ATTACHMENTS

PARCEL NO. 204540

MAP NO.

ZONING CLASSIFICATION:

Office Use Only

APPLICATION/FILE NO.

REVIEW DATE: 12/15/20

FILING FEE: $250.00 (Payable to City of Sheboygan)

CITY OF SHEBOYGAN APPLICATION FOR CONDITIONAL USE PERMIT

Requirements Per Section 15.905
Revised May 2018

Completed application is to be filed with the Department of City Development, 828 Center Avenue, Suite 208. To be placed on the agenda of the City Plan Commission, application must be filed two weeks prior to date of meeting. Applications will not be processed if all required attachments and filing fee of $250 (payable to the City of Sheboygan) is not submitted along with a complete and legible application. Application filing fee is non-refundable.

1. APPLICANT INFORMATION

APPLICANT: Quasius Construciton, Inc.

ADDRESS: 1202A North 8th Street, Sheboygan, WI E-MAIL: ggartman@quasius.com

PHONE: (920) 287-0396 FAX NO. (920) 457-1045

2. DESCRIPTION OF THE SUBJECT SITE/PROPOSED PROJECT

NAME OF PROPOSED/EXISTING BUSINESS: Progressive Beginnings

ADDRESS OF PROPERTY AFFECTED: 1125 N 13th Street, Sheboygan, WI

LEGAL DESCRIPTION: ORIGINAL PLAT PRT OF BLK 80 LOT 1 CSM REC IN VOL 21 P 4 AS

DOC #1741485 ROD

BRIEF DESCRIPTION OF **EXISTING** OPERATION OR USE: Currently Vacant but

but previously used as a children's daycare and an outpatient OT, PT, ST Clinic Prior

DETAILED DESCRIPTION OF **PROPOSED** OPERATION OR USE INCLUDING ANY CHANGES TO THE EXISTING USE: Outpatient OT, PT and ST Clinic

BRIEF DESCRIPTION OF ALL REQUESTED VARIANCES FROM PROVISIONS OF THE ZONING ORDINANCE, WHICH ARE RELATED TO THE PROPOSED OPERATION OR USE:

ELMENDORF PROPERTIES, LLC **10/12/2020**

Elmendorf Properties, LLC pending purchase and updating of current structure

Explanation / Justification for the Proposed Rezoning and Potential New Use of Property

Address:
1125 N 13th Street
Sheboygan, WI 53081

Prior Use of Facility:

- Outpatient Occupational, Physical and Speech Therapy Clinic through RCS and Rehab Resources
- Outpatient Services were provided as part of the Birth to Three Program as well as additional Pediatric Outpatient Therapy Programming.
- Daycare and Early Childhood Care through RCS
- Daycare and Childcare through Salvation Army

Proposed New Use of Property:

- Remodel/Update of current floor plan for potential lease to an Outpatient Occupational, Physical and Speech Therapy Clinic

We are looking to purchase the above listed property with the intent of updating and remodeling for continued use as a facility for pediatric services. The above listed facility was utilized for outpatient therapy services between 1989 and 2009/2010/ At that time the current therapy provider moved out of the location and RCS sold the location to the Salvation Army. The property was then slightly converted into a daycare by removing some of the interior walls and changing staff offices into larger daycare areas.

We are not looking to create a new use of the property but rather to return it to a property where Pediatric Therapy services may be provided. We are planning to clean up the location and the surrounding green space to allow the facility to be a better part of the changing community.

We have been made aware through our relationship with Quasius Construction that the property must be rezoned from Urban Industrial to Urban Commercial. We are hopeful that the city will assist us in growing our business by granting the rezoning request. In these exceedingly difficult times of COVID-19 and multiple business closures and shutdowns we are hoping to push forward to create new opportunities for Sheboygan and Sheboygan County.

The rezoning and future remodeling of this property would allow a company such as Progressive Beginnings the opportunity to continue and grow in Sheboygan. Progressive Beginnings founded in 1999 by John and Nichole Elmendorf started with 2 employees and has

grown to 10 employees in the Sheboygan location as well as the creation of 2 satellite locations in Delavan and Merrill, WI.

The next step is growth within Sheboygan. We were unable to realize our dreams of building a location in the industrial park some 10 years ago but feel this location would offer us the opportunity to grow our practice within Sheboygan in 2020 and beyond. The first step is the granting and approval of the rezoning request to allow Elmendorf Properties the ability to purchase the location.

This purchase will help the city and its continued development in many ways. First, it brings a property onto the Tax Ledger after being Tax Exempt for 30 years. Second, it will allow for the property to be cleaned up and streamlined so that it does not become an eye sore with overgrowth and crumbling asphalt. Lastly, it assists a business that was founded in Sheboygan to continue and grow within Sheboygan.

We look forward to working with you all to have this project approved and completed within Sheboygan.

Respectfully,

John Elmendorf
Elmendorf Properties, LLC
Progressive Beginnings, LLC
(920)917-7104

Elmendorf Properties, LLC
215 Forest Road
Kohler, WI 53044

Progressive Beginnings, LLC
2131 S Business Drive
Sheboygan, WI 53081





OUR PRACTICE

Our Practice

Our team at Progressive Beginnings is an energetic, dedicated, and passionate team comprised of people who are ready to support you and/or your child along the therapeutic journey. Our team is comprised of Occupational and Physical Therapists.

In Sheboygan, ***we specialize in treating patients with chronic pain and pediatric patients. We offer the only warm water aquatic therapy pool in Sheboygan County.*** We will start with the approach of understanding the unique situation and goals of each adult or child and will work with you to achieve optimal well being. We have the knowledge, skill, service, equipment, and unique modalities to offer you a one of a kind therapeutic experience in Sheboygan County.

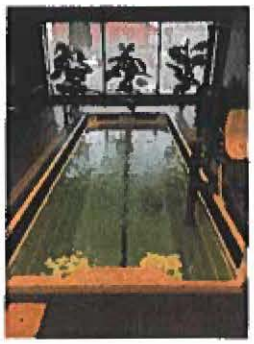
In Delavan and Merrill, ***we provide in house therapy for patients living in an Assisted Living and/or onsite therapy in community based living.*** Our therapists' goals are to improve pain, increase range of motion and strength, improve balance and mobility, as well as restore a resident's ability to complete activities of daily living.

Our Gym- Sheboygan





Our Pool- Sheboygan





Latest Clinic News:

We're hiring! We are searching for a PT and an OT to join our team! Contact us for details!
Feb 5, 2020

Join our young although experienced and knowledgeable team that offers unlimited opportunity for growth, we could be your perfect fit!

Are you an independent worker that can make decisions and adjust to the many changes that happen in the health care market place? Do you want to dabble in private practice with the support of a group of experienced therapists?

With Progressive Beginnings, LLC you will set your own schedule giving you the flexibility you would like. You will manage your schedule and your day. Your earning potential is based upon your work ethic and drive! Be a part of our great team of growing therapy professionals!

Please contact: Jessica Oakland, PT, DPT at jessicapt@progbeg.com to inquire about details!

Exercise in water can help reduce chronic pain.
Dec 13, 2019

Exercise in water utilizes several principles and has a number of benefits that will speed recovery, boost your muscle performance, and help to reduce pain. By using equipment such as water paddles or noodles, the therapist can create gentle currents aimed at specific areas of the body, helping to improve problem areas.

Autism in children.
May 7, 2019

Autism is a spectrum of related disorders having a shared core of signs and symptoms. All kids on the spectrum have difficulties with (1) communicating non-verbally and verbally, (2) relating to the world around and to others, (3) behaving and thinking flexibly. Looking for resources? We can help support your family

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PROGRESSIVE BEGINNINGS
920-803-1617 Rehabilitation Specialists

2131 S Business Drive
Sheboygan, WI 53081
(p) (920) 803-1617
(f) (920) 803-1622





OUR SERVICES

Services We Offer:

Offering a wide range of patient services:

- Occupational Therapy
- Physical Therapy
- Speech Therapy (coming soon)
- Aquatic Therapy
- Wheelchair Assessments

- **Habilitation:** To help a person learn, keep, or improve skills and functional abilities that they may not be developing normally. This could be referring to children or young adults with varying levels of developmental disabilities. We are here to help!
- **Rehabilitation:** To restore, improve, or maintain physical strength, cognition, and mobility with maximized results. Rehabilitation helps people gain greater independence after illness, injury or surgery

New Patient?

Download our intake forms

⊕ ADULT

⊕ PEDIATRIC



Useful Links:

General Information

- Walsman Center
- Sheboygan Early Learning Center
- Chronic Pain, Explained
- Get PT 1st



We are searching for a PT, OT and SLP for our new Merrill location!
PRN SLP needed for Delavan!
Contact us for details!

Make an Appointment

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Assisted/ Independent Living

Partnering with Progressive Beginnings gives your ALF:

- Onsite physical, occupational and speech therapy
- Residents that stay healthy and independent longer
- The best care to allow greater independence
- Better Length of Stay and a boost to your bottom line
- Collaboration between resident, staff and therapist
- Cyclical care to your patients to be able to improve pain, range of motion and strength, improve balance and mobility.
- Control over the people within your facility




Physical therapy with Progressive Beginnings isn't only for injuries, but can be an intervention that improves strength and mobility for an overall improved quality of life

Progressive Beginnings' ***Occupational Therapy*** promotes increasing ADLs/IADLs and advanced participation within the community. Recommendations can also be made to have home adaptations and modifications to maximize independence and safety

It's easy to get started. **Call John at 920-917-7104** or drop and email to **johnot@progbeg.com**. He will answer all your questions and together we will determine the best way to move forward.

AS PARTNERS, WE ARE STRONGER TOGETHER




NEED MORE INFORMATION?

COLLABORATIONS

Vintage on the Ponds
A 70-bed assisted living facility
Delavan, WI

WESTSHIRE AT THE LAKES
Independent Living with 123 ranches & 82 apartments
Delavan, WI

BELL TOWER
12 Acres with over 68,000 square feet of living spaces in
Merrill, WI

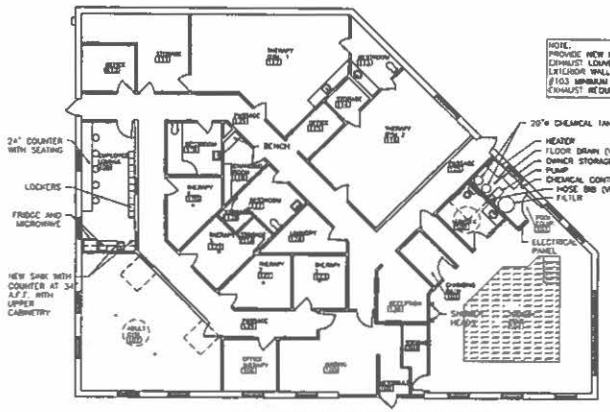
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WALL TYPE SCHEDULE

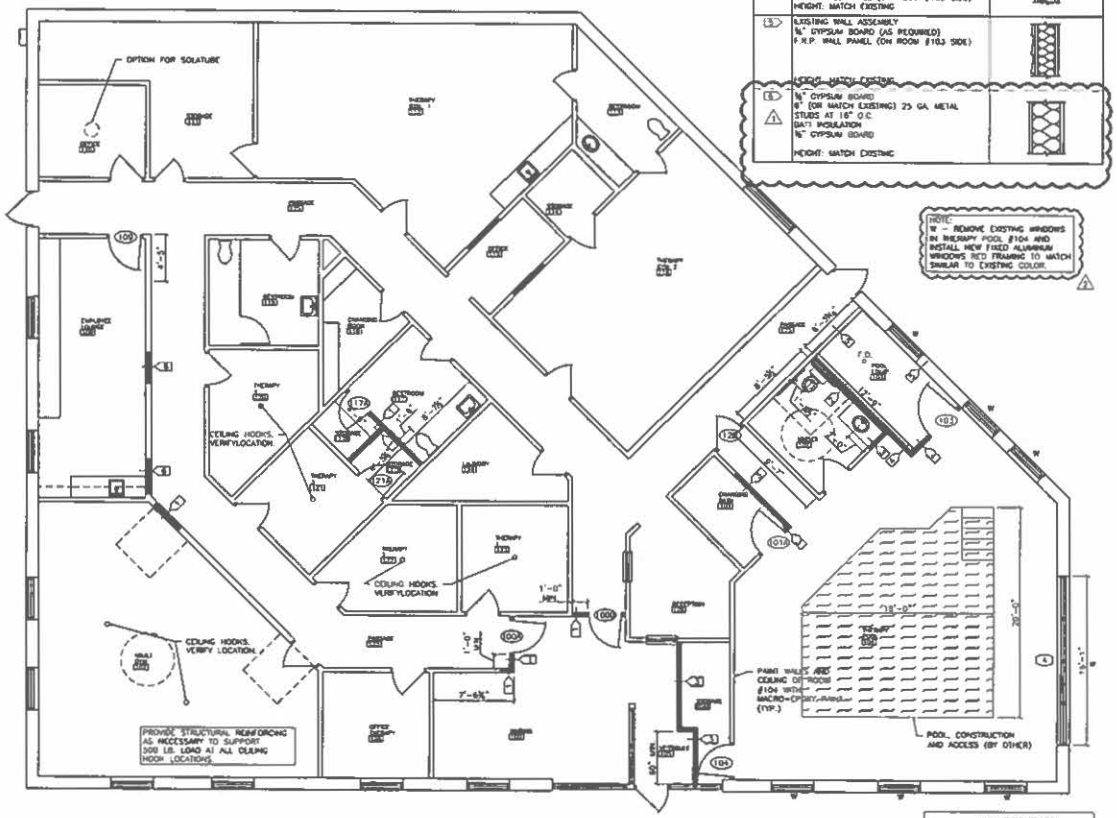
NO.	DESCRIPTION	WALL DIAGRAM
A	⅝" GYPSUM BOARD 3⅝" 25 GA. METAL STUDS AT 16" O.C. BATT INSULATION ⅝" GYPSUM BOARD HEIGHT: MATCH EXISTING	
B	⅝" GYPSUM BOARD (ON ROOM #102 SIDE) 6" 20 GA. METAL STUDS AT 16" O.C. BATT INSULATION ⅝" GYPSUM BOARD WITH F.R.P. WALL PANEL (ON ROOM #103 SIDE) HEIGHT: MATCH EXISTING	
C	⅝" EXTERIOR GRADE GYPSUM BOARD (ON ROOM #104 SIDE) 3⅝" 25 GA. METAL STUDS AT 16" O.C. BATT INSULATION ⅝" GYPSUM BOARD HEIGHT: MATCH EXISTING	
D	⅝" EXTERIOR GRADE GYPSUM BOARD (ON ROOM #104 SIDE) 3⅝" 25 GA. METAL STUDS AT 16" O.C. BATT INSULATION ⅝" GYPSUM BOARD WITH F.R.P. WALL PANEL (ON ROOM #103 SIDE) HEIGHT: MATCH EXISTING	
E	EXISTING WALL ASSEMBLY ⅝" GYPSUM BOARD (AS REQUIRED) F.R.P. WALL PANEL (ON ROOM #103 SIDE) HEIGHT: MATCH EXISTING	
F	⅝" GYPSUM BOARD 6" (OR MATCH EXISTING) 25 GA. METAL STUDS AT 16" O.C. BATT INSULATION ⅝" GYPSUM BOARD HEIGHT: MATCH EXISTING	



REFLECTED CEILING PLAN
SCALE: 1/8"=1'-0"



FURNITURE, FIXTURES AND EQUIPMENT PLAN
SCALE: 1/8"=1'-0"



RENOVATION PLAN
SCALE: 1/8"=1'-0"

WALL TYPE SYMBOL SEE WALL TYPE SCHEDULE ON SHEET A1.0

THIS HATCH PATTERN INDICATES NEW CONSTRUCTION

THIS LINE TYPE INDICATES EXISTING CONSTRUCTION, TO REMAIN

ISSUED FOR CONSTRUCTION

Quasius

ISSUE NO.	REVISIONS	ISSUE DATE
1	MISC. PLAN REVISIONS	11/03/20
2	WINDOW CHANGES	11/04/20

PROPOSED RENOVATIONS FOR:
PROGRESSIVE BEGINNINGS
SHEBOYGAN, WI 53081

Project number 20125
Date OCTOBER 8, 2020
Drawn by T. JOHNSON
Checked by C. DUESCHER

A1.0

VOL 21 PAGE 4

741485
SHEBOYGAN COUNTY, WI
RECORDED ON
06/03/2004 02:44PM
DARLENE J. NAVIS
REGISTER OF DEEDS
RECORDING FEE: 13.00
TRANSFER FEE:
STATE ID #
TRANS # 1/2&3
OF PAGES: 2

CERTIFIED SURVEY MAP
OF
THE WEST 55' OF LOT 4 AND LOTS 5 & 6, BLOCK 80, ORIGINAL PLAT
CITY OF SHEBOYGAN SHEBOYGAN COUNTY, WISCONSIN
OWNER: REDEMPTORIST CENTER OF SHEBOYGAN
ADDRESS: 1305 ST. CLAIR AVENUE & 1225 NORTH 13TH STREET
SHEBOYGAN, WI 53081
TAX PARCEL NOS. 204510 & 204540

APPROVED
CITY OF SHEBOYGAN
DEPT. OF CITY DEVELOPMENT

TOTAL AREA
26,579 sq. ft.
0.612 acres

LEGEND
● = 1" x 24" I.P. SET(1.68 LBS./LIN. FT.)
● = 3/4" I.P. FOUND
→ = CHISELED ARROW FOUND
▲ = P-K NAIL SET

ROAD BY DEED
ST CLAIR AVE

S 89°56'01" E 175' (deed) 176.81' (meas.)
N 89°56'01" W 175' (deed)
N 00°14'08" W 180' (deed) 180.94' (meas.)
S 00°17'04" E 180' (deed) 180.73' (meas.)
WEST 175' (deed) 176.94' (meas.)

EXISTING BUILDING
EXIST. HOUSE
LOT 1
ORIGINAL PLAT
6 5 4 3
16' PAVED ALLEY

ROAD BY DEED
N 13°57'03" E

NORTH IS REFERENCED TO THE NORTH LINE OF BLOCK 80, ORIGINAL PLAT, CITY OF SHEBOYGAN, HAVING AN ASSUMED BEARING OF S 89°56'01" E

SCALE: 1" = 50'
0 10 25 50 100
SCALE IN FEET

WISCONSIN
CRAIG A. HINZE
S-2603
SHEBOYGAN
WIS.
LAND SURVEYOR

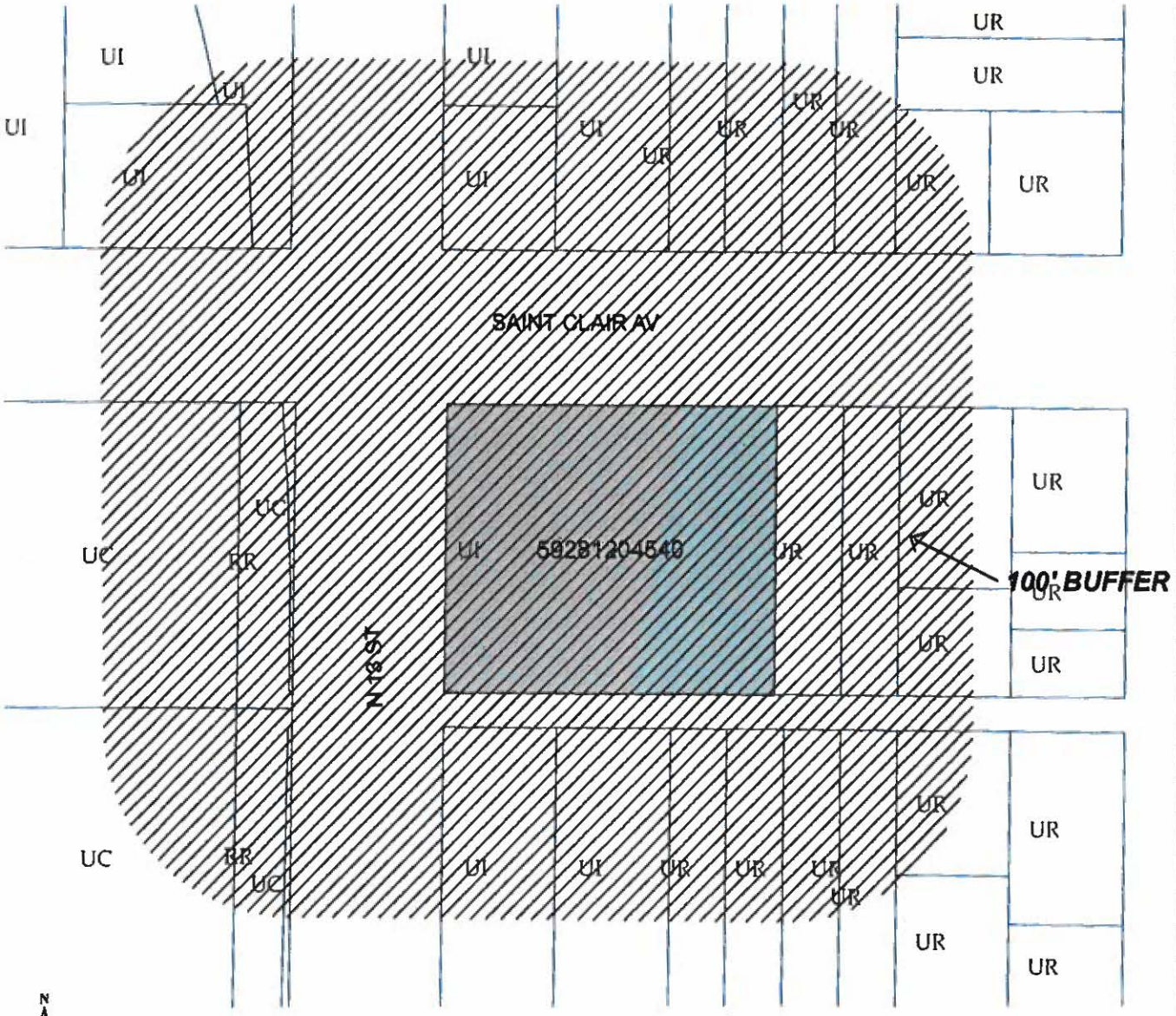
THIS INSTRUMENT DRAFTED BY DAVID C. HINZE, JR. OF HINZE & ASSOCIATES, INC.
JOB NO. F-0727
SHEET 1 OF 2
BOOK NO. 158, PAGE NOS. 158-159

NE 1/4 22-15-23

PROPOSED ZONING CHANGE
FROM URBAN INDUSTRIAL (UI) to URBAN COMMERCIAL (UC)

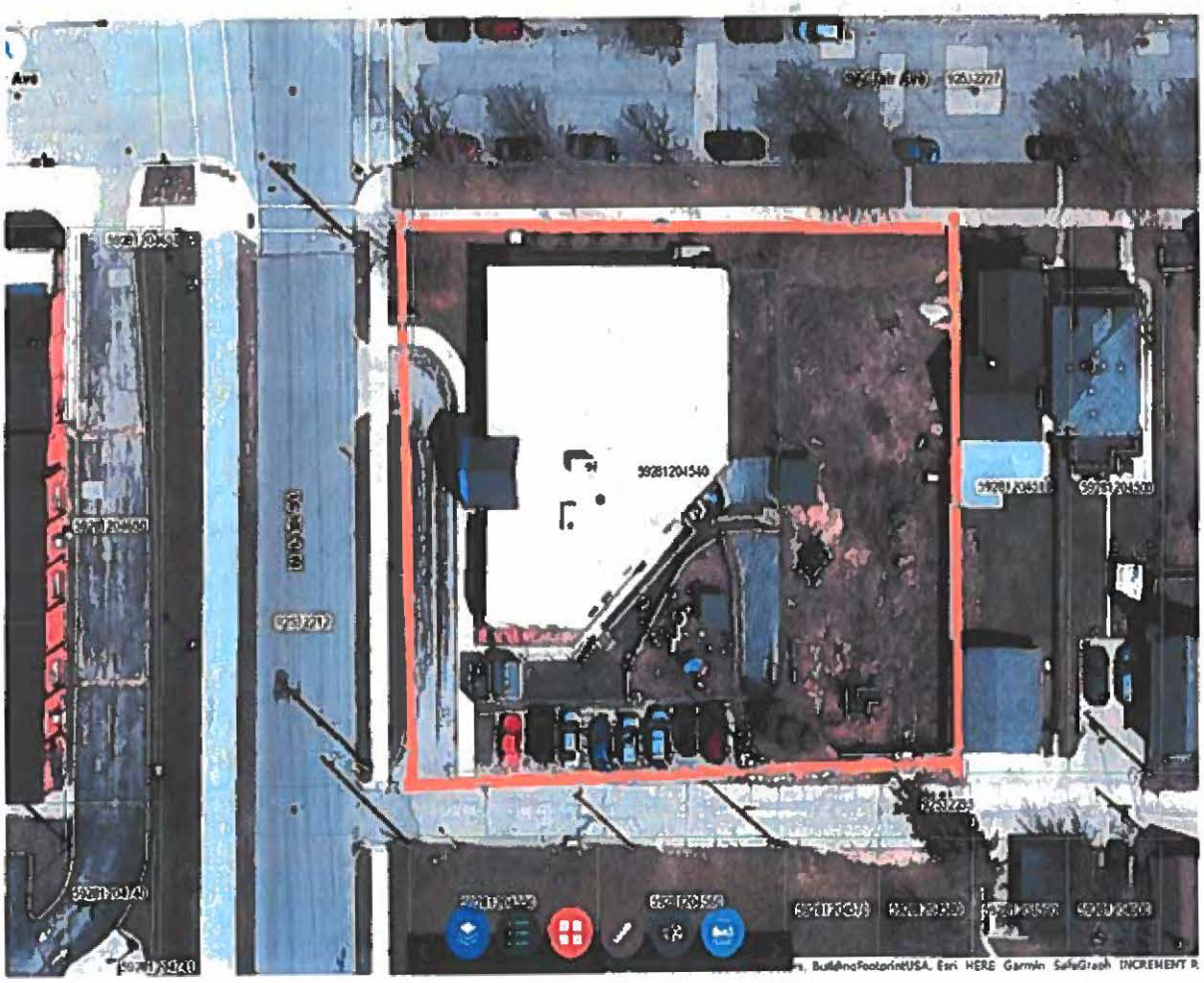
SECTION 22, T. 15 N, R. 23 E

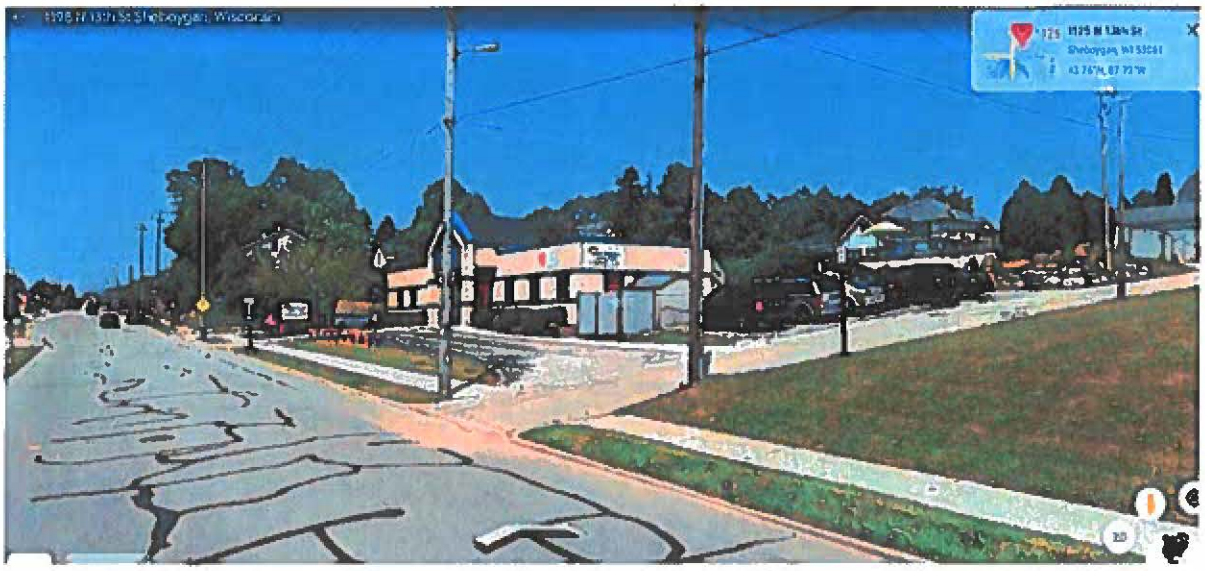
ORIGINAL PLAT PRT OF BLK 80 LOT 1 CSM REC IN VOL 21 P 4 AS DOC #1741485 ROD

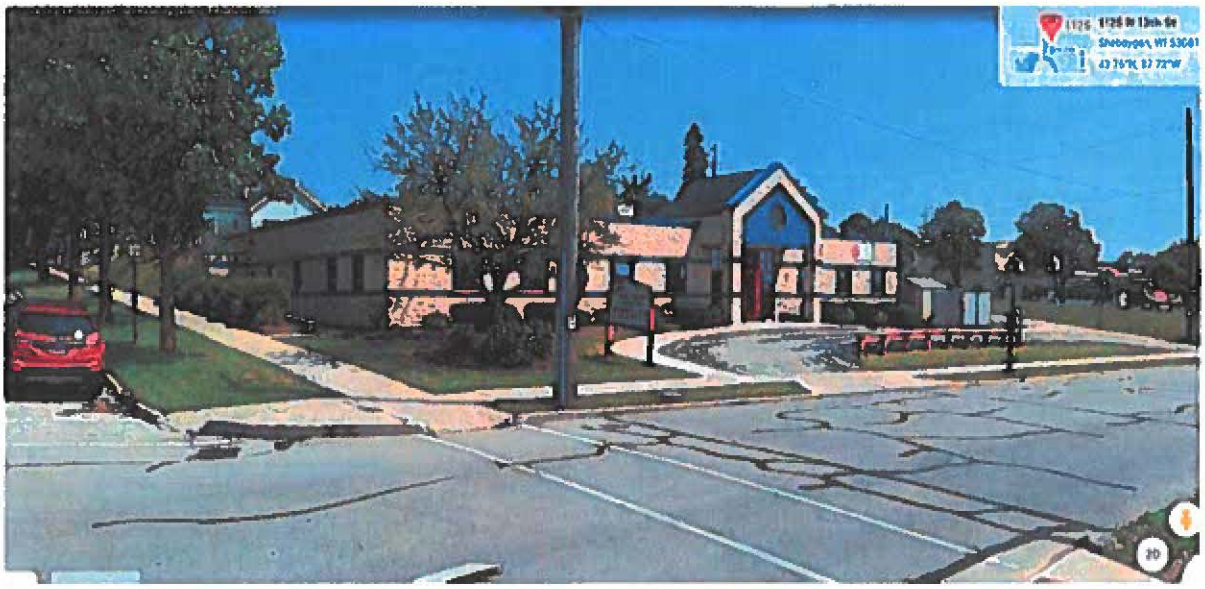


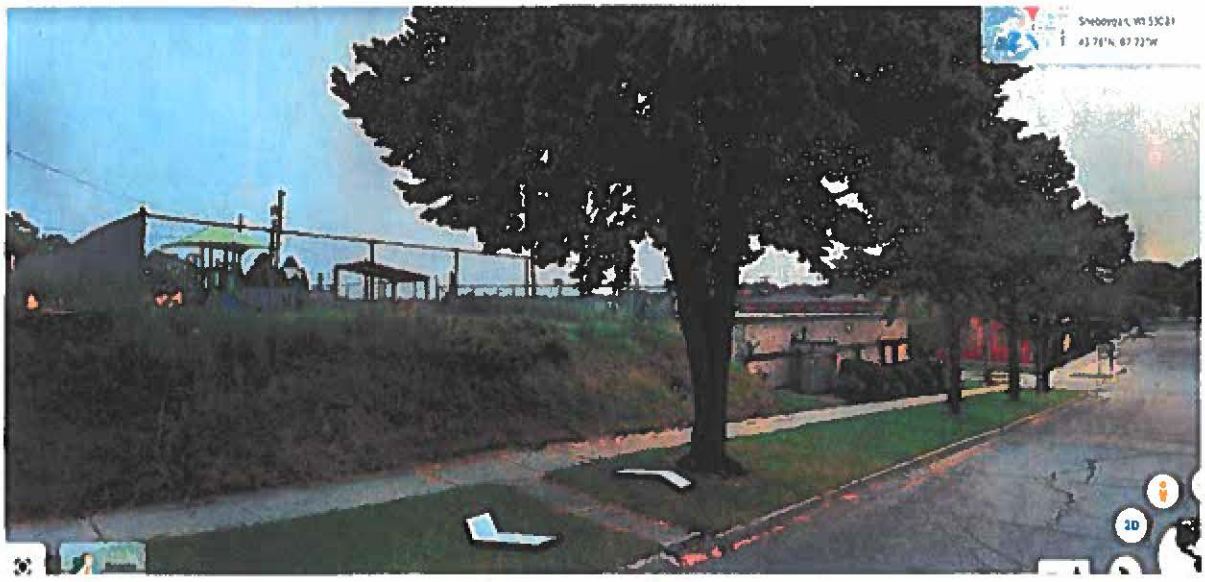
City of Sheboygan
spirit on the lake


Erie Ave
Erie Ave
Erie Ave
Erie Ave
Erie Ave
Erie Ave
Erie Ave
N Main St
N 14th St


39281204540
Esri, HERE, Garmin, SafeGraph, INCREMENT P







CITY OF SHEBOYGAN

REQUEST FOR CITY PLAN COMMISSION CONSIDERATION

ITEM DESCRIPTION: Application for Conditional Use Permit with exceptions by Elmendorf Properties, LLC to operate Progressive Beginnings from the existing facility located at 1125 N. 13th Street. UC Zone

REPORT PREPARED BY: Steve Sokolowski

REPORT DATE: December 11, 2020 **MEETING DATE:** December 15, 2020

FISCAL SUMMARY:

Budget Line Item:	N/A
Budget Summary:	N/A
Budgeted Expenditure:	N/A
Budgeted Revenue:	N/A

STATUTORY REFERENCE:

Wisconsin Statutes:	N/A
Municipal Code:	N/A

BACKGROUND / ANALYSIS:

On December 7, 2020, the City approved a rezoning request from Elmendorf Properties, LLC to rezone the former Salvation Army Daycare Center property located at 1125 N. 13th Street from Urban Industrial (UI) to Urban Commercial (UC). The applicant is now proposing to utilize that property for Progressive Beginning and states:

- Elmendorf Properties, LLC rezoned the property so they can purchase and lease the property/facility to Progressive Beginnings to operate at 1125 N. 13th Street.

- Progressive Beginnings is proposing to remodel and update the current floor plan for pediatric services such as an outpatient occupational, physical and speech therapy clinic.

- Approval of the conditional use permit will allow Progressive Beginnings the opportunity to continue to grow in Sheboygan. Progressive Beginnings, founded in 1999 by John and Nichole Elmendorf, started with two (2) employees and has grown to 10 employees in the Sheboygan location. In addition, Progressive Beginning has satellite locations in Delavan and Merrill, WI.

- The applicant states the purchase/use of this property will help the city by:

    - Bringing a property onto the tax ledger after being tax exempt for 30 years.
    - Allowing for the property to be cleaned up so that it does not become an eye sore with overgrowth and crumbling asphalt.
    - Assists a business founded in Sheboygan to continue to grow within Sheboygan.

Progressive Beginnings is an energetic, dedicated, and passionate team comprised of people who are ready to support you and/or your child along the therapeutic journey. Our team is comprised of Occupational and Physical Therapists.

In Sheboygan, we specialize in treating patients with chronic pain and pediatric patients. We offer the only warm water aquatic therapy pool in Sheboygan County*.* We start with the approach of understanding the unique situation and goals of each adult/child and will work with you to achieve optimal well-being. We have the knowledge, skill, service, equipment, and unique modalities to offer a one of a kind therapeutic experience in Sheboygan County.

Rehabilitation services for adults include chronic pain, fibromyalgia, obesity, orthopedic injuries, generalized weakness, balance disorders, spinal injuries, sports related injuries, post stroke, falls at home or in the community, traumatic brain injury, etc.

Rehabilitation services for children include cerebral palsy, sensory disorders, down's syndrome, autism spectrum disorders, fine motor delay, toe walking, etc.

STAFF COMMENTS:

The applicant discussed some potential site improvements such as additional parking but has not submitted anything at this time. Thus, this conditional use permit is for the Progressive Beginnings use of the facility only. Any future site improvements will require Progressive Beginnings to file the required conditional use permit and site plan for review and approval.

The applicant has not provided any signage information so they will need to work with staff on appropriate signage for the site.

Applicant is requesting an exception to have eight (8) parking spaces – Minimum number of parking spaces required is 20 (6,200sf / 300sf = 20 parking spaces).

The applicant states:

- They are requesting to use the existing facility as is.
- There may be the ability to provide parking in their access drive adjacent to N. 13th St.
- The entire interior of the building is not just used for clinical space. There are two (2) large gym therapy rooms, a large room for a therapy pool and several restroom/changing rooms in the building.
- They may consider adding additional parking in the future.

The Plan Commission may want to have the applicant address:

- How is the applicant proposing to utilize the former playground on the east side of the site? Thoughts on additional outdoor activities/services.
- Thoughts on short term and long term improvements to the property (parking, etc.).
- Thoughts on parking – do they have enough for their employees and clients (applicant is requesting an exception to the parking requirements)?

The former Salvation Army daycare building has been vacant for a while and the Progressive Beginning occupational and physical therapy clinic appears to be a good use that fits well with this mixed use neighborhood.

ACTION REQUESTED:

Staff recommends approval of the conditional use and exception subject to the following conditions:

1. Prior to operation/occupancy, the applicant shall obtain all licenses and occupancy permits as well as meet all required codes including but not limited to building, plumbing, electrical, HVAC, fire, health, Federal, State, etc. An occupancy permit will be granted only at such time as the applicant has met all requirements.
2. Building permits shall be issued only at such time as the applicant can provide documentation that they own the parcel.
3. This conditional use permit is for the Progressive Beginnings use of the facility and property as is only. Any future site improvements will require the necessary land use permits/approvals prior to obtaining a building permit to proceed with such improvements.
4. If using dumpsters, dumpster(s) shall be screened/enclosed and constructed of like materials and colors of the facility.
5. Outdoor storage of materials, products or equipment shall be prohibited.
6. All ground level and rooftop mechanicals shall be screened/enclosed and constructed of like materials and colors of the facility (HVAC equipment, satellite dishes, etc.).
7. All new lighting shall be installed per Section 15.707 of the City of Sheboygan Zoning Ordinance. There shall be no spillover light onto adjacent properties or the streets.
8. Applicant shall obtain the necessary sign permits prior to installation. Applicant shall work with staff with regards to constructing a well-designed signage for the site that utilizes colors and materials similar to the building. Proposed signage will be individual letter signs (no flat panel or interior lit cabinet signs). Staff may bring the proposed signage design back to the Plan Commission for review/approval.
9. Applicant shall be permitted a freestanding monument sign for the site. Minimum setback of a monument sign is 12 feet. Maximum height of the monument sign is 8 feet.
10. Applicant shall remove all signage referring to previous Salvation Army use.
11. Applicant is responsible for working with all private and public utilities in order to adequately service this development proposal (applicant will need to provide the necessary easements and/or relocate utilities as necessary).
12. Any work within City of Sheboygan Public rights-of-way shall be discussed with the City Engineering Department and constructed to standard City specifications (including, but not limited to, new and old ingress/egress driveway openings, curb, gutter, sidewalk, pavement, utilities, street trees, etc.).
13. Absolutely no portion of the new building and/or site improvements shall cross the property lines including but not limited to buildings, balconies, decks, foundations, walls, gutters, eaves, roof, parking, fencing/retaining walls, signs, landscaping, etc.
14. Applicant will provide adequate public access along all streets and sidewalks and will take all appropriate actions to minimize the time period that adjacent properties and streets/sidewalks are impacted by the development (utilities, streets, etc.).
15. Applicant shall landscape/grass the southwest corner of the parking lot that appears to be gravel/damaged next to the westernmost parking space along the alley.
16. If there is to be any renovation to the exterior of the facility, the applicant will be required to obtain approval from the Architectural Review Board prior to receiving a building permit for such renovation.
17. If there are any amendments to the approved use and/or floor/site plan, the applicant will be required to submit a new conditional use application reflecting those amendments.

ATTACHMENTS:

Conditional Use and required attachments

CITY OF SHEBOYGAN

REQUEST FOR CITY PLAN COMMISSION CONSIDERATION

ITEM DESCRIPTION: Preliminary Plat Approval for Koppelmann Estates in the Town of Sheboygan. Extra-Territorial Plat Review

REPORT PREPARED BY: Steve Sokolowski

REPORT DATE: December 11, 2020 **MEETING DATE:** December 15, 2020

FISCAL SUMMARY:

Budget Line Item:	N/A
Budget Summary:	N/A
Budgeted Expenditure:	N/A
Budgeted Revenue:	N/A

STATUTORY REFERENCE:

Wisconsin Statutes:	N/A
Municipal Code:	N/A

BACKGROUND / ANALYSIS:

Ross Werner of Werner Homes has submitted the preliminary plat for Koppelmann Estates located in the Town of Sheboygan. The applicant states:

- This is a six (6) lot subdivision with lots varying in size from 1.07 to 1.2 acres.
- Koppelmann Estates is located at the southwest intersection of C.T.H. Y and Grote Road

STAFF COMMENTS:

The City has extra-territorial platting for subdivisions within three (3) miles of City limits.

ACTION REQUESTED:

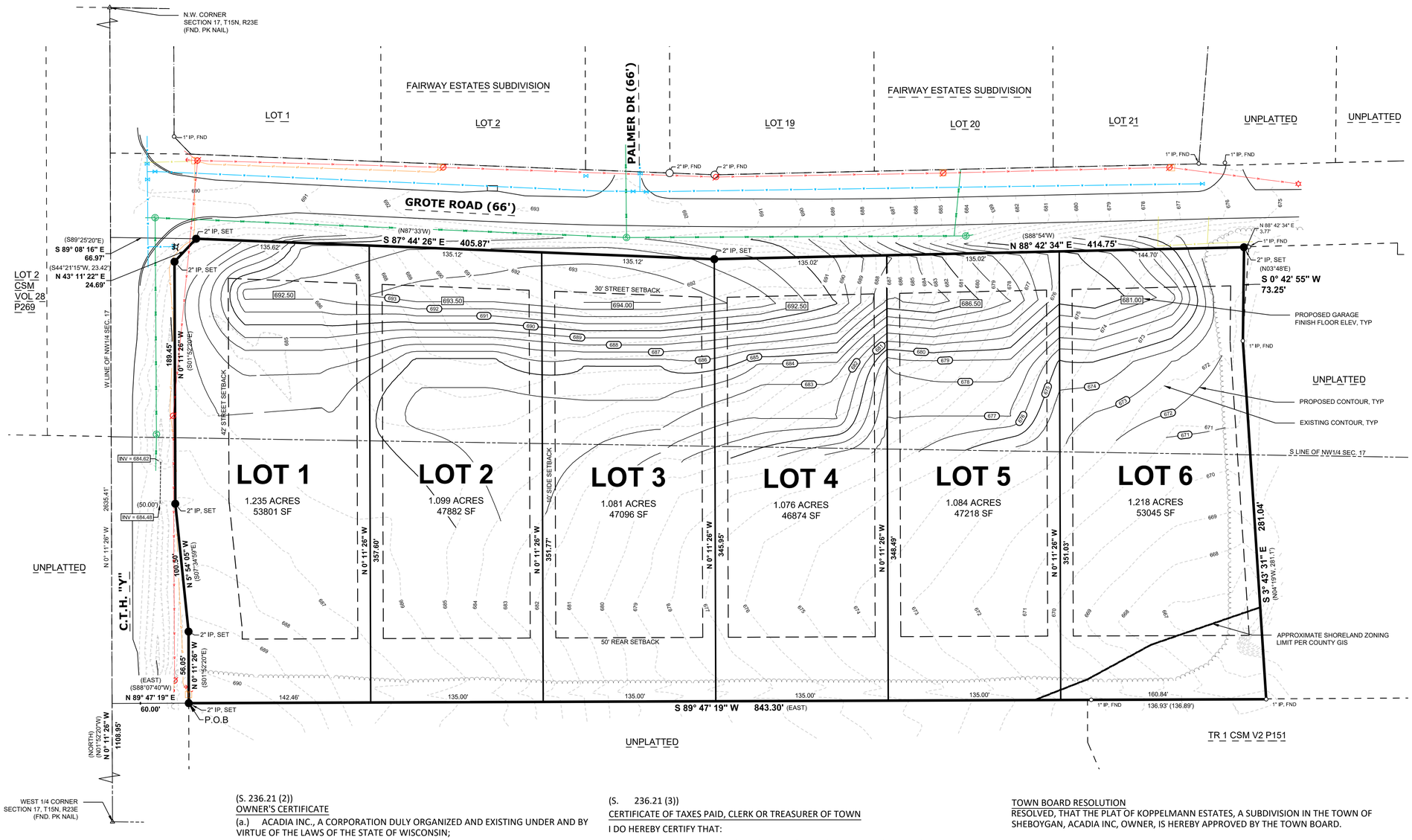
Staff recommends approval of the preliminary plat.

ATTACHMENTS:

Koppelmann Estates Preliminary Plat

PRELIMINARY PLAT
KOPPELMANN ESTATES

PART OF THE NW ¼ AND SW ¼
OF THE NW ¼ ALL IN SECTION 17, T15N, R23E,
TOWN OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN



(S. 236.21 (1))
SURVEYOR'S CERTIFICATE OF COMPLIANCE WITH STATUTE

I, CRAIG RUSCH, REGISTERED LAND SURVEYOR, HEREBY CERTIFY:

THAT IN FULL COMPLIANCE WITH THE PROVISIONS OF CHAPTER 236, WISCONSIN STATUTES, AND THE SUBDIVISION REGULATIONS OF SHEBOYGAN COUNTY, AND UNDER THE DIRECTION OF OWNER, ACADIA INC., I HAVE SURVEYED, DIVIDED, AND MAPPED KOPPELMANN ESTATES SUBDIVISION AND THAT SUCH PLAT CORRECTLY REPRESENTS ALL EXTERIOR BOUNDARIES AND THE SUBDIVISION OF THE LAND SURVEYED AND IS PART OF THE NORTHWEST 1/4 AND SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 17, TOWNSHIP 15 NORTH, RANGE 23 EAST, TOWN OF SHEBOYGAN, SHEBOYGAN COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST 1/4 CORNER SAID SECTION 17;
THENCE N0° 11' 26"W (NORTH) (N01°52'20"W) ALONG THE WEST LINE OF THE NW1/4 OF SAID SECTION 17, 1108.95 FEET;
THENCE N89° 47' 19"E (EAST) (S88°07'40"W), 60.00 (60) FEET TO THE EASTERLY LINE OF COUNTY ROAD "Y" AND THE POINT OF BEGINNING;

THENCE FROM SAID POINT OF BEGINNING N0° 11' 26"W (S01°52'20"E) ALONG SAID EASTERLY LINE, 56.05 FEET;
THENCE N5° 54' 05"W (S07°34'59"E) ALONG SAID EASTERLY LINE, 100.50 FEET;
THENCE N0° 11' 26"W (S01°52'20"E) ALONG SAID EASTERLY LINE, 189.45 FEET;
THENCE N43° 11' 22"E (S44°21'15"W) ALONG SAID EASTERLY LINE, 24.69 (23.42') FEET TO THE SOUTHERLY LINE OF GROTE ROAD;
THENCE S87° 44' 26"E (N87°33'W) ALONG SAID SOUTHERLY LINE, 405.87 FEET;
THENCE N88° 42' 34"E (S88°54'W) ALONG SAID SOUTHERLY LINE, 414.75 FEET;
THENCE S0° 42' 55"W (N3°48'E), 73.25 FEET;
THENCE S3° 43' 31"E (N04°19'W), 281.04 (281.1') FEET;
THENCE S89° 47' 19"W (EAST), 843.30 FEET TO THE POINT OF BEGINNING;
CONTAINING 295,916 SQUARE FEET MORE OR LESS (6.793 ACRES MORE OR LESS) OF LAND

(c). THIS PLAT IS A CORRECT REPRESENTATION OF ALL OF THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE DIVISION OF IT.

(d). THE SURVEYOR HAS FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES IN SURVEYING, DIVIDING, AND MAPPING THE LAND.

DATED THIS "XX"TH DAY OF NOVEMBER, 2020

SIGNED: _____
CRAIG A. RUSCH, PROFESSIONAL SURVEYOR S-2274

CURRENT ZONING: R-1 RESIDENCE DISTRICT & C-1 CONSERVANCY DISTRICT (SE CORNER, DELINEATED BY SHORELAND LIMIT LINE)

NOTES

1. BUILDING SETBACKS WILL MEET THE MINIMUM REQUIREMENTS OF R-1 ZONING WHICH IS 50' REAR YARD AND 10' SIDE YARD.
2. STREET SETBACKS WILL BE A MINIMUM OF 30' EXCEPT ALONG C.T.H. Y, WHICH WILL BE A 42' SETBACK
3. 1" IRON PIPES TO BE PLACED ALONG ALL REMAINING UNMARKED LOT CORNERS UPON COMPLETION OF CONSTRUCTION AND GRADING WORK.
4. THERE WILL BE NO DIRECT VEHICULAR ACCESS TO COUNTY TRUCK HIGHWAY "Y" FROM ANY OF THE LOTS IN THIS SUBDIVISION.

OWNER
ACADIA INC.
4539 SOUTH TAYLOR DRIVE
SHEBOYGAN, WISCONSIN, 53081

DEVELOPER
ACADIA INC.
4539 SOUTH TAYLOR DRIVE
SHEBOYGAN, WISCONSIN, 53081

SURVEYOR
CRAIG A. RUSCH, NO. S-2274
WAGNER EXCAVATING, INC.
3437 PAINE AVENUE
SHEBOYGAN, WISCONSIN 53081

APPROVING AUTHORITIES
- TOWN OF SHEBOYGAN
- SHEBOYGAN COUNTY PLANNING AND CONSERVATION DEPT.
- WISCONSIN DOA - PLAT REVIEW PROGRAM

UTILITY COMPANIES
- AT&T DISTRIBUTION SBC - TELEPHONE AND DATA
- CHARTER COMMUNICATIONS - TELEVISION AND DATA
- ALLIANT ENERGY CORP - ELECTRIC
- WISCONSIN PUBLIC SERVICE NATURAL GAS

(S. 236.21 (2))
OWNER'S CERTIFICATE
(a.) ACADIA INC., A CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN;

AS OWNER DO HEREBY CERTIFY THAT SAID CORPORATION CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED, AND DEDICATED AS REPRESENTED ON THIS PLAT. SAID CORPORATION ALSO CERTIFY THAT THIS PLAT IS REQUIRED BY S. 236.10 OR 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

DEPARTMENT OF ADMINISTRATION, SHEBOYGAN COUNTY PLANNING AND CONSERVATION DEPARTMENT, AND TOWN OF SHEBOYGAN

STATE OF WISCONSIN, COUNTY OF SHEBOYGAN

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME

ON THIS _____DAY OF _____, 20___

_____ _____
WITNESS PRESIDENT

_____ _____
PRINT NAME PRINT NAME

(NOTARY SEAL)
PERSONALLY CAME BEFORE ME THIS ____ DAY OF _____, 2020, THE ABOVE NAMED PRESIDENT IS TO ME KNOWN TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING CERTIFICATE AND ACKNOWLEDGED THE SAME.

_____
_____, NOTARY PUBLIC
PRINT NAME

MY COMMISSION EXPIRES _____
MY COMMISSION IS PERMANENT

(S. 236.21 (3))
CERTIFICATE OF TAXES PAID, CLERK OR TREASURER OF TOWN
I DO HEREBY CERTIFY THAT:
IN ACCORDANCE WITH THE RECORDS IN THE OFFICE OF THE MUNICIPALITY OF TOWN TREASURER; THERE ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS ON ANY OF THE LANDS INCLUDED IN THIS PLAT.
_____(DATE)

_____ _____
TREASURER OF TOWN OF SHEBOYGAN PRINT NAME

(S. 236.21 (3))
CERTIFICATE OF TAXES PAID, TREASURER OF COUNTY
IN ACCORDANCE WITH THE RECORDS IN THE OFFICE OF THE COUNTY TREASURER; THERE ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS ON ANY OF THE LANDS INCLUDED IN THIS PLAT.
_____(DATE)

_____ _____
TREASURER OF SHEBOYGAN COUNTY PRINT NAME

COUNTY PLANNING CERTIFICATE
REVIEWED AND APPROVED THE SHEBOYGAN COUNTY PLANNING AND CONSERVATION DEPARTMENT
_____(DATE)

_____ _____
PRINT NAME

TOWN BOARD RESOLUTION
RESOLVED, THAT THE PLAT OF KOPPELMANN ESTATES, A SUBDIVISION IN THE TOWN OF SHEBOYGAN, ACADIA INC, OWNER, IS HEREBY APPROVED BY THE TOWN BOARD.
_____(DATE)

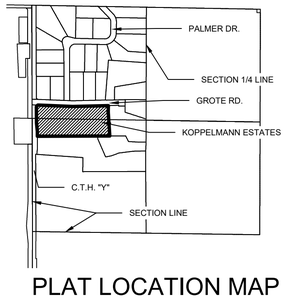
_____ _____
PRINT NAME

I HEREBY CERTIFY: THAT THE FOREGOING IS A COPY OF A RESOLUTION ADOPTED BY THE TOWN BOARD OF THE TOWN OF SHEBOYGAN AND THAT ALL CONDITIONS FOR APPROVAL HAVE BEEN MET AS OF THE
_____(DATE)
THEREFORE, THIS PLAT IS APPROVED.

_____ _____
PRINT NAME

ELEVATION BENCHMARK
RR SPIKE IN POWER POLE ALONG C.T.H. "Y" APPROXIMATELY 172' SOUTH FROM GROTE RD. CENTERLINE ALONG EAST ROW OF C.T.H. "Y"
NORTHING: 184296.00
EASTING: 201367.55
ELEVATION: 687.37'
(ELEVATIONS BASED ON NGVD 29 DATUM)

BEARINGS ARE REFERENCED TO THE WEST LINE OF THE NW 1/4 OF SECTION 17, T15N, R23E THAT BEARS N 00° 11' 26" W, BASED ON THE SHEBOYGAN COUNTY COORDINATE SYSTEM



PLAT LOCATION MAP
SECTION 17, T15N, R23E
SHEBOYGAN COUNTY
SCALE 1"=1000'

SURVEY LEGEND
- ○ 0.75" OR 1" O.D. IRON PIPE FOUND
- ○ 2.375" O.D. IRON PIPE FOUND
- △ PK NAIL FOUND
- ● 2.375" O.D. X 24" IRON PIPE 3.65 LBS/LF, SET
- • ALL OTHER LOT AND OUTLOT CORNERS 1.315" O.D. X 24" IRON PIPE 1.68 LBS/LF, SET

NORTH
WAGNER EXCAVATING, INC.

GRAPHIC SCALE
0 25 50 100
1 inch = 50 ft.

NOVEMBER 13, 2020

Wagner EXCAVATING Inc.
3437 PAINE AVENUE SHEBOYGAN, WI 53081
(920) 458-9082 FAX (920) 458-0565

Sokolowski, Steve

From:	Julie Wicker <jwicker@townwilson.com>
Sent:	Thursday, December 10, 2020 2:38 PM
Cc:	Julie Wicker
Subject:	SPAM common council email
Attachments:	Written Public Comment_12-10-20.pdf; SHORELINE MAILER.pdf; Exhibit 9 Overlay-South_12-10-20.pdf; Exhibit 9 Overlay-North_12-10-20.pdf; DOA Wetland Permit Reversal Order.pdf

Good afternoon,

I would like to make you aware that the attached written public comments regarding the Conditional Use Permit application for the Kohler Golf Course have been provided on behalf of the Town of Wilson to the City Plan Commission in advance of its public hearing on December 15.

As you are aware, the Town of Wilson has an inherent interest in this project because its residents are most proximate to the subject property and because the proposed development will have a substantial environmental impact on the surrounding community.

As you are also aware, the Town has some familiarity with this project as we were initially tasked with reviewing Kohler's CUP application beginning back in 2014. The task before us was the same as the City's Plan Commission is today, to perform the required due diligence in reviewing the application in strict accordance with local Zoning Ordinances. This included a thorough evaluation of the adverse impacts of the project to the nearby properties, the environment, and the community as a whole. As the City will today, we had planned to rely heavily on the WDNR's Environment Impact Report (EIR). Concurrently, the Town retained three reputable environmental engineering firms, including one recommended by Kohler themselves, so that we were prepared to perform any additional assessments of the project, depending on the determinations of the EIR relating to likely adverse impact to the ground water, surface water, forest habitat, and other environmental considerations.

Our public input related to this application outlines what we know from the extensive work we have done on the project. Our hope is that you and the members of the City Plan Commission will take the time to read this information, and that the Plan Commission will take its obligation seriously to perform the proper due diligence to measure and mitigate the adverse impacts of this proposed development and require the applicant to complete the project in a manner that is compliant with the City's zoning ordinances.

On behalf of the Town of Wilson Board and Plan Commission, thank you for your consideration.

PROTECTING SHORELINE INVESTMENTS FROM RISING LAKE LEVELS

It's not news to any shoreline owner that Great Lake's water levels in recent years have risen to match and exceed historic highs, resulting in widespread advances in erosion. There's also potential for further rise throughout all of 2020, as predicted by the US Army Corps of Engineers. If the duration of many past "peaks" is an indicator of what may occur, higher than average levels are likely to persist through 2021 or 2022. This presents a challenge to owners whose homes are already uncomfortably close to the erosion advance. In contrast, wherever a home has yet to be built, or existing homes still have more than adequate setback, this time may present an opportunity to improve owner access to the beach in a manner that benefits natural shore dynamics. In order to make informed decisions in either case, it's helpful to understand how dynamic our shorelines are.

Our Naturally Dynamic Shoreline



Lake Michigan's calm water line changes drastically with rising lake levels.



The water levels of all the Great Lakes downstream of Lake Superior have varied throughout a range of about six feet between historic highs and lows. With the typically gentle slope of the near-shore lake bottom, this difference in lake levels results in large variations in the position of the calm water line. Wide swaths of grassy dunes typically develop along sandy shores during low water periods. As water levels rise, the dunes erode, and their sand helps form near-shore sand bars that are critical in causing storm waves to break and dissipate most of their energy before they reach the beach. This transfer of beach sand to the near shore bottom during high water levels helps to reduce erosion.

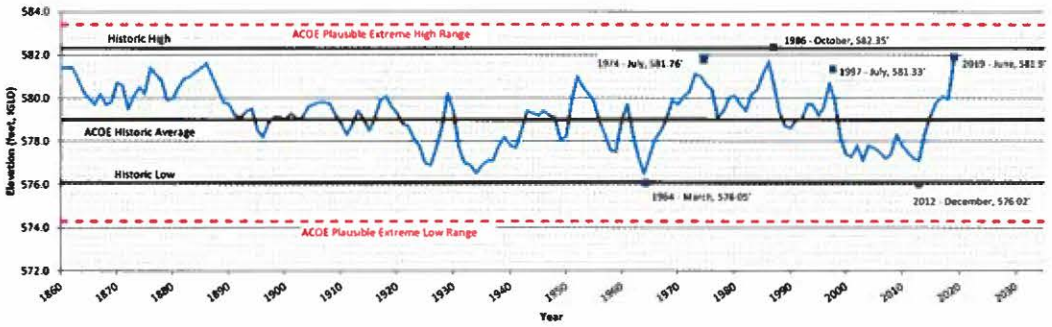
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Where the shoreline is comprised of bluffs, the beaches are not as wide as the low lying sandy reaches of shoreline, even during low water periods. During high water periods, storm waves erode the toe of these bluffs, initiating a new cycle of slope failures propagating upward. These slope failures are typically relatively shallow, and continue for a decade or more before vegetation is re-established. By that time, the next high water level may be initiating a new cycle of sliding.



