

**VILLAGE OF ROCHESTER  
PLAN COMMISSION**

300 W. Spring Street, P.O. Box 65, Rochester, WI 53167-0065  
(262) 534-2431 FAX (262) 534-4084

**PUBLIC HEARING & COMMITTEE MEETING AGENDA**

**Monday, December 1, 2014 - 7:00 p.m.**

**Rochester Village Hall, 300 W. Spring St., Rochester, WI**

**Roll Call:** Mike Weinkauff (Chairperson), Paul Beere, Maureen Eckert, Patricia Gerber, Chris Johnson, Tom Rowntree, Mark Tamblyn

**Correction or approval:** November 6, 2014 minutes

**Public Hearings:** *(Be advised it is necessary to register in advance of the public hearing in order for your comments to be heard. Registration forms are available at the meeting and must be turned in to the Plan Commission Secretary prior to the start of the hearing. Pre-registered Citizens will be called by name by the Plan Commission Chairperson and are subject to a three minute time period, per person, with time extensions granted at the Plan Commission's discretion.)*

1. **Application for Conditional Use Permit to park three (3) semi-tractors and trailers, outside on his property, at 35306 Fairview Street**  
**Applicant:** Jeffrey C. Radewan  
**Parcel #176031906006040**

**Action Items:**

1. **Application for Conditional Use Permit to park three (3) semi-tractors and trailers, outside on his property, at 35306 Fairview Street**  
**Applicant:** Jeffrey C. Radewan  
**Parcel #176031906006040**
2. **Request for one (1) year extension of time to comply with Resolution # 2009-5 "Implementation Plan for the construction and operation of a gas station/ convenience store/ car wash at 151 S. Millgate Drive"**  
**Applicant:** James Hurst, Millgate Development  
**Parcel Id. # 176031911009020**
3. **Possible Plan Commission Recommendation: Ordinance #2014-6 Amending Chapter 30 of the Municipal Code of the Village of Rochester to include Statutory Changes for Land Divisions and Amending Chapter 35 to Include Additional Permitted Uses in the B-1 Central Business District**
4. **Adjourn**

**Betty J. Novy, MMC CMTW WCPC**  
**Plan Commission Secretary**

**Posted: November 26, 2014**

*It is possible that members and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice.*

*Please note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, or to request this service, please contact the Village Hall at 262-534-2431*

*Next regular meeting:*

*January 5, 2015*

Mike Weinkauff called the meeting to order at 7:00 p.m. with the following members present: Paul Beere; Maureen Eckert, Patricia Gerber; Tom Rowntree and Mark Tamblyn. Chris Johnson was absent.

Betty Novy, Clerk Treasurer, and Jonathan Schattner, Zoning Administrator, were also present.

**Correction or Approval of October 6, 2014 minutes**

Eckert moved, 2<sup>nd</sup> by Tamblyn to approve the minutes from the October 6, 2014 Plan Commission meeting as printed. Motion carried.

**Public Hearings:**

**Application for Conditional Use Permit to continue a non-metallic mining (sand & gravel) operation, including crushing of concrete and asphalt recycling, at 32020 Academy Road**  
**Applicant: Racine County Public Works - Parcel Id. # 176031909024000**

Schattner presented an aerial display of the subject property and reported zoning designations of the subject and surrounding parcels. He explained the request is for a two-year extension of an existing permit.

Nathan Plunkett, Racine County Public Works, addressed the Commission. He explained the application includes the crushing of concrete and asphalt in the quarry. The last time crushing occurred at the site was in 2011. The county plans to have an outside firm come in and perform crushing some time in 2015. A large inventory of millings from the repaving of county highways W and D has been stockpiled. The plan is to crush that for use as shoulder material. The county is restoring the north and east areas of the gravel pit and grading them out to acceptable slopes. They plan to expand in the area to the west at some point in the future, but realize that the land must be rezoned from agricultural use to mining before that can occur. Borings will be performed before they proceed with the rezoning process. They now have 18 acres active in mining and own 30 acres in total. The berm on the north side of the quarry is approximately 20' high. They are working to get it to an acceptable slope.

Plunkett was questioned regarding the drop off on the west property line. He indicated it is about 30 feet deep.

Plunkett was questioned on whether any seepage occurs from the pond that exists right over the north property line. Plunkett indicated there is no seepage because there is a substantial difference in elevations.

Plunkett was also questioned on the equipment kept on site. He noted a loader, a grader, and dozer are there consistently. Dump trucks go in and out of the site occasionally.

There were no other questions.

Beere moved, 2<sup>nd</sup> by Eckert to adjourn the public hearing at 7:26 p.m. Motion carried.

**Action Items:**

**Application for Conditional Use Permit to continue a non-metallic mining (sand & gravel) operation, including crushing of concrete and asphalt recycling, at 32020 Academy Road**  
**Applicant: Racine County Public Works - Parcel Id. # 176031909024000**

Beere moved, 2<sup>nd</sup> by Gerber to recommend approval of the application for conditional use permit submitted by Racine County subject to the recommendations of the Zoning Administrator (as follows):

1. The applicant must obtain a zoning permit card from the Rochester Zoning Administrator to continue quarry activities within this quarry site. This card must be displayed in a prominent location at the project site.

Also, a copy of approved conditions must be kept at the project site at all times until the project has been completed.

2. Failure to comply with the terms and conditions stated herein could result in citations being issued and/or the approval/permit being revoked.
3. The Village of Rochester may require the applicant to provide this office with an as-built survey with elevations when restoration is completed.
4. In the spring of 2015, the applicant must have an aerial photograph taken of the pit from directly overhead. A copy of this photograph must be submitted to Village of Rochester. A similar photograph must be submitted each year this pit is in operation.
5. This approval is for a two-year period. A two-year extension may be requested at the end of the initial two years. However, no such extension or permit renewal will be granted unless the project is in reasonable compliance with the conditions of this approval. An on-site evaluation by this office will determine compliance.
6. Hours of operation may be from 6:00 a.m. to 6:00 p.m. only, Monday through Friday. If the property owner intends to conduct quarry operations on a Saturday he should be restricted to a minimum numbers of days a year and operated between the hours of 8:00 a.m. to 1:00 p.m., provided that at least three days advance written notice is given to Village of Rochester. Absolutely no operations may occur on Sundays. No vehicles may be operated in this site or on the driveway into this site, except during the hours of operation.
7. All quarry operations must conform to the submitted operational plan and site plans, received by the Village of Rochester on September 29, 2014. This quarry operation includes the stockpiling and crushing of recycle asphalt and concrete and must be conducted accordance to the submitted operations plans. The list of equipment used in this quarry operation shall conform to the submitted operational plan received by the Village of Rochester on September 29, 2014.
8. The property owner shall contact the Village of Rochester within 10 days to notify them that there will be crushing activities occurring at this site.
9. All quarry excavations must conform with the 200' setback requirement from the property lines and all stockpiles and building shall maintain a minimum 100' setback from the exterior boundaries of the this property. The area located along the north line of the property was allowed to quarry up to the north line of the property and match up with the contours that existed on the previously owned Lang Quarry site. A portion of the south line of the quarry excavation lies within 200' of the south line of your property. It is recommended that no further quarry operations occur in this area and this area shall be restored immediately. Any future quarry activities must comply with the 35-54 M-4, Quarry District setback requirements and 35-100(F)(3) Special Conditional Use Provisions for Quarry Operation found in Chapter 35 (Planning & Zoning) of the Village of Rochester Municipal Code.
10. The applicant is responsible for ensuring that all truck drivers strictly obey all posted speed limits and all traffic laws. This includes coming to a full stop before entering the public roadway. The quarry driveways must have a speed limit of 15 miles per hour. Engine breaking is prohibited on the subject properties and on all public roads within the Village of Rochester. Should this office receive substantial complaints that such laws are being broken the Village of Rochester reserves the right to revoke this permit for noncompliance.
11. All overburden and topsoil must be stockpiled on the premises for future use in restoration of this property. Stockpiles of overburden and topsoil must be temporarily seeded and all side slopes must be 3:1 or flatter. All stockpiles must maintain a 100' setback from your property lines and should be temporary seeded to prevent erosion from occurring.

