing the orientation of the courts with respect to noise sensitive areas.

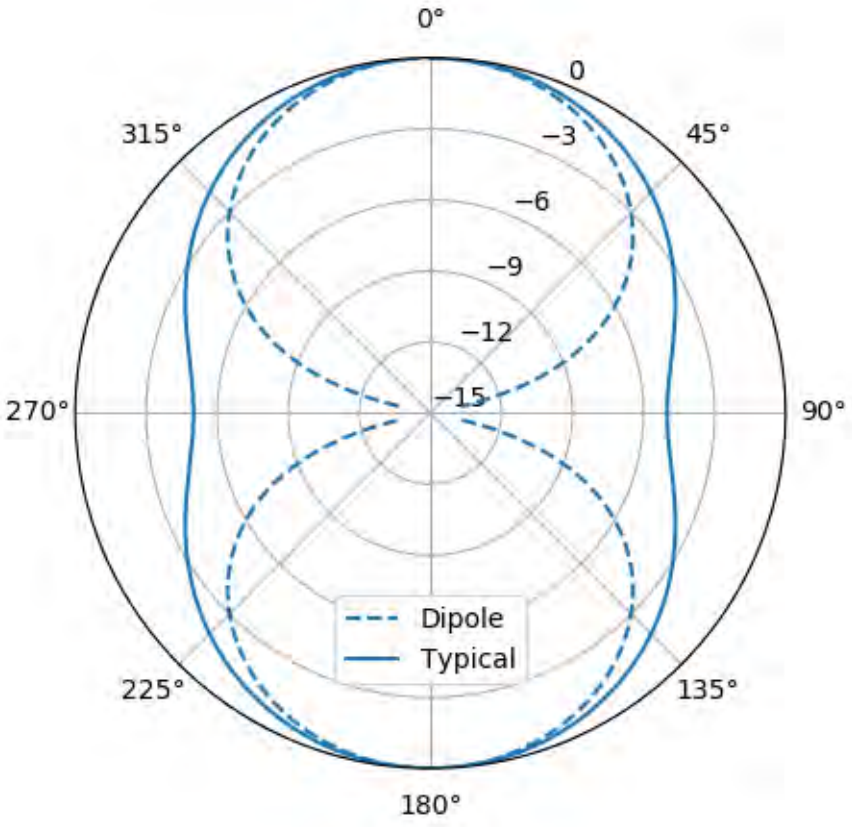


Figure 6.4. Typical Pickleball Court Directivity in Decibels

6.5 Noise Impact of Speech

In addition to the paddle impacts, speech is also a sound source on pickleball courts. While there are standards for speech sound power levels at various degrees of vocal effort such as ANSI S3.5, sound from speech emitted from pickleball courts can vary greatly with who is playing on the courts at a given time and be difficult to predict. In practice, noise abatement treatments sufficient to mitigate the paddle impacts should also be sufficient for speech from the courts as the paddle impacts typically have a greater noise impact.

Most noise objections regarding speech on pickleball courts are related to the content of the speech rather than the loudness. While the sound level of the speech can be reduced through abatement treatments, it cannot be made inaudible in most situations. A noise impact of this type must be addressed through court usage policy.

For tournament play, the overall speech pattern becomes more predictable. There are more sound sources that will approach a statistical average such as that described in ANSI S3.5. A total sound power level for the bleachers or spectator area can be calculated based on seating capacity or through direct measurement during a tournament.

7. Influence of Environmental Factors

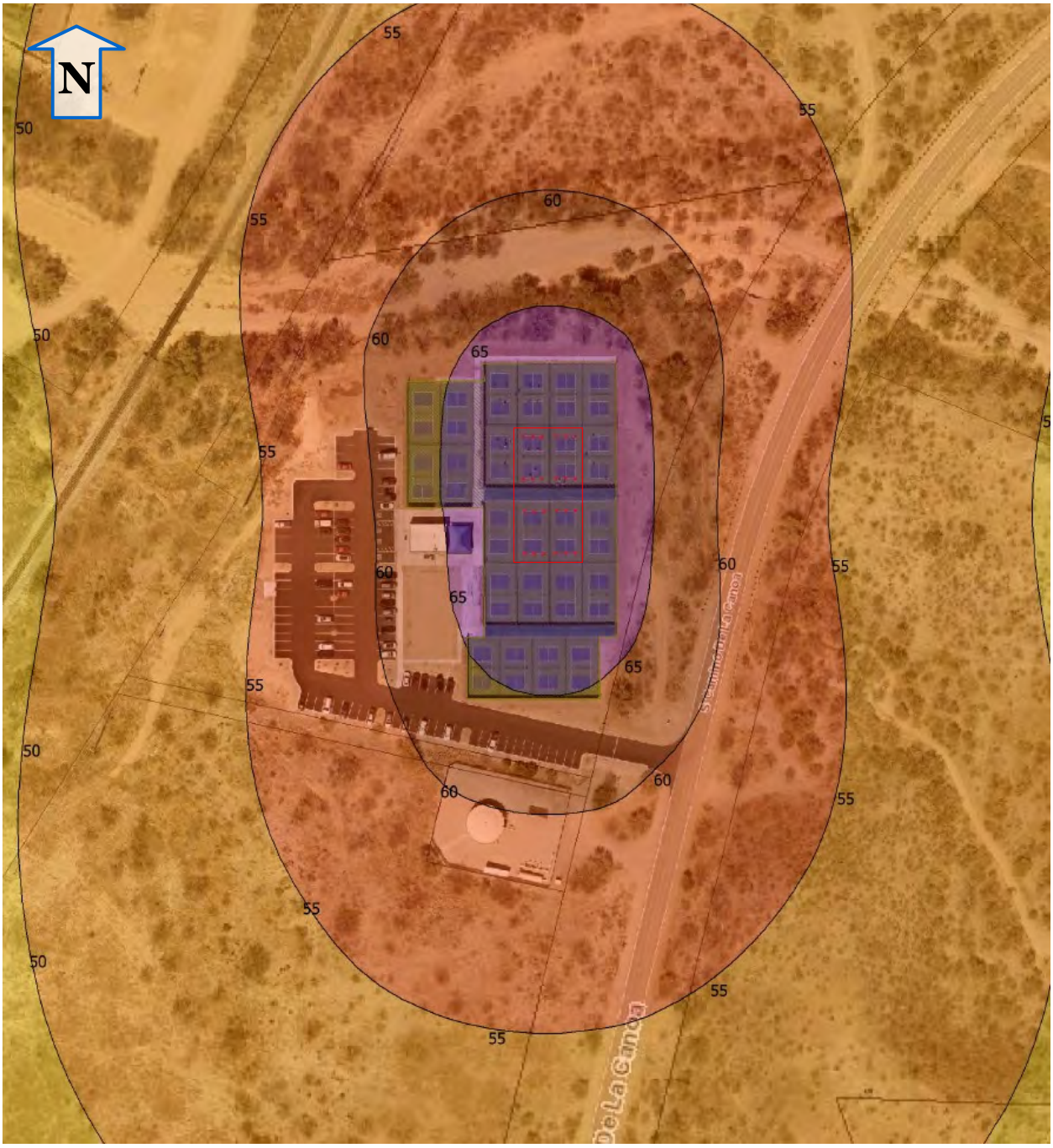
7.1 Number and Arrangement of Pickleball Courts

Pickleball courts are usually placed on a rectangular concrete pad approximately 30 by 60 feet. This is one quarter the size of a typical tennis court pad such that a tennis court can be converted into four pickleball courts. An important factor influencing the amount of sound reaching neighboring properties will be the number of pickleball courts. A doubling of the number of courts will result in a doubling of the number of sound sources and therefore the sound power emitted. This corresponds to a 3 dB increase in sound power level. Pickleball courts are, however, not a single sound source, but a distribution of many sound sources spread over the area of the courts. For this reason, sound radiated from pickleball courts will not follow the inverse square law unless the distance from the center of the courts to the point of observation is large compared to the dimensions of the court or group of courts.

Figure 7.1 shows the ANSI S12.9 adjusted sound pressure level contours (see Section 8.3.3) at a height of 5 feet above grade for four courts, indicated by the red box, at the center of the main group of pickleball courts. For reference, the two groups of eight courts together have a width east to west of 136 feet and a length north to south of 268 feet. The oblong shape of the contours is not a result of the rectangular layout of the courts, but the directivity of the individual courts themselves (see Section 6.4).

The 55 dBA contour extends about 480 feet from the courts in the direction of play and 260 feet laterally. Figure 7.2 expands the number of pickleball courts to eight arranged in pairs end to end. The 55 dBA contour extends about 630 feet from the courts in the direction of play and 350 feet laterally. Figure 7.3 rearranges the eight courts into two rows side by side. The 55 dBA contour extends about 685 feet from the courts in the direction of play and 340 feet laterally. Doubling the number of courts causes the 55 dBA contour to move out 30% to 40% of the distance from the courts pad (red boxes) depending on how the courts are arranged.

The hypothetical examples above were created on level ground with a mixed ground type outside of the concrete pads for the courts (ISO 9613 ground factor, G = 0.5). In practice, noise complaints about pickleball courts at distances greater than 500 to 600 feet are rare. Real pickleball sites will usually have topographical features that hinder sound propagation at farther distances as well as structures that block or scatter sound. Pickleball courts across water may be an exception with the possibility of complaints occurring at distances approaching 800 to 1,000 feet.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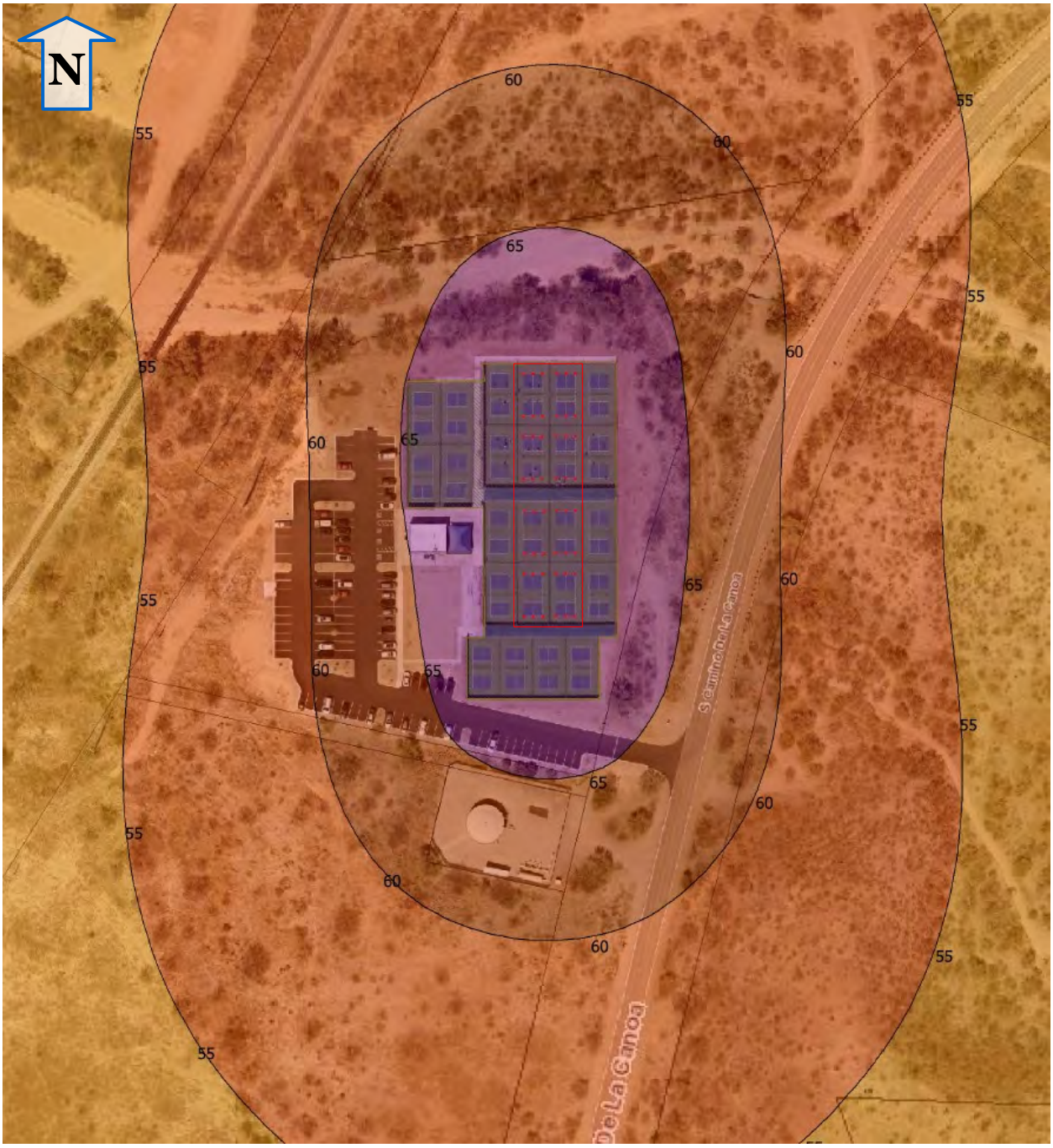

Figure 7.2. Adjusted Sound Pressure Level from Eight Pickleball Courts Aligned Longitudinally

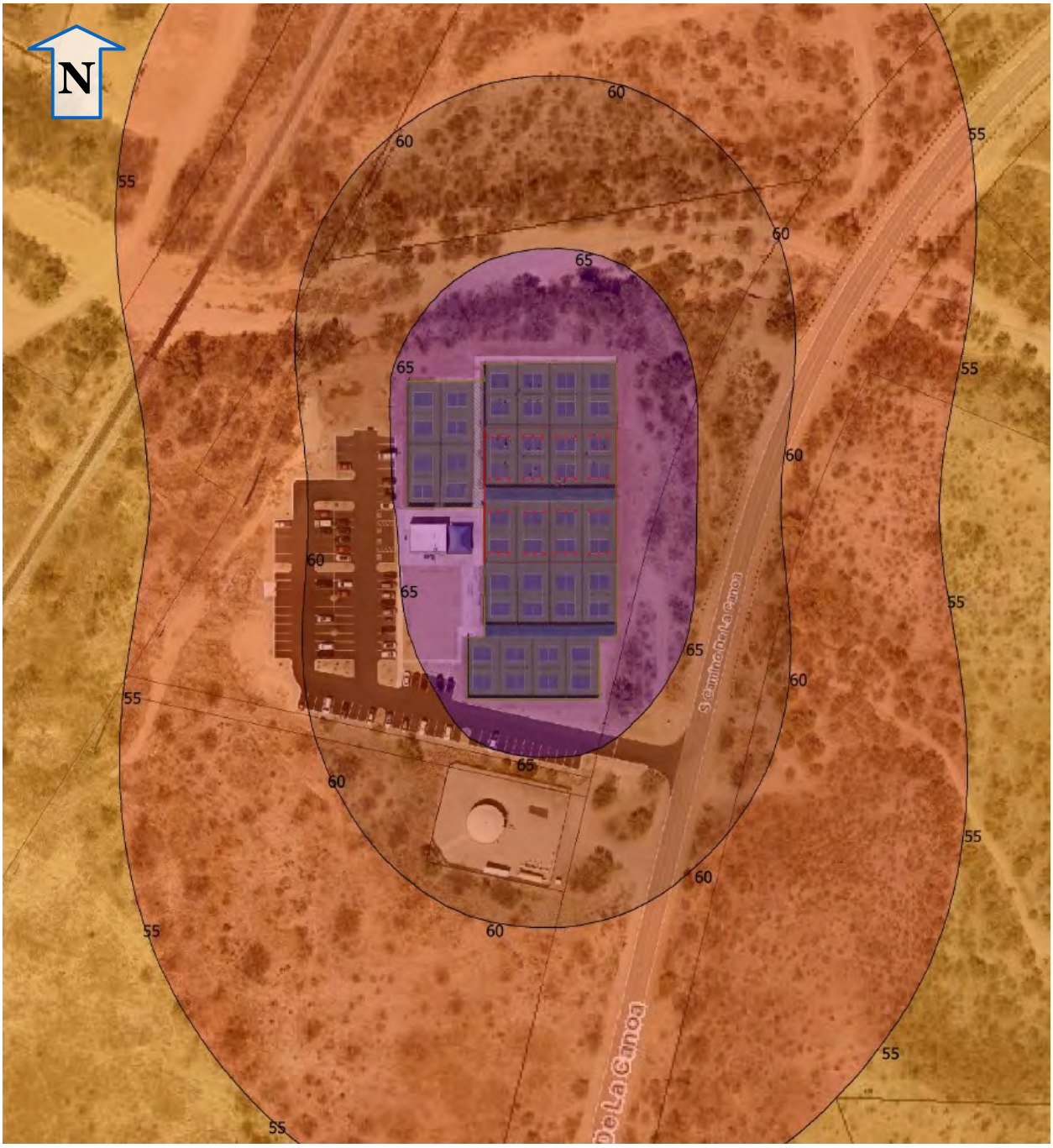

Figure 7.3. Adjusted Sound Pressure Level from Eight Pickleball Courts Aligned Laterally

7.2 Topography

7.2.1 Sight Lines

In order for a noise barrier to be effective, it must block the line of sight from the sound source to the point of observation. Homes sitting at an elevation higher than the proposed pickleball courts can be difficult to shield, particularly if they have more than one floor, balconies, or raised decks. Attention must be given to sight lines to determine whether a sound wall system can be a practical solution as a noise abatement treatment.

7.2.2 Noise Sensitive Locations Above Ground Level

In addition to elevation differences between the pickleball courts and surrounding properties, multistory housing can also result in sight line issues that lead to poor shielding. Figure 7.4 shows a mitigation example with four active pickleball courts in the southwest corner of the complex and a two story building to the south. A 10 foot sound wall (red line) has been placed along the south and west sides of the courts. The sound pressure level contours are at an elevation of 5 feet above grade. The 55 dBA contour does not reach the building.

In Figure 7.5, the elevation of the sound pressure level contours has been raised to 15 feet above grade, about the height of a second floor bedroom window or a person standing on a second floor balcony or raised deck. The 55 dBA contour can now be seen to contact the building. This shows the importance of checking all floors of nearby structures to ensure that acoustical design targets are being met.

It is important to note that, since the observation point on the second floor can overlook the sound wall, some paddle impacts will not be shielded. Although the partial shielding of the majority of the sound source locations is enough to lower the adjusted sound pressure level close to the target level of 55 dBA, peak sound pressures may not decrease as much as the adjusted level since some individual paddle impacts will not be shielded and may still have a significant noise impact.