Historic Water Levels and the O.H.W.M.

Annual Average Water Levels
**Water level temporarily rises about one foot during storm surges.*



Average recorded water levels in Lake Michigan have fluctuated by about 6 feet throughout the last 4,000 years. Although 4,000 years sounds like a long time, our present shorelines are actually very young in terms of geomorphologic development. In fact, all but the rocky segments of our shoreline have been recessing (eroding) at average rates typically ranging from 50 to 200 feet per century, depending on location. However, this usually occurs in sudden increments of 10 to 20 feet during on-shore storms when water levels are high.

Long term rates of shoreline recession are the reason that local ordinances require minimum "setbacks" from the Ordinary High Water Mark (O.H.W.M.) for new construction. The O.H.W.M. as described in State Administrative Codes is the upper limit of evidence of high water levels. For inland lakes, the minimum required setback is at least 75 feet. In the 1980's most states around the Great Lakes established a 100-foot minimum setback model ordinance due to the Great Lakes shoreline's long term erosion rates (which don't occur on inland lakes and rivers).

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The O.H.W.M. is often easy to identify from the limit of vegetation along the shores of inland lakes and rivers, which regularly experience similar seasonal highs. However, that limit varies drastically with the large range in water levels on the Great Lakes, creating confusion when trying to determine safe setbacks.



The Ordinary High Water Mark (O.H.W.M.) varies greatly, sometimes up to 200 feet, between low and high water periods along the Lake Michigan shoreline.

When water levels have been relatively low for a number of years, the O.H.W.M. along a sandy beach might be the lakeward limit of the dune grass (as shown with the green line in the above photo). During high water periods, the erosion advance may cut beyond the historic high water erosion line and may cause mature trees to fall into the lake (as represented by the red line above). Because the distance between these two positions commonly ranges from 100 to 200 feet at many locations, a house built to the minimum setback requirements during low water levels may be in danger as lake levels rise. For this reason, it makes more sense for setbacks around the Great Lakes to be measured from the historic erosion mark, which is a more consistent position long-term, and is more relevant to the service life of a structure.

Ordinance minima are seldom optimum, all things considered. We strongly recommend that any owner plan new construction at least 100 feet from evidence of the historic erosion limit as opposed to the O.H.W.M. This will minimize the need to install costly shoreline protection in the future.

Objectives and Methods for Shoreline Preservation



The goal for shoreline protection along the Great Lakes should be to allow the lakes to reach their natural shoreline equilibrium over the longest period of time possible. This can be accomplished by building capital investments far enough inland to allow for natural long-term shoreline recession. Periodic grading of any steep erosion scarp that develops is an economical way to provide safe access without the use of hard structures. Hard structures built into the lake starve the natural shoreline system of the sand that is needed to sustain a shallow near-shore lake bottom. Because of this, revetments and seawalls should be avoided unless absolutely necessary since it's this shallow near-shore profile that minimizes wave energy before it reaches the shore.

Wherever homes and structures cannot be built or moved a safe distance from the active shoreline, a protective revetment may be needed. Revetments should always be designed and constructed at or inland of the historic erosion limit. This leaves as much room as possible for natural beach dynamics. Not only will the revetment last much longer because it's exposed to wave action the least amount of time, it will allow the exchange of sand required to reduce wave energy, and result in maximum beach area during periods of low and average water levels. Revetments placed any farther lakeward (in order to regain some land recently lost) will result in higher wave energy and little or no beach during all but the lowest water levels.



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An effective revetment requires careful thought and design to effectively absorb wave energy. Revetments should consist of large enough stones to avoid displacement, but not so large that the revetment becomes wave-reflective. This reflection will cause scour at the base of the revetment, significantly shortening its useful life. The bottom of the revetment should be placed low enough to avoid being undermined during lower water levels, and the top of the revetment should be high enough to accommodate water levels from storm surges and wave run-up.

As water levels drop and the beaches widen, blowing sand naturally covers revetments, provided they have been tucked in along the historic erosion scarp. This sand cover provides an opportunity to plant dune grass to re-naturalize the shore dynamics by rebuilding dunes. Dunes are an important part of the natural shoreline because they supply sand to the near shore system during the next high water period, which is otherwise deprived by revetments that have been built out in the water. Without this source of sand, the near shore bottom profile of the lake begins to deepen and allow progressively larger waves to reach the shore over time. This greater wave energy speeds up scour at the base of a revetment structure, shortening its useful life and increasing its likelihood of failure and/or collapse into the lake over time.



Make sure your revetment has been designed by a licensed and experienced Professional Engineer who understands the dynamics of the Great Lakes. Improperly designed revetments can be overtopped by waves, leading to erosion landward of the revetment. Revetments can become undermined and fail due to under-cutting and scour. Displaced revetment stones cause gaps in the structure, resulting in gaps in your protection.

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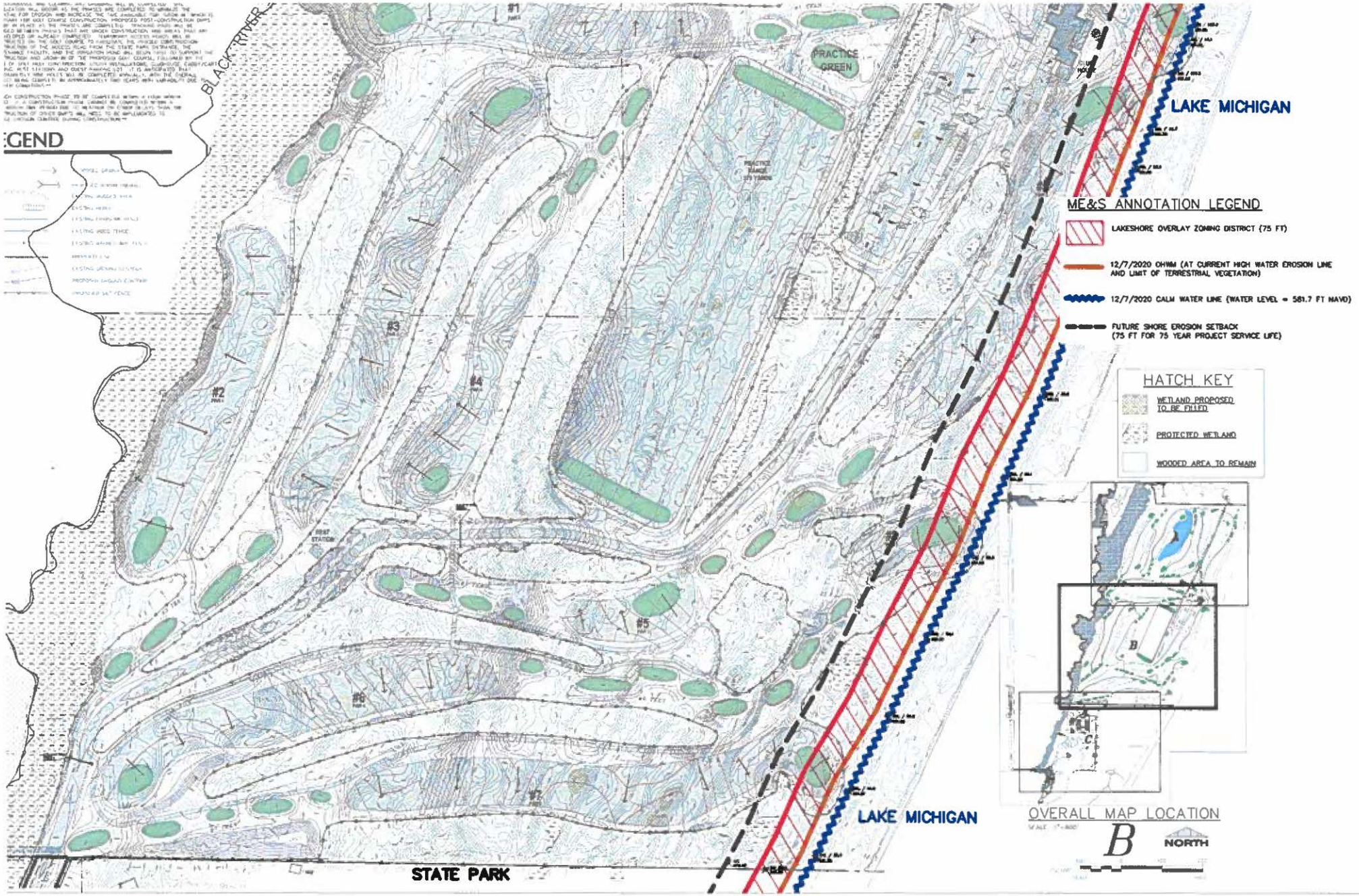


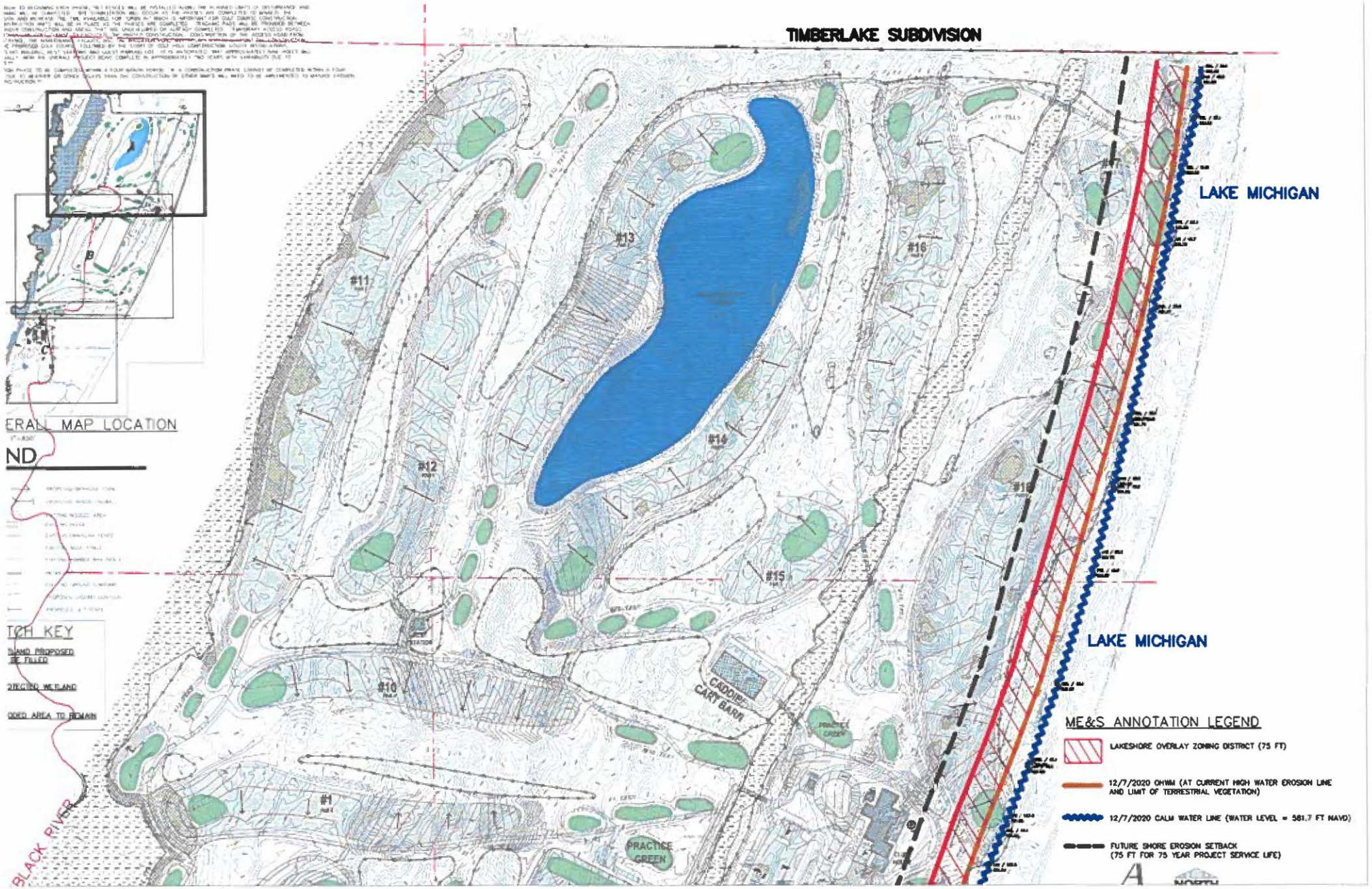

For more information on the dynamics of the Great Lakes, naturalized shoreline design, or appropriate revetment design, please contact the experts at Miller Engineers & Scientists. We've been working with residential, commercial, and municipal shoreline owners on appropriate and effective shoreline protection design for over 30 years.

PROTECTING SHORELINE INVESTMENTS FROM RISING LAKE LEVELS

Miller Engineers & Scientists
5308 South 12th Street
Sheboygan, WI 53081

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BLACK RIVER
PRACTICE GREEN
LAKE MICHIGAN
ME&S ANNOTATION LEGEND
LAKESHORE OVERLAY ZONING DISTRICT (75 FT)
12/7/2020 OHWM (AT CURRENT HIGH WATER EROSION LINE AND LIMIT OF TERRESTRIAL VEGETATION)
12/7/2020 CALM WATER LINE (WATER LEVEL = 581.7 FT NAVD)
FUTURE SHORE EROSION SETBACK (75 FT FOR 75 YEAR PROJECT SERVICE LIFE)
HATCH KEY
WETLAND PROPOSED TO BE FILLED
PROTECTED WETLAND
WOODED AREA TO REMAIN
#1
#2
#3
#4
#5
#6
#7
LAKE MICHIGAN
STATE PARK
OVERALL MAP LOCATION
B
NORTH


TIMBERLAKE SUBDIVISION
LAKE MICHIGAN
LAKE MICHIGAN
#11
#13
#16
#14
#12
#15
#10
#1
CADDIE/ CART BARN
PRACTICE GREEN
PRACTICE GREEN
BLACK RIVER
ERALL MAP LOCATION
ND
TCH KEY
ME&S ANNOTATION LEGEND
LAKESHORE OVERLAY ZONING DISTRICT (75 FT)
12/7/2020 OHWM (AT CURRENT HIGH WATER EROSION LINE AND LIMIT OF TERRESTRIAL VEGETATION)
12/7/2020 CALM WATER LINE (WATER LEVEL = 581.7 FT NAVD)
FUTURE SHORE EROSION SETBACK (75 FT FOR 75 YEAR PROJECT SERVICE LIFE)

Before the
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of Wetland Individual Permit IP-SE-2017-60-00631 and Water Quality Certification for 3.69 Acres of Wetland Fill or Disturbance in the Town of Wilson, Sheboygan County

Case No. DNR-18-0002

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On March 6, 2017, Jess Barley filed an application with the Department of Natural Resources (Department), pursuant to Wis. Stat. § 281.36, on behalf of The Kohler Company (Kohler). Kohler is seeking a permit for 3.69 acres of wetland fill or disturbance for the purpose of constructing a golf course. On January 17, 2018, the Department issued a preliminary decision granting Kohler's application. The wetlands Kohler is requesting a permit to fill are located between the Black River and Lake Michigan in Sheboygan County. On February 15, 2018, Friends of the Black River Forest and Claudia Bricks (Petitioners), by their attorneys, Christa O. Westerberg and Leslie A. Freehill, submitted a Petition for a Contested Case Hearing to review the Department's decision to issue a permit to Kohler. On March 19, 2018, the Department granted the Petition.

Pursuant to due notice, a hearing was held in Sheboygan, Wisconsin from June 4 through 8, 2018. Mark F. Kaiser, Administrative Law Judge, presided. The parties filed post-hearing briefs. The Petitioners filed an initial brief on August 6, 2018. Kohler and the Department filed response briefs on September 5, 2018, and September 7, 2018, respectively. The Petitioners filed a reply brief on October 9, 2018.

In accordance with Wis. Stat. § 227.44(2m), Wis. Stat. § 227.46(1), Wis. Admin. Code § NR 2.08(5), and Wis. Admin. Code § NR 2.12, the PARTIES to this proceeding are:

Friends of the Black River Forest and Claudia Bricks (Petitioners), by

Attorney Christa Westerberg and
Attorney Leslie A. Freehill
Pines Bach LLP
122 West Washington Avenue, Suite 900
Madison, WI 53703-2718

Wisconsin Department of Natural Resources (Department), by

Attorney Michael J. Kowalkowski
Department of Natural Resources - Bureau of Legal Services
PO Box 7921
Madison, WI 53707-7921

The Kohler Company (Applicant), by

Attorney Jessica Hutson Polakowski
Reinhart Boerner Van Deuren S.C.
22 East Mifflin Street, Suite 700
Madison, WI 53703

and

Attorney Deborah C. Tomczyk
Reinhart Boerner Van Deuren S.C.
1000 North Water Street, Suite 1700
Milwaukee, WI 53201-2964

Issues to be Decided

The Department certified four issues for hearing. The first three issues are:

1. Whether the permit satisfies the standards in Wis. Stat. § 281.36(3n)(c);

2. Whether the Department had sufficient information to consider the standards in Wis. Stat. § 281.36(3n)(c);

3. Whether the public had sufficient information to comment on the standards in Wis. Stat. § 281.36(3n)(c);

The Petitioners subsequently narrowed the dispute for these three issues to the standards in Wis. Stat. § 281.36(3n)(c)3 which provides that the Department make a finding that the proposed project will not result in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences.

The fourth issue certified by the Department is:

Whether the mitigation required under Wis. Stat. § 281.36(3n)(d) compensates for adverse impacts to wetlands.

Findings of Fact

1. The Kohler Company (Kohler) is proposing to construct and operate a golf course on land it owns in Sheboygan County. Construction of the golf course as proposed by Kohler will involve some filling of wetlands that exist on the property. On March 6, 2017, Kohler filed a joint federal-state individual permit application pursuant to Wis. Stat. § 281.36 and 33 U.S.C.S. § 1341 authorizing wetland fill with the Department of Natural Resources (Department) and the U.S. Army Corps of Engineers (USACE).

The Property

2. The Kohler property is 247 acres in size and is bordered by Lake Michigan on the east and the Black River on the west. The Kohler property is located immediately north of the Kohler-Andrae State Park. The Kohler property was formerly in the Town of Wilson. The Kohler property along with an affected portion of Kohler-Andrae State Park were annexed by the City of Sheboygan in August of 2017. The property is zoned SR-5, suburban residential, which allows "Active Outdoor Public Recreation" as a special use. (exh. 158, p. 60-61). Kohler has owned the property for over 75 years.

3. The Kohler property is currently undeveloped. For a time, the property was leased to the State of Wisconsin as part of Kohler-Andrae State Park, and was designated as a State Natural Area, meaning it contains unique or rare natural features (Carpenter prefiled testimony, p. 7:10-12). After the state lease ended, Kohler allowed members of the public to continue to access the property through a private permitting system (Hoekstra testimony, tr. 1054:12-15). The property is still designated as a forest preserve under Wis. Admin. Code § NR 15.01(16)(b).

4. The property contains various pockets of wetlands totaling 44.91 acres (exh. 135). The types of wetlands on the site have been cataloged as 44.167 acres of forested floodplain wetlands (exh. 151), 0.4886 acres of interdunal wetlands (exh. 153), 0.104 acres of ephemeral wetland/relic ridge and swale wetlands (exh. 154), and 2.686 acres of Great Lakes ridge and swale wetlands (exh. 155).[1] The forested floodplain wetlands are located along the western boundary of the property. The ridge and swale wetlands are located in the center of the property with a long strip running parallel to Lake Michigan and numerous small pockets located on either side of the long strip. The interdunal wetlands consist of six small pockets located near the Lake Michigan shoreline. The locations of the wetlands are shown on Exhibit 14.

5. The Department uses a process called the Wisconsin Wetland Rapid Assessment Methodology version 2 (WRAM) to assess wetland functional values. The WRAM is a qualitative method developed to provide a standardized process for an individual to evaluate the extent to which a specific wetland performs a given wetland function (Trochlell prefiled testimony, p. 5:8-11).

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[1] As discussed below, the proposed golf course would also be constructed on approximately five acres of Department owned land that is currently part of the Kohler-Andrae State Park. Some of the wetland assessment documents assess the wetlands on the entire project site, not just the Kohler property. Thus the acreage numbers for the wetlands are not consistent throughout the record.

6. The ridge and swale topography was created as Lake Michigan levels receded from its post-glacial high from about 12,000 years ago to approximately 6,000 years ago (Jansen prefiled testimony, p. 5:13-15). This topography is distinctive to the upper Great Lakes area. Much of the area originally covered by ridge and swale topography has been lost to development leaving only a few pristine examples. Ridge and swale topography is particularly rare in southern Wisconsin where development pressure is strong. The ridge and swale topography on the Kohler property are rated S2, meaning it is imperiled. (Jansen prefiled testimony, p. 6:3-14)

7. There are 67 Great Lakes ridge and swale wetlands delineated on the site. Of the 67 Great Lakes ridge and swale wetlands, 47 will be filled totaling 1.465 acres (exh. 158, p. 41). According to the Department's WRAM, the functional values for the site's Great Lakes ridge and swale wetlands are rated as exceptional for floristic integrity, human use values and wildlife habitat, high for fish and aquatic life and groundwater processes and low for flood and stormwater storage and water quality protection (exh. 155).

8. The functional value for the hardwood swamp/floodplain forest wetlands is rated as high to exceptional for floristic integrity. Human use values and wildlife habitat functional values are rated exceptional. Groundwater processes, fish and aquatic life habitat and shoreline protection are rated high and flood and stormwater storage and water quality protection are rated medium (exh. 151). The Department determined that the floodplain forest is high quality and rare in the region because of the loss of ash trees and increases in invasive species. (exh. 157, Finding of Fact (FOF) ¶ 2.)

9. The interdunal wetlands are classified as S1 meaning they are critically imperiled. Interdunal wetlands are globally rare (Trochlell prefiled, pp. 6:22-7:4). The functional values for the interdunal wetlands are rated as exceptional for floristic integrity, human use values, and wildlife habitat, and high for fish and aquatic life habitat and groundwater processes (exh. 153).

10. Kohler also prepared WRAMs through its consultants at Stantec. The Stantec consultants similarly rated the Great Lakes ridge and swale, floodplain forest, and interdunal as having exceptional to high functional values in multiple categories (Gumtow testimony, tr. 927:17-935:17).

11. The soils on the site are mainly sand and muck soils. According to the Environmental Impact Statement (EIS), sand beaches along the lakeshore are bordered by sand dunes. Soils along the Black River and riparian wetlands include Adrian, Palms, and Houghton mucks. The remainder of the Kohler property is mapped as Granby loamy fine sand, Oakville loamy fine sand, and Dunes (exh. 158, p. 17). The Oakville Loamy Fine Sand or Dune sands are very permeable (Jansen prefiled testimony, p. 7:13-14). The average infiltration rate has been measured at 32.7 inches per hour (exh. 144).

12. The wetland and uplands together host rare plant communities that require the specific environment and geographical location the Kohler site provides in order to survive (Trochlell prefiled testimony, p. 9:12-14).

13. The Kohler property is almost entirely forested with mature trees and has not been logged in over 150 years (Buchholz public comment, tr. 125:6-7). A variety of wildlife uses the Kohler property, including some threatened and endangered species and species of special concern. The property hosts a diversity of resident and migratory birds. The Kohler property is an important stopover point for migratory birds, due to the increasing rarity of unfragmented forest blocks along the Lake Michigan shoreline (Mueller prefiled testimony p. 9:8-16).

14. Underlying the site are three separate aquifers, a shallow sand aquifer, a Silurian dolomite aquifer, and a deep Cambian-Ordovician aquifer (exh. 158, p. 24). The elevation of the shallow aquifer on the property is relatively high and tied to the water levels of Lake Michigan. The wetlands at the site are directly connected to the shallow groundwater aquifer, and the Great Lakes ridge and swale and interdunal wetlands are dependent on groundwater to maintain the water quality and water levels which support the current plant communities. (Trochlell testimony, tr. 120:10-121:5)

15. The Department did not require sampling of the groundwater, but the fact that the property is in an undisturbed natural state surrounded by sanitary sewers leads one to expect that the water quality is very good to excellent with low total dissolved solids and very low nutrient levels (Jansen prefiled testimony, p. 12:1-9).

16. Kohler proposes to acquire approximately five acres of Kohler-Andrae State Park for the golf course. The portion of Kohler-Andrae State Park that Kohler plans to acquire contains rare and mature forest and open sand dune formations, including seasonal interdunal wetlands. The state park property hosts several threatened plant species such as dune grass and was preserved by the Department as a non-development wildlife and dune preservation area in 1988. The park area is used by migrating birds and other species. The area is also used by the public for hiking, bird and wildlife watching, photography, and other recreational pursuits. (Buchholz public comment, tr. 130:22-31:18 and 138:13-22)

The Project

17. Kohler proposes to construct and operate an 8,000 yard, 18-hole golf course on the property. The golf course will have paved golf cart paths and bridges. Kohler's project also includes a golf practice range, clubhouse with a 9,000 ft^2 footprint, a 60-foot Lake Michigan observation tower, maintenance buildings, parking lots, roads, a 5.7 acre irrigation pond, infiltration basins, utilities, and other associated infrastructure. The proposed project includes a new roundabout on the state park property. (exh. 102, pp. 6-7) 3.6% of the site will be impervious surfaces, primarily buildings, parking lots, and cart paths (exh. 144). The maintenance buildings will include areas for storing and mixing fertilizers, pesticides, and chemicals. (Hoekstra testimony, tr. 1067:15-23)

18. Kohler developed sixteen alternative layouts for the proposed golf course (Gumtow testimony, tr. 876:17-18). The design chosen was selected because it satisfied Kohler's requirements for a world class golf course and minimized the amount of wetland fill required. (Gumtow testimony, tr. 880:16-23). The design chosen avoided any filling of the interdunal wetlands and the long swath of ridge and swale wetlands located parallel to Lake Michigan. The

chosen design decreased the steepness of slopes and used bridges rather than culverts and fill to cross wetlands. The entrance to the golf course would be through the Kohler-Andrae State Park entrance to avoid wetlands and a crossing of the Black River (Hoekstra prefiled testimony, pp. 4-5). The layout of the proposed golf course showing the impacted wetlands is depicted on exhibit 203.

19. The construction of the golf course will involve wetland filling, tree removal, and grading. The fairways, tee boxes, and greens will be covered by creeping bentgrass as turf.

20. Kohler's stated goal is to host major championship golf events at the course (exh. 158, p. 6). Special events would require extra infrastructure like temporary bleachers. Kohler has not yet assessed whether it could host such a tournament without damaging the environmental features that would remain on the property but concedes it will be challenging. (Hoekstra testimony, tr. 1046:22-104:6)

Permit Application Process

21. In 2014, Kohler began discussing the possibility of developing a golf course on the property it owned (Hoekstra prefiled testimony, p. 2).

22. On April 9, 2015, Kohler submitted an environmental impact report to the Department for the project (exh. 202). The Department prepared a draft EIS and conducted a public hearing on the draft EIS on July 20, 2016 (exh. 158, p. "i").

23. On February 28, 2017, staff from the Department and the USACE met with representatives of Kohler in a preapplication meeting as required by Wis. Stat. § 281.36(3m)(a). In a letter summarizing the meeting, the Department listed the information required in an application for a permit pursuant to Wis. Stat. § 281.36 (exh. 101).

24. On March 6, 2017, Kohler filed a Joint State/Federal Application for Water Regulatory Permits and Approvals (exh. 102).

25. By letter dated April 7, 2017, the Department advised Kohler that additional information would be required. The additional information requested included a forest management plan, a vegetative buffer planting plan, a grading plan, an erosion control and stormwater management plan, a nutrient management plan, a pesticide management plan, and a water table map. (exh. 138)

26. Kohler provided some of the additional information to the Department by letter dated August 18, 2017 (exh. 139), but the application still was not complete (Radermacher testimony, tr. 430:18-24). On August 24, 2017, Geri Radermacher, the Department's Water Management Specialist handling the application, solicited comments on the supplemental materials from other resource experts within the Department on issues such as groundwater hydrology, birds, other fauna, and stormwater (exh. 176). Radermacher's involvement with the application ended on October 16, 2017. Pam Biersach, the Department's Bureau Director for Watershed Management, became the leader of the Department team reviewing Kohler's permit application.

As of October 18, 2017, the permit application was not complete (Biersach testimony, tr. 553:8-11). By email dated October 18, 2017, Biersach informed Department staff that "We've been directed to issue a notice of complete application by October 27" (exh. 36).

27. Kohler submitted additional information to the Department through November 7, 2017 (See exhs. 37-41). By letter dated November 9, 2017, the Department informed Kohler that it considered the application complete (exh. 149). The Department issued a notice of pending application and public hearing on the permit application. The notice informed the public that a public hearing would be conducted on November 30, 2017, in Sheboygan and that the Department had made a tentative determination to issue the permit with conditions (exh. 150). The notice also informed the public that an updated EIS had been drafted and the Department was seeking public comments on the revised EIS.

28. The two public hearings were attended by approximately 300 persons (exh 158, p. 74). The Department received voluminous public comments. The Department summarized and responded to the public comments (exh. 159). According to the Department, it received over 500 pages of public comments on the scope of the EIS and over 900 pages of public comments on the draft EIS (Department's brief, p. 26).

29. The Department issued the permit and water quality certification, with conditions, on January 17, 2018 (exh. 157). The Department issued the final EIS on the same day (exh. 158).

Expected Impacts to Wetland Functional Values

30. Wetland functional values identified for the site by Department staff are:

- Floristic integrity rated high to exceptional with the plant community integrity very high to exceptional with little to no existing stressors, rare plant community, and low level of invasive species present. The ridge and swale type of wetland is imperiled in the state because of its rarity. Native species generally dominate the swales with a low percent cover of invasive species present. It has an un-weighted mean coefficient of conservatism of 4.3 to 4.7, and un-weighted floristic quality index of 23 to 32.
- Human use values rated as exceptional due to the current use of property for trails and potential elsewhere.
- Wildlife habitat rated exceptional because of the unique habitat for rare species and large block of high quality, diverse wetland and contiguous habitat.
- Groundwater processes rated as high due to it being dependent on local groundwater fluctuations; intact recharge and discharge functions which have positive impacts on local groundwater and surface water quality.
- Fish and aquatic life habitat rated as high because it provides high value for amphibian use.
- Water quality protection rated as low due to the isolated nature of the wetlands.
- Shoreline protection is rated high in the forested floodplain wetland complex due to the dense vegetative cover along the banks of the Black River providing significant shoreline protection functions.
- Flood and stormwater support and shoreline protection are rated as low in the ridge

and swale complex due to isolated nature and provides limited flood and stormwater storage functions. Flood and stormwater storage are rated as medium in the floodplain forest because this wetland type provides moderate flood and stormwater storage functions.

(exh. 157, FOF ¶ 10)

31. The proposed project will result in direct and secondary impacts to the functional values of the wetlands on the site. Direct impacts of the project are those that occur within the footprint of the proposed fill. The wetlands to be filled total 3.69 acres, 0.1 acres of relic ridge and swale wetlands, 1.36 acres of ridge and swale wetlands, and 2.23 acres of forested floodplain wetlands. All the functional values for the 3.69 acres that will be filled will be lost. Department staff determined that the loss of wetland functional values at the site due to direct fill is irreversible and has a high significance. (exh. 157, FOF ¶ 11)

32. 3.69 acres understates the quantity of wetlands that will be directly impacted with respect to the Great Lake ridge and swale wetlands. The construction plans for the golf course involves the grading of extensive portions of the ridges of the remaining Great Lakes ridge and swale wetlands. These systems require the ridges to create the unique topography and microclimate, wildlife habitat, aquatic life habitat, and rare species habitat for the overall ridge and swale complex. Preserving the swales while leveling or significantly changing the ridges will negatively alter the system and degrade the floristic integrity, wildlife habitat, and groundwater process functional values of the ridge and swale wetlands. (Trochlell testimony, tr. 1175:17-1176:6)

33. Secondary impacts to the wetland functional values are impacts that are not the result of fill but result from how the land is used. Department staff determined that the construction and operation of the golf course as proposed are expected to cause secondary adverse impacts to functional values of the wetlands that will remain on the property (exh. 157, FOF ¶ 13). These impacts include:

- Permanent alteration to wetland hydrology as the result of grading changes and the removal of trees
- Decreased habitat resulting from increased invasive species
- Nutrient loading
- Sediment deposition, and
- Potential disruption of wildlife use (i.e. breeding, nesting) and movement through operation of the golf course, and the loss of wooded cover which will be converted to managed turf grass.

(exh. 157, FOF ¶ 12 a.)

34. Construction of the project will require deforesting about 50-60% of Kohler's property, and some of the state park property (Hoekstra testimony, tr. 1060:4-10). Tree clearing will occur on the site for each golf course hole, the access road, the clubhouse/parking lot complex, the practice range, the maintenance facility, the restrooms, and the irrigation pond (exh. 158, p. 50).

The deforestation will adversely impact the site's value as wildlife and migratory bird habitat. The loss of tree cover and replacement with managed turf will alter the hydrology of the soil. The alteration of the hydrology along with adding nutrients to maintain the managed turf will adversely impact the floristic diversity of the wetlands (Trochlell prefiled testimony, p. 11:8-13).

35. Construction of the project will require site grading, with fill cuts in some places of eight feet or more. The grading will alter the hydrology of the site which may affect the pattern of recharge and discharge to wetlands, the direction of groundwater flow, and the separation between the surface and the groundwater (Jansen prefiled testimony, pp. 14:12-14:4). The hydrology of the site must be accurately mapped to predict how water, particularly stormwater and irrigating water, carrying sediment, nutrients, and other chemicals will flow on the site. This is critical for determining the significance of the impact of the transportation of sediments and chemicals on the groundwater and wetlands. (See exh. 187).

36. The site's sandy soils present challenges for construction and long-term maintenance of the golf course. The National Resource Conservation Service rate the Oakville soil as "somewhat limited" in suitability for lawns, landscaping and golf fairways because the soils have a low exchange capacity, are droughty and can have significant slopes. The dune soil areas are unrated but have the same deficiencies. The Granby soils are rated "very limited" due to ponding, saturation, low exchange capacity, and flooding. (exh. 158, p. 18). The permeability of the sandy soils means nutrients, pesticides and contaminants applied to the course will likely infiltrate into the shallow groundwater aquifer (exh. 158, p. 71).

37. The operation of the golf course will require the application of fertilizers. Kohler prepared an Integrated Golf Course Management Plan (IGCMP) as part of the application process. The IGCMP includes a nutrient management plan. The permit requires Kohler to follow the provisions of the nutrient management plan. The nutrient management plan limits nitrogen application to a maximum of six pounds of nitrogen per 1000 ft^2 and ten pounds of nitrogen per 1000 ft^2 for rootzones with sand based soil during turf establishment. For ongoing turf maintenance, the plan limits nitrogen application to a maximum of eight pounds of nitrogen per 1000 ft^2 (not exceeding one pound of nitrogen per 1000 ft^2 per application). Application rates are further limited to two pounds of nitrogen per 1000 ft^2 within twenty feet of a waterbody or wetland. (exh. 148)

38. The application of nutrients to the golf course at allowed levels will result in the migration of nitrogen and phosphorus into the groundwater. Nitrogen that enters the groundwater at the project site will reach the wetlands on the site. Nitrates at levels of 2-4 ppm are known to adversely impact surface water bodies and groundwater, and where groundwater is linked to sensitive wetlands that impact is significant (Jansen testimony, tr. 1147:24-1148:19). The introduction of these nutrients into the wetlands will result in eutrophication and promote the replacement of native species with invasive species in the wetlands. (Carpenter prefiled testimony, pp. 9:19-11:4) The vegetative changes will adversely impact the wetland functional values for floral diversity and wildlife habitat and will degrade the quality of the wetlands. (Jansen prefiled testimony, p. 22:4-8; Carpenter prefiled testimony, pp. 9:18-11:4.)

39. Kohler will also apply pesticides to the course. The IGCMP includes an integrated pest management plan. The integrated pest management plan consists of six steps:

1. Identify the pest (Kohler subscribes to the Wisconsin Turfgrass Disease Diagnostic lab at UW-Madison for next-day microscopic pest identification and control recommendations)
2. Develop a control plan/strategy
3. Establish threshold limits for the pest
4. Monitor the pest populations
5. Control the pest
6. Evaluate and/or redesign the plan

40. The permit includes conditions requiring Kohler to use BMPs for nutrient and pesticide management in the operation of the golf course. The intention of the BMPs is to minimize the impact of the nutrients and pesticides on the wetlands; however, the management plans were not complete at the time the tentative permit was issued. Specifically, the IGCMP submitted to the Department (exh. 148) is identified by Stuart Cohen, Kohler's groundwater expert, as a summary of basic concepts. The actual IGCMP will be a much longer plan and was still being drafted. (Cohen testimony, tr. 600:23 – 601:11). Additionally, Cohen's firm prepared a document titled Ground Water Contamination Risk Assessment Screen for pesticides at the Proposed Kohler Golf Course in Sheboygan. The document is dated May 18, 2018. In the introduction, the authors of the document state that "[a]s the [golf course] project has progressed, plans have become more detailed. Thus Kohler requested this pesticide ground water risk assessment so it can begin to plan more detailed management approaches, beyond what is contained in the Kohler IGCMP." (exh. 208)

41. Operation of the course will require irrigation in amounts of at least 15-25 million gallons per year. The irrigation water will be from either a deep irrigation well or City of Sheboygan municipal water. Irrigation will change wetland hydrology and reduce groundwater water quality. (Jansen prefiled testimony pp. 15:19-16:14)

42. Stormwater and irrigation runoff will transport nutrients, pesticides, sediments, and contaminants, such as oil and grease, into the groundwater. The permit requires Kohler to install and maintain infiltration strips in accordance with the stormwater plan dated December 7, 2016.[2] The stormwater plan is designed to limit the transportation of total suspended solids (TSS) in surface water runoff. Due to the high permeability of the soil at the site, stormwater will infiltrate rapidly and TSS removal requirements (Wis. Admin Code Chapter NR 151 and local requirements) will easily be met (exh. 117, p. 4). However, the stormwater management plan did not analyze whether dissolved chemicals in stormwater runoff, such as nutrients or pesticides, would violate groundwater quality standards (Quast testimony, tr. 784:13-19).

43. The Department determined that the proposed project may impact 4.79 acres of wetlands on the site (exh. 157, FOF ¶ 4). According to the WRAMS, this includes all of the interdunal wetlands (exh. 153), all of the relic ridge and swale wetlands (exh. 154), and all of the Great

[2] This date appears to be an error in the permit. The stormwater plan submitted by Kohler (Attachment 9 of the application) is actually dated February 21, 2017 (exh. 117). Dated December 7, 2016, are the field notes for the infiltration tests used in preparation of the stormwater management plan (exh. 119).

Lakes ridge and swale wetlands that are not filled (exh. 155). For the floodplain forest wetlands, the Department determined that 2.974 acres of the 41.938 acres that are not filled will be indirectly impacted. The 2.974 acres of secondary impacts to wetland functional for the floodplain forest wetlands values only refers to the area of tree-clearing. The floodplain forest wetlands will also suffer secondary impacts from other activities, including changes in hydrology due to construction, which will impact floristic quality, floristic diversity, wildlife habitat, and water quality. (Radermacher testimony, tr. 441:3-442:10)

44. The Department identified secondary impacts to wetland functional values from routine traffic along the proposed greens and associated runoff which is likely to provide a conduit for invasive species establishment. The Department noted that these impacts may be offset by the monitoring and treatment condition in the permit (exh. 157, FOF ¶ 12 b.)

45. The Department determined that the secondary impacts to wetland functional values are expected to be permanent and irreversible. The significance of those impacts is high. Secondary impacts to wetland functional values are not expected to be entirely offset under the proposed project. (exh. 157, FOF ¶ 13)

Expected Impacts to Water Quality

46. Rain events and irrigation will carry the nutrients, pesticides, and other contaminants applied to the golf course into the groundwater. Between the sandy, highly permeable soils and high groundwater table, the site is susceptible to groundwater contamination due to the ability of contaminants to rapidly migrate downward with little natural attenuation of those contaminants. (Jansen testimony, tr. 44:2-8, also exh. 158, p. 24)

47. The rates at which Kohler is permitted to apply nitrogen exceed rates that have been shown to cause nitrogen to enter groundwater at rates exceeding the 10 ppm maximum containment level. (Jansen prefiled testimony, pp. 19:10-20:13.) Kohler does not expect to apply nutrient at the allowed rates, but Kohler's expert acknowledged that two to twelve percent of the nitrogen applied to the course will leach below the root zone (Cohen testimony, tr. 659:15-18).

48. Phosphorus applied at the levels and rates allowed under the permit during turfgrass establishment is likely to have an adverse impact to groundwater quality (Carpenter testimony, tr. 315:1-316:11).

49. Pesticides applied to the golf course will adversely impact the shallow groundwater aquifer and wetlands. The names and application rates of the pesticides that will be used were not available to the Department at the time it issued the permit. (exhs. 187 and 208)

50. The permit requires Kohler to follow an IGCMP to reduce the amount of these chemicals that will reach the groundwater. The management plans were not complete at the time the application was deemed complete and the permit was issued. Kohler was still working to develop a pesticide and fertilizer plan at the time of the hearing (Hoekstra prefiled testimony, p. 8). Accordingly, no estimate of the amount of these chemicals that will likely reach the groundwater could have been made by the Department staff. Additionally, Department staff

requested a water table map "to estimate groundwater flow direction, linear velocity across the site and groundwater discharge to wetlands." (exh. 187) This request is dated November 1, 2017. Kohler responded to this request with a groundwater contour map with a notation stating that the map is "based on groundwater elevations observed on November 2, 2017. (exh. 144, attachment exhibit 1)

51. Exhibit 144 is a document titled "Kohler Golf Course – Sheboygan, Wisconsin Wetland Hydrology and Groundwater Mounding Analysis. It was submitted to the Department attached to an email dated November 7, 2017 (exh. 41). This is two days before the Department determined that the application was complete. There is no indication that Department's resource experts were able to review the groundwater contour map prior to the tentative decision to issue the permit.[3] The groundwater contour map attached to Exhibit 144 was prepared by Excel Engineering. Jeff Quast, the president of Excel Engineering, testified that the measurement information from eleven test pits and three monitoring wells used to generate the map was not submitted to the Department (Quast testimony, tr. 807:8-11). Without the underlying measurements, the Department was unable to judge the accuracy of the groundwater contour map.

52. Quast conceded that a cross-section groundwater map of the site submitted a few days before the groundwater contour map was incorrect (Quast testimony, tr. 811:3-15). Quast also admitted that some groundwater elevations in the stormwater management plan submitted with the application (exh. 119) and included in his prefiled testimony were incorrect. Specifically, the groundwater elevations taken from three monitoring well construction reports were higher than the elevations reported in the stormwater management plan and Quast's prefiled testimony (Quast testimony, tr. 800:13-802:7, testimony regarding exhs. 145, 146, and 147). Accordingly, the groundwater flow information the Department sought to predict the levels of the chemicals that will reach the wetlands was still unknown when the Department deemed the application complete.[4]

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[3] A stormwater management permit is required for the project. Pamela Biersach testified that at some point the wetlands permit process and the stormwater management permit process were bifurcated. Biersach did not know whether the information requested regarding stormwater management was ever received by the staff reviewing the wetland permit (Biersach testimony, tr. 563:17-21). At the hearing, the Department presented the testimony of managers, not the resource experts that reviewed the application material.

[4] Kohler and the Department point out that a stormwater plan is a separate process from the instant permit. The purpose of a stormwater permit is the regulation of stormwater runoff to surface waters from impervious surfaces. However, the movement of storm and irrigation water to the groundwater is necessary to accurately predict impacts to water quality and wetland functional values. An accurate water table map is necessary before the determinations necessary for the instant permit can be made. (See exh. 187)

Other Environmental Consequences

53. Forest clearing for the project will eliminate 50% of the forest cover currently present on the site and will result in a substantial reduction of the stopover habitat for migratory birds (exh. 158, p. 51). The remaining habitat will be fragmented. Habitat fragmentation resulting from the project will reduce the availability of shelter and food for birds and will increase their vulnerability to predation. (Mueller testimony, tr. 223:16-226:8)

54. Nesting and migratory habitat for piping plover, a state and federal endangered species, will be eliminated due to the proposed project's disturbances near the shoreline (Mueller testimony, tr. 240:11-19). Human disturbance by foot, golf cart, and vehicular traffic due to the project will further negatively impact the quality of remaining bird habitat on the property (Mueller prefiled testimony, p. 14:6-9).

55. Interior forest bird nesting habitat will be eliminated due to the deforestation associated with the project and construction of golf course facilities. Wildlife species that rely on the closed canopy will be impacted by these changes. (exh. 158, p. 50).

56. Forest edges created by tree-clearing will increase opportunities for invasive species and will reduce habitat value. (exh. 158, p. 50.)

57. Populations of state threatened sand reedgrass, rare prairie dunewort, and common moonwort on the site are likely to suffer a decrease in genetic diversity and, thus, species stability due to the project (Trochlell testimony, tr. 143:1-144:11).

58. The Department determined that the environmental consequences would be significant but for the conditions in the permit (exh. 157, FOF ¶ 25). However, the Department did not identify any conditions that would reduce the environmental consequences resulting from the forest fragmentation and conversion to managed turf.

Mitigation

59. Pursuant to Wis. Stat. § 281.36(3n)(d), a permitee is required to mitigate the direct impacts of wetland fill permit. Kohler initially proposed to mitigate the impacts to wetlands from the project through a combination of compensatory mitigation and commitment to wetland restoration. Kohler conducted a search for permitee-responsible ridge and swale restoration opportunities and determined there were no feasible projects available.

60. To compensate for the direct impacts of filling 3.69 acres of wetlands, Kohler will instead purchase 5.35 credits from the Department's in-lieu fee program and make an additional $200,000 donation. The purchase of credits from the in-lieu fee program and additional donation are included in the permit as compliance with the statutory mitigation requirement. (exh. 157, FOF ¶ 8)

61. Only direct impacts to wetland functional values are subject to the Department's mitigation requirements. Any of a project's other impacts, including secondary impacts, cumulative impacts, water quality impacts, and other significant adverse environmental consequences, are not mitigated. (Trochlell testimony, tr. 1174:15-25)

62. No project has been selected or identified for use of the credits (Gumtow testimony, tr. 971:17-23)

Additional Findings

63. Without considering mitigation, the Department determined that the project will have a net negative environmental impact. (Biersach testimony, tr. 581:12-17)

64. The Department determined that significant cumulative impacts to wetland functional values attributable to the proposed project may occur (exh. 157, FOF ¶ 15).

65. The project is not wetland dependent. (exh. 102 at 4.)

Applicable Statutes and Administrative Code Sections

Wis. Stats. § 281.36(3n) (b), (c), and (d)(1) provide:

> (b) *Factors used in review.* In its review under par. (a), the department shall consider all of the following factors when it assesses the impacts to wetland functional values:
>
> 1. The direct impacts of the proposed project to wetland functional values.
> 2. The cumulative impacts attributable to the proposed project that may occur to wetland functional values based on past impacts or reasonably anticipated impacts caused by similar projects in the area affected by the project.
> 3. Potential secondary impacts of the proposed project to wetland functional values.
> 4. The impact on functional values resulting from the mitigation that is required under sub. (3r).
> 5. The net positive or negative environmental impact of the proposed project.
>
> (c) *Standards for issuing permits.* The department shall make a finding that a proposed project causing a discharge is in compliance with water quality standards and that a wetland individual permit may be issued if the department determines that all of the following apply:
>
> 1. The proposed project represents the least environmentally damaging practicable alternative taking into consideration practicable alternatives that avoid wetland impacts.

2. All practicable measures to minimize the adverse impacts to wetland functional values will be taken.

3. The proposed project will not result in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences.

(d) *Mitigation required.*

1. Except as provided in subd. 2., the department shall require mitigation under the program established under sub. (3r) for wetland individual permits it issues under this subsection and for a discharge that is exempt from permitting requirements under sub. (4n) (b) that affects more than 10,000 square feet of wetland or under sub. (4n) (c) that affects more than 1.5 acres of wetland. This subsection does not entitle an applicant to a wetland individual permit or any other approval in exchange for conducting mitigation.

Wis. Admin. Code § NR 103.03 provides:

Wetland water quality standards. (1) To protect, preserve, restore and enhance the quality of waters in wetlands and other waters of the state influenced by wetlands, the following water quality related functional values or uses of wetlands, within the range of natural variation of the affected wetland, shall be protected:

(a) Storm and flood water storage and retention and the moderation of water level fluctuation extremes;

(b) Hydrologic functions including the maintenance of dry season streamflow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area and the flow of groundwater through a wetland;

(c) Filtration or storage of sediments, nutrients or toxic substances that would otherwise adversely impact the quality of other waters of the state;

(d) Shoreline protection against erosion through the dissipation of wave energy and water velocity and anchoring of sediments;

(e) Habitat for aquatic organisms in the food web including, but not limited to fish, crustaceans, mollusks, insects, annelids, planktonic organisms and the plants and animals upon which these aquatic organisms feed and depend upon for their needs in all life stages;

(f) Habitat for resident and transient wildlife species, including

mammals, birds, reptiles and amphibians for breeding, resting, nesting, escape cover, travel corridors and food; and

(g) Recreational, cultural, educational, scientific and natural scenic beauty values and uses.

Discussion

At issue in this matter is a permit issued by the Department allowing Kohler to discharge fill into wetlands for the purpose of constructing a golf course. On March 19, 2018, the Department granted the Friends of the Black River Forest and Claudia Bricks (Petitioners) a contested case hearing to review its decision to issue the permit. The Department referred the matter to the Division of Hearings and Appeals (Division) to conduct the contested case hearing.

Kohler owns a 247 acre parcel located along Lake Michigan immediately north of Kohler-Andrae State Park. Kohler proposes to construct the golf course on the property it owns and on an additional five acres currently within the Kohler-Andrae State Park. The Kohler property contains various types of wetlands. The proposed design for the golf course requires that 3.69 acres of wetlands be filled. Before a property owner can place any fill material into a wetland the property owner must obtain a permit under Wis. Stat. § 281.36(3m). Kohler has applied for a wetland fill permit. Wis. Stat. § 281.36(3n)(b) lists five factors that the Department is required to consider in reviewing an application for a permit under Wis. Stat. § 281.36(3m). The statute does not specify how the Department should weigh and balance the factors. It only requires the Department to consider the five factors.

After considering the five factors listed at Wis. Stat. § 281.36(3n)(b), the Department must then make determinations on three standards listed at Wis. Stat. § 281.36(3n)(c) before it can issue a permit under Wis. Stat. § 281.36(3m). Prior to the hearing the Petitioners limited their dispute for the contested case hearing to one of these standards, Wis. Stat. § 281.36(3n)(c)3. Wis. Stat. § 281.36(3n)(c)3 requires the Department to determine that the proposed project will not result in significant adverse impacts to wetland functional values, in significant adverse impacts to water quality, or in other significant adverse environmental consequences.

For purposes of Wis. Stat. § 281.36(3n)(c), the "project" is the construction and operation of the proposed golf course. The Department's determinations on the Wis. Stat. § 281.36(3n)(c) standards are set forth in the findings in the permit. The Petitioners have the burden to prove by a preponderance of the evidence that the Department erred in issuing the permit. This does not necessarily require that the Petitioners prove that the project will result in significant adverse impacts to the wetland functional values, significant adverse impact to water quality, or other significant adverse environmental consequences, but may be established by proof that there was insufficient evidence to support the Department's determinations.

According to the WRAMs, the affected wetlands on the Kohler property are of exceptionally high quality. The functional values of the wetlands are listed in the permit. The impacts to the functional values of the wetlands fall into two categories, direct impacts to the

wetlands that will be filled and secondary impacts that will result from the project. The application for a permit seeks authorization to fill 3.69 acres of wetlands. The wetland functional values of the 3.69 acre footprint of wetlands that will be filled under the permit will be eliminated and the impacts are irreversible.[5] The loss of these functional values is required to be mitigated. The issue with respect to the direct impacts is whether these impacts have been offset by the mitigation. In this matter, mitigation will be accomplished by the purchase of credits from the Department's in-lieu fee program. Mitigation is addressed below.

Impacts that are not the result of fill but result from how the land is used are secondary impacts. The Department determined that the project will have adverse secondary impacts on the wetland functional values. Some of the secondary impacts identified by the Department in the permit will result from construction of the proposed course. The primary construction activities that will adversely impact wetland functional values are deforestation, grading, and conversion of soil to managed turf. The Department found in the EIS that the loss of approximately 50% of the tree cover and the replacement of the plant community in much of the deforested areas with managed turf will result in a loss of wildlife habitat, a food source for wildlife, and floral diversity. Deforestation will adversely impact wetland functional values primarily in terms of wildlife habitat and floral diversity. The grading for the construction of the course will expose soil and promote the introduction of invasive species further adversely impacting floral diversity on the site.

In the permit, the Department found that the secondary impacts to the wetlands which includes those resulting from deforestation, grading, and conversion to managed turf are expected to be permanent, irreversible and of high significance. For some of the secondary impacts, the Department found that the adverse impacts will not be significant if the conditions in the permit are followed. However, there are no conditions in the permit addressing the adverse impacts to wildlife and stopover habitat resulting from the construction activities. Accordingly, the Department's determination that the proposed project will not result in significant adverse impacts to wetland functional values cannot apply to the secondary impacts resulting from the tree clearing, grading, and soil conversion activities.

The Department's response to this contradiction in its permit, is that the tree clearing and grading that are part of the project are not typically regulated by the Department outside of a wetland. It is true that if no wetland fill was necessary for the construction of the golf course, the deforestation and grading outside of the footprint of the wetlands could be accomplished without a permit. However, because these activities are part of the project their adverse impact on wetland functional values are relevant. The Department's determination that these adverse impacts will be significant means that the standards of Wis. Stat. § 281.36(3n)(c)3 have not been met.

During the hearing the most attention was focused on the adverse impacts resulting from the operation of the golf course, particularly the application of nutrients and pesticides to

[5] As discussed in the findings, the footprint of the direct impacts should include the ridges of the ridge and swale wetlands that will be graded because they are an integral component of the ridge and swale wetland complex. However, there is no accurate quantification of the extend of the ridges that will be graded so for purposes of this decision, the Department's figure of 3.69 acres of direct impacts will be used.

maintain the course. Chemicals applied to the course will be transported to the groundwater and wetland by stormwater and water applied to the course for irrigation. In evaluating whether the operation of the golf course will result in significant adverse impacts, the critical question is the levels of the chemicals and contaminants that will reach the groundwater and wetlands.

Stormwater and irrigation water will potentially reach the wetlands via two different routes. One route is surface runoff. Due to the high permeability of the sandy soil on the property it is likely that very little surface runoff water will reach the wetlands. Additionally, Kohler proposes and the permit requires the installation of vegetative buffer strips along the impervious surfaces that will be created as part of the project. Accordingly, it appears likely that little surface runoff will directly flow into any wetlands. The other route stormwater and irrigating water will potentially reach the wetlands is via seepage into the groundwater. The wetlands are recharged by the groundwater. Consequently, chemicals that reach the groundwater will impact the wetlands. The permeable soil is a mixed blessing because it rapidly accepts the surface water meaning very little surface water will reach the wetlands, but the high permeability of the soil on the sites also means stormwater and irrigation water carrying chemicals, contaminants and dissolved solids will rapidly infiltrate the soil and reach the groundwater.[6]

It is undisputed that the introduction of nitrates, phosphorus, pesticides, oil, grease, and other contaminants into the groundwater and wetlands will adversely impact the functional values of the wetlands and the water quality. The dispute in this matter is whether the adverse impacts will be significant. To evaluate the significance of the adverse impacts one must know the levels of the various chemicals that are likely to reach the groundwater and wetlands. Important pieces of information needed to predict these levels is the levels at which nutrients will be applied to the course, the identity of the pesticides that will be used by Kohler, the direction of groundwater flow, and the separation between the surface and the groundwater. (Biersach testimony, tr. 508:20-509:8) To this effect, the Department asked for a water table map of the property and stormwater, nutrient, and pesticide management plans. At the time it issued the permit, the Department had not received final versions of the various management plans or a reliable water table map.

The permit does require Kohler to use various BMPs in the operation of the proposed golf course. The BMPs for the application of nutrients include practices such as "spoon feeding," using slow release fertilizers, calibrating spreaders, being "careful" around slopes that slope toward sensitive areas, choosing the right product, choosing the right turf grass no application of chemicals before expected intense rain events, and sweeping chemicals from impervious surfaces such as cart paths to minimize the amount of chemicals that reach the groundwater. Some of the BMPs are listed in exhibit 148. However, exhibit 148 was described by Cohen as a set of concepts. A detailed IGCMP has yet to be developed (Cohen testimony, tr. 601:2-11). The permit allows Kohler to apply nitrogen at levels of 8 lbs/1000 square feet for ongoing turf maintenance. Cohen testified that he expects Kohler to apply nitrogen at a much lower level and; therefore, he did not do any analysis of whether application of nitrogen at the permitted level would adversely impact the groundwater or wetlands (Cohen testimony, tr. 619:14-24). But the lower level considered by Cohen is speculative and not a permit condition.

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[6] One of Kohler's experts, testified that golf course architects "dream" of sandy sites for golf courses. This is for ease of construction and aesthetics, not to protect groundwater. (Sanford testimony, tr. 720:2-8)

The Department must consider the impacts based on what Kohler is allowed to do, not on a best case scenario (Biersach testimony, tr. 547:6-22).

In addition to the BMPs, Kohler's experts testified that the thatch and turf will capture the nutrients applied to the course. Specifically, Cohen testified that the only way that water carrying nutrients and other chemicals could reach the groundwater is if one used a posthole digger to bypass the turf (Cohen testimony tr. 659:3-4). If this testimony was intended to be taken literally, it is not credible. Cohen himself testified that two to twelve percent of the nitrogen applied to the course will leach below the root zone. The testimony that very little of the nutrients will bypass the turf and thatch is also suspect because at least three of the BPMs in the IGCMP are intended to improve water infiltration by bypassing the turf. These practices are aerification, topdressing, and verticutting. The stated effects of these practices are that they will reduce and dilute thatch and improve water infiltration past thatch. The stated benefits of the practices are the reduction of insect and disease harboring thatch and water needs. (exh 148) However, these practices also appear likely to increase the amount of the chemicals that will reach the groundwater.

Another concern is that even if one accepts that the turf and thatch will effectively filter nitrogen and phosphorus, there will be no filter until the turf and thatch are established. The permit allows the application of higher nitrogen and phosphorus levels during the establishment of the turf when no filter will be present. The EIS notes that the sandy soils on the site are nutrient poor. The permit allows the application of higher levels of nutrients to establish the turf for the proposed golf course. A larger portion of the applied nutrients, particularly phosphorus, will leach through the permeable soil into the groundwater during the period when the turf is becoming established (Carpenter testimony, tr. 315:1-316:9). Kohler's goal is to operate a world class golf course. Undoubtedly it will use the level of nutrients necessary to establish and maintain the turf at such a level.