12. All disturbed areas shall be permanently seeded after restoration is completed.
13. No blasting or limestone quarrying is permitted on this property. No explosives will be used or stored on site.
14. The crushing of recycled asphalt, concrete and the quarry operations at this location must be conducted in accordance with State of Wisconsin air pollution laws and regulations.
15. The applicant is responsible for control and/or cutting of noxious weeds in compliance with the Village weed ordinance.
16. The Village of Rochester reserves the right to require, with 60 days notice, a complete set of elevations, including bottom of the pit grades. A registered land surveyor or a professional engineer must take these elevations. This operation may not occur below the grades shown on the submitted restoration plan and no excavations may occur below the ground water table.
17. All access haul roads throughout the entire pit must be maintained in an all-weather, dust-controlled condition. When applying treatment to any such road surface, the applicant must make every effort to avoid spreading this treatment material onto County Trunk Highway FF (Academy Road). Should such material and/or soil material be spread, carried, and/or spilled onto CTH "FF", the applicant must clean (not flush) the roadway by the close of the business day or sooner as directed by the jurisdictional highway authority. That paved portion of the northern access road must be maintained in a dust-controlled condition by daily cleaning (not flushing) when the pit is in operation.
18. The applicant must comply with the provisions of 35-54 M-4, Quarry District setback requirements and 35-100(F)(3) Special Conditional Use Provisions for Quarry Operation found in Chapter 35 (Planning & Zoning) of the Village of Rochester Municipal Code.  
(See attached copy).
19. The Zoning Administrator or designee may enter the premises of this sand and gravel quarry in order to inspect those premises and to ascertain compliance with these conditions or to investigate an alleged violation. Unless the operation is in reasonable compliance with these terms of this approval, such approval is subject to amendment or revocation.
20. All excavation boundaries must be staked or otherwise marked and may be inspected by the Village of Rochester before operations may commence under this approval. Stakes must be made of steel, fiberglass, or other suitable material as determined by this office. Signs warning of this quarry operation shall be spaced 100' apart around the perimeter of the quarry operation.
21. The applicant is responsible for obtaining all necessary federal, state and local permits, approvals and licenses.
22. No additions, deletions, or changes may be made to these conditions without the prior approval of the Village of Rochester Planning Commission and the Rochester Village Board.
23. Your accepting the conditional use approval/zoning permit and beginning the project means that you have read, understand and agree to follow all conditions of this approval. Therefore, Racine County Public Works Department, its officers, heirs and assigns are responsible for full compliance with the above conditions.
24. It is the property owner's responsibility to inform any subsequent owner of the existence these conditions.

Motion carried.

**Application for Final Certified Survey Map Approval to replat lots 2, 3, and 4, Rookery Landing Estates (East Parcel) into four (4) lots**

**Applicant: James and Diane Hoppe-Parcel Ids. # 176031912016020, 176031912016030 & 176031912016040**

Schattner reported this proposed land division was first discussed in August. Based on input from the Plan Commission, the applicant reduced the quantity of proposed lots from a five lot subdivision to a four lot certified survey map. The Village Attorney verified that the re-division of lots could occur by certified survey map because the subdivision is more than five years old. The applicant will be revising the subdivision covenants and restrictions applicable to other lots in Rookery Land Estates East to ensure that the lots created by the certified survey map are also included.

James Hoppe addressed the Board. He noted the topography of the development will stay the same and that the certified survey map is simply creating another lot. Gerber moved, 2<sup>nd</sup> by Eckert to recommend approval of the Certified Survey Map subject to the zoning administrator's recommendations (as follows):

1. The owners of the proposed Certified Survey Map shall submit any revisions of the covenants for this development to the Village of Rochester for their review and approval, prior to the Village President and Village Clerk signing the final certified survey map.
2. The property owner shall be responsible for recording this Certified Survey Map with the Racine County Register of Deeds office.
3. A copy of this recorded document shall be submitted to the Village of Rochester for inclusion into our file.

Motion carried.

**Introduction: Ordinance #2014-6 Amending Chapter 30 of the Municipal Code of the Village of Rochester to include Statutory Changes for Land Divisions and Amending Chapter 35 to Include Additional Permitted Uses in the B-1 Central Business District**

Schattner reported the ordinance is being submitted for introduction only. The ordinance updates language in the land division code to be consistent with recent statutory changes. It also clarifies that contractor's offices are an allowable use in the B-1 zoning district. Plan Commissioners were instructed to review the ordinance and be ready for further discussion and a possible recommendation regarding adoption at the December meeting.

**Resolution #2014-8 "A Resolution Authorizing the Sale of Real Estate Located at 203 West Main Street to K&E Holdings, LLC"**

Novy reported the Village received an accepted offer for sale of the municipal building to an electrical contractor. This resolution, to be adopted by the Village Board, authorizes the Village President and Village Clerk to sign the documents necessary to transfer the property. Because it involves the sale of a public building, the Plan Commission needs to provide a recommendation on this matter. Eckert moved, 2<sup>nd</sup> by Gerber to recommend approval of Resolution #2014-8. Motion carried.

**Resolution #2014-9 "A Resolution Authorizing a Quit Claim Deed to Relinquish an Easement behind Chances Restaurant"**

Novy reported that the title search for the municipal building brought up a contradiction between its title and that of Chances Restaurant, the parcel immediately to the west. An easement is included in the municipal building's

title that provides access through the Chances property around the west side of the restaurant building (referenced in the easement as the “hotel building”. However, the title for the Chances property includes no reference to the easement and the language that describes the easement does not meet today’s legal standards. Both the title company’s representative and the village attorney recommend that a quit claim deed be filed to relinquish the easement as a way of clearing up the title.

Plan Commissioners discussed access to the parking stalls behind the municipal building noting that the back of the building is land locked and that, despite a shared parking lot, an access easement was never provided through the parcel immediately to the east that is currently owned by Community State Bank. Novy noted the buyers of the municipal building are aware of the issue and are working with the bank on the matter. They were also notified of proposed relinquishment of the easement through the Chances property and did not object. Beere questioned legal interpretation and noted that different attorneys may offer different opinions about the easement’s validity.