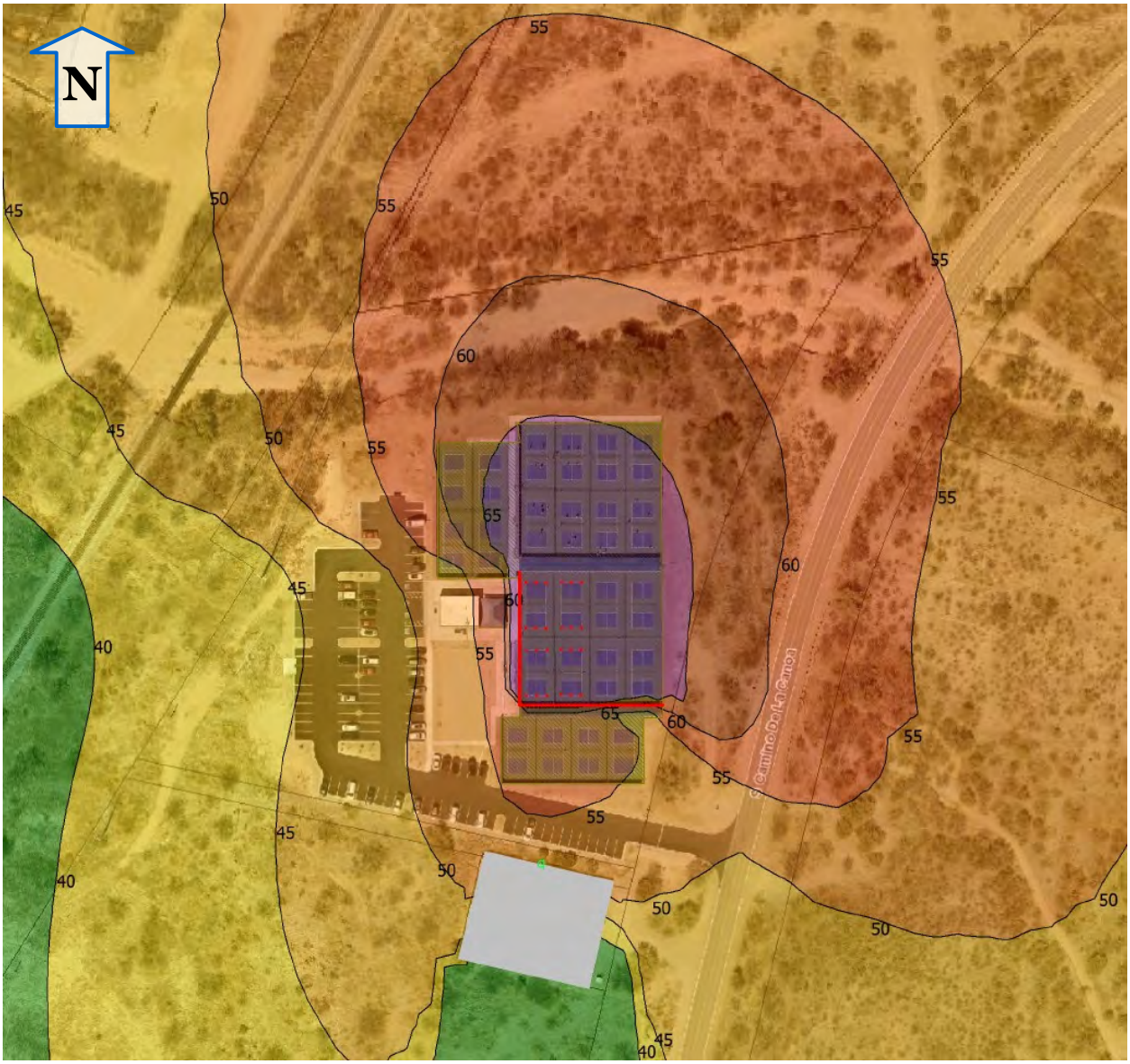

Figure 7.4. Adjusted Sound Pressure Level Contours, Four Courts, 10 Foot Wall, 5 Foot Elevation

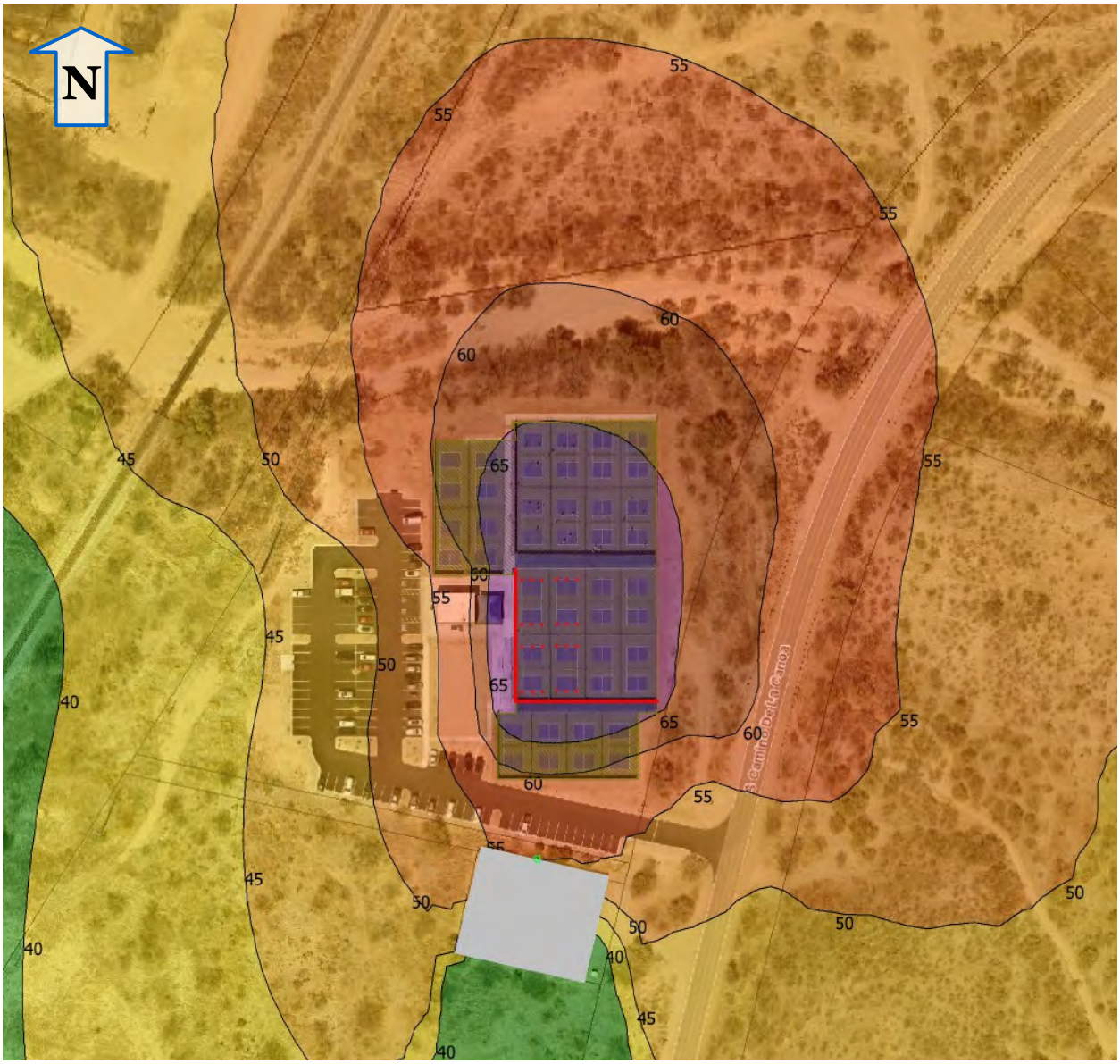

Figure 7.5. Adjusted Sound Pressure Level Contours, Four Courts, 10 Foot Wall, 15 Foot Elevation

7.3 Ground

7.3.1 Attenuation

Some amount of attenuation can occur for sound passing over porous ground. This will mostly include friable soil with vegetation growing on it. Hard surfaces like concrete and asphalt are reflective. Painted concrete surfaces like sports courts are very reflective.

This should be considered when placing a noise barrier on a particular ground type. The barrier will block the ground wave and remove the ground effect. This will affect the performance of the noise barrier. Blocking the ground wave over hard ground will enhance the insertion loss, the difference in before and after sound levels, of the barrier while blocking the ground wave over absorbing ground may cause the insertion loss of the barrier to be less than expected.

7.3.2 Refraction

Refraction caused by temperature gradients over certain ground can effectively cause sound to travel farther. Refraction is the bending of the path sound travels towards regions of lower sound speed, e.g. cooler air. This can be the result of temperature stratification of the atmosphere or wind. In low lying places where cool air tends to collect in the evenings or over irrigated ground where evaporative cooling can occur such as a golf course, a temperature lapse condition can develop with warm air above and cool air below. This will result in sound arcing down toward the ground. Refraction caused by a temperature lapse condition can result in sound arcing over obstacles on the ground that would normally impede its propagation thereby making it louder at farther distances.

7.3.3 Valleys

Parks located at the bottom of a valley can pose a particular challenge as they tend to experience temperature stratification conditions regularly. Further, the sides of the valley may trap sound and send it echoing back to locations on the opposite side. Valleys often require a detailed propagation study to understand how sound moves through the area at different times of the day.

7.3.4 Water

Bodies of water such as a pond or lake are a special type of ground that is highly reflective. It also tends to form a layer of cool air near its surface causing refraction effects similar to those described above. Sound propagation over water can be difficult to predict as its surface changes with wind and weather conditions. In calm conditions sound carries long distances over the surface of water. If a significant portion of the ground between a sound source and receiving property is water a detailed propagation study may be needed to determine the ground attenuation.

7.4 Reflective Surfaces

Surfaces that reflect sound that are close to the pickleball courts can redirect sound in undesirable directions. These surfaces can be building facades, retaining walls, or even noise barriers. Mass-loaded vinyl (MLV) fence covers are particularly reflective and may not be appropriate in some applications. Unpainted masonry walls retain some porosity and will absorb a small small of sound, but should be considered reflective for the purposes of outdoor sound propagation.

Reflected sound from a single surface may increase the total sound pressure level as much as 3 dB over the level of the sound coming directly from the source. (Due to the short duration of the impulse produced by a paddle impact and its short wavelength it is difficult to get the reflected

sound to sum coherently with the direct sound) The positions of noise barriers must be planned strategically to prevent sound from going in unwanted directions and creating a new noise issue.

Parallel reflective surfaces can severely degrade the performance of a noise barrier. See Section 9.2.3 for more information on this design issue.

8. Noise Assessment Procedures for Pickleball Sound

8.1 Inaccuracies of Simple Averaging Techniques

8.1.1 Equivalent-continuous Sound Pressure Level

The equivalent-continuous level (Leq) is a type of average sound pressure level over the entire period of a measurement. It represents a sound pressure level that has the same total energy as a measured sound pressure level that may vary over the time of the measurement.

While the equivalent-continuous sound pressure level includes all acoustical events and background noise that occur during the time of a measurement, including short impulsive events such as pickleball paddle impacts, it only gives an indication of the average level. It is not strongly influenced by peak sound pressure levels. For example, four pickleball courts may produce 50 to 60 paddle impacts each minute. That is one impact about every second. Equivalent-continuous averaging will therefore spread the energy of each paddle impact over a period of about one second. The result is that the paddle impacts will usually be indistinguishable from the background noise due to their very short duration. This, however, will not be what is reported by observers near the courts.

The main issue with using equivalent-continuous sound pressure level with pickleball is that it cannot be used to assess impulsive sound. This is the primary concern of neighbors living close to pickleball courts. A different metric that can account for the noise impact of the paddle impacts must be found.

8.1.2 Exponential Time Weighting

Sound level meters will typically have two smoothing filters called fast and slow time weighting having time constants of 0.125 and 1.0 second respectively. These are first order lowpass filters applied to the square of the sound pressure and are known as exponential time weighting. Some meters will also have an impulse peak hold filter with a 35 millisecond time constant on the rise of the sound pressure level and a slow 1.5 second decay to assist in reading the maximum level.

Fast exponential time weighting is often recommended for assessing impulsive sound. For highly impulsive sounds having short durations this metric does not work well. When the averaging time of the time weighting is longer than the duration of the impulse, the impulse is in the stopband of the lowpass filter. In other words, the time weighting is filtering out the impulsive sound source being measured. That is the purpose of a smoothing filter.

Figure 8.1 demonstrates the filter response to a burst of sound just long enough to achieve a reasonably accurate reading within 0.5 dB of the true sound pressure level. The red curve represents the envelop of a burst of sound 0.277 seconds in duration. This is the time required for

the output of the fast exponential time averaging filter (blue curve) to rise to within 0.5 dB of the actual sound pressure level of the sound burst. When the sound burst ends, the output of the exponential time averaging filter begins to decay. The peak value in the output of the fast exponential time averaging filter, after being converted to sound pressure level, is known as the Lmax level.

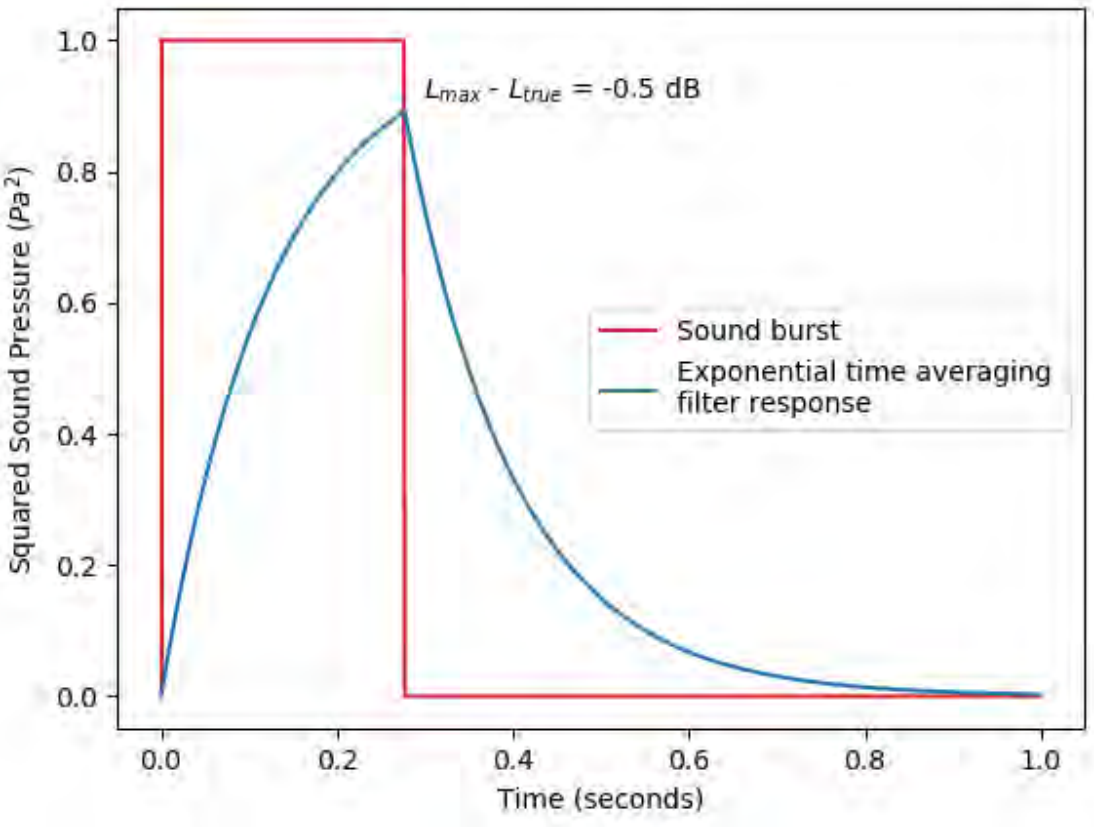

Figure 8.1. Fast Time Averaging Filter Response to a 0.277 Second Sound Burst

Figure 8.1 shows the behavior of the fast exponential time averaging filter and Lmax when used properly. Figure 8.2 illustrates how the fast exponential time averaging filter responds to a typical pickleball paddle impact. Note that the time scale has been reduced for clarity. At the end of the 0.002 second impulse, the fast exponential time averaging filter has only had time to rise to a level that is 18 dB below the true sound pressure level of the impulse. The pickleball paddle impulse is so much shorter than the time constant of the averaging filter that the exponential

curvature of the filter response is not even visible. It is clear that fast exponential time weighting, much less slow exponential time weighting, cannot be used to assess the noise impact of pickleball paddle impacts.

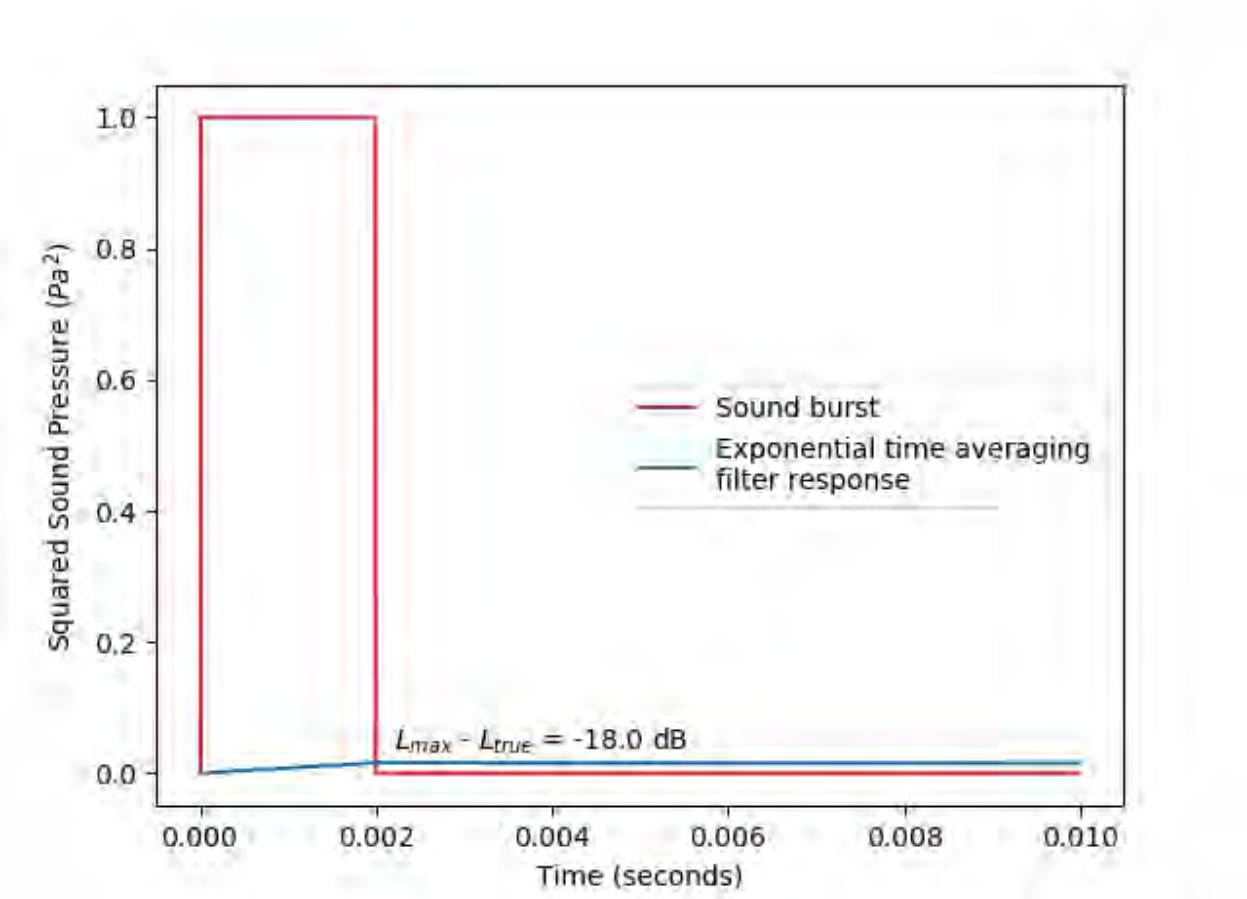

Figure 8.2. Fast Time Averaging Filter Response to a Typical Pickleball Paddle Impact

8.1.3 Percentile Sound Pressure Levels

Another common method of analyzing sound pressure level over time is to rank the levels by the percentage of time that a given level is exceeded. Percentile sound pressure level is described in Section 5.1.5. For impulsive sound, percentile levels suffer from the issues of both equivalent-continuous and exponential time weighted levels.