Another important piece of information that is necessary to predict the levels of chemicals that will reach the wetlands is a water table map showing the directions of groundwater flow and the water table elevations. The Department was asking for a water table map as late as November 1, 2017. Jeff Quast, Kohler's stormwater management expert, supplied a water table map as part of the stormwater management plan on November 6, 2017. As discussed in the findings, not only was this water table map not supplied to the Department until very late in the application process, but also the groundwater elevations used to create the map may not be accurate.[7]

Similarly, with respect to pesticides, the EIS lists a set of BMPs that Kohler proposes to follow (exh. 158, p. 32). Pesticide application, storage, loading, and mixing are regulated by the Department of Agriculture Trade and Consumer Protection (DATCP). The permit is conditioned on following DATCP and federal Environmental Protection Agency requirements. Two

[7] The Department's response to the lack of a reliable water table map was that an accurte map would only assist in predicting how quickly impacts would occur and which wetlands would be impacted first (Department brief, p. 25). However, not all wetlands on the property have equal value. It is undisputed that the interdunal wetlands deserve a higher level of protection. So it is important to know where the adverse impacts will occur.

additional conditions are to minimize drift during application of pesticides and to use chemicals that have a shorter half-life or will not persist in aquatic environments where practicable (exh. 157, condition 22). These conditions are an insufficient basis for the Department to determine that the use of pesticides will not have significant adverse impacts on wetland functional values or water quality. The EIS provides that "[c]onsidering their toxicity and ability to leach, monitoring groundwater quality for pesticide contamination and minimizing pesticide use through implementation of an [Integrated Pest Management] plan are potential ways to reduce the potential negative effects of pesticide use." (exh. 158, p. 33) However, the permit includes no condition requiring groundwater monitoring.

Also with respect to pesticides, Cohen did additional pesticide evaluation after the permit was issued. At the hearing Kohler offered a pesticide risk assessment (exh. 208) that identified three chemicals of concern and Cohen recommended that two of the chemicals not be used and the third only every other year. The risk assessment is dated May 18, 2018, four months after the permit was issued and only two weeks before the hearing. Kohler committed to abide by these recommendations. There is no reason to doubt Kohler's commitment; however, this is another example of the Department issuing the permit with incomplete information and reliance on a restriction that is not actually a condition of the permit.

The Department did not make any quantitative findings as to at what point the secondary adverse impacts would become significant or explain how the conditions would reduce the adverse impacts below the level of significance either in the permit itself or through Department staff testimony at the hearing.[8] The Department may be confident that Kohler's management plans will ultimately be sufficient to protect the wetlands; however, the Department should be making its determinations based on completed plans, not trusting that management plans that will be prepared will adequately protect the groundwater and wetlands. Once the golf course is constructed the adverse impacts will be permanent and irreversible. The Department is required to make a determination that the project will not result in significant adverse impacts. It is unable to do so based on incomplete information. Kohler contends that the processing of the instant permit was unusually long and thorough. The process has been long, but it was still incomplete at the time the Department closed the application process.

In the permit, the Department concluded that the net environmental consequences would be negative, but that the mitigation requirement would bring the balance to neutral (Biersach testimony, tr. 581:14-17). The mitigation is only calculated to compensate for the loss of wetland functional values resulting from the 3.69 acres that will be filled (See Department's response brief, footnote 6 on page 17). Accordingly, there is no compensation for the secondary impacts. Even if one accepts the Department's conclusion that the in-lieu fee program will mitigate the loss of the 3.69 acres of wetlands that will be filled, there does not appear to be any basis for the Department to conclude that the environmental benefits generated by the in-lieu fee program will both mitigate the loss of the functional values resulting from the filled wetlands and

[8] Department memorandum introduced at the hearing demonstrated that Department resource experts continued to have questions and concerns regarding the permit as late as November 6, 2017 (See exh. 25). The Department staff who testified at the hearing were unable to state whether these questions and concerns were resolved prior to the decision to issue the permit.

compensate for the adverse secondary impacts resulting from the project. The logical conclusion is that the Department implicitly determined that the secondary impacts will have a net negative environmental impact.

A criticism of Petitioners' experts by Kohler is that they did no tests on the actual site.[9] The Petitioners' science-based testimony raised sufficient concerns to cast doubt on the Department's determinations. The Petitioners do not have to prove that significant adverse impacts will occur, only that Department did not have sufficient evidence to support its determination that they would not occur. The Petitioners have carried their burden of proof to show that the Department did not have sufficient evidence to support its determination that the project will not result in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences at the time it decided to issue the permit.

Pursuant to Wis. Stat. § 281.36(3n)(b)2, the Department is required to consider cumulative impacts attributable to the proposed project. Wis. Stat § 281.36(3n)(b)2 provides:

> The cumulative impacts attributable to the proposed project that may occur to wetland functional values based on past impacts or reasonably anticipated impacts caused by similar projects in the area affected by the project.

The Department determined that significant cumulative impacts to wetland functional values may result from the project (exh. 157, FOF ¶ 15). The basis for this conclusion is not clear. Biersach testified that granting the permit may generate more applications for filling wetlands and have precedential effect for those applications (Biersach testimony, tr. 522:20-24). Precedent is not identified as a component of cumulative impacts. In the permit application, Kohler stated "Cumulative wetland impacts are not expected to result from the Project because golf course expansion is prevented by adjacent residential, State Park, and Lake Michigan land use. No additional development beyond the current proposed plan is anticipated; therefore, no future wetland impacts in the affected area are expected to be caused by the permitting of this Project." (exh. 102, p. 28) This appears to be a more accurate consideration of cumulative impacts than the Department's finding in the permit. However, Biersach further testified that the finding on cumulative impacts is based on professional judgment (Biersach testimony, tr. 523:4-11). Although the basis of the determination is unclear, the Department's finding on cumulative impacts is adopted in this decision.

The other issue raised by the Petitioners in their petition for a contested case hearing and certified by the Department is whether the mitigation required under Wis. Stat. § 281.36(3n)(d) compensates for adverse impacts to wetlands. Before considering the merits of this issue, a legal question must be addressed. That issue is whether mitigation is available in this case. As wetlands in the proximity of Lake Michigan, the wetlands on the Kohler property are an "area of special natural resource interest" pursuant to Wis. Admin. Code § NR 103.04(2).[10] Wis. Admin.

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[9] The Kohler site is closed to the public. Kohler did not allege that it offered access to Petitioners' experts to conduct any testing on the site.

[10] Wis. Admin. Code § NR 103.04(2) provides:

Code § NR 103.08(4)(b) does not allow the Department to consider potential functional values provided by any mitigation project for a project located in an area of special natural resource interest.

The Department and Kohler contend that Wis. Admin. Code § NR 103.08(4)(b) has been preempted by the repeal of Wis. Stat. 281.37(2)(c), which Wis. Admin. Code § NR 103.08(4)(b) mirrored. The Department and Kohler demonstrated that language supporting the limitation in Wis. Admin. Code § NR 103.08(4)(b) was removed by 2011 Act 118 and that Wis. Admin. Code § NR 103.08(4)(b) was not correspondingly updated. An administrative regulation that conflicts with a state statute is not enforceable. *See Richland School District v. DILHR*, 166 Wis. 2d 262, 278 (Wis. Ct. App. 1991) (*citing Village of Plain v. Harder*, 268 Wis. 507, 511 [Wis. 1955]), affirmed, 174 Wis. 2d 878 (Wis. 1993). Accordingly, mitigation is deemed available for the proposed project.

The permit requires Kohler to purchase credits through the Department's in-lieu fee mitigation program to satisfy the mitigation requirement at Wis. Stat. § 281.36(3n)(d). The in-lieu fee mitigation program requires that the mitigation compensates for adverse impacts to wetlands, not replace or recreate the lost wetlands. In this case the Department determined that the purchase of credits from its in-lieu fee mitigation program will satisfy the mitigation requirement. The issue as certified by the Department is "[w]hether the mitigation required under Wis. Stat. § 281.36(3n)(d) compensates for adverse impacts to wetlands." The Department calculated the number of credits that Kohler will be required to purchase based on the number of acres of wetlands that will be filled as part of the project. The Petitioners established that the wetlands that will be lost as the result of the project cannot be replaced. However, Wis. Stat. § 281.36(3n)(d) only states that mitigation is required to offset the lost wetland functional values, not that lost wetlands be replaced. The Petitioners did not satisfy their burden to prove that the mitigation condition in the permit will not satisfy the requirements of Wis. Stat. § 281.36(3n)(d)1.

> Wetlands in areas of special natural resource interest includes those wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas. For purposes of this chapter, the following are designated as areas of special natural resource interest:
>
> . . .
>
> (2) Lakes Michigan and Superior and the Mississippi river;

Wis. Stat. § 30.01(1am) defines an "area of special natural resource interest." Relevant for the Kohler property is Wis. Stat. § 30.01(1am)(e) which currently provides:

> A body of water in a wetland along Lake Michigan or Lake Superior that the department has identified as an ecologically significant coastal wetland *and shown on a map published on the department's Internet site.* (emphasis added)

A cursory search of the Department's website did not locate a map showing the areas that have been identified as ecologically significant coastal wetlands. The statutory definition of an "area of special natural resource interest" appears narrower than the definition at Wis. Admin. Code § NR 103.04(2). It is not clear that the Kohler property is an area of special natural resource interest as defined at Wis. Stat. §30.01(1am)(e). However even if it is, mitigation is no longer prohibited to compensate for a wetland fill in an area of special natural resource interest.

The in-lieu fee mitigation program is a new program and the Petitioners raised doubts about its likelihood to successfully reproduce ridge and swale wetlands of the nature of those lost as the result of the proposed project. However, at this point those doubts are speculative. Ultimately, the Department is responsible to complete the mitigation. If the wetland fill is ultimately permitted, Kohler will satisfy the requirements of Wis. Stat. § 281.36(3n)(d) by purchasing the in-lieu program credits. The Petitioners have not satisfied their burden to show that the Department's determination that the mitigation required in the permit will compensate for the loss of functional values resulting from the loss of the wetlands that will be filled for the project is not supported by the evidence in the record. However, the fact that Kohler was unable to identify any ridge and swale restoration opportunities underscores the rarity and uniqueness of the wetlands that will be filled.

Finally, after the hearing, the Petitioners submitted a certified copy of a letter dated April 27, 2017, from an employee of the United States Environmental Protection Agency (EPA) to a regulator at USACE. An uncertified copy of the letter was offered as exhibit 27 during the hearing. The exhibit was not admitted during the hearing because of lack of foundation and relevance objections. The Petitioners obtained a certified copy of the letter to overcome the foundation objection and requested that exhibit 27 now be admitted.

The letter records the EPA's objection to the application for a permit before the USACE. The exhibit states reasons to object to a parallel federal process. It is not directly relevant to the instant matter. To the extent the objections in the letter address similar issues as those before the Division, the letter is redundant of the evidence presented in this matter. Additionally, there is no record of the nature of the proposed project at the time the objections were made. Without this information, the letter may be prejudicial to Kohler. Exhibit 27 will not be admitted to the record.

In summary, the permit authorizes the discharge of fill material into 3.69 acres of wetlands. The project for purposes of Wis. Stat. § 281.36 is the construction and operation of an 18-hole golf course. The site has remained in a largely natural condition which has made it a prime wildlife habitat, an important stopover site for migratory birds, an area high in floral diversity, and an area with other exceptional wetland functional values.

Many of the adverse impacts identified by the Department are related to the construction and operation of a golf course on the site, not directly to the discharge of fill into the wetlands. The construction of the golf course will require grading of the site which will affect the hydrology of the site, substantial deforestation which will adversely impact the quality and functionality of the site as wildlife and stopover habitat, and soil disturbance which will promote the introduction of invasive species. The operation of the golf course will necessitate the introduction of chemical fertilizers and pesticides into the area and people walking and driving on the site which will damage the native vegetation and promote the introduction of invasive species.

The Department determined that the proposed project will result in adverse impacts to the functional values of the wetland on the site but that the conditions imposed in the permit would reduce the level of those adverse impacts to a level that would fall below significant.

"Significant" for purposes of Wis. Stat. § 281.36(3n)(c)3 is not defined in the statute or administrative rules. A Department guidance document states that "there is no formula for quantifying whether an impact is significantly adverse" (exh. 23 §V.D). A certain amount of subjectivity in determining whether adverse impacts to wetland functional values is significant is unavoidable. The guidance document calls for a case-specific assessment based on "different ecological, botanical, and hydrological situations which exist across the state" citing as an example that "a wetland impact that might be very significant in Waukesha County due to scarcity of that type of resource, may not be a significant adverse impact in the northwest part of the state where the same resource is abundant."

Accordingly, the rareness and the high quality of the wetlands that will be impacted by the proposed project in this matter factor into the determination of significance for the adverse impacts that will result from proposed construction and operation of the golf course. The wetlands on the site are repeatedly described as globally rare and of exceptional quality.[11] Specifically, all the site's interdunal wetlands are expected to be affected by secondary impacts to wetland functional values (exh. 153). It is undisputed that the interdunal wetlands on this site are especially rare and deserve protection.

Adverse impacts to wetland functional values will result from construction activities including deforestation and grading on the site. It is difficult to quantify the adverse impacts from the construction activities; however, these impacts are included among the secondary impacts found by the Department and the Department determined that the secondary impacts will be significant. The permit includes conditions requiring Kohler to restore the existing soil profiles and monitor for invasive species after construction. However, the Department included no conditions in the permit that would reduce the adverse impacts associated with the loss of habitat and modification of the hydrology resulting from the deforestation and grading. To be fair, the Petitioners' experts did not identify any conditions that could reduce these impacts. The Petitioners' experts' response was that those impacts can only be avoided by not developing the site. These impacts are not golf course specific and would likely occur with any development of the site, but they are part of the proposed project and, therefore, must be considered. Accordingly, the Department's determination that these adverse impacts will be significant mandate the permit application must be denied.

The adverse impacts resulting from the operation of the proposed golf course, particularly the introduction of sediments, chemicals, and pollutants into the groundwater and wetlands are more quantifiable. The permit includes conditions intended to address impacts from the activities that will introduce chemicals into the groundwater and wetlands. The conditions relate to stormwater, pesticide, and nutrient management plans. Based on these conditions, the Department determined that the adverse impacts to water quality will not be significant. The Petitioners established that the Department did not have sufficient, accurate information to determine the level of nutrients and pesticides that will reach the groundwater and wetlands. The Petitioners showed that the information supplied by Kohler's experts to the Department was incomplete and/or in error at the time of the Department's determination so that the amounts of

[11] As discussed above, the property is designated an "area of special natural resource interest." Wis. Admin. Code § NR 103.08(3)(f) directs the Department to consider a site's designation as an area of special natural resource interest as an additional factor in making its determination.

nutrients and pesticides would likely reach the groundwater and wetland is unknown. Accordingly, the Department did not have a sufficient basis for its determinations that the operation of the proposed golf course will not result in significant adverse impacts to wetland functional values, water quality or environmental consequences.

CONCLUSIONS OF LAW

1. Contested case hearings arising from a permit issued under Wis. Stat. § 281.36(3m) are referred to the Division. Wis. Stat. § 281.36(3q)(f)4.

2. The Petitioners have the burden of proof. Wis. Stat. § 281.36(3q)(g)5. The burden of proof for the hearing decision is to be by the preponderance of the evidence. Wis. Admin. Code § HA 1.17(2).

3. The Petitioners demonstrated that the Department did not have sufficient information to determine the proposed project will not result in significant adverse impact to wetland functional values, in significant adverse impact to water quality, or in other significant adverse environmental consequences. Accordingly, the Petitioners met their burden, by a preponderance of the evidence, to prove that the Department erred in determining that the permit satisfied the standards in Wis. Stat. § 281.36(3n)(c)3.

4. Kohler is able and willing to comply with the mitigation requirement imposed by the Department as a condition of the permit. The required purchase of 5.35 credits from the Department's in-lieu fee program satisfies the requirement under Wis. Stat. § 281.36(3n)(d).

5. Pursuant to Wis. Stat. § 227.43(1)(b), the Division has the authority to issue the following order.

ORDER

WHEREFORE, IT IS HEREBY ORDERED that the decision of the Department of Natural Resources to grant the permit application and water quality certification in Case No. DNR-18-0002 is REVERSED.

Dated at Madison, Wisconsin, on March 15, 2019.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
4822 Madison Yards Way, Fifth Floor
Madison, WI 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: Mark Kaiser

Mark F. Kaiser
Administrative Law Judge

NOTICE

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any party aggrieved by a decision of the hearing examiner may commence an action in circuit court to review that decision. Wis. Stat. § 281.36(3q)(h)2.

2. Any party to this proceeding adversely affected by the decision attached hereto has the right within twenty (20) days after entry of the decision, to petition the secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.

3. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Division of Hearings and Appeals a written petition for rehearing pursuant to Wis. Stat. § 227.49. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.

4. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be served and filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision of the Administrative Law Judge in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent and shall be served upon the Secretary of the Department either personally or by certified mail at: 101 South Webster Street, P. O. Box 7921, Madison, WI 53707-7921. Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53, to insure strict compliance with all its requirements.

CITY OF SHEBOYGAN

REQUEST FOR CITY PLAN COMMISSION CONSIDERATION

ITEM DESCRIPTION: Application for Conditional Use Permit with exceptions by Kohler Company to construct a new golf course on Kohler Company property north of Kohler-Andrae State Park between Black River and Lake Michigan. SR-5 Zone

REPORT PREPARED BY: Steve Sokolowski

REPORT DATE: December 11, 2020 **MEETING DATE:** December 15, 2020

FISCAL SUMMARY:

Budget Line Item:	N/A
Budget Summary:	N/A
Budgeted Expenditure:	N/A
Budgeted Revenue:	N/A

STATUTORY REFERENCE:

Wisconsin Statutes:	N/A
Municipal Code:	N/A

BACKGROUND / ANALYSIS:

Construction of new golf course:

Kohler Company seeks to develop an 18-hole championship-caliber public golf course, a clubhouse, and support amenities on approximately 250 acres of private land owned by Kohler. The project creates a unique opportunity to open private property for public enjoyment and recreational use, enhance Sheboygan County's reputation as one of the world's premier golf destinations, create jobs and benefit the local economy, and at the same time preserve and enhance many of the Property's environmental features and attributes for the long term. The goal of the project is to develop a golf course that is rated in the top 50 golf courses in the world.

The Property is located between the Black River and Lake Michigan, north and east of the John Michael Kohler and Terry Andrae State Parks (State Park) in the City of Sheboygan, Sheboygan County, Wisconsin. Kohler acquired a total of approximately 468 acres in the vicinity during the 1930's. In 1965, Kohler donated 221 acres to the State of Wisconsin for the creation of the John Michael Kohler State Park. The remaining 250-acre parcel retained by Kohler has remained in private ownership and is uniquely suited for a premier 18-hole golf course. The Property is made up of the following numbered Tax Parcels:

Current Parcel No.	2019 Parcel No. (if different)
59281328012	
59281328027	59281328011
59281328028	59281328014
59281328029	
59281328015	
59281328017	
59281328016	
59281328018	

In addition to the course and amenities directly related to the course, the site will also include drainageway, wetland, lakeshore, woodland and steep slope overlays. The clubhouse and other amenities are centrally located. Cart paths will be constructed in conjunction with the golf holes to provide course access. A caddie/cart barn and two on-course rest stations will also be constructed on the Property as required golf course amenities. A practice range is planned to be built in the south portion. A pond is planned in the northern portion of the property.

Kohler Company representatives have pointed out in their application and in public discussions surrounding the proposed course that development will secure benefits accruing beyond the golfing community to the community as a whole. Among those features of the development that appear to secure those benefits is the creation of corridors for golf holes that will open the site to sunlight and provide public views of Lake Michigan, the removal of invasive species, and the maintenance of approximately half of the trees on the Property. The natural features and contours on the Property are designed to enhance the course design. As such, many of those features and contours will be preserved.

Club House:

A multi-level clubhouse will be erected on the Property that encompasses minimalist design elements and concepts. The first-floor level will be approximately 8,800sf and include the pro shop, restaurant/bar, banquet room, and locker rooms. The banquet facility will be capable of hosting indoor/outdoor special events and weddings. The lower level basement will be approximately 7,900 sf and contain administrative offices, receiving areas, mechanical equipment, and kitchen/bar storage areas. The clubhouse will be designed to be eligible for Leadership in Energy and Environmental Design (LEED) certification and include the use of timber and canvas materials as architectural features.

Observation Tower

A Lake Michigan observation tower will be located adjacent to the clubhouse and contain a viewing platform approximately 60 feet above the surrounding grade and with an overall height of 80 feet to the top of the structure. An open wood frame stair with multiple landings will provide access to the platform. The viewing platform will be covered by a gable roof structure with seamed metal roofing. Per Section 15.406(1)(c) of the City of Sheboygan Zoning Ordinance (“SZO”), a height exceedance is being requested in conjunction with this conditional use application to authorize the taller observation tower.

Maintenance Buildings

Maintenance needs of the golf course will be served from two (2) buildings located on the south side of the Property and adjacent to the existing State Park maintenance facility. The primary maintenance building will be approximately 15,000 square feet and contain offices, heated storage and heated repair facilities. The secondary building is approximately 7,600 square feet in size and contains an equipment wash facility, storage, mixing, and unheated equipment spaces. An approximately 8' high buffering wooden fence is being proposed around the perimeter of the proposed maintenance buildings and pavement areas. The maintenance buildings would be screened with vegetation from the entrance road.

Caddy/Cart Storage Building and Rest Stations:

A caddy/cart storage building approximately 7,500 square feet in size, is proposed to be located west of the clubhouse. The building is the staging location for caddies along with storage of guest/service golf carts. The caddy/cart storage building would be screened by vegetation from guest areas.

Two (2) on-course rest stations will be constructed to provide rest room facilities along with food and beverage service.

Facility Entrance and Parking:

Access to the Property is being proposed through the existing State Park entrance on Beach Park Lane located along County Hwy V.

The primary guest and associate parking will be accommodated in a paved parking lot containing approximately 181 stalls located near the clubhouse, with an additional 32 stalls dedicated for maintenance staff adjacent to the maintenance buildings. Parking lot lighting will be energy efficient LED lighting and use full cut-off fixtures to prevent light pollution.

Hours of Operation:

The golfing season begins in spring and extends through the fall depending upon local weather conditions. The daily hours for golf play vary with the seasons but typically begin at dawn and end at dusk. The in-season restaurant hours are daily from 6am to 10pm with extended bar service as is common. At the close of golf season until the New Year's Holiday, the restaurant/bar is currently planned to be open Thursday through Saturday with hours of operation from 11 am to 9 pm. The restaurant/bar along with the pro shop is currently planned to be closed during the off-season from January to the start of golf season.

The proposed golf course is anticipated to attract approximately 380 daily visitors for golf and non-golf activities during peak times. Approximately 102 employees during peak times are anticipated including caddies, golf course maintenance, food & beverage, retail, golf operations and support staff.

Traffic Impact Analysis:

Access to the Property is being proposed through the existing State Park entrance on Beach Park Lane located along County Hwy V. Numerous alternative entrance routes to the Property were evaluated resulting in a proposed route that has the least impact on both the neighbors and environment. Access through residential neighborhoods to the north was investigated but not recommended due to traffic impacts to area residents. Multiple routes originating off 12th Street through the State Park were also investigated but determined more environmentally impactful than the route being proposed. A traffic study was completed and concludes that the studied intersections are currently built to significantly exceed accepted Institute of Transportation Engineers' Level of Service (LOS) standards (The traffic study is included as Exhibit 5). While no traffic improvements are required, Kohler is proposing to modify the State Park entrance area by adding a roundabout, east of the existing bridge spanning the Black River, to further improve circulation. The roundabout design includes three (3) dedicated lanes for entering State Park visitors while golf course traffic and exiting State Park visitors would utilize the roundabout. A plan showing the proposed entrance improvements is included as Exhibit 6.

Excel Engineer Traffic Impact Analysis findings state:

- Excel Engineering has completed an updated traffic analysis to reflect the proposed roundabout entrance to Kohler-Andrae State Park and the Kohler Golf Course. The updated analysis is a supplement to the 2015 Traffic Impact Analysis (TIA) which modeled the entrance to the State Park and the Kohler Golf Course as a two-way stop. The updated analysis is limited to the proposed entrance changes. It does not include movements at the intersection of County Highway V and Beach Park Lane which were demonstrated in the original TIA to operate at a Level of Service (LOS) B or better after development.

- Analysis using the traffic information above, the LOS for the proposed roundabout was calculated assuming the peak hour for the state park occurs at the same time as the peak hour for the golf course. This is a very conservative approach that will represent a worst case scenario. The LOS ratings range from LOS A (very good) to LOS F (very poor) with LOS D being the minimum acceptable level during the peak hour. Based upon the analysis, the overall LOS for the roundabout during the combined peak hour is LOS A. All individual movements within the roundabout are also rated at LOS A. This is the best rating possible.

- In addition to the LOS analysis for the proposed roundabout, the queuing provided for the DNR Station in the proposed configuration was compared with queuing provided in the existing intersection. The existing intersection has two lanes that provide 516 feet of total vehicle queuing length. The proposed intersection includes four lanes. One lane is dedicated for golf course traffic. The three remaining lanes are dedicated to the state park entrance. The combined queuing length of the three lanes provided for the state park entrance is 711 feet. This is a 38% increase over the existing condition that, when combined with new automated sticker dispensers proposed by the DNR, will significantly improve access to the state park.

Landscaping:

The project will place high value on the landscape integrity and aesthetics: landscape variation and interspersion of native vegetation, long views within the Property and to the lakeshore vista, and natural-appearing topography. Incorporating these landscape features will enhance visual and aesthetic features of the Property. Screening of the maintenance facility, caddy/cart barn and guest parking lot will be accomplished primarily with vegetation. As paved/parking areas will not be visible from public rights-of-way, an exception is being requested to avoid the use of curb adjacent to landscaped areas, maintaining the existing rural setting in the adjacent State Park.

The lakeshore and its views will be integrated into the golf course design. The project will create gaps in the forest canopy and increase sight distances throughout the Property. Greater variations in the landscape (open areas contrasted with forested areas) will add scenic interest to the current forested landscape. The distinctive undulating dune topography largely will be retained. The project will introduce several sustainable and aesthetically appealing structures to the Property and increase access to and on the Property via roads and cart paths. By removing invasive species and actively preserving the natural, native flora, the aesthetic quality of the Property will be improved. The majority of the dunes will be retained for distinctive scenic attractiveness and high scenic integrity. The aesthetics associated with the existing forested landscape will be modified but enhanced by picturesque golf views. The viewshed associated with adjacent lands will remain largely unchanged, since the project will be screened on three sides by woody vegetation, either original to the site or planted. The enhanced views of the Property would be visible from Lake Michigan.

Architecture:

The proposed exterior building materials for the clubhouse walls consist of decorative timber columns, canvas materials, and a cordwood wall on a portion of the East Elevation. The Caddy/Cart Barn will consist of metal wall panel and metal roof panels. The proposed maintenance buildings include a mix of decorative concrete block, metal wall panels, and metal roof panels. The Caddy/Cart Barn and maintenance buildings will both be extensively screened with a mix of new and existing vegetation to minimize views from guests/public areas. Landscaping plans showing proposed vegetation screening are included in Exhibit 13. Colored renderings of the clubhouse along with elevations of all proposed structures are included in Exhibit 14. An 8’ high fence is being proposed around the maintenance facility. The fence will be wood and decorative in nature. Per Section 15.720, SZO, the conditional use permit being requested should include the height exceedance of the proposed fencing.

Infrastructure:

Based upon preliminary discussions with utility providers (gas, electric, communications), it is anticipated that service connections will be extended from existing facilities located along the County Trunk Highway V (CTH V) right of way, approximately one-half mile west of the Property. To minimize impacts, the new services will be bored beneath State Park wetlands and the Black River. The utilities will then largely follow the entrance road to the various buildings and service connection points. Kohler will install a water lateral from S. 12th Street at Stahl Road to the clubhouse, caddy/cart barn, and northern pond. To minimize impacts, the lateral will be bored beneath the Black River and associated wetlands.

Upon completion of the water main extension on S. 12th Street by the City of Sheboygan, the lateral will be connected to the municipal water system. This will avoid the need for a high capacity well, thereby mitigating a concern of people who were concerned such a well could have negative environmental impacts and reduce the capacity of existing private wells in areas that do not yet have the benefits of municipal water. An existing well on the Kohler property will be utilized during initial construction for irrigation until the water main improvements are completed. The clubhouse and caddy/cart barn will connect to the municipal sewer system currently located on Timberlake Drive to the North. The maintenance buildings will include specially designed closed systems to prevent pesticides and herbicides from entering the public sanitary system. On-course rest stations will have a private septic system and/or on-site holding tank to serve their sanitary sewer needs along with private wells for potable water. A Utility plan is included in Exhibit 7. The City's annexation of the Property and Kohler's development of its golf course significantly accelerate opportunities to extend public services, not just to the Property, but to points north, south and west.

The projected average water usage is anticipated to be 200,000GPD during the golfing season with peak values of approximately 340,000GPD. Sanitary sewer/septic loadings are anticipated to be approximately 3,200 GPD on average with a peak of 6,300GPD.

Natural Resources Site Evaluation:

Kohler Co. has applied for a conditional use permit for an outdoor institutional use (per Section 15.206(3)(d), SZO), and more specifically for a privately owned golf course and for clear cutting per Section 15.206(2)(g), SZO. In connection with its conditional use application, Kohler also has submitted a detailed site analysis under Section 15.509, SZO, to identify permanently protected green space areas in its proposed golf course development. Kohler's detailed site analysis includes the Natural Resources Site Evaluation Worksheet as required under Section 15.303(3), SZO, (at Exhibit 8 of the application) and the detailed map consistent with Section 15.509(2), SZO, (at Exhibit 9 of the application).

This report constitutes the written evaluation of City staff related to the submitted detailed site analysis. Kohler's Natural Resources Site Evaluation Worksheet and detailed map have been accepted by City staff and discussed with Kohler as the applicant. The detailed site analysis included with Kohler's golf course conditional use application also may be submitted for any subsequent development activity on the site. However, any modifications to the approved detailed site analysis and additional review and approval by City staff consistent with Section 15.509, SZO, shall be required if Kohler's analysis is no longer accurate for the site.

Golf course use is specifically listed as a conditional use in Table 15.204 (found under the same section in the SZO) for the Drainageway, Lakeshore, Woodland and Steep Slope Overlay Districts. Pursuant to Section 15.504(3)(c), SZO, public and private parks and recreation areas are conditional uses in the Wetland Overlay District. Similarly, under subsections 3.32 and 3.33 of the City's Shoreland Wetland Zoning Ordinance (Appendix B to the Sheboygan Municipal Code), permitted uses which may involve wetland alterations include walkways, observation decks, roads, nonresidential buildings, public and private parks and recreation areas and utility lines. City staff recognizes that Kohler proposes to comply not only with the City's 50 foot building setback as required by Subsection 3.0(1)(a) of the City's Shoreland Wetland Ordinance, but also to voluntarily comply with the 75 foot structure setback found in Sheboygan County's Shoreline Zoning Ordinance for unincorporated areas, found at Section 72.15(1)(a) of the Sheboygan County Code of Ordinances.

All natural resource areas protected under the City's Zoning Code have been accurately outlined and clearly labeled, including areas where different resource types overlap with one-another.

All site disruption, including tree cutting, shall be limited to construction and development as generally depicted on the plans submitted with Kohler's conditional use application or any changed plans subsequently approved by City staff.

WDNR, Army Corps of Engineers and Other Jurisdictional Approvals:

As set forth in Section 15.502, SZO, natural resource protection regulations in subchapter 15-5 of the Zoning Ordinance "are intended to supplement those of the City of Sheboygan, Sheboygan County, the State of Wisconsin and the Federal Government of the United States which pertain to natural resource protection." Recognizing that the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers have specialized expertise and jurisdiction over permitting relating to various natural resources, the City's application of its natural resource protection regulations shall be subject to, conditioned upon, and automatically adjusted to conform to, any and all permits required from, and as issued by, those State and Federal authorities with jurisdiction over the property.

How Proposed Golf Course Meets City of Sheboygan Zoning Ordinance:

The City of Sheboygan zoning ordinance identifies the purpose of the SR-5 zoning district as intended to permit development which has a moderate density, suburban community character. A single-family housing development with minimum 6,000 sf lots and maximum gross density of 5 dwelling units per acre is permitted by right. The proposed golf course is a land use allowed as a conditional use within SR-5 but has many advantages over a single-family development including increased green space, opening the Property for public use and enjoyment, promoting tourism, spurring economic development, job creation, and preservation of natural resources.

The City of Sheboygan zoning ordinance contains regulations including minimum setbacks, buffer yards, minimum landscape ratio, parking, access, and landscaping. Below is a table summarizing the applicable regulations along with the proposed values.

Zoning Ordinance Regulation Description (SR-5/Outdoor Institutional):

	Regulation	Proposed golf course
Minimum landscape ratio	0.55	0.94
Minimum lot area	0.14 acres	251.6 acres
Number of off-street parking spaces	209	213
Required landscaping points	6,862	15,255

As evidenced in the table above, the proposed conditional use in its proposed location significantly exceeds each of the applicable regulations included in the zoning ordinance. By these metrics, the golf course use is far superior when compared to a single-family housing development with minimum 6,000sf lots and maximum gross density of five (5) dwelling units per acre, which is permitted by right. Kohler's proposed golf course will permanently protect much more green space than would be protected if the site were developed for permitted single-family housing.

Kohler's proposed golf course use appears to be far superior to the permitted housing uses, not just due to the preservation of more permanently protected green space, but also for consistency with the City's Comprehensive Plan. Specifically, the Plan calls for improving the "Sheboygan" brand and improving residents' perception of their City. The Plan also encourages the enhancement of lakefront and riverfront properties to attract new development, appeal to residents and facilitate a healthy community.

The future land use map included with the City's 2011 Comprehensive Plan and its Outdoor Recreation Plan classifies the property as "Public Parks and Open Space." The Public Parks and Open Space category includes public golf courses. It bears noting that many parks, including Peninsula State Park, several Brown County, Racine County, Dane County, Milwaukee County, Waukesha County and Kenosha County Parks and City of Madison parks include golf courses. It also bears noting that another public golf course, Riverdale Country Club, is located approximately one-half mile from the property and has co-existed in the neighborhood for decades.

The frequent location of golf courses in parks which are rich in protected natural resource areas, as well as the location of Riverdale Country Club within one-half mile of this property, demonstrates the appropriateness of Kohler's proposed golf course use on this property. In fact, Riverdale Country Club, located approximately one-half mile from the Property, has co-existed in the neighborhood for decades.

Conversely, the proposed conditional use would provide additional amenities, not just to golfers, but to the City of Sheboygan and visitors to the adjacent State Park. The golf course would provide an additional recreational opportunity and open the Property for public use for access to the restaurant, clubhouse, observation tower and events as well as for golf. The existing State Park entrance area will be significantly enhanced, at Kohler's expense, in connection with development of the golf course. In addition, the Pre-Annexation and Development Agreement made August 7, 2017 (Agreement) between Kohler and the City specifically calls for Kohler to provide appropriate levels of public access to unique ecosystems and to burial mounds during daylight hours. That Agreement also bars Kohler from constructing any barriers on the Property to prohibit access to Lake Michigan in violation of Wisconsin's public trust doctrine.

How Proposed Golf Course Meets City of Sheboygan Natural Resource Protection Regulations:

Kohler's conditional use application seeks a conditional use permit for an outdoor institutional use in the SR-5 and in any applicable overlay districts as well as a conditional use permit for clear cutting more than 50% of the woodlands on the Property.

In connection with its conditional use application, Kohler submitted a detailed site analysis per Section 15.509, SZO, to identify permanently protected green space areas in its proposed golf course development. Kohler's detailed site analysis includes the Natural Resources Site Evaluation Worksheet required under Section 15.303(3), SZO, (Exhibit 8) and the detailed map consistent with Section 15.509(2), SZO (Exhibit 9).

Kohler's Natural Resources Site Evaluation Worksheet and detailed site analysis have been accepted by City staff and discussed with Kohler; no further analysis work is required at this time. City staff has determined that the detailed site analysis map and Natural Resources Site Evaluation Worksheet comply with the following data sources:

(1) Sheet 2 of the Official Zoning Map which has not been officially adopted, such that the map prepared by Kohler and approved by City staff constitutes Sheet 2 of the Official Zoning Map as defined in Sections 15.034, 15.505(3), 15.506(3), 15.507(3) and 15.508(3), SZO; Kohler's map at Exhibit 9 is a result of data gathered from the sources listed in 15.509(3)(b)2-8, SZO;
(2) Applicable City of Sheboygan and Regional Environmental Corridor Maps;
(3) Air photos of the Property;
(4) USGS Quads and other sources of topographic information;
(5) Applicable FEMA and related floodplain maps;
(6) Applicable Federal and State Wetland Inventory Maps;
(7) City of Sheboygan Comprehensive Master Plan; and
(8) A site visit on November 12, 2020 by the Manager of Planning and Zoning.

As set forth in Section 15.502 SZO, natural resource protection regulations in subchapter 15-5 of the Zoning Ordinance “are intended to supplement those of the City of Sheboygan, Sheboygan County, the State of Wisconsin and the Federal Government of the United States which pertain to natural resource protection.” Recognizing that the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers have specialized expertise and jurisdiction over permitting relating to various natural resources, the City’s application of its natural resource protection regulations shall be subject to, conditioned upon, and automatically adjusted to conform to, any and all permits required from, and as issued by, those State and Federal authorities with jurisdiction over the Property.

Golf course use is specifically listed as a conditional use in Table 15.204 (found under the same section in the SZO) for the Drainageway, Lakeshore, Woodland and Steep Slope Overlay Districts. Pursuant to Section 15.504(3)(c), SZO, public and private parks and recreation areas are conditional uses in the Wetland Overlay District. Similarly, under subsections 3.32 and 3.33 of the City’s Shoreland Wetland Zoning Ordinance (Appendix B to the Sheboygan Municipal Code), permitted uses which may involve wetland alterations include walkways, observation decks, roads, nonresidential buildings, public and private parks and recreation areas and utility lines. City staff recognizes that Kohler proposes to comply not only with the City's 50 foot building setback as required by Subsection 3.0(1)(a) of the City’s Shoreland Wetland Ordinance, but also to voluntarily comply with the 75 foot structure setback found in Sheboygan County’s Shoreline Zoning Ordinance for unincorporated areas, found at Section 72.15(1)(a) of the Sheboygan County Code of Ordinances.

The frequent location of golf courses in parks which are rich in protected natural resource areas, as well as the location of Riverdale Country Club within one-half mile of this Property, demonstrates the appropriateness of Kohler’s proposed golf course use on this Property.

Golf courses in and of themselves are permanently protected green spaces and an appropriate means to preserve natural resources and promote recreation. The appropriateness of golf courses to preserve various natural resource areas is codified in Table 15.204 and Section 15.504(3)(c), SZO.

Summary of Requested Exemptions:

Per Section 15.905.(5).(d), SZO, any exception to, or exceedance of any nonresidential bulk or dimensional standards authorized by the Plan Commission shall not be considered a variance, provided that the exception or exceedance and the justification for the exception or exceedance are specifically stated in the Conditional Use Permit.

Description	Relevant Zoning Ordinance(s)	Detailed Description in CUP Application	Justification
Observation Tower Height Exceedance	15.406.(1).(c) 15.105.(2).(c).4.b.K	Page 2	Additional height needed to raise viewing platform above existing tree canopy
Curb Adjacent to Landscaping Areas Exception	15.607.(3)	Page 5	Paved/parking areas not visible from public rights-of-way and maintaining existing rural setting in the adjacent State Park
Fence Height Exceedance at Proposed Maintenance Facilities	15.720	Page 9	Security/safety/screening measure
Maintenance Building Setback Exceedance	15.206.(3).(d).3.c	Page 10	Proposed usage is consistent and complimentary to actual usage (State Park maintenance facility)
Exceedance for outdoor recreational area setback	15.206.(3).(d).3.c	Page 10	
Pavement Setback at Access Points	15.105.(2).(c).4.b.I	Page 11	Exception to pavement setback required for property access points

The viewing platform will be covered by a gable roof structure with seamed metal roofing. Per Section 15.406(1)(c), SZO, a height exceedance is being requested in conjunction with this conditional use application to authorize the taller observation tower.

Paved/parking areas will not be visible from public rights-of-way, an exception is being requested to avoid the use of curb adjacent to landscaped areas, maintaining the existing rural setting in the adjacent State Park.

An eight (8) foot high fence is being proposed around the maintenance facility. The fence will be wood and decorative in nature. Per Section 15.720, SZO, height exceedance for the proposed fencing is being requested for security, safety, and screening.

An exceedance is being requested for required setbacks of the maintenance building from a residentially zoned property. The property adjacent to the proposed maintenance buildings is the Kohler-Andrae State Park and is also residentially zoned; however, the actual use is for maintenance activities and includes the State Park maintenance building, making the proposed golf course maintenance facility ideally located next to an identical land use. The requested minimum setback for the maintenance building is 25’ in lieu of 50’ per Section 15.206(3)(d)3.c, SZO.

An exceedance is also being requested for the #7 Tees located within 50’ of the adjacent Kohler-Andrae State Park. Section 15.206(3)(d)3.c, SZO stipulates a 50’ setback for actively used outdoor recreational areas from any residentially zoned property. As mentioned above, although the adjacent State Park is residentially zoned, the actual use in that area is for maintenance activities.

An exception is being requested from the pavement setback requirement (15.105(2)(c)4.b.I, SZO) to allow two access points: the point where the entrance road first enters Kohler Co. property near the proposed maintenance buildings and the proposed access drive to the existing State Park maintenance facility.

To accommodate the initial golf course construction, a conditional use permit is also being requested for removal of more than 50% of woodlands on the Property. The SR-5 District also permits, by right, selective cutting of up to 50 percent of the woodlands on the property under Section 15.206(2)(f), SZO. While Kohler may need to cut more than 50 percent of the existing woodlands on the property to develop its golf course (and constituting clear cutting under Section 15.206(2)(g), SZO), when developed, Kohler's golf course will permanently preserve 94 percent of the property or approximately 238 acres as green space and will provide 222% of the landscaping points required under Sections 15.603-15.612, SZO. For these reasons, Kohler has demonstrated that its proposed golf course project and necessary construction activities associated with such project will improve the level of environmental protection on the property consistent with Section 15.206(2)(g)(3), SZO and will maintain native vegetation consistent with City Code Section15.206(10)(f), SZO.

How Proposed Golf Course Meets Goals and Objectives of the City of Sheboygan Comprehensive Plan:

The priorities of the City's Comprehensive Plan include sustainable economic growth and job creation as well as enhancing quality of life within the City. The Plan's key initiatives range from enhancing the lakefront and riverfront to continuing to provide high quality public services to continuing to advance its tradition of rich arts, cultural facilities and events. The Plan calls for improving the "Sheboygan" brand and improving residents' perception of their City. The Plan also encourages the enhancement of lakefront and riverfront properties to attract new development, appeal to residents and facilitate a healthy community. The Plan's guiding principles include building a self-sustaining economy, capitalizing on Lake Michigan and cultivating cultural assets. The project proposed by Kohler advances many of the priorities, initiatives and guiding principles in the City's Comprehensive Plan. Economic growth and job creation will occur. Indeed, the Supreme Court noted in Town of Wilson (at 6) that annexation was a means “for the City to achieve its goal of economic growth.” In addition, new high-quality recreational amenity will be provided with this conditional use permit. And, for the first time, one of the County's premier golf courses will actually be located within the borders of the City, improving the "Sheboygan" brand.

With its Lake Michigan vistas, rolling topography, and unique natural features, the Property offers an unparalleled setting for a spectacular forest and lakefront golf experience. The layout of this golf course will incorporate existing trees and dunes as well as the natural topography into the design to minimize site disturbance. The proposed course, together with Kohler’s other championship golf courses in the area, will maintain and build the reputation of Sheboygan County as one of the premier golf destinations in the world. The future land use map included in the City's 2011 Comprehensive Plan and its Comprehensive Outdoor Recreation Plan classifies the Property as Public Parks and Open Space. The Public Parks and Open Space category includes public golf courses, making the Property the ideal location for a golf course, as it relates to the City’s comprehensive planning.

The opportunity to open approximately 250 acres of private property for public enjoyment and recreational use adjacent to an existing State Park provides a tremendous benefit, similar to the Peninsula State Park located in Door County, WI. At Peninsula State Park a full size 18 hole golf course and a 6-hole short course along Green Bay are made available as recreational opportunities to the general public, and the Wisconsin Department of Natural Resources entered into a lease agreement with the Peninsula Golf Association to operate the courses. Here, private land will become accessible to the general public, not just for golf, but also to the practice facilities, clubhouse, restaurant, and bar.

The 2011 Comprehensive Plan states: “The lakefront community of Sheboygan, Wisconsin, is an attractive tourism destination and historic manufacturing town in the heart of the upper Midwest. The community has earned name recognition for its enviable location within the chain of Wisconsin’s lakeshore communities, and for the area’s high quality of life, offering an excellent education system, reasonable cost of living, and amenities such as art and cultural events, restaurants, resorts, and golf courses.”

The City's Comprehensive Plan also classifies the Property as Public Parks and Open Space. The Public Parks and Open Space category includes public golf courses, making the Property the ideal location for a golf course, and will enhance the City as an attractive tourism destination with a world class golf course—with a "Sheboygan" moniker.

Applicant Statements about the Benefits of the Project:

An economic impact study by S.B. Friedman Development Advisors estimates the new golf course will generate nearly $21 Million in annual economic output for the State of Wisconsin and create 227 FTE jobs within the State (124 in City of Sheboygan) once operational. Construction itself over a three-year period will create 95 full-time equivalent jobs in Sheboygan County (68 in City of Sheboygan). More specifically, the following annual increases in City, County and State tax revenue were estimated:

- $87,000 in City of Sheboygan non-school property tax revenue
- $117,000 in school property tax revenue (Sheboygan Area school District & Lakeshore Technical College)
- $88,000 in new room tax revenue to the City of Sheboygan
- $54,000 in non-school property tax revenues for Sheboygan County and the State
- $495,000 in state sales tax revenue
- $152,000 new state personal income taxes
- $40,000 in new motor vehicle fuel tax revenue to the State

In addition, in the Agreement Kohler agreed that, once the project is complete, the assessed valuation of the Property should be an aggregate assessed value of $9,200,000 or greater.

Conclusion:

The City of Sheboygan annexed the Property by adopting Ordinance No. 6-17-18 on August 7, 2017, and, in the unanimous decision of Town of Wilson v. City of Sheboygan, 390 Wis.2d 266, 938 N.W.2d 493, 2018AP2162 (filed February 14, 2020), the Wisconsin Supreme Court upheld the annexation. The Supreme Court found in Town of Wilson (at 22) that "the City had planned for years to develop and expand and Kohler's proposal provide[s] the opportunity to do so."

The City zoned the Property Suburban Residential-5 (SR -5) by adopting Ordinance No. 43-17-18 on August 7, 2017. The applicant is requesting a conditional use permit for an outdoor institutional land use, and more specifically a privately-owned public golf course, clear cutting and associated ancillary land uses described in the application.

The Wisconsin Legislature created Wis. Stat. sec. 62.23(7)(de) in 2017. The new statute provides 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...the city SHALL grant the conditional use permit.” [Emphasis added.] In a legal note interpreting the new statute, the League of Wisconsin Municipalities has advised that the conditional use decision process is “rigid” and limits the City’s ability to reject any conditional use. Similarly, the City committed in the Agreement not to oppose any necessary governmental approvals for Kohler’s golf course project.

The proposed golf course fulfills priorities, initiatives and guiding principles of the City's Comprehensive Plan and balances growth and density allowed in the SR-5 District. The density and intensity of the golf course, which is allowed as a conditional use, should be compared to the density and intensity of the five (5) dwelling units per gross acre allowed in SR-5 as of right. However, Kohler invested pain-staking effort to design its course to maximize area benefits and minimize ancillary impacts. During the due diligence and design phases of the project, 16 course layouts and seven (7) entrance route alternatives were identified, characterized, and evaluated. The proposed course layout and entrance route were determined to be the least impactful to both the environment and neighbors. Investigations that were completed for the analysis included wetland delineations, storm water management analysis, rare species surveys, botanical surveys, traffic studies, and archaeological surveys. Initial project planning for the proposed golf course began in early 2014. The various processes involved with Local, State, and Federal approvals have included many opportunities for Kohler to gain public feedback and address many of the concerns that have been raised. Over 20 forums, including public comment periods and public hearings/meetings, have been held to date to solicit community feedback. Modifications to the plans have been made based upon that feedback. Kohler's construction and operation of the golf course will be subject to a complicated and comprehensive regulatory framework. All necessary permits and regulations, administered by the appropriate regulatory agencies having jurisdiction and expertise will be deemed conditions to any conditional use permit issued by the City.

The opportunity to open approximately 250 acres of private property for public enjoyment and recreational use adjacent to an existing State Park provides a tremendous benefit, similar to the Peninsula State Park located in Door County, WI, which hosts two public courses as recreational opportunities to visitors. Park users and the general public will also have access to the practice facilities, clubhouse, restaurant, and bar. The economic benefits of a new public golf course are measured in more than just recreation and business travel dollars. Benefits begin with millions of dollars of planning, design and construction work. Once constructed, a course creates jobs along with state and local income including sales and property taxes. In addition, a new public golf course, and a championship-caliber course in particular, has a "multiplier effect," infusing wages and benefits to circulate through the local economy, increasing property values and ancillary public and private benefits. An economic impact study by S.B. Friedman Development Advisors estimates the course will generate nearly $21 Million in annual economic output for the State of Wisconsin along with the creation of 227 FTE jobs within the State. Wisconsin is recognized as a golf mecca. In its October 2017 edition, Golf magazine ranked Wisconsin as the #3 golf destination in the world behind Scotland and Ireland. The proposed golf course will enhance the State of Wisconsin, Sheboygan County, and the City of Sheboygan as one of the world's premier golf destination.

STAFF COMMENTS:

The applicant states the following about the site improvements:

- The multi-level clubhouse will be approximately 16,700sf - The first-floor level will be approximately 8,800sf and include the pro shop, restaurant/bar, banquet room, and locker rooms. The lower level basement will be approximately 7,900sf and contain administrative offices, receiving areas, mechanical equipment, and kitchen/bar storage areas.
- A Lake Michigan observation tower will be approximately 60 feet above the surrounding grade with an overall height of 80 feet to the top of the structure.
- The primary maintenance building will be approximately 15,000 square feet and contain offices, heated storage and heated repair facilities.
- The secondary building is approximately 7,600 square feet in size and contains an equipment wash facility, storage, mixing, and unheated equipment spaces.
- A caddy/cart storage building approximately 7,500 square feet in size, is proposed to be located west of the clubhouse.
- The new parking lot will accommodate parking for 213 cars - 181 stalls located near the clubhouse with an additional 32 stalls dedicated for maintenance staff adjacent to the maintenance buildings.
- The main access will be from CTH V into Kohler-Andrae State Park and once inside the park will lead to a newly constructed roundabout and a new private road will lead to the golf course to the north**.**
- New landscaping throughout the site.
- New storm drainage facilities will be located in several areas of the site.

The applicant's conditional use permit application includes a request for the following exceptions:

The viewing platform will be covered by a gable roof structure with seamed metal roofing. Per Section 15.406(1)(c), SZO, a height exceedance is being requested in conjunction with this conditional use application to authorize the taller observation tower. A Lake Michigan observation tower will be approximately 60 feet above the surrounding grade with an overall height of 80 feet to the top of the structure.

Paved/parking areas will not be visible from public rights-of-way; an exception is being requested to avoid the use of curb adjacent to landscaped areas, maintaining the existing rural setting in the adjacent State Park.

An eight (8) foot high fence is being proposed around the maintenance facility. The fence will be wood and decorative in nature. Per Section 15.720, SZO, a height exceedance is being requested for the proposed fencing for security, safety and screening purposes.

An exceedance is being requested for required setbacks of the maintenance building from a residentially zoned property. The property adjacent to the proposed maintenance buildings is the Kohler-Andrae State Park and is also residentially zoned, however the actual use is for maintenance activities and includes the State Park maintenance building, making the proposed golf course maintenance facility ideally located next to an identical land use. The requested minimum setback for the maintenance building is 25’ in lieu of 50’ per 15.206(3)(d)3.c, SZO.

An exceedance is also being requested for the #7 Tees located within 50’ of the adjacent Kohler-Andrae State Park. Section 15.206(3)(d)3.c, SZO stipulates a 50’ setback for actively used outdoor recreational areas from any residentially zoned property. As mentioned above, although the adjacent State Park is residentially zoned, the actual use in that area is for maintenance activities.

An exception is being requested from the pavement setback requirement (15.105(2)(c)4.b.I, SZO) to allow two access points: the point where the entrance road first enters Kohler Co. property near the proposed maintenance buildings and the proposed access drive to the existing State Park maintenance facility.

Kohler Co. has applied for a conditional use permit for an outdoor institutional use (per Section 15.206(3)(d), SZO), and more specifically for a privately owned golf course and for clear cutting per Section 15.206(2)(g), SZO for removal of more than 50% of woodlands on the Property. In connection with its conditional use application, Kohler also has submitted a detailed site analysis under Section 15.509, SZO to identify permanently protected green space areas in its proposed golf course development. Kohler's detailed site analysis includes the Natural Resources Site Evaluation Worksheet as required under Section 15.303(3), SZO (at Exhibit 8 of the application) and the detailed map consistent with Section 15.509(2), SZO (at Exhibit 9 of the application).

This written evaluation of the detailed site analysis map and Natural Resources Site Evaluation Worksheet submitted by Kohler has been provided to City staff, and City staff has accepted Kohler's site analysis. Those areas depicted on Kohler's site analysis and plans as permanently protected green space areas shall be preserved as such unless Kohler submits any modified detailed site analysis map accepted by City staff. City staff recognizes golf courses as areas that permanently protected green spaces and are appropriate ways to preserve natural resources and promote recreation.

The City of Sheboygan has not adopted a map depicting the boundaries of natural resource protection overlay zoning districts (In our zoning ordinance, this potential map is referred to as “Sheet 2 of Official Zoning Map.”). Pursuant to Section 15.034, SZO, the City requires property owners to compile the data related to natural resource protection overlay zoning districts from other applicable source maps and on-site analysis. The property owner must then submit the data, including applicable source maps and on-site analysis materials for staff review/approval as outlined in Subchapter 15-5 (“Natural Resource Protection Regulations”) of the Zoning Ordinance.

Comments concerning Traffic Impact:

- Excel Engineering has completed an updated traffic analysis to reflect the proposed roundabout entrance to Kohler-Andrea State Park and the Kohler Golf Course. The updated analysis is a supplement to the 2015 Traffic Impact Analysis (TIA) which modeled the entrance to the State Park and the Kohler Golf Course as a two-way stop. The updated analysis is limited to the proposed entrance changes. It does not include movements at the intersection of County Highway V and Beach Park Lane which were demonstrated in the original TIA to operate at a Level of Service (LOS) B or better after development.

- Analysis using the traffic information above, the LOS for the proposed roundabout was calculated assuming the peak hour for the state park occurs at the same time as the peak hour for the golf course. This is a very conservative approach that will represent a worst case scenario. The LOS ratings range from LOS A (very good) to LOS F (very poor) with LOS D being the minimum acceptable level during the peak hour. Based upon the analysis, the overall LOS for the roundabout during the combined peak hour is LOS A. All individual movements within the roundabout are also rated at LOS A. This is the best rating possible.

- In addition to the LOS analysis for the proposed roundabout, the queuing provided for the DNR Station in the proposed configuration was compared with queuing provided in the existing intersection. The existing intersection has two lanes that provide 516 feet of total vehicle queuing length. The proposed intersection includes four lanes. One lane is dedicated for golf course traffic. The three remaining lanes are dedicated to the state park entrance. The combined queuing length of the three lanes provided for the state park entrance is 711 feet. This is a 38% increase over the existing condition that, when combined with new automated sticker dispensers proposed by the DNR, will significantly improve access to the state park.

Kohler Company owns several parcels that make up the proposed golf course lot. A condition of approval will require the Kohler to consolidate these parcels into one (1) parcel.

As part of the hearing notice process, staff encouraged those members of the public who may be concerned about appearing at a public hearing given the seriousness of the coronavirus pandemic to submit written comments in advance of the hearing for consideration. Staff has begun to receive emails and other written correspondence in response. The deadline for receipt has not yet passed. However, as the comments are received, they are being placed on the City’s BoardDocs site in the section reserved for the hearing.

ACTION REQUESTED:

The Kohler Company has submitted an application that appropriately addresses the requirements of the conditional use permit and provides the justifications for the exceptions requested. In addition, the application addresses many of the City of Sheboygan Comprehensive Plan goals, objective and vision to be a “Diverse and prosperous costal community.” Based on that, staff recommends approval of the conditional use permit and exceptions subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall obtain all licenses/permits as well as meet all required codes including but not limited to building, plumbing, electrical, HVAC, fire, water, sewer, storm drainage, alcohol, food, health, Federal, State of Wisconsin DNR, etc. (Applicant shall be in contact with building inspection, fire, police, etc.). An occupancy permit will be granted only at such time as the applicant has met all requirements.
2. The applicant has submitted a proposed landscape plan as Exhibit 13 of its application. That submittal has not yet been reviewed. If the plan is approved by the Manager of Planning and Zoning, the applicant shall comply with the plan. If the plan is not approved, the applicant shall resubmit a plan that is acceptable to the Manager of Planning and Zoning. In any case, applicant shall comply with the provisions of Subchapter 15-6 of the Sheboygan Zoning Ordinance and shall comply with the terms of an approved landscape plan.
3. The applicant’s operations shall comply with Section 15.206(3)(b)(2)(a), SZO, (“Active Outdoor Public Recreation”), which requires facilities using night lighting and adjoining a residentially zoned property to install and continually maintain a bufferyard with a minimum opacity of 0.60. Said bufferyard shall be located at the property line adjacent to said residentially zoned property (except for approved exceptions and except that the bufferyard and fencing between the golf course and state park maintenance facilities shown on Landscape Plan 7A in Exhibit 13 are approved). If the staff has concerns about the proposed lighting or landscaping, the photometric and/or landscape plans can be brought back to the Plan Commission for review.
4. Dumpster(s) shall be screened/enclosed and constructed of like materials and colors as the building served and shall be completed prior to issuance of an occupancy permit for said building.
5. The applicant shall properly submit to and receive approval from the Director of Public Works for a stormwater management plan in compliance with the City’s Post-construction Stormwater Management Zoning Ordinance (Appendix E to the Sheboygan Municipal Code) prior to issuance of a building permit.
6. Outdoor storage of materials, products or equipment shall be prohibited or completely screened from public view by fencing and landscaping.
7. Fencing/retaining wall shall be installed per Section 15.720(3)(c), SZO, except those granted an exception. Applicant shall work with staff with regards to constructing appropriate and well-designed fence/retaining wall and shall obtain the necessary permits prior to installation. If staff has any concerns with proposed fencing/retaining wall design, the matter may be brought back to the Plan Commission for their consideration.
8. Maximum height of fence is eight (8) feet high (peak of fence to grade).
9. Fence shall be located on the Kohler property. It is the applicant’s responsibility to know where their lot lines are and to insure the fence meets the required setbacks.
10. All ground level and rooftop mechanicals shall be screened and/or enclosed and constructed of like materials and colors of the nearest building.