Tamblyn questioned whether the building has adequate parking for the electrical contractor and possible future tenants of the building without an easement. Schattner verified the zoning code allows Main Street businesses to utilize on-street parking to meet parking requirements so legal access to parking in the rear of the building is not necessary. Tamblyn moved, 2nd by Eckert to recommend approval of Resolution #2014-9. Votes were: Eckert: Aye; Gerber: Aye; Rowntree: Aye; Tamblyn: Aye.; Weinkauf: Aye. Beere: Naye. Motion passed.

Tamblyn moved, 2<sup>nd</sup> by Eckert to adjourn at 8:01 p.m. Motion carried.

Respectfully submitted:

Betty J. Novy, MMC, CMTW, WCPC  
Planning Secretary/ Clerk-Treasurer

## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Village of Rochester Planning Commission will hold a public hearing at 7:00 p.m. on Monday, December 1, 2014, in the Rochester Village Hall at 300 W. Spring Street, Rochester, Wisconsin, on the following conditional use request. This location is handicap accessible and if you have special needs, please contact the Rochester Village Clerk-Treasurer at (262) 534-2431.

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Jeffrey C. Radewan  
35306 Fairview Street  
Burlington, WI 53185

Requests a conditional use permit to park three (3) semi-tractors and trailers, outside on his property, at 35306 Fairview Street, located at Section 6, Township 3 North, Range 19 East, Village of Rochester, Racine County, Wisconsin.

Applicant is subject to 35-62, A-2 General Farming & Residential District and 35-100 Conditional Uses, found in Chapter 35 (Planning & Zoning) of the Village of Rochester Municipal Code.

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The above petition is on file at the Rochester Village Hall at 300 W. Spring Street. This file is open for public review prior to the hearing date, from 8:30 a.m. to 3:30 p.m. on Monday through Friday, with extended hours Tuesday evenings to 6:00 p.m.

*Jonathan P. Schattner*

Village of Rochester Zoning Administrator

# CONDITIONAL USE APPLICATION


VILLAGE OF ROCHESTER, WISCONSIN

Note: Application must be fully completed and signed by the applicant or the applicant's agent.

OWNER:	JEFF RADEWAN		APPLICANT/ AGENT:	SAME	
Zoning District:	A2 - GENERAL FARMING				
TO THE VILLAGE OF ROCHESTER PLAN COMMISSION:					
The undersigned requests a conditional use permit to (specify use, project, structure, size, etc.):					
OUTSIDE PARKING OF UP TO 3 TRUCKS AND TRAILERS ON					
NORTH SIDE OF BUILDING					
AT (site address):	35306 FAIRVIEW ST. BURLINGTON WI (HONEYCREEK)				
Subdivision:	NA	Lots(s):	NA	Block:	NA
Parcel ID#:	176031906006040				
If served by municipal sewer, check here:	NA	Sanitary permit #			

✓ Attached are:

- |  |  |
|--|--|
| <input type="checkbox"/> Zoning permit application fully completed & signed by the applicant or the applicant's agent. The Village of Rochester will provide the original or the form may be obtained at <a href="http://rochesterwi.us">http://rochesterwi.us</a>   | <input type="checkbox"/> Hearing/ review fee payable to "Village of Rochester" (Fees are non-refundable, and re-publication/ amendment fees will be charged where applicable.) |
| <input checked="" type="checkbox"/> 12 SETS: drawn-to-scale site plan that is based on a survey (2 full sets at scale, 10 no larger than 11' x 17', folded to 8.5" x 11")  | <input type="checkbox"/> Signed "Agreement for Reimbursable Services"  |
| <input checked="" type="checkbox"/> Letter of agent status- If the applicant does not own the property at the time of filing and/or public hearing, a written, signed and dated letter from the property owner acknowledging said petition and authorizing specified agent to speak on the owner's behalf must be submitted. | <input checked="" type="checkbox"/> 3 SETS: landscaping/ lighting plan   |
|  | <input checked="" type="checkbox"/> 12 SETS: report/ cover letter & operations plan  |
|  | <input checked="" type="checkbox"/> Names & mailing addresses of the property owner's within 100' of the subject property and across the street.                               |
|  | <input type="checkbox"/> Other _____   |

Property Owner Name:	JEFF RADEWAN	E-mail address:	RADEWANTRUCKING@GMAILS.NET
Address:	35306 FAIRVIEW ST. BURLINGTON WI 53105	Telephone #:	262-534-6465
Agent Name:	NA	Signature:	
Address:		E-mail address:	
		Telephone #:	
		Signature:	

## Staff Use Only:

BASED ON CURRENT MAPPING, check applicable statement(s) below and underline or circle the word "all" or "partially"

- |  |                 |                         |                             |                 |
|--|-----------------|-------------------------|-----------------------------|-----------------|
| <input type="checkbox"/> The property is | all / partially | located in the          | <u>                    </u> | shoreland area. |
| <input type="checkbox"/> The project is  | all / partially | located in the          | <u>                    </u> | shoreland area. |
| <input type="checkbox"/> The property is | all / partially | located in the          | <u>                    </u> | floodplain.     |
| <input type="checkbox"/> The project is  | all / partially | located in the          | <u>                    </u> | floodplain.     |
| <input type="checkbox"/> The property is | all / partially | located in the wetland. |                             |                 |
| <input type="checkbox"/> The project is  | all / partially | located in the wetland. |                             |                 |

The applicant is subject to the following Ordinance provisions (specify article/ section):

Shoreland contract : Yes ☐ No ☒

Public Hearing Date:	12-1-14	Site plan review meeting date:	12/01/2014
Submittal Received by:	Jonathan P. Schattner	Date petition filed:	November 3, 2014
Cash or Check #:		Amount received:	600.00 600.00

Conditional Use Permit Application

For:

Jeff Radewan

35306 Fairview St

Burlington, WI 53105

I am applying for a conditional use permit for the following:

- 1) Parking of up to three semi-tractor trailers (for service of vehicles) within 378 feet of residential district
- 2) Trucks and trailers need to be maintained at service building where tools and equipment are accessible. Trucks are on road typically 3 to 6 weeks before returning to site for service. Service is usually performed in 3 to 5 days, so trucks can return to over the road status.
- 3) Truck parking area is screened from residential district by shop building and pine trees. Additional screening is provided on south and east property lines with 5' earthen berm and pine trees.
- 4) Vehicles parked on north side of shop building cannot be seen from any property in residential district. Again, vehicles are typically on road 3 to 6 weeks before returning for service.

I, Jeff Radewan, the owner of the Property located at 35306 Fairview Street, Burlington (Honey Creek), WI 53105, am petitioning the village of Rochester to award a conditional use permit for the parking of up to 3 semi-tractor trailers.