The majority of the energy in pickleball paddle impacts constitutes a very small percentage of the total measurement time. Even very low percentile levels like LA_{01}, the sound pressure level

exceeded 1% of the time, are little influenced. Further, percentile levels are usually calculated from the fast exponential time weighted level, a metric that already strongly attenuates the short duration impulses of the paddle impacts. Like the previous averaging methods, percentile sound pressure levels do not distinguish paddle impacts well from background noise and correlate poorly with the community response to this type of sound source.

8.2 Best Practices for Assessment of Impulsive Sound

Assessment of impulsive sound is multi-dimensional. In addition to loudness, other characteristics like onset rate, duration, and frequency range need to be considered as well to gauge the true noise impact. Due to the short duration of paddle impacts, averaging sound pressure level metrics such as equivalent-continuous level (LAeq), maximum fast exponential time weighted level (LAmax), and impulse time weighting (LAI) fail to accurately represent the perceived loudness and annoyance of the paddle impacts and impact processes in general. To get a better correlation with the actual response of the surrounding community to this type of sound metrics with a shorter time scale are needed.

The paddle impact sound pressure level is better represented by a combination of peak sound pressure level and sound exposure level (SEL). Using the sound exposure level involves windowing the measured sound pressure in time to include only the paddle impact and reflections from nearby surfaces as seen in Figure 6.1. The equivalent-continuous sound pressure level of the windowed impact is then normalized to the length of the window giving a representation of the energy in the impact alone. Appropriate adjustments for impulsive sounds can then be applied to the impacts as described next.

Most acoustical standards for sound pressure levels with regard to compatible land use provide adjustment factors for different types of sound, e.g. impulsive, tonal, time of day, etc. Each of these categories of sound produces different levels of community impact and annoyance due to their temporal or spectral characteristics in comparison to a broadband sound that does not vary in level or frequency content with time. The purpose of the adjustment factors is to normalize these types of sound to a neutral broadband sound pressure level so that they can be reasonably compared to a defined sound pressure level limit.

ANSI S12.9 Part 4 and ISO 1996 Part 1 give criteria for assigning adjustment factors to a variety of sound classifications. Sounds produced by impact processes are typically classified as ‘highly impulsive’ due to their high onset rates and intrusiveness and assigned a 12 dB adjustment. Experience has shown that pickleball paddle impacts should be adjusted as highly impulsive sounds in order to set appropriate performance goals for abatement treatments. Inadequate abatement treatment may lead to ongoing complaints, strained relations with neighbors, legal action, the need for continued involvement on the part of authorities, retrofitting, and possibly demolition costs to improve the abatement later.

8.3 Measurement Procedures for Highly Impulsive Sound

8.3.1 Measuring the Paddle Impacts

General procedures for conducting and reporting acoustical measurements have been covered in Chapter 5. For pickleball, the sound level meter should be set up to record continuous audio. This will be needed for assessing the impulses produced by the paddle impacts. The audio should be written to an uncompressed file format such as WAV with the following properties.

- Encoding: linear PCM WAV file format or other suitable lossless audio file format
- Sampling rate: 48 kHz (minimum)
- Resolution: 24 bit (minimum)

Audio recordings of the field calibration tone should be made as well and the Leq noted for future reference.

Logged data should be sampled at no more than one second intervals and include for each log interval,

- Peak sound pressure levels
  - LApk (A-weighted peak level)
  - LZpk (unweighted peak level)
- For speech assessment
  - LAmax (maximum A-weighted fast exponential time weighted level)
- For background level
  - LAeq (A-weighted equivalent-continuous level)
  - LAF (A-weighted fast exponential time weighted level)
  - LAS (A-weighted slow exponential time weighted level)

8.3.2 Measuring Background Levels

Background noise level measurements should be made without pickleball activity at each measurement location. In practice it has been found that background levels should be performed either before or after the pickleball courts are in use so as not to disrupt the rhythm of play by starting and stopping or otherwise interfering with the use of the courts. For noise monitoring situations where the sound level meter is left to run all day it may be necessary to find a time in the recorded data where the pickleball courts were not being used in order to assess the background noise level at different times of day.

8.3.3 Data Analysis

Analysis of the measured data is performed on the sound exposure levels of the individual, A-weighted paddle impacts. A minimum of 30 paddle impacts should be obtained at each test location.

Sound Exposure Level

Some analysis and reporting software packages that work with a particular sound level meter may be able to do sound exposure analysis; however, they must be able to work on time scales less than one second. While the main part of the acoustical energy occurs within about a 10 millisecond window, later reflection and reverberation must also be included in the sound exposure window. The sound exposure should include all of the initial impulse and reverberant decay tail. See Sections 5.1.6 and 5.5.3 for more information on calculating sound exposure level.

Background Noise Correction

A background correction should be applied to each paddle impact. Since these are short impulses, only a small sample of the background noise immediately before, or if necessary after, the paddle impact is needed. This is will give a more accurate correction in areas of high activity where the background noise level is fluctuating between paddle impacts. The procedure for background noise correction is explained in Section 5.3.2. It should be carried out on the equivalent-continuous level of the individual paddle impact, not on the sound exposure level directly. The background corrected equivalent-continuous level of the paddle impact is then converted to a sound exposure level for further analysis.

Adjusted Sound Pressure Level

There are two adjustments that will normally apply to pickleball paddle impacts, highly impulsive and day of week. The highly impulsive adjustment is 12 dB.

Noise assessment should be performed for the most impactful use case. A 5 dB adjust is therefore applied to account for the additional noise sensitivity during times when neighbors tend to be at home such as weekends and evenings.

This brings the total adjustment to 17 dB. The adjustment can be applied directly to the calculated sound exposure levels.

Now that the sound exposure levels have been adjusted, the adjusted sound pressure level can be calculated. This procedure is explained in Section 5.5.3. The adjusted sound pressure level can now be compared to applicable maximum permitted sound levels.

8.4 Noise Assessment of Spectator Speech

For larger crowds of people such as found at a tournament, ANSI S3.5 provides standard speech power levels for different vocal efforts. The loud vocal effort may be most appropriate for most events.

Sound pressure level measurements of spectators at a tournament would be a better estimate where possible. Differences in the number of spectators present during the measurement and the number expected at the proposed venue should be taken into account.

8.5 Site Simulation

An ISO 9613 or other suitable outdoor sound propagation standard can be used to calculate sound pressure levels at neighboring properties. Other more detailed environmental noise simulation methods exist and are also acceptable; however, ISO 9613 is simple and widely used with reasonable accuracy in most situations. There are many software packages available that implement this standard propagation model such as SoundPlan and iNoise.

8.5.1 Modeling Distributed Sound Sources

Figure 8.3 shows the dimensions of a pickleball court. Most paddle impacts occur between the baseline and no volley zone on each half of the court; however, serves are required to be made from behind the baseline.

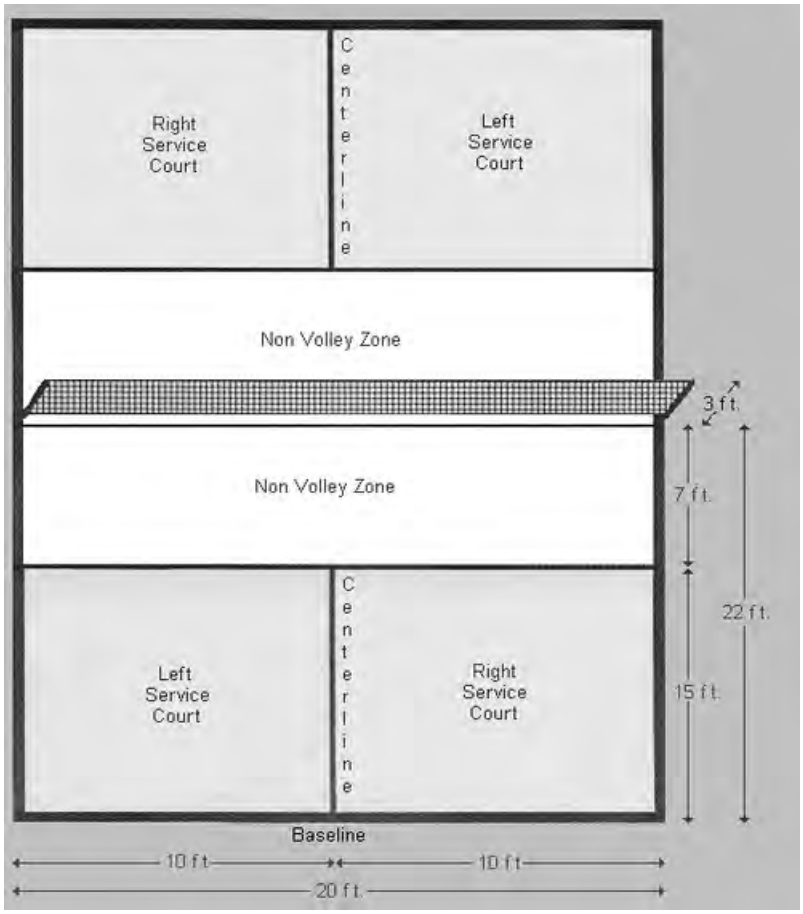

Figure 8.3. Pickleball Court Dimensions

Sound radiated from pickleball courts will not follow the inverse square law until the distance to the point of observation is large compared to the dimensions of the court or group of courts. The inverse square law states that sound radiated from a point source will decrease in level at a rate of 6 dB for every doubling in distance. As seen in Figure 8.4, this does not hold true for distributions of sound sources at close range. The figure compares two sound sources at the opposite baselines of a pickleball court to a single source approximation located at the center of the court. The vertical dashed green lines represent the edges of the concrete pad. The lower graph is the difference between the two curves in the graph above. The point of observation must be almost three court lengths before the level difference is within 0.5 dB.

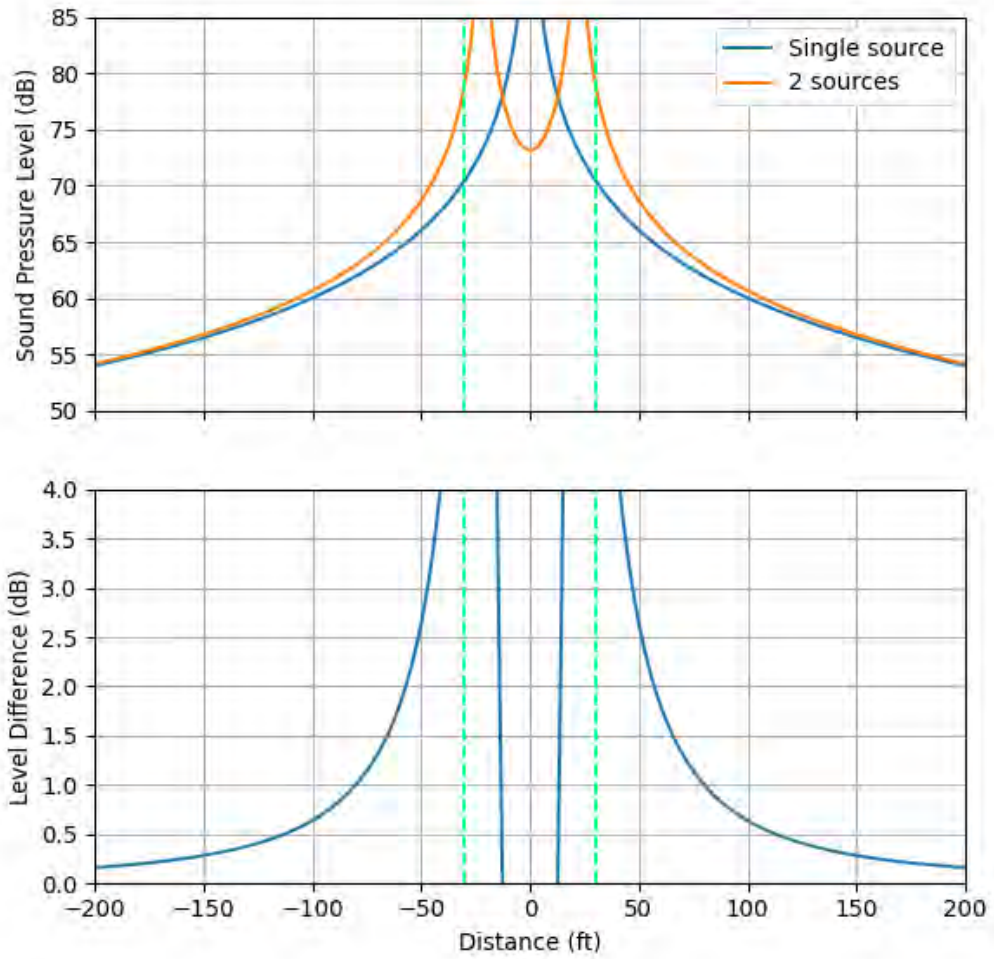

Figure 8.4. Sound Pressure Level at Distance from Court Center for One and Two Sources

For this reason, it is recommended to use multiple sound sources on each pickleball court when constructing an acoustical model of the courts. A vertical area source, i.e. a distribution of sound sources on a vertical plane located at the baseline at each end of each court extending the width of the baseline and from the playing surface to a height of 8 feet, is recommended. This arrangement is chosen for simplicity and to better ensure that the extents of noise barriers are not underestimated in the noise abatement planning stage.

8.5.2 Pickleball Court Directivity

As described in Section 6.4, pickleball courts have a directivity pattern that is bidirectional. Measurements at numerous pickleball courts have shown that the directivity pattern can be

approximated as shown in Table 8.1 or by using Eq. 8.1 where θ is the angle of the receiver with respect to the direction of play and D is the attenuation in decibels from the directivity.

$$D = 20\log_{10}\left(\sqrt{\left(\cos^2(\theta) + 10^{(-5.5/10)}\sin^2(\theta)\right)}\right) \quad (8.1)$$

Angle (deg)	Attenuation (dB)
0	0.0
10	-0.1
20	-0.4
30	-0.8
40	-1.4
50	-2.2
60	-3.1
70	-4.0
80	-4.7
90	-5.0
100	-4.7
110	-4.0
120	-3.1
130	-2.2
140	-1.4
150	-0.8
160	-0.4
170	-0.1
180	0.0

Table 8.1. Pickleball Court Directivity Pattern

9. Noise Abatement Methods

When a noise impact assessment indicates that activities planned for a site exceed the limits set in the noise regulations, a noise abatement plan to bring the site into compliance should be prepared by a qualified acoustical engineer.

9.1 Setbacks

A noise abatement plan begins with sufficient setback to noise sensitive areas to make abatement treatments effective. Any given noise abatement treatment will produce a limited amount insert loss or attenuation. A noise abatement plan for a site generally consists of a number of different treatments that work together to achieve an acceptable sound level in the surrounding area. Any deficit in the amount noise reduction achievable through mitigation treatments must be made up for in setback. In short, the setback is what makes the rest of the noise abatement plan possible.

One approach to setbacks is to simply prescribe a minimum setback with regard to all residential land uses. This has been done recently by Park City, Utah. Under their new pickleball code amendment [Park City], proposed pickleball courts within 600 feet of residential properties must have a noise abatement plan prepared. Pickleball courts within 150 feet of residential properties are not permitted.

This approach has the advantage of being easy to understand and apply; however, there are some situations where it may not be possible to create an effective noise abatement plan at 150 feet due to elevation differences or multi-story housing that make sufficient shielding by a sound wall impractical or impossible. In some special cases it may be possible to mitigate pickleball courts closer than 150 feet. Thus a 150 foot setback requirement would be overly restrictive in these applications.

Pickleball courts within 100 feet of residential land uses have proven to be problematic resulting in lawsuits, strict limitations on usage, and court closures. Courts within 150 feet of residential land uses require careful noise abatement planning using modern methods of noise assessment for highly impulsive sound such as ANSI S12.9 Part 4 described in previous chapters and strict adherence to design specifications.

9.2 Noise Barriers

9.2.1 Performance Requirements

Sound walls and fence covers are the main noise abatement treatments utilized for pickleball noise control. Sound walls are a more permanent and aesthetic solution while fence covers have lower material and installation costs. Both types of barriers can have reflective or sound absorbing surfaces.

There are a variety of materials and products available that are acceptable for pickleball mitigation. It is important that they meet a few minimum requirements.

Sound must not be able to penetrate though the barrier material. For pickleball, this means the barrier material must have a minimum sound transmission class (STC) of 20. This is not difficult to achieve with many solid materials that can include many options from mass-loaded vinyl (MLV) fence covers to masonry walls. Materials such as wind screens attached to court fencing and vegetation in the form of a hedges provide a level of visual privacy, but should not be considered noise abatement treatments.

In order to maintain the integrity of the barrier transmission loss, penetrations in the barrier surfaces cannot exceed 1% of the surface area. There can be no gaps between the bottom of the barrier and the ground or between barrier sections. Fence covers must be installed with the manufacturer's recommended amount of panel overlap.

9.2.2 Fence Cover Safety Notice

IMPORTANT

Standard chain link court fencing may not be rated for wind loading with a solid material attached. This can pose a danger of fence collapse in high winds. Many fence manufacturers produce reinforcement kits to stabilize fencing for this type of loading. It is important to consult with the fence manufacturer or a structural engineer prior to attaching MLV, sound blankets, or anything other solid material to an existing open link fence.

9.2.3 Parallel Surfaces

A common problem encountered when designing a noise barrier system for pickleball courts is the need to shield homes on opposite sides of the courts. Arranging reflective noise barriers so that they have parallel faces creates a situation where the sound is trapped between the interior surfaces and cannot dissipate. It has nowhere to go but over the noise barrier. This will significantly degrade its acoustical performance. If this layout cannot be avoided by changing the relative positions of the two walls, sound absorption will be needed on the interior surfaces to control acoustical energy buildup.

Figure 9.1 shows a performance comparison of several surface materials on opposite sides of two pickleball courts arranged end to end. Carsonite is a sound wall system with integrated sound absorption. It is commonly used for noise mitigation along roadways and absorbs well at 1,000 Hz, the critical frequency for pickleball paddle impacts. AudioSeal is an outdoor sound absorbing blanket material that can be attached to a fence. It does not absorb as well as the Carsonite at higher frequencies, but still performs adequately. The MLV curve is notably higher than the AudioSeal and Carsonite curves due to its high reflectivity at 1,000 Hz.