11. All new lighting shall be installed per Section 15.707, SZO.
12. The uses shall meet all performance standards pursuant to Subchapter 15-7, SZO, including but not limited to noise, lighting, vibration, etc., and except for exceptions specifically set forth in the application.
13. All areas used for parking or maneuvering of licensed vehicles shall be paved. Golf course operation and maintenance vehicles may travers on gravel or grass throughout the course.
14. All parking areas that are not required to be paved shall be landscaped with grass and/or landscaping consistent with the landscape plans included in Exhibit 7.
15. Absolutely no portion of the new building and/or site improvements shall cross the exterior property line (buildings, parking, retaining walls, signs, landscaping, etc.), except those granted an exception.
16. Applicant shall meet Section 15.206(3)(b)(2)(b), SZO, Active Outdoor Public Recreation, which states all structures and active recreational areas shall be located a minimum of 50 feet from any residentially zoned property, except those granted an exception.
17. Applicant shall obtain the necessary sign permits prior to installation.
18. Applicant shall work with staff with regard to appropriate signage. Only at such time as the sign package has been reviewed, all necessary variances approved as provided in the Sheboygan Zoning ordinance and finally approved by the Manager of Planning and Zoning may the applicant obtain sign permits to install the proposed signage. If staff has any concerns with proposed signage design, the signs may be brought back to the Plan Commission for their consideration.
19. Applicant shall install individual letter signs – no cabinet or flat panel signs.
20. Applicant shall be permitted a freestanding monument sign for the site. The minimum setback of the monument sign is 12 feet. The maximum height of the monument sign is 8 feet. The sign shall comply with Chapter 98 of the Sheboygan Municipal Code, be approved by the Manager of Planning & Zoning, and be located outside of the 15 foot vision triangle.
21. Applicant shall immediately clean any and all sediments, materials, tracking, etc. that may be spilled off-site on private or public lands and streets.
22. All vehicles, equipment, materials, products, etc. shall be located on the Kohler property (no storage on public rights-of-way).
23. City Development staff will issue a building permit only if the applicant has adequately satisfied all applicable municipal regulations and terms of the related to the Sheboygan Water Utility.
24. City Development staff will issue a building permit only if the applicant has adequately installed fire protection measures approved by the Sheboygan Fire Department, including but not limited to fire lane access at the site, sprinkler systems, hydrants, water pressures, etc. consistent with Exhibit 7.
25. Applicant will provide adequate public access along all public streets and will take all appropriate actions to minimize the time period that these streets will be closed/affected, unless otherwise approved by the Director of Public Works.
26. Applicant is responsible for constructing all required public infrastructure improvements to properly service the site prior to occupancy (including, but not limited to, new street improvements, new and/or closed ingress/egress driveway openings, curb, gutter, sidewalk, pavement, utilities, retaining walls, street trees, street lights, street signs, etc.) as described in the Agreement. Any work within City of Sheboygan Public rights-of-way shall be discussed with the City Engineering Department and constructed to standard City specifications.

27. Applicant is responsible for all costs associated with the construction/installation of all required public infrastructure improvements for the project as set forth in the Agreement.
28. Streets and infrastructure damaged and/or disturbed during construction of all private and/or public improvements shall be promptly repaired by the applicant.
29. It will be the applicant's responsibility to work with all private and public utilities in order to provide easements and/or relocate utilities as necessary.
30. Applicant will take all appropriate actions to minimize the time period that adjacent properties are impacted by the development (utilities, streets, etc.).
31. Building permits shall be issued only at such time as the applicant has obtained all necessary permits from the Wisconsin Department of Natural Resources.
32. Applicant shall meet the 50 foot building setback under Subsection 3.0(1) of the City of Sheboygan Shoreline Zoning Ordinance and the 75 foot structure under Section 72.15(1)(a) of the Sheboygan County Code.
33. It is the applicant's responsibility to insure all construction takes place outside of the areas designated wetlands. Applicant may only impact areas designated as wetlands if and only if they have written documentation (license, permit, etc.) from the DNR permitting them to do so.
34. Building permits shall be issued only at such time as the applicant has obtained official approval documentation/permits from the required governmental authorities including but not limited to the Army Corp of Engineers (ACOE), US Fish and Wildlife Service (USFWS), National Park Service (NPS), Wisconsin Department of Natural Resources (WDNR), Wisconsin State Historical Society (WHS), Wisconsin, Public Service Commission (WPSC), Sheboygan County, etc.
35. Building permits shall be issued only at such time as the applicant can provide documentation that the lots have been combined into one (1) parcel which has been officially recorded by Sheboygan County.
36. Prior to issuance of a building permit, the applicant is responsible for providing all shared agreements/easements necessary for golf course development and operation between the Kohler Company and adjoining properties including but not limited to ingress/egress, shared access, utilities, etc.
37. The applicant shall submit plans to the City of Sheboygan Architectural Review Board for review. Building permits shall be issued only at such time as the Architectural Review Board has approved the proposed architectural plans.
38. The conditional use permit time limits shall be tolled for the duration of any lawsuits relating to the golf course project provided the applicant proceeds to develop the property consistent with the approved conditional use permit and site plan. At such times as all lawsuits are completed, the conditional use permit time limits shall begin.
39. Applicant shall comply the terms of the Agreement.
40. If there are any amendments to the approved conditional use permit, site plan, etc., the applicant will be required to submit a new conditional use application reflecting those amendments.

ATTACHMENTS:

Conditional Use and required attachments

BLACKWOLF RUN

WHISTLING S·T·R·A·I·T·S

November 20, 2020

DELIVERED BY MESSENGER

Steve Sokolowski, Manager of Planning and Zoning
City of Sheboygan
828 Center Avenue
Sheboygan, WI 53081

Dear Mr. Sokolowski:

Re: Application for Conditional Use Permit submitted by Kohler Co.

Kohler Co. is submitting an application for conditional use permit and supporting materials. Five copies of the application, the complete application and the $250 application fee are enclosed.

As its application is processed, Kohler wants to address specifically "Time Limits on the Development of Conditional Use" under City Code section 15.905(9). While that section requires start of construction within 365 days after approval and being operational 730 days after approval, the section also provides that "the applicant may request an extension of this period" and that the Plan Commission may approve the extension "based upon a showing of acceptable justification."

Unfortunately, various aspects of Kohler's proposed golf course project have been challenged in six different lawsuits. Kohler remains committed to resolving those lawsuits and to developing its golf course. However, since lawsuits take time to resolve, Kohler needs to seek the necessary conditional use permit from the City to avoid further time delays—aiming to be poised to commence construction when all lawsuits are resolved.

At this point, only one of the lawsuits relating to Kohler's golf course project has been resolved, and the other five remain at various stages of litigation. The concluded lawsuit was Town of Wilson v. City of Sheboygan, 390 Wis. 2d 266, 938 N.W.2d 493 (2020), in which the Wisconsin Supreme Court unanimously upheld the City's annexation of Kohler's property. Due to the successful conclusion of that lawsuit, the City clearly has the authority to process Kohler's conditional use permit application.

1111 West Riverside Drive Kohler, Wisconsin 53044 920-457-4446 Fax 920-457-1684

BLACKWOLF RUN

WHISTLING STRAITS

However, we also expect that the outstanding five lawsuits may take more than an additional year to resolve. In our view, five active lawsuits is ample showing of acceptable justification for the City to extend the time limits under City Code Section 15.905(9).

This letter (a copy of which is included with the conditional use permit application submitted by Kohler) is Kohler's formal request that the time limits set forth in City Code section 15.905(9) be tolled for the duration of any lawsuits relating to its golf course project. We respectfully request the Plan Commission to consider our extension request together with our conditional use permit application.

Please do not hesitate to contact me with any questions or concerns.

Yours very truly,

Dirk Willis, Vice President-Golf,
Landscape & Retail

1111 West Riverside Drive Kohler, Wisconsin 53044 920-457-4446 Fax 920-457-1684

CONDITIONAL USE PERMIT APPLICATION:

1. *A map of the subject property showing all lands for which the conditional use is proposed, and all other lands within 200 feet of the boundaries of the subject property, together with the names and address of the owners of all lands on said map as the same appear on the current records of the Register of Deeds of Sheboygan County. Said map shall clearly indicate the current zoning of the subject property and all other land within 200 feet, and the jurisdiction(s) which maintains that control. Said map and all its parts and attachments shall be submitted in a form which is clearly reproducible with a photocopier, and shall be at a scale which is not less than one inch equals 800 feet. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.*

   RESPONSE: The Map is attached as Exhibit 1

2. *A map, such as the Land Use Plan Map, showing the generalized location of the subject property in relation to the City as a whole.*

   RESPONSE: The Map is attached as Exhibit 2

3. *A written description of the proposed conditional use, describing the type of activities, buildings, and structures proposed for the subject property and their general locations.*

   RESPONSE:
   Kohler Company ("Kohler") seeks to develop an 18-hole championship-caliber public golf course, a clubhouse, and support amenities on approximately 250 acres of private land owned by Kohler (Property). The project creates a unique opportunity to open private property for public enjoyment and recreational use, enhance Sheboygan County's reputation as one of the world's premier golf destinations, create jobs and benefit the local economy, and at the same time preserve and enhance many of the Property's environmental features and attributes for the long term. The goal of the project is to develop a golf course that is rated in the top 50 golf courses in the world.

   The Property is located between the Black River and Lake Michigan, north and east of the John Michael Kohler and Terry Andrae State Parks (State Park) in the City of Sheboygan, Sheboygan County, Wisconsin. Kohler acquired a total of approximately 468 acres in the vicinity during the 1930's. In 1965, Kohler donated 221 acres to the State of Wisconsin for the creation of the John Michael Kohler State Park. The remaining 250-acre parcel retained by Kohler has remained in private ownership and is uniquely suited for a premier 18-hole golf course.

   This project will be the latest world-class Kohler golf course located in Sheboygan County. The course will be developed with a goal of ranking in the top 50 courses in the world upon maturity. Development of the course also will secure additional benefits accruing well beyond the golfing community.

   Corridors created for golf holes will be opened to sunlight and provide views of Lake Michigan, while removing invasive species and maintaining approximately half of the trees on the Property. The natural features and contours on the Property will enhance the course design and will be preserved to the extent feasible. A pond is planned in the northern portion of the Property, while the practice range is planned to be built in the south portion. The clubhouse and other amenities are centrally located. Cart paths will be constructed in conjunction with the golf holes to provide course access. A caddie/cart barn and two on-course rest stations will also be constructed on the Property as required golf course amenities.

   A multi-level clubhouse will be erected on the Property that encompasses minimalist design elements and concepts. The first-floor level will be approximately 8,800sf and include the pro shop, restaurant/bar, banquet

room, and locker rooms. The banquet facility will be capable of hosting indoor/outdoor special events and weddings. The lower level basement will be approximately 7,900sf and contain administrative offices, receiving areas, mechanical equipment, and kitchen/bar storage areas. The clubhouse will be designed to be eligible for Leadership in Energy and Environmental Design (LEED) certification and include the use of timber and canvas materials as architectural features.

A Lake Michigan observation tower will be located adjacent to the clubhouse and contain a viewing platform approximately 60 feet above the surrounding grade and with an overall height of 80 feet to the top of the structure. An open wood frame stair with multiple landings will provide access to the platform. The viewing platform will be covered by a gable roof structure with seamed metal roofing. Per Section 15.406(1)(c) of the zoning ordinance, a height exceedance is being requested in conjunction with this conditional use application to authorize the taller observation tower.

Maintenance needs of the golf course will be served from two buildings located on the south side of the Property and adjacent to the existing State Park maintenance facility. The primary maintenance building will be approximately 15,000 square feet and contain offices, heated storage and heated repair facilities. The secondary building is approximately 7,600 square feet in size and contains an equipment wash facility, storage, mixing, and unheated equipment spaces. An approximately 8' high buffering wooden fence is being proposed around the perimeter of the proposed maintenance buildings and pavement areas. The maintenance buildings would be screened with vegetation from the entrance road.

A caddy/cart storage building approximately 7,500 square feet in size, is proposed to be located west of the clubhouse. The building is the staging location for caddies along with storage of guest/service golf carts. The caddy/cart storage building would be screened by vegetation from guest areas.

The primary guest and associate parking will be accommodated in a paved parking lot containing approximately 181 stalls located near the clubhouse, with an additional 32 stalls dedicated for maintenance staff adjacent to the maintenance buildings. Parking lot lighting will be energy efficient LED lighting and use full cut-off fixtures to prevent light pollution. Two on-course rest stations will be constructed to provide rest room facilities along with food and beverage service.

The City annexed the Property by adopting Ordinance No. 6-17-18 on August 7, 2017, and, in the unanimous decision of Town of Wilson v. City of Sheboygan, 2018AP2162 (filed February 14, 2020), the Wisconsin Supreme Court upheld the annexation. The City zoned the Property Suburban Residential-5 (SR-5) by adopting Ordinance No. 43-17-18 on August 7, 2017. Portions of the site also include wetland, lakeshore, woodland, and steep slope overlay districts. This application is requesting a conditional use permit for an outdoor institutional land use, and more specifically a privately-owned public golf course and associated ancillary land uses described in this application. To accommodate the initial golf course construction, a conditional use permit is also being requested for removal of more than 50% of woodlands on the Property.

4. *A site plan of the subject property as proposed for development. Said site plan shall conform to any and all the requirements of Section 15.206(1)(b) or a group development (per Section 15.208). A proposed preliminary plat or conceptual plat may be substituted for the required site plan, provided said plat contains all information required on said site plan per section 15.908. Review and approval of any site plan, preliminary plat or conceptual plat submitted with an application for a Conditional Use Permit under this section 15.905 also shall constitute Site Plan Review and Approval under Section 15.908 of the Municipal Code.*

RESPONSE: The site plan is attached as Exhibit 3; supplemental plans are attached as Exhibits 6, 7, 9, 12 and 13

5. *How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Sheboygan Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?*

RESPONSE:
The priorities of the City's Comprehensive Plan include sustainable economic growth and job creation as well as enhancing quality of life within the City. The Plan's key initiatives range from enhancing the lakefront and riverfront to continuing to provide high quality public services to continuing to advance its tradition of rich arts, cultural facilities and events. The Plan calls for improving the "Sheboygan" brand and improving residents' perception of their City. The Plan also encourages the enhancement of lakefront and riverfront properties to attract new development, appeal to residents and facilitate a healthy community. The Plan's guiding principles include building a self-sustaining economy, capitalizing on Lake Michigan and cultivating cultural assets.

The project proposed by Kohler advances many of the priorities, initiatives and guiding principles in the City's Comprehensive Plan. Economic growth and job creation will occur. Indeed, the Supreme Court noted in Town of Wilson (at 6) that annexation was a means "for the City to achieve its goal of economic growth." In addition, new high-quality recreational amenity will be provided with this conditional use permit. And, for the first time, one of the County's premier golf courses will actually be located within the borders of the City, improving the "Sheboygan" brand.

The City of Sheboygan zoning ordinance identifies the purpose of the SR-5 zoning district as intended to permit development which has a moderate density, suburban community character. A single-family housing development with minimum 6,000 sf lots and maximum gross density of 5 dwelling units per acre is permitted by right. The proposed golf course is a land use allowed as a conditional use within SR-5 but has many advantages over a single-family development including increased green space, opening the Property for public use and enjoyment, promoting tourism, spurring economic development, job creation, and preservation of natural resources.

An economic impact study by S.B. Friedman Development Advisors estimates the new golf course will generate nearly $21 Million in annual economic output for the State of Wisconsin and create 227 FTE jobs within the State (124 in City of Sheboygan) once operational. Construction itself over a three-year period will create 95 full-time equivalent jobs in Sheboygan County (68 in City of Sheboygan). More specifically, the following annual increases in City, County and State tax revenue were estimated:

- $87,000 in City of Sheboygan non-school property tax revenue
- $117,000 in school property tax revenue (Sheboygan Area school District & Lakeshore Technical College)
- $88,000 in new room tax revenue to the City of Sheboygan
- $54,000 in non-school property tax revenues for Sheboygan County and the State
- $495,000 in state sales tax revenue
- $152,000 new state personal income taxes
- $40,000 in new motor vehicle fuel tax revenue to the State

The economic impact study is included as Exhibit 4.

In addition, in the Pre-Annexation and Development Agreement executed by Kohler and the City on August 7, 2017 in connection with the City's annexation of the Property *(Exhibit 16),* the parties agreed that, once the project is complete, the assessed valuation of the Property should be an aggregate assessed value of $9,200,000 or greater.

6. *How is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the City of Sheboygan Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City*

RESPONSE:

With its Lake Michigan vistas, rolling topography, and unique natural features, the Property offers an unparalleled setting for a spectacular forest and lakefront golf experience. The layout of this golf course will incorporate existing trees and dunes as well as the natural topography into the design to minimize site disturbance. The proposed course, together with Kohler's other championship golf courses in the area, will maintain and build the reputation of Sheboygan County as one of the premier golf destinations in the world.

The future land use map included in the City's 2011 Comprehensive Plan and its Comprehensive Outdoor Recreation Plan classify the Property as Public Parks and Open Space. The Public Parks and Open Space category includes public golf courses, making the Property the ideal location for a golf course, as it relates to the City's comprehensive planning. The opportunity to open approximately 250 acres of private property for public enjoyment and recreational use adjacent to an existing State Park provides a tremendous benefit, similar to the Peninsula State Park located in Door County, WI. At Peninsula State Park a full size 18 hole golf course and a 6-hole short course along Green Bay are made available as recreational opportunities to the general public, and the Wisconsin Department of Natural Resources entered into a lease agreement with the Peninsula Golf Association to operate the courses. Here, private land will become accessible to the general public, not just for golf, but also to the practice facilities, clubhouse, restaurant, and bar.

The lakeshore and its views will be integrated into the golf course design. The project will create gaps in the forest canopy and increase sight distances throughout the Property. Greater variations in the landscape (open areas contrasted with forested areas) will add scenic interest to the current forested landscape. The distinctive undulating dune topography largely will be retained. The project will introduce several sustainable and aesthetically appealing structures to the Property and increase access to and on the Property via roads and cart paths.

By removing invasive species and actively preserving the natural, native flora, the aesthetic quality of the Property will be improved. The majority of the dunes will be retained for distinctive scenic attractiveness and high scenic integrity. The aesthetics associated with the existing forested landscape will be modified but enhanced by picturesque golf views.

The viewshed associated with adjacent lands will remain largely unchanged, since the project will be screened on three sides by woody vegetation, either original to the site or planted. The enhanced views of the Property would be visible from Lake Michigan.

The project will place high value on the landscape integrity and aesthetics: landscape variation and interspersion of native vegetation, long views within the Property and to the lakeshore vista, and natural-appearing topography. Incorporating these landscape features will enhance visual and aesthetic features of the Property. Screening of the maintenance facility, caddy/cart barn and guest parking lot will be accomplished primarily with vegetation. As paved/parking areas will not be visible from public rights-of-way, an exception is being requested to avoid the use of curb adjacent to landscaped areas, maintaining the existing rural setting in the adjacent State Park.

The Supreme Court found in Town of Wilson (at 22) that "the City had planned for years to develop and expand and Kohler's proposal provide[s] the opportunity to do so."

The City of Sheboygan zoning ordinance contains regulations including minimum setbacks, buffer yards, minimum landscape ratio, parking, access, and landscaping. Below is a table summarizing the applicable regulations along with the proposed values.

Zoning Ordinance Regulation Description (SR-5/Outdoor Institutional)	**Regulation**	**Proposed golf course**
Minimum landscape ratio	0.55	0.94
Minimum lot area	0.14 acres	251.6 acres
Number of off-street parking spaces required	209	213
Required landscaping points	6,862	15,255

As evidenced in the table above, the proposed conditional use in its proposed location significantly exceeds each of the applicable regulations included in the zoning ordinance. By these metrics, the golf course use is far superior when compared to a single-family housing development with minimum 6,000 sf lots and maximum gross density of 5 dwelling units per acre, which is permitted by right.

7. *Does the proposed conditional use, in its proposed location and as depicted on the required site plan, result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development?*

RESPONSE: Access to the Property is being proposed through the existing State Park entrance on Beach Park Lane located along County Hwy V. Numerous alternative entrance routes to the Property were evaluated resulting in a proposed route that has the least impact on both the neighbors and environment.

Access through residential neighborhoods to the north was investigated but not recommended due to traffic impacts to area residents. Multiple routes originating off 12th Street through the State Park were also investigated but determined more environmentally impactful than the route being proposed. A traffic study was completed and concludes that the studied intersections are currently built to significantly exceed accepted Institute of Transportation Engineers' Level of Service (LOS) standards. The traffic study is included as Exhibit 5.

While no traffic improvements are required, Kohler is proposing to modify the State Park entrance area by adding a roundabout, east of the existing bridge spanning the Black River, to further improve circulation. The roundabout design includes three dedicated lanes for entering State Park visitors while golf course traffic and exiting State Park visitors would utilize the roundabout. A plan showing the proposed entrance improvements is included as Exhibit 6.

The proposed conditional use would not result in substantial or undue adverse impacts on nearby property or the character of the neighborhood. In fact, Riverdale Country Club, located approximately one-half mile from the Property, has co-existed in the neighborhood for decades.

Conversely, the proposed conditional use would provide additional amenities, not just to golfers, but to the City of Sheboygan and visitors to the adjacent State Park. The golf course would provide an additional recreational opportunity, open the Property for public use for access to the restaurant, clubhouse, observation tower and

events as well as for golf. The existing State Park entrance area will be significantly enhanced, at Kohler's expense, in connection with development of the golf course. In addition, the Pre-Annexation and Development Agreement between Kohler and the City specifically calls for Kohler to provide appropriate levels of public access to unique ecosystems and to burial mounds during daylight hours. That Agreement also bars Kohler from constructing any barriers on the Property to prohibit access to Lake Michigan in violation of Wisconsin's public trust doctrine.

8. *Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property*

RESPONSE:

The proposed golf course fulfills priorities, initiatives and guiding principles of the City's Comprehensive Plan and balances growth and density allowed in the SR-5 District. The density and intensity of the golf course, which is allowed as a conditional use, should be compared to the density and intensity of the 5 dwelling units per gross acre allowed in SR-5 as of right. However, Kohler invested pain-staking effort to design its course to maximize area benefits and minimize ancillary impacts.

During the due diligence and design phases of the project, sixteen course layouts and seven entrance route alternatives were identified, characterized, and evaluated. The proposed course layout and entrance route were determined to be the least impactful to both the environment and neighbors. Investigations that were completed for the analysis included wetland delineations, storm water management analysis, rare species surveys, botanical surveys, traffic studies, and archaeological surveys.

Initial project planning for the proposed golf course began in early 2014. The various processes involved with Local, State, and Federal approvals have included many opportunities for Kohler to gain public feedback and address many of the concerns that have been raised. Over twenty forums, including public comment periods and public hearings/meetings, have been held to date to solicit community feedback. Modifications to the plans have been made based upon that feedback.

Kohler's construction and operation of the golf course will be subject to a complicated and comprehensive regulatory framework. All necessary permits and regulations, administered by the appropriate regulatory agencies having jurisdiction and expertise will be deemed conditions to any conditional use permit issued by the City.

9. *Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on any of the improvements, facilities, utilities or services provided by public agencies serving the subject property*

RESPONSE:

Based upon preliminary discussions with utility providers (gas, electric, communications), it is anticipated that service connections will be extended from existing facilities located along the County Trunk Highway V (CTH V) right of way, approximately one-half mile west of the Property. To minimize impacts, the new services will be bored beneath State Park wetlands and the Black River. The utilities will then largely follow the entrance road to the various buildings and service connection points.

Kohler will install a watermain lateral from S. 12th Street at Stahl Road to the clubhouse, caddy/cart barn, and northern pond. To minimize impacts, the lateral will be bored beneath the Black River and associated wetlands.

Upon completion of the watermain extension on S. 12th Street by the City of Sheboygan, the water lateral will be connected to the municipal water system. An existing well on the Kohler property will be utilized during initial construction for irrigation until the watermain improvements are completed.

The clubhouse and caddy/cart barn will connect to the municipal sewer system currently located on Timberlake Drive to the North. The maintenance buildings will include specially designed closed systems to prevent pesticides and herbicides from entering the public sanitary system. On-course rest stations will have a private septic system and/or on-site holding tank to serve their sanitary sewer needs along with a private wells for potable water. A Utility plan is included in Exhibit 7.

The City's annexation of the Property and Kohler's development of its golf course significantly accelerate opportunities to extend public services, not just to the Property, but to points north, south and west.

10. *Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?*

RESPONSE: The opportunity to open approximately 250 acres of private property for public enjoyment and recreational use adjacent to an existing State Park provides a tremendous benefit, similar to the Peninsula State Park located in Door County, WI, which hosts two public courses as recreational opportunities to visitors. Park users and the general public will also have access to the practice facilities, clubhouse, restaurant, and bar.

The economic benefits of a new public golf course are measured in more than just recreation and business travel dollars. Benefits begin with millions of dollars of planning, design and construction work. Once constructed, a course creates jobs along with state and local income including sales and property taxes. In addition, a new public golf course, and a championship-caliber course in particular, has a "multiplier effect," infusing wages and benefits to circulate through the local economy, increasing property values and ancillary public and private benefits. An economic impact study by S.B. Friedman Development Advisors estimates the course will generate nearly $21 Million in annual economic output for the State of Wisconsin along with the creation of 227 FTE jobs within the State.

Wisconsin is recognized as a golf mecca. In its October 2017 edition, Golf magazine ranked Wisconsin as the #3 golf destination in the world behind Scotland and Ireland. The proposed golf course will enhance the State of Wisconsin, Sheboygan County, and the City of Sheboygan as one of the world's premier golf destination.

The 2011 Comprehensive Plan states:

"The lakefront community of Sheboygan, Wisconsin, is an attractive tourism destination and historic manufacturing town in the heart of the upper Midwest. The community has earned name recognition for its enviable location within the chain of Wisconsin's lakeshore communities, and for the area's high quality of life, offering an excellent education system, reasonable cost of living, and amenities such as art and cultural events, restaurants, resorts, and golf courses."

The City's Comprehensive Plan also classifies the Property as Public Parks and Open Space. The Public Parks and Open Space category includes public golf courses, making the Property the ideal location for a golf course, and will enhance the City as an attractive tourism destination with a world class golf course—with a "Sheboygan" moniker.

11. *existing zoning districts(s) (and proposed zoning district(s) if different):*

RESPONSE: The existing zoning district of the property is Suburban Residential-5 (SR-5) and portions of the site are also classified as Wetland, lakeshore, Woodland, and steep slope overlay zoning districts. The proposed use is allowable as a conditional use in the existing zoning districts.

12. *land use plan map designation(s)*

RESPONSE: The 2011 Comprehensive future land use plan map designates the property as Public Parks and Open Space, in which a public golf course use resides.

13. *Natural Resources Site Evaluation Worksheet (Subsection 15.303);*

RESPONSE: Included as Exhibit 8

14. *current land uses present on the subject property;*

RESPONSE: The Property is currently Vacant.

15. *proposed land uses for the subject property (per Section 15.206);*

RESPONSE: Outdoor institutional, Clear Cutting

16. *projected number of residents, employees, and daily visitors;*

RESPONSE: The proposed golf course is anticipated to attract approximately 380 daily visitors for golf and non-golf activities during peak times. Approximately 102 employees during peak times are anticipated including caddies, golf course maintenance, food & beverage, retail, golf operations and support staff.

17. *proposed amount of dwelling units, floor area, impervious surface area, and landscape surface area, and resulting site density, floor area ratio, impervious surface area ratio, and landscape surface area ratio;*

RESPONSE:
Dwelling units= 0
Floor area= 39,283 square feet
Impervious surface area= 675,721 square feet
Landscape surface area=10,366,188 square feet
Site density= Not applicable (no dwelling units)
Floor area ratio= 0.004
Impervious surface area ratio= 0.061
Landscape surface area ratio=0.94

18. *operational considerations relating to hours of operation, projected normal and peak water usage, sanitary sewer or septic loadings, and traffic generation;*

RESPONSE: The golfing season begins in Spring and extends through the Fall depending upon local weather conditions. The daily hours for Golf play vary with the seasons but typically begin at dawn and end at dusk. The in-season restaurant hours are daily from 6am to 10pm with extended bar service as is common. At the close of golf season until the New Year's Holiday, the restaurant/bar is currently planned to be open Thursday through

Saturday with hours of operation from 11 am to 9 pm. The restaurant/bar along with the pro shop is currently planned to be closed during the off-season from January to the start of golf season. The projected average water usage is anticipated to be 200,000GPD during the golfing season with peak values of approximately 340,000GPD. Sanitary sewer/septic loadings are anticipated to be approximately 3,200 GPD on average with a peak of 6,300GPD. The estimated traffic generation is included in the traffic study included as Exhibit 5.

19. *operational considerations relating to hours of potential nuisance creation pertaining to noncompliance with the performance standards addressed in Subchapter 15-7 (Sections 15.701-15.721) including, street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials. If no such nuisances will be created (as indicated by complete and continuous compliance with the provisions of Subchapter 15-7), then the statement "The proposed development shall comply with all requirements of Subchapter 15-7." shall be provided;*

    RESPONSE: The proposed development shall comply with all requirements of subchapter 15-7.

20. *exterior building and fencing materials (Sections 15.718 and 15.720);*

    RESPONSE: The proposed exterior building materials for the clubhouse walls consist of decorative timber columns, canvas materials, and a cordwood wall on a portion of the East Elevation. The Caddy/Cart Barn will consist of metal wall panel and metal roof panels. The proposed maintenance buildings include a mix of decorative concrete block, metal wall panels, and metal roof panels. The Caddy/Cart Barn and maintenance buildings will both be extensively screened with a mix of new and existing vegetation to minimize views from guests/public areas. Landscaping plans showing proposed vegetation screening are included in Exhibit 14. Colored renderings of the clubhouse along with elevations of all proposed structures are included in Exhibit 15.

    An 8' high fence is being proposed around the maintenance facility. The fence will be wood and decorative in nature. Per Section 17.720 of the zoning ordinance, a conditional use permit is being requested for the height exceedance of the proposed fencing.

21. *possible future expansion and related implications for 15.908(3)(a)1.10., and;*

    RESPONSE: There are no plans for future expansion.

22. *any other information pertinent to adequate understanding by the Plan Commission of the intended use and its relation to nearby properties.*

    RESPONSE: The proposed use is an outdoor institutional land use, and more specifically a privately-owned public golf course and associated ancillary land uses described in the Conditional Use Permit application.

23. *A Small Location Map at 11" x17" showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of the pertinent section of the City's Land Use Plan Map with the subject property clearly indicated shall suffice to meet this requirement.)*

    RESPONSE: Included as Exhibit 2.

24. *A <u>Property Site Plan</u> drawing (and reduction at 11"x17") which includes:*

24.1 A title block which indicates the name, address and phone/fax number(s) of the current property owner and/or agent(s) (developer, architect, engineer, planner) for project;

RESPONSE: Included in Exhibit 11

24.2 The date of the original plan and the latest date of revision to the plan;

RESPONSE: Included in Exhibit 11

24.3 A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;

RESPONSE: Included in Exhibit 11

24.4 A legal description of the subject property;

RESPONSE: Included in Exhibit 10

24.5 All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;

RESPONSE: Included in Exhibit 1

24.6 All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;

RESPONSE: Included in Exhibit 10

24.7 All required building setback lines;

RESPONSE: Included in Exhibit 11. An exceedance is being requested for required setbacks of the maintenance building from a residentially zoned property. The property adjacent to the proposed maintenance buildings is the Kohler-Andrae State Park and is residentially zoned, however the actual use is for maintenance activities and includes the State Park maintenance building, making the proposed golf course maintenance facility ideally located next to an identical land use. The requested minimum setback for the maintenance building is 25' in lieu of 50' per 15.206.(3).(d).3.c.

An exceedance is also being requested for the #7 Tees located within 50' of the adjacent Kohler-Andrae State Park. Section 15.206.(3).(d).3.c stipulates a 50' setback for actively used outdoor recreational areas from any residentially zoned property. As mentioned above, although the adjacent State Park is residentially zoned, the actual use in that area is for maintenance activities.

24.8 All existing and proposed buildings, structures, and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;

RESPONSE: Included in Exhibit 9. An exception is being requested from the pavement setback requirement (15.105.(2).(c).4.b.I) to allow two access points. The point where the entrance road first enters Kohler Co. property near the proposed maintenance buildings and the proposed access drive to the existing State Park maintenance facility.

24.9 The location and dimension (cross-section and entry throat) of all access points onto public streets;

RESPONSE: Included in Exhibit 5

24.10 The location and dimension of all on-site parking (and off-site parking provisions if they are to be employed), including a summary of the number of parking stalls provided versus the number required by this Chapter;

RESPONSE: Included in Exhibit 11

24.11 The location and dimension of all loading and service areas on the subject property and labels indicating the dimension of such areas;

RESPONSE: Included in Exhibit 11

24.12 The location of all outdoor storage areas and the design of all screening devices;

RESPONSE: Included in Exhibit 11

24.13 The location, type, height, size and lighting of all signage on the subject property;

RESPONSE: Per Section 15.907 of the zoning ordinance a separate application will be submitted for review and approval of proposed signage.

24.14 The location, height, design/type, illumination power and orientation of all exterior lighting on the subject property – including the clear demonstration of compliance with Section 15.707

RESPONSE: Included in Exhibit 12

24.15 The location and type of any permanently protected green space areas;

RESPONSE: Included in Exhibit 9

24.16 the location of existing and proposed drainage facilities; and

RESPONSE: Included in Exhibit 9

24.17 In the legend, data for the subject property: Lot Area, Floor Area, Floor Area Ratio (b/A), Impervious Surface Area, Impervious Surface Ratio (d/A), Building Height

RESPONSE: Included in Exhibit 11

25. *A Detailed landscaping Plan per 15.908.3.d*

    RESPONSE: Included as Exhibit 13

26. *A grading and erosion control plan per 15.908.3.e*

    RESPONSE: Included as Exhibit 9

27. *Elevation drawings per 15.908.3.f*

    RESPONSE: Included as Exhibit 14

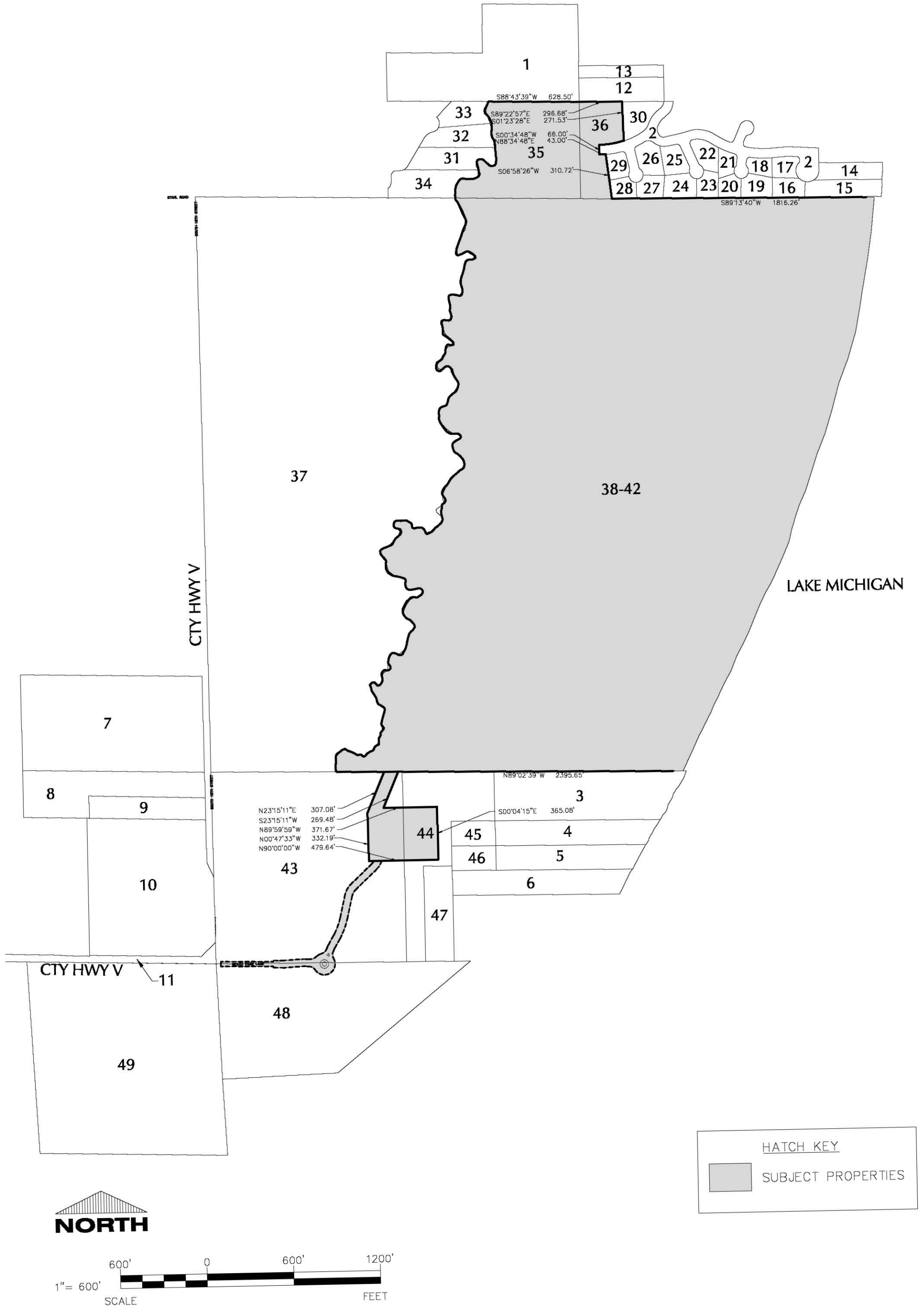
28. *Three full size copies of 15.908.3, c thru f*

    RESPONSE: Provided under separate cover

List of Exhibits:

Exhibit 1: Current Zoning Map
Exhibit 2: Land Use Plan Map (showing generalized location in relation to the City)
Exhibit 3: Overall Site Plan
Exhibit 4: Economic Impact Report
Exhibit 5: Traffic Study
Exhibit 6: Proposed entrance plan
Exhibit 7: Utility Plan
Exhibit 8: Natural Resources Site Evaluation Worksheet
Exhibit 9: Grading and Erosion Control plans
Exhibit 10: Legal Description
Exhibit 11: Architectural Site Plans
Exhibit 12: Photometric Plan
Exhibit 13: Detailed Landscaping Plans
Exhibit 14: Elevation Drawings
Exhibit 15: Conditional Use Permit Application Form
Exhibit 16: Preannexation and Development Agreement
Exhibit 17: Summary of Requested Exceptions/Exceedances

EXHIBIT 1


1
13
12
S88°43'39"W 628.50'
33
S89°22'57"E 296.68'
S01°23'28"E 271.53'
36
30
2
32
S00°34'48"W 66.00'
N88°34'48"E 43.00'
35
31
29
26
25
22
21
18
17
2
14
S06°58'26"W 310.72'
34
28
27
24
23
20
19
16
15
STAHL ROAD
SOUTH 16TH STREET
S89°13'40"W 1816.26'
37
38-42
LAKE MICHIGAN
CTY HWY V
7
8
9
10
N89°02'39"W 2395.65'
3
N23°15'11"E 307.08'
S23°15'11"W 269.48'
N89°59'59"W 371.67'
N00°47'33"W 332.19'
N90°00'00"W 479.64'
44
S00°04'15"E 365.08'
45
4
46
5
6
43
47
CTY HWY V
11
48
49
NORTH
600' 0 600' 1200'
1"= 600'
SCALE
FEET
HATCH KEY
SUBJECT PROPERTIES

Property	Property Owner	Property Owner Street Address	Property Owner City	Tax Parcel ID	Jurisdiction	Zoning
1	TOWN OF WILSON	5935 S BUSINESS DR	SHEBOYGAN, WI 53081	59030458040	Town of Wilson	C-1
2	TOWN OF WILSON	5935 S BUSINESS DR	SHEBOYGAN, WI 53081	59030458150	Town of Wilson	R-1
3	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59030458231	Town of Wilson	P-1
4	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59030458241	Town of Wilson	P-1
5	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59030458251	Town of Wilson	P-1
6	MUELLER, JANE S	5756 W HIGGINS AVE #1A	CHICAGO, IL 60630	59030458260	Town of Wilson	A-2
7	SOMMER, MARY ANN	6808 S 12TH ST	SHEBOYGAN, WI 53081	59030458740	Town of Wilson	A-2
8	SOMMER, MARY ANN	6808 S 12TH ST	SHEBOYGAN, WI 53081	59030458830	Town of Wilson	A-2
9	BENNINGHAUS, RICHARD	2315 HENRY ST	SHEBOYGAN, WI 53081	59030458840	Town of Wilson	A-2
10	HOERZ, TIMOTHY T	3407 NORTHCREST DR	KILLEEN, TX 76543	59030458860	Town of Wilson	A-2
11	SHEBOYGAN COUNTY TRANSPORTATION	W5741 COUNTY ROAD J	PLYMOUTH, WI 53073	59030458870	Town of Wilson	P-1
12	BEHM, JUERGEN	5650 EVERGREEN DR	SHEBOYGAN, WI 53081	59030464810	Town of Wilson	R-1
13	SHEBOYGAN ARTS FOUNDATION INC	608 NEW YORK AVE	SHEBOYGAN, WI 53081	59030464830	Town of Wilson	R-1
14	BERGNER, BRIAN	102 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469800	Town of Wilson	R-1
15	LAVIOLETTE, SHERMAN D	101 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469810	Town of Wilson	R-1
16	KOVACIC, DAVID	115 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469820	Town of Wilson	R-1
17	BRADEN, ELIZABETH	327 FAIRWAY MEADOWS CT	SHEBOYGAN FALLS, WI 53085	59030469830	Town of Wilson	R-1
18	WELLNA, JON R	203 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469840	Town of Wilson	R-1
19	DEDIANOUS, DAVID K	2703 GREEN HAZE AVE	MT PLEASANT, WI 53406	59030469850	Town of Wilson	R-1
20	GILIPSKY, JOHN	219 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469860	Town of Wilson	R-1
21	RAUTMANN, RANDALL L	227 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469870	Town of Wilson	R-1
22	SCHMIDT, CAROL J	4318 HARRISON ST	KANSAS CITY, MO 64110	59030469880	Town of Wilson	R-1
23	SCHUETTE, KRISTOFER R	313 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469890	Town of Wilson	R-1
24	ZAMORA, JOSE J	321 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469900	Town of Wilson	R-1
25	WAKEFIELD TRUST	329 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469910	Town of Wilson	R-1
26	ROWLEY ZWEIG LIVING TRUST OF 2014	407 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469920	Town of Wilson	R-1
27	LISBERG TRUST	415 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469930	Town of Wilson	R-1
28	SCHREIBER LIVING TRUST OF 2018	423 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469940	Town of Wilson	R-1
29	LONG, JESSE RICHARD	317 BASSWOOD ST	DELAWARE, OH 43015	59030469950	Town of Wilson	R-1
30	MULDER, LARRY A	422 TIMBERLAKE RD	SHEBOYGAN, WI 53081	59030469960	Town of Wilson	R-1
31	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59030471217	Town of Wilson	R-1
32	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59030471218	Town of Wilson	R-1
33	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59030471219	Town of Wilson	R-1
34	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328010	City of Sheboygan	SR-5
35	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328011	City of Sheboygan	SR-5
36	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328012	City of Sheboygan	SR-5
37	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59281328013	City of Sheboygan	SR-5
38	KOHLER CO (HID)	444 HIGHLAND DR	KOHLER, WI 53044	59281328014	City of Sheboygan	SR-5
39	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328015	City of Sheboygan	SR-5
40	KOHLER CO (HID)	444 HIGHLAND DR	KOHLER, WI 53044	59281328016	City of Sheboygan	SR-5
41	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328017	City of Sheboygan	SR-5
42	KOHLER CO	444 HIGHLAND DR	KOHLER, WI 53044	59281328018	City of Sheboygan	SR-5
43	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59281328019	City of Sheboygan	SR-5
44	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59281328020	City of Sheboygan	SR-5
45	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59281328021	City of Sheboygan	SR-5
46	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59281328022	City of Sheboygan	SR-5
47	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7922	MADISON, WI 53707	59281328023	City of Sheboygan	SR-5
48	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7922	MADISON, WI 53707	59281328026	City of Sheboygan	SR-5
49	STATE OF WISCONSIN DEPT OF NAT RESOURCES	PO BOX 7921	MADISON, WI 53707	59030461070	City of Sheboygan	SR-5

*Property information retrieved from the Sheboygan County GIS on March 12, 2020

EXHIBIT 2

CITY OF SHEBOYGAN- FUTURE LAND USE MAP- 2011 COMPREHENSIVE PLAN

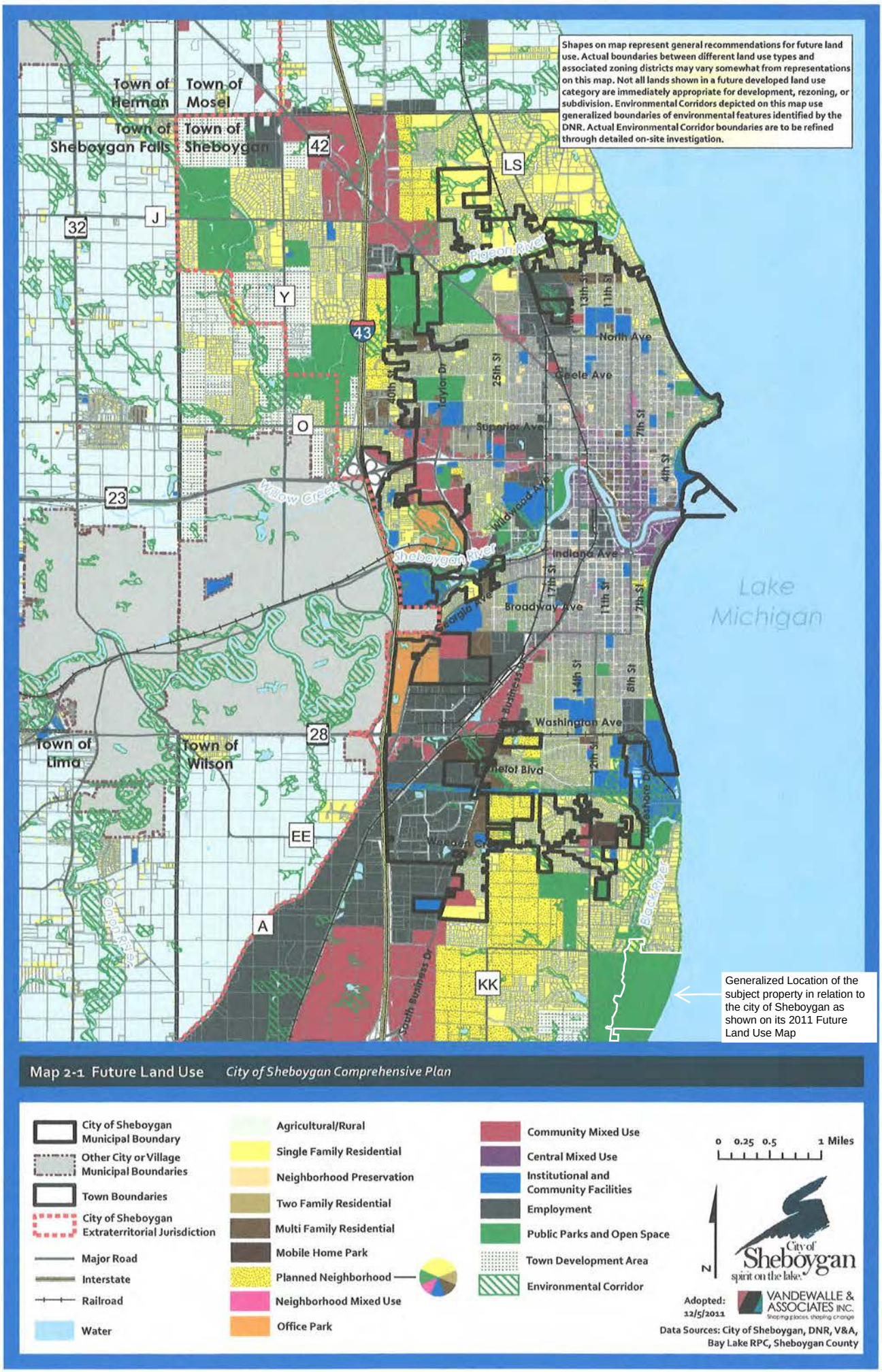


EXHIBIT 3

BLACK RIVER

COUNTY HIGHWAY V

#11

#13

#16

#17

#12

#14

#15

#10

#1

#18

#3

#9

#4

#2

#8

#5

#6

#7

IRRIGATION POND

PRACTICE RANGE

REST STATION

REST STATION

CART BARN

CLUBHOUSE

LAKE MICHIGAN

#11 TEES

#12 TEES

#13 TEES

#14 TEES

#15 TEES

#16 TEES

#17 TEES

#18 TEES

#10 TEES

#1 TEES

#2 TEES

#3 TEES

#4 TEES

#5 TEES

#6 TEES

#7 TEES

#8 TEES

#9 TEES

NORTH

150' 0 150' 300'

SCALE 1" = 150'

FEET

EXISTING WDNR MAINTENANCE FACILITY

KOHLER CO. PROPERTY BOUNDARY

GOLF COURSE MAINTENANCE BUILDINGS

EXISTING PARK ENTRANCE

PROPOSED ENTRANCE IMPROVEMENTS

BEACH PARK LANE

COLOR KEY

- PROPOSED BUILDINGS
- PATHS, PARKING LOTS, AND ROADS
- GOLF FAIRWAY
- GOLF GREEN

2019-07-23

EXHIBIT 4

ECONOMIC IMPACT OF THE PROPOSED GOLF COURSE ON SHEBOYGAN COUNTY

MAY 2017







Photos, clockwise – Whistling Straits, Sheboygan Lakefront, City of Sheboygan

SB Friedman
Development Advisors
VISION | ECONOMICS | STRATEGY | FINANCE | IMPLEMENTATION

S. B. Friedman & Company | 221 N LaSalle Street, Suite 820 | Chicago, IL 60601 | sbfriedman.com

KOHLER Golf Course | Projected Economic Impact

Sheboygan County, halfway between Green Bay and Milwaukee, is known as a great place to live and raise a family. It is anchored by a mix of manufacturing, agriculture, arts, educa Parks and recrea Sheboygan County has a diverse economy that is supported and enjoyed by a dedicated and hard-working popula The proposed golf course would contribute posi ely to the community by helping to maintain a high quality of life throughout the county.

For Sheboygan County, golf is more than a recrea ac it is a key industry that contributes to the strength of the local economy and provides important jobs. With the golf courses and resort hotels located in the region, Sheboygan County has established itself as a world golf des The new 18-hole golf course and its by Hall of Fame golf course designer Pete Dye are expected to a act worldwide interest. The clubhouse is expected to qualify for LEED cer a a na standard that re a commitment to an environmentally sustainable building. This highly an ted course will be consistent with Kohler's established track record of innova e design coupled with a philosophy of environmental stewardship. This study projects that the golf course will provide significant and positive economic impacts for the City of Sheboygan, Sheboygan County and 11-County Region. ***When fully operational, the proposed golf course is projected to create 227 full-time equivalent (FTE) permanent jobs and generate nearly $21 million (2014 dollars) in annual economic activity for Sheboygan County households and businesses.***

Legacy of Kohler Golf

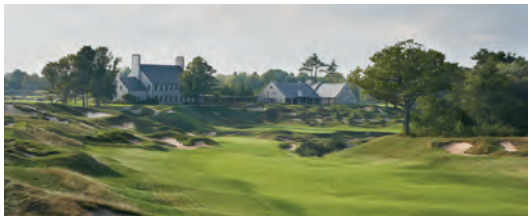
Among public golf op within the region, the Kohler courses in Sheboygan County created a premier golf des that are consistently in the top-ranked courses of the United States. In the mid-1980s, Dye was commissioned by Kohler Co. to design Blackwolf Run golf courses, which today consist of the River course and the Meadow Valleys course. The River course at Blackwolf Run is ranked 16th on Golf Digest Magazine's 2015/2016 top 100 public golf course list, while the Meadow Valleys course is ranked 72nd. In 1995, Kohler once again teamed with Dye to design and build the Straits course at Whistling Straits, ranked 4th in the U.S. The Irish course at Whistling Straits opened in 2000 and is ranked 47th on Golf Digest's list of courses open to the public. In that same year, Sheboygan County was considered the 7th ranked golf des orld, just behind southwest Ireland.

These golf courses and their training academies are widely praised for their recep to all age levels and the arres beauty of the surrounding environment. Each course provides players with a life experience and wildlife with a nurturing environment. As a golf des Sheboygan County draws 40,000+ visitors who play 100,000+ rounds each year.

Proposed Kohler Golf Course

The proposed Kohler golf course and f include an 18-hole course, clubhouse and restaurant. The course is planned to be on par with the Straits at Whistling Straits as a world-class des consistent with KOHLER values and commitment to quality. Golf course, restaurant and clubhouse with special views of the dunes, grasses, forest and Lake Michigan will be open to the public. Today the land is closed to the public.

DESTINATION KOHLER



With the Whistling Straits and Blackwolf Run golf venues, Sheboygan County was considered the 7th ranked golf des in the world in the year 2000.

Top-Ranked Golf Courses. Sheboygan County e highly-ranked golf courses including the KOHLER Straits course at Whistling Straits (ranked 4th in the U.S. on Golf Digest's 2015/2016 top 100 public golf courses list).

Championship Events. The Straits course has hosted the 2004, 2010, and 2015 PGA Championships and the 2007 U.S. Senior Open. It will also host the Ryder Cup in 2020, the world's most lucra e tournament. Blackwolf Run has hosted the U.S. Women's Open in 1998 and 2012.

Popular Des For many golfers, playing golf in Sheboygan County is s "bucket-list" experience.

al Economy

The new golf course presents an opportunity to generate ant economic impact and elevate Sheboygan County's reputa as a premier golf des in the United States. Kohler's proposed golf course is expected to create a vital new recrea facility in the City of Sheboygan and Sheboygan County. With the new course, Kohler will be able to respond to the increasing interest in high-quality golf, and at the same egion's a eness for those who live here.

This report uses IMPLAN Professional® ("IMPLAN"), an economic impact assessment are system to assist in the quan a of the total economic impacts associated with the proposed Kohler golf course and f As each dollar spent enters the economy, it supports jobs, payroll and economic , crea a e ect. ***The numbers in this report re this total impact and are presented in 2014 dollars.*** This study es tes the economic impact of three geographies: the City of Sheboygan, Sheboygan County, and the 11-County Region. Because the economic analysis is ally calibrated, the economic impact results apply to these geographies only.

BOOSTING LOCAL CONSTRUCTION

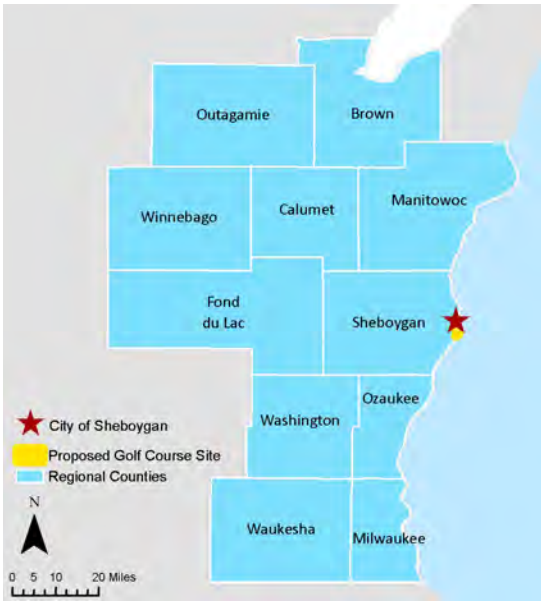
The cons and capital investments associated with the proposed golf course are an ted to generate ant and e economic impact. With an investment of more than $25 million, the project will create jobs in the cons and maintenance industries, and will require the purchase of equipment and supplies during the cons period. The cons of the golf course and f is an opportunity to generate a meaningful economic boost for the local cons industry and related sectors. The project is an ted to generate cons elated economic over a three-year dura of the building period. This new cons investment in Sheboygan County is projected to create ant for local contractors, tradespeople and business suppliers. **Cons itself is es ted to create 95 equivalent jobs and generate $12.5 million for Sheboygan County households and businesses annually over the dura of the project.** Projected total impacts for the local and regional economies are summarized in the table below.

Total Es ted Annual Economic Impact for Cons

	JOBS (FTE)	SALARIES & BENEFITS (millions)	IMPACT (millions)
City of Sheboygan	68	$4.0	$9.2
Sheboygan County	95	$5.3	$12.5
11-County Region	102	$5.8	$13.6

Source: IMPLAN and *SB Friedman*
1. **Over a 3-year cons**

ECONOMIC IMPACT STUDY AREA



CONSTRUCTION ACTIVITIES

- Architecture & Design
- Course Cons
- Clubhouse Cons
- Landscaping
- Engineering

AN ECONOMIC GROWTH ENGINE FOR SHEBOYGAN COUNTY

The proposed golf course and tourism are projected to generate ant economic impacts for the City of Sheboygan, Sheboygan County and the 11-County Region. The cons of the golf course is an ted to further enhance the pr of Sheboygan County as a worldwide des **When fully opera the proposed course and f are an ted to create 227 equivalent jobs and generate $20.6 million in annual economic output for Sheboygan County**. Projected total impacts for the local and regional economies are summarized in the table below.

Opera

The current opera associated with Kohler courses and f generate substan economic in Sheboygan County. Kohler Co. has a widely known reputa for providing the highest level of services at all of its f as re ed in guest feedback and industry rec In to the high ranking of Whistling Straits' two courses on Golf Digest's list of America's 100 greatest public golf courses, its restaurant and golf shop have also been recognized for their excellence and pla vels of service.

The proposed golf course is planned to be on par with Whistling Straits. From April to October, the course is expected to add more than 23,000 rounds of golf, thus increasing the overall level of economic in Sheboygan County. When fully opera Kohler an tes employing 168 people in full- and part jobs (106 ful equivalent) with approximately $3.6 million in annual salaries and bene The analysis projects that 88% of the new employees at the proposed Kohler golf course will reside within Sheboygan County.

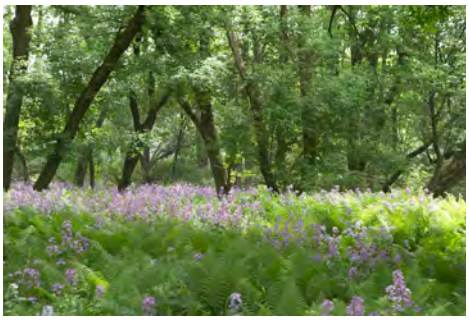
Golf Tourism in Sheboygan County

Sheboygan County has established itself as a premier des for golf and golf-related tourism. In to various golf op Sheboygan County is home to resort hotels. During the golf season, more than 42,000 people travel to Sheboygan County to experience one or more of the golf course op and stay in county hotels and resorts. A majority of visitors travel from outside the region, with 80% traveling from out-of-state. The proposed new course is expected to a act visitors from throughout the na and generate expenditures from guests and hospitality in Sheboygan County. These expenditures include more than $6.5 million in lodging and purchases of food, beverage and retail goods, before or a er g at the proposed course.

Total Es ted Economic Impact for Opera ourism

	JOBS (FTE)	SALARIES & BENEFITS (millions)	IMPACT (millions)
City of Sheboygan	124	$5.8	$9.8
Sheboygan County	227	$8.9	$20.6
11-County Region	250	$11.0	$25.1

Source: IMPLAN and *SB Friedman*



WHEN FULLY OPERATIONAL, THE NEW COURSE IS PROJECTED TO GENERATE....

23,000 ROUNDS of golf per year

22,000 ADDITIONAL room nights per year in Sheboygan County hotels

$6.5 expenditures for the hospitality, retail, food and beverage industries

$20.6 MILLION in total annual economic output in Sheboygan County

227 FTE JOBS created in Sheboygan County



PUBLIC SECTOR TAX REVENUE GENERATION

The proposed private sector economic in the golf course, hospitality and retail businesses will generate tax revenues for various public sector ons. The key tax revenues by e es ted in the table below.