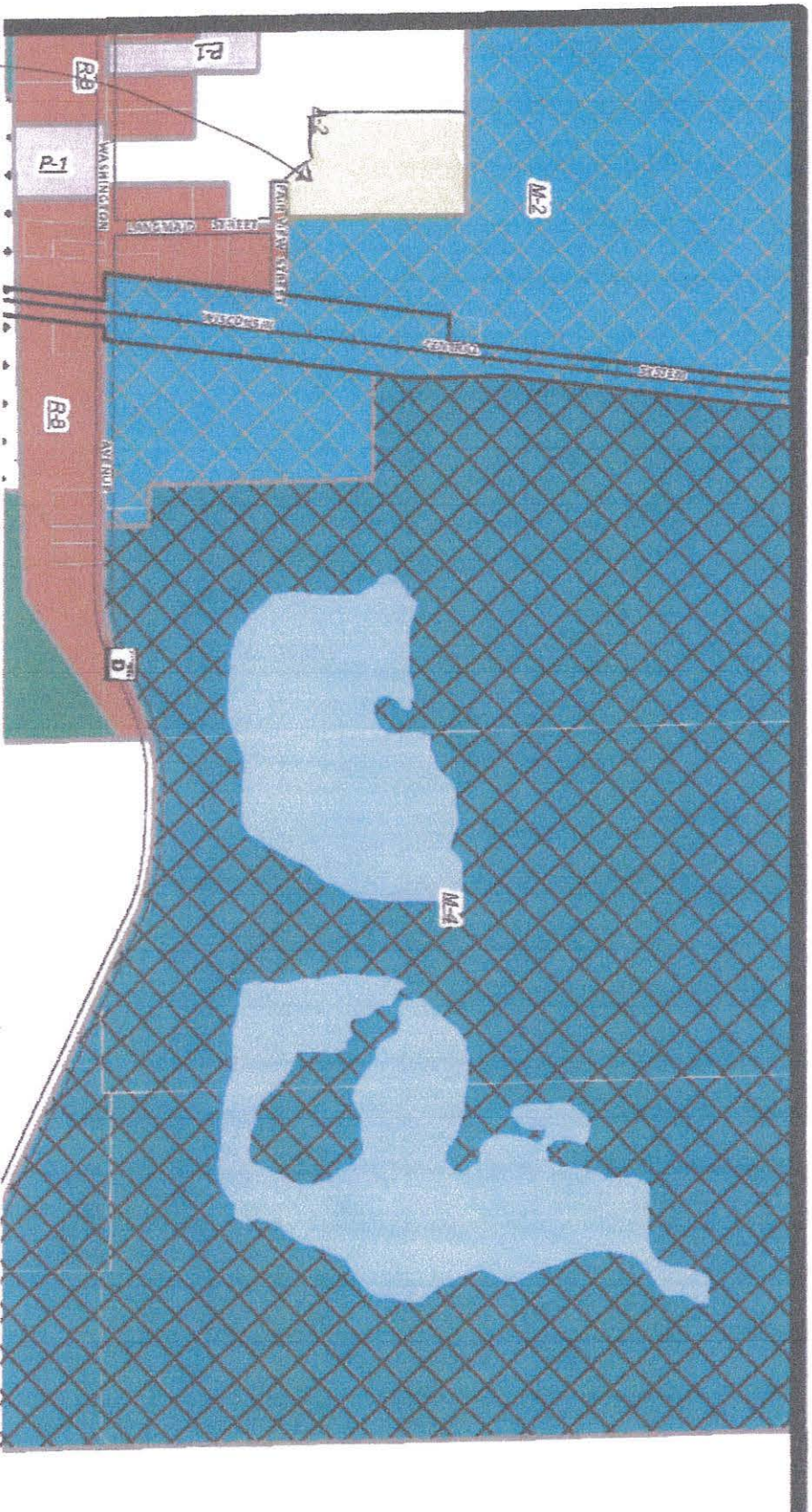
The following signatures of neighbors (Adjacent Properties) and/or persons residing in the residential district and are familiar with the property in question and submit that the conditional use permit will propose NO substantial detriment to the adjacent properties.

NAME	ADDRESS	PHONE#	SIGNATURE
DEBORAH PERMAN	2541 LANGMAID	534-2954	Deborah Perman
DAVID COTHARIUS	35201 FAIRVIEW ST.	534-7102	David Cotharius
DAWN COTHARIUS	35201 FAIRVIEW ST	534-7102	Dawn Cotharius
Dennis Perman	2541 Langmaid	534-2954	Dennis Perman
Wesley Johnson	2544 Langmaid St.	262 441-8793	Wesley Johnson
Elizabeth Trudew	2530 Langmaid	262 210 2519	Elizabeth Trudew
Debra Schuurman	2529 Langmaid	262 534 7977	Debra Schuurman
Ricardo S. Schuurman	"	"	Ricardo S. Schuurman
Norathy V. Shoemaker	2529 Langmaid ST	262-534-7977	Norathy V. Shoemaker
Michael SAVAGIA	35214 Washington Ave	262 534 3194	Michael Savaglia
Heather Savaglia	2535 Langmaid St	262 534-6776	Heather Savaglia
Heather Savaglia	35214 Washington Ave	262-534-3184	Heather Savaglia
Dave Baumgartner	35210 Washington Ave	262-534-3807	Dave Baumgartner
Diane Baumgartner	35210 Washington Ave	Same	Diane Baumgartner
Greg Myers	35207 Washington	534 4694	Greg Myers
Debra J. Myers	35207 Washington	SAME	Debra J. Myers
Misty Ann Myers	35207 Washington	SAME	Misty Ann Myers
Dale W. Re	35507 Washington	414-651-0973	Dale W. Re
Scott Weller	35507 Washington	262-442-5459	Scott Weller
GERALD ZIVKOVICH	35412 Washington Ave	414-491-0135	Gerald Zivkovich

NAME	ADDRESS	PHONE#	SIGNATURE
Virginia Vansyckle	2535 Langmaid St, Burlington	262-534-6766	VMansyckle
Koko Kaminski	35308 Fairview St	262-497-4954	K. K.
Ashley Jones	35208 Fairview St	262-661-9149	Ashley Jones
Sherry Kaminski	35308 Fairview St	262-498-2252	Sherry
Arianna Kiesler	35308 Fairview St	262-497-4575	Arianna Kiesler
John Kaminski	35308 Fairview St	262-495-3257	John
Mark Malison	35402 WASHINGTON AVE	262-534-9514	Mark Malison
Sharon Augle	N. 7122 Honey Creek Rd PO Box 94	262-332-7903	Sharon M Augle
Robert Augle	Honey Creek Rd PO. Box 108 53128	262-332-7903	Robert Augle
Charles Phares	7113 Honey Creek Rd	262-909-3547	Charles Phares
Karen Busch	W110 Hwy D	262-514-5414	Karen Busch
Kurt Beguhl	W110 Hwy D	262-493-4978	Kurt Beguhl
Garold Beguhl	34823 Washington Ave	262-6679	Garold Beguhl
Tony DANEK	34827 Washington AVE	(414) 517-2913	Tony Danek
MATT EHLEN	2544 LANGMAID ST	262-206-5943	Matt Ehlen
Melissa Bailey	35213 Washington Ave	414-640-2821	Melissa Bailey
Mike Hoffman	35312 Washington Ave	262-206-7980	Mike Hoffman
Eugene Conti	N. 7072 Hwy D	262-514-7458	Eugene Conti
Robert Gilh	34827 Washington Ave	262-210-7760	Robert Gilh
	35103 Washington	262-17161781	Robert Gilhson