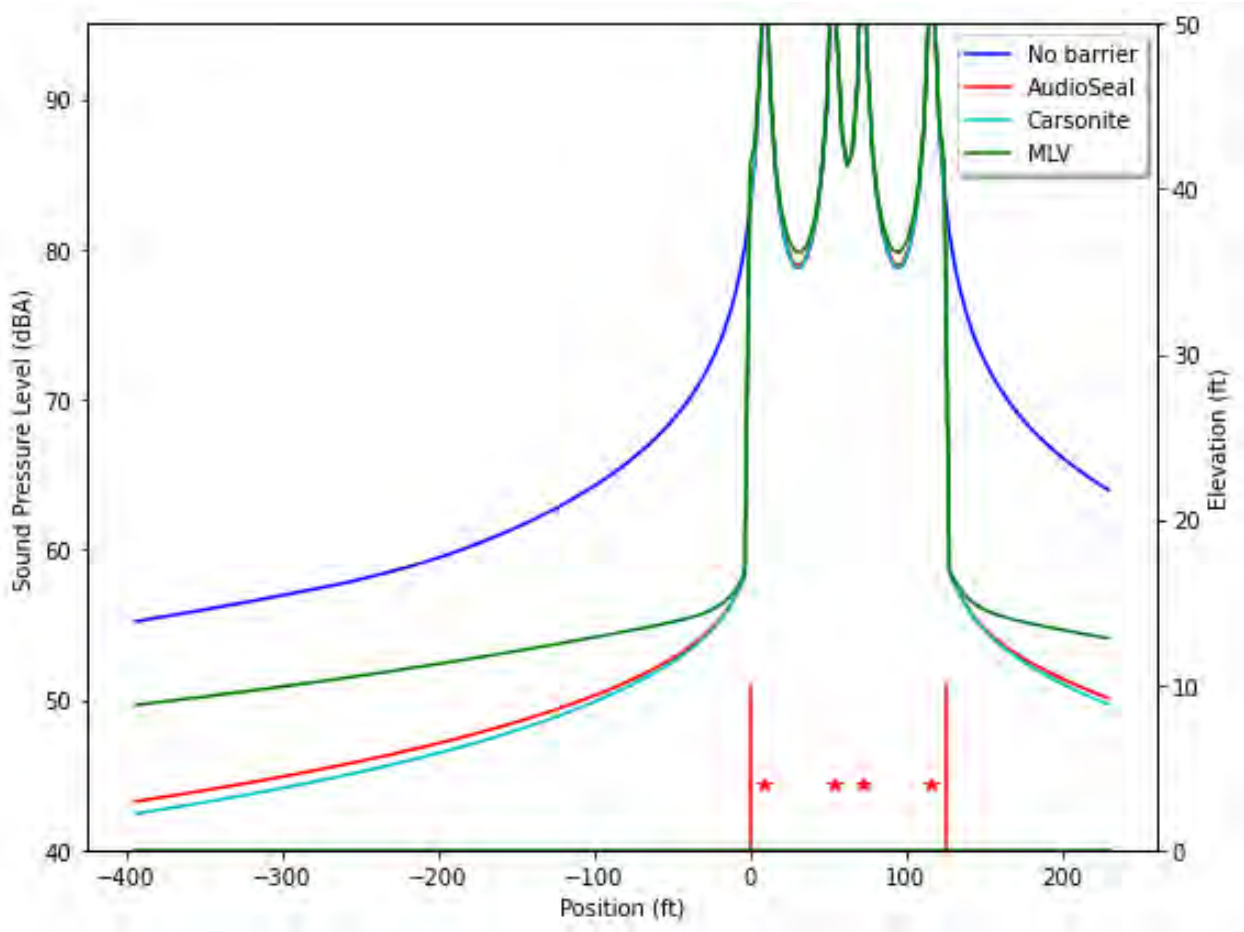

Figure 9.1. Performance Comparison of Interior Parallel Surfaces of Noise Barriers

It should also be noted that the slopes of the AudioSeal and Carsonite curves are almost identical to the slope of the curve for no noise barrier. The MLV curve has a notably shallower slope that trends toward the no barrier use case at distances farther from the noise barrier. This is the result of the large number of high amplitude image sources produced by reflective interior surfaces of the MLV.

> Note: The ISO 9613 standard contains provisions for only one reflection. Acoustical simulation software implementing this standard will not calculate the case of parallel walls accurately. The above figure was created using multiple image sources and 40th order reflections for the MLV surfaces in order to get convergence on a solution.

9.2.4 Lowering Pickleball Courts

One approach to free standing sound walls is to lower the elevation of the pickleball courts by excavating the soil at the location of the courts and using it to create a berm next to the courts. While this can have some acoustical benefits in some situations, it is more of a cost saving design choice. By constructing the sound wall on top of the berm, a lower wall height will be

required and the wall will be less expensive to build.

9.2.5 Ventilation and Air Flow

In summer, pickleball courts, like any outdoor sport played on a hard court, can become hot. Sound walls and fence covers will impede the air flow over the courts and make the courts feel even warmer. It may be possible to alleviate this to a degree by using overlapping wall sections that allow some breeze to pass through. This usually requires an overlap of at least four times the width of the gap between the wall sections. Sound absorbing material may also be needed in the gap to control flutter reflections that allow sound from the pickleball courts to work its way through the overlap. There must be no line of sight to players on the courts possible through the gap. If necessary, add a wall extension to shield the outside opening of the overlap. This wall layout can also be used as a passageway for ingress and egress.

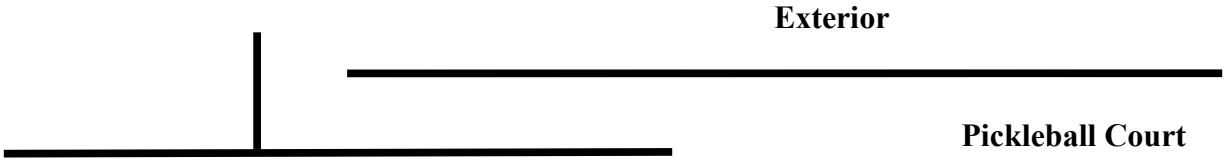

Figure 9.2. Sound Wall Overlap

9.3 Court Orientation

From the examples of pickleball court directivity in Section 7.1, it is apparent that the orientation of pickleball courts can be used as a noise mitigation measure. By turning the courts so that a noise sensitive area is to the side of the courts, sound levels in that direction can be reduced 3 to 5 dBA.

This may not be an ideal solution in some situations. It is preferable to have the direction of play roughly north-south to reduce glare from the sun during play. It is, however, worth the effort to take advantage of this characteristic of pickleball paddle radiation when it will not interfere with the use of the courts.

9.4 Sound Masking

9.4.1 Masking Requirements

Masking of a sound source refers to changing the threshold of hearing by introducing another

sound source such that the first sound source can no longer be heard. This is difficult to achieve with impulsive sounds because of their high peak sound pressure levels. Since impulsive sound is by nature intermittent and of limited duration, a masking source would have to operate continuously at a high amplitude in order to mask the impulse. This will often create a new noise issue.

Pickleball paddle impacts produce sound mostly in the 1,000 Hz octave band. The masking source must therefore also product sufficient sound in the 1,000 Hz octave band to cover the sound of the paddle impacts.

9.4.2 Roadways

Roadways are a broadband, continuous sound source. In general, even busy highways are not able to mask pickleball courts due to the high peak sound pressures of the paddle impacts. Traffic noise tends to be mostly low to mid frequency sound and does not have sufficient energy in the 1,000 Hz octave band to effectively mask pickleball.

It appears to be a common perception that placing pickleball courts in neighborhoods located close to main arteries or interstates will prevent noise issues due to the sound from the roadway. In practice, this has not proven to be the case as seen at Glenhaven Park in La Cañada Flintridge, California [La Cañada Flintridge]. This neighborhood park is located adjacent to Interstate 210 on the north side of Los Angeles.

9.4.3 Fountains

There is some evidence that water fountains can be beneficial under certain conditions. As discussed above, a masking source must produce sufficient sound in the 1,000 Hz octave band and operate at all times in order to mask pickleball. Water falling on water can produce significant sound in the 1,000 Hz octave band.

Fountains located close to a noise sensitive area such as a back patio that is several hundred feet from pickleball courts may produce partial masking of paddle impacts from the courts. It may be possible to reduce this distance with a sound wall system at the pickleball courts.

For noise sensitive areas close to pickleball courts this is not likely to be an effective noise abatement treatment. Larger noise sensitive areas or larger numbers of homes will require multiple fountains in order to keep the distance from the fountains to the individual homes relatively small compared to the distance to the pickleball courts.

9.5 Full Enclosure of Pickleball Courts

For outdoor pickleball courts that cannot be mitigated because of insufficient available setback, topography, elevation features of the surrounding structures, or some other reason, the only remaining noise abatement option may be a full enclosure to contain the sound. Any penetrations in the building shell will need to be analyzed for sound leakage including doors, windows, ventilation, exhaust fans, etc. Vestibule doors may be necessary in some applications where ingress and egress face noise sensitive areas.

Indoor courts with bay doors opening away from noise sensitive areas can also work in some instances. In this use case, a room analysis of the reverberant field will need to be done and the amount of sound power exiting through the bay doors calculated from the direct and reverberant sound fields. Buildings can be much higher than free standing wall and provide a better performing noise barrier.

9.6 Noise Control Policy

9.6.1 Hours of Operation

Limiting the hours of operation of the pickleball courts to certain times of the day or days of the week can sometimes be an effective noise control strategy. These arrangements are often negotiated with neighbors.

9.6.2 Restrict Players Allowed to Use Courts

In some cases, restricting court usage to, for example, club members and their accompanied guests can increase accountability for how the courts are used. While this may also reduce the amount of players that use the courts, noise abatement planning should assume the courts will be used at full capacity.

9.6.3 Speech

A pickleball court properly mitigated for paddle impacts will generally not have noise issues related to the loudness of speech on the courts. Noise issues with speech are for the most part related to content rather than sound level. If this is the case, a prohibit on swearing and other offensive speech may be necessary.

9.6.4 Restrictions on Equipment

Quieter Equipment

In practice, the enforcement of the use of specific types of pickleball equipment, paddles and balls, has proven to be difficult to manage for home owners associations, country clubs, parks, and most other types of pickleball facility. In order for this to be considered a noise abatement measure, there must be a clear policy in place and personnel dedicated to monitoring activity on the courts to ensure unsanctioned equipment is not in use.

Paddles

There has been an effort in the pickleball paddle industry to move to quieter designs and most players are already using this “green list” equipment as it is referred to. Measurements by Spendiarian & Willis at a number of pickleball facilities have found that the mean sound exposure level of paddle impacts, when normalized to distance and ground type, is very consistent. This indicates that, in aggregate, most players are either using essentially the same equipment or that there is not a significant acoustical difference in the equipment used. During

testing where the make and model of the paddles in use have been recorded, it has been found that most players were using green list paddles. At the present time green list paddles should not be considered a noise control measure since most players are already using this equipment anyway.

Foam Balls

Measurements by Spendiarian & Willis comparing foam pickleballs to common regulation balls has shown that the foam balls can be 8 to 9 dB quieter than regulation balls. While the use of foam balls is an effective noise abatement measure, it is undesirable for pickleball players as the foam balls play very differently from the regulation balls and cannot be used in tournaments or to train for them.

10. Site Planning Considerations for Pickleball

10.1 When a Noise Impact Assessment Is Needed

Courts located within 350 feet of residential properties in most cases require noise abatement. Pickleball court sites within 500 to 600 feet of noise sensitive areas should be reviewed by a qualified acoustical engineer in the site selection phase of the project. In the case that the ground between the pickleball courts and receiving property is water this distance may extend 800 to 1,000 feet in some cases. Courts located within 150 feet of homes require careful and often extensive noise abatement design to avoid complaints. Placing open air pickleball courts within 100 feet of residential properties is not recommended.

10.2 Site Selection

10.2.1 Available Setbacks

The most important factor to consider in selecting a site for pickleball courts is the distance to adjacent residential land uses. While a noise barrier such as a sound wall or mass-loaded vinyl fence cover can be effective in reducing noise impact, it can only provide a limited amount of insertion loss, usually between 8 and 12 dB depending on the ground it is installed on, flanking paths, reflecting surfaces, and other factors. The rest of the noise reduction required to meet acceptable sound levels must mostly be gained through distance. It is important to ensure that there is enough buffer so that noise abatement installed can be adequately effective. Other site conditions that may increase the setback required are discussed in the following subsections.

10.2.2 Proximity to Multi-story Residential Structures

In order for a noise barrier to be effective it must be able to block the line of sight from the sound source to the receiving land use. Pickleball paddle impacts can occur from near the elevation of the playing surface to a height of about 8 feet above it. Multi-story housing located close to the proposed pickleball courts may not be adequately shielded a wall system. This can affect upper level windows, balconies, raised decks, other amenities located above ground level. These need to be included in the noise impact assessment of the proposed pickleball courts.

10.2.3 Topography

Similar to housing with floors above ground level, homes sitting at an elevation higher than the proposed pickleball courts can also be difficult to shield with a noise barrier.

In addition, refraction caused by temperature gradients over certain ground can effectively cause sound to travel farther. Refraction is the bending of the path sound travels towards regions of

lower sound speed, e.g cooler air. This can be the result of temperature stratification of the atmosphere or wind. In low lying places where cool air tends to collect in the evenings or over irrigated ground where evaporative cooling can occur such as a golf course, a temperature lapse condition can develop with warm air above and cool air below. This will result in sound arcing down toward the ground. Refraction caused by a temperature lapse condition can result in sound arcing over obstacles on the ground that would normally impede its propagation thereby making it louder at farther distances.

Parks located at the bottom of a valley can pose a particular challenge as they tend to experience these conditions regularly. Further, the sides of the valley may trap sound and send it echoing back to locations on the opposite side. Valleys often require a detailed propagation study to understand how sound moves through the area at different times of the day.

10.3 Tournaments

The main difference in sound from pickleball courts during tournaments will be spectators. The noise assessment and abatement planning should include a speech analysis based on the number and location of spectators. This has been described in Section 8.4.

If a PA system is to be used for announcements, limits on the system gain should be established to ensure sound levels reaching the surrounding properties remain acceptable. Noise monitoring may also be employed at the property boundaries. This involves placing one or more microphones near noise sensitive areas so that the sound system operator can monitor sound levels in real time and make any necessary adjustments.

11. Conclusions

11.1 Best Practices in Noise Assessment and Regulation

Basic methodologies and best practices for community noise assessment, environmental acoustics measurements, and noise regulation documents have been discussed. The group of ANSI standards in S12.9 represents the current best practices in community noise assessment. The measurement methodology and sound classifications in Part 4 of the standard (harmonized with International Organization for Standardization standard ISO 1996) have been implemented under European Union Directive 2002/49 and in a number of Asian countries. ANSI S12.9 Parts 4 and 5 have been used as the basis for the recommendations in this document.

11.2 Characteristics of Pickleball Sound

The most notable sounds from pickleball courts are the popping sound produced when a pickleball contacts a paddle and speech. It is the popping sound of the paddle impacts that produces the greatest number of noise complaints. This sound has been classified as highly impulsive for the purpose of noise assessment under ANSI S12.9 Part 4.

11.3 Noise Impact Assessment of Pickleball

It has been shown that averaging techniques such as equivalent-continuous and maximum fast exponential time weighted sound pressure levels (LAeq and LAmax) are not well suited for assessment of short duration impulsive sound like that produced by the impact of a pickleball on a paddle. These metrics can be expected to substantially underestimate the community response to this type of sound. Measurement procedures based on the adjusted sound exposure level according to ANSI S12.9 Part 4 have been described as a more accurate methodology for noise impact assessment of pickleball.

11.4 Noise Abatement Planning

Setbacks are an important first step in mitigating pickleball courts. A noise abatement plan usually consists of a number of treatments that each contribute a certain amount of noise reduction. Any difference between the total noise reduction of the abatement treatments and that required to meet target sound levels must be made for with setbacks.

Topography and multistory structures near the courts will also influence the amount of setback required. In order for a noise barrier to be effective it must block the line of sight from the sound source to the point of observation. Upper level bedroom windows and decks that are able to overlook the noise barrier will not be shielded and will likely experience a greater noise impact than at ground level.

Testing at numerous pickleball courts has found that the sound radiated from the paddles is directional. More sound goes in the direction of play than to the sides of the court. This characteristic can be used as a noise abatement measure by orienting pickleball courts so that the direction of play is not directed toward noise sensitive areas.

Sound masking in the form of water fountains has been found to be somewhat helpful in certain situations. This is mainly where the masking sound source is much closer to the noise sensitive area than the pickleball courts and the noise sensitive area is not too close to the pickleball courts. Roadways have not been found to be effective masking sources for pickleball.

In most cases, the noise abatement installed for the paddle impacts will be sufficient for speech from the courts as well. Noise complaints about speech on pickleball courts are most often related to content rather than sound level. This is best addressed through policy.

11.5 Site Planning

Site review and feasibility analysis for pickleball begins by looking at available setbacks and sight lines. This will determine what noise abatement treatments may be needed and whether they can be effective on a particular site. Topography and the presence of nearby multistory housing are also important considerations that may affect required setbacks. The noise impact assessment of impulsive sound is a complex task that should be done using modern standards and best practices by an acoustical engineer with experience in psychological acoustics and signal analysis.

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NO

From: **Steve Check** scheck5227@ameritech.net
Subject: Pickleball @Town Club
Date: February 20, 2024 at 5:13 PM
To: Steve Check scheck5227@ameritech.net, efonstad@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, Jennie Stoltz jennie.stoltz@gmail.com, Greg Ollman goodomen@att.net, lsumner@villageoffoxpoint.com, canderson@villageoffoxpoint.com, csymchych@villageoffoxpoint.com

I am adding my name to the list of residents objecting to the Town Club request to add Pickleball.

I read the agenda minutes from a recent Village board meeting and found the responses very interesting. All of the people against this live on Boyd Way east of the courts. The railroad tracks are the only buffer as there are almost no trees in this area. None of the people in favor live near the proposed courts. One of the comments was that "the Town Club is a great place for the community to gather and socialize." Does that statement mean the club will open the courts to Fox Point residents? I think not. The Town Club representative stated that noise reduction would be installed. Since there are few trees in this area, very tall Arbor Vitae trees should also be installed.

Before the Board considers this request, the Board should require a sound study to determine the expected noise level, should visit the proposed site, and offer impacted residents on Boyd Way an opportunity to visit the site. And any trustees that have not experienced the noise level of Pickleball should seek out an experience, so they get an appreciation for the obnoxious noise level. There are at lease 20 homes on Boyd Way and many more on Hyde Way, Calumet and Santa Monica that could be impacted. I live 1/10 of a mile due East of the proposed site.

The noise made by playing Pickleball is noteworthy. There have been ample articles recently about the noise level of Pickleball and plenty of research and You Tube videos are available demonstrating the noise level to neighbors. My golf club installed Pickleball last summer, and I can hear the noise a fairway away. I feel sorry for the neighbors.

Please decline this request.

Lik

e

Steve Check
414-588-5750

Sara Bruckman

From: Steve Check <scheck5227@ameritech.net>
Sent: Friday, March 22, 2024 8:27 AM
To: Scott Botcher
Cc: Steve Check
Subject: Town Club Pickleball
Attachments: centennial-pickleball-noise-assessment (1) (4).pdf

My name is Steve Check. I live on East Hyde Way and I am adding my name to the list of residents objecting to the Town Club request to add Pickleball.

Planning open air pickleball courts begins with selecting an appropriate site that has sufficient setbacks from adjacent residents to ensure an effective noise reduction plan is possible. Several homes behind the proposed courts are less than 200 feet from the courts. In my research, I found that communities across the country, strictly forbid courts that are within 200 - 250 feet from neighbors. And some prohibit courts up to 500 feet.

I read the agenda minutes from a recent Village board meeting and found the responses very interesting. All of the people against this live on Boyd Way east of the courts. The railroad tracks are the only buffer as there are almost no trees in this area. None of the people in favor live near the proposed courts. One of the comments was that "the Town Club is a great place for the community to gather and socialize." Does that statement mean the club will open the courts to Fox Point residents? I think not. The Town Club representative stated that noise reduction would be installed. I have not seen the Town Club's plans for noise reduction. When will that be shared? Since there are few trees in this area, very tall Arbor Vitae trees should also be installed.