Es ted Annual Tax Revenues

$87,000	Non-School Property Tax (City of Sheboygan)
$52,000	Non-School Property Tax (County)
$2,000	Non-School Property Tax (State)
$117,000	School Property Tax Before Credit (Sheboygan School District and Lakeshore Technical College)
$495,000	Sales Tax to the State (Total Direct and Indirect)
$51,000	Sales Tax to the County (Direct)
$152,000	Personal Income Tax to the State
$40,000	Motor Vehicle Fuel Tax to the State
$161,000	Room Tax (Village of Kohler)
$88,000	Room Tax (City of Sheboygan)
$22,000	Room Tax (County of Sheboygan)
$1,267,000	**Total Tax Revenue Each Year**



EXHIBIT 5

July 29th, 2019

EXCEL
ARCHITECTS • ENGINEERS • SURVEYORS

Jess Barley
Kohler Company
444 Highland Drive
Kohler, WI 53044

Re: Updated Traffic Analysis – Proposed State Park Entrance Roundabout

Dear Mr. Barley,

In accordance with your request, Excel Engineering has completed an updated traffic analysis to reflect the proposed roundabout entrance to Kohler-Andrea State Park and the Kohler Golf Course. The updated analysis is a supplement to the 2015 Traffic Impact Analysis (TIA) which modeled the entrance to the State Park and the Kohler Golf Course as a two-way stop. The updated analysis is limited to the proposed entrance changes. It does not include movements at the intersection of County Highway V and Beach Park Lane which were demonstrated in the original TIA to operate at a Level of Service (LOS) B or better after development.

The updated analysis uses historical attendance data recently provided by the Wisconsin Department of Natural Resources (DNR). The updated analysis includes determining the expected LOS for each traffic movement in the proposed roundabout as well as a comparison of the existing vs. proposed vehicular queuing space available at the DNR Station (see Exhibits 1 & 2 for existing and proposed intersection configurations). The analysis was completed using the HCS 2010 software program version 6.5 for Roundabouts.

State Park Traffic

Based upon the data provided by the DNR, the historic maximum monthly state park attendance is approximately 80,000. Assuming there are 3.5 people per vehicle entering the park (assumption provided by DNR), the maximum monthly number of vehicles in the park is 22,850. This figure will be used to determine the peak hour traffic exiting the state park as follows:

Weekly Traffic - 22,850 vehicles/month divided by 4.33 = 5,277 vehicles/week

Daily Traffic -Assumes 75% of the traffic occurs on Friday, Saturday and Sunday (25% each day)

5,277 vehicles/week x 25% = 1,319 vehicles/day

Hourly Traffic – 1,319 vehicles/day divided by 12 hours of daylight = 110 vehicles/hour

Peak Hourly Traffic – A peaking factor of 2 results in a peak hour of = **220 vehicles/hour**

Proposed Golf Course Traffic

According to the ITE Trip Generation Manual 9th Edition, the proposed golf course will generate the following traffic during the peak hour (see Attachment 2).

Entering - **41 vehicles/hour**
Exiting - **55 vehicles/hour**

Analysis

Using the traffic information above, the LOS for the proposed roundabout was calculated assuming the peak hour for the state park occurs at the same time as the peak hour for the golf course. This is a very conservative approach that will represent a worst case scenario. The LOS ratings range from LOS A (very good) to LOS F (very poor) with LOS D being the minimum acceptable level during the peak hour. Based upon the analysis, the overall LOS for the roundabout during the combined peak hour is LOS A. All individual movements within the roundabout are also rated at LOS A. This is the best rating possible (see Exhibit 2 and Exhibit 3).

In addition to the LOS analysis for the proposed roundabout, the queuing provided for the DNR Station in the proposed configuration was compared with queuing provided in the existing intersection (See Exhibits 1 & 2). The existing intersection has two lanes that provide 516 feet of total vehicle queuing length. The proposed intersection includes four lanes. One lane is dedicated for golf course traffic. The three remaining lanes are dedicated to the state park entrance. The combined queuing length of the three lanes provided for the state park entrance is 711 feet. This is a 38% increase over the existing condition that, when combined with new automated sticker dispensers proposed by the DNR, will significantly improve access to the state park.

If you have any questions regarding this information, please don't hesitate to give me a call.

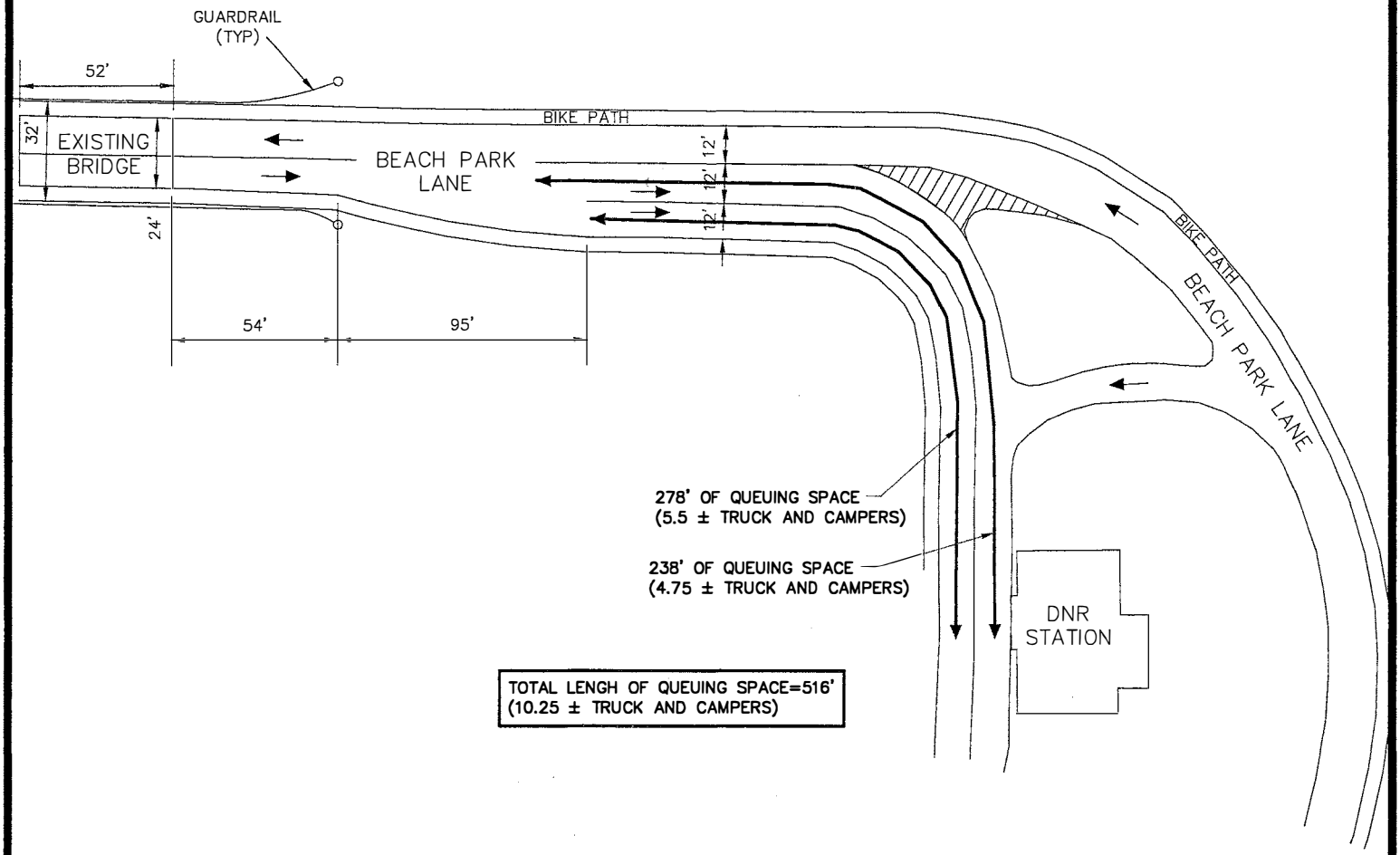
Sincerely,

Jeff Quast, P.E.
President

Exhibit 1 – Existing Intersection Configuration and Queuing
Exhibit 2 – Proposed Intersection Configuration, Queuing and Peak Hour Traffic
Exhibit 3 - HCS Roundabout Report

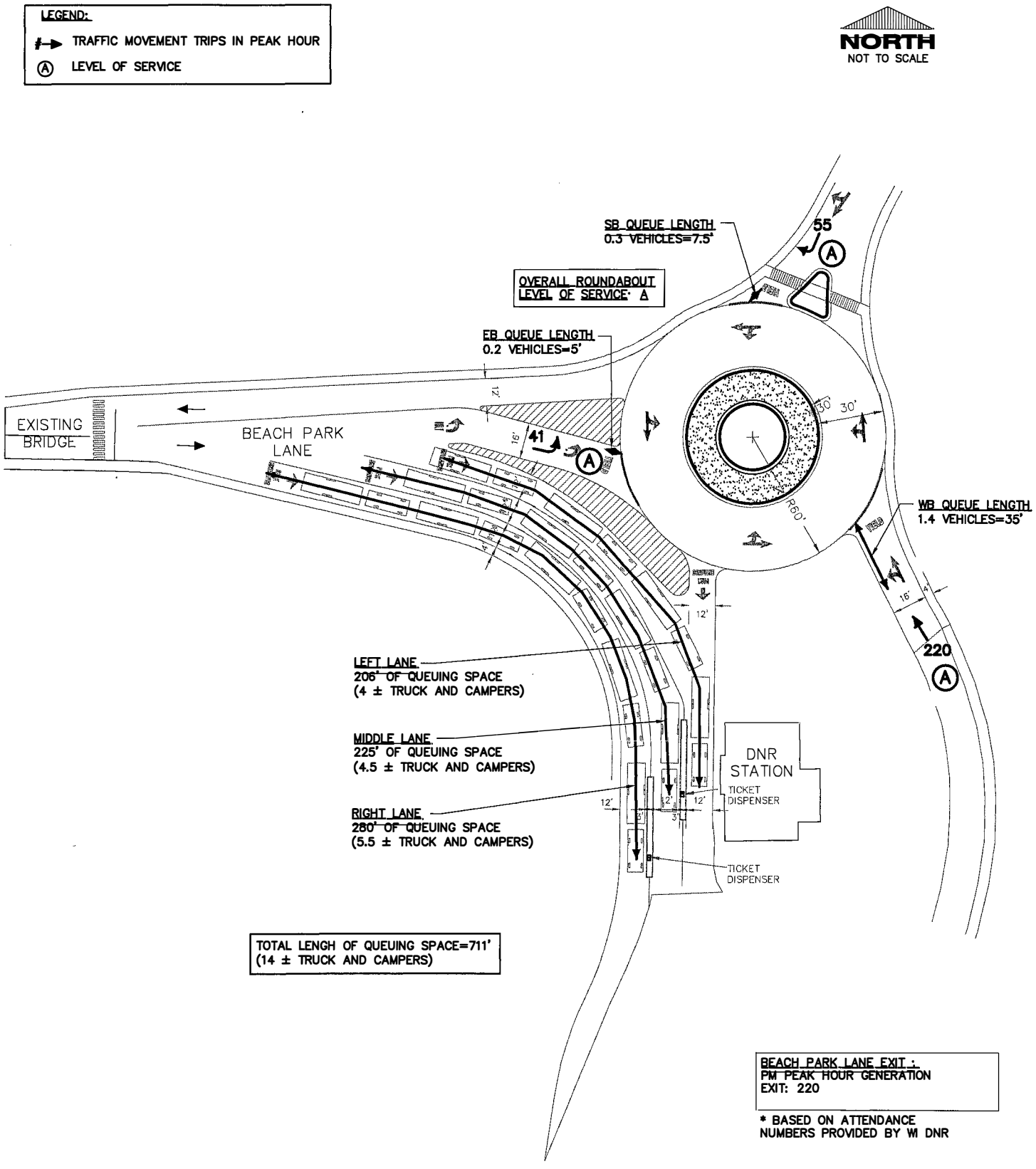
Attachment 1 – Kohler Andrea State Park Monthly Attendance Figures
Attachment 2 - ITE Trip Generation for the Proposed Golf Course

NORTH
NOT TO SCALE



EXCEL ENGINEERING Inc.
Always a Better Plan
100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
FAX: (920) 926-9801
PROJECT NO. 1402630

EXHIBIT 1
EXISTING QUEUE LENGTH AT
ENTRANCE TO KOHLER ANDRE STATE PARK



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PROJECT NO. 1402630

EXHIBIT 2
PROPOSED PEAK TRAFFIC VOLUME GOLF COURSE DRIVE ENTRANCE AS ROUNDABOUT INTERSECTION

ROUNDABOUT REPORT

General Information		Site Information	
Analyst	*Eric Drazkowski*	Intersection	*Golf Course Entrance*
Agency or Co.	*Excel Engineering, Inc.*	E/W Street Name	*Beach Park Lane*
Date Performed	*10/9/2017*	N/S Street Name	
Time Period	*Weekend Peak*	Analysis Year	*2017*
Peak Hour Factor	*0.75*	Project ID	

Project Description:

Volume Adjustment and Site Characteristics

	EB				WB				NB				SB			
	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R	U
Number of Lanes (N)	*1*	*0*	*0*		*0*	*1*	*0*		*0*	*0*	*0*		*0*	*0*	*1*	
Lane Assignment			*L*				*T*								*R*	
Right-Turn Bypass	*None*				None				None				None			
Conflicting Lanes	*1*				1				1				1			
Volume (V), veh/h	*41*			*0*		*220*		*0*				*0*			*55*	*0*
Heavy Veh. Adj. (f_{HV}), %	*3*	*3*	*20*	*3*	*3*	*15*	*3*	*3*	*3*	*3*	*3*	*3*	*3*	*3*	*3*	*3*
Pedestrians Crossing	*0*				0				0				0			

Critical and Follow-Up Headway Adjustment

	EB			WB			NB			SB		
	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass
Critical Headway (sec)	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*	*5.1929*
Follow-Up Headway (sec)	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*	*3.1858*

Flow Computations

	EB			WB			NB			SB		
	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass
Circulating Flow (V_c), pc/h	*0*			*56*			*56*			*337*		
Exiting Flow (V_{ex}), pc/h	*0*			*413*			*56*			*0*		
Entry Flow (V_e), pc/h		*56*			*337*			*0*			*76*	
Entry Volume veh/h		*54*			*293*						*74*	

Capacity and v/c Ratios

	EB			WB			NB			SB		
	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass
Capacity (c_{PCE}), pc/h		*1130*			*1068*			*0*			*806*	
Capacity (c), veh/h		*1097*			*929*			*0*			*783*	
v/c Ratio (X)		*0.05*			*0.32*						*0.09*	

Delay and Level of Service

	EB			WB			NB			SB		
	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass	Left	Right	Bypass
Lane Control Delay (d), s/veh		*3.7*			*7.2*						*5.5*	
Lane LOS		*A*			*A*			*F*			*A*	
Lane 95% Queue		*0.2*			*1.4*						*0.3*	
Approach Delay, s/veh	*3.70*			*7.23*						*5.55*		
Approach LOS, s/veh	*A*			*A*						*A*		
Intersection Delay, s/veh	*6.48*											
Intersection LOS	*A*											

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Property Name	Jul 2016	Aug 2016	Sep 2016	Oct 2016	Nov 2016	Dec 2016	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017	Jun 2017	Total FY16
Kohler-Andrae State Park	69,997	0	0	0	0	0	0	0	0	0	0	0	**69,997**

Property Name	Jul 2015	Aug 2015	Sep 2015	Oct 2015	Nov 2015	Dec 2015	Jan 2016	Feb 2016	Mar 2016	Apr 2016	May 2016	Jun 2016	Total FY16
Kohler-Andrae State Park	74,060	64,610	44,739	39,378	18,840	15,876	11,795	12,656	15,183	25,162	45,175	60,865	**428,339**

Property Name	Jul 2014	Aug 2014	Sep 2014	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015	Apr 2015	May 2015	Jun 2015	Total FY15
Kohler-Andrae State Park	77,086	66,118	43,573	30,986	14,063	17,084	12,520	9,975	22,113	22,176	37,639	52,644	**405,977**

Property Name	Jul 2013	Aug 2013	Sep 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	Mar 2014	Apr 2014	May 2014	Jun 2014	Total FY14
Kohler-Andrae State Park	74,095	73,812	43,865	34,517	14,179	12,800	9,051	11, 565	16,279	15,715	38,682	53,129	**386,124**

Property Name	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Jan 2013	Feb 2013	Mar 2013	Apr 2013	May 2013	Jun 2013	Total FY13
Kohler-Andrae State Park	86,500	66,406	44,779	33,415	15,866	13,748	9,839	10,259	14,375	21,259	34,255	53,799	**404,500**

Property Name	Jul 2011	Aug 2011	Sep 2011	Oct 2011	Nov 2011	Dec 2011	Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Total FY12
Kohler-Andrae State Park	76,699	67,214	38,157	38,749	15,071	10,434	10,800	12,660	20,979	24,500	40,103	63,007	**418,373**

Property Name	Jul 2010	Aug 2010	Sep 2010	Oct 2010	Nov 2010	Dec 2010	Jan 2011	Feb 2011	Mar 2011	Apr 2011	May 2011	Jun 2011	Total FY11
Kohler-Andrae State Park	76,276	75,383	38,325	39,137	14,844	11,368	10,861	11,809	14,494	19,723	34,283	46,554	**393,057**

Property Name	Jul 2009	Aug 2009	Sep 2009	Oct 2009	Nov 2009	Dec 2009	Jan 2010	Feb 2010	Mar 2010	Apr 2010	May 2010	Jun 2010	Total FY10
Kohler-Andrae State Park	71,862	53,890	49,000	34,900	15,162	9,500	10,000	11,848	18,512	24,976	40,873	53,288	**393,811**

Propname	Jul 2008	Aug 2008	Sep 2008	Oct 2008	Nov 2008	Dec 2008	Jan 2009	Feb 2009	Mar 2009	Apr 2009	May 2009	Jun 2009	Total FY09
Kohler-Andrae State Park	64,117	60,000	47,314	34,962	16,500	9,125	12,346	15,200	14,161	21,053	26,411	49,000	**370,189**

Property Name	Jul 2007	Aug 2007	Sep 2007	Oct 2007	Nov 2007	Dec 2007	Jan 2008	Feb 2008	Mar 2008	Apr 2008	May 2008	Jun 2008	Total FY08
Kohler-Andrae State Park	74,106	56,434	47,835	33,303	13,500	12,653	9,391	8,680	12,789	18,785	31,682	41,815	**360,973**

Property Name	Jul 2006	Aug 2006	Sep 2006	Oct 2006	Nov 2006	Dec 2006	Jan 2007	Feb 2007	Mar 2007	Apr 2007	May 2007	Jun 2007	Total FY07
Kohler-Andrae State Park	86,100	66,500	36,621	28,214	13,948	12,761	12,884	10,500	17,267	23,940	24,917	58,000	**391,652**

Property Name	Jul 2005	Aug 2005	Sep 2005	Oct 2005	Nov 2005	Dec 2005	Jan 2006	Feb 2006	Mar 2006	Apr 2006	May 2006	Jun 2006	Total FY06
Kohler-Andrae State Park	85,477	68,156	37,296	30,282	12,163	9,986	12,894	10,528	16,279	25,900	34,920	50,418	**394,299**

Property Name	Jul 2004	Aug 2004	Sep 2004	Oct 2004	Nov 2004	Dec 2004	Jan 2005	Feb 2005	Mar 2005	Apr 2005	May 2005	Jun 2005	Total FY05
Kohler-Andrae State Park	74,085	63,144	48,272	29,484	15,204	13,125	11,753	13,846	14,214	24,007	24,388	86,000	**417,522**

Property Name	Jul 2003	Aug 2003	Sep 2003	Oct 2003	Nov 2003	Dec 2003	Jan 2004	Feb 2004	Mar 2004	Apr 2004	May 2004	Jun 2004	Total FY04
Kohler-Andrae State Park	76,339	81,176	39,473	23,639	16,571	14,539	43,710	15,040	17,600	24,059	32,568	54,817	**439,531**

Property Name	Jul 2002	Aug 2002	Sep 2002	Oct 2002	Nov 2002	Dec 2002	Jan 2003	Feb 2003	Mar 2003	Apr 2003	May 2003	Jun 2003	Total FY03
Kohler-Andrae State Park	88,043	76,031	37,783	16,856	15,484	16,247	14,070	10,903	17,637	23,153	37,377	58,590	**412,174**

Property Name	Jul 2001	Aug 2001	Sep 2001	Oct 2001	Nov 2001	Dec 2001	Jan 2002	Feb 2002	Mar 2002	Apr 2002	May 2002	Jun 2002	Total FY02
Kohler-Andrae State Park	82,981	70,392	40,551	25,638	17,658	15,866	17,563	15,659	17,570	23,398	37,345	84,868	**449,489**

ATTACHMENT #1

Phase Time Period Trip Generation
Weekday PM Peak Hour of Generator

Project : New Project
Alternative : Alternative 1
Phase : Phase 2

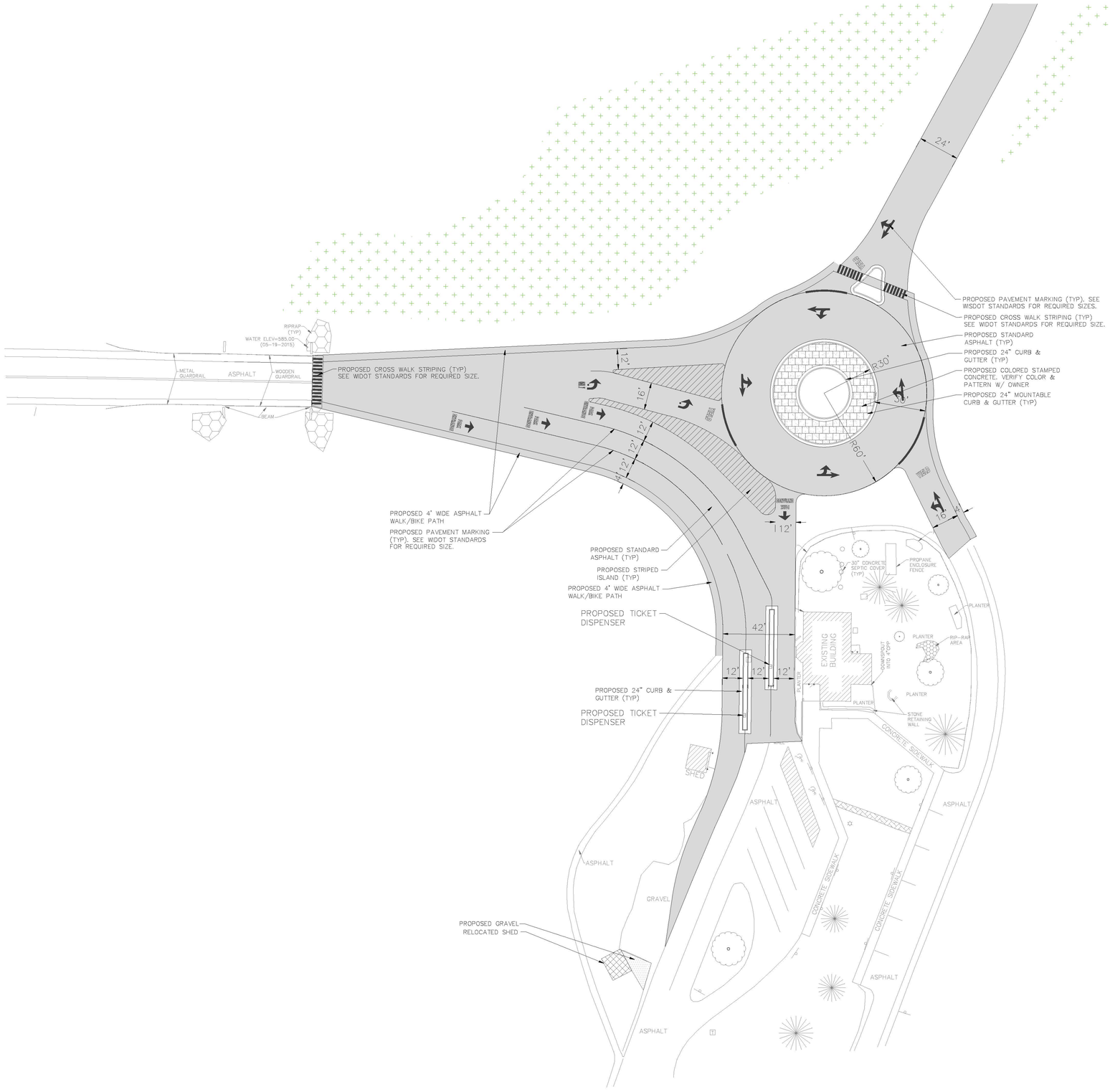
Open Date : 3/6/2014
Analysis Date : 3/6/2014

ITE	Land Use	Enter	Exit	Total
430	GOLF 1	41	55	96
	247 Acres			
Unadjusted Driveway Volume		41	55	96
Unadjusted Pass-By Trips		0	0	0
Internal Vehicle Trips		0	0	0
Adjusted Driveway Volume		41	55	96
Adjusted Pass-By Trips		0	0	0
Adjusted Total Volume Added to Adjacent Streets		41	55	96

Source: Institute of Transportation Engineers, Trip Generation Manual 9th Edition, 2012
TRIP GENERATION 2013, TRAFFICWARE, LLC

ATTACHMENT # 2

EXHIBIT 6



LEGEND:

- PROPOSED STANDARD ASPHALT
- PROPOSED COLORED STAMPED CONCRETE
- PROPOSED CURB & GUTTER (SEE PLAN)
- PROPOSED PAVEMENT STRIPING
- PROPOSED GRAVEL

NORTH

1"= 30' SCALE

30' 0 30' 60' FEET

EXCEL
ARCHITECTS • ENGINEERS • SURVEYORS

100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
WWW.EXCELENGINEER.COM

PROJECT INFORMATION

PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

JAN. 9, 2018

NOT FOR CONSTRUCTION

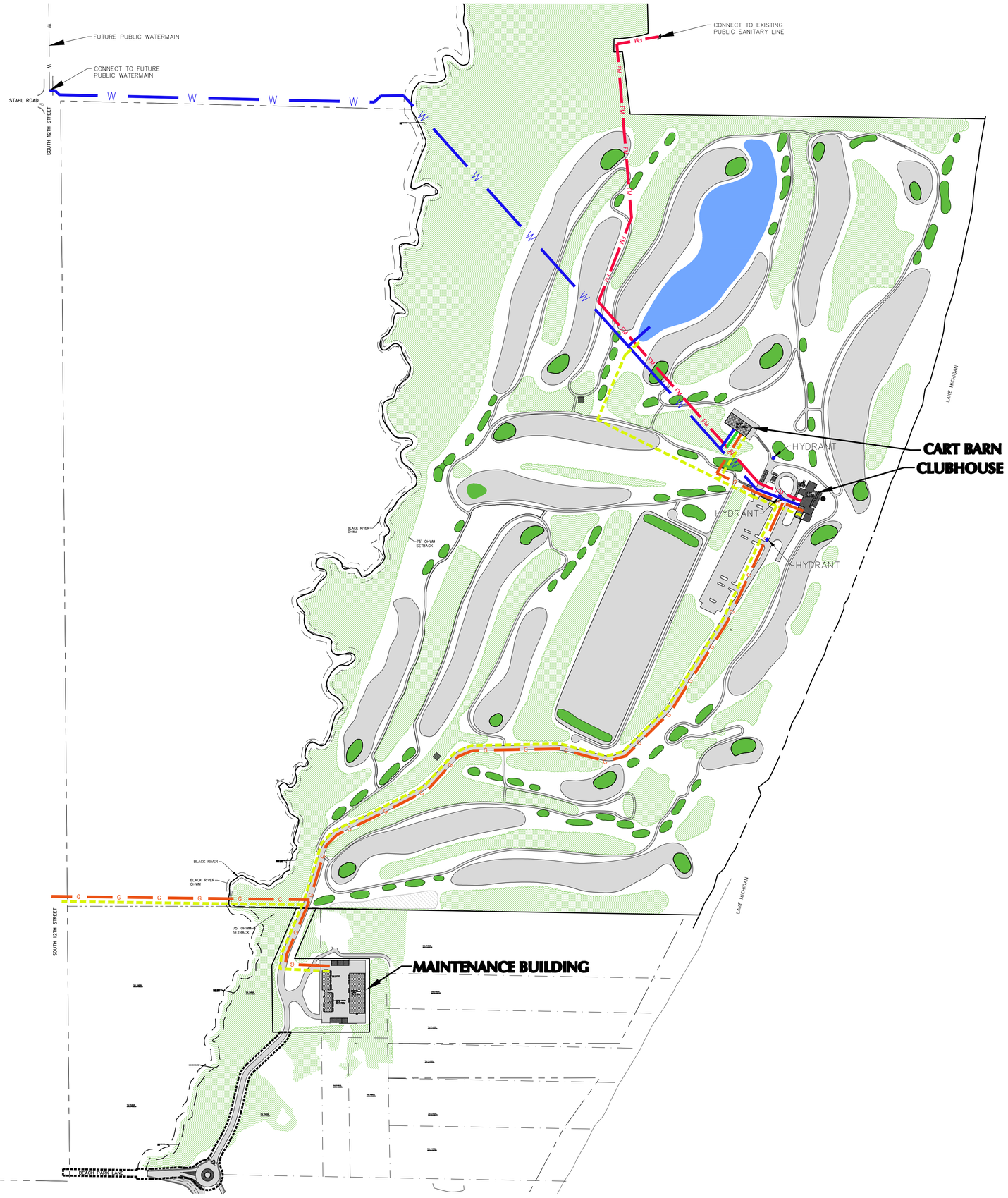
SHEET INFORMATION

PROPOSED STATE PARK PROPERTY IMPROVEMENTS

SHEET NUMBER

2016 © EXCEL ENGINEERING, INC.

EXHIBIT 7



LEGEND

- FM — PROPOSED PRIVATE SANITARY FORCEMAIN
- W — PROPOSED PRIVATE WATER LINE
- G — PROPOSED GAS LINE
- PROPOSED ELECTRIC & COMMUNICATION LINES

Hydrant locations near clubhouse to be confirmed in the field with Sheboygan Fire department prior to installation

NORTH

1"= 250'

250' 0 250' 500'

SCALE FEET

EXHIBIT 8

Natural Resources Site Evaluation Worksheet

(a) Determine the Gross Site Area (GSA) of the Site:

1. Total Site Area as determined by actual on-site survey:	247 4.59 1.88 **253**	Acres (Proposed Golf Course Property) Acres (Maintenance Area) Acres (Entrance Easement Area) **Acres**
2. Subtract area located within proposed rights-of-way of roads and within proposed boundaries of public facilities which are designated with the City's Comprehensive Master Plan and/or required for dedication per subdivision regulations:	0	Acres
3. Subtract land which although part of the same parcel is not contiguous to, or is not accessible from, the proposed road network serving the project.	0	Acres
4. Subtract land which is proposed for a different development option or a different zoning district.	0	Acres
5. Subtract area of navigable waters (lakes & streams)	0	Acres
6. Equals Gross Site Area (GSA)	**253**	**Acres**

(b) Determine the Required Resource Protection Area (RPA) of the Site:

1. Portion of Gross Site Area containing Floodways.	Included in (b).2	
2. Add portion of Gross Site Area containing Floodplain Areas.	58	Acres
3. Add portion of Gross Site Area containing Floodfringes.	Included in (b).2	
4. Add portion of Gross Site Area containing Wetlands.	6	Acres (excluding wetlands located in (b).2)
5. Add portion of Gross Site Area containing Drainageways.	0	Acres (as defined by 15.506.1)
6. Add portion of Gross Site Area containing Lakeshore.	7	Acres (as defined by 15.505.1)
7. Add portion of Gross Site Area containing Woodlands.	170	Acres (excluding woodlands located in (b).2, (b).4, (b).6)
8. Add portion of Gross Site Area containing Steep Slopes.	Included in (b).7	
9. Subtract portions of natural resource areas ((b)1.-(b)8.) made developable by using approved environmental mitigation techniques.	172	Acres
10. Equals Required Resource Protection Area (RPA).	**82**	**Acres**

(c) Determine the Net Developable Area (NDA) of the Site:

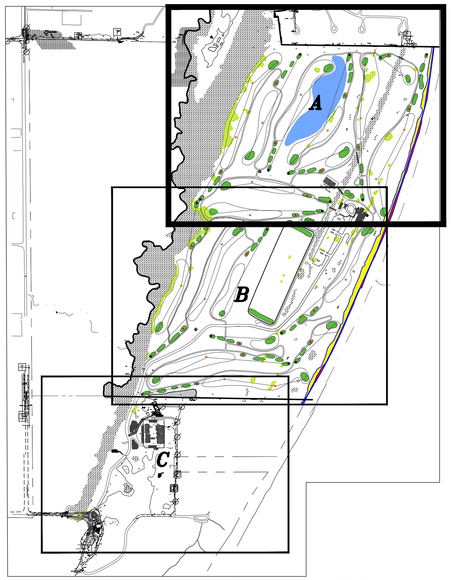
1. EnterGrossSiteArea(GSA){from(a)6.,above}	253	Acres
2. Subtract Required Resource Protection Area (RPA)	82	Acres
3. **Equals Net Developable Area (NDA).**	**172**	**Acres**

EXHIBIT 9

** CONTRACTOR TO FOLLOW THE EROSION CONTROL SPECIFICATIONS FOR CONSTRUCTION EROSION CONTROL INSPECTION AND MAINTENANCE.**

** CONSTRUCTION OF THE GOLF COURSE WILL BE COMPLETED IN PHASES. SOME PHASES MAY OCCUR SIMULTANEOUSLY DEPENDING UPON SITE CONDITIONS. PRIOR TO BEGINNING EACH PHASE, SILT FENCES WILL BE INSTALLED ALONG THE PLANNED LIMITS OF DISTURBANCE AND CLEARING AND GRUBBING WILL BE COMPLETED. SITE STABILIZATION WILL OCCUR AS THE PHASES ARE COMPLETED TO MINIMIZE THE POTENTIAL FOR EROSION AND INCREASE THE TIME AVAILABLE FOR "GROW IN" WHICH IS IMPORTANT FOR GOLF COURSE CONSTRUCTION. PROPOSED POST-CONSTRUCTION BMPS WILL BE IN PLACE AS THE PHASES ARE COMPLETED. TRACKING PADS WILL BE PROVIDED BETWEEN PHASES THAT ARE UNDER CONSTRUCTION AND AREAS THAT ARE UNDEVELOPED OR ALREADY COMPLETED. TEMPORARY ACCESS ROADS WILL BE CONSTRUCTED ON THE GOLF COURSE TO FACILITATE THE PHASED CONSTRUCTION. CONSTRUCTION OF THE ACCESS ROAD FROM THE STATE PARK ENTRANCE, THE MAINTENANCE FACILITY, AND THE IRRIGATION POND WILL BEGIN FIRST TO SUPPORT THE CONSTRUCTION AND GROW-IN OF THE PROPOSED GOLF COURSE, FOLLOWED BY THE START OF GOLF HOLE CONSTRUCTION, UTILITY INSTALLATIONS, CLUBHOUSE, CADDY/CART BUILDING, REST STATIONS AND GUEST PARKING LOT. IT IS ANTICIPATED THAT APPROXIMATELY NINE HOLES WILL BE COMPLETED ANNUALLY, WITH THE OVERALL PROJECT BEING COMPLETE IN APPROXIMATELY TWO YEARS WITH VARIABILITY DUE TO WEATHER CONDITIONS.**

** EACH CONSTRUCTION PHASE TO BE COMPLETED WITHIN A FOUR MONTH PERIOD. IF A CONSTRUCTION PHASE CANNOT BE COMPLETED WITHIN A FOUR MONTH TIME PERIOD DUE TO WEATHER OR OTHER DELAYS THAN THE CONSTRUCTION OF OTHER BMP'S WILL NEED TO BE IMPLEMENTED TO MANAGE EROSION CONTROL DURING CONSTRUCTION.**



OVERALL MAP LOCATION

SCALE: 1"=800'

LEGEND

- PROPOSED DRAINAGE FLOW
- PROPOSED APRON ENDWALL
- EXISTING WOODED AREA
- EXISTING HEDGE
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE
- 800 EXISTING GROUND CONTOUR
- 800 PROPOSED GROUND CONTOUR
- PROPOSED SILT FENCE

HATCH KEY

- WETLAND PROPOSED TO BE FILLED
- PROTECTED WETLAND
- WOODED AREA TO REMAIN

#11 PAR 5
#12 PAR 4
#13 PAR 4
#14 PAR 4
#15 PAR 3
#16 PAR 4
#17 PAR 3
#18 PAR 5
#10 PAR 4
#1 PAR 4

IRRIGATION POND 5.7 ACRES

#12 TEES
#13 TEES
#14 TEES
#15 TEES
#16 TEES
#17 TEES
#10 TEES
#11 TEES
#1 TEES

REST STATION

CADDIE/ CART BARN

PRACTICE GREEN

PRACTICE GREEN

CLUB HOUSE

A

NORTH

1"= 100' SCALE

100' 0 100' 200' FEET

** CONTRACTOR TO FOLLOW THE EROSION CONTROL SPECIFICATIONS FOR CONSTRUCTION EROSION CONTROL INSPECTION AND MAINTENANCE.**

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LEGEND

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- PROPOSED APRON ENDWALL
- EXISTING WOODED AREA
- EXISTING HEDGE
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE
- 800 EXISTING GROUND CONTOUR
- 800 PROPOSED GROUND CONTOUR
- PROPOSED SILT FENCE

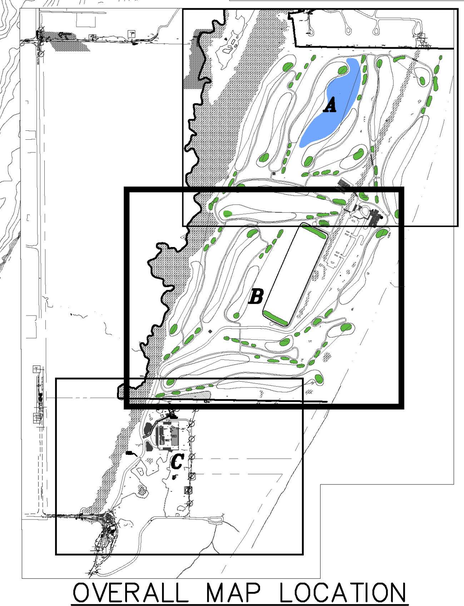
_AND

#1 PAR 4
#2 PAR 4
#3 PAR 5
#4 PAR 4
#5 PAR 3
#6 PAR 4
#7 PAR 5
#8 PAR 3
#9 PAR 4

PRACTICE GREEN
PRACTICE RANGE 370 YARDS
CLUB HOUSE
REST STATION

HATCH KEY

- WETLAND PROPOSED TO BE FILLED
- PROTECTED WETLAND
- WOODED AREA TO REMAIN



OVERALL MAP LOCATION
SCALE: 1"=800'

B

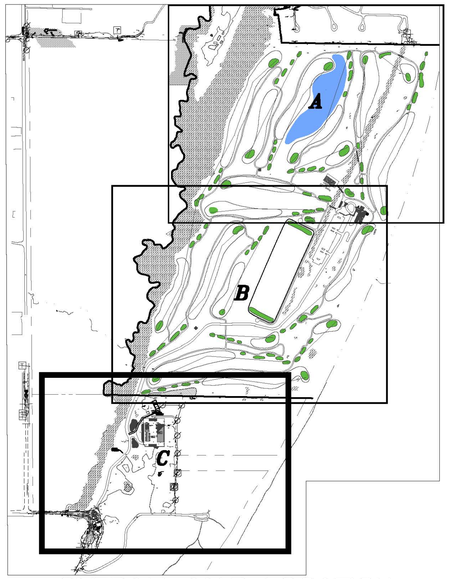
NORTH

1"= 100' SCALE
100' 0 100' 200' FEET

** CONTRACTOR TO FOLLOW THE EROSION CONTROL SPECIFICATIONS FOR CONSTRUCTION EROSION CONTROL INSPECTION AND MAINTENANCE.**

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OVERALL MAP LOCATION

SCALE: 1"=800'

HATCH KEY

- WETLAND PROPOSED TO BE FILLED
- PROTECTED WETLAND
- WOODED AREA TO REMAIN

LEGEND

- PROPOSED DRAINAGE FLOW
- PROPOSED APRON ENDWALL
- EXISTING WOODED AREA
- EXISTING HEDGE
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE
- 800 EXISTING GROUND CONTOUR
- 800 PROPOSED GROUND CONTOUR
- PROPOSED SILT FENCE

BEACH PARK LANE

C

NORTH

1"= 100' SCALE 100' 0 100' 200' FEET

EXHIBIT 10

Tax Parcel Number 59281328012
That part of the South 1/2 of Government Lot 4 in Section 11, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, which is West of Timberlake Subdivision and West of a 50' wide strip of land adjacent to Lot 27, Timberlake Subdivision.

Tax Parcel Number 59281328011
The South 1/2 of the SE 1/4 of the SW 1/4 of Section 11, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, except that part now platted as River Trails, the common boundary of which is the centerline of the Black River.

Tax Parcel Number 59281328014
All that part of the NE 1/4 of the NW 1/4 of Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, lying East of the center line of the Black River.

Pursuant to Certified Survey Map registered in the Office of the Register of Deeds, Sheboygan County, Wisconsin, document 2078329, vol. 29, pages 138-140 establishing Outlot 1, part of Tax Key Numbers 59281328011 and 59281328014.

Tax Parcel Number 59281328015
Government Lot 1 in Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin

Tax Parcel Number 59281328017
Government Lot 2 in Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin

Tax Parcel Number 59281328016
All that part of the S 1/2 of the NW 1/4 of Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, lying East of the center line of the Black River.

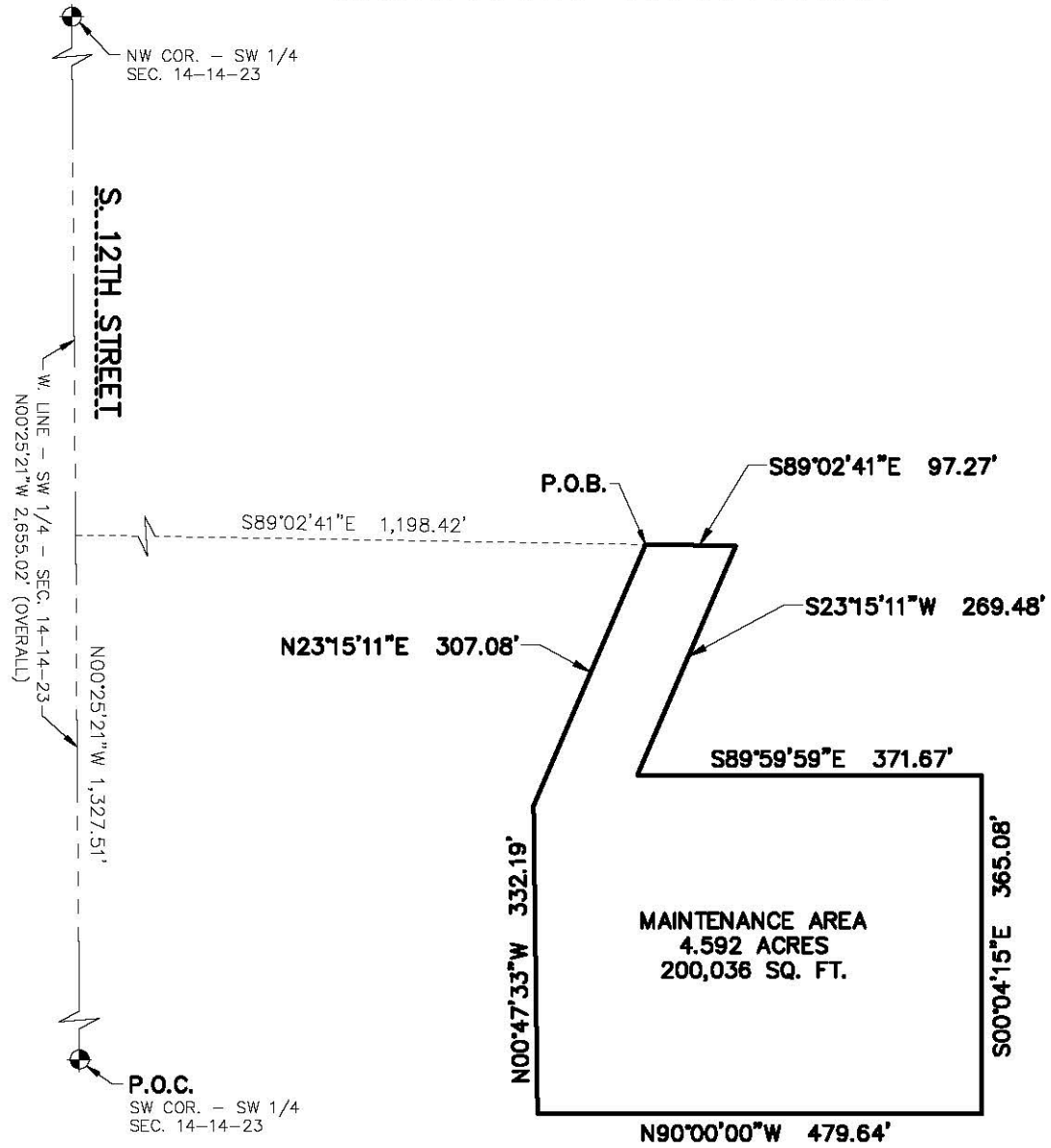
Tax Parcel Number 59281328018
All that part of Government Lot 3 in Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin lying east of the center line of the Black River.
Also, all that part of the NW 1/4 of the SW 1/4 of Section 14, Township 14 North, Range 23 East, City of Sheboygan, Sheboygan County, Wisconsin, lying East of the center line of the Black River.

Maintenance Area Legal Description

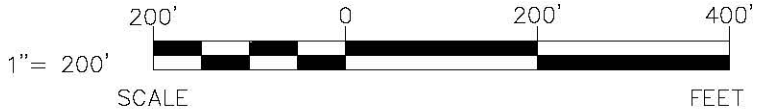
Part of the Southwest 1/4 and the Southeast 1/4 of the Southwest 1/4 of Section 14, Township 14 North, Range 23 East, Town of Wilson, Sheboygan County, Wisconsin being more particularly described as follows:

Commencing at the Southwest corner of the Southwest 1/4, said Section 14; thence North 00°-25'-21" West along the West line of said Southwest 1/4, a distance of 1,327.51 feet; thence South 89°-02'-41" East, a distance of 1,198.42 feet to the point of beginning; thence continuing South 89°-02'-41" East, a distance of 97.27 feet; thence South 23°-15'-11" West, a distance of 269.48 feet; thence South 89°-59'-59" East, a distance of 371.67 feet; thence South 00°-04'-15" East, a distance of 365.08 feet; thence North 90°-00'-00" West, a distance of 479.64 feet; thence North 00°-47'-33" West, a distance of 332.19 feet; thence North 23°-15'-11" East, a distance of 307.08 feet to the point of beginning and containing 4.592 acres (200,036 sq. ft.) or land more or less.

MAINTENANCE AREA EXHIBIT







EXCEL ENGINEERING Inc.
SURVEYING GROUP
PROJECT NO. 1639740

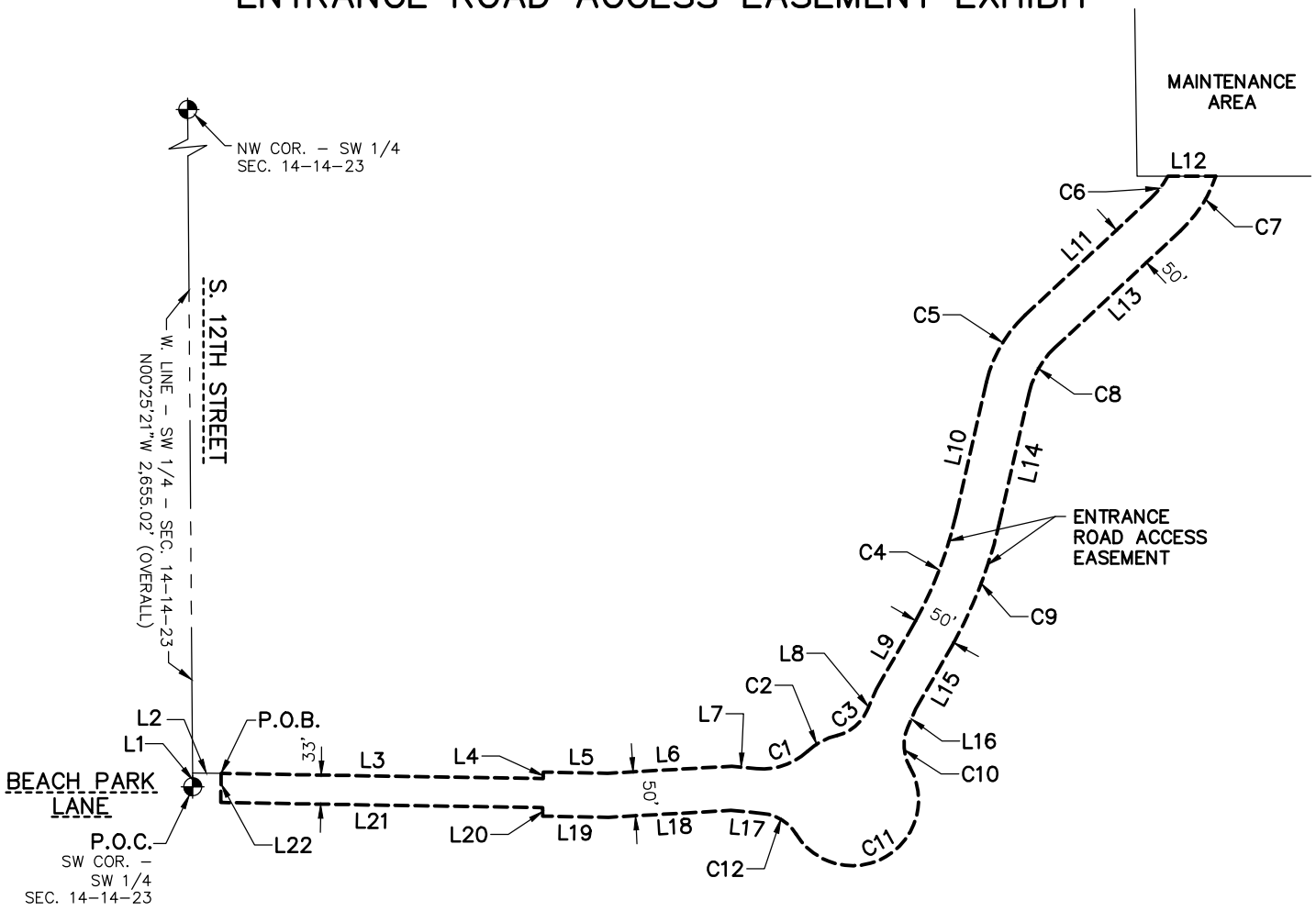
Always a Better Plan
100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
FAX: (920) 926-9801

Entrance Road Access Easement Legal Description

Part of the Southwest 1/4 of the Southwest 1/4 of Section 14 and part of the Northwest 1/4 of the Northwest 1/4 of Section 23, all being part of Township 14 North, Range 23 East, Town of Wilson, Sheboygan County, Wisconsin being more particularly described as follows:

Commencing at the Southwest corner of the Southwest 1/4, said Section 14; thence North 00°-25'-21" West along the West line of said Southwest 1/4, a distance of 15.81 feet; thence South 89°-05'-12" East, a distance of 32.56 feet to the point of beginning; thence continuing South 89°-05'-12" East, a distance of 365.48 feet; thence North 01°-00'-27" East, a distance of 7.38 feet; thence South 88°-59'-33" East, a distance of 72.77 feet; thence North 86°-47'-18" East, a distance of 141.16 feet; thence South 84°-38'-51" East, a distance of 28.23 feet; thence Northeasterly 63.08 feet on a curve to the left having a radius of 75.00 feet, the chord of said curve bears North 71°-15'-28" East, a chord distance of 61.24 feet; thence Northeasterly 38.44 feet on a curve to the right having a radius of 75.00 feet, the chord of said curve bears North 61°-50'-43" East, a chord distance of 38.02 feet; thence Northeasterly 46.36 feet on a curve to the left having a radius of 50.00 feet, the chord of said curve bears North 49°-57'-46" East, a chord distance of 44.72 feet; thence North 23°-23'-52" East, a distance of 25.74 feet; thence North 29°-51'-40" East, a distance of 88.91 feet; thence Northeasterly 131.94 feet on a curve to the left having a radius of 475.00 feet, the chord of said curve bears North 20°-50'-10" East, a chord distance of 131.51 feet; thence North 12°-52'-44" East, a distance of 152.20 feet; thence Northeasterly 89.47 feet on a curve to the right having a radius of 150.00 feet, the chord of said curve bears North 29°-58'-01" East, a chord distance of 88.15 feet; thence North 47°-03'-19" East, a distance of 194.48 feet; thence Northeasterly 31.96 feet on a curve to the left having a radius of 100.00 feet, the chord of said curve bears North 37°-53'-56" East, a chord distance of 31.83 feet; thence North 90°-00'-00" East, a distance of 54.40 feet; thence Southwesterly 74.24 feet on a curve to the right having a radius of 150.00 feet, the chord of said curve bears South 32°-52'-36" West, a chord distance of 73.48 feet; thence South 47°-03'-19" West, a distance of 194.48 feet; thence Southwesterly 59.65 feet on a curve to the left having a radius of 100.00 feet, the chord of said curve bears South 29°-58'-01" West, a chord distance of 58.77 feet; thence South 12°-52'-44" West, a distance of 152.20 feet; thence Southwesterly 145.82 feet on a curve to the right having a radius of 525.00 feet, the chord of said curve bears South 20°-50'-10" West, a chord distance of 145.36 feet; thence South 29°-51'-19" West, a distance of 87.01 feet; thence South 23°-23'-52" West, a distance of 22.92 feet; thence Southeasterly 46.36 feet on a curve to the left having a radius of 50.00 feet, the chord of said curve bears South 03°-10'-03" East, a chord distance of 44.72 feet; thence Southwesterly 233.28 feet on a curve to the right having a radius of 75.00 feet, the chord of said curve bears South 59°-22'-30" West, a chord distance of 149.98 feet; thence Northwesterly 46.36 feet on a curve to the left having a radius of 50.00 feet, the chord of said curve bears North 58°-04'-57" West, a chord distance of 44.72 feet; thence North 84°-38'-51" West, a distance of 36.29 feet; thence South 86°-47'-18" West, a distance of 139.26 feet; thence North 88°-59'-33" West, a distance of 74.61 feet; thence North 01°-00'-27" East, a distance of 9.62 feet; thence North 89°-05'-12" West, a distance of 365.42 feet; thence North 00°-54'-48" East, a distance of 33.00 feet to the point of beginning.

ENTRANCE ROAD ACCESS EASEMENT EXHIBIT



Line Table					
Line #	Direction	Length	Line #	Direction	Length
L1	N00°25'21"W	15.81'	L12	N90°00'00"E	54.40'
L2	S89°05'12"E	32.56'	L13	S47°03'19"W	194.48'
L3	S89°05'12"E	365.48'	L14	S12°52'44"W	152.20'
L4	N01°00'27"E	7.38'	L15	S29°51'19"W	87.01'
L5	S88°59'33"E	72.77'	L16	S23°23'52"W	22.92'
L6	N86°47'18"E	141.16'	L17	N84°38'51"W	36.29'
L7	S84°38'51"E	28.23'	L18	S86°47'18"W	139.26'
L8	N23°23'52"E	25.74'	L19	N88°59'33"W	74.61'
L9	N29°51'40"E	88.91'	L20	N01°00'27"E	9.62'
L10	N12°52'44"E	152.20'	L21	N89°05'12"W	365.42'
L11	N47°03'19"E	194.48'	L22	N00°54'48"E	33.00'

Curve Table					
Curve #	Length	Radius	Chord Direction	Chord Length	Delta
C1	63.08'	75.00'	N71°15'28"E	61.24'	048°11'23"
C2	38.44'	75.00'	N61°50'43"E	38.02'	029°21'54"
C3	46.36'	50.00'	N49°57'46"E	44.72'	053°07'48"
C4	131.94'	475.00'	N20°50'10"E	131.51'	015°54'52"
C5	89.47'	150.00'	N29°58'01"E	88.15'	034°10'35"
C6	31.96'	100.00'	N37°53'56"E	31.83'	018°18'45"
C7	74.24'	150.00'	S32°52'36"W	73.48'	028°21'25"
C8	59.65'	100.00'	S29°58'01"W	58.77'	034°10'35"
C9	145.82'	525.00'	S20°50'10"W	145.36'	015°54'52"
C10	46.36'	50.00'	S03°10'03"E	44.72'	053°07'48"
C11	233.28'	75.00'	S59°22'30"W	149.98'	178°12'54"
C12	46.36'	50.00'	N58°04'57"W	44.72'	053°07'48"

NORTH

1"= 200'

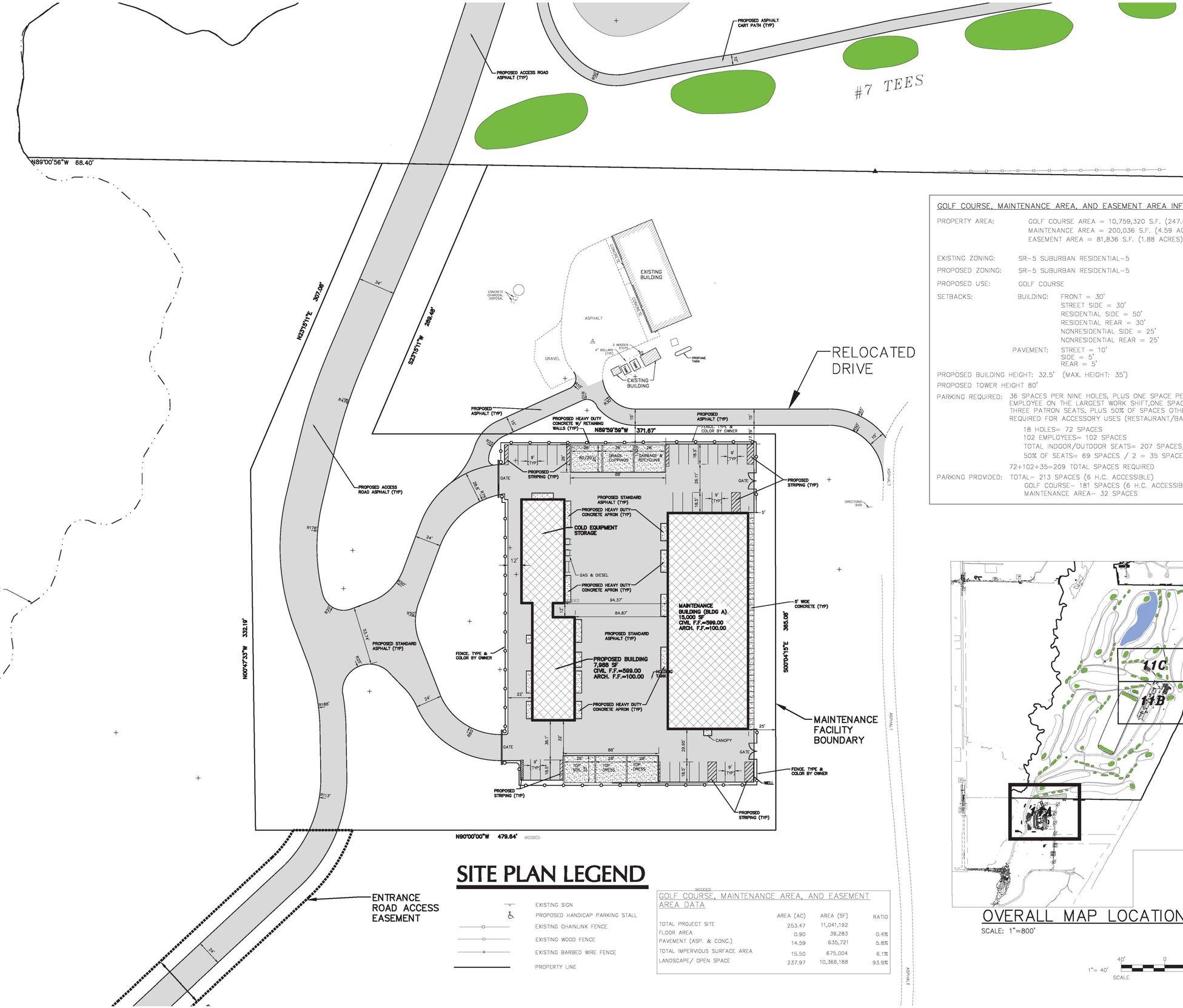
200' 0 200' 400'

SCALE FEET

EXCEL ENGINEERING inc.
SURVEYING GROUP
PROJECT NO. 1639740

Always a Better Plan
100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
FAX: (920) 926-9801

EXHIBIT 11



SITE PLAN LEGEND

- EXISTING SIGN
- PROPOSED HANDICAP PARKING STALL
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE

WOODED

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA DATA

	AREA (AC)	AREA (SF)	RATIO
TOTAL PROJECT SITE	253.47	11,041,192	
FLOOR AREA	0.90	39,283	0.4%
PAVEMENT (ASP. & CONC.)	14.59	635,721	5.8%
TOTAL IMPERVIOUS SURFACE AREA	15.50	675,004	6.1%
LANDSCAPE/ OPEN SPACE	237.97	10,366,188	93.9%

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA INFORMATION

PROPERTY AREA: GOLF COURSE AREA = 10,759,320 S.F. (247.00 ACRES).
MAINTENANCE AREA = 200,036 S.F. (4.59 ACRES).
EASEMENT AREA = 81,836 S.F. (1.88 ACRES).