North ↑



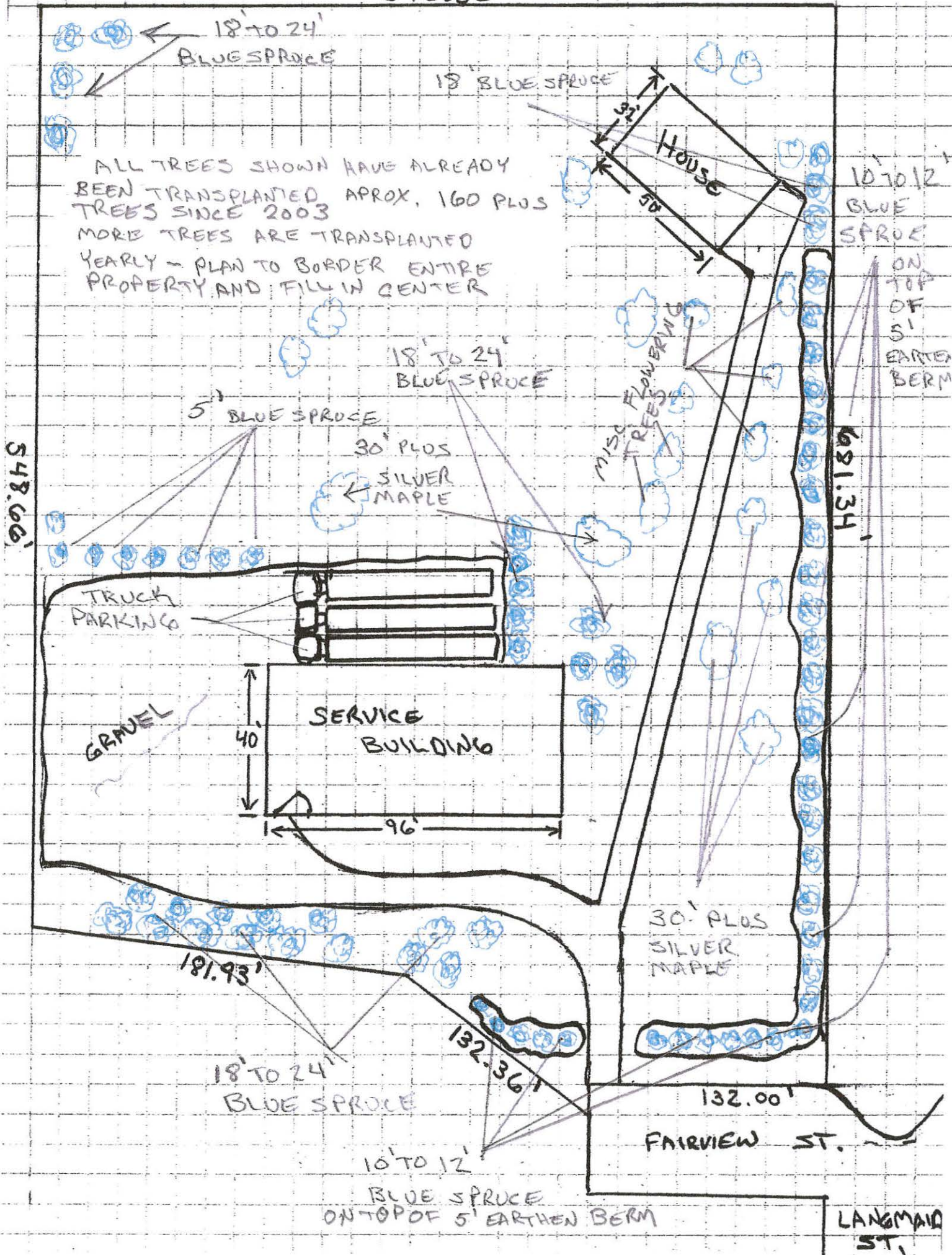
JEFF KAUFMAN PROPERTY  
35306 FAIRVIEW ST  
BURLINGTON, WI 53105

SÉRIE BOLAND

43

1

3'16.56



# *MILLGATE DEVELOPMENT LLC*

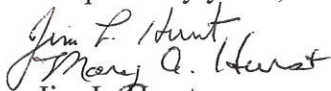
To: Village of Rochester  
Zoning Administrator

Date: November 15, 2014

Re: Request for time extension of Resolution 2009-5  
Implementation Plan for construction and operation of a Gas Station/Convenience  
Store/Car Wash at 151 S. Millgate Dr.

Millgate Development respectfully requests an extension of time for another twelve months for commencement of work on the above named implementation plan. Current approval expires December 10, 2014.

Respectfully yours,

Handwritten signatures of Jim L. Hurst and Mary A. Hurst in cursive script.

Jim L. Hurst  
Mary A. Hurst

# Village of Rochester

203 W. Main Street  
P.O. Box 65  
Rochester, WI 53167

(262) 534-2431 Phone  
(262) 534-4084 Fax  
email: [vrochstr@wi.rr.com](mailto:vrochstr@wi.rr.com)

Reflections of  
the Past...



Visions of  
the Future

## Resolution: 2009-5

### **A RESOLUTION APPROVING A SPECIFIC IMPLEMENTATION PLAN FOR A GAS STATION/ CONVENIENCE STORE/ CARWASH PURSUANT TO THE VILLAGE OF ROCHESTER'S PLANNED UNIT DEVELOPMENT OVERLAY ZONING**

WHEREAS if an applicant applies for the PUD Overlay District zoning classification, all of the requirements of the PUD Overlay District set forth in Chapter 15, Section 3.13 of the Municipal Code need to be adhered to including meeting all of the content requirements, and the submittal of a Specific Implementation Plan for each individual site; and,

WHEREAS the PUD Planned Unit Development Overlay District is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Overlay District under this chapter will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements as set forth in the underlying basic zoning district; and

WHEREAS a Specific Implementation Plan was submitted by Millgate Development LLC for the construction and operation of a Gas Station/ Convenience Store/ Car Wash at 151 S. Millgate Drive in a proposed Planned Unit Development Overlay District located on Millgate Drive; and

WHEREAS the Plan Commission has reviewed and recommended that the Village Board approve the Specific Implementation Plan upon the revision of the underlying zoning of the site to B-4 Highway Business District / Planned Unit Development Overlay District and the satisfaction of the Village Engineer's and Village Attorney's concerns; and;

WHEREAS at their June 1, 2009 meeting, the Plan Commission did recommend approval of said Specific Implementation Plan based on the information provided, and contingent upon the following conditions:

1. Village Board approval of the rezoning of the site from B-4 to B-4 PUD Overlay.
2. Before beginning this project, the applicant or project manager must obtain zoning permit cards from the Zoning Administrator after paying the zoning permit fee of \$750.00 for the convenience mart with attached canopy, \$65.00 for the detached diesel pump canopy, and \$105.00 for the car wash building (total fees of \$920.00). The applicant must also reimburse the Village for all engineering and/or legal fees incurred for plan review. Zoning permit cards must be displayed in a prominent location at the project site, and a copy of these conditions must be kept at the project site at all times

until the project has been completed.