Before the Board considers this request, the Board should require a sound study to determine the expected noise level, should visit the proposed site, and offer impacted residents on Boyd Way an opportunity to visit the site. And any trustees that have not experienced the noise level of Pickleball should seek out an experience, so they get an appreciation for the obnoxious noise level. If you consider the 63 homes within 500 feet of the courts, you need to consider not only those on Boyd Way, but also homes on Santa Monica, Hyde Way. Links Way, McArthur and Regent.

The noise made by playing Pickleball is noteworthy. There have been ample articles recently about the noise level of Pickleball. The Wall Street Journal, the New York Times and many other periodicals have posted recent articles about how disruptive noise from pickleball is to the neighbors. There is also plenty of research and You Tube videos available demonstrating the noise level to neighbors. My golf club installed Pickleball last summer, and I can hear the noise a fairway away. I feel sorry for the neighbors.

In my research, I discovered a study prepared for the City of Centennial, Colorado titled "Pickleball Noise Impact Assessment and Abatement Planning." This provides an excellent explanation of the noise issues created by pickleball courts. This document will be invaluable to the Village Board as they evaluate this request. While the report is long and very technical, the Executive Summary provides an excellent overview. Please forward my E mail and the attached document to the Village Board as input to their next meeting.

I look forward to attending the next meeting. Thank you in advance for your assistance.

Please decline this request.

Steve Check
414-588-5750
scheck5227@ameritech.net

Sara Bruckman

From: Steve Check <scheck5227@ameritech.net>
Sent: Tuesday, April 9, 2024 9:38 AM
To: Scott Botcher
Cc: Steve Check
Subject: Town Club Request

My comments for tonight's Board meeting.

My name is Steve Check. I live on East Hyde Way

At the Plan Commission meeting, the Town Club stated that last year they played 3-4 hours a week. With the proposed 8 courts and up to 32 players, the noise will be unbearable for neighbors. This is the first club in the area to propose 8 courts that are close to neighbor's homes. They are totally disregarding the noise impact on the quality of life for their neighbors. The closest neighbor's yard on the South is 20 feet. On the East side it's 80 feet from the courts. This violates all noise distance standards that other cities in the country require. The other clubs in the area that added courts are not close to homes. Most are 500 feet away. Many cities strictly prohibit courts that are 250 - 300 feet from neighboring homes. And many require serious noise mitigation for homes within 500 feet.

If 8 courts are added, playing time will increase rapidly. The Town Club will have a staff member promote Pickleball by giving lessons, creating leagues, and having tournaments to increase participation. What will the noise level be when 32 players are whacking the ball? It will be totally obnoxious for the neighbors. Usage will increase on busy days whereby courts will be used all day , especially on weekends. Neighbors will be unable to use their patios and decks and may be unable to open windows.

The Town Club has not provided any evidence that it satisfies municipal code 745-10. "No such use shall be permitted in any case where it shall create a nuisance, hazard, or otherwise result in a substantial adverse effect on surrounding property values or the enjoyment of such property, or be in any other way detrimental to the general public welfare."

In my research, I discovered a study prepared for the City of Centennial, Colorado titled "Pickleball Noise Impact Assessment and Abatement Planning." Copies have been

provided to the Board. This provides an excellent explanation of the noise issues created by pickleball courts. The Executive Summary provides an excellent overview.

Planning open air pickleball courts begins with selecting an appropriate site that has sufficient setbacks from adjacent residents to ensure an effective noise reduction plan including upper level windows is possible. Several homes behind the proposed courts are less than 200 feet from the courts. In my research, I found that communities across the country strictly forbid courts that are within 100 - 250 feet from neighbors. And some prohibit courts up to 500 feet. The noise made by playing Pickleball is noteworthy.

There have been ample articles recently about the noise level of Pickleball. The Wall Street Journal, the New York Times and many other periodicals have posted recent articles about how disruptive noise from pickleball is to the neighbors. There is also plenty of research and You Tube videos available demonstrating the noise level to neighbors.

I listened via Zoom and read the agenda minutes from a recent Plan Committee meeting and found the responses very interesting. The Town Club is unwilling to complete a sound study despite the proposed courts being very close to neighbors. All of the people against this live on Boyd Way east of the courts. The railroad tracks are the only buffer as there are almost no trees in this area. None of the Town Club members live near the proposed courts. The Town Club representative stated that noise reduction would be installed. I have not seen the Town Club's plans for noise reduction. When will that be shared? While the Town Club has very tall trees on the Western side of the courts, no trees exist on the East side. Since WE Energy removed many of the trees under the power lines on the neighboring properties, there is no natural barrier to mitigate the noise.

Before the Board considers this request, the Board should require a sound study to determine the expected noise level and have a noise mitigation plan. And should visit the site and the neighboring yards of the homes on Boyd Way to get an appreciation for how close the proposed courts are to adjoining homes. Any trustees that have not experienced the noise level of Pickleball should seek out an experience, so they get an appreciation for the obnoxious noise level.

Please decline this request.

- centennial-pickleball-noise-assessment (1) (4).pdf

  11.9MB

Steve Check
414-588-5750
scheck5227@ameritech.net

Sara Bruckman

From: Christine Symchych
Sent: Sunday, April 7, 2024 11:57 AM
To: Scott Botcher
Subject: Fw: Town Club Pickleball Courts

Scott
If you could please forward to the other trustees I would appreciate it,
Thank you
Christine

From: James Darragh <jdarragh@gmail.com>
Sent: Saturday, April 6, 2024 3:22 PM
To: Christine Symchych <csymchych@villageoffoxpoint.com>
Subject: Town Club Pickleball Courts

Hi Christine,

I would like to write to express my support for the Town Club improving their pickleball courts. The Town Club has met and satisfied all the requirements of the village ordinances in regards to a pickleball permit. These courts have been operational for a very long time and need to be repaired - so there should be no issues or additional noise associated with these updates. The Town Club is an important fixture of Fox Point and many town residents are members or are employed there. Please allow them to make these improvements. I supported you in your recent election and would appreciate your support here.

Thanks so much,
James Darragh
8207 N Gray Log Lane
Fox Point WI 53217

Sara Bruckman

From: Christine Symchych
Sent: Sunday, April 7, 2024 7:07 PM
To: Scott Botcher
Subject: Fw: The Town Club

Scott
Please enter this into the record
Christine

From: Ken Donner <kdonner@donner-law.com>
Sent: Sunday, April 7, 2024 8:09 AM
To: Catie Anderson <canderson@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Eric Fonstad <efonstad@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Liz Summer, Trustee <lsummer@villageoffoxpoint.com>
Cc: Peter Klug <ptklug@gmail.com>; Ryan Savage <ryan.savage36@gmail.com>
Subject: The Town Club

BARBARA W. DONNER
KENNETH O. DONNER
8241 NORTH GRAY LOG LN
FOX POINT, WISCONSIN 53217
(414) 272-4470

April 7, 2024

Village of Fox Point
Attn: Village Board
7200 N Santa Monica Blvd
Fox Point, WI 53217

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

Dear Village Board:

We are writing in support of The Town Club's Application for Permits to refurbish their hard court 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 you approve the permits.

Very truly yours,

/s/ Barbara W. Donner
BARBARA W. DONNER

/s/Kenneth O. Donner
KENNETH O. DONNER

From: **Sandra Dunst** sdunst999@gmail.com
Subject: Town Club Condition Use Permit - Written comments for Public Hearing at Village Board Meeting, April 9
Date: April 5, 2024 at 10:47 AM
To: efonstad@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, gollman@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, csymchych@villageoffoxpoint.com, canderson@villageoffoxpoint.com
Cc: Abby Schroeder Abby@thetownclub.com

To members of the Fox Point Village Board:

I am unable to attend the April 9 meeting to address the Board in person. **Please consider my written comments submitted in support of the Town Club Conditional Permit for which the Planning Commission affirmed that permit requirements were met in its April 1 meeting.**

I am a 40 year resident of Fox Point. We chose Fox Point because of its family friendly environment, wonderful green space and thoughtful and careful planning of nonresidential development to allow the village culture to stand out from other Northshore communities. Over our 40 years we enjoyed watching baseball at the Longacre diamond (now gone), village pool (neglected for way too long), ice skating (climate change an obstacle) and all of the recreational spaces, parks and playgrounds which have, thankfully, been well maintained. We have lived in 2 different homes in Fox Point (Longacre Rd and N Fairchild Rd) and count many neighbors as friends who have made their homes here for similar reasons.

The Town Cluh is another Fox Point "jewel" that has been an institution in the village, pre-dating many of the homes since 1955 and offering outdoor recreation. In my 40 years of residence I have only experienced the Cluh as a great community neighbor. Our son worked there as a server for several years and our daughter was a lifeguard. I recently became a member of the Club, primarily for its pickleball and social offerings. The Club has become my primary source of healthy activity. Socially, we have now expanded our circle of friends - there are 173 Fox Point residents that are members - including close "neighbors" in other Northshore and Mequon communities. I appreciate, too, that I have the ability to invite my friends to join me as guests of the Club.

The Village has recognized that pickleball is a recreational activity, a modern extension of racquet sports, that its residents play and want as an option in village parks. As a Fox Point resident, I am aware that the Village has recently completed or will soon complete an upgrade 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. aud I am happy to have another option to enjoy this sport. I am not aware of any public hearings that were held before the Village invested in these community parks that are located in residential areas. In contrast, the Town Club has listened to inpnt from neighboring properties and has gone a step further than the Village by incorporating sound reducing mats in its plan to upgrade its existing facility.

The Town Club courts that are used for pickleball have been on the property and in use since 1970. Tbey are in disrepair and resurfacing is required for safe play. The proposed court upgrade does not extend the current court footprint and the upgrade does not include outdoor lights which would extend the hours available for play. Like the parks, play is naturally restricted to day time hours which avoids the need for active enforcement - players simply can't play without natural lighting. And, as mentioned, the plan adds noise abatement mats which is an upgrade to the current facility.

It's my understanding that there havc been no complaints filed with the Village or to the Town Club directly related to pickleball play. Club culture is to be respectful of our members, our guests, our employees, and our neighbors. For example, as a member I see frequent, written communication and reminders about Club rules. And we know that there are 173 of "us", residents of Fox Point, that value our village culture and what it means to be good neighbors.

I urge you to accept the Planning Commission recommeudation to approve the Town Club's Conditional Use permit.

Thank you for your service to the Village and consideration of my input,
Sandy Dunst

Sandy Dunst
7840 N Fairchild Rd, Fox Point WI
Mobile 414-559-9246

Sara Bruckman

From: Christine Symchych
Sent: Sunday, April 7, 2024 7:09 PM
To: Scott Botcher
Subject: Fw: Town Club Permits for Pickleball

Scott

Please enter into the record

Thank you
Christine

From: Bill Ford <wfford@yahoo.com>
Sent: Sunday, April 7, 2024 5:24 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Town Club Permits for Pickleball

Fox Point Village Trustees,
I am writing as a village resident and Town Club member to express my support for the Town Club's application to install dedicated pickleball courts at the south end of the club's campus.

The Town Club has met all criteria for both permits, as was resolved by the Plan Commission at its April 1st meeting.

While some neighbors have expressed concern about noise from pickleball courts, it is important to note several things about this concern. First, the club has used the proposed location for pickleball lessons, leagues, social play and mixers for the past 3 summers, and there have been zero noise complaints related to pickleball during that time. Second, the club has researched noise abatement options and found a solution that significantly reduces any noise heard outside of the courts. Additionally, the proposed courts will not be lit, and play will be limited to a designated time in the morning until dusk. Finally, the proposed location of the courts is about the same distance to nearby residences as for the village's courts by Stormonth and Indian Creek, so the club's proposed courts would not create any more of a noise nuisance for nearby residents than the village's courts.

I think it is also important to weigh the concerns of a relatively small number of the club's neighbors against the club's broader benefit to the Fox Point community. There are currently 173 adult residents of Fox Point who are Town Club members who would benefit from an upgraded offering and more viable club. The club also welcomes many residents as guests. Also, a lot of teenage village residents who are not members work at the club and benefit from the employment opportunities that the club offers. A significant number of the club's recently joined members are relatively new to the North Shore, and so having the Town Club in Fox Point is an attractive amenity to people looking to move to the village. All of this is to say that the club is an asset to the Fox Point community, both for members and non-members.

I hope that the Trustees will vote based on the club's meeting of the established criteria for the permits. I also hope that the Trustees will objectively consider the likely noise impacts and will also consider the benefits of the club to the larger Fox Point community.

-Bill Ford

From: **Adam Fuerst** adamfuerst@gmail.com
Subject: Town Club Pickleball Courts
Date: April 5, 2024 at 12:55 PM
To: gollman@villageoffoxpoint.com

Dear Mr Ollman,

Please see my letter attached expressing my support for the Town Club pickleball court project that is currently being reviewed by yourself and other village board members.

Kind Regards,

Adam

PDF

Greg Ollman TC Letter.pdf

FROM THE DESK OF

ADAM FUERST

April 5, 2024

Greg Ollman
Fox Point Village Trustee
7200 N Santa Monica Blvd
Fox Point, WI 53217

Dear Mr Ollman,

I hope this letter finds you well. I am writing to you as both a Fox Point resident and a Town Club member regarding the review of the pickleball courts that require resurfacing due to age at The Town Club. As an active participant with the Town Club's racket sports and a resident who deeply cares about the well-being and development of our community, I believe it is important to share my perspective on the project, which I deeply support.

As someone who has closely followed this project, I feel that the Town Club has diligently met and satisfied all the requirements of the village ordinances concerning the pickleball permit. The Town Club is run by community leaders who are dedicated to upholding the regulations set forth by the village and ensuring compliance in all aspects of their operations.

I also want to recognize the Town Club's longstanding commitment to being good neighbors, both as an organization and at the individual member level. I know several board members at the club, all of whom are dedicated to maintaining positive relationships within our community. At the member level, I am constantly thinking about the surrounding neighbors and how to ensure positive relationships with those that might be within earshot or have visibility of the courts. Many of the individuals I personally play with live within just a few blocks of the courts and see the surrounding neighbors not just as Town Club neighbors but as personal neighbors.

While I moved to Fox Point with my wife in 2019, I know that The Town Club has been a cornerstone of outdoor recreational activities in our community since the 1950s, with facilities designed for tennis, platform tennis, and swimming. The specific courts under consideration for pickleball use have been in existence since the 1970s and are in urgent need of resurfacing due to serious deterioration from time and use. It is important to note that the proposed pickleball courts will not affect the platform tennis courts, which I understand is a potential concern.

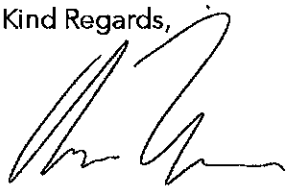
Unlike the platform tennis courts, there are currently no outdoor lights for pickleball, and playing times are limited from 8 am to dusk, ensuring minimal disruption to the surrounding area. What I can gather from meeting with the board members at Town

Club is that in the past three years, there have been no complaints registered with either the Village or the Club regarding pickleball-related issues. It would seem that this really underscores the lack of negative impact associated with these courts.

As both a Fox Point resident and a Town Club member, I hope this perspective helps guide your decision regarding these courts. By supporting this initiative, we can enhance recreational opportunities for residents, promote healthy lifestyles, and strengthen community bonds.

Thank you for your attention to this matter, and I look forward to your thoughtful consideration.

Kind Regards,



Adam Fuerst

From: **Aaron and Kara Ginster** ginsterfamily@gmail.com
Subject: Our Children Also Support No Pickleball Permit! Please Let Them Play Outside!
Date: February 25, 2024 at 1:28 PM
To: Christine Symchych csymchych@villageoffoxpoint.com, efonstad@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, Catie Anderson canderson@villageoffoxpoint.com, gollman@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, sbotcher@villageoffoxpoint.com, millerforvillagetrustee@gmail.com

From: **Aaron and Kara Ginster** ginsterfamily@gmail.com
Subject: Pickleball Permit
Date: February 22, 2024 at 9:15 PM
To: undisclosed-recipients:;
Bcc: gollman@villageoffoxpoint.com

Dear Village Board Members,

Aaron and I live at 804 E Hyde Way, if you've ever walked down Boyd Way our home is at the corner of Hyde and Boyd. We are writing to you to ask that you do not support the conditional Pickleball permit for the Town Club. Aaron and I moved to Fox Point in 2016, we fell in love with our home, especially the large yard where we enjoy many days playing outside with our 6 and 4 year old. I grew up in Hawaii, so being outside is often where I feel most at home. I love our outdoor space - in fact, last summer we built out our patio so that we could spend more of our days lounging outside with our children. I'm sure if you've ever walked down Boyd Way, you've seen us on many occasions playing with our children or working in our garden.

Community means a lot to us. Aaron's parents live right across the street on Boyd Way and we know just about everyone that lives around here. Many of my closest friends are or were my neighbors. We don't want to move our family. We are happy here and love our home. We plan to make many more memories here with our children, our friends, and neighbors.

As you can imagine, the thought of a pickleball court nearby creates a lot of unease and anxiety for us. Even before I became aware of this issue, I read an article in the NY Times regarding the disruption, annoyance, and noise pollution pickleball creates in the lives of the people that must hear it nonstop. According to this article from KPBS, **the best solutions are not sound barriers, it's the actions/decisions that are made (i.e., you make) right now before anything is developed.**

I know there are likely more complex issues at play here. But my question is simple - what would you do if you were in our shoes? We have elected you, board members, to make the hard and difficult decisions that are of the best interest for your community and the people that live here. While the Town Club resides in our community, it is not a community center open freely to the public like our library. It caters to an elite sub-population (many of whom are not Fox Point residents) that can afford the luxuries of their activities and programs. And unfortunately, it sounds like they can leverage their money/power to pay for lawyers to add more pressure on this decision. Please don't make decisions out of fear, make decisions out of what is best, what is right, and what you would want for your family.

Please support our lovely community here. Thank you for your time.

Respectfully,
Kara and Aaron Ginster

Sara Bruckman

From: Christine Symchych
Sent: Monday, April 8, 2024 4:45 PM
To: Scott Botcher
Subject: Fw: Town Club & Our Community

for the record

From: Glaisner, Michael <MGlaisner@rwbaird.com>
Sent: Monday, April 8, 2024 1:14 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Town Club & Our Community

Village of Fox Point Board Members,

I'm writing to express my support for Town Club and its benefit to our community. Town Club is a social anchor of families in Fox Point as a place to gather, participate in sports and for events to be held. In our family, Town Club has and continues to employ my 17 year old daughter as a life guard and our 15 year old daughter is applying to work there this summer because she believes that The Club would be a good employer. I hope that Town Club remains a vibrant part of our community.

Thank you for your consideration!

Long time Fox Point resident,

Mike Glaisner -- 7115 North Barnett Lane – cell: 414-469-4060

Michael J. Glaisner
Managing Director
Institutional Equities & Research
Robert W. Baird & Co.
414.298.7519

Baird's 2024 Conferences:
Global Consumer, Tech & Services Conference | June 4-6 | New York
Global Healthcare Conference | September 10-11 | New York
Global Industrial Conference | November 12-14 | Chicago

https://www.rwbaird.com/ci/sales-trading/equity-sales-trading/ies-disclaimer.aspx

BRIAN HARTNETT
781 N. BOYD WAY

Dear Fox Point Village Board,

I would like to present reasons why you should consider denying the permits to build pickleball courts at the Town Club.