EXISTING ZONING: SR-5 SUBURBAN RESIDENTIAL-5

PROPOSED ZONING: SR-5 SUBURBAN RESIDENTIAL-5

PROPOSED USE: GOLF COURSE

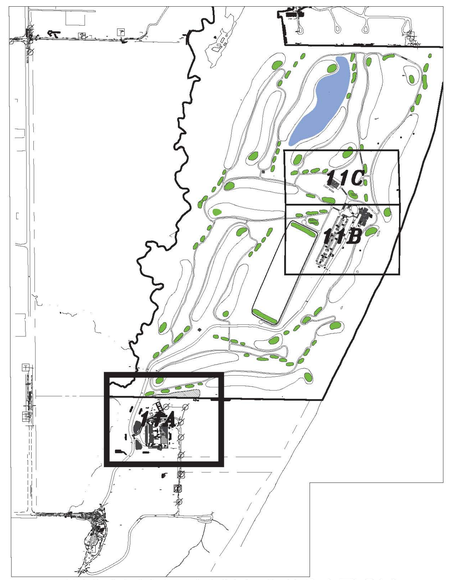
SETBACKS:
BUILDING: FRONT = 30'
STREET SIDE = 30'
RESIDENTIAL SIDE = 50'
RESIDENTIAL REAR = 30'
NONRESIDENTIAL SIDE = 25'
NONRESIDENTIAL REAR = 25'
PAVEMENT: STREET = 10'
SIDE = 5'
REAR = 5'

PROPOSED BUILDING HEIGHT: 32.5' (MAX. HEIGHT: 35')

PROPOSED TOWER HEIGHT 80'

PARKING REQUIRED: 36 SPACES PER NINE HOLES, PLUS ONE SPACE PER EMPLOYEE ON THE LARGEST WORK SHIFT,ONE SPACE PER THREE PATRON SEATS, PLUS 50% OF SPACES OTHERWISE REQUIRED FOR ACCESSORY USES (RESTAURANT/BAR)
18 HOLES= 72 SPACES
102 EMPLOYEES= 102 SPACES
TOTAL INDOOR/OUTDOOR SEATS= 207 SPACES/3=69 SPACES
50% OF SEATS= 69 SPACES / 2 = 35 SPACES
72+102+35=209 TOTAL SPACES REQUIRED

PARKING PROVIDED: TOTAL= 213 SPACES (6 H.C. ACCESSIBLE)
GOLF COURSE= 181 SPACES (6 H.C. ACCESSIBLE)
MAINTENANCE AREA= 32 SPACES



OVERALL MAP LOCATION
SCALE: 1"=800'

NORTH

1"= 40' SCALE 40' 0 40' 80' FEET

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100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
WWW.EXCELENGINEER.COM

PROJECT INFORMATION
PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES
JUN. 26, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION
EXHIBIT 11A-
ARCHITECTURAL SITE PLAN
SHEET NUMBER
11A

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EXHIBIT 11C
EXHIBIT 11B

EXHIBIT 11C
EXHIBIT 11B



SITE PLAN LEGEND

- EXISTING SIGN
- PROPOSED HANDICAP PARKING STALL
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE

OVERALL MAP LOCATION

SCALE: 1"=800'

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA INFORMATION

PROPERTY AREA: GOLF COURSE AREA = 10,759,320 S.F. (247.00 ACRES).
MAINTENANCE AREA = 200,036 S.F. (4.59 ACRES).
EASEMENT AREA = 81,836 S.F. (1.88 ACRES).

EXISTING ZONING: SR-5 SUBURBAN RESIDENTIAL-5

PROPOSED ZONING: SR-5 SUBURBAN RESIDENTIAL-5

PROPOSED USE: GOLF COURSE

SETBACKS:
BUILDING: FRONT = 30'
STREET SIDE = 30'
RESIDENTIAL SIDE = 50'
RESIDENTIAL REAR = 30'
NONRESIDENTIAL SIDE = 25'
NONRESIDENTIAL REAR = 25'
PAVEMENT: STREET = 10'
SIDE = 5'
REAR = 5'

PROPOSED BUILDING HEIGHT: 32.5' (MAX. HEIGHT: 35')

PROPOSED TOWER HEIGHT 80'

PARKING REQUIRED: 36 SPACES PER NINE HOLES, PLUS ONE SPACE PER EMPLOYEE ON THE LARGEST WORK SHIFT,ONE SPACE PER THREE PATRON SEATS, PLUS 50% OF SPACES OTHERWISE REQUIRED FOR ACCESSORY USES (RESTAURANT/BAR)
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PARKING PROVIDED: TOTAL- 213 SPACES (6 H.C. ACCESSIBLE)
GOLF COURSE- 181 SPACES (6 H.C. ACCESSIBLE)
MAINTENANCE AREA- 32 SPACES

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA DATA

	AREA (AC)	AREA (SF)	RATIO
TOTAL PROJECT SITE	253.47	11,041,192	
FLOOR AREA	0.90	39,283	0.4%
PAVEMENT (ASP. & CONC.)	14.59	635,721	5.8%
TOTAL IMPERVIOUS SURFACE AREA	15.50	675,004	6.1%
LANDSCAPE/ OPEN SPACE	237.97	10,366,188	93.9%

NORTH
1"= 40' SCALE
40' 0 40' 80' FEET

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PROJECT INFORMATION
PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

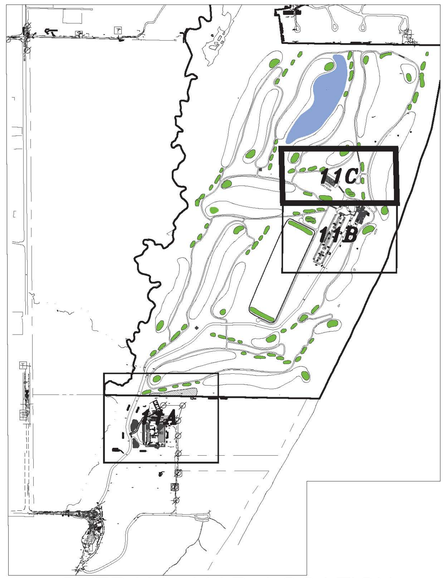
PROFESSIONAL SEAL

PRELIMINARY DATES
JUN. 26, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION
EXHIBIT 11B - ARCHITECTURAL SITE PLAN
SHEET NUMBER
11B

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OVERALL MAP LOCATION

SCALE: 1"=800'

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA DATA

	AREA (AC)	AREA (SF)	RATIO
TOTAL PROJECT SITE	253.47	11,041,192	
FLOOR AREA	0.90	39,283	0.4%
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SITE PLAN LEGEND

- EXISTING SIGN
- PROPOSED HANDICAP PARKING STALL
- EXISTING CHAINLINK FENCE
- EXISTING WOOD FENCE
- EXISTING BARBED WIRE FENCE
- PROPERTY LINE

GOLF COURSE, MAINTENANCE AREA, AND EASEMENT AREA INFORMATION

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MAINTENANCE AREA = 200,036 S.F. (4.59 ACRES).
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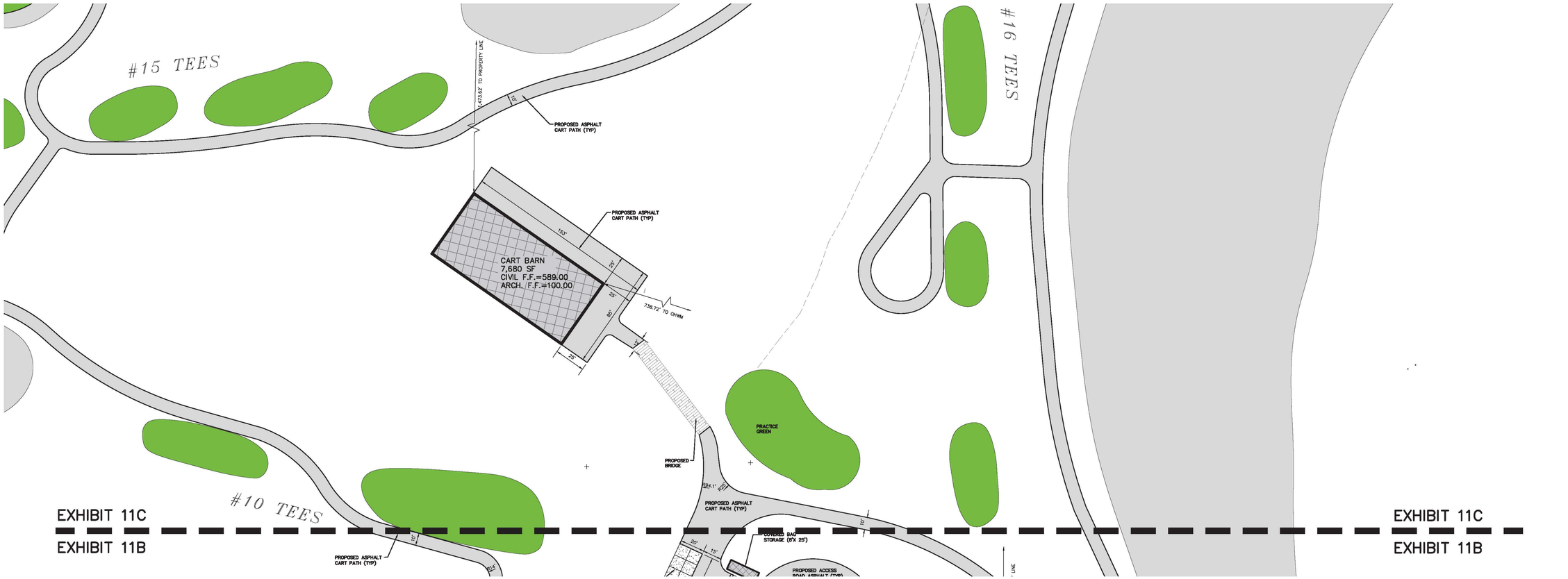
SETBACKS:
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STREET SIDE = 30'
RESIDENTIAL SIDE = 50'
RESIDENTIAL REAR = 30'
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NORTH

1"= 40' SCALE 40' 0 40' 80' FEET

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PROJECT INFORMATION

PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES
JUN. 26, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION
EXHIBIT 11C - ARCHITECTURAL SITE PLAN
SHEET NUMBER
11C

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EXHIBIT 12



D-Series Size 2
LED Wall Luminaire

d*series

Catalog Number

Notes

Type

Hit the Tab key or mouse over the page to see all interactive elements.

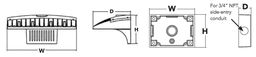
Specifications

Luminaire

Width: 18-1/2" (47.0 cm)
Depth: 10" (25.4 cm)
Height: 7-5/8" (19.4 cm)
Weight: 21 lbs (9.5 kg)

Back Box (BBW)

Width: 5-1/2" (14.0 cm)
Depth: 1-1/2" (3.8 cm)
Height: 4" (10.2 cm)
Weight: 1 lbs (0.5 kg)



Capable Luminaire

This item is an A+ capable luminaire, which has been designed and tested to provide consistent color appearance and system-level interoperability.

- All configurations of this luminaire meet the Acuity Brands' specification for chromatic consistency.
- This luminaire is A+ Certified when ordered with DTL® controls marked by a shaded background. DTL DLL equipped luminaires meet the A+ specification for luminaire to photocontrol interoperability1.
- This luminaire is part of an A+ Certified solution for ROAM*P2 or XPoint™ Wireless control networks, providing out-of-the-box control compatibility with simple commissioning, when ordered with drivers and control options marked by a shaded background.

To learn more about A+, visit www.acuitybrands.com/aplus.

1. See ordering tree for details.
2. A+ Certified Solutions for ROAM require the order of one ROAM node per luminaire. Sold Separately: Link to Roam; Link to DTL DLL

A+ Capable options indicated by dkt-color background.

Ordering Information

EXAMPLE: DSXW2 LED 30C 700 40K T3M MVOLT DDBTXD

DSXW2 LED									
Series	LEDs		Drive Current	Color Temperature	Distribution	Voltage	Mounting	Control Options	
DSXW2 LED	20C	20 LEDs (two engines)	350	350 mA	30K	3000 K	T2S	Type II Short	MVOLT[1]
	30C	30 LEDs (three engines)	530	530 mA	40K	4000 K	T2M	Type II Medium	120[1]
			700	700 mA	50K	5000 K	T3S	Type III Short	208[1]
			1000	1000 mA (1 A)	AMBPC	Amber phosphor converted	T3M	Type III Medium	240[1]
							T4M	Type IV Medium	277[1]
							TFTM	Forward Throw Medium	347[1]
							ASTDT	Asymmetric diffuser	480[1]

Shipped included		Shipped separately[1]	
(blank)	Surface mounting bracket	BSW	Bird-deterrent spikes
		WG	Wire guard
Shipped separately[1]		VG	Vandal guard
BBW	Surface-mounted back box (for conduit entry)		

Shipped included		Shipped separately[1]	
SF	Single fuse (120, 277, 347V)[4]	BSW	Bird-deterrent spikes
DF	Double fuse (208, 240, 480V)[4]	WG	Wire guard
HS	House-side shield[5]	VG	Vandal guard
SPD	Separate surge protector[6]		

Finish (required)					
DDBXD	Dark bronze	DSSD	Sandstone	DWHXD	Textured white
DBLXD	Black	DDBTXD	Textured dark bronze	DSSTXD	Textured sandstone
DNAXD	Natural aluminum	DBLBXD	Textured black		
DWHXD	White	DNATXD	Textured natural aluminum		

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Ordering Information

Accessories

(Ordered and shipped as separate catalog numbers.)

DLL127F 1.5 JU	Photocell - ESL (twist-lock) (120-277V) [1]
DLL347F 1.5 CUL JU	Photocell - ESL (twist-lock) (347V) [1]
DLL480F 1.5 CUL JU	Photocell - ESL (twist-lock) (480V) [1]
DSXW2 SWS	Shorting cap [2]
DSXW2 U	House-side shield (one per light engine)
DSXW2BW U	Bird-deterrent spikes
DSXW2WG U	Wire guard accessory
DSXW2VG U	Vandal guard accessory
DSXW2BBW U	Back box accessory (specify finish)

For more control options, visit DTL and ROAM online.

NOTES

1. MVOLT driver operates on any line voltage from 120-277V (50/60 Hz). Specify 120, 208, 240 or 277 options only when ordering with fusing (SF, DF options), or photocontrol (PE option).
2. Available with 30 LED/700mA options only (DSXW2 LED 30C 700). DMG option not available.
3. Also available as a separate accessory; see Accessories information.
4. Photocontrol (PE) requires 120, 208, 240 or 347 voltage option. Not available with motion/ambient light sensors (PIR or PIRH).
5. Not available with 50K CCT, Amber Phosphor Converted (AMBPC) or Textured (TEX) options. Not available with PIR, PIRH, PIRHTW, PIR1FC3V or PIRH1. Additional hardware and services required for ROAM® deployment, must be purchased separately. Call 1.800.442.6745 or email roam@roamservices.net.
6. Specifies the Sensor Switch SBGR-6-DCP control; see Outdoor Control Technical Guide for details. Includes ambient light sensor. Not available with "PE" option (button type photocell) or DCR. Dimming driver standard.
7. PIR and PIR1FC3V specify the SensorSwitch SBGR-10-DCP control; PIRH and PIRHTFCN specify the SensorSwitch SBGR-6-DCP control; see Outdoor Control Technical Guide for details. Dimming driver standard. Not available with PIRES or PIRT. Ambient sensor disabled when ordered with DCR. Separate on/off required.
8. Single fuse (SF) requires 120, 277 or 347 voltage option. Double fuse (DF) requires 208, 240 or 480 voltage option.
9. See the electrical section on page 3 for more details.
10. Requires luminaire to be specified with PER option. Ordered and shipped as a separate line item.

Performance Data

Lumen Output

Lumen values are from photometric tests performed in accordance with IESNA LM-79-08. Data is considered to be representative of the configurations shown, within the tolerances allowed by Lighting Facts. Contact factory for performance data on any configurations not shown here.

LEDs	Drive Current (mA)	Power (W)	Color Temp	CRI	30K				40K				50K				AMBPC			
					Lumens	B	U	G	Lumens	B	U	G	Lumens	B	U	G	Lumens	B	U	G
20C (20 LEDs)	350 mA	25W	T2S	70	2,783	1	0	1	2,989	1	0	1	3,007	1	0	1	2,720	1	0	1
			T2M		2,708	1	0	1	2,908	1	0	1	2,926	1	0	1	2,647	1	0	1
			T3S		2,776	1	0	1	2,981	1	0	1	2,999	1	0	1	2,713	1	0	1
			T3M		2,702	1	0	1	2,899	1	0	1	2,917	1	0	1	2,638	1	0	1
			T4M		2,764	1	0	1	2,967	1	0	1	2,985	1	0	1	2,700	1	0	1
			TFTM		2,754	1	0	1	2,957	1	0	1	2,975	1	0	1	2,691	1	0	1
	530 mA	36W	T2S		4,039	1	0	1	4,337	1	0	1	4,364	1	0	1	3,946	1	0	1
			T2M		3,928	1	0	1	4,218	1	0	1	4,244	1	0	1	3,838	1	0	1
			T3S		4,029	1	0	1	4,327	1	0	1	4,354	1	0	1	3,937	1	0	1
			T3M		3,919	1	0	1	4,208	1	0	1	4,235	1	0	1	3,830	1	0	1
			T4M		4,009	1	0	1	4,305	1	0	1	4,331	1	0	1	3,917	1	0	1
			TFTM		3,996	1	0	1	4,290	1	0	1	4,316	1	0	1	3,903	1	0	1
	700 mA	47W	T2S		5,139	1	0	1	5,519	1	0	1	5,553	1	0	1	5,020	1	0	1
			T2M		4,995	1	0	1	5,365	1	0	1	5,398	1	0	1	4,881	1	0	1
			T3S		5,060	1	0	1	5,435	1	0	1	5,468	1	0	1	4,945	1	0	1
			T3M		4,921	1	0	1	5,286	1	0	1	5,319	1	0	1	4,810	1	0	1
			T4M		5,030	1	0	1	5,403	1	0	1	5,436	1	0	1	4,916	1	0	1
			TFTM		5,016	1	0	1	5,450	1	0	1	5,484	1	0	1	4,902	1	0	1
	1000 mA	74W	T2S		7,148	2	0	1	7,677	2	0	1	7,724	2	0	2	6,984	2	0	1
			T2M		6,954	1	0	2	7,467	1	0	2	7,514	2	0	2	6,793	1	0	1
			T3S		7,038	2	0	1	7,559	2	0	1	7,606	2	0	2	6,873	2	0	1
			T3M		6,844	1	0	2	7,349	1	0	2	7,395	2	0	2	6,683	1	0	1
			T4M		6,995	1	0	2	7,511	1	0	2	7,558	2	0	2	6,830	1	0	1
			TFTM		7,017	1	0	2	7,535	1	0	2	7,582	2	0	2	6,852	1	0	1
30C (30 LEDs)	350 mA	36W	T2S		4,506	1	0	1	4,840	1	0	1	4,870	1	0	1	4,421	1	0	1
			T2M		4,397	1	0	1	4,723	1	0	1	4,752	1	0	1	4,315	1	0	1
			T3S		4,496	1	0	1	4,828	1	0	1	4,858	1	0	1	4,413	1	0	1
			T3M		4,372	1	0	1	4,695	1	0	1	4,724	1	0	1	4,290	1	0	1
			T4M		4,469	1	0	1	4,799	1	0	1	4,828	1	0	1	4,366	1	0	1
			TFTM		4,459	1	0	1	4,788	1	0	1	4,817	1	0	1	4,355	1	0	1
	530 mA	54W	T2S		6,819	1	0	2	7,322	2	0	2	7,367	2	0	2	6,690	1	0	1
			T2M		6,654	1	0	2	7,145	2	0	2	7,189	2	0	2	6,531	1	0	1
			T3S		6,803	2	0	2	7,305	2	0	2	7,349	2	0	2	6,676	2	0	1
			T3M		6,614	1	0	2	7,103	2	0	2	7,146	2	0	2	6,490	1	0	1
			T4M		6,761	2	0	2	7,260	2	0	2	7,304	2	0	2	6,605	2	0	1
			TFTM		6,744	2	0	2	7,242	2	0	2	7,286	2	0	2	6,588	2	0	1
	700 mA	71W	T2S		8,997	2	0	1	9,661	2	0	2	9,719	2	0	2	8,825	2	0	1
			T2M		8,770	2	0	2	9,417	2	0	2	9,474	2	0	2	8,603	2	0	1
			T3S		8,890	2	0	2	9,545	2	0	2	9,603	2	0	2	8,720	2	0	1
			T3M		8,643	2	0	2	9,280	2	0	2	9,336	2	0	2	8,477	2	0	1
			T4M		8,836	2	0	2	9,487	2	0	2	9,544	2	0	2	8,666	2	0	1
			TFTM		8,811	2	0	2	9,460	2	0	2	9,517	2	0	2	8,641	2	0	1
	1000 mA	100W	T2S		11,241	2	0	2	12,069	2	0	2	12,142	2	0	2	11,028	2	0	1
			T2M		10,956	2	0	2	11,763	2	0	2	11,834	2	0	2	10,746	2	0	1
			T3S		11,109	2	0	2	11,926	2	0	2	11,998	2	0	2	10,895	2	0	1
			T3M		10,795	2	0	2	11,590	2	0	2	11,660	2	0	2	10,589	2	0	1
			T4M		11,036	2	0	2	11,848	2	0	2	11,920	2	0	2	10,823	2	0	1
			TFTM		11,006	2	0	2	11,816	2	0	2	11,888	2	0	2	10,793	2	0	1

Notes:
Available with phosphor-converted amber LEDs (nomenclature AMBPC). These LEDs produce light with 97+% >530 nm.
Output can be calculated by applying a 0.7 factor to 4000 K lumen values and photometric files.

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Performance Data

Lumen Ambient Temperature (LAT) Multipliers

Use these factors to determine relative lumen output for average ambient temperatures from 0-40°C (32-104°F).

Ambient Temperature		Lumen Multiplier
0°C	32°F	1.02
10°C	50°F	1.01
25°C	68°F	1.00
25°C	77°F	**1.00**
30°C	86°F	1.00
40°C	104°F	0.98

Electrical Load

LEDs	Drive Current (mA)	System Watts	Current (A)					
			120V	208V	240V	277V	347V	480V
20C	350	25 W	0.23	0.13	0.12	0.10	-	-
	530	36 W	0.33	0.19	0.17	0.14	-	-
	700	47 W	0.41	0.25	0.22	0.19	-	-
	1000	74 W	0.68	0.39	0.34	0.29	-	-
30C	350	36 W	0.33	0.19	0.17	0.14	-	-
	530	54 W	0.50	0.29	0.25	0.22	-	-
	700	71 W	0.66	0.38	0.33	0.28	0.23	0.16
	1000	109 W	1.01	0.58	0.50	0.44	-	-

Projected LED Lumen Maintenance

Data references the extrapolated performance projections for the **DSXW2 LED 30C 1000** platform in a **25°C ambient**, based on 10,000 hours of LED testing (tested per IESNA LM-80-08 and projected per IESNA TM-21-11).

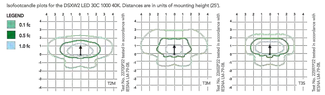
To calculate L77, use the lumen maintenance factor that corresponds to the desired number of operating hours below. For other lumen maintenance values, contact factory.

Operating Hours	0	25,000	50,000	100,000
Lumen Maintenance Factor	1.0	0.95	0.92	0.87

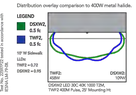
Photometric Diagrams

To see complete photometric reports or download .ies files for this product, visit Lithonia Lighting's D-Series Wall Size 2 homepage.

Isofootcandle plots for the DSXW2 LED 30C 1000 40K. Distances are in units of mounting height (25').



Distribution overlay comparison to 400W metal halide.



FEATURES & SPECIFICATIONS

INTENDED USE
The energy savings, long life and easy-to-install design of the D-Series Wall Size 2 make it the smart choice for building-mounted doorway and pathway illumination for nearly any facility.

CONSTRUCTION
Two-piece die-cast aluminum housing has integral heat sink fins to optimize thermal management and ensure long life. Modular design allows for ease of service or upgrade in the field. Housing of the LED driver is mounted to the door to thermally isolate it from the light engines for low operating temperature and long life. Housing is completely sealed against moisture and environmental contaminants (IP65).

FINISH
Exterior parts are protected by a zinc-infused Super Durable TGIC thermoset powder coat finish that provides superior resistance to corrosion and weathering. A tightly controlled multi-stage process ensures a minimum 3 mils thickness for a finish that can withstand extreme climate changes without cracking or peeling. Available in textured and non-textured finishes.

OPTICS
Precision-molded proprietary acrylic lenses provide multiple photometric distributions tailored specifically for building mounted applications. Light engines are available in 3000 K (70 min. CRI), 4000 K (70 min. CRI) or 5000 K (70 min. CRI) configurations.

ELECTRICAL
Light engine(s) consist of 10 high-efficacy LEDs mounted to a metal-core circuit board to maximize heat dissipation and promote long life (L87/100,000 hrs at 25°C). Class 1 electronic drivers have a power factor >90%, THD <20%, and a minimum 2.5kV surge rating. When ordering the SPD option, a separate surge protection device is installed within the luminaire which meets a minimum Category C Low (per ANSI/IEEE C62.41.2).

INSTALLATION
Included universal mounting bracket attaches securely to any 4" round or square outlet box for quick and easy installation. Luminaire has a slotted gasket wireway and attaches to the mounting bracket via corrosion-resistant screws.

LISTINGS
CSA certified to U.S. and Canadian standards. Rated for -40°C minimum ambient.

DesignLights Consortium® (DLC) qualified product. Not all versions of this product may be DLC qualified. Please check the DLC Qualified Products List at www.designlights.org to confirm which versions are qualified.

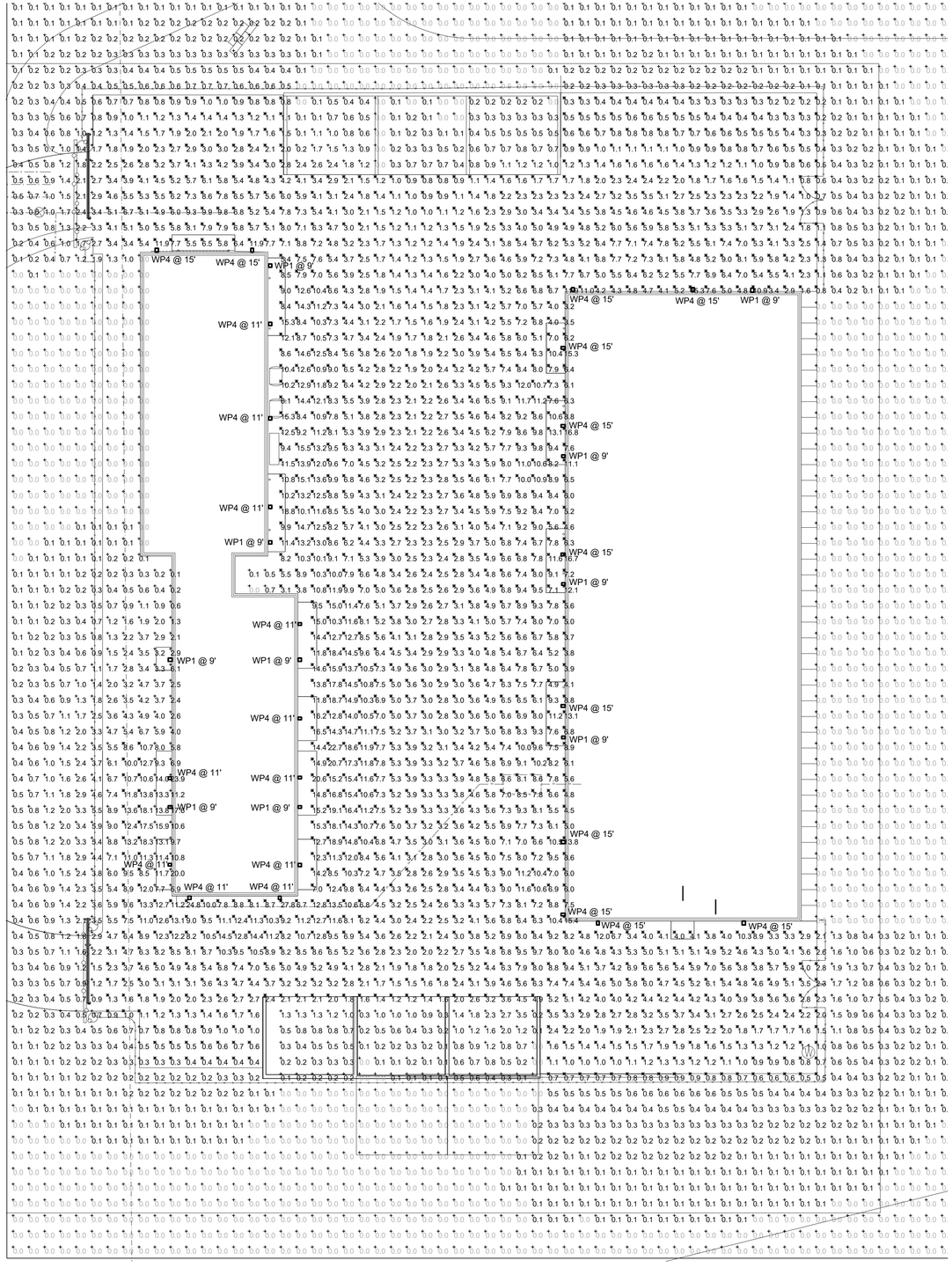
WARRANTY
Five-year limited warranty. Complete warranty terms located at: www.acuitybrands.com/CustomerResources/Terms_and_conditions.aspx.

Note: Actual performance may differ as a result of end-user environment and application. All values are design or typical values, measured under laboratory conditions at 25 °C. Specifications subject to change without notice.

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Schedule								
Symbol	Label	QTY	Catalog Number	Description	Lamp	Number Lamps	Lumens per Lamp	LLF	Wattage
	WP4	23	TRV-48NB-110-4K-T4	TRAVERSE	C-70-CRI DATA SHOWN IS SCALED FROM 1148116	1	12216	0.9	111
	WP1	10	TRV-24NB-55-4K-T4	TRAVERSE	C-70-CRI DATA SHOWN IS SCALED FROM 1148116	1	6109	0.45	27

Statistics						
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #1	+	2.3 fc	27.8 fc	0.0 fc	N/A	N/A
MAIN DRIVEWAY	X	5.2 fc	27.8 fc	0.2 fc	139.0:1	26.0:1



McGraw-Edison

Catalog #		Type
Project		
Comments		Date
Prepared by		

DESCRIPTION

The Galleon™ LED luminaire delivers exceptional performance in a highly scalable, low-profile design. Patented, high-efficiency AccuLED Optics™ system provides uniform and energy conscious illumination to walkways, parking lots, roadways, building areas and security lighting applications. IP66 rated and UL/cUL Listed for wet locations.

SPECIFICATION FEATURES

Construction
Extruded aluminum driver enclosure thermally isolated from Light Squares for optimal thermal performance. Heavy-wall, die-cast aluminum end caps enclose housing and die-cast aluminum heat sinks. A unique, patent pending interlocking housing and heat sink provides scalability with superior structural rigidity. 3G vibration tested and rated. Optional tool-less hardware available for ease of entry into electrical chamber. Housing is IP66 rated.

Optics
Patented, high-efficiency injection-molded AccuLED Optics technology. Optics are precisely designed to shape the distribution maximizing efficiency and application spacing. AccuLED Optics create consistent distributions with the scalability to meet customized application requirements. Offered standard in 4000K (+/- 275K) CCT 70 CRI, Optional 3000K, 5000K and 6000K CCT.

Electrical
LED drivers are mounted to removable tray assembly for ease of maintenance. 120-277V 50/60Hz, 347V 60Hz or 480V 60Hz operation. 480V is compatible for use with 480V Wye systems only. Standard with 0-10V dimming. Shipped standard with Eaton proprietary circuit module designed to withstand 10kV of transient line surge. The Galleon LED luminaire is suitable for operation in -40ºC to 40ºC ambient environments. For applications with ambient temperatures exceeding 40ºC, specify the HA (High Ambient) option. Light Squares are IP66 rated. Greater than 90% lumen maintenance expected at 60,000 hours. Available in standard 1A drive current and optional 600mA, 800mA and 1200mA drive currents (nominal).

Mounting
STANDARD ARM MOUNT: Extruded aluminum arm includes internal bolt guides allowing for easy positioning of fixture during mounting. When mounting two or more luminaires at 90° and 120° apart, the EA extended arm may be required. Refer to the arm mounting requirement table. Round pole adapter included. For wall mounting, specify wall mount bracket option. QUICK MOUNT ARM: Adapter is bolted directly to the pole. Quick mount arm slide into place on the adapter and is secured via two screws, facilitating quick and easy installation. The versatile, patent pending, quick mount arm accommodates multiple drill patterns ranging from 1-1/2" to 4-7/8". Removal of the door on the quick mount arm enables wiring of the fixture without having to access the driver compartment. A knock-out enables round pole mounting.

Finish
Housing finished in super durable TGIC polyester powder coat paint, 2.5 mil nominal thickness for superior protection against fade and wear. Heat sink is powder coated black. Standard housing colors include black, bronze, grey, white, dark platinum and graphite metallic. RAL and custom color matches available.

Warranty
Five-year warranty.

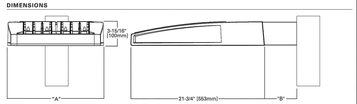


GLEON
GALLEON LED

1-10 Light Squares
Solid State LED

AREA/SITE LUMINAIRE

DIMENSIONS



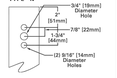
DIMENSION DATA

Number of Light Squares	"A" Width	"B" Standard Arm Length	"B" Optional Arm Length [1]	Weight with Arm (lbs.)	EPA with Arm [1] (Sq. Ft.)
1-4	15-1/2" (394mm)	7" (178mm)	10" (254mm)	33 (15.0 kgs.)	0.96
5-6	21-5/8" (548mm)	7" (178mm)	10" (254mm)	44 (20.0 kgs.)	1.00
7-8	27-5/8" (702mm)	7" (178mm)	13" (330mm)	54 (24.5 kgs.)	1.07
9-10	33-3/4" (857mm)	7" (178mm)	16" (406mm)	63 (28.6 kgs.)	1.12

NOTES: 1. Optional arm length to be used when mounting two fixtures at 90° on a single pole. 2. EPA calculated with optional arm length.

DRILLING PATTERN

TYPE "N"



EATON
Powering Business Worldwide

"www.designlights.org

DLC

CERTIFICATION DATA
UL/cUL Wet Location Listed
ISO 9001
LM79 / LM80 Compliant
3G Vibration Rated
IP66 Rated
DesignLights Consortium™ Qualified*

ENERGY DATA
Electronic LED Driver
>0.9 Power Factor
<20% Total Harmonic Distortion
120V-277V 50/60Hz
347V & 480V 60Hz
-40ºC Min. Temperature
40ºC Max. Temperature
50ºC Max. Temperature (HA Option)

ISO 9001 LM

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ORDERING INFORMATION

GLEON GALLEON LED

Sample Number: GLEON-AF-04-LED-E1-T3-GM-GM

Product Family [1,2]	Light Engine	Number of Light Squares [3]	Lamp Type	Voltage	Distribution	Color	Mounting
GLEON–Galleon	AF=1A Drive Current	**01**=1 **02**=2 **03**=3 **04**=4 **05**=5 **06**=6 **07**=7 **08**=8 [4] **09**=9 [4] **10**=10 [4]	**LED**=Solid State Light Emitting Diodes	**E1**=120-277V **347**=347V [4] **480**=480V [4,5]	**T2**=Type II **T2R**=Type II Roadway **T3**=Type III **T3R**=Type III Roadway **T4FT**=Type IV Forward Throw **T4W**=Type IV Wide **T5W**=Type V Narrow **SM**=Type V Square Medium **SWQ**=Type V Square Wide **SL2**=Type II w/Split Control **SL3**=Type III w/Split Control **SL4**=Type IV w/Split Control **SLL-90°** Spill Light Eliminator Left **SLR-90°** Spill Light Eliminator Right **RW**=Rectangular Wide Type I **AFL**=Automotive Frontline	**AP**=Grey **BZ**=Bronze **BK**=Black **DP**=Dark Platinum **GM**=Graphite Metallic **WH**=White	**[Blank]**=Arm for Round or Square Pole **EA**=Extended Arm [6] **MA**=Mast Arm Adapter [6] **WM**=Wall Mount **QM**=Quick Mount Arm (Specify Extended Length) [6] **QMEA**=Quick Mount Arm (Extended Length) [6]

Options (Add as Suffix)
7030=70 CRI 3000K [6]
8030=80 CRI 3000K [6]
7050=70 CRI 5000K [6]
7060=70 CRI 6000K [6]
E60=Drive Current Factory Set to Nominal 600mA [6]
E80=Drive Current Factory Set to Nominal 800mA [6]
1200=Drive Current Factory Set to Nominal 1200mA [4,6]
F=Single Fuse (120, 277 or 347V. Must Specify Voltage)
FF=Double Fuse (208, 240 or 480V. Must Specify Voltage)
ZL=Two Circuits [4,6]
DIM=External 0-10V Dimming Leads
P=Button Type Photocontrol (120, 208, 240 or 277V. Must Specify Voltage)
PERT=NEMA 7-PIN Twistlock Photocontrol Receptacle
R=NEMA Twistlock Photocontrol Receptacle
AHD145=After Hours Dim, 5 Hours [6]
AHD245=After Hours Dim, 5 Hours [6]
AHD255=After Hours Dim, 7 Hours [6]
AHD355=After Hours Dim, 8 Hours [6]
HA=50ºC High Ambient [6]
MS/DIM-L08=Motion Sensor for Dimming Operation, Maximum 8' Mounting Height [6,31]
MS/DIM-L20=Motion Sensor for Dimming Operation, 9' - 20' Mounting Height [6,31]
MS/DIM-L40=Motion Sensor for Dimming Operation, 21' - 40' Mounting Height [6,31]
MS/DIM-L40W=Motion Sensor for Dimming Operation, 21' - 40' Mounting Height (Wide Range) [6,31]
MS/L14=Bi-Level Motion Sensor, Mounted 8' Mounting Height [6,31,32]
MS/L220=Bi-Level Motion Sensor, 9' - 20' Mounting Height [6,32]
MS/L440=Bi-Level Motion Sensor, 21' - 40' Mounting Height [6,32]
MS/L440W=Bi-Level Motion Sensor, 21' - 40' Mounting Height (Wide Range) [6,32]
MS-L08=Motion Sensor for ON/OFF Operation, Maximum 8' Mounting Height [6]
MS-L20=Motion Sensor for ON/OFF Operation, 9' - 20' Mounting Height [6]
MS-L40=Motion Sensor for ON/OFF Operation, 21' - 40' Mounting Height [6]
MS-L40W=Motion Sensor for ON/OFF Operation, 21' - 40' Mounting Height (Wide Range) [6]
LWM-LW=LumaWatt Wireless Sensor, Wide Scan Lens for 8' - 16' Mounting Height [6]
LWM-LN=LumaWatt Wireless Sensor, Narrow Lens for 16' - 40' Mounting Height [6]
L90=Optics Rotated 90° Left
R90=Optics Rotated 90° Right
MT=Factory Installed Mesh Top
TH=Tool-less Door Hardware
LCF=Light Square Trim Plate Painted to Match Housing [6]
HSS=Factory Installed House Side Shield [6,28]
CE=CE Marking [6]

Accessories (Order Separately)
OA/RA1016=NEMA Photocontrol Multi-Tap - 105-285V
OA/RA1027=NEMA Photocontrol - 480V
OA/RA1315=NEMA Photocontrol - 347V
OA/RA1013=Photocontrol Shorting Cap
OA/RA1614=120V Photocontrol
MA1252=13kV Surge Module Replacement
MA1132-XX=2@120° Tenon Adapter for 2-3/8" O.D. Tenon
MA1033-XX=2@180° Tenon Adapter for 2-3/8" O.D. Tenon
MA1107-XX=3@120° Tenon Adapter for 2-3/8" O.D. Tenon
MA1108-XX=4@90° Tenon Adapter for 2-3/8" O.D. Tenon
MA1189-XX=2@90° Tenon Adapter for 2-3/8" O.D. Tenon
MA1190-XX=3@90° Tenon Adapter for 2-3/8" O.D. Tenon
MA1191-XX=2@120° Tenon Adapter for 2-3/8" O.D. Tenon
MA1038-XX=Single Tenon Adapter for 3-1/2" O.D. Tenon
MA1039-XX=2@180° Tenon Adapter for 3-1/2" O.D. Tenon
MA1040-XX=3@120° Tenon Adapter for 3-1/2" O.D. Tenon
MA1193-XX=4@90° Tenon Adapter for 3-1/2" O.D. Tenon
MA1194-XX=2@90° Tenon Adapter for 3-1/2" O.D. Tenon
MA1195-XX=3@90° Tenon Adapter for 3-1/2" O.D. Tenon
FSIR-100=Wireless Configuration Tool for Occupancy Sensor [29]
GLEON-MT1=Field Installed Mesh Top for 1-4 Light Squares
GLEON-MT2=Field Installed Mesh Top for 5-6 Light Squares
GLEON-MT3=Field Installed Mesh Top for 7-8 Light Squares
GLEON-MT4=Field Installed Mesh Top for 9-10 Light Squares
GLEON-QM=Quick Mount Arm Kit
GLEON-QMEA=Quick Mount Extended Arm Kit
LS/HSS=Field Installed House Side Shield [6,28]

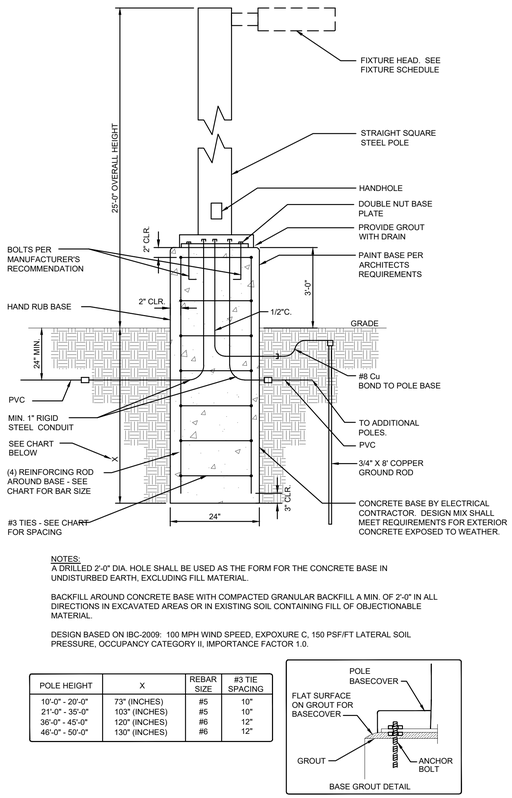
NOTES:
1. Customer is responsible for engineering analysis to confirm pole and fixture compatibility for all applications. Refer to our white paper WPF13001EN for additional support information.
2. DesignLights Consortium™ Qualified. Refer to www.designlights.org Qualified Products List under Family Models for details.
3. Standard 4000K CCT and minimum 70 CRI.
4. Not compatible with extended quick mount arm (QMEA).
5. Not available with 1A drive current. Not available with extended quick mount arm (QMEA).
6. Requires the use of an external step down transformer when combined with sensor options. Not available with sensor or 1200mA. Not available in combination with the HA high ambient and sensor options at 1A.
7. Only for use with 480V Wye systems. Per NEC, not for use with ungrounded systems, impedance grounded systems or corner grounded systems (commonly known as Three Phase Three Wire Delta, Three Phase Four Wire Delta or Three Phase Three Wire Corner Grounded Delta systems).
8. May be required when two or more luminaires are oriented on a 90° or 120° drilling pattern. Refer to arm mounting requirement table.
9. Factory installed.
10. Available in 8 light squares.
11. Maximum 6 light squares.
12. Extended lead times apply. Use dedicated IES files for 3000K, 5000K and 6000K when performing layouts. These files are published on the Galleon luminaire product page on the website.
13. Extended lead times apply. Use dedicated IES files for 3000K, 5000K and 6000K when performing layouts. These files are published on the Galleon luminaire product page on the website.
14. 1 Amp standard. Use dedicated IES files for 800mA, 850mA and 1200mA when performing layouts. These files are published on the Galleon luminaire product page on the website.
15. Not available with 1200mA.
16. 2L is not available with MS, MSLV or MSLVDI at 347V or 480V. 2L in AF-03 through AF-04 requires a larger housing, normally used for AF-05 or AF-06. Extended arm option may be required when mounting two or more fixtures per pole at 90° or 120°. Refer to arm mounting requirement table.
17. Not available with sensor options.
18. Requires the use of 7 photocontrol or the PERT or R photocontrol receptacle with photocontrol accessory. See After Hours Dim supplemental guide for additional information.
19. 50°C lumen maintenance data applies to 600mA, 800mA and 1A drive currents.
20. Refer to the Galleon Family Models page on the DLC website for qualified models including high and low modes, sensitivity, time delay, cutoff and more. Consult your lighting representative at Eaton for more information.
21. Approximately 20' detection diameter at 8' mounting height.
22. Approximately 40' detection diameter at 20' mounting height.
23. Approximately 80' detection diameter at 40' mounting height.
24. Approximately 100' detection diameter at 60' mounting height.
25. Not available with sensor options. Not available with bi-level mode.
26. LumaWatt wireless sensors are factory installed only requiring network components RF-EM-1, RF-DIR-1 and RF-ROUT-1 in appropriate quantities. See www.eaton.com/lighting for LumaWatt application information.
27. Not available with house side shield (HSS).
28. LS/HSS is not available in AF-01 or AF-02 distributions. The Light Square trim plate is painted black when the HSS option is selected.
29. CE is not available with the LW1, M5, M5CL, M5/DIM, R for PERT options. Available in 120-277V only.
30. One required for each Light Square.

EATON
Powering Business Worldwide

Eaton
1121 Highway 74 South
Peachtree City, GA 30269
P: 770-486-4800
www.eaton.com/lighting

Specifications and dimensions subject to change without notice.

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NOTES:
A DRILLED 2'-0" DIA. HOLE SHALL BE USED AS THE FORM FOR THE CONCRETE BASE IN UNDISTURBED EARTH, EXCLUDING FILL MATERIAL.

BACKFILL AROUND CONCRETE BASE WITH COMPACTED GRANULAR BACKFILL A MIN. OF 2'-0" IN ALL DIRECTIONS IN EXCAVATED AREAS OR IN EXISTING SOIL CONTAINING FILL OF OBJECTIONABLE MATERIAL.

DESIGN BASED ON IBC-2009: 100 MPH WIND SPEED, EXPOXURE C, 150 PSF/FT LATERAL SOIL PRESSURE, OCCUPANCY CATEGORY II, IMPORTANCE FACTOR 1.0.

POLE HEIGHT	X	REBAR SIZE	#3 TIE SPACING
10'-0" - 20'-0"	73" (INCHES)	#5	10"
21'-0" - 35'-0"	103" (INCHES)	#5	10"
36'-0" - 45'-0"	120" (INCHES)	#6	12"
46'-0" - 50'-0"	130" (INCHES)	#6	12"

LIGHT POLE DETAIL

NO SCALE

Schedule							
Symbol	Label	QTY	Catalog Number	Description	Number Lamps	Lumens per Lamp	LLF	Wattage
	2T4	6	GLEON-AF-03-LED-E1-T4FT	GALLEON AREA AND ROADWAY LUMINAIRE (3) 70 CRI, 4000K, 1050mA LIGHTSQUARES WITH 16 LEDS EACH AND TYPE IV FORWARD THROW OPTICS Retail, Roadway, Sidewalk, Site, Street, Substation, Security, Corrosion Resistant, Vandal Resistant, Wet Location ABSOLUTE PHOTOMETRY IS BASED ON CALIBRATION FACTORS CREATED USING LAB LUMEN STANDARDS IN GONIOPHOTOMETER WITH TEST DISTANCE OF 28.75 FEET	48	380	0.9	332

Statistics							
Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #1	+	0.2 fc	10.4 fc	0.0 fc	N/A	N/A
Parking Area	X	2.5 fc	10.4 fc	0.4 fc	26.0:1	6.3:1

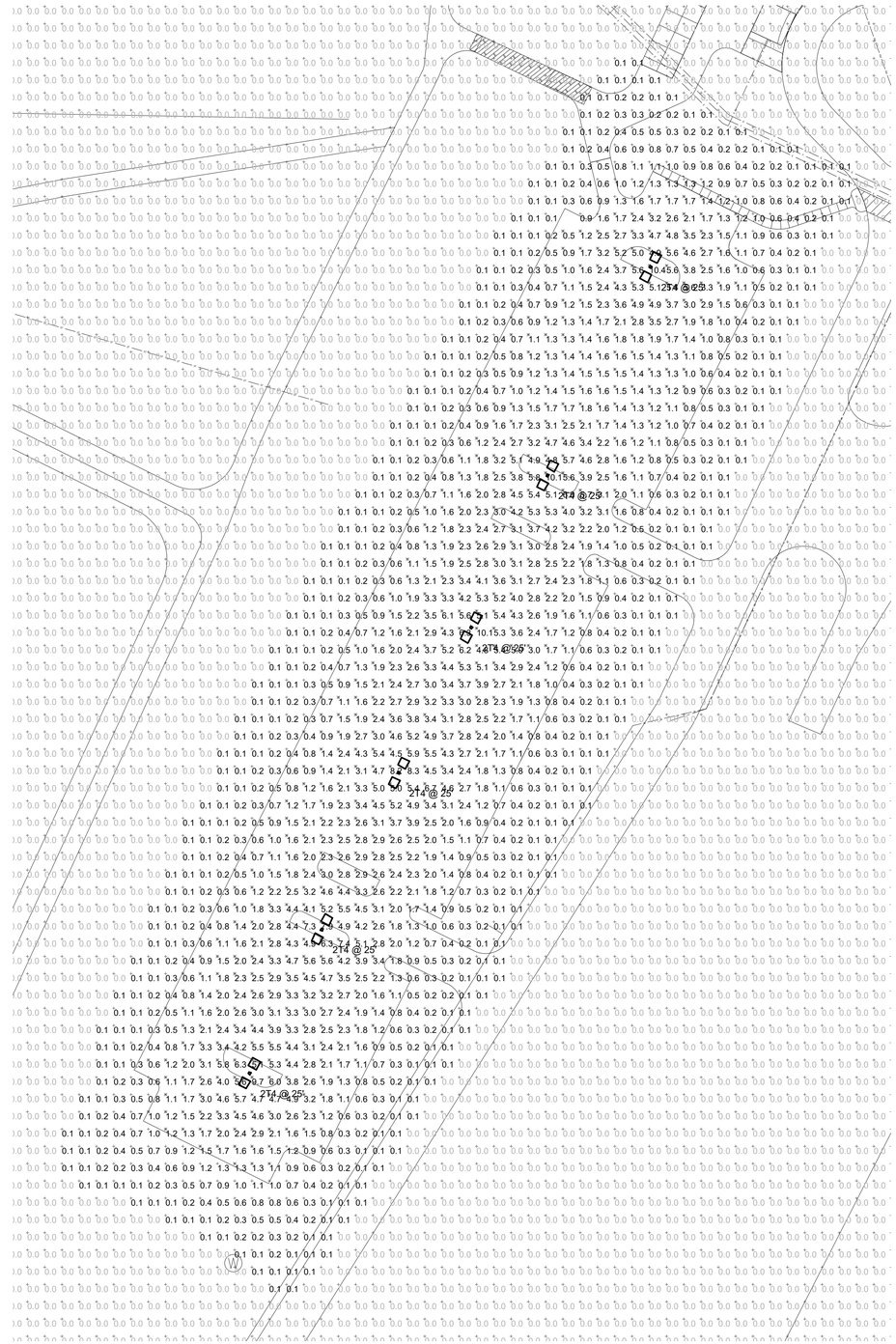


EXHIBIT 13

#7 TEES

N89°00'56"W 68.40'

N23°51'11"E 307.08'

S23°51'11"W 269.46'

EXISTING BUILDING

CONCRETE

CONCRETE

ASPHALT

CONCRETE CHARCOAL DISPOSAL

3 WOODEN STEPS

4" BOLLARD (TYP)

GRAVEL

PROPANE TANK

EXISTING BUILDING

N89°59'59"W 371.67'

ASPHALT

DIRECTIONS SIGN

ASPHALT

ASPHALT

COLD EQUIPMENT STORAGE

MAINTENANCE BUILDING (BLDG A)
15,000 SF
CIVIL F.F.=599.00
ARCH. F.F.=100.00

PROPOSED BUILDING
7,988 SF
CIVIL F.F.=599.00
ARCH. F.F.=100.00

HOLDING TANK

N00°49'33"W 332.19'

S00°04'15"E 365.05'

N90°00'00"W 479.64'

WOODED

WOODED

BLACK RIVER CENTERLINE

IE (TYP)

PROPOSED LANDSCAPE SCREENING:

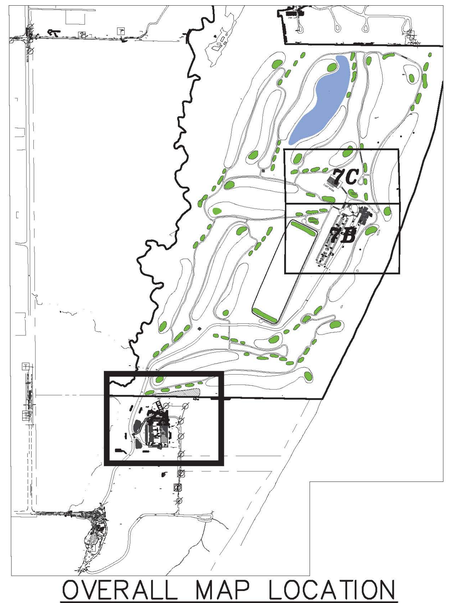
TO BE PLANTED WITH NATIVE MIXED CONIFER AND DECIDUOUS SPECIES TYPICAL OF EXISTING VEGETATION OR ADAPTED TO SITE CONDITIONS. TREE HEIGHT AND SPACING TO PROVED SUBSTANTIAL CONCEALMENT OF PARKING LOT AND CADDY/CART STORAGE BUILDING AT TIME OF PLANTING. TYPICAL PLANT SPECIES TO INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

DECIDUOUS:
- RED OAK
- SUGAR MAPLE
- SILVER MAPLE
- PAPER BIRCH
- AMERICAN BIRCH
- ALDER
- WILLOW

CONIFERS:
- EASTERN WHITE PINE
- RED PINE
- JACK PINE
- WHITE SPRUCE
- TAMARACK

SHRUBS:
- JUNIPER
- TALL DECIDUOUS

	REQUIRED POINTS	PROPOSED POINTS
LANDSCAPING REQUIREMENTS FOR BUILDING FOUNDATIONS (SECTION 15.604)	803	805
DEVELOPED LOT LANDSCAPING REQUIREMENTS (SECTION 15.605)	940	5,860
PAVED AREAS LANDSCAPING REQUIREMENTS (PER SECTION 15.607)	5,086	8,590
	6,829	15,255



OVERALL MAP LOCATION

SCALE: 1"=800'

NORTH

1"= 40' SCALE 40' 0 40' 80' FEET

EXCEL
ARCHITECTS • ENGINEERS • SURVEYORS
100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
WWW.EXCELENGINEER.COM

PROJECT INFORMATION

PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

JULY 10, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION

EXHIBIT 7A- LANDSCAPE PLAN

SHEET NUMBER

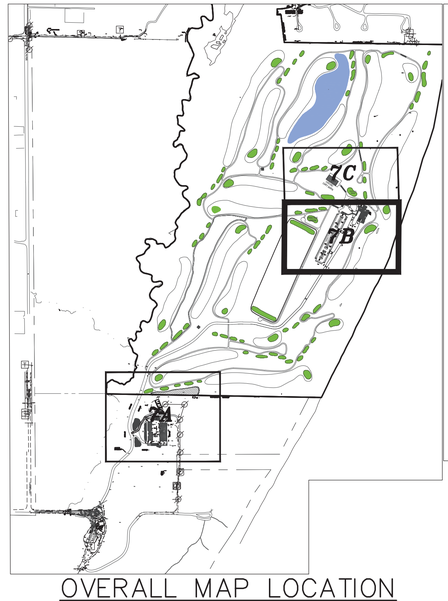
7A

2016 © EXCEL ENGINEERING, INC.