3. Failure to comply with the terms and conditions stated herein could result in citations being issued and/or the approval/permit being revoked.
4. This approval will expire June 10, 2010, unless substantial work has commenced following such a grant. If the Zoning Administrator determines that no substantial work has commenced, the project may not occur unless the Village of Rochester Planning Commission grants a written extension. A written extension request must be submitted to the Village Zoning Administrator, by May 10, 2010.
5. The proposed gas station, pumps/canopies, car wash and garbage receptacle area must be located, constructed, and utilized in accordance with the plans and documents received by the Zoning Administrator on May 20, 2009. The hours of operation will be seven (7) days a week from 4:00 a.m. until 12:00 p.m.
6. The applicant must allow the Zoning Administrator or any Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, or maintenance.
7. The applicant must comply with the provisions of Section 14, Performance Standards found in Chapter 15, Planning & Zoning, of the Village of Rochester Municipal Code.
8. The applicant will be allowed to utilize the two driveways outletting onto Millgate Drive for ingress and egress purposes. In the event that using the north driveway entrance into the subject site results in stacking of vehicles at the intersection of Millgate Drive and Washington Avenue, the property owner will be required to restrict the northerly driveway to an exit only.
9. This project must comply with State of Wisconsin air pollution regulations.
10. The landscaping plan must be installed in accordance with the submitted plan received by the Zoning Administrator on May 20, 2009 and must be implemented within sixty 60 days of occupancy or, if weather prohibits such implementation, by June 30th following occupancy. All trees, plants, and shrubs must be kept in a healthy, growing condition. In the event that any of these plantings become diseased or die, it is the responsibility of the property owner to replace said tree, shrub, or plant with the same species. Any changes or revisions to this landscaping plan will require approval from the Village of Rochester Planning Commission, prior to installation.
11. The lighting plan must be installed according to the submitted lighting plan received by the Zoning Administrator on May 20, 2009. The lighting plan must adhere to the following:
  - a. Light fixtures must be selected with care to ensure that they are appropriately scaled in relation to their setting and to ensure that they are of a style that is compatible with the character of their immediate environment. Keep site lighting to the absolute minimum necessary.
  - b. Luminaries must be aimed, shielded, or relocated to minimize glare.
  - c. The maximum allowable light spillover to an adjacent residential property must be 0.5 foot-

candles measured at the property line, four feet above grade. For all other types of land uses, the maximum allowable light spillover may be 0.75 average foot-candles, measured in the same manner.

- d. After site lighting is installed, the lighting contractor must calibrate site lighting and provide written certification that light spillover onto adjacent properties is less than the maximum allowable measurements specified above.
  - e. All lighting wires/cables must be placed underground.
  - f. Accent lighting may be used to highlight architectural and landscape design elements when appropriate.
  - g. When any exterior lighting is installed or substantially modified, an exterior lighting plan must be submitted to the Rochester Zoning Administrator in order to determine whether the requirements of this section have been met.
  - h. Illumination of uses must meet the Illuminating Engineering Society of North America (IES) minimum standards.
  - i. Pedestrian walkways and parking areas must be illuminated to a sufficient level to provide for security.
12. A complete and thorough maintenance program must be established to insure attractiveness. The continued positive appearance of buildings and property is dependent upon proper maintenance attitudes and procedures. Maintenance programs must be established that include watering, maintaining, and pruning all landscape planting areas; cleaning up litter and emptying trash containers in a timely fashion; sweeping, cleaning, and repairing paved surfaces; replacing broken and vandalized parts; replacing burned out light bulbs; and cleaning, painting, and repairing windows and building facade.
13. Outside storage is prohibited, and this property must be kept free of any accumulation of refuse or debris. Refuse bins and/or scrap material (recycle) bins must be screened from public view. Outside placement of an LP tank exchange station is acceptable.
14. Parking must be provided as shown on the submitted site plan. Each automobile parking space must be a minimum of nine feet wide and 180 square feet in area, exclusive of the space required for ingress and egress. Handicapped spaces must be provided in accordance with Village of Rochester Ordinance, State of Wisconsin and/or American Disability Act requirements, whichever is more restrictive. Aisles and spaces must be clearly marked. The driveways serving this operation must be located according to the submitted plan. The driveways and all parking areas must be maintained in all-weather, dust-controlled condition.
15. During construction, this site must have graveled roads, access drives, and/or parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road must be removed by street cleaning (not flushing) before the end of each work day or as determined by the jurisdictional highway authority.

16. The applicant owner/applicant must obtain architectural design approval from the Village of Rochester Historic Preservation Committee for the placement of any signs placed on this property prior to obtaining zoning permit approval for such signs. These signs shall also comply with the standards outlined in the "S.T.H. 36 North Corridor Design Plan, Community Assistance Planning Report #267, prepared by Southeastern Wisconsin Regional Planning Commission.
17. The applicant must obtain all necessary federal, state, and local permits, approvals, and licenses and must comply with all applicable codes and regulations.
18. No additions, deletions, or changes may be made to the project, site plan, or these conditions without the Rochester Village Board and Planning Commission prior approval. All addition, deletion, and/or change requests must be submitted to this office in writing.
19. The acceptance of this approval/permit and beginning the project means the applicant has read, understands, and agrees to follow all conditions. Therefore, Millgate Development LLC, James & Mary Hurst, owners and their heirs, successors, and assigns are responsible for full compliance with these conditions.
20. It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.
21. The applicant must submit a letter of loan commitment from a bank as proof of project financing prior to issuance of the building permit.
22. It is the responsibility of the applicant to comply with all restrictions imposed by the American Transmission Company easement running through the property.
23. The May 13, 2009 minutes indicate that the applicant has received approval from the Village of Rochester Historic Preservation Committee of the architectural design of the buildings, contingent on approval of the final colors and the canopy over the gas pumps having a neutral color with no other colors and a small "Mobil" logo on it. Prior to obtaining zoning permit approval for this project, the applicant must obtain final approval of the colors of the building from the Village of Rochester Historic Preservation Committee

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Rochester, contingent upon all of the above, that the Specific Implementation Plan for a Proposed Gas Station/ Convenience Store/ Car Wash at 151 S. Millgate Drive, including the following plans and/or documents reviewed and approved by Jonathan Schattner:

- Sheet 1 of 1, "Master Grading and Utility Plan with Erosion Control" prepared by Ellena Engineering Consultants, LLC, with a last revision date of May 18, 2009;
- Sheet 1 of 1, "Landscape Plan" prepared by Ellena Engineering Consultants, LLC, with a last revision date of May 18, 2009. Note: The ornamental tree variety "Eastern Redbud" is to be substituted with "Golden Raindrop", a variety of ornamental crabapple tree;

- Beta Lighting Plan, [www.beta-lighting.com](http://www.beta-lighting.com), Filename: BEP-RCWIFAT.AGI, Layout by: FRANK, dated May 22, 2009;
- Drawing No. A1.0, floor plan, "Rochester C-Store", prepared by 4<sup>th</sup> Dimension Design, Inc., dated December 29, 2008; and
- Drawing No. A2.0, building elevations, "Rochester C-Store" prepared by 4<sup>th</sup> Dimension Design, Inc., dated December 29, 2008;

are hereby approved.