Let's start with the obvious, the noise pollution it generates. There are many articles out there, but I chose this example because it draws a comparison most of us are familiar with, expressway noise.

https://www.businessinsider.com/pickleball-court-noise-driving-us-all-crazy-scientists-trying-solution-2023-11

Pickleball whacks are loud — they have been registered to reach 85 decibels, though games usually peak at about 70 decibels or about as noisy as a vacuum cleaner or a freeway. But that's not loud enough to damage the ears, professor Nicole Laffan told Northeastern Global News.

Considering I can hear the freeway from my house .75 miles away on a clear night, it stands to reason the pickle ball whacks will be heard up to .75 miles away. What the state of Wisconsin did for the neighborhoods of Glendale, Fox Point and Bayside to help with the noise was to build a 30 foot high concrete wall. Not because it will prevent hearing damage but because it is a nuisance. I will not know until summer how well the wall works and I am not suggesting they build a 30 foot concrete wall but compared to that, a windscreen will only help prevent the pickleball from being blown around. It will have little to no effect on lowering the noise as is evident from the paddleball courts. I believe some of my neighbors provided you with video of this.

Second would be property values drop around pickleball courts. I'm in the 10 to 20% range as I am directly across the tracks from the planned courts. I found this information at the following site and the negative certainly outweighs the positive.

https://www.financialsamurai.com/quantifying-pickleball-impact-on-real-estate-prices/

Quantifying Pickleball's Impact On Real Estate Prices	
Distance	**Impact On Real Estate Price**
Across the street	Negative 10% to 20% (or nonstarter)
One or two blocks away	Negative 5% to 10%
Three blocks away	Neutral to negative 5%
Four-to-six blocks away	Neutral to positive 5%
Six-to-twenty blocks away (1 mile)	Positive 1% to 5%
More than one mile away	Neutral to positive 2%

Negatives of pickleball: noise, traffic, parking, injuries
Positives of pickleball: fun, healthy exercise, community

Source: Sam Dogen, FinancialSamurai.com, a 20+-year real estate investor and 4.25-level pickleball player

Third would be the impact on birds and wildlife.

Per the U.S. National Science Foundation noise and light pollution has an impact on migration and breeding.

"The biologists found that light pollution causes birds to begin nesting up to a month earlier than normal in open environments such as grasslands and wetlands, and 18 days earlier in forested environments. The consequence could be a mismatch in timing -- hungry chicks may hatch before their food is available."

"When considering noise pollution, results showed that birds living in forested environments tend to be more sensitive to noise than birds in open environments. Noise pollution delayed nesting for birds whose songs are at a lower frequency and thus more difficult to hear through low-frequency human noise."

https://new.nsf.gov/news/noise-light-pollution-affect-breeding-habits-birds

Since Fox Pox is a "Bird City" per the website, I would think we would not want to create an unfriendly environment for our residents or the wildlife our beautifully treed neighborhood provides. I for one would also be very sad to lose our "Bird City" designation after working so hard to get it.

https://www.villageoffoxpoint.com/174/Bird-City-Wisconsin

"We Won!

On March 22, 2012 the Village of Fox Point received notification that it had achieved recognition as a Bird City Wisconsin! The Village has successfully retained this designation in the succeeding enrollment periods. Today, we join 87 other Wisconsin political subdivisions that hold this title. Much like the "Tree City USA" (Fox Point has been recognized for the past 25 years); Bird City is a program to increase the public awareness of birds, especially in urban environments."

I would believe this is especially true because you even provide information on how to protect and create a safe habitat for them.

"Protect Birds

Additionally, several other requirements included: information on how to protect birds from window-strikes, plus information to property owners on ways to create and enhance backyard habitat for birds. To the right, you will find a wealth of information about both of these topics, plus additional website links. "

Also we are a "Tree City". After we had several ash trees cut down due to the emerald ash bore, we replaced them by planting an elm, oak, maple, pear and red bud. The Town Club still has not removed the ash trees cut down on their property, let alone replace them with anything. This makes me feel that they are not invested in our community or share our vision or mission.

I would believe this is what attracts most residents to Fox Point. Not a club that provides pickleball courts for members that can afford it. People who like to play for fun will play on the tennis courts Fox Point provides. People who play in leagues and at clubs tend to be competitive and more boisterous. Again, I believe this is proved by the paddle ball court videos provided.

Fourth, the cost to Fox Point.

For a very little investment, the Town Club will undoubtedly bring in more members. However, this will not drive up their property value and property taxes would remain as is. It will however drop the property taxes in a 3 block radius costing Fox Point Money. If they were looking to create indoor courts

like the River Tennis Club did in River Hills, then the village would be able to raise the property value and thus their taxes making money for the village.

Also per NBC News. Bone fractures related to pickleball have increased 200% over the last 20 years.

https://www.nbcnews.com/health/health-news/pickleball-injuries-rising-bone-fractures-rcna137044

This means more noise with the ambulances and cost to the village of Fox Point and thus the taxpayers.

Fifth, I believe it goes against the mission of Fox Point as stated on the website.

"Our Community

Fox Point is a stable community of quiet tree-lined lanes and wooded areas, beautiful ravines, and stunning Lake Michigan vistas. Residents enjoy top-notch schools, high quality Village services, a wide range of housing options, a variety of local businesses to serve their needs, and a convenient location to downtown Milwaukee."

"Our Goals

The Village is committed to protecting and enhancing residential quality of life, and to maintaining its tradition of high quality municipal services and amenities in order to preserve a community that is tranquil, secure, and attractive and desirable."

"Mission Statement

The mission of the Village of Fox Point is to protect and enhance the quality of life of its residents by providing cost-effective, efficient and innovative services, preserving and maintaining Village neighborhoods and public amenities, fostering community pride and spirit, and encouraging active citizen participation."

I would especially like to point out that you mention "protect and enhance the quality of life of its residents" twice. This will do the exact opposite by

generating noise pollution, loss of property value and being a detriment to the health of the resident living around the courts. It also is possible it will destabilize the neighborhood by pitting neighbor against neighbor. This would go against the mission of Fox Point.

It will more than likely generate lawsuits. Again costing the village money and the thus the taxpayers. That is not an enhancement or good for anyone.

Finally, the fact they want a provision that prevents Fox Point or its resident from suing them, tells me that they are fully aware of the nuisance pickleball courts cause and how it lowers property values around them. To me it says they are not acting in good faith and only looking to make money at the cost to of their neighbors and Fox Point. I believe this to be true because, after talking to us after one of the meetings, they took our names and contact information to get together and discuss a solution. I have yet to hear from them making me believe they are not really interested in finding a solution because they know it will cost them money. Also, it was my understanding the Town Club was closed on Sundays. Yet, the paddle ball courts lights are on and several people are playing as I type this. To be fair, I could be wrong about this but there are never any cars at the building on Sunday, only the paddle ball courts.

In my opinion, giving any entity carte blanche to do whatever they want without any recourse would be irresponsible of the people sworn to protect and enhance the quality of life of its residents and assume most residents would feel this way. This in no way protects or enhances the quality of life for the residents of Fox Point.

If nothing else, do not give them this provision. Protect your residents and the Village of Fox Point, ensure our quality of life is not diminished and ensure they take all necessary steps to block the noise and prevent property values from dropping and if they do not, action can be taking against them.

Thank you for your consideration,

Brian Hartnett

7801 N. Boyd Way

Emily and Nicholas Horsfield
1500 E. Goodrich Lane
Fox Point, WI 53217

April 8, 2024

Via Email
Fox Point Village Board Members (list omitted)

Dear Board Members:

We are residents of Fox Point and members of Town Club. Please consider the within letter in support of the Town Club's request to approve the conditional use permit allowing improvements to the pickleball courts and pickleball use at the club. We are unable to attend the Village Board meeting in person on April 9, 2024.

We recommend the Board approve the permit for the following reasons:

- The Town Club has met and satisfied all the requirements of the village ordinances regarding the pickleball permit. To be clear, the permit is regarding the pickleball courts only, and not the platform tennis (aka paddle) courts.

- The Town Club and its members try their best to be good neighbors. We have been so in the past and will continue to be so in the future.

- The Town was built primarily for outdoor recreational activities (tennis, platform tennis, swimming) and has been there since the 1950s on a parcel of land specifically zoned for that. The railroad tracks have been there since the 1850s.

- The specific courts in question (the three hard court tennis courts on the south end of the property) have been there since the 1970s in full-use, and pickleball has been played on these for the last three years. The courts are in serious disrepair and need to be resurfaced. Denying the Town Club's permit will equate to denying Town Club's right to use its property – there is no plan to add fencing or change the exterior footprint of the pickleball courts in question.

- We do not believe the improvements to the Town Club's pickleball courts will be a nuisance to neighbors. We are unaware of any complaints to the Village or to Town Club within the last three years about pickleball noise and/or anything else related to pickleball. In addition, there are no outdoor lights for pickleball, with playing times from 8 a.m. to dusk.

In conclusion, we respectfully submit that the Village Board Members approve the Town Club's request for a permit regarding its pickleball courts.

Thank you for your time and attention to this matter.

Sincerely,
Emily & Nicholas Horsfield

Cc: Town Club Board of Directors (*via Email*)

Sara Bruckman

From: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Sent: Tuesday, April 9, 2024 10:04 AM
To: Scott Botcher
Cc: elarson@ammr.net
Subject: FW: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

From: Abby Schroeder <Abby@thetownclub.com>
Sent: Thursday, March 28, 2024 12:32 PM
To: Jaekels, Christopher J. <CJaekels@amundsendavislaw.com>
Subject: FW: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Scott,
This is email/letter of support number 60 regarding Town Club pickle ball. It came in a day after our self-imposed deadline for our March 27 submittal. I know others are writing to the Board but I simply wanted this to be put in the record.
Thanks,
Chris

From: Julie Spadafora <jkspad@gmail.com>
Sent: Thursday, March 28, 2024 7:40 AM
To: Abby Schroeder <Abby@thetownclub.com>
Subject: Re: [External] URGENT PLEASE READ AND RESPOND - OUR CLUB NEEDS YOUR HELP!

Ohh Abby - I think I was traveling the day this was sent and I am just getting to it.

I am happy to send this onto Fox Point Village if you need, please let me know.

I am in full support of the Town Club upgrading the tennis and pickle ball courts.
I do not believe that the courts would cause a nuisance OR hazard NOR
will they be detrimental to the general public welfare.
These courts have been at the Town Club for years.

Julianne Spadafora - 7731 North Club Circle, Fox Point.

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

--
Thanks so much,
Julie

Scott,

I live at 7805 N Boyd Way. The Town Club paddle courts and tennis courts are directly in my backyard. We have been here nearly 10 years and I find it unfathomable that the Village is considering allowing the Town Club to install pickle ball courts. I am not sure if I can make the meeting next Tuesday to discuss this, so I wanted to get my thoughts to you beforehand.

In no way should this club be allowed to expand anything. We should be looking to tear down the Paddle Ball courts that were somehow allowed to be installed. As I write this, I am listening to the music and screaming of two groups currently playing. It's 30 degrees outside, so my windows are closed, but I can still hear all the noise pollution. The noise starts at 8am everyday and continues typically until after 11pm. It's a constant source of irritation and frustration, and these words aren't even strong enough. My wife and I have talked of moving, but with the market the way it is we are stuck. There is no way to peacefully enjoy our backyard. Our windows never come open from the spring all the way to the fall when most people would enjoy such things. The quality of life in the blocks anywhere near this club is significantly diminished.

There is no repercussion to any of the abhorrent behaviour shown by the members of this club. I have tried to call the clubhouse directly to ask the members to turn down the music and stop the noise. This doesn't work. I have tried to call the Town Club management to see if they can assist or at least turn off the music. (Again, I can't believe we allowed speakers to be installed). This does not work. I have on a few occasions called the Fox Point Police Department so see if they could quiet them down. This also does not work.

Now onto the pickle ball courts. So many news stories from across the country have reported how pickle ball has completely ruined neighborhoods. The noise would be 10 times worse than the already unacceptable paddle courts. There is no curtain in the world that will make this alright. It astonishes me that this is even being considered. Please do not allow this to happen. This club is already ruining quality of life in this neighborhood that is supposedly one of the best in Southeast Wisconsin.

Thank you for your time and consideration,

Kevin King

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

Scott Botcher

From: boydway4@aol.com
Sent: Monday, January 29, 2024 1:10 PM
To: Scott Botcher
Subject: Pickleball at the Town Club

Hello Scott. My name is Chris Kondrick. I live at 7901 N. Boyd Way. My wife and I have lived here for 30+ years.

Regarding Pickleball, I know that the game is exceptionally loud. It is the nature of the hardness of the paddles and the balls. Every time the ball strikes the paddle it makes a high pitched knock that is very piercing. Players usually make the typical grunts and screams of joy and frustration.

While my home is approximately a block away, I suspect the noise will carry, especially on a day with a south to north breeze. The light pollution from night time lights could also alter the night sky.

For these reasons, if Town Club wants to have pickleball courts right next to neighboring homes, I feel they should proceed only in there are total sound and light barriers. Without such protection, neighboring properties will surely lose value and be harder to sell when that time comes.

If questions, feel free to contact me.

Sent from the all new AOL app for iOS

NO

From: **Scott Botcher** sbotcher@villageoffoxpoint.com
Subject: FW: Town Club Conditional Use Permit for Pickleball
Date: February 6, 2024 at 7:13 AM
To: Catie Anderson canderson@villageoffoxpoint.com, Christine Symchych csymchych@villageoffoxpoint.com, Elizabeth Aelion eaelion@villageoffoxpoint.com, Elizabeth Sumner lsumner@villageoffoxpoint.com, Eric Fonstad efonstad@villageoffoxpoint.com, Greg Ollman gollman@villageoffoxpoint.com, Jennie Stoltz jstoltz@villageoffoxpoint.com
Cc: Kevin Ausman kausman@villageoffoxpoint.com, Sara Bruckman SBruckman@foxpointwi.gov

Good morning-

Forwarded.

Scott A. Botcher
Village Manager
Village of Fox Point
414-247-6620

VILLAGE OF
FOX POINT

From: Jim Krahn <jimkrahnart@gmail.com>
Sent: Monday, February 5, 2024 6:25 PM
To: Scott Botcher <sbotcher@villageoffoxpoint.com>
Subject: Town Club Conditional Use Permit for Pickleball

To: Members of theFox Point Village Board
From: Jim Krahn, 7633 N Boyd Way,Fox Point
Date: 2/5/24
Re: Town Club Conditional Use Permit for Pickleball

In Reviewing notes from the board meeting and conversations with neighbors who will be impacted by the expanded conditional use permit for pickleball, I thought it important to share a few thoughts regarding the issues.

Some residents argue they love pickleball, while others grew up with the Town Club and love it. Whether one loves pickleball or has fond memories of the Town Club - this is not the issue.

From my viewpoint the issue or opportunity is to see if a feasible plan can be found to allow pickleball to be expanded at the Town Club while allowing their neighbors to enjoy their homes, which they cherish. Some of these neighbors might actually enjoy pickleball, just not in their backyard.

So, how do we as a community move forward?

So, how do we as a community move forward?

The first step is to address the noise levels that have pitted neighbors and clubs against each other all over the country. An independent sound engineer needs to be hired by the Village Board to do a comprehensive study as to noise impact on the neighborhood. The Town Club should pay for this cost, as they are initiating the conditional use permit. The study will benefit the Town Club in that it should ensure that what is proposed by the expert consultants would be a remedy to satisfy surrounding neighbors. To not do this and proceed could prove very costly if needed to be rebuilt. I am certain the Town Club would not be interested in doing it twice.

Another issue/opportunity is addressing the lighting and how it negatively affects the neighbors in the immediate area of the courts. A viable plan that satisfies the neighbors should be in everyone's best interest.

If these two issues/opportunities are addressed to all party's satisfaction, the remaining concern is hours of operation and the management of this for possible violations. Once an agreed upon plan for the WHEN, the concern regarding the HOW it is managed has to be addressed. As with any private country club, it should be the responsibility of the ownership of the Club to ensure there are no deviations from the agreed upon policies. An employee of the Town Club should always be readily available when pickleball is being played. This allows the neighbors to report any issues. If managed properly by the Club, a neighbor should almost never have to contact the manager on duty. This would keep our police force free to do more important tasks while on duty.

Anything short of these important steps does a disservice to the immediate neighbors, the Town Club and this great Fox Point Village!

Jim Krahn
7633 N Boyd Way

Sara Bruckman

From: Ted Noll <tednolljr@gmail.com>
Sent: Sunday, April 7, 2024 5:11 PM
To: Scott Botcher
Subject: Objection - Town Club Pickle Ball Court Proposal

Greetings Scott

I live at 7807 N Santa Monica Blvd in Fox Point and live directly across the street from the Town Club and their paddle ball driveway. We have lived in the house for 18 years. My wife and I are unable to attend the open meeting this coming week but wanted to register a formal objection to the expansion of the clubs ability to use its facility for pickle ball. For the most part, the Town Club does not generally affect us as home owners, but there have been countless times over the last 18 years, when the noise and activity at the club is excessive and is very disturbing to the residents in the area. While we have been tolerant of their current activity level and would not call the police or make a formal complaint, we are very concerned that the expanded activities will add to this already busy club and the resulting noise and chaos would further reduce the quality of life that we pay an exorbitant amount of taxes for…. which is not what we want or expect as residents of this village. In addition, we are concerned that this may also have a negative impact on our property values if the noise and activity becomes more of a nuisance. We have no interest in living across the street from what could be a "full on" business or recreational facility!!! If they are interested in spending money on their facility, maybe they can improve their constantly dying evergreens and eroding brick walls… It is a visual eyesore. If you could, please pass this formal objection along to whomever is a decision maker within the Village of Fox Point organization.

Thank you!
Ted and Sandy Noll
7807 N Santa Monica Blvd

Sara Bruckman

From: Christine Symchych
Sent: Monday, April 8, 2024 9:41 PM
To: Scott Botcher
Subject: Fw: Pickleball Courts The Town Club

For the record

From: Martha Olla <molla@kw.com>
Sent: Monday, April 8, 2024 9:27 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Pickleball Courts The Town Club

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.