#10 TEES

#1 TEES

CLUB HOUSE
8,923 SF
CIVIL F.F.=596.00
ARCH. F.F.=100.00
BASEMENT=585.00



OVERALL MAP LOCATION

SCALE: 1"=800'

PROPOSED LANDSCAPE SCREENING:

TO BE PLANTED WITH NATIVE MIXED CONIFER AND DECIDUOUS SPECIES TYPICAL OF EXISTING VEGETATION OR ADAPTED TO SITE CONDITIONS. TREE HEIGHT AND SPACING TO PROVED SUBSTANTIAL CONCEALMENT OF PARKING LOT AND CADDY/CART STORAGE BUILDING AT TIME OF PLANTING. TYPICAL PLANT SPECIES TO INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

DECIDUOUS:
- RED OAK
- SUGAR MAPLE
- SILVER MAPLE
- PAPER BIRCH
- AMERICAN BIRCH
- ALDER
- WILLOW

CONIFERS:
- EASTERN WHITE PINE
- RED PINE
- JACK PINE
- WHITE SPRUCE
- TAMARACK

SHRUBS:
- JUNIPER
- TALL DECIDUOUS

	REQUIRED POINTS	PROPOSED POINTS
LANDSCAPING REQUIREMENTS FOR BUILDING FOUNDATIONS (SECTION 15.604)	803	805
DEVELOPED LOT LANDSCAPING REQUIREMENTS (SECTION 15.605)	940	5,860
PAVED AREAS LANDSCAPING REQUIREMENTS (PER SECTION 15.607)	5,086	8,590
	6,829	15,255

NORTH

1"= 40' SCALE: 40' 0 40' 80' FEET

EXCEL
ARCHITECTS • ENGINEERS • SURVEYORS

100 CAMELOT DRIVE
FOND DU LAC, WI 54935
PHONE: (920) 926-9800
WWW.EXCELENGINEER.COM

PROJECT INFORMATION

PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

JULY 10, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

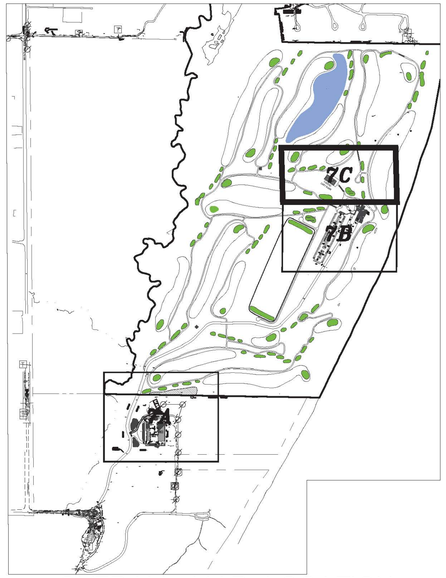
SHEET INFORMATION

EXHIBIT 7B- LANDSCAPE PLAN

SHEET NUMBER

7B

2019 © EXCEL ENGINEERING, INC.



OVERALL MAP LOCATION

SCALE: 1"=800'

PROPOSED LANDSCAPE SCREENING:

TO BE PLANTED WITH NATIVE MIXED CONIFER AND DECIDUOUS SPECIES TYPICAL OF EXISTING VEGETATION OR ADAPTED TO SITE CONDITIONS. TREE HEIGHT AND SPACING TO PROVED SUBSTANTIAL CONCEALMENT OF PARKING LOT AND CADDY/CART STORAGE BUILDING AT TIME OF PLANTING. TYPICAL PLANT SPECIES TO INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

DECIDUOUS:	CONIFERS:	SHRUBS:
RED OAK	EASTERN WHITE PINE	JUNIPER
SUGAR MAPLE	RED PINE	TALL DECIDUOUS
SILVER MAPLE	JACK PINE	
PAPER BIRCH	WHITE SPRUCE	
AMERICAN BIRCH	TAMARACK	
ALDER		
WILLOW		

	REQUIRED POINTS	PROPOSED POINTS
LANDSCAPING REQUIREMENTS FOR BUILDING FOUNDATIONS (SECTION 15.604)	803	805
DEVELOPED LOT LANDSCAPING REQUIREMENTS (SECTION 15.605)	940	5,860
PAVED AREAS LANDSCAPING REQUIREMENTS (PER SECTION 15.607)	5,086	8,590
	6,829	15,255



NORTH

1" = 40' SCALE

40' 0 40' 80' FEET

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PROJECT INFORMATION

PROJECT NUMBER 1639740

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • SHEBOYGAN COUNTY, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

JULY 10, 2019
JULY 20, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION

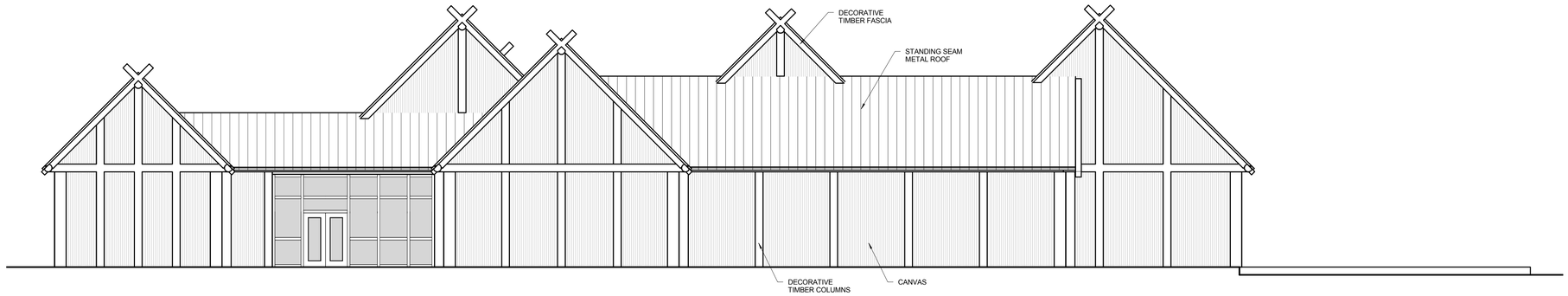
EXHIBIT 7C- LANDSCAPE PLAN

SHEET NUMBER

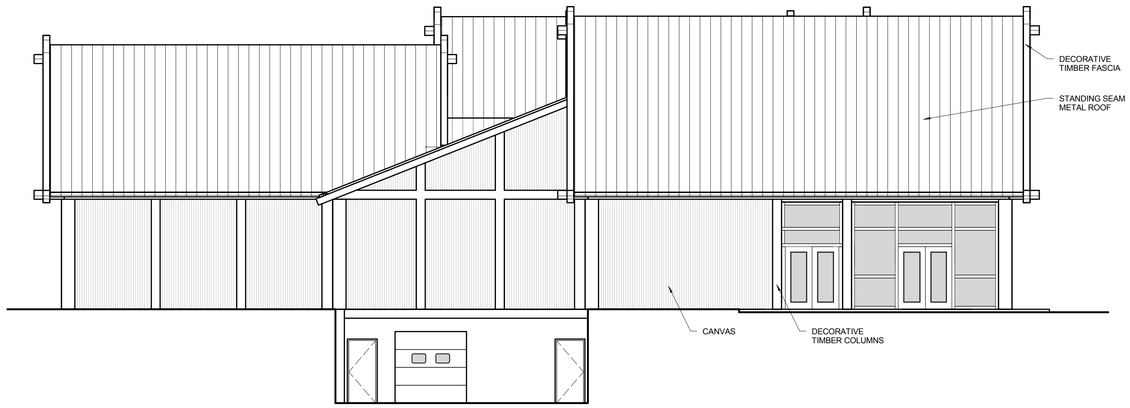
7C

2016 © EXCEL ENGINEERING, INC.

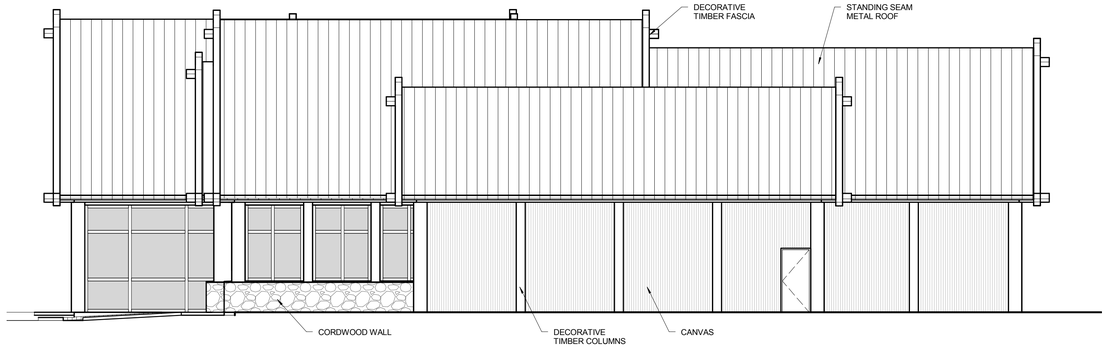
EXHIBIT 14



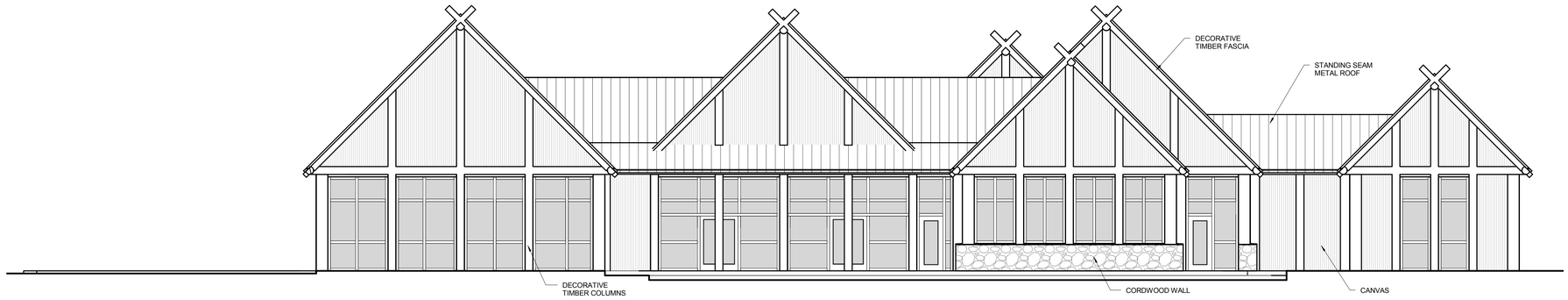
1/3 WEST ELEVATION
SCALE: 1/8" = 1'-0"



2/3 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



3/3 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



4/3 EAST ELEVATION
SCALE: 1/8" = 1'-0"

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PROJECT INFORMATION

PROJECT NUMBER 1730240

PROPOSED BUILDING FOR:
KOHLER COMPANY
KOHLER GOLF COURSE • TOWN OF WILSON, WI

PROFESSIONAL SEAL

PRELIMINARY DATES

Apr. 2, 2018

NOT FOR CONSTRUCTION

SHEET INFORMATION

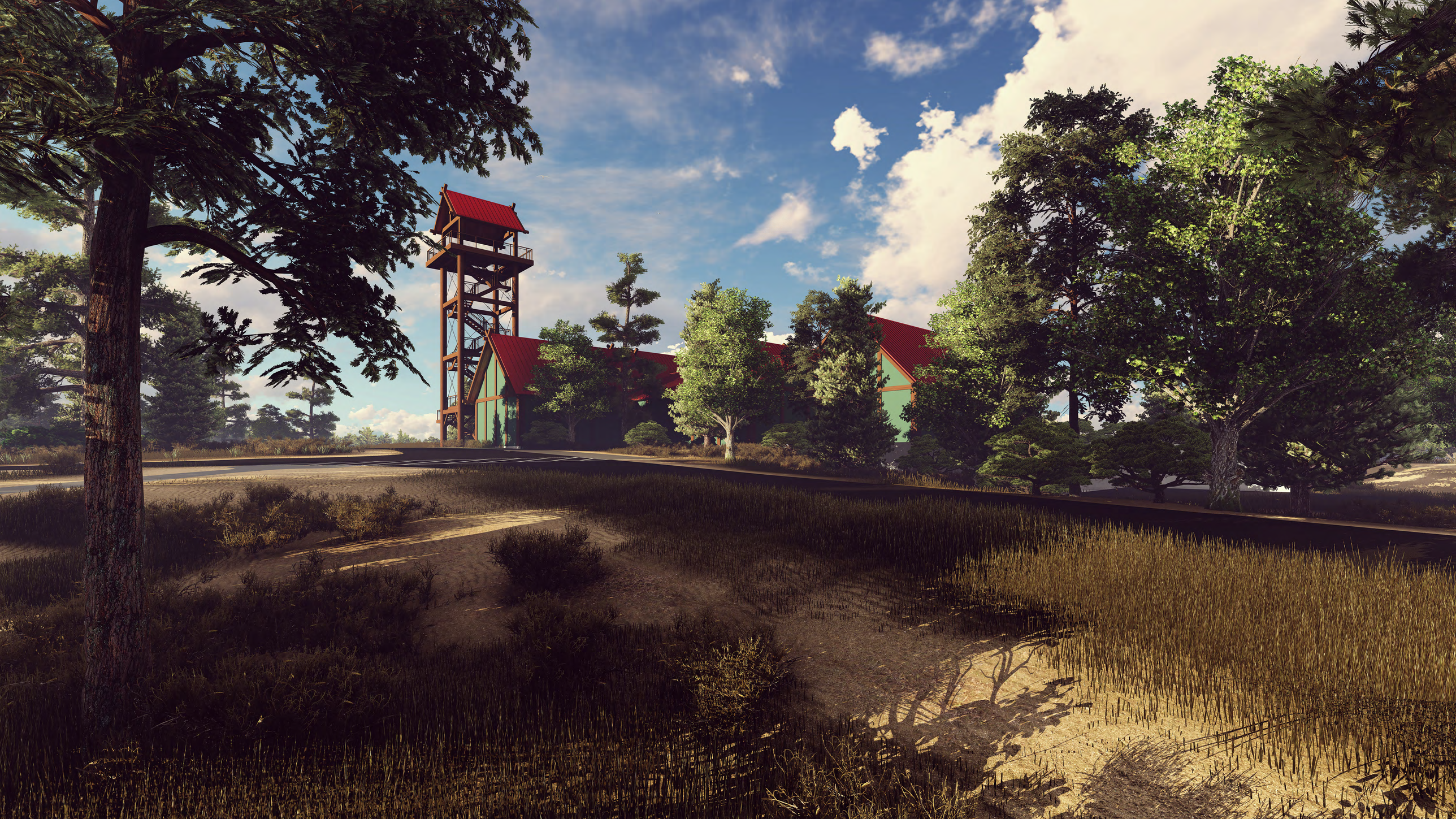
EXTERIOR ELEVATIONS

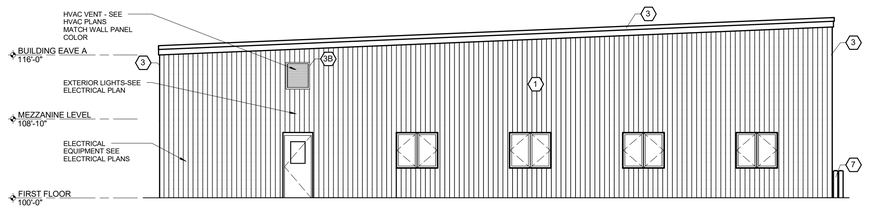
SHEET NUMBER

2017 © EXCEL ENGINEERING, INC.

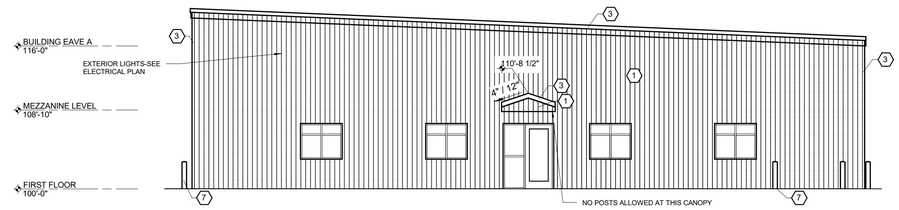
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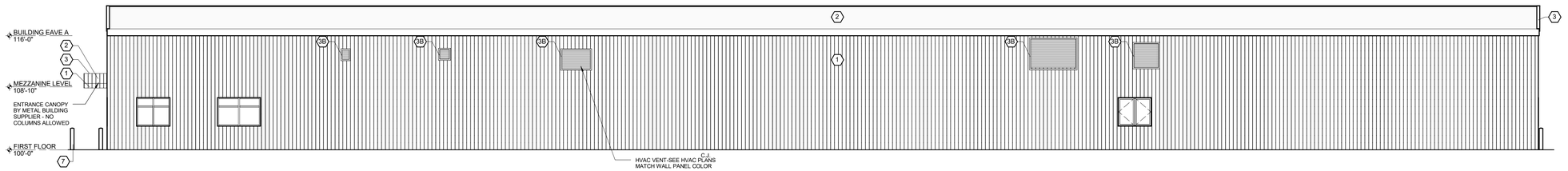




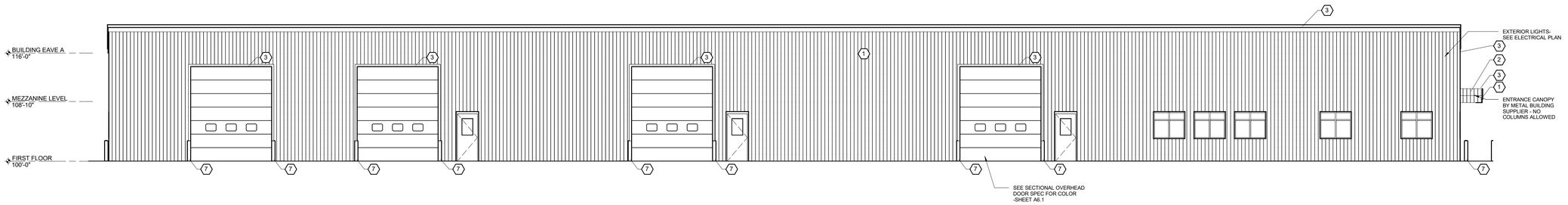
2/3 NORTH ELEVATION-BUILDING A
SCALE: 1/8" = 1'-0"



3/3 SOUTH ELEVATION-BUILDING A
SCALE: 1/8" = 1'-0"



1/3 EAST ELEVATION-BUILDING A
SCALE: 1/8" = 1'-0"



4/3 WEST ELEVATION-BUILDING A
SCALE: 1/8" = 1'-0"

EXTERIOR FINISH KEY

1. METAL WALL PANEL
   -PRODUCT: 1 1/2" CLASSIC WALL PANEL
   -MATERIAL: 26 GA MTL PANEL
   -COLOR: GRAY
2. METAL ROOF PANEL
   -PRODUCT: 1 1/2" CLASSIC ROOF PANEL
   -MATERIAL: 24 GA MTL PANEL
   -COLOR: GRAY
3. METAL BUILDING TRIM
   -PRODUCT: MANUFACTURERS STANDARD TRIM
   -MATERIAL: METAL TRIM
   -COLOR: BLACK
3B. HVAC TRIM
   -PRODUCT: MANUFACTURERS STANDARD TRIM
   -MATERIAL: METAL TRIM
   -COLOR: GRAY (MATCH WALL AND ROOF PANEL)
4. POLYCARBONATE WALL PANEL
   -MATERIAL: POLYCARBONATE WALL PANEL
   -COLOR: SMOKE
5. CONCRETE MASONRY UNITS
   -PRODUCT: COUNTY MATERIALS STANDARD UNITS
   -MATERIAL: 8"x8"x16"
   -COLOR: GRAY
6. CONCRETE MASONRY UNITS-SPLITFACE
   -PRODUCT: COUNTY MATERIALS SPLITFACE UNITS
   -MATERIAL: 8"x8"x16"
   -COLOR: BLACK
7. BOLLARDS
   -MATERIAL: SEE DETAILS ON A4.3
   -COLOR: BLACK

NOTE:
-ALL COLORS TO BE CONFIRMED BY OWNER AND ARCHITECT
-ROOF AND WALL PANEL COLORS NEED TO MATCH ACROSS ALL BUILDINGS AND BE PROVIDED FROM THE SAME SUPPLIER

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PROJECT INFORMATION
PROJECT NUMBER 1723900

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • WI

PROFESSIONAL SEAL

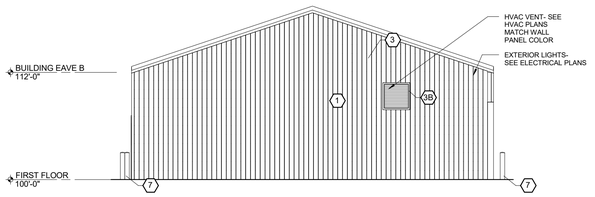
PRELIMINARY DATES
APR. 2, 2018
MAR. 10, 2020

NOT FOR CONSTRUCTION

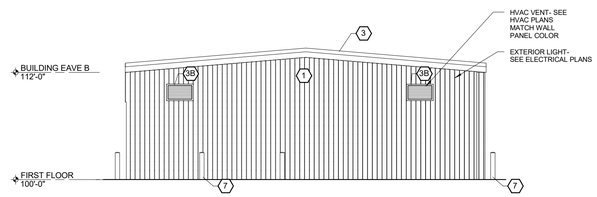
SHEET INFORMATION
EXTERIOR ELEVATIONS-BUILDING A
SHEET NUMBER
3

2017 © EXCEL ENGINEERING, INC.

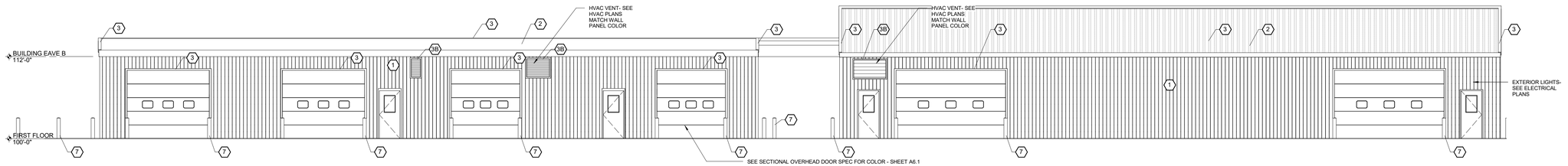
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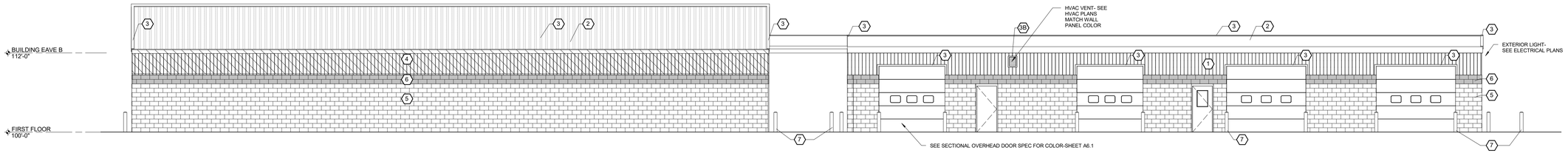
2/4 NORTH ELEVATION-BUILDING B
SCALE: 1/8" = 1'-0"



1/4 SOUTH ELEVATION-BUILDING B
SCALE: 1/8" = 1'-0"



3/4 EAST ELEVATION- BUILDING B
SCALE: 1/8" = 1'-0"



4/4 WEST ELEVATION-BUILDING B
SCALE: 1/8" = 1'-0"

EXTERIOR FINISH KEY

1 METAL WALL PANEL
-PRODUCT: 1 1/2" CLASSIC WALL PANEL
-MATERIAL: 26 GA MTL PANEL
-COLOR: GRAY

2 METAL ROOF PANEL
-PRODUCT: 1 1/2" CLASSIC ROOF PANEL
-MATERIAL: 24 GA MTL PANEL
-COLOR: GRAY

3 METAL BUILDING TRIM
-PRODUCT: MANUFACTURERS STANDARD TRIM
-MATERIAL: METAL TRIM
-COLOR: BLACK

3B HVAC TRIM
-PRODUCT: MANUFACTURERS STANDARD TRIM
-MATERIAL: METAL TRIM
-COLOR: GRAY (MATCH WALL AND ROOF PANEL)

4 POLYCARBONATE WALL PANEL
-MATERIAL: POLYCARBONATE WALL PANEL
-COLOR: SMOKE

5 CONCRETE MASONRY UNITS
-PRODUCT: COUNTY MATERIALS STANDARD UNITS
-MATERIAL: 8"x8"x16"
-COLOR: GRAY

6 CONCRETE MASONRY UNITS-SPLITFACE
-PRODUCT: COUNTY MATERIALS SPLITFACE UNITS
-MATERIAL: 8"x8"x16"
-COLOR: BLACK

7 BOLLARDS
-MATERIAL: SEE DETAILS ON A4.3
-COLOR: BLACK

NOTE:
-ALL COLORS TO BE CONFIRMED BY OWNER AND ARCHITECT
-ROOF AND WALL PANEL COLORS NEED TO MATCH ACROSS ALL BUILDINGS AND BE PROVIDED FROM THE SAME SUPPLIER

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PROJECT INFORMATION
PROJECT NUMBER 1723900

NEW GOLF COURSE
KOHLER COMPANY
CITY OF SHEBOYGAN • WI

PROFESSIONAL SEAL

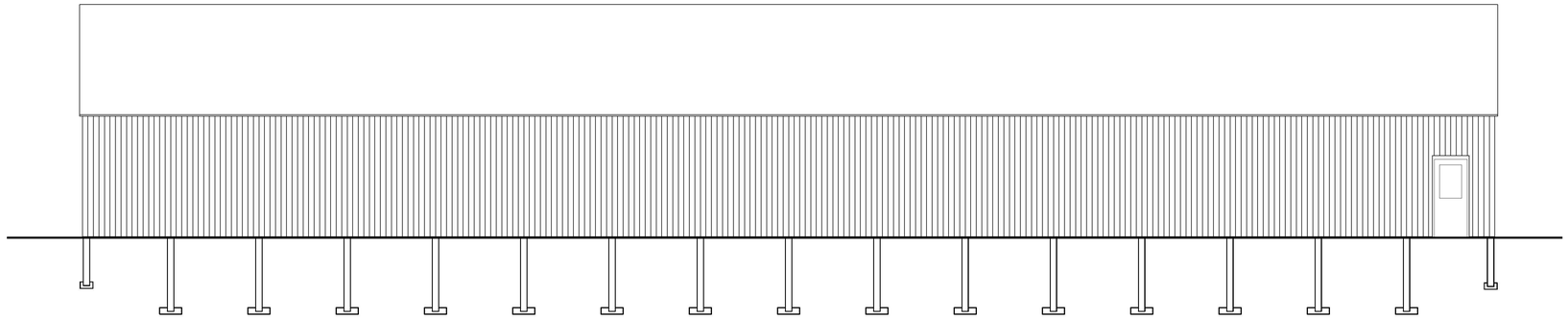
PRELIMINARY DATES
APR. 2, 2018
MAR. 10, 2020

NOT FOR CONSTRUCTION

SHEET INFORMATION
EXTERIOR ELEVATIONS-BUILDING B/C
SHEET NUMBER
4

2017 © EXCEL ENGINEERING, INC.

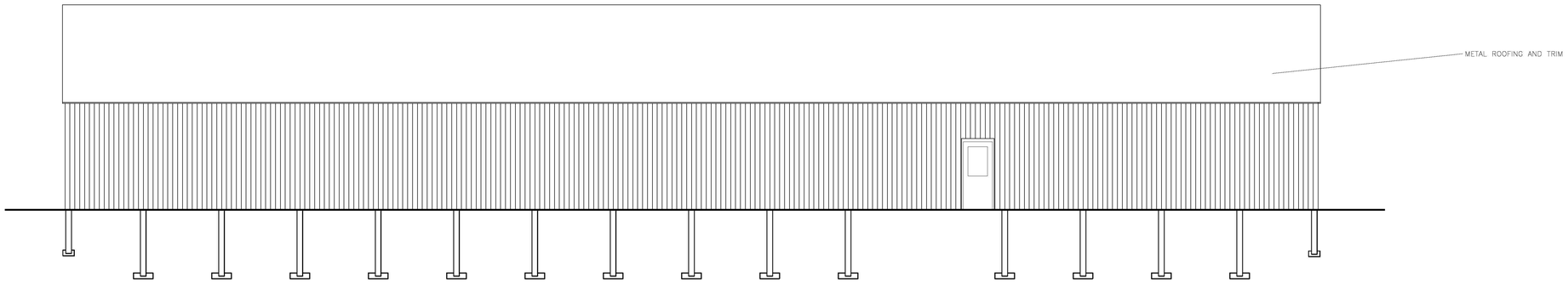
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3/17/2020 2:48:43 PM



SOUTH ELEVATION

SCALE: 3/16" = 1'-0"

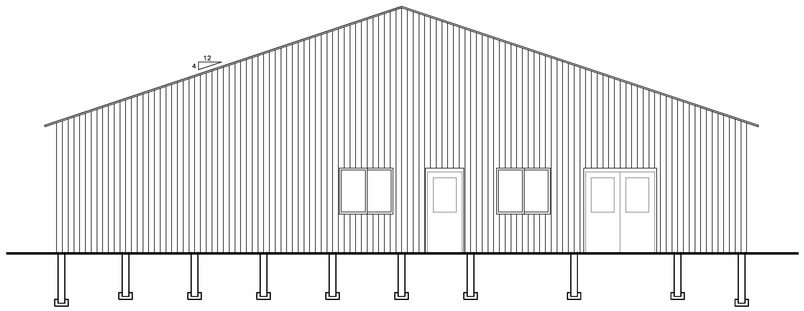
5' 0' 5' 10'



NORTH ELEVATION

SCALE: 3/16" = 1'-0"

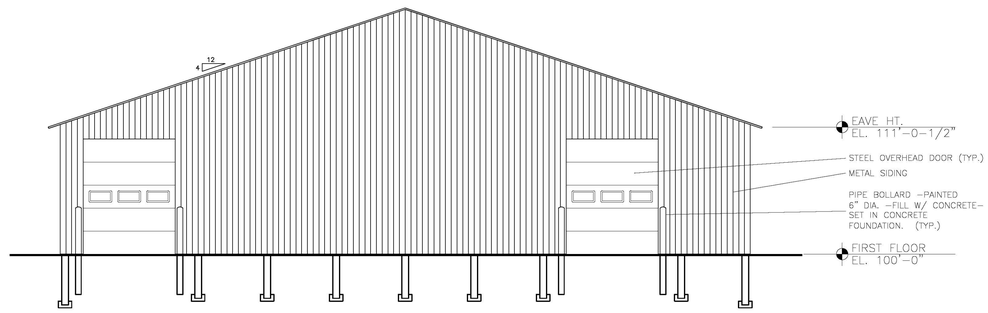
5' 0' 5' 10'



WEST ELEVATION

SCALE: 3/16" = 1'-0"

5' 0' 5' 10'



EAST ELEVATION

SCALE: 3/16" = 1'-0"

5' 0' 5' 10'

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PROJECT INFORMATION

PROJECT NUMBER 1743440

PROPOSED BUILDING FOR:

KOHLER CART BARN

BEACH PARK LANE • SHEBOYGAN, WI. 53081

PROFESSIONAL SEAL

PRELIMINARY DATES

Apr. 2, 2018

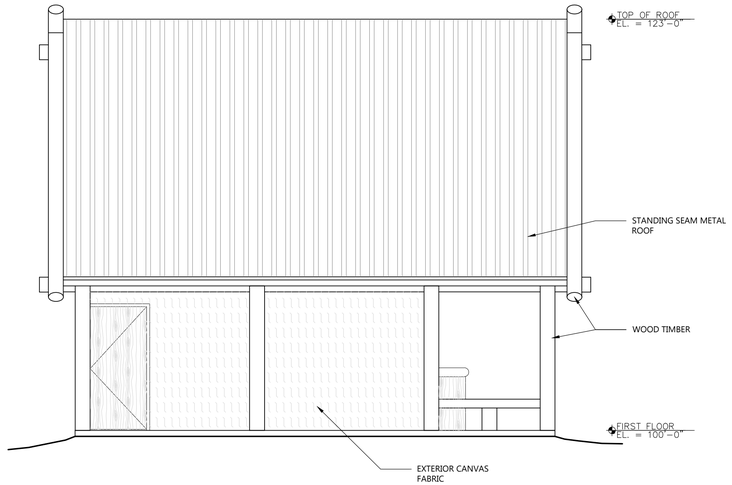
NOT FOR CONSTRUCTION

SHEET INFORMATION

FIRST FLOOR PLAN

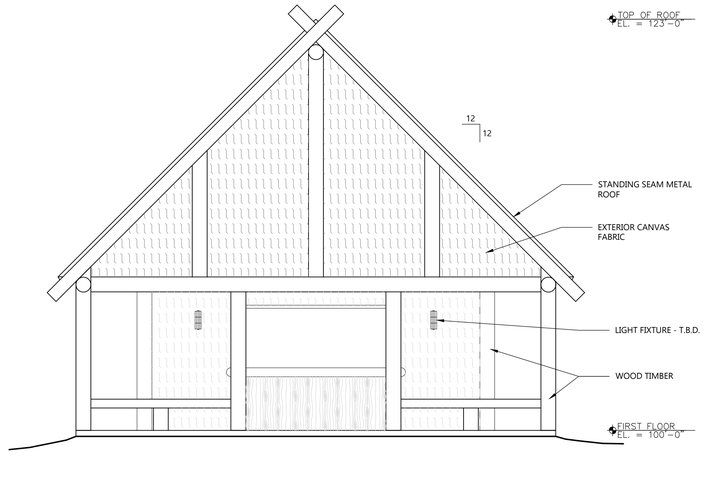
SHEET NUMBER

2018 © EXCEL ENGINEERING, INC.



REST STATION
SIDE ELEVATION

SCALE: 1/4" = 1'-0"



REST STATION
FRONT ELEVATION

SCALE: 1/4" = 1'-0"

EXHIBIT 15

PARCEL NO. _____

MAP NO._____

ZONING CLASSIFICATION:_____

Office Use Only

APPLICATION/FILE NO._____

REVIEW DATE:_____

FILING FEE: $250.00 (Payable to City of Sheboygan)

CITY OF SHEBOYGAN
APPLICATION FOR
CONDITIONAL USE PERMIT

Requirements Per Section 15.905
Revised May 2018

Completed application is to be filed with the Department of City Development, 828 Center Avenue, Suite 208. To be placed on the agenda of the City Plan Commission, application must be filed two weeks prior to date of meeting. Applications will not be processed if all required attachments and filing fee of $250 (payable to the City of Sheboygan) is not submitted along with a complete and legible application. Application filing fee is non-refundable.

1. APPLICANT INFORMATION

APPLICANT: _____Kohler Co._____

ADDRESS:_444 Highland Drive, Kohler WI 53044 E-MAIL: _dirk.willis@kohler.com_

PHONE: __(920)_457-4441_____ FAX NO. __(_____)_____

2. DESCRIPTION OF THE SUBJECT SITE/PROPOSED PROJECT

NAME OF PROPOSED/EXISTING BUSINESS: Proposed Golf Course yet to be named

ADDRESS OF PROPERTY AFFECTED: See Exhibit 10 for legal description of property

LEGAL DESCRIPTION: ___See Exhibit 10 for legal description of property _____

_____

BRIEF DESCRIPTION OF **EXISTING** OPERATION OR USE: __Enclosed_____

_____

DETAILED DESCRIPTION OF **PROPOSED** OPERATION OR USE INCLUDING ANY CHANGES TO THE EXISTING USE: ___Enclosed_____

_____

BRIEF DESCRIPTION OF ALL REQUESTED VARIANCES FROM PROVISIONS OF THE ZONING ORDINANCE, WHICH ARE RELATED TO THE PROPOSED OPERATION OR USE: _____Enclosed_____

_____

3. JUSTIFICATION OF THE PROPOSED CONDITIONAL USE

Written justification for the proposed conditional use, indicating reasons why the applicant believes the proposed conditional use is appropriate.

How is the proposed conditional use (independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Sheboygan Comprehensive Master Plan? _____Enclosed_____

_____

Does the conditional use, in its proposed location, result in any substantial or undue adverse impact on nearby property the character of the neighborhood, environment, traffic, parking, public improvements, public property or rights-of-way? _Enclosed___

_____

How does the proposed conditional use maintain the desired consistency of land uses in relation to the setting within which the property is located? _Enclosed_____

_____

Is the proposed conditional use located in an area that will be adequately served by utilities, or services provided by public agencies? If not, please explain. _Enclosed__

4. NAMES AND ADDRESS (Indicate N/A for "Not Applicable" items)

OWNER OF SITE: ___Kohler Co._____

ADDRESS: _444 Highland Drive, Kohler WI 53044 E-MAIL: _ __dirk.willis@kohler.com_

ARCHITECT: Building Architect- Excel Engineering, Inc._____

ADDRESS: _100 Camelot Dr., Fond Du Lac, WI_ E-MAIL: _jeff.q@excelengineer.com

CONTRACTOR: _____TBD_____

ADDRESS: _____ E-MAIL: _____

5. CERTIFICATE

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

_____ _____

APPLICANT'S SIGNATURE **DATE**

_____

PRINT ABOVE NAME

CONDITIONAL USE APPLICATION SUBMITTAL REQUIREMENTS

1. A certified survey map showing existing property boundaries and improvements.

2. A map providing the following information:

   - ❑ The map and all its parts shall be clearly reproducible with a photocopier at a size of 11" X 17" and map scale not less than 1' = 600' with lot dimensions of the subject property provided and a graphic scale and north arrow.
   - ❑ All lands for which the conditional use is proposed.
   - ❑ All other lands within 100 feet of the boundaries of the subject property.
   - ❑ The current zoning of the subject property and its environs (200 feet),

3. A site plan (conforming to the requirements of Section 15.908(3) of the subject property as proposed for development or if the proposed conditional use is a cluster development (per Section 15.206(1)(b) or a group development (per Section 15.208). A proposed preliminary plat or conceptual plat may be substituted for the final site plan, provided that the preliminary plat contains all information required on a site plan.

   - ❑ Submit TWO (2) copies of the site plan.
   - ❑ Submit .pdf file of all drawings either by email or CD
   - ❑ The site plan shall be at a scale of not less than 1" = 100", including a graphic scale and north arrow.
   - ❑ Submit ONE (1) 11" X 17" reduction of the site plan.
   - ❑ Property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled.
   - ❑ Existing and proposed easement lines and dimensions with an explanation of ownership and purpose.
   - ❑ Required building setback lines.
   - ❑ Existing and proposed buildings, structures and paved areas, including building entrances, walks, drives, decks, patios, fences, utility poles, drainage facilities and walls.
   - ❑ The location and dimension of all curb cuts and throat widths of all access points onto public streets or alleys.
   - ❑ The location and dimension of all on-site parking including a summary of the number of parking stalls provided versus the requirements of the ordinance.
   - ❑ The location of all loading and service areas, and the dimensions of such areas.
   - ❑ The location of all outdoor storage areas and the design of all screening devices.
   - ❑ The location, type, height, size and lighting of all signage.
   - ❑ The location, height, design/type, illumination power and orientation of all exterior lighting, including compliance with Section 15.707.
   - ❑ The location of existing and proposed drainage facilities.

Internal Communication: For internal & partner use only.

Office Use Only

ACTION BY CITY PLAN COMMISSION

DATE OF MEETING: _____

APPROVED: _____ CONDITIONALLY APPROVED: _____ DENIED: _____

CONDITIONS

_____

_____

_____

_____

_____

_____

SIGNATURE: _____ DATE: _____
Chairperson, City Plan Commission or
Representative Dept. of City Development

NOTES

Permit may be revoked without notice if misrepresentation of any of the above information or attachments is found to exist.

Permit shall expire within one (1) year from date of approval unless substantial work has commenced.

Permit is null and void if issued in error. It is understood that any permit issued on this application will not grant any right or privilege to erect any structure or to use any permits for any purpose that is prohibited by the City Zoning Ordinance or any other State or local laws.

Changes in the plans or specifications submitted in the original application shall not be made without prior written approval of the City Plan Commission.

Check sidewalk grades from City Engineering Department with finished site grade.

Internal Communication: For internal & partner use only.

EXHIBIT 16

City

PREANNEXATION AND
DEVELOPMENT AGREEMENT

THIS PREANNEXATION AND DEVELOPMENT AGREEMENT is made and entered into this 7th day of August, 2017, by and between the CITY of SHEBOYGAN, WISCONSIN, a Wisconsin municipal corporation (the "City") and KOHLER CO., a Wisconsin corporation ("Developer").

RECITALS

The City and Developer acknowledge the following:

A. Developer owns approximately 247 acres of vacant land in the Town of Wilson, Sheboygan County, Wisconsin, bounded by Lake Michigan to the east and Kohler-Andrae State Park to the south and west, as more particularly described on Exhibit A attached hereto (the "Property"). Owner intends to develop, construct and operate an 18-hole championship golf course and related improvements and amenities on the Property, as generally depicted on the site plan attached hereto as Exhibit B (the "Site Plan").

B. The City is a municipal corporation with authority to enter into this Agreement, to adopt annexation ordinances under Wisconsin Statute section 66.0217 and to adopt zoning amendments and issue conditional use permits and site plan review and approvals under Wisconsin Statute section 62.23(7). The Property and adjacent lands are located contiguous to and may be annexed to the City of Sheboygan pursuant to the provisions of Wisconsin Statute section 66.0217.

C. Owner's planned use of the Property is consistent with the City's Comprehensive Plan adopted December 5, 2011 ("Comp Plan") and Zoning Map. The City acknowledges that annexation of the Property and adjacent lands will permit the extension of urban services, is consistent with the Comp Plan and provides lands for needed growth of the City.

D. The City specifically acknowledges that Developer's proposed development and use of the Property as described herein, is compatible with and will further the City's planning objectives, will be of substantial benefit to the City, will extend the corporate limits and jurisdiction of the City, will promote orderly growth, planning and development of the City, will increase the tax base of the City, and will promote and enhance the general welfare of the City and its residents.

E. The City desires to assist Developer in developing, constructing and operating improvements and amenities on the Property consistent with the Site

Plan. In this regard, the City intends to grant various governmental approvals benefiting Developer and the Property, subject to the provisions of applicable law, including applicable City ordinances. Necessary governmental approvals include annexation, rezoning, conditional use permits, site plan review and approvals, extension of utilities, and issuance of alcohol beverage licenses.

F. The City and Developer agree to perform their respective obligations in connection with the issuance of various necessary governmental approvals and the construction of certain facilities and related improvements on the Property, in accordance with the terms of this Agreement.

AGREEMENTS

Now, therefore, in consideration of the Recitals and the mutual promises set forth below, the City and Developer agree as follows:

1. Conditions.

(a) Governmental Approvals. The parties acknowledge that the City cannot contract away its governmental powers and that certain approvals may require issuance by or cooperation from government bodies external to the City. The parties also acknowledge that, to be able to develop, construct and operate the Property as intended, Developer must obtain all of the governmental approvals described in this Agreement, including but not limited to, annexation, rezoning, conditional use permits, site plan review and approvals, extension of utilities and issuance of alcohol beverage licenses. Subject to applicable City ordinances and other applicable laws, the City shall use its best good faith efforts to grant any necessary governmental approvals on a timely basis. The City also shall not oppose Developer in seeking permits and approvals from all other governmental authorities with jurisdiction over the Property in connection with Developer's pursuit of any necessary approvals, including, but not limited to approvals from the U.S. Army Corps of Engineers ("ACOE"), the U.S. Fish and Wildlife Service "USFWS"), the National Park Service ("NPS"), the Wisconsin Department of Natural Resources ("WDNR"), the Wisconsin State Historical Society ("WHS"), the Wisconsin Public Service Commission ("WPSC") and Sheboygan County.

(b) Acquisition of Property Rights. The parties acknowledge that Developer must acquire certain easement rights appurtenant to the Property in order to develop, construct and operate improvements on the Property consistent with the Site Plan. Accordingly, all rights and obligations under this Agreement are contingent upon Developer's acquisition of necessary easement rights on terms acceptable to Developer, including but not limited to, an access easement from WDNR.

(c) Time of the Essence. The City and Developer recognize that time is of the essence and agree to use commercially reasonable efforts to satisfy all of the conditions under this Agreement in a timely manner.

(d) General Outline. The parties intend that this Agreement will serve as a general outline governing the improvements described herein. Final plans for any public improvements shall be, subject to confirmation by Developer and the City's engineer of compliance with Developer's intended development plans, as generally noted on the Site Plan and applicable City standards. Any construction of the public improvements described herein shall commence only after Developer has given notification to the City in writing that Developer intends to commence construction and after satisfaction of all applicable conditions of this Agreement.

(e) No Covenant to Construct or Operate. Developer shall have no obligation to construct the improvements described herein. The parties acknowledge that the improvements are only necessary if Developer proceeds to develop the Property consistent with the Site Plan. The parties acknowledge that Developer has no obligation to construct, open or operate an 18-hole championship golf course and related improvements and amenities or any other improvements on the Property.

2. Representations and Warranties.

(a) Representations and Warranties of Developer. Developer makes the following representations and warranties which the City may rely upon in entering into this Agreement and upon which the City may rely in granting approvals, permits and licenses for the Property:

(i) Developer is a duly organized and existing corporation under the laws of the State of Wisconsin.

(ii) The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by Developer.

(iii) Developer has circulated and executed petitions to annex the Property and adjacent lands to the City voluntarily and of its own accord. Developer seeks annexation to obtain more reliable fire and emergency services to the Property as well as to make municipal water services available at the Property. The City has not required annexation of the Property or adjacent lands, and in no way has the City influenced or induced Developer to annex the Property and/or adjacent lands to the City.

(b) Representations and Warranties of the City. The City makes the following representations and warranties which Developer may rely upon in entering into this Agreement and in developing the Property:

(i) The City is a duly organized and existing municipal corporation under the laws of the State of Wisconsin.

(ii) The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by the City.

(iii) The City has a present and demonstrable need for annexation of the Property and adjacent lands to extend urban services, promote development consistent with the City's Comp Plan, make available lands for needed growth of the City and otherwise promote the general welfare.

(iv) SR-5 Suburban Residential District zoning, together with an outdoor institutional conditional use permit including site plan approval intended to be issued for the Property, will permit the development, construction and operation on the Property of an 18-hole championship golf course and the other improvements and amenities generally depicted on the Site Plan. Upon issuance of those governmental approvals described in Section 1(a) above, Developer will have vested rights to develop, construct and operate the 18-hole championship golf course and all ancillary uses and additional uses permitted in the SR-5 Suburban Residential District.

3. City Obligations. Subject to the contingencies set forth in Section 1 above, the City shall be obligated as follows:

(a) Annexation. The City shall consider adoption of an ordinance annexing the Property and adjacent lands as presented by Developer. The City hereby acknowledges and agrees that the City's Comp Plan and the Economic Impact Study prepared by S.B. Friedman and Company dated May, 2017 and submitted by Developer support findings that annexation of the Property to the City serves the public interest and promotes and enhances the general welfare of the City and its citizens.

(b) Rezoning, Conditional Use Permit including Site Plan Review and Approval. The City shall consider rezoning the Property to SR-5 Suburban Residential District. Upon submittal of detailed plans by Developer, the City also shall consider issuing a conditional use permit for an 18-hole championship golf course, all related improvements and all ancillary uses as an "outdoor institutional" use including the site plan for such use and all related improvements and amenities.

(c) Licenses. The City shall consider granting and issuing to Developer at least two "Class B" liquor licenses to permit sales of alcoholic beverages for on-premises consumption on the Property, subject to Developer's qualification. If Developer is unable to transfer a license from another municipality, the City shall reserve licenses for Developer (which may be Reserve "Class B" licenses), such that licenses remain available for Developer within the City's municipal quota regardless of the date on which Developer completes development of the Property and opens for business to the general public.

(d) No Opposition Before Other Government Bodies. The City shall not oppose Developer in obtaining any necessary governmental approvals from other governmental bodies with jurisdiction over the Property, including but not limited to the ACOE, USFWS, NPS, WDNR, WHS, WPSC, and Sheboygan County.

(e) Reasonable Reviews. All reviews and inspections to be conducted and approvals to be granted by the City's engineers and/or building inspectors shall be prompt and shall extend only to reasonable confirmation of compliance with applicable City regulations and approved plans.

(f) Sanitary Sewer Service. The City represents and warrants to Developer that the Town of Wilson (the "Town") has installed and maintains 12 inch sanitary sewer mains in River Trails private drive and in Timberlake Road and that either or both of such mains may be extended to serve the Property, consistent with the 1975 Joint Sewage Treatment Agreement for the Sheboygan Region (the "JST Agreement"), as the same may be amended from time to time. Upon the written request of Developer, the City shall cause the Town to permit the Property to be connected to Town sanitary sewer lines, the City shall obtain all necessary governmental permits to authorize such extensions, and the City shall treat all sewerage therefrom as contemplated in the JST Agreement. Notwithstanding anything herein to the contrary, the City expressly acknowledges, consistent with City Code section 122-336, that municipal sanitary sewer will become available to the Property upon completion of boring for Developer's laterals under the Black River and extension of said laterals in a manner and at a time determined to be feasible on an engineering basis by Developer and the City, but that temporary private septic is authorized to serve buildings including rest stations on the Property (and the City shall issue necessary permits therefor) until determined feasible by Developer and the City.

(g) Water Service. The City represents and warrants to Developer that the City has installed and maintains a 12 inch water line at the intersection of CTH KK and Riverdale Drive and that a water line may be extended from CTH KK and Riverdale Drive south within the right of way of CTH KK to Beach Park Road. The City shall process and issue any and all

permits and governmental approvals necessary to authorize the Property and adjacent lands being annexed to be connected to such extended water lines, subject to provisions of applicable law and as requested by Developer and other end users. In the event additional water pressure is needed on the Property, the Developer is responsible for all equipment or other installations to provide the additional water pressure to the Property. Notwithstanding anything herein to the contrary, the City expressly acknowledges, consistent with City Code sections 122-14, 122-15, 122-98 and 26-1005, that municipal water service will become available to the Property as extended within CTH KK and as determined feasible by Developer and the City, but that private wells are authorized to serve the Property (and the City shall issue necessary permits therefor), subject to the provisions of City ordinances and as otherwise authorized by the City.

(h) Police, Fire and Emergency Services. Immediately upon adoption of an ordinance to annex the Property to the City, the City shall provide police, fire and other emergency services to the Property.

(i) Town Property Taxes. The Developer shall be financially responsible for reimbursement to the City for any property tax differential for all properties owned by Developer and its affiliates as of the date of this Agreement that must be paid to the Town per the Wisconsin Statutes as a result of the annexation of the Property. The reimbursement shall be paid by the Developer no later than thirty (30) days after the Developer has received an invoice for such taxes from the City. In addition, Developer agrees to reimburse any owners who were included within but who did not execute the annexation petition described in Section 2 (a) (iii) for increased property taxes levied against their properties arising from the City's mill rate (as opposed to the Town's mill rate) for a period of five years from the date when annexation is final.

4. Developer's Obligations. If Developer determines that all conditions under Section 1 above are satisfied and Developer decides to construct the improvements generally depicted on the Site Plan, Developer shall undertake the following obligations, at Developer's sole cost and expense:

(a) Stormwater Management. In connection with developing the improvements generally depicted on the Site Plan, Developer shall design and construct related stormwater facilities on the Property as reasonably necessary to drain and manage the stormwater to be generated on the Property. Developer and the City shall cooperate to obtain any necessary government approvals relating to the management of stormwater generated on the Property and to cause all stormwater management facilities to comply with applicable government regulations.

(b) Sanitary Sewer. In connection with developing the improvements generally depicted on the Site Plan, Developer shall cooperate with the City to design extensions of the existing sanitary sewer lines (i) east from River Trail private drive and/or (ii) west and then south from Timberlake Road as deemed necessary by Developer to service the Property, provided, however, that Developer shall have the option of servicing improvements to be developed on the Property (including buildings and rest stations) with Developer's temporary private septic system until such time as municipal sanitary sewer will become available to the Property, as set forth in paragraph (3)(f) of this Agreement, and consistent with the provisions of Article VI, Division 4 of Chapter 122 of the Sheboygan Municipal Code. Developer shall, at its sole expense, install all laterals necessary to connect any buildings developed on the Property to appropriate sanitary sewer lines. Developer agrees to pay a fee of $1,000 for each new connection to municipal sanitary sewers from the Property, provided that the $1,000 per connection fee per structure shall be the only fee or charge for connection of the Property to municipal sewer lines and no other fee (inclusive of tap and lateral connection fees) shall be due under City Code section 122-196 or otherwise.

(c) Water.

(i) In connection with developing the improvements generally depicted on the Site Plan, Developer shall cooperate with the City and the Sheboygan Water Utility ("Utility") to design and extend a new water main south from the intersection of CTH KK and Riverdale Drive south within the right of way of CTH KK to Beach Park Road as deemed necessary by Developer to service the Property; provided, however, that Developer shall have the option of servicing the Property with Developer's private well system, pursuant to the provisions of applicable City ordinances and as otherwise agreed by the City. However, Developer agrees to connect its proposed improvements on the Property, including the clubhouse, irrigation system, maintenance building and cart building to municipal water service within three years of development, and the terms of such connection shall be a condition to any conditional use permit for an 18-hole championship golf course on the Property.

(ii) Developer agrees that it shall reimburse the equivalent third party costs of extending an 8-inch water main south from Riverdale Drive to Beach Park Road. The Utility reserves the right to determine the actual pipe size of the water main and pay any differential cost between the 8-inch and actual water main pipe size. Once water mains have been constructed, the Utility may charge additional connection charges as set forth in City Ordinance for new connections. City shall, for a period of 20 years after installation of that portion of the water main extension from Riverdale Drive to Beach Park Road, reimburse the Developer for any connection fees paid by benefitting Town property owners, less

the actual cost on a per-foot basis incurred by the City and not paid by the Developer of installing any portion of the extension past the parcel owned by the benefitting Town property owner in either the area to be annexed and in areas that are annexed in the future.

(iii) Developer shall, at its sole expense, install all laterals necessary to connect any buildings developed on the Property to appropriate water lines. Developer shall also pay all related fees for connecting the Property to the existing municipal water system. Additionally, Developer agrees that any connections to the water main from the Property shall be at Developer's expense. Developer agrees to comply with NR 812.26, Wisconsin Administrative Code, and all provisions of the City Municipal Code regarding private well abandonment on the Property. The Developer shall fill and seal any existing private well not specifically and solely used for an irrigation system within 12 months from the date of annexation or 90 days after connecting to the public water supply, whichever is later. Developer shall, in the design and construction of said laterals, cooperate fully with the requirements of the Fire Department related to the provision of fire hydrants along the lateral for fire suppression purposes.

(d) Traffic. Developer shall provide the City a traffic impact analysis by a consultant approved by the City confirming that no roadway upgrades are required in connection with developing the improvements generally depicted on the Site Plan. The City agrees that Excel Engineering is a consultant acceptable to the City.

(e) Manner of Construction. Any public improvement work shall be subject to review of plans and specifications and periodic inspections by the City's engineers and/or building inspectors to confirm compliance with applicable City regulations and approved plans. The City shall not accept final dedication of any public improvements until the public improvement work described above is complete.

(f) Detailed Plans. Prior to commencement of any vertical improvements on the Property, Developer shall obtain approval of detailed plans from the City's engineer and/or building inspectors, which shall be consistent with the attached Site Plan. The City shall not unreasonably withhold, delay or condition the issuance of any approvals outlined in this section. Contingent upon Developer's discretionary decision to develop the Property, Developer shall construct an 18-hole championship golf course and related improvements consistent with the approved plans described in this subsection.

5. Miscellaneous.

(a) Nondiscrimination. Each party agrees that neither the Property nor any portion thereof shall be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap or national origin, and that the development of and construction and operations on the Property shall be in compliance with all applicable laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

(b) Recording Fees. The Developer shall pay to the Sheboygan County Register of Deeds all recording fees due to the recording of this Agreement and any separate dedication instruments and/or grants for easement required hereunder, except as otherwise provided in this Agreement.

(c) Approximations. It is understood and agreed by the parties that all locations, dimensions and quantities of square feet set forth herein or in the exhibits attached hereto are preliminary and tentative. Before the plans for the development of the Property are finalized, each party reserves the right to make minor changes in dimensions, quantities and locations to best accommodate and facilitate the design, construction and operation of the Property, upon written notice to, but without the need for consent from, the other party.

(d) No Personal Liability. Under no circumstances shall any City Common Council member, officer, official, director, member, partner or employee of the City or Developer have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

(e) Cost of Litigation and Reimbursement; Indemnification. Developer agrees to reimburse the City's actual costs incurred in connection with the annexation of the Property and adjacent lands, reviewing and approving Developer's plans to develop the Property, the zoning of the Property and adjacent lands, the issuance of permits and licenses (including but not limited to a conditional use permit) related to the Property, or the terms of this Agreement, up to a cap of $200,000.00. Said cost shall include the costs of litigation, including expert witnesses, attorney fees charged by outside counsel on behalf of the City (which shall be chosen at the City's sole discretion) and all other costs related to preparing for or defending such a challenge. Additionally, Developer agrees to indemnify and hold harmless the City and all its officers, employees, agents, and affiliates from and against all allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation attorneys' fees and costs) which arise out of, relate to, or result from the annexation of the Property and adjacent lands, Developer's use and operation of the Property, the zoning of the Property and

adjacent lands, the issuance of permits and licenses (including but not limited to a conditional use permit) related to the Property, or the terms of this Agreement.

(f) Force Majeure. No party shall be responsible to any other party for any resulting losses if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, acts of terrorists, strikes, fires, floods, acts of God, inclement weather, or by any other cause not within the control of the party whose performance was interfered with, and which by the exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

(g) Parties and Interests; Survival of Agreements. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any party.

(h) Remedies. In the event of a party's default under this Agreement which is not cured within thirty (30) days after written notice thereof to the other party (or such longer time as may be reasonably required so long as a cure is being diligently pursued), the nondefaulting party shall have all rights and remedies available under law or equity with respect to said default, including but not limited to, the right to obtain specific performance.

All remedies provided herein shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies. Failure of a party to enforce any provision contained herein shall not be deemed a waiver of such party's rights to enforce such provision or any other provision in the event of a subsequent default.

(i) Notices. All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first-class mail, postage prepaid, with proper address as indicated below or such other address as may be designated by the party by written notice:

To the City:	Susan Richards, City Clerk City of Sheboygan 828 Center Avenue, Suite 100 Sheboygan, WI 53081
With a copy to:	Charles C. Adams, City Attorney City of Sheboygan 828 Center Avenue, Suite 304 Sheboygan, WI 53081
To Developer:	James Robinson IV Senior Vice President - General Counsel Kohler Co. 444 Highland Drive Kohler, WI 53044
With a copy to:	Deborah C. Tomczyk Reinhart Boerner Van Deuren s.c. 1000 North Water Street, Suite 1700 P.O. Box 2965 Milwaukee, WI 53201-2965

(j) Assignment of Rights. Neither party shall assign its rights or responsibilities under this Agreement without the prior written consent of the other party. The City hereby consents to Developer's assignment of its rights and obligations under this Agreement to an affiliated entity owned in whole or in part by Developer or any party having an ownership interest in Developer or controlled by or under common control with Developer.

(k) Amendment. No modification, alteration, or amendment to this Agreement shall be binding upon any party hereto until such modification, alteration or amendment is reduced to writing and executed by both parties hereto.

(l) Governing Law. The laws of the State of Wisconsin shall govern this Agreement.

(m) Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.

(n) Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

(o) Severability. If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. Specifically, this Agreement remains in full effect even if the Developer chooses not to build an 18-hole championship golf course on the Property, or significantly changes its plans for the Property.

(p) Recording of Agreement. This Agreement must be recorded with the Sheboygan County Register of Deeds upon annexation of the Property.

(q) Non-waiver of Statutory Protections by City. Nothing herein shall be interpreted or construed as a waiver by the City of any statutory protections granted to the City, including but not limited to damage limitations, statutory immunities, or other protections of any kind. Developer acknowledges the City is entitled to a notice of claim prior to commencement of any litigation proceeding.

(r) Address. The Property will have a City address assigned at the time a building permit is issued. Developer shall include the City address of the Property in all marketing materials relating to the Property.

(s) Complete Agreement. This Agreement, including all definitions and all attached exhibits, which are hereby incorporated by reference, reflects the entire agreement of the parties. All prior understandings and negotiations are merged herein.

(t) Developer Guarantee to City. The parties agree that in no event shall Developer have any limitations on its rights to contest, challenge, or protest real estate taxes or other taxes assessed or imposed against the Property or any part thereof; provided, however, that as long as Developer continues to seek reimbursements under Section 4(c)(ii), Developer shall not take any action at Open Book, Board of Review, or in Circuit Court to reduce the assessed valuation of the Property to an aggregate assessed value lower than $9,200,000. The parties further agree that the assessed value of the Property shall be determined consistent with Chapter 70 of the Wisconsin Statutes, and in no event shall the assessed value of the Property be limited to $9,200,000. This provision shall automatically terminate when Developer ceases to seek reimbursements under Section 4(c)(ii).