FURTHER, that the Village Attorney and/or the Village Engineer may approve minor revisions to the submitted Plans and/or documents without the need for additional Plan Commission or Village approval, and this Resolution shall be updated to reflect said revisions.

FURTHER, that this Resolution will be recorded in fulfillment of the requirements of Village of Rochester Municipal Code Chapter 15, section 3.13.g.(2.)(c.), and all plans referenced herein will be kept on file at the Village Hall.

Introduced: June 8, 2009

Adopted: *June 8, 2009*

VILLAGE OF ROCHESTER

*Paul Beere*  
Paul Beere, Village President

Attest:

*Betty J. Novy*  
Betty Novy, Clerk-Treasurer

**ORDINANCE NO. 2014-6**  
**Amending Chapter 30 of the Municipal Code of the Village of Rochester**  
**to Include Statutory Changes for Land Divisions and Amending Chapter 35 to Include Additional**  
**Permitted Uses in the B-1 Central Business District**

The Village Board of the Village of Rochester, Racine County, Wisconsin, do ordain as follows:

- I. That Chapter 30, Land Division, Sections 30-24, 30-25, 30-41 (intro), 30-43, 30-51, 30-54, 30-56, 30-58, 30-61 (intro), 30-65 (intro), 30-67, 30-69, 30-82.B., 30-101.D., 30-102 and 30-113 are hereby amended as follows:

**30-24. PRELIMINARY PLAT REVIEW AND APPROVAL.**

After submitting a conceptual plan and before submitting a final subdivision plat for approval, the subdivider shall prepare a preliminary plat with supporting data and a letter of application. The preliminary plat and supporting data shall be prepared in accordance with this chapter and Wisconsin law. The subdivider shall file an electronic copy of the plat and one hard copy capable of legible reproduction with supporting data and application with the Village Clerk, together with all necessary fees, at least 30 days prior to the meeting of the Village Plan Commission at which first consideration is desired. The Clerk may require additional copies. The subdivider shall also file an electronic copy or a hard copy of the plat with the Wisconsin Department of Administration in conformance with Wis. Stat. s. 236.12.

- A. The Village Clerk shall forward the Preliminary Plat (which may be an electronic copy or reduced copy) and letter of application within two normal working days to each of the following:
1. Village Trustees;
  2. Village Plan Commission Members;
  3. Zoning Administrator and Village Engineer;
  4. Contracted Fire Company.
  5. School Board with jurisdiction (for review and comment).
- B. After review and input from the objecting agencies as set forth in Wis. Stat. s. 236.12, Village Engineer and Fire Chief, the Zoning Administrator and Village Plan Commission will review the Preliminary Plat and supporting data and suggest changes needed to comply with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components, and conventional and conservation subdivision procedures. Efforts will be made to resolve any differences and a recommendation made to the Village Board to approve or reject the plat.
- C. The Village Board shall, within 90 days of the date of filing of a Preliminary Plat and supporting data with the Village Clerk, approve, approve conditionally, or reject such plat. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy of each of the plat and letter shall be placed in the Village's permanent file.
- D. Failure of the Village Board to act within 90 days shall constitute an approval of the Preliminary Plat as filed.

E. If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 36 months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat or may extend the time for submission of the final plat. The final plat may, if permitted by the approving authority, constitute only that portion of the approved preliminary plat that the subdivider proposes to record at that time. See Wis. Stat. s. 236.11(1)(b).

F. See also s. 30-25C.

#### 30-25. FINAL PLAT REVIEW AND APPROVAL.

A. The subdivider shall prepare a Final Plat, letter of application and shall file an electronic copy of the Plat and a hard copy of the Plat capable of reproduction and hard and electronic copies of the application with the Village Clerk, along with all applicable fees in accordance with this chapter and Wis. Stat. ch. 236, at least 45 days prior to the meeting of the Village Board at which action is desired. The Village Clerk may require additional copies. The subdivider shall also file the Plat with the Department of Administration as set forth in Wis. Stat. s. 236.12.

B. The Village Clerk shall forward the Final Plat (which may be an electronic copy or reduced copy), and letter of application within two normal working days to each of the following:

1. Village Trustees;
2. Village Plan Commission Members;
3. Zoning Administrator and Village Engineer;
4. Contracted Fire Company;
5. School Board with jurisdiction (for review and comment).

C. The Village Plan Commission and Village Engineer shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any condition of approval of the Preliminary Plat, this chapter and all ordinances, rules, regulations, comprehensive plan components and conservation subdivision procedures which may affect it. The Village Plan Commission shall recommend approval or rejection of the Plat to the Village Board.

1. Pursuant to Wis. Stat. s. 236.11(1)(c), the Village Engineer shall provide the Village with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.
2. Basis for Approval. Pursuant to Wis. Stat. s. 236.13:
  - a. The basis for approval of a preliminary or final plat shall be conditioned on compliance with the following:
    - (1) The provisions of Wis. Stat. ch. 236;
    - (2) Any Village or applicable county ordinance that is in effect when the subdivider submits a preliminary plat, or a final plat if no preliminary plat is submitted;

- (3) The rules of the Department of Safety and Professional Services relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for public sewer service has not been made;
    - (4) The rules of the department of transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.
  - b. As a further condition of approval, the Village shall require that the subdivider make and install any public improvements reasonably necessary or that the subdivider execute a bond or letter of credit to ensure that he or she will make those improvements within a reasonable time as set forth in Article 10. The subdivider may construct the project in such phases as the Village Board approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of any bond or letter of credit required by the Village Board shall be limited to the phase of the project that is currently being constructed. The Village Board may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.
  - c. The Village shall require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that the following facilities shall have been previously provided without cost to the Village, but which are constructed according to Village specifications and under Village inspection: sewerage (where required under Chapter 10), storm water management and/or treatment facilities, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting, and other facilities as may designated by the Village Board, or that a specified portion of such costs shall be paid in advance as provided in Wis. Stat. s. 66.0709.
  - d. The Village shall require as a condition of approval that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.
  - e. As a further condition of approval, the Village may require the dedication of easements by the subdivider for the purpose of assuring the unobstructed flow of solar or wind energy across adjacent lots in the subdivision.
  - f. Additional bases of approval shall be as further set forth in Wis. Stat. s. 236.13.
- D. The Village Plan Commission shall, within 30 days of the date of filing of the Final Plat with the Village Clerk, recommend approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendation with the Village Board.
  - E. The Village Board shall, within 60 days of the date of filing the Final Plat and application with the Village Clerk, approve or reject such Plat unless the time is extended by agreement with the subdivider. If the Plat is rejected, the reason shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider.
  - F. Failure of the Village Board to take action on the Plat within 60 days, the time having not been extended and no unsatisfied objections having been filed, the Plat shall be deemed approved. Upon demand, the Clerk shall affix a certificate on the face of the plat to that effect.