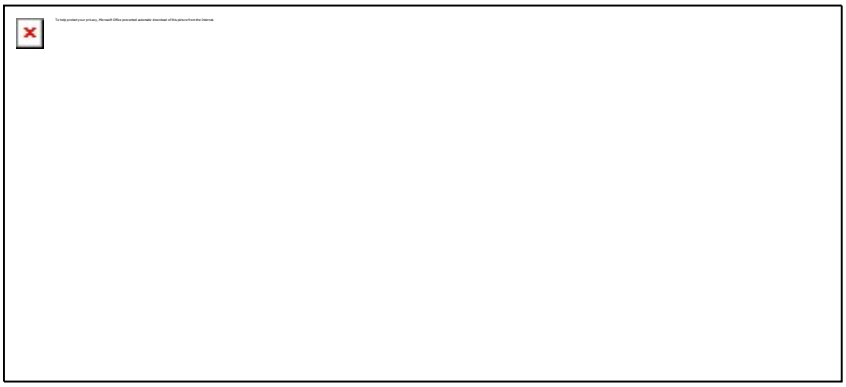
- **Not detrimental to the general public welfare**

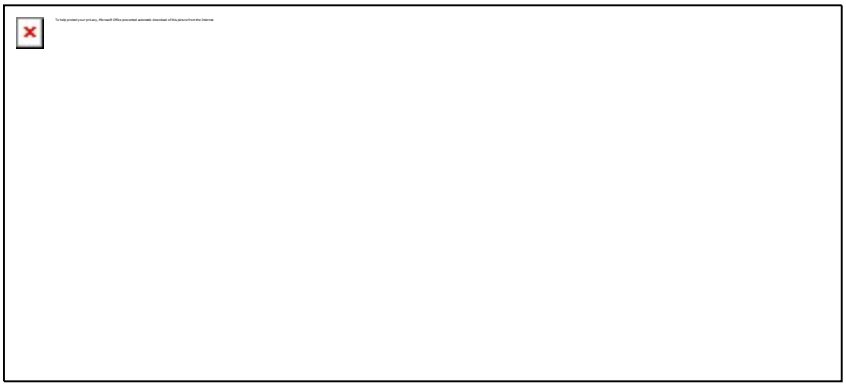
The courts nor the grounds are not open to the general public . This is a private club and will remain that way. These courts are not any different than the courts at Stormonth Elementary. Matter of fact, I grew up on the corner of Mall RD and Crossway (Martha) and our family frequently used the Stormonth 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





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From: **Keri Sarajian** kerisarajian@gmail.com
Subject: Town Club Court Enhancements - Village Board Meeting Agenda Item
Date: April 7, 2024 at 2:16 PM
To: efonstad@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, gollman@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, csymchych@villageoffoxpoint.com, canderson@villageoffoxpoint.com
Cc: Rick Stratton rick@feed.us, Abby Schroeder Abby@thetownclub.com

Dear Village of Fox Point Board Members,

My husband, Frederick (Rick) Stratton III, and I are writing to express our full support for the plans to upgrade the tennis facilities at Town Club and add pickleball courts. Having worked with the Architectural Review Board, Planning Commission and Village Board in the construction of our home build in the past decade, we understand and appreciate the care and consideration with which plans are reviewed. Like the other 170+ residents of Fox Point who are also Town Club members, we support the thoughtful approach the Town Club has taken to bring this initiative forward. The Town Club has met and satisfied all the requirements of the Village ordinances in regard to a pickleball permit.

The Town Club and its members try their best to be good neighbors. We observed this thoughtfulness as Town Club members even before we moved from the east side to Fox Point, and certainly can attest to it now after having lived two blocks form the Club since 2015. It is a big part of the Club's culture to be respectful of its members, guests, employees (many of whom are residents of Fox Point), and neighbors.

The Town Club was built for mostly outdoor recreational activities (tennis, platform tennis/paddle, swimming), and has been on Santa Monica Boulevard since the 1950s—in a parcel of land specifically zoned for this purpose. The specific courts in question, at the south end of the property, have been in full use since the 1970s, and pickleball has been played on these courts for the past three years. These courts were a true blessing during COVID, enabling connection and activity SAFELY at a time of so much uncertainty. The rise in popularity of pickleball is a blessing for our members, enabling people of all ages to increase intermittent cardiovascular activity and social connection. However, for pickleball to truly work, the courts at Town Club must be upgraded to address structural cracks. The courts are in need of repair and must be resurfaced.

The Village itself operates pickleball courts at two locations in the Village, both of which are part of a two-year program schedule for repair and renovation. As such, it's clear that the Board understands the need for courts to be in good repair to allow the game to happen. Yet, the Village itself has not applied for a permit for the operation of the courts at Longacre Park or Indian Creek Parkway or for their renovation even though it is required to by the Village code.

The Town Club is not seeking to add outdoor lights to these courts where pickleball can be played. Playing times would be 8am to dusk. In the last three years, there have been NO complaints to the Village or the Club about pickleball noise or anything else related to pickleball.

Moreover, the Club welcomes guests from the Village, which means this nitiative will have benefit to the broader Fox Point community beyond the Town Club membership. We personally have many friends and neighbors in Fox Point whom we would love to invite to play pickle at Town Club.

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. Rick and I are in full support of these plans. We kindly request the Village Board's support of this valuable improvement initiative.

Best regards,

Keri Sarajian and Rick Stratton
1015 East Quarfes Place, Fox Point

Sara Bruckman

From: Christine Symchych
Sent: Monday, April 8, 2024 4:46 PM
To: Scott Botcher
Subject: Fw: Town Club Application for Pickleball Permit

for the record

From: Short, Mark <mark.short@chase.com>
Sent: Monday, April 8, 2024 4:37 PM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Town Club Application for Pickleball Permit

Village of Fox Point Board Members:

As long-time residents of Fox Point, we are writing in support of The Town Club's application for a pickleball permit based on all of the factors outlined below:

- The Town Club has met and satisfied all the requirements of the village ordinances in regards to a pickleball permit.

- The Town Club and its members try their best to be good neighbors. They have been so in the past and will continue to be so in the future. It is a big part of The Town Club culture to be respectful of its members, guests, employees, and neighbors.

- The Town was built for mostly outdoor recreational activities (tennis, platform tennis, swimming) and has been there since the 1950s on a parcel of land specifically zoned for that. The railroad tracks have been there since the 1850s.

- The specific courts in question (the three hard court tennis courts on the south end of the property) have been there since the 1970s in full -use, and pickleball has been played on these for the last three years. The courts are in serious disrepair and need to be resurfaced.

- The Village of Fox Point itself operates pickleball courts at two locations in the Village, (Longacre Park and Indian Creek Parkway) both of which are part of a two-year program schedule for repairing and renovation. The Village has not applied for a permit for the operation of those courts or for their renovation even though it is required to by the Village code.

- It Is important to note that what is up for discussion here are the pickleball courts ONLY and not the platform tennis (aka paddle) courts.

- There are no outdoor lights for pickleball. Playing times are 8 am to dusk.

- In the last three years, there have been no (zero) complaints to the Village of Fox Point or The Town Club about pickleball noise or anything else related to pickleball.

- There are at least 173 adult residents of Fox Point that are also members of The Town Club.
- The Town Club welcomes guests from the Village and employs Village residents.

Based on all of the above, we ask that you support The Town Club's application for a pickleball permit.

Thank you for your consideration.

Mark and Gigi Short
425 E. Apple Tree Rd.
Fox Point, WI 53217

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

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From: **Stephen Spadafora** stephen.spadafora@gmail.com
Subject: Support Letter: Town Club Outdoor Recreational Permit (Pickleball)
Date: April 5, 2024 at 1:55 PM
To: efonstad@villageoffoxpoint.com, jstoltz@villageoffoxpoint.com, eaelion@villageoffoxpoint.com, gollman@villageoffoxpoint.com, lsumner@villageoffoxpoint.com, csymchych@villageoffoxpoint.com, canderson@villageoffoxpoint.com

Village Board Members,

I'm writing to you again to **express my full support for the Town Club Permit for PickleBall**. As a **21+ year village resident**, within an arms throw from the Town Club facilities, our family fully supports this for the following reasons.

#1: The request **holistically meets the 4 criteria** for approval.

#2: **The Town Club provides significant benefits for the Fox Point Community**. This Club has been contributing to the benefit of the village, always going out of its way to be a great neighbor since its move to the current property in early 1950. This benefit extends beyond Town Club Members - many times during the summer months my wife and I host our neighborhood (Club Circle Friends) at the town club for pickle, dinner, and more.

#3: **The Town Club has been playing/hosting pickleball on the existing tennis courts for 3+ years without a single complaint.** I have pictures of village residents playing on the courts should anyone be interested in this.

#4: I struggle to understand why the village board has delayed this request for such a long period. How is it that the **village installed pickleball in two (2) locations without delay and additional approvals**, but the Town Club is being put through an extensive process? If the process is new, then why hasn't the village sent out a notice that pickle is not allowed on the new courts due to new processes and procedures? **I don't understand why the village is delaying the Town Club's request to repair existing infrastructure**, which is needed to ensure a safe environment.

#5: Look at the **impact pickle is having from a community perspective in whitefish bay?** We need to get with the times. I understand some of the board members have played on these courts? Is Fox Point too good for this?

#6: **Boyd Way:** A few important points here. First, see #2 above. The town club has always gone over and above to be a good neighbor. For the Boyd Way exception group, **how many of these residents bought their home before 1850 when the train tracks started? How many of these residents purchased their home before 1950 when the Town Club was moved to Fox Point?** The vast majority of these residents purchased their home after both events above. They knew they lived on train tracks, they knew the property abutted the Town Club. **It is not possible that pickleball would be louder than a train, or the friendly sounds of summer.**

#7: Per acceptance criteria, the **Town Club contributes to higher property value** in the village. The Town Club has been playing pickle for 3+ years. Have property values been negatively affected during this period? My property value and taxes only continue to go up. If Pickle negatively affects property value, then how did the village approve the new courts at Longacre and Indian Creek? This feels like a double standard; the village is setting precedence that business is not welcomed in the village. This is a bigger problem: as a resident, I see all the surrounding villages getting with the times. Look at the impressive impact businesses are making in Shorewood, WFB, and even mequon. Meanwhile, our store fronts are vacant.

#8: Noise: The sounds of summer are positive in the community. I constantly hear the sound of a nicolet football game or kids playing at the fox point pool. This makes Fox Point feel like home to me. The only noise that annoys us is the sound of the train at night. Pickle is not a nuisance. it's not possible that pickle is louder than the other sounds of summer at the town club (kids in Town Club pools, having fun).

Julie and I ask the Village Board to approve this permit without delay so that the Town Club remains a safe place for residents to play Pickleball.

Kind Regards,
Stephen & Julie Spadafora
7731 N Club Circle, Fox Point, Wisconsin
stephen.spadafora@gmail.com
414-807-2743

Sara Bruckman

From: Christine Symchych
Sent: Tuesday, April 9, 2024 6:40 AM
To: Scott Botcher
Subject: Fw: Resurfacing approval for the Town Club Tennis/Pickleball Courts

For the record

From: Kaitlin Torres <kaitlin.d.torres@gmail.com>
Sent: Tuesday, April 9, 2024 12:59 AM
To: Catie Anderson <canderson@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Eric Fonstad <efonstad@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>
Cc: Abby Schroeder <abby@thetownclub.com>; ryan.savage36@gmail.com <ryan.savage36@gmail.com>
Subject: Resurfacing approval for the Town Club Tennis/Pickleball Courts

To the members of the Fox Point Village Board (Christine, Eric, Jennie, Elizabeth, Greg, Liz, and Catie),

I hope this letter finds you well. I apologize for the late send but I felt it imperative to reach out as a fellow resident of our village concerning the matter of the pickleball courts. Engaged deeply in our community, I lead a Girl Scout troop of 19 six and seven year olds, serve on the PTO board as President Elect, oversee several fundraising committees for Stormonth Elementary, and even being a prior member of the Fox Point pool (before I was even a resident).

Embracing the communal spirit our village offers, I've outlined several points below that I urge you to consider thoughtfully in your deliberations.

Although not a fervent pickleball player myself, my family's membership at the Town Club over the past year and a half has profoundly impacted us. We've become more active, healthier, and enriched our social lives. Our experiences at the Town Club have fostered new friendships, many of whom are not village residents but hold our community in high regard. Having been members of the Fox Point pool and the JCC prior, we've observed unparalleled dedication to upkeep and cleanliness at the Town Club, a testament to its commitment to our village. At a time when businesses struggle, the Town Club remains a steadfast employer of our village youth, a commendable contribution to our community.

Key points to consider:

- The Town Club has diligently adhered to all village ordinances regarding pickleball permits, going above and beyond requirements such as erecting higher fences to minimize stray balls (pickleballs don’t go very far- I’m awful and mine have never left the courts!).

- The Town Club and its members try their best to be good neighbors. We have been so in the past and will continue to be so in the future. It is a big part of our culture to be respectful of our members, our guests, our employees, and our neighbors. This is proven with every project they do - they make sure they are partnering with the village board and exceeding any requirement. I am aware of paddleball complaints. This is a different sport, but I am in the Monday night league and my husband is part of the Thursday night league. There is not a week that goes by that the last group on court is making sure the timers are scheduled correctly for the music and lights to go off promptly, if not before 10pm. Again, I am not a great player and the furthest I've seen the balls go is this swampy area just past the courts and west of the train tracks. I love the banter of all the players as we try to raise each other up and encourage new players to be confident. I relate it to the spring/summer nights that we would sit in the backyard and hear the Nicolet baseball practices/games going on or when we can't make it to a Rock the Fox concert- it's the sound of a community and why we chose to live here (we live about a block northeast of Stormonth).
- The Town Club was built for mostly outdoor recreational activities (tennis, platform tennis, swimming) and has been there since the 1950s on a parcel of land specifically zoned for that. The railroad tracks have been there since the 1850s. When my husband and I were looking at homes we chose not to put an offer on a house that backed into the train tracks specifically because of the train noise. The thought never crossed our minds about the Town Club because I love hearing the sounds of friends and family enjoying each other's company. I also appreciate businesses taking such large parcels of land in areas where houses could be but may be left unoccupied since they're harder to sell. I will say that I can easily continue a conversation during a game of pickleball but need to stop playing completely when the train goes past.
- The specific courts in question (the three hard court tennis courts on the south end of the property) have been there since the 1970s in full -use, and pickle ball has been played on these for the last three years. The courts are in serious disrepair and need to be resurfaced. I'd much rather see them get repaired rather than see them become the condition of the tennis courts on the private residence on Lake Drive.
- The Village itself operates pickle ball courts at two locations in the Village, (Longacre Park and Indian Creek Parkway) both of which are part of a two-year program schedule for repairing and renovation. The Village has not applied for a permit for the operation of those courts or for their renovation even though it is required to by the Village code. Is there a reason there are different standards for village use vs private businesses? I would hope our village shows these integral businesses equal respect to ensure we're not deterring new businesses from joining our community.
- It Is important to note that what is up for discussion here are the pickle ball courts ONLY and not the platform tennis (aka paddle) courts.
- There are no outdoor lights for pickle ball. Playing times are 8 am to dusk.
- In the last three years, there have been no (zero) complaints to the Village or the Club about pickle ball noise or anything else related to pickle ball.
- There are at least 173 adult residents of Fox Point that are also members of the Town Club.
- The Club welcomes guests from the Village and employs Village residents.

The Town Club is an important partner in this village and I hope you choose to make the right decision. It is a unique opportunity to have a small club with such a valued history. Knowing that the construction should've started in September, I can't imagine the extreme revenue loss the Town Club has faced during this extended delay. If it were to come down to it, I don't think the village residents would be grateful to have to pay for that loss - we have plenty of other uses for that money and our taxes recently took a drastic hit.

With warm regards, I will see you at the meeting (now tonight),

Kaitlin Torres
7460 N Lombardy Rd

Sara Bruckman

From: Christine Symchych
Sent: Tuesday, April 9, 2024 7:59 AM
To: Scott Botcher
Subject: Fw: Support of Town Club Pickleball Courts

For the record

From: Tami Vincent <tvincent2@wi.rr.com>
Sent: Tuesday, April 9, 2024 7:55 AM
To: Eric Fonstad <efonstad@villageoffoxpoint.com>; Jennie Stoltz <jstoltz@villageoffoxpoint.com>; Elizabeth Aelion <eaelion@villageoffoxpoint.com>; Greg Ollman <gollman@villageoffoxpoint.com>; Elizabeth Sumner <lsumner@villageoffoxpoint.com>; Christine Symchych <csymchych@villageoffoxpoint.com>; Catie Anderson <canderson@villageoffoxpoint.com>
Subject: Support of Town Club Pickleball Courts

Hello, I am a resident of Fox Point, and my husband, Mitch Vincent, and I support the Town Club construction of pickle ball courts in Fox Point.

- The Town Club has met and satisfied all the requirements of the village ordinances in regards to a pickleball permit.
- The Town Club and its members try their best to be good neighbors. We have been so in the past and will continue to be so in the future. It is a big part of our culture to be respectful of our members, our guests, our employees, and our neighbors.
- The Town was built for mostly outdoor recreational activities (tennis, platform tennis, swimming) and has been there since the 1950s on a parcel of land specifically zoned for that. The railroad tracks have been there since the 1850s.
- The specific courts in question (the three hard court tennis courts on the south end of the property) have been there since the 1970s in full -use, and pickle ball has been played on these for the last three years. The courts are in serious disrepair and need to be resurfaced.
- The Village itself operates pickle ball courts at two locations in the Village, (Longacre Park and Indian Creek Parkway) both of which are part of a two-year program schedule for repairing and renovation. The Village has not applied for a permit for the operation of those courts or for their renovation even though it is required to by the Village code.
- There are no outdoor lights for pickle ball. Playing times are 8 am to dusk.
- In the last three years, there have been no (zero) complaints to the Village or the Club about pickle ball noise or anything else related to pickle ball.
- There are at least 173 adult residents of Fox Point that are also members of the Town Club, Ourselves included!

- The Club welcomes guests from the Village and employs Village residents.

Please feel free to reach out with any questions or concerns.

Sincerely,
Tami & Mitch Vincent
8118 N. Poplar Dr.
Fox Point
414.228.4655

STATE OF WISCONSIN **VILLAGE OF FOX POINT** **MILWAUKEE COUNTY**

RESOLUTION NO. 2024-04

A RESOLUTION OF COMMENDATION AND APPRECIATION

WHEREAS Liz Sumner was first elected to the Village of Fox Point Board of Trustees in April 2015; and

WHEREAS Liz Sumner served as Fox Point Village Trustee from April 21, 2015 through April 15, 2021; and

WHEREAS Liz Sumner willingly has given her time serving the Village of Fox Point in numerous capacities, including as a member of the Administration Committee; and

WHEREAS Liz Sumner also has given her time serving the Village of Fox Point as a member of the Milwaukee County Board of Supervisors; and

WHEREAS Liz Sumner's intelligence, knowledge of government, and desire to serve and better her community to have earned her the recognition and appreciation of the Village of Fox Point; and

WHEREAS the Village and Village Board benefited from **Liz Sumner's** patience, diligence, involvement, and awareness,

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Fox Point formally acknowledges, with gratitude, **Liz Sumner's** valuable service and dedication to this Village and wishes her well in all her future endeavors.

PASSED AND ADOPTED this 14th day of May 2024.

_____
Christine Symchych
Village President

_____
Sara A. Bruckman, WCMC/CMC
Village Clerk/Treasurer

STATE OF WISCONSIN **VILLAGE OF FOX POINT** **MILWAUKEE COUNTY**

RESOLUTION NO. 2024-05

A RESOLUTION OF COMMENDATION AND APPRECIATION

WHEREAS Catie Anderson was first elected to the Village of Fox Point Board of Trustees in April 2021; and

WHEREAS Catie Anderson served as Fox Point Village Trustee from April 20, 2021 through April 15, 2024; and

WHEREAS Catie Anderson willingly has given her time serving the Village of Fox Point in numerous capacities, including as a member of the Pool Advisory Committee, the Audit Committee and the Finance Committee; and

WHEREAS Catie Anderson also has given her time serving the Village of Fox Point as a dedicated member of the North Shore Library Board during a significant moment in its history as it navigated everything necessary to move to a new space; and

WHEREAS Catie Anderson's quiet leadership, intellect, and responsiveness to the residents to have earned her the recognition and appreciation of the Village of Fox Point; and

WHEREAS the Village and Village Board benefited from **Catie Anderson's** thoughtfulness, steady hand, diligence, and good humor;

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Fox Point formally acknowledges, with gratitude, **Catie Anderson's** valuable service and dedication to this Village and wishes her well in all her future endeavors.

PASSED AND ADOPTED this 14th day of May, 2024.

_____
Christine Symchych
Village President

_____
Sara A. Bruckman, WCMC/CMC
Village Clerk/Treasurer

VILLAGE OF FOX POINT, WISCONSIN

RESOLUTION NO. 2024-06

INITIAL RESOLUTION AUTHORIZING THE BORROWING OF NOT TO EXCEED $5,975,000 AND PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2024A

WHEREAS, the Village Board of the Village of Fox Point, Milwaukee County, Wisconsin (the "Village") has determined that it is necessary to raise funds for the public purpose of:

(a) Capital projects including but not limited to municipal equipment and vehicles, technology upgrades, forestry improvements, and fire department services; and

(b) Professional and financing fees;

(a and b above collectively referred to as the "Public Purpose"), and there are insufficient funds on hand to pay said costs;

WHEREAS, the Village Board of the Village hereby finds and determines that the Village has sufficient power and authority to authorize such Public Purpose as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes; and

WHEREAS, the issuance of general obligation promissory notes will not cause the Village to exceed any general or special limit on indebtedness.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village that:

1. Authorization of the Notes. Under and by virtue of the provisions of Section 67.12(12) of the Wisconsin Statutes, the Village shall issue its general obligation promissory notes, in an aggregate sum not to exceed $5,975,000 (the "Notes") for the purpose of paying the costs of the Public Purpose, including, but not limited to, the following:

(a) Capital projects including but not limited to municipal equipment and vehicles, technology upgrades, forestry improvements, and fire department services; and

(b) Professional and financing fees.

2. Sale of the Notes. To evidence such indebtedness of the Village, the Village President and the Village Clerk are hereby authorized, empowered and directed to make, execute, issue and sell the Notes to a purchaser to be determined by public sale and approved by subsequent resolution of the Village Board.

3. Sale Date. The Village shall offer the Notes for public sale on or about July 9, 2024.

4. Official Notice of Sale. The Village Clerk, in consultation with the Village's financial advisor, Robert W. Baird & Co. Incorporated (the "Financial Advisor"), shall cause an official notice of sale to be prepared and distributed and may prepare or cause to be prepared an official statement pursuant to SEC Rule 15c2-12.

5. Award of the Notes. Following receipt of bids for the Notes, the Village Board shall consider taking further action to provide additional details of the Notes, shall award the Notes to the lowest responsible bidder whose proposal results in the lowest true interest cost to the Village, and shall levy a direct annual tax sufficient in amount to pay and for the express purpose of paying and discharging the principal and interest on said Notes as the same become due as required by law

6. The Notes; Levy. The Village Board shall consider taking further action to provide additional details of the Notes and shall levy a direct annual tax sufficient in amount to pay and for the express purpose of paying and discharging the principal and interest on said Notes as the same become due as required by law.

7. Financial Advisor; Official Statement. The Village President and the Village Clerk are hereby authorized and directed to consult with the Financial Advisor and to prepare financing as described herein for consideration by the Village at a subsequent meeting. The Village President and the Village Clerk are hereby authorized and directed to prepare a preliminary official statement and to supply copies of the same to potential purchasers of the Notes for the financing. Any preliminary official statement, notice of sale or bid form shall provide on the face thereof that the terms of any financing described therein are subject to approval at a subsequent meeting of the Village Board and that such financing is subject to revision or withdrawal.

8. Reimbursement Resolution. The Village shall make expenditures as needed from its funds on hand to pay the costs of the Public Purpose projects until proceeds of the Notes which may be issued become available. The Village hereby officially declares its intent under Treasury Regulations Section 1.150-2 to reimburse said expenditures with proceeds of the Notes.

9. Prior Resolution; Severability; Effective Date. All prior resolutions, roles or other actions of the Village or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted and recorded this 14th day of May, 2024.

VILLAGE OF FOX POINT,
MILWAUKEE COUNTY, WISCONSIN

By:_____
Christine Symchych, Village President

Attest:_____
Sara Bruckman, Village Clerk

CERTIFICATION BY VILLAGE CLERK

I, Sara Bruckman, being first duly sworn, hereby certify that I am the duly qualified and acting Village Clerk of the Village of Fox Point, Milwaukee County, Wisconsin (the "Village"), and as such I have in my possession, or have access to, the complete corporate records of the Village and of its Village Board; that I have carefully compared the transcript attached hereto with the aforesaid records; and that said transcript attached hereto is a true, correct and complete copy of all of the records in relation to the adoption of Resolution No. 2024-06 (the "Resolution") entitled:

INITIAL RESOLUTION AUTHORIZING
THE BORROWING OF NOT TO EXCEED $5,975,000
AND PROVIDING FOR THE ISSUANCE AND SALE OF
GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2024A

I hereby further certify as follows:

1. Said Resolution was considered for adoption by the Village Board at a meeting held at Village Hall, 7200 North Santa Monica Boulevard, Fox Point, Wisconsin 53217, at ____ p.m. on May 14, 2024. Said meeting was a regular meeting of the Village Board and was held in person at Village Hall, with a remote attendance option in accordance with the hybrid meeting procedures adopted by the Village, with public access.

2. Said resolution was on the agenda for said meeting and public notice thereof was given not less than 24 hours prior to the commencement of said meeting in compliance with Section 19.84 of the Wisconsin Statutes, including, without limitation, by posting at Village Hall and the Village's website.

3. Said meeting was called to order by the Village President who chaired the meeting. Upon roll, I noted and recorded that the following trustees were present:

_____	_____
_____	_____
_____	_____
_____	_____

and that the following trustees were absent:

_____	_____

I noted and recorded that a quorum was present.

Various matters and business were taken up during the course of the meeting without intervention of any closed session. One of the matters taken up was said Resolution, which was introduced, and its adoption was moved by _____ and seconded by _____.

Following discussion and after all members of the Village Board who desired to do so had expressed their views for or against said Resolution, the question was called, and upon roll being called and the continued presence of a quorum being noted, the recorded vote was as follows:

AYE:

NAY:

ABSTAINED:

Whereupon the meeting chair declared said Resolution adopted, and I so recorded it.

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the Village hereto as of the 14th day of May, 2024.

[SEAL]

Sara Bruckman CMC/WCMC, Village Clerk-Treasurer

Village of Fox Point

2024 Financing Plan

May 14, 2024

Justin Fischer, Managing Director

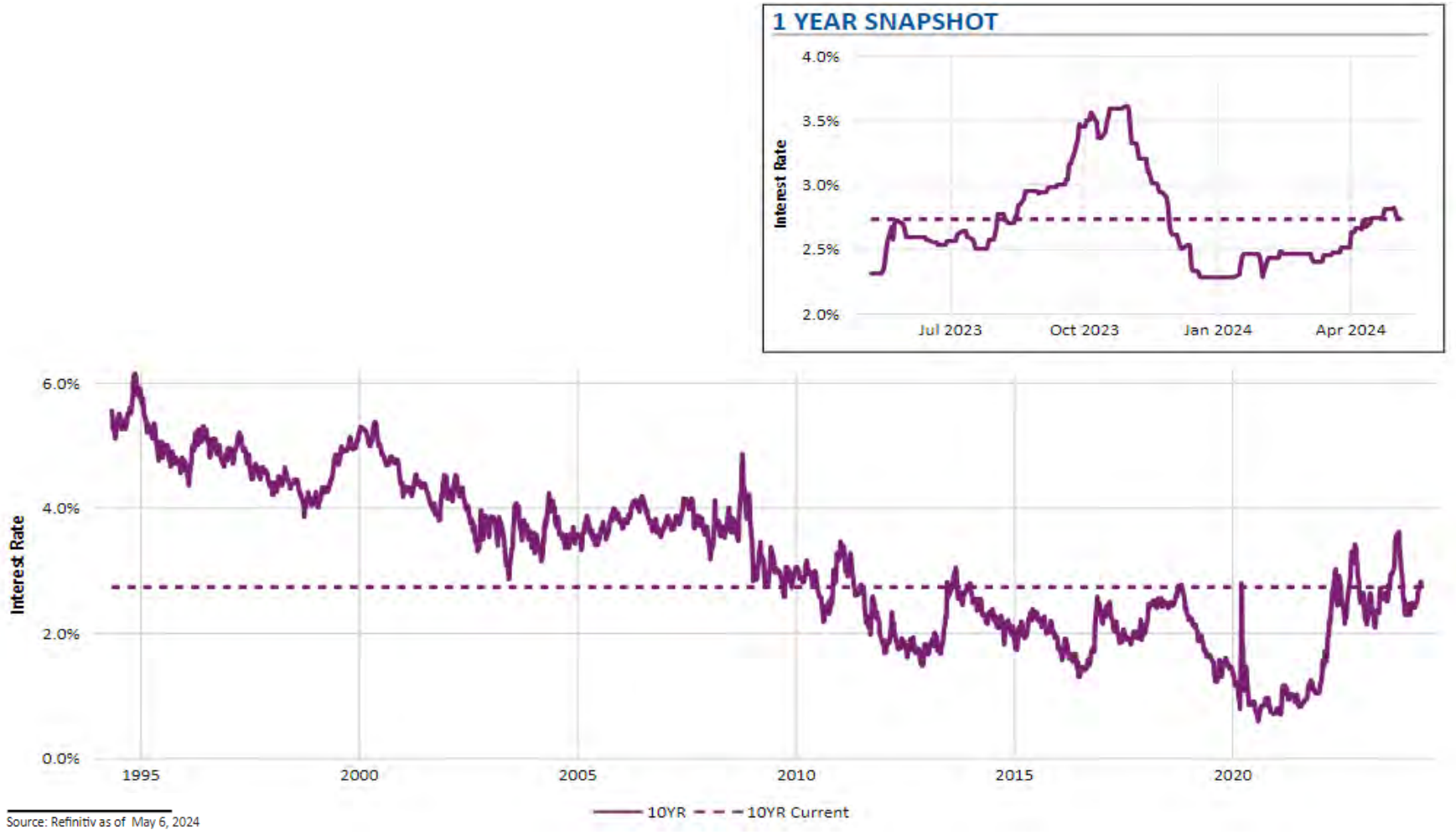
jfischer@rwbaird.com
777 East Wisconsin Avenue
Milwaukee, WI 53202
Phone 414.765.3635
Fax 414.298.7354

Village of Fox Point

2024 Financing Plan

May 14, 2024

Tax Exempt Interest Rates - Past 30 Years of 10-Year Maturity (AAA MMD)



Source: Refinitiv as of May 6, 2024

Village of Fox Point

2024 Financing Plan

May 14, 2024

Borrowing Amount / Structure / Purpose

Estimated Amount (Not to Exceed):	$5,975,000
Issue:	General Obligation Promissory Notes
Maturity:	April 1, 2025 – April 1, 2034
First Interest:	April 1, 2025
Callable:	April 1, 2031 or any date thereafter
Purpose:	Levy Supported Projects ($2,019,481.64) - $2,045,000 Water Supported Projects ($1,619,429) - $1,640,000 Sewer Supported Projects ($638,385) - $645,000 Storm Supported Projects ($1,626,116) - $1,645,000
Estimated Interest Rate:	4.00%

Tentative Timeline

- Village Board reviews plan of finance and considers Initial resolution..... May 14, 2024
    - Preparations are made for Issuance
        - ✓ Official Statement
        - ✓ Bond Rating
        - ✓ Marketing
- Village Board considers award resolution for Notes (finalizes terms and interest rates)..... July 9, 2024
- Closing (funds available)..... August 1, 2024

Village of Fox Point

2024 Financing Plan

May 14, 2024

Hypothetical Financing Plan

YEAR DUE	NET EXISTING DEBT SERVICE (Levy Supported) (A)	$5,975,000 G.O. PROMISSORY NOTES Dated August 1, 2024 (First Interest 4/1/2025) PRINCIPAL (4/1)	NET INTEREST[B] (4/1 & 10/1) TIC = 4.00%	TOTAL	$2,045,000 LEVY TOTAL (B)	$1,640,000 WATER TOTAL	$645,000 SEWER TOTAL	$1,645,000 STORMWATER TOTAL	COMBINED DEBT SERVICE (Levy Supported)	*	HYPOTHETICAL FUTURE ISSUES (C) (D)	TOTAL COMBINED DEBT SERVICE (Levy Supported)	TOTAL COMBINED MILL RATE (E)	YEAR DUE
	Actual Levy								Actual Levy	*		Actual Levy		
2024	$2,146,750								$2,146,750	*	$0	$2,146,750	$1.34	2024
2025	$2,029,786	$430,000	$253,381	$683,381	$250,873	$210,141	$80,507	$141,859	$2,280,659	*	$0	$2,280,659	$1.40	2025
2026	$1,841,217	$420,000	$258,684	$678,684	$249,767	$205,461	$82,774	$140,683	$2,090,984	*	$235,198	$2,326,182	$1.40	2026
2027	$1,667,696	$505,000	$235,559	$740,559	$251,267	$208,461	$80,024	$200,808	$1,918,962	*	$454,581	$2,373,544	$1.40	2027
2028	$1,360,955	$565,000	$208,809	$773,809	$252,267	$206,086	$82,149	$233,308	$1,613,222	*	$808,138	$2,421,359	$1.40	2028
2029	$1,235,095	$595,000	$179,809	$774,809	$247,892	$208,336	$84,024	$234,558	$1,482,986	*	$938,300	$2,421,286	$1.37	2029
2030	$1,020,287	$625,000	$149,309	$774,309	$248,142	$210,086	$80,774	$235,308	$1,268,429	*	$1,152,725	$2,421,154	$1.34	2030
2031	$736,142	$655,000	$117,309	$772,309	$247,892	$206,461	$82,399	$235,558	$984,033	*	$1,437,800	$2,421,833	$1.32	2031
2032	$410,277	$695,000	$84,845	$779,845	$252,433	$207,803	$83,913	$235,697	$662,710	*	$1,760,763	$2,423,472	$1.29	2032
2033	$56,100	$725,000	$51,972	$776,972	$251,784	$209,006	$80,440	$235,742	$307,884	*	$2,114,594	$2,422,478	$1.26	2033
2034		$760,000	$17,594	$777,594	$250,672	$209,746	$81,852	$235,325	$250,672	*	$2,169,500	$2,420,172	$1.24	2034
2035										*	$2,422,288	$2,422,288	$1.22	2035
	$12,504,304	$5,975,000	$1,557,271	$7,532,271	$2,502,986	$2,081,584	$818,856	$2,128,845	$15,007,290	*	$13,493,885	$28,501,175		

(A) Includes bid premium to offset interest in 2024 from the 2023B G.O. Promissory Notes. Excludes $4,350,000 principal and interest payment on 4/1/26.

(B) Hypothetical bid premium of $75,000 applied to offset estimated interest payments due in 2025 (levy only). Total estimated bid premium of $234,947 is available.

(C) This information is provided for information purposes only. It does not recommend any future issuances and is not intended to be, and should not be regarded as, advice.

(D) Assumes $1,500,000 issued annually beginning in 2025, amortized over 10 years at a planning interest rate of 4.25%. Assumes $4,350,000 G.O. Note refinanced on 8/1/2025, amortized over 10 years at a planning interest rate of 4.25%. Assumes $1,600,000 of grants / funds on hand applied toward Note issue.

(E) Mill rate based on 2023 Assessed Valuation of $1,602,608,000 with 2.00% annual growth. 20-year average annual Assessed Value growth rate is above 3.50%.

STATE OF WISCONSIN VILLAGE OF FOX POINT MILWAUKEE COUNTY

RESOLUTION NO. 2024-07

RESOLUTION TO APPROVE A STORM WATER UTILITY RATE INCREASE

WHEREAS, the Fox Point Storm Water Utility has been undertaking a tremendous amount of reconstruction projects in recent years; and

WHEREAS, additional reconstruction projects need to be undertaken in future years; and

WHEREAS, the Village Board, through its approval of the 2024 Village Budget, anticipated storm water utility rates increasing 6%;

WHEREAS, the Village Board previously passed Resolution 2023-25, which included an inadvertent error, and which this Resolution shall replace,

NOW THEREFORE BE IT RESOLVED, that the Fox Point Village Board increases storm water utility rates by 6% beginning January 1, 2024, as reflected below:

STORMWATER UTILITY CHARGES:			
TIER 1	$ 39.79	**TIER 4**	$103.31
TIER 2	$ 47.67	**TIER 5**	$190.71
TIER 3	$ 63.57	**TIER 6**	$39.79/ERU

PASSED AND ADOPTED this 14th day of May, 2024.

_____
Christine Symchych
Village President

_____
Sara A. Bruckman, *WCMC/CMC*
Village Clerk-Treasurer

STATE OF WISCONSIN VILLAGE OF FOX POINT MILWAUKEE COUNTY

RESOLUTION NO. 2024-08

RESOLUTION TO APPROVE A SEWER RATE INCREASE

WHEREAS, the Fox Point Sewer Utility has been undertaking a tremendous amount of reconstruction projects in recent years, most of which have been supported through free cash flow of the utility; and

WHEREAS, additional reconstruction projects need to be undertaken in future years; and

WHEREAS, the Milwaukee Metropolitan Sewerage District raised charges to the Village by 11.16% in 2024; and

WHEREAS, the Village Board included a 10% sewer rate increase as part of its Fiscal Year 2024 Village Budget;

WHEREAS, the Village Board previously passed Resolution 2023-24, which included an inadvertent error, and which this Resolution shall replace,

NOW THEREFORE BE IT RESOLVED, that the Fox Point Village Board increases sewer rates as reflected below, effective January 1, 2024:

Sewer Utility Charges		
Meter Size		Sewer
3/4"	$	35.81
1"	$	56.60
1 1/2"	$	92.40
2"	$	133.98
3"	$	233.31
4"	$	375.38
6"	$	782.81

PASSED AND ADOPTED this 14th day of May, 2024.

_____
Christine Symchych
Village President

_____
Sara A. Bruckman, *WCMC/CMC*
Village Clerk/Treasurer

Conditional Use Order

WHEREAS, an application has been filed by **Flips 4 All, LLC** (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 **8643 N Port Washington Road, 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. **Flips 4 All, LLC will run a gymnastics business for neurotypical and neuro-diverse children in addition to special needs adults in a physical facility using occupational activities and related services. The hours of operation shall be limited to 9:00 a.m. until 8:00 p.m., 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.

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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.

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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 _____, 2024, *nunc pro tunc* the _____ day of _____, 2024.

BY THE FOX POINT VILLAGE BOARD:

_____
Christine Symchych, Village President

Attest:

_____
Sara A. Bruckman, 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 _____, 2024.

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 _____, 2024.

APPLICANT:

By: _____
Authorized Signatory

Title:_____

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Conditional Use Order

WHEREAS, an application has been filed by **Saddle and Spoke Cyclery, LLC** (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 **7922 N Port Washington Road, Suite #1, 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. **Saddle and Spoke Cyclery, LLC will perform bicycle repair and tune-ups and walk in a la carte services. They will sell bikes, bike accessories, and provide installation. Bicycle pickup and delivery for repairs and sales to be done via van. Products will include helmets, tires, tubes, bicycle components, pumps, and locks. The hours of operation shall be limited to 10:00 p.m. until 7:00 p.m., Monday through Friday, and 10:00 pm until 4 p.m. on Saturdays and Sundays 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 _____, 2024, *nunc pro tunc* the _____ day of _____, 2024.

BY THE FOX POINT VILLAGE BOARD:

_____
Christine Symchych, Village President

Attest:

_____
Sara A Bruckman, 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 _____, 2024.

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 _____, 2024.

APPLICANT:

By: _____
Authorized Signatory

Title:_____

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