- G. When the Village determines to approve the plat, the Clerk shall give at least 10 days' prior written notice to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the proposed plat, but failure to give such notice shall not invalidate the plat.
- H. The subdivider shall prepare the final plat for approval and attached any required certifications as set forth in Wis. Stat. s. 236.11. After the Final Plat has been approved by the Village Board and required improvements either installed or a contract insuring their installation filed, the appropriate surety approved, and the certificate of the Department of Administration affixed, the Village Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds shall not record the Plat unless it is offered within 12 months of the last approval by the Village Board and 36 months of its first approval.
- I. The subdivider shall file ten copies of the approved Final Plat as recorded with the Village Clerk for distribution to the Village Engineer, Building Inspector, Assessor and other affected departments for their files.
- J. If permitted by the Village Board, the approved Preliminary Plat may be final platted in phases, with each phase encompassing only that portion of the approved Preliminary Plat which the subdivider proposes to record at one time; however, it is required that each such phase be final platted and be designated "a phase" or addition to the approved Preliminary Plat.

#### 30-41. GENERAL.

A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a professional land surveyor at a map scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

#### 30-43. COVENANTS.

The Village Board or the Village Plan Commission may require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision, and otherwise protect the proposed development. The Village Attorney shall review all covenants and shall approve covenants as to form, and where easements or other rights are granted to the Village therein, shall also review the content thereof.

#### 30-51. GENERAL.

A final plat prepared by a professional land surveyor licensed by the State of Wisconsin is required for all subdivisions. It shall comply in all respects with the requirements of Wis. Stat. s. 236.20.

#### 30-54. SURVEY ACCURACY.

The survey shall meet or exceed the accuracy requirement set forth in Wis. Stat. s. 236.15(2).

#### 30-56. STATE PLANE COORDINATE SYSTEM.

Where the plat is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village or Town, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter

corner, to which the plat is tied, shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error or closure herein specified for the survey of the exterior boundaries of the subdivision. All distances and bearings shall be referenced directly to the Wisconsin Coordinate System of 1927, South Zone, and adjusted to the control survey.

#### 30-58. RECORDATION.

The final plat shall only be recorded with the County Register of Deeds after the certificates have been signed by the Administrator, Division of Intergovernmental Relations, Department of Administration, the Village President and Village Clerk upon the approval by the Village Board, the surveyor, and those authorized to sign the certificates required by Wis. Stat. s. 236.21, on the face of the plat. The plat shall be recorded within the time limits set forth in Wis. Stat. s. 236.25.

#### 30-61 CERTIFIED SURVEY MAP REQUIRED.

A certified survey map (CSM) prepared by a professional land surveyor shall be required for all "minor land divisions" when it is proposed:

#### 30-65. CSM APPROVAL PROCEDURE.

The subdivider shall prepare the certified survey map in accordance with the requirements of this chapter and Wis. Stat. s. 236.34 as amended from time to time, and shall file an electronic copy of the map and at least 14 copies of the map and the letter of application with the Village Clerk.

#### 30-67. STATE PLANE COORDINATE SYSTEM.

Where the map is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village, or Town, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System of 1927, South Zone, and adjusted to the control survey.

#### 30-69. RECORDATION.

The subdivider shall record the map with the Racine County Register of Deeds within 12 months of its last approval by the Village Board and within 36 months of its first approval.

#### 30-82. STREET PLANS, IMPROVEMENTS AND STANDARDS.

B. Final surface for public streets must be installed no later than 12 months after the binder course..

#### 30-101. GENERAL.

D. Bond or Letter of Credit in a form approved by the Village in the amount of 120 percent of the Village Engineer's opinion of probable cost of the installation of such improvements in the first phase of the project with good and sufficient surety thereon, to be approved by the Village Board, conditioned upon the installation of the required improvements within two years of the approval of the final plat. A new bond or letter of credit shall be provided prior to the commencement of each subsequent phase of the project.

#### 30-102. REDUCTION OF SURETY.

- A. The bond or letter of credit for each phase can be periodically reduced by the Village Clerk upon recommendation of the Village Engineer and approval by the Village Board.
- 1.. The subdivider may submit to the Village Engineer a list of completed items and their cost along with copies of waivers of lien for the completed items. Upon review of these submittals, the Village Engineer shall recommend to the Village Clerk the reduction in the value of the bond or letter of credit to be approved. Each reduction shall not be more than the value of items estimated in the bond or letter of credit guarantee amount.
  2. The 20 percent contingency shall be held as retainage and shall not be released until substantial completion of the public improvements. Substantial completion is defined as the time the binder coat is installed on roads to be dedicated, or, if there is no road to be dedicated, at the time that 90 percent of the public improvements by cost are completed. Upon substantial completion, the amount of the surety shall be reduced to the amount to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements, which shall remain in place for at least 14 months after the date of substantial completion. The public improvements shall be completed in their entirety no later than 12 months after substantial completion and tendered to the Village for acceptance. Upon acceptance of the project and receipt of the five percent maintenance bond as specified in section 30-92, the original surety shall be released. If the work has not been completed in its entirety 12 months after substantial completion, the Village may declare the Developer to be in default of the Development Agreement and use the surety for completion of the public improvements.
- B. RESERVATION OF ASSESSMENT RIGHTS. In the event that any financial guarantee does not provide sufficient funds to complete the public improvements as provided herein, or the financial guarantee expires, or the Developer does not repair or replace defects in the public improvements during the guarantee period, in addition to the remedies for default provided to the Village by the financial guarantee, the Village reserves the right without notice or hearing to impose special assessments or charges for any amount to which it is entitled by virtue of the Agreement upon the Development and/or individual parcels in the Development. Such special assessments or charges shall be collected on the next succeeding tax roll as are other special assessments or charges. This provision shall be included in the development agreement and the signature of the developer shall constitute the waiver of notice and consent of Developer and its successors and assigns to all special assessment or special charge proceedings which may be required by law.

### 30-113. NEW STREET NAMES.

No new streets shall be accepted by the Village of Rochester; nor municipal improvements made thereon until such streets have been named.

- A. If streets are extensions of existing streets, the existing names shall be continued, and if not extensions, names recorded shall not duplicate or closely approximate street names already assigned.
- B. Proposed names of new streets shall be submitted to the Zoning Administration Office for review and approval. The Zoning Administrator shall compare new street names with the master index maintained in the Clerk's office. The Village Zoning Administrator shall report to the Village of Rochester within 30 days after receipt of the new street names as to approval or disapproval of the same. The names shall be approved by the Village Board as set forth in s. 30-34.
- C. Name signs shall be erected and maintained at the direction of Village of Rochester Public Works Department.

- II. That Chapter 35, Planning and Zoning, of the Municipal Code of the Village of Rochester, Section 35-41, B-1 Central Business District, section A., Uses, subsection 1., Permitted Principal Uses, is hereby amended to add the following use:

Trade and contractor offices

- III. This ordinance shall take effect after public hearing, passage and publication as provided by law. All other language contained in the Municipal Code of the Village of Rochester shall remain without change and in full force and effect.

Introduced:

Adopted:

BY ORDER OF THE VILLAGE BOARD

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Paul Beere, President

ATTEST:

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Betty J. Novy, Clerk-Treasurer