(u) Public Access. Subject to applicable regulations and permits and/or agreements with governmental entities and/or other sovereign bodies with jurisdiction over the Property, including the State, ACOE, WDNR, and tribal governments, the Developer will provide appropriate levels of public access to unique ecosystems and to burial mounds on the Property during daylight hours. Such access, if approved by said governmental entities, may include walking trails and interpretive signs.

(v) Public Trust Compliance. Developer agrees that it shall not construct any barriers on the Property to prohibit access to Lake Michigan in violation of Wisconsin's public trust doctrine such that it shall be possible for walkers to traverse adjacent to the shoreline on dry land.

IN WITNESS, WHEREOF, the parties have executed this Agreement as of Nov 27, 2017.

CITY OF SHEBOYGAN

BY _____
Michael J. Vandersteen, Mayor

BY _____
Susan Richards, City Clerk

DEVELOPER:

KOHLER CO.

BY _____
Its Sr. Vice Pres. - General Counsel

EXHIBIT A

Description of the Property

LEGAL DESCRIPTION

Lot 2 in Sherwood Forest Estates, part of Outlot 1 in Certified Survey Map recorded in Volume 21, Pages 102-103 as Document No. 1753833, part of Lot 1 in Certified Survey Map recorded in Volume 8, Page 323, Lots 1, 9, 10, 11 and Outlots 1 and 5 in the Plat of River Trails, Tract 1 in Certified Survey Map recorded in Volume 5, Page 198 and lands all being part of the Northwest 1/4, Southwest 1/4 and Southeast 1/4 of the Southeast 1/4, and part of the Southwest 1/4 of the Northeast 1/4 all in Section 10; part of the Southwest 1/4 and Southeast 1/4 of the Southwest 1/4 and part of Government Lot 4 all in Fractional Section 11; part of the Northeast 1/4 of the Northeast 1/4 of Section 15; all of the Northwest 1/4, Northeast 1/4, Southwest 1/4 and Southeast 1/4 of the Northwest 1/4, all of the Northwest 1/4 and Southwest 1/4 of the Southwest 1/4 and all of Government Lots 1, 2 and 3 and part of Government Lot 4 all in Fractional Section 14; part of Government Lot 1 in Fractional Section 23, all in Town 14 North, Range 23 East, in the Town of Wilson, Sheboygan County, Wisconsin bounded and described as follows: Beginning at the Southwest corner of the Southwest 1/4 of Section 14, thence North 00°25'21" West along the West line of the Southwest 1/4 aforesaid 2655.02 feet to the West 1/4 corner of said Section; thence North 00°25'18" West 2394.66 feet to a point, said point being South 00°25'18" East 260.50 feet from the Northwest corner of the Northwest 1/4 of Section 14; thence North 88°25'50" West 55.03 feet to a point on the West line of C.T.H. "V" said point being 55.00 feet West of as measured normal to the West line of the Northwest 1/4 of Section 14, thence North 00°25'18" West and parallel to said West line 149.44 feet to a point; thence North 53°49'12" West 195.42 feet to a point on the South line of the Southeast 1/4 of Section 10; thence North 88°25'50" West along said South line 37.99 feet to a point; thence North 00°23'58" East 300.00 feet to a point; thence North 88°25'50" West 130.00 feet to a point; thence South 00°23'58" West 300.00 feet to a point on the South line of the Southeast 1/4 of Section 10; thence North 88°25'50" West along said South line 170.00 feet to a point; thence North 00°23'58" East 310.00 feet to a point; thence North 88°25'50" West 80.00 feet to a point; thence South 00°23'58" West 310.00 feet to a point on the South line of the Southeast 1/4 of Section 10; thence North 88°25'50" West along said South line 671.60 feet to a point on the East line of Sherwood Forest Estates, a recorded plat; thence North 00°34'26" East along said East line 313.00 feet to a point on the South line of Lot 2 in Sherwood Forest Estates; thence North 89°25'50" West along said South line 129.23 feet to a point on the East line of Sherwood Drive; thence North 00°34'10" East along said East line 140.00 feet to a point on the North line of said Lot 2; thence South 89°25'50" East along said North line 129.23 feet to a point on the East line of Sherwood Forest Estates; thence North 00°34'26" East along said East line 268.08 feet to a point on the South line of Outlot 1, Certified Survey Map recorded in Volume 21, Page 102-103 as Document No. 1753833; thence North 89°25'50" West along said South line 222.65 feet to a point; thence South 59°56'10" West along said South line 66.00 feet to a point; thence North 89°25'50" West along said South line 45.96 feet to a point on the West line of Sherwood Forest Estates; thence South 00°34'10" West along said West line 17.99 feet to a point; thence North 88°31'19" West 966.83 feet to a point on the West line of the Southeast 1/4 of Section 10; thence North 00°37'13" East along said West line 1986.69 feet to the center of Section 10; thence North 00°15'24" East along the West line of the Northeast 1/4 of Section 10 a distance of 1332.63 feet to a point on the North line of the Southwest 1/4 of the Northeast 1/4 of Section 10, said point also being the South line of lands described in Warranty Deed recorded as Document Number 1225355, Volume 1181, Pages 918-919 and the Southerly corporate limits of the City of Sheboygan; thence South 88°40'25" East along said line 649.17 feet to a point on the East line of the West 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 10; thence South 00°23'33" West along said East line 1331.17 feet to a point on the South line of the Southwest 1/4 of the Northeast 1/4 of Section 10; thence South 00°33'53" West along the East line of the West 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 10 a distance of 1326.55 feet to a point on the North line of the South 1/2 of the Southeast 1/4 of Section 10; thence South 88°36'49" East along said North line 1294.59 feet to a

point on the East line of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of Section 10; thence South 00°27'16" West along said East line 681.51 feet to a point marking the Northwest corner of lands described in Quit Claim Deed Document No. 1052237; thence South 89°17'42" East along the North line of said lands 367.95 feet to the Northeast corner of said lands; thence South 00°24'04" West 140.47 feet to a point marking the Northwest corner of lands described in Quit Claim Deed Document No. 1052238; thence South 88°26'12" East along the North line of said lands 279.99 feet to a point on the East line of the Southeast 1/4 of Section 10; thence South 00°23'58" West along said East line 181.34 feet to a point on the North line of Tract 1 in Certified Survey Map Volume 5, Page 198; thence South 88°42'12" East along said North line 429.00 feet to a point on the East line of said Tract 1; thence South 00°23'58" West along said East line 231.73 feet to a point on the North line of the Plat of River Trail, a recorded plat; thence South 88°39'06" East along said North line 904.00 feet to a point marking the Northeast corner of Lot 9, Plat of River Trail; thence North 00°43'00" East along the West line Plat of River Trail 93.05 feet to a point marking the Southwest corner of Lot 8, Plat of River Trail; thence South 88°37'41" East along said South line and its extension, (said line also being the North line of Lot 1, Plat of River Trail and its extension) 734.81 feet to a meander corner, said point being South 88°37'41" East 111 feet more or less from the thread of Black River; thence North 22°00'00" East along a meander line 508.14 feet to a meander corner on the North line of the South 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 11, said point being South 88°45'21" East 217 feet more or less from the thread of Black River; thence South 88°45'21" East along said North line 409.00 feet to a point marking the Southwest corner of Lot 19 in Edgewater Beach, a recorded plat; thence South 89°16'46" East along the South line of said Lot 296.14 feet to a point; thence South 01°23'32" East parallel to and 50 feet West of Lot 27 in Timberlake, a recorded plat, 272.76 feet to a point on the North line of Timberlake Road; thence Southwesterly 171.98 feet along said North line and arc of a curve, whose center lies to the North, whose radius is 550.00 feet and whose chord bears South 81°37'16" West 171.28 feet to a point; thence South 00°34'44" West along Timberlake Road 66.00 feet to a point on the South line of said Road; thence Northeasterly 43.00 feet along said South line and arc of a curve, whose center lies to the North, whose radius is 616.00 feet and whose chord bears North 88°34'44" East 43.00 feet to a point on the West line of Lot 26 in Timberlake; thence South 06°58'30" East along the West line of said Lot 26 and 25 a distance of 310.73 feet to the Southwest corner of said Lot 25; thence South 89°13'44" East along the South line of the Southeast 1/4 a distance of 1616.21 feet to a meander corner, said point being North 89°13'44" West 194 feet more or less from the shore of Lake Michigan; thence South 22°12'00" West along said meander line 4257.36 feet to a meander corner, said point being North 89°02'42" West 357 feet more or less from the shore of Lake Michigan; thence North 89°02'42" West 902.55 feet to a point; thence South 00°17'46" East 684.53 feet to a point on the North line of lands described in Document Number 1964431; thence North 89°21'46" West along said North line 304.57 feet to the Northwest corner of said lands; thence South 00°17'46" East along the West line of said lands 172.14 feet to the Southwest corner of said lands; thence South 89°21'46" East along the South line of said lands 112.12 feet to a point; thence South 00°17'46" East 455.02 feet to a point; thence South 51°00'00" West 1201.92 feet to a point; thence South 87°57'52" West 800.00 feet to a point on the West line on Government Lot 1 in Section 23; thence North 02°02' 08" West along the West line of said Government Lot 800.00 feet to the point of beginning. Including those lands lying between the aforesaid meander line and the thread of Black River. Also including those lands lying between the aforesaid meander line and the shore of Lake Michigan.

June 9, 2017

EXHIBIT B

Site Plan

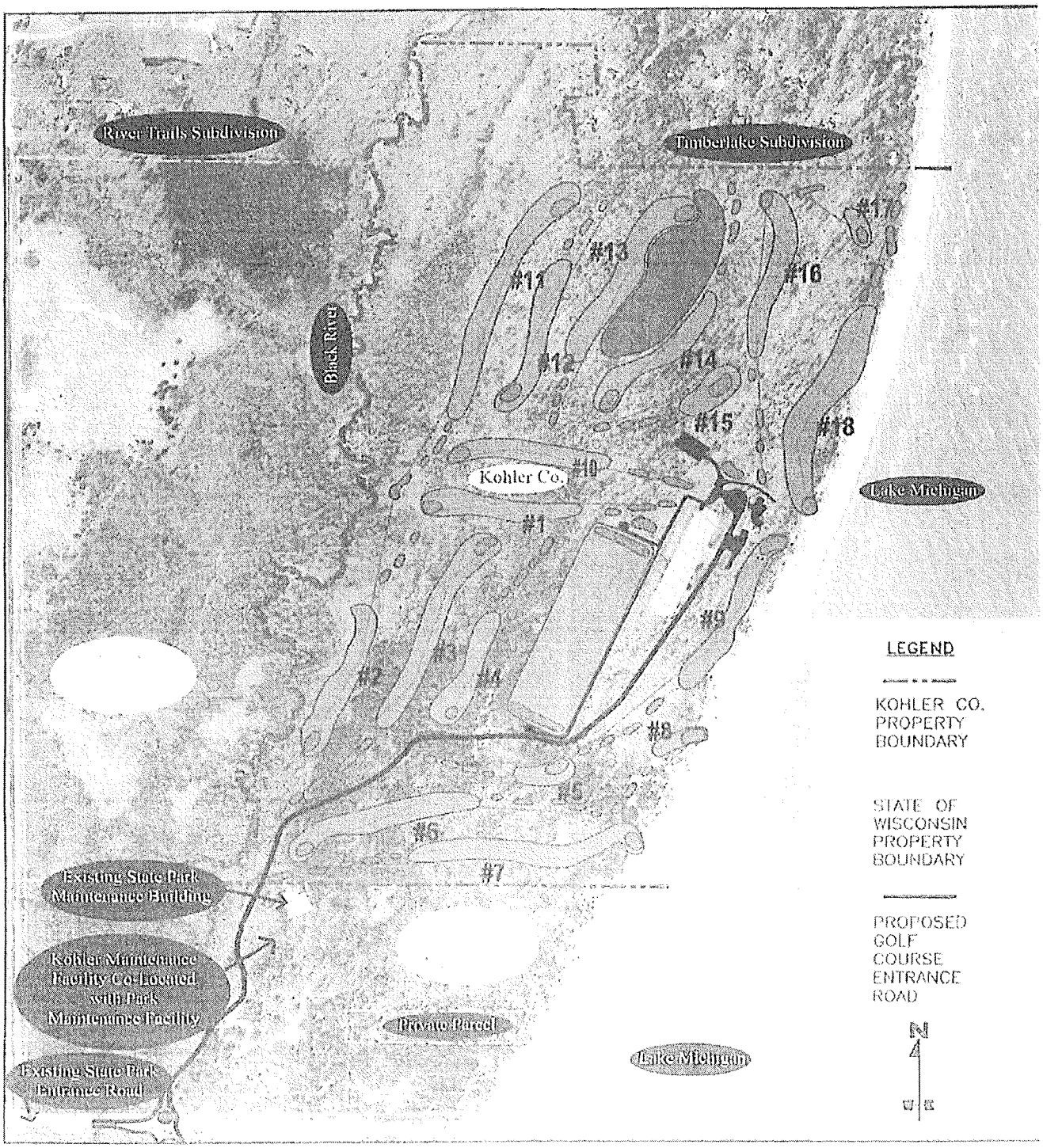


EXHIBIT 17

SUMMARY OF REQUESTED EXCEPTIONS/EXCEEDANCES

Per Section 15.905.(5).(d), any exception to, or exceedance of any nonresidential bulk or dimensional standards authorized by the Plan Commission shall not be considered a variance, provided that the exception or exceedance and the justification for the exception or exceedance are specifically stated in the Conditional Use Permit.

Description	Relevant Zoning Ordinance(s)	Detailed Description in CUP Application	Justification
Observation Tower Height Exceedance	15.406.(1).(c) 15.105.(2).(c).4.b.K	Page 2	Additional height needed to raise viewing platform above existing tree canopy
Curb Adjacent to Landscaping Areas Exception	15.607.(3)	Page 5	Paved/parking areas not visible from public rights-of-way and maintaining existing rural setting in the adjacent State Park
Fence Height Exceedance at Proposed Maintenance Facilities	15.720	Page 9	Security/safety/screening measure
Maintenance Building Setback Exceedance	15.206.(3).(d).3.c	Page 10	Proposed usage is consistent and complimentary to actual usage (State Park maintenance facility)
Exceedance for outdoor recreational area setback	15.206.(3).(d).3.c	Page 10	
Pavement Setback at Access Points	15.105.(2).(c).4.b.I	Page 11	Exception to pavement setback required for property access points

MILLER
ENGINEERS
SCIENTISTS

An Employee-Owned Company

December 10, 2020

City of Sheboygan Plan Commission
828 Center Avenue
Sheboygan, WI 53081

Subject: **Written Public Comment - Conditional Use Permit (CUP) Application**
Kohler Company - Proposed Golf Course in Section 14

Ladies and Gentlemen:

Because the subject land is surrounded by both private and state park land that is not within City land use jurisdiction, the **Town residents and land will be affected by the project** much more so than the City or its residents. The Town has some familiarity of the project through having begun the process of coordinating with the applicant in 2014 to retain the scientific expertise needed to ascertain if the project plans provide sufficient protection of natural resources, and/or mitigation to avoid adverse impacts to satisfy CUP criteria. That administrative responsibility for this CUP became your obligation by annexation of land specifically for this project. This letter describes that **the subject CUP application is incomplete** in that the **planned characteristics of the project do not comply with several applicable municipal ordinances** and has **not provided qualified scientific evaluation** to assure that the proposed development will **avoid substantial adverse environmental impact**.

Introduction

While the golf course in general is a Special Use in the subject zoning, several aspects of the project are Conditional Uses. The crux of the City's CUP ordinance is that "**a proposed Conditional Use shall be denied unless the applicant can demonstrate, to the satisfaction of the city Plan Commission, that the proposed Conditional Use will not create major undesirable impacts on nearby properties, the environment, nor the community as a whole"** (15.905(1)(d). While effects on "**nearby properties**" or the "**community as a whole"** are germane, this letter does not dwell on those other than to advise that they are not functions of land use regulation jurisdictional boundaries and must still be duly considered by you in the course of CUP application review.

Because the application has not provided appropriate scientific evaluation, this letter provides some **information on characteristics of the subject land** that are relevant to your review of **environmental impacts** of the proposed project. It also calls to your attention that **several major aspects of the applicant's plan are not allowed** by key aspects of City's ***Natural Resource Protection Overlay* ordinances:**

- The ***Lakeshore Overlay*** *Zoning District* contains the **mandatory requirement** (in Section 15.505(4)) that "**Lakeshores shall remain in a natural state"**, whereas the Grading and Erosion Control Plans (Exhibit 9) included in CUP application do not show the location of this overlay zone or the Ordinary High Water Mark (OHWM) even though substantial **portions of the course of play lie within the Lakeshore Overlay Zone** as would be located by a current OHWM determination by the applicant.
- Section 15.504(3)(c)(2) of the City's ***Wetland Overlay*** *Zoning* prescribes that **"No filling is to be done"** in wetlands located in "public and private parks and recreation areas". Therefore, the

project's planned **filling of portions of the wetlands is unconditionally prohibited by City ordinance**. Further, the applicant's **permits with WDNR to fill wetlands were REVERSED** (refer to attached copy of State of Wisconsin Division of Hearings and Appeals March 15, 2019 *FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER* – Case No. DNR-18-0002). So the applicant's proposed filling of wetlands is not permitted. That *Order* includes environmental impact topics that go beyond wetlands, some of which are discussed in the Inter-Related Environmental Considerations of this letter.

- The Grading and Erosion Control Plans submitted with the application to the City indicate that **a majority of the property's woodlands are planned to be clear cut**. Clear cutting beyond 50% was previously not allowable under the City's ***Woodland Overlay*** *Zoning* ordinance, which was recently modified to **put clear cuts of more than 50% under CUP environmental impact criteria.**

These ordinances directly relate to some **primary environmental impacts** of which the Town is concerned, as discussed in more detail in the following sections of this letter. Before turning to those, it's useful to get a different issue out of the way, which was the Town's initial concern of the potential impact that high capacity wells for golf course irrigation might have on nearby private residential wells. Evaluation by the hydrogeologist retained by the Town as it commenced due diligence review of Kohler's initial CUP application request determined that the bedrock aquifer capacity in this area is more than adequate and that the high capacity wells proposed by Kohler Company will not have adverse impact. Therefore, if it's not cost effective to extend municipal water supply to the project as is indicated in an exhibit in the application, that ought not to be problematic from a CUP review perspective, and particularly if wells are located at the property interior as had been initially proposed. Upon request, a copy of that report can be provided to the City.

Having determined that the water supply as not problematic, **at least the following natural resource issues remain relevant** to the subject CUP application.

Lakeshore

The City's ***Lakeshore Overlay Zoning*** (Section 15.505(4)) mandates that "**lakeshores shall remain in an undisturbed state**". That zone as defined by City ordinance comprises the land within 75 feet of the Ordinary High Water Mark (OHWM). The **application is incomplete in that neither the OHWM nor the Lakeshore Overlay Zone are shown** on the Grading and Erosion Control Plans.

Kohler's plans published on WDNR's website prior to their wetland permit application several years ago showed **extensive revetments** to be built along about 2/3's of that shoreline, similar to what has been done at Whistling Straits. It's notable that the project plans submitted in the WDNR Wetland Permit application for the subject project omitted showing any revetments. Likewise, **the Grading and Erosion Control plan provided as a component of the CUP application omits showing any revetments**. However, the **present wave erosion line,** which would be the least conservative interpretation of OHWM location, **has encroached on the eastern edges of substantial portions of the planned course of play** as has been confirmed by preliminary survey. And the **Lakeshore Overlay Zoning** further **extends into the project another 75 feet**. The locations of these are mapped in the attached "Annotated" copy of Kohler's Grading and Erosion Control Plan.

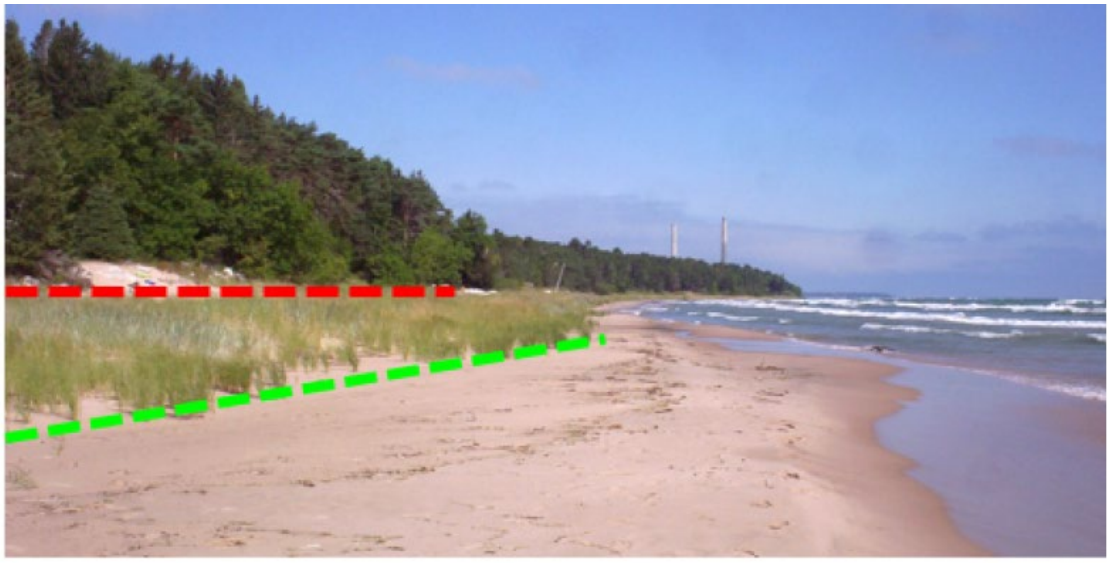
This information is based on recent (12-7-2020) precision GPS survey of the present calm water line made at about 200' intervals along the shoreline. And from each of those points, laser distance measurements were made to the OHWM physical evidence. The latter was taken at the present wave erosion line, which is the current eastern limit of terrestrial vegetation. That's one of the generic WDNR criteria of the OHWM for inland lakes and rivers. However, some recent interpretations by

WDNR during the current high water period are at the maximum extent of prior erosion. At some locations that's west of the present erosion and was caused by the 1986-1987 high water period.

Further, **the long-term natural shoreline recession (erosion) rate is approximately 100 feet per century** along this reach of shoreline. Therefore, in order for the "Lakeshore to remain in an undisturbed state", **allowance must be made for future natural erosion.** For example, if the planned service life of a project is 75 years, its features should be kept at least 75 feet back from the current high water erosion line such as exists at this time, or any evidence of prior erosion if that lies to the west. Otherwise, **revetments that Kohler would need** to construct and maintain this golf course plan (similar to what it has done and continues to do at Whistling Straits) **will cause substantial artificially induced shore erosion of the State Park's shoreline**. Therefore, **scaling back the project so that its eastern edge is not so close to the lakeshore is necessary to avoid the need for revetments and not interfere with the natural dynamics of the Lake Michigan shoreline. This is necessary to avoid substantial adverse environmental impacts as well as comply with municipal ordinance.**

This element is critical to avoid irreversible and increasingly severe shore erosion to the adjacent State Park's shore because the natural littoral drift of shoreline sediment (in this case fine-grained sand) is from north to south. The accompanying public information brochure provides some context on this subject.

The ***Lakeshore Overlay Zoning*** **extends inland 75 feet from the Ordinary High Water Mark** (OHWM). Kohler's plans previously submitted to WDNR utilized a survey of the OHWM in 2012, during a historically low water period. That mapped the position of the OWHM more than 100 feet lakeward from what would be mapped by any current determination. The project Grading and Erosion Control Plans (Exhibit 9) in the CUP application don't show any location of OHWM. Therefore, **an updated survey of the OHWM is imperative and is provided with this letter. All of the applicant's subject land within that zone exists in its unaltered natural condition.** Therefore, **under City ordinance, no grading or land disturbance is allowable within that zone and must also be excluded from the area of future erosion potential throughout the service life of the golf course.**



The Ordinary High Water Mark (O.H.W.M.) varies greatly, sometimes up to 200 feet, between low and high water periods along the Lake Michigan shoreline.

To provide perspective on how the location of the OHWM can vary between the low and high water levels along the sandy shore segments of Lake Michigan, consider the example of the above photo

that was taken in 2015 (just north of the subject property) when the lake's water level was close to the average of its 6 feet total range between highs and lows. The colored dashed lines depict the common range of variation of OHWM determinations. The green dashed line coincides with the OHWM definition at that time. In 2012, when the water level was at historic low, a second dune had built up to cover the bare beach in the center of the photo and the OHWM was located close to where the water's edge is at the right side of this photo. The red dashed line is roughly where the OHWM is when the lake's water level is about a foot lower than the current highwater level.

Throughout 2020, while the water has been matching historic highs, **storm wave erosion has advanced westward** (left) from the red dashed line, **dropping mature trees into the lake at many locations.** That's **where a current OHWM determination is located.** Therefore, the Lakeshore Zone as prescribed by City ordinance presently extends 75 feet into the woods along much of Kohler Company's property. Because Section 15.905(4)(c)(3) requires that the proposed use avoids substantial adverse impact on "matters affecting the public health, safety, or general welfare, either as they exist now or as they may in the future be developed", **the long-term natural shore recession rate for this reach of shoreline needs to be incorporated in an eastern limiting boundary beyond which land disturbance is not allowed**.

Wetlands

As described in the Introduction of this letter, the project plans show filling of substantial portions of the wetland swale and pocket wetlands that parallel the lakeshore. Section 15.504(3)(c)(2) of **the City ordinance unconditionally forbids filling any portion of this project's wetlands.**

Additionally, the western edge of the project is bounded by the expansive wetlands associated with the Black River, of which some portions are planned to be filled. While that filling is not allowable by virtue of the cited City ordinance, perhaps more significant than the amount of proposed filling is the **proximity of the planned course of play.** This is termed a "secondary impact" of the project in the DOA REVERSAL of the DNR wetland fill permit.

The life cycles of many of the amphibian and reptile species require direct connectivity between wetlands and uplands because they at least seasonally occupy both environments. Additionally, those species have ecologically interdependent relationships with many other animal species, all of that becoming interrupted by the fairways being planned right along the Black River floodplain wetlands for almost the entire length of the project. The **adverse impacts of the proposed extensive and proximate deforestation**, as well as other aspects of the project (referred to as "secondary effects" in the DOA Ruling), **require evaluation** by appropriately skilled environmental scientists **to ascertain adequate protective setback distance of woodland disturbance from the wetlands.** This has not been done. And if not done, review of this CUP application will be as deficient as the premature granting of the State wetland permit, which has been reversed by administrative order. Further, **the Black River is identified by WDNR as an "impaired waterway".** Based on that alone it **warrants special protective consideration**.

Woodlands

In general, clear cutting of quality woodlands for golf courses is not a wise use of forest resources. That's a statement I made some years ago in answer to a question posed to me about the proposed golf course at the end of a public presentation I gave on the surface and groundwater resources of the Black River area. To test that opinion, consider if the converse can be legitimately asserted; "clear cutting of quality woodlands to create golf courses is a wise use of forest resources." The aggregate effect of incremental habitat losses on countless individual parcels throughout this county and around the globe is the cause of the ongoing plant and animal mass extinctions, which is sound

basis and need for environmental regulation balanced with society needs. This is consistent with the City's Natural Resource Protection Overlay Zoning ordinances.

The project Grading and Erosion Control Plans locate **course of play right along the entire east edge of the wetlands of the Black River floodplain**. Much of the environmental functional value of wetlands depends on the natural (in this case wooded) adjacent uplands, as I had described in the DOA hearing at the Mead Public Library in 2018 and have also summarized above. Objective scientific ecologic **evaluation of the minimum distance of protective setback would indicate the western boundary of ground disturbance and clear cutting from the wetlands required to avoid substantial adverse environmental impact.** That will further subtract from the E-W width of land that can be disturbed by golf course development and still avoid substantial adverse environmental impact. Additionally, the **large proportion of woodlands planned to be clear cut** within that remaining **width is a major aspect of environmental impact**, as next described. And appropriate setback of ground disturbance from the wetlands within the eastern portion of the project must also be determined by an appropriately qualified wetland-woodland ecologist.

The Grading and Erosion Control Plans in the CUP application require **"clear cut" of a large proportion of the woodlands.** In the past, Kohler had cited that as 50% by using the entire parcel area as the denominator in that arithmetic. However, a substantial portion of the parcel is occupied by the wetlands within the floodplain of the Black River. The City's *Natural Resources Site Evaluation Worksheet* (Section 15.303(3)(b) avoids any potential ambiguity on how the various types of areas are to be calculated.

Until recently, the Woodland Overlay Zoning ordinance didn't allow clear cutting more than 50% unless it was for the specific purpose of improving the quality of the woodland, whereas the current ordinance allows more than 50% under CUP. Therefore, **the environmental impact aspect of the CUP criteria in regard to clear cutting,** including the ecological interrelationships with the wetlands as described above**, becomes the controlling criterion in regard to clear cutting.**

Inter-Related Environmental Considerations

After clear cutting and grading for fairways, the native soils that will be exposed throughout the project area consist of former lakebed and former (now wooded) dune sand with a shallow water table. In these very pervious sandy soils, **direct leaching of nitrates to the shallow water table is intrinsically unavoidable at this location** in spite of rigorous adherence to fertilizer application guidance. These soil conditions are mapped in the County's GIS system and were confirmed in the course of my firm performing the geotechnical investigation for Kohler's previously planned "Tented Forest" project at this location. In contrast to the subject project, Black Wolf Run and Whistling Straits have clay subgrade soils that greatly inhibit groundwater mobility. At those locations, conversion of the former croplands to golf course actually reduced long term environmental impact because the surface runoff from grassy areas contains much less phosphorous and nitrates than active crop land.

Because the sand subgrade of the subject golf course avoids substantial runoff (due to high capacity of surface infiltration and leaching as mentioned above), the predominant path of any water contaminants is in the shallow water table, which flows as lateral subsurface seepage directly from the river's wetlands to the lake. While any dissolved phosphorous leaching into the subgrade is expected to chemically bind in the soil, **nitrates will remain mobile in the water table**. **That effect can be monitored by placing a series of shallow ground water quality monitoring wells** along the east edge of the Black River floodplain, some similar wells located about midway E-W throughout the length of the golf course, and a line of monitoring wells along the east edge of the project as was mentioned to Kohler Company in 2014. If those indicate in the future that fertilizing the course is causing contamination, a series of shallow water withdrawal wells or trenches could be configured

to intercept contaminated ground water before it seeps into the lake. That water could be used for irrigation, which, because of inherent evaporative losses, can comprise a self-contained hydraulic cell loop. However, other environmental considerations as well as the City's Natural Resource Protection Overlay requirements likely make this issue moot.

While the **WDNR listed several pages of additional deficiencies in Kohler's Environmental Impact Report (EIR)** that was required for agencies to have available in making permit decisions for the project, those deficiencies **have yet to be technically addressed**. That's largely the basis for DOA's ruling that the wetland permit application did not receive adequate consideration. Likewise, **if the City doesn't require the deficiencies of the project's EIR to be adequately addressed it will have been similarly deficient** in its responsibility to assure that the project's impacts are correctly described. Otherwise, administrative decisions are based on false pretense.

Until the deficiencies of the project's present EIR are addressed, **a useful preliminary indication** of the amount of environmental impact due to the extent of planned deforestation **can be obtained by** having a qualified consultant perform a **Floristic Quality Assessment (FQA)**. This is an evaluation of plant species diversity. Determination of the **Floristic Quality Index (FQI)** of the present condition of the Kohler and involved park land, with comparison to that same index under the planned development, will provide an initial indication of **magnitude of project environmental impacts.**

While a FQA, in itself, is by no means a complete environmental evaluation, it will provide the Plan Commission with an initial sense of how the project's impacts compare to what is allowable under the ordinances. That will be more useful than the project's EIR report, which merely said there will be "**some**" adverse impact. The large amount of redaction (blacked out plant and animal species) in WDNR's summary of endangered species evaluation is indication this is essential. The several hundred pages of the Appendix to the EIR contains most, if not all, of the raw data needed to base qualified interpretation. However, **the very brief report body of the EIR avoided actionable conclusions with respect to the words "substantial" and "major"** that are contained in the ordinances.

If the Plan Commission members have not yet walked the subject land, that's particularly important in this case because it has nothing in common with typical urban environments. Do be aware that the tours that Kohler facilitated with the Town Board a few years ago emphasized the amount of invasive Barberry that will be removed by the proposed deforestation. However, Kohler has allowed the Barberry to propagate for years in violation of the Town's invasive species ordinance even though the shrubs can be eradicated by just pulling them out. The tours also avoided some of the prime forest areas that are approaching the full ecologic value of "**old growth"** that **is a rare and high value local and regional natural resource**.

The Park's northern acreage that Kohler has arranged to trade for other land (not useable to the park) has long been slated in the Park's Master Plan to remain undeveloped to preserve ecologic function and support related public education. Kohler needed that trade to construct a parking lot and maintenance building complex there because the project doesn't fit on their land. So **what's proposed is the opposite of** what has long been determined by the Park as **the most appropriate use for that particular portion of that land**, which **is to preserve its environmental integrity**. The City ought to **solicit direct input from the present and former park superintendents** to obtain their opinions on this as well as other potential park impacts. Otherwise, evaluation of this CUP application will be incomplete.

In that regard, the additional traffic congestion by use of the park's entrance for access to the proposed golf course is a concern, particularly during any championship events. That can be substantially alleviated by creating a separate and dedicated entrance to the Kohler Company

property directly off S. 12th Street via an access easement that could be granted by the state at a suitable location that happens to be at about the southern quarter point of that land's frontage along the road. This can be designed to avoid any wetland impact and would be on land that Kohler Company gifted to the state in 1966. And the proposed maintenance facility could be built within the red pine plantation that has limited ecologic value and is located in the southwestern corner of the Kohler property.

Conclusions

Even lacking the evaluations described above that are necessary to determine the types and degrees of environmental impacts, **some characteristics of the proposed project are unconditionally prohibited by City ordinance** as outlined in the Introduction and explained in the foregoing body of this letter. This will at least require substantial modification of the plans to comply with the mandatory requirements of the City's Natural Resource Protection ordinances. Even with bringing plans into compliance with the Lakeshore Zoning requirements in order that "Lakeshores shall remain in an undisturbed state", and to avoid filling any wetlands and provide adequate protective habitat setback from those, **the large extent of deforestation will remain as a major adverse environmental impact.** Kohler Company had been informed of this in 2014.

DOA's wetland permit reversal Order (copy attached) is essential reading for any and all administrators of the golf course CUP application as it references the "high value", "exceptional", and "critically imperiled" environmental characteristics of the subject land. That Order **concluded that "the Department"** (meaning DNR) **"did not have sufficient information to determine that the proposed project will not result in adverse impact** to water quality, or in other significant adverse environmental consequences." Because this determination deals with environmental factors common to the City's CUP criteria and Natural Resource Protection Overlay Zoning, it holds considerable topical relationship to the City's review of the subject CUP application.

Modifying the project plans to meet the *Lakeshore Overlay* as well as the other municipal requirements will at least require considerable work by the applicant and cannot be accomplished by this commission prescribing some conditions. Because allowable project plans will need to be substantially different than presented in the present application, public hearing process will need to be repeated at such time the Planning Department has re-determined that the application is complete and allowable under City ordinances. This letter has described some of the technical aspects that must be addressed by completing the necessary evaluations. The timing of that process is consistent with the applicant's recent request for time extension in consideration of ongoing litigation related to the project.

The information contained in this letter is intended to facilitate lawful **consideration of whether or not the application and its review report by the Zoning Administrator provide sufficient information to allow the Commission to ascertain** (consistent with Sections 15.905(4)(c)(3 and 6)) if:

a) "the proposed conditional use, in its proposed location and as depicted on the required site plan, result in substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking" (…etc.) "as they now exist or as they may in the future be developed", or that

b) "the potential benefits of the proposed conditional use outweigh any and all potential adverse impacts".

If, at any time, the answer to a) is yes, or the answer to b) is no, a proposed conditional use is not allowable. CUP approvability is not a function of some economic benefit, in spite of how much of the application content is dedicated to encourage over-riding proper administration of ordinance requirements. If some economic benefit was the criteria, there would be no reason to have land use regulations because no development intends to plan negative financial return. CUP as well as permitted use **development approvability is a function of the characteristics of the project meeting the locally legislated development criteria**. Degree of enthusiasm or popularity of a proposed use is not an element of those.

In the case of a critical service facility such as a hospital, the "public benefits of the proposed conditional use" will balance substantially against the involved "undesirable effects", such as siren noise and traffic, but much less so than for a privately owned recreational facility. The new Aurora Hospital presently under construction in this community preserves intact the majority of woodlands on its parcel as an asset. The majority of that development is on former crop land.

Summary

Subchapter 15-5 (Natural Resource Protection Regulations) of the City's Zoning Ordinance sets forth "the mandatory protection of natural resource areas" and contains "standards which govern the protection, disturbance, and mitigation of disruption of all natural resource areas". That subchapter "recognizes the important and diverse benefits which natural resource features provide in terms of protecting the health, safety, and general welfare of the community". And Section 15.303 and 15.306(1)(a)(2)(c) mandate Natural Resource Site Evaluation, of which the applicant's CUP application is presently deficient in at least the respects described by this letter.

Because the natural resource characteristics of the subject land are uniquely uncommon to the urban setting, administration of this CUP application may be an unprecedented experience for this City's administration. The purpose of this letter has been to provide information on characteristics of the subject land that may not yet have been identified by staff so that pertinent ordinances can be applied for the purpose of meeting not only the letter of the law, but also the intent, and avoid creating substantial problems.

The Town of Wilson still has valid and intrinsic interest in this project, not only because its residents are most proximate, but because what is proposed here would have substantial regional environmental impact. Can you think of any location within the County that's any more unique and important a natural resource and deserving of proper application of applicable environmental protection ordinances? Therefore, **what are the necessary characteristics and physical limits of any development there to avoid causing substantial adverse environmental impact? This can only be determined through evaluation by qualified scientific professionals.**

As described in the body of this report, the pertinent aspects of the City's **Natural Resource Protection Overlay ordinances with respect to the proposed project specifically require** that:

1) The **amount of deforestation be limited** to the extent that **adverse impacts** to the environment **are not substantial**.

2) The areas of land disturbance must be such that **adequate habitat transition** is provided **between wetlands and woodlands** in order **to avoid substantial adverse environmental impact**.

3) That **no wetlands are altered**. This is consistent with the DOA order reversing the state wetland permit.

4) Development must be **set back from the lake** beyond the Lakeshore zone, plus adequate **reserve for future natural shoreline recession.**

5) **There is no need to occupy northern portions of the state park**, other than the proposed project not fitting on the applicant's land.

Please call or email if you have any question regarding the information presented in this letter.

Sincerely,

WISCONSIN ROGER G. MILLER E-23756 SHEBOYGAN, WI PROFESSIONAL ENGINEER

12/10/2020

Roger G. Miller, P.E., Environmental Engineer
President, Miller Engineers & Scientists, and
Chairman – Town of Wilson Plan Commission

Enclosures: Protecting Shoreline Investments from Rising Lake Levels informational brochure
DOA Wetland Permit Reversal Order

Sokolowski, Steve

From: DeBruin, Meredith
Sent: Monday, December 14, 2020 8:39 AM
To: Mayor Vandersteen; Pelishek, Chad; Sokolowski, Steve
Subject: FW: December 15 City of Sheboygan Planning Commission meeting

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From: Henry Nelson [mailto:hjnelson@charter.net]
Sent: Sunday, December 13, 2020 1:35 PM
To: DeBruin, Meredith; O'Reilly Mike
Subject: December 15 City of Sheboygan Planning Commission meeting

To the City of Sheboygan Planning Commission

My name is Henry Nelson and I live at 1926 Settlement Trail, City of Sheboygan. I was a member of the Common Council when the City approved the petition by the Kohler Co. for annexation of their property in the Town of Wilson.
I voted for the annexation for the following reasons:
The annexation will provide an avenue for additional properties on the south side of Sheboygan to be annexed. These annexations will be critical if the City is to grow and expand its tax base. As we know, the tax base of the City is being choked by the tax freeze imposed by the state, except for net new construction, and inhibiting the ability of the City to maintain basic services at the level that our citizens expect and demand.
As part of the annexation, the City reached an agreement with the Kohler Co. that the Kohler Co. pay for the extension of water services along South 12th Street from its terminus at Riverdale Avenue to the proposed project on the Kohler property. This water line is vital for further expansion of the City along with the concomitant increases of tax base.

If the new golf course project comes to fruition, it will contribute greatly to our tax base, create new jobs, and contribute to our already national and international reputation as a prime recreational destination.

I urge you to support the Conditional Use Permit that is being requested.

Respectfully,
Henry Nelson

Sokolowski, Steve

From: Duellman, Janet on behalf of Development
Sent: Friday, December 11, 2020 4:24 PM
To: Sokolowski, Steve; Pelishek, Chad
Cc: 'banditbobo4@yahoo.com'
Subject: FW: Kohler Andrae State Park

Please see below email.

Janet M Duellman
Community Development Planner
920/459.3380

From: denise ball [mailto:banditbobo4@yahoo.com]
Sent: Friday, December 11, 2020 11:12 AM
To: Development
Subject: Kohler Andrae State Park

City of Sheboygan, WI Development Division,

I am hoping and praying that you do not let the big money get in the way of doing what's right for the park and all of the land that should remain a State Park.
The DNR should never have been able to give away any land to a corporation of any kind. To take this beautiful park and level all the trees to make a golf course is a blatant disregard to the earth and all the animals that inhabit the area and people who recreate there.

I hope that you make decisions now that show our children and future generations that big business can't buy us and our natural resources and shove their poisonous fertilizers, pesticides and herbicides down our throats.

Please do what's right!

Denise Bell
4223 29 Avenue
Kenosha WI 53140

Sent from Yahoo Mail on Android

Sokolowski, Steve

From: Duellman, Janet on behalf of Development
Sent: Friday, December 11, 2020 4:25 PM
To: Pelishek, Chad; Sokolowski, Steve
Cc: 'jneguevara@gmail.com'
Subject: FW: Kohler Conditional Use Permit

Please see below.

Janet M Duellman
Community Development Planner
920/459.3380

From: Judith Guevara [mailto:jneguevara@gmail.com]
Sent: Friday, December 11, 2020 12:05 PM
To: Development
Subject: Kohler Conditional Use Permit

Attention Commission Members,

Respectfully I am writing to you to consider the proposal made by the Kohler Company from another point of view.

The company does not have a permit to destry wetland for their proposed golf course not do they have approval. Their actions demonstrate a prime land give away and contamination of groundwater and Lake Michigan water.

It is within your power to legally represent the voters in your districts and stop any further takeover plan made by this company.

Sincerely,

J.C. Guevara

From: Joseph Stadler
To: Development
Subject: Kohler golf course project
Date: Monday, December 14, 2020 10:06:31 AM

I wish to express my support of the new Kohler golf course project in Sheboygan County. Kohler's current golf courses have provided Wisconsin with the spotlight on an international basis and have led the way to Wisconsin being named the #1 golf destination in the world. The amount of tourism dollars, both nationally and internationally, that are triggered by the efforts of the Kohler company are significant. Golf is in excess of a $2.4 billion industry in Wisconsin and with the addition of Sand Valley Resort, Erin Hills, a revamped SentryWorld to complement Kohler this will only increase. A fifth Kohler course will continue to keep Wisconsin in the spotlight internationally. In addition to the economic impact of travel, the new course will also create new employment opportunities in the area. Full-time employees and many seasonal employees will be needed to operate the facility. There will be an obvious tax revenue increase as well.

The Kohler Company has been a great asset to the golf community in Wisconsin. They host a minimum of 10 events every year for local golf associations, including youth golf, plus even more for high school competitions. They do all of this for a significant discount (75-90%) off their normal market price. When University Ridge was unable to host the girls state high school competition this past fall it was Kohler that stepped up and volunteered to host so the girls would have a championship caliber course on which to conduct their competition. Kohler's willingness to support golf at this level is not common amongst major resorts throughout the country. They are the exception and not the norm.

Golf has provided a great, safe outdoor escape for so many the past 8 months. People have discovered or discovered a passion for golf, the game of a lifetime that combines social interaction, competition and exercise all in one.

The Kohler Company has been acknowledged for their environmental responsibility with their design, construction and ongoing maintenance of their facilities and I believe they will continue more of the same with their new project.

I appreciate your time and wish you the best with the meeting tomorrow. I wish I was able to attend as I have in the past but I am not able to.

Thank you for your time.

--

Joe Stadler, PGA
Executive Director Wisconsin PGA/WPGA Junior Foundation
11350 W. Theo Trecker Way
West Allis, WI 53214
414-443-3570

From:	Desmoulin, Debbie
To:	Development
Cc:	"Mary Faydash"; "Mary Faydash"; "Alizée Desmoulin"; "Jayne Zabrowski"; "Claudia Bricks"; Claudia Bricks
Subject:	City of Sheboygan - Plan Commission Meeting 12/15/2020
Date:	Sunday, December 13, 2020 7:36:43 PM
Attachments:	2020 12 15 City of Sheboygan Plan Commission Meeting Concerning Black River Forest.pdf
Importance:	High

Dear Plan Commission,

Attached is my letter to be reviewed for the Plan Commission Meeting this Tuesday, on 12/15/2020. I attached it as a PDF and I also copied and pasted it below. Please confirm reception.

Thank you,

Debra Desmoulin

1704 N. 35th St.

Sheboygan, WI 53081

City of Sheboygan - Plan Commission Meeting 12/15/2020

Application for Conditional Use Permit with exceptions by by Kohler Company to construct a new golf course on Kohler Company property north of Kohler-Andrae State Park between Black River and Lake Michigan.

2020 12 13 Comments by Debra Desmoulin

Please do not allow Kohler to construct a golf course north of Terry-Andrea Park because:

1. Golf courses use huge amounts of pesticides and herbicides that will go directly into Lake Michigan, polluting the lake, which we all need for drinking water and potable water is getting more and more scarce worldwide.
2. When Kohler wanted to make the glamour camping in this same forest, he was going to use daily pesticides because of the prolific mosquito populations there. He will most certainly do the same thing with his proposed golf course, because it is a very swampy area which attracts mosquitos.
3. Where will Kohler get the necessary water for his golf course? From Lake Michigan? That would be a big drain on this necessary resource. Or drilling deep down into the aquifers, which would really deplete them, which is foolish since golf courses are not necessary and Sheboygan County already has many of them.
4. There are lots of wild fauna and flora that are in the Black River Forest's ecosystem. Building a golf course would destroy this balance and further eliminate the wildlife and unique plants, bushes, and trees there.
5. The Black River Forest is a stopping point for migratory birds. The golf course would take that environmental jewel away. Once it's gone, it's gone forever.
6. Kohler's golf course would compromise the entry to Terry-Andrea Park, which would make it impossible for traffic to both the golf course and the park to go smoothly and simultaneously. And we all know that the park would be the loser of the two, which would prevent so many of the locals from enjoying the park and out-of-towners from vacationing there, which would diminish much needed revenues.
7. The area surrounding Kohler's property is a peaceful one, but once a golf course

and subsequent tournaments start up, the area will be too overwhelmed and the little peaceful community atmosphere will be lost.

8. There are Indian mounds within Kohler's forest that should be left where they are as a testimony to the rich native heritage of this area.

Up until now, Kohler refused to sell this land to the DNR because he didn't want anything built upon it. He has, until now, been a great steward of the land and the environment, but all of a sudden, he wants to exploit this beautiful forested area, by removing wildlife, trees, peacefulness, and impinge upon the public State Park's entry. What happened? Why would we allow all of those treasures to be sacrificed for the continual building of golf courses in Sheboygan County? Kohler has the money to build a golf course elsewhere. He doesn't need to destroy Lake Michigan's coastal beaches with more chemical pollution.

Here's research I did in 2017 on Kohler's project and golf courses across the USA:

About 800 golf courses have already closed nationwide for the past decade because of our younger generations' lack of interest in this time-consuming activity. A golf game takes a full afternoon, which millennials are hard-pressed to find since couples each work full time, juggling work, family, and leisure. Let's face it, golf is "du passé".

Articles from Bloomberg https://www.bloomberg.com/news/features/2016-08-15/america-s-golf-courses-are-burning

and Business Insider: http://www.businessinsider.com/inside-two-abandoned-golf-courses-2017-6/#the-apple-ridge-country-club-located-in-mahwah-new-jersey-opened-in-1966-1 , hardly environmental reviews, confirm these assertions.

They point out environmental solutions to former golf courses, such as donating the former golf courses to nature trusts and local parks. Ironically, the Black River Forest is already a thriving eco-system complete with native flora and fauna, migratory flyways and sand dunes! Just think how wonderful it would be if Kohler donated his Black River Forest to a nature trust.

Business Insider reported the serious concerns of toxin-laden land from the golf course pesticides, such as arsenic and lead contamination, which need to be resolved before land can be developed.

If we allow Kohler to destroy the Black River Forest and build a toxic golf course and if he doesn't have that many clients, then our taxes will be raised to compensate for his "loss" of revenue as was the case for Whistling Straits in the Town of Mosel.

[The Plan Commission will review written comments prior to the meeting. Please submit written comments to development@sheboyganwi.gov by Monday, December 14, 2020 at 12:00 pm to provide time for the comments to be shared with the City Plan Commission members.]

From: Mary Faydash
To: Development
Subject: Kohler CUP
Date: Monday, December 14, 2020 11:58:25 AM

December 14, 2020

To: City of Sheboygan Plan Commission
From Mary Faydash
Resident, Town of Wilson

Dear Members,

I am writing to you regarding your review of the Kohler CUP application for its proposed golf course project adjacent to Kohler Andrae State Park.
I am president of Friends of the Black River Forest (FBRF). Prior to the forming of FBRF, I, and many Wilson residents had been following Kohler's plans to develop its land as a Tented Forest in 2011. So we have been reading, watching, and following its communications with Wilson, County, State and Federal agencies (and now with the City) for almost 11 years.

From Kohler's first letter to Scott Walker asking him to facilitate the course to the pressure placed on DNR scientists to skirt environmental safeguards, and now this incomplete CUP application, we have observed and documented a tale of Wisconsin residents' inaccessibility to environmental decisions which will impact their air, land and water irrevocably. It is the tale of what money and power can and have done to our state in the name of economic developmemt based on short term gain rather than health and sustainability.

There is no need for me to reiterate the environmental impacts that have been verified by experts and the courts.

We have documented deception by the DNR, office of the Governor, DOA, former Town of Wilson Chairman, City of Sheboygan administrators and development department.
Personally, the most disappointing was the City annexation maneuvers and annexation vote. It is common knowledge that individuals in the City Administration and development department believe Wilson residents don't count in their opposition to this project. It will provide increased money for the city. The members of the Common Council who voted for the annexation weren't concerned with reading any facts about what this project would do the Lake, the state park users, the groundwater, the local residents, or an area characterized by diverse wildlife. There was no concern about following Wisconsin environmental laws which every resident, regardless of money or influence must follow They certainly were not concerned about letting this company destroy the serenity of an area that visitors and residents enjoy for its quietude and biodiversity. These impacts would take place 5 miles away and the developer had all the money necessary to cover law suits and drag them out.
The people of our state are in the throes of environmental crises with residents trying to fight light in the dark morass of Company after Company having received environmental passes that have poisoned our land, air and water.

When will the people be able to trust that their government, starting at the Town and City level really care about their health and welfare? When will this inability to be grateful to the Kohler Company AND expect them to show active concern for our common resources be resolved? I believe it is when we elect representatives who work from a different paradigm of development. Sheboygan has bought into develop, develop, develop and to pay for this selling our land, air and water and rights are a small price.

Please take a stand to change the paradigm. Review the CUP application when it is complete and employ independent evaluators of its claims. Kohler has no permits to dig up the wetlands, the swap of prime Kohler Andrae land is in the courts, there is no stormwater permit. There are many many safe guards needed. Please expect a complete application.

Mary Faydash

From:	John Engberg
To:	Development
Cc:	John Engberg
Subject:	Plan Commission - Golf Course Meeting (December 15th - 3PM)
Date:	Monday, December 14, 2020 11:33:37 AM

Dear Plan Commission,

I understand you will be reviewing the proposed Kohler owned golf course project this Tuesday. I want to offer my perspective that the economic and environmental aspects of this development should encourage you to approve it.

I'm reminded of the failed attempt to secure the new Aurora hospital in the City of Sheboygan which eventually is being built on Village of Kohler property. I believe Aurora offered a generous package to allow much greater athletic facilities and an increased tax base for the city with a new hospital. We can't afford to make the same mistake with the golf course project. Significant job creation and taxes will benefit the City of Sheboygan, Sheboygan County as well as the State of Wisconsin. In particular, it is estimated tax revenue for the city could range from $250,000 to $300,000 annually benefiting school and non-school property taxes as well as increased hotel room taxes.

From a job creation standpoint, the City of Sheboygan is estimated to benefit by in excess of 50 FTE employees during the 3-year construction project and around 125 FTE's in ongoing golf course operation. This doesn't include jobs that will be created for the county of Sheboygan residents and those living in the regional area.

Regarding the environmental aspect, I submit Blackwolf Run and Whistling Straits as examples of projects that have enhanced, not detracted from, the local natural ecosystem.

In summary, I hope you factor in all the aspects of this proposal including the economic and environmental benefits for the City of Sheboygan, and thereby proceed with this valuable project.

Thank you for your consideration.

Sincerely,

John C. Engberg
1221 N. 6th Street
Sheboygan, WI 53081
e: john.c.engberg@gmail.com

From: Linda Hunn
To: Development
Subject: Conditional Use Permit for proposed Kohler-Andre State Park Golf Course
Date: Friday, December 11, 2020 4:27:14 PM

As a resident of Wisconsin, and frequent user of Kohler-Andre State Park, I respectfully request that you do not issue Kohler a Conditional Use Permit for their proposed golf course until all the necessary studies have been completed and permits have been obtained.

I am dismayed that Kohler and Wisconsin DNR are even considering this project that would negatively impact the State Park, its visitors, water quality, wildlife, and surrounding neighborhoods and residents.

There is increasing demand for parks and undeveloped lands for people and wildlife. Pushing through this golf course is a step in the wrong direction.

Linda Hunn
3361a South Indiana Avenue
Milwaukee, WI 53207
262-951-6905

Sent from my iPhone

From: David Cohn
To: Development
Subject: Public Comment for Kohler Co. Conditional Use Permit
Date: Monday, December 14, 2020 11:42:47 AM

I fully support Kohler Co.'s application for a conditional use permit for their proposed public golf course on company property in the City of Sheboygan.

Golf is uniquely positioned to offer community benefits that extend well beyond the boundaries of a golf course, and Kohler Co. has been a champion of those benefits since they opened their first golf course in 1988.

Kohler Co. has always taken an environmentally responsible approach to building and maintaining their golf courses and is committed to going above and beyond to do so with the proposed course.

The new course will bring a substantial amount of economic benefits to the City of Sheboygan and surrounding region, increasing their existing positive economic impact, tax revenue and number of unique job opportunities. Kohler Co. has contributed greatly to the State of Wisconsin as a local, regional, national and international tourism destination, a role that benefits the surrounding communities, businesses and individuals in an even greater capacity than it benefits Kohler Co. itself.

Golf provides a lifetime outdoor activity for people of all ages. For kids, adults and seniors, golf is a game that brings people together and teaches us about ourselves and each other. Kohler Co. has proven with great success that golf can have a positive everlasting impact on a community when stewarded responsibly as they have done for years and will continue to do in the future.

As executive director of First Tee — Southeast Wisconsin, a nonprofit organization focused on impacting the lives of young people by providing educational programs that build character and instill life-enhancing values through the game of golf, I am committed to sharing the games values with the next generation of leaders. Kohler Co.'s commitment to the game and therefore the surrounding community and the future of those in it will benefit from the approval of this conditional use permit and the future support of the proposed golf course.

Sincerely,

David Cohn
Executive Director
First Tee — Southeast Wisconsin

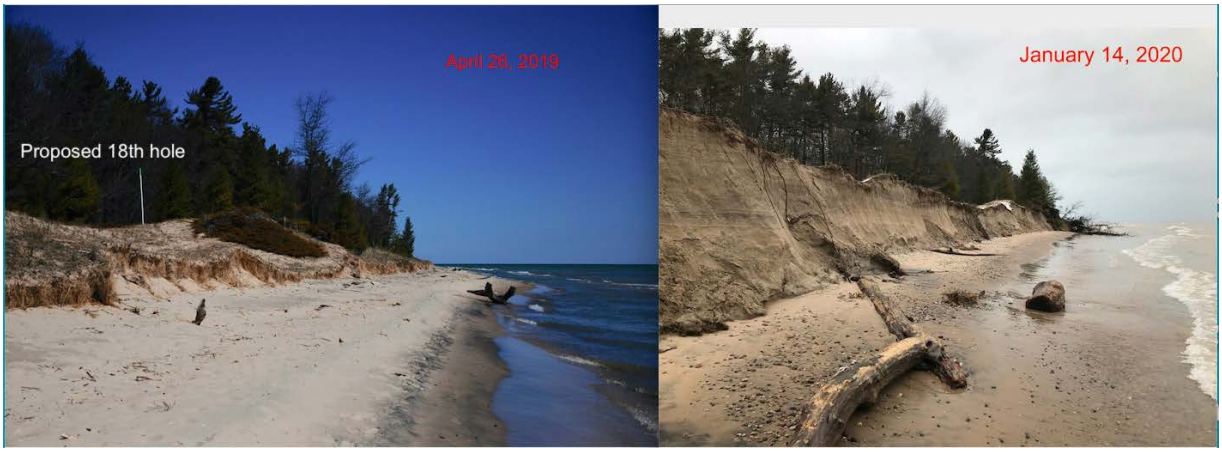
From: Erik Thelen
To: Development; Sokolowski, Steve
Subject: Re: Kohler Company Golf Course Conditional Use Permit Application
Date: Friday, December 4, 2020 7:38:55 AM

Thank you for sending the ftp link. I studied the site plan and noticed that the applicant is using outdated maps that show the Ordinary High Water Mark during an historically low lake level. The subsequent and well publicized high lake levels have rendered this site plan unusable. Here is a picture showing the site of the proposed 18th hole (marked with a PVC pipe) in April 2019 and again in January 2020 (the pipe has washed away). The entire location of the proposed golf course feature is now out in the lake. There are four such proposed greens that have been disrupted.

I have a folder of pictures showing this erosion as it has progressed, and I am glad to share them with you.

Respectfully,

Erik Thelen



Erik A. Thelen
Reply to: erikthelen@yahoo.com

From: Barbara Pence
To: Development
Subject: Conditional Use Permit for proposed Kohler Company golf course
Date: Sunday, December 13, 2020 10:59:48 PM

As a Sheboygan taxpayer, I am concerned about approval of the requested CUP at this time. There are many unresolved issues, including: lack of Wetland Fill and Stormwater permits; several pending lawsuits; delayed construction; revised plans for holes on land already lost to Lake Michigan.
Although the Kohler Company paints a rosy picture, the actual benefits and future tax liabilities to Sheboygan residents are unknown at this point.
It is the duty of the Plan Commission to thoroughly study all aspects of this project, with the help of consultants, if necessary. A hasty decision made with incomplete data is not in the best interest of Sheboygan taxpayers.
I urge you to wait until you have all the information necessary to make an informed decision.

Barbara Pence
2312 Wedemeyer Street

Sent from my iPhone



WISCONSIN SOCIETY *for* ORNITHOLOGY

December 14, 2020

City of Sheboygan Plan Commission
Submitted electronically to development@sheboyganwi.gov

Re: Application of the Kohler Company for a Conditional Use Permit to construct a golf course

Dear Mayor Vandersteen and Members of the City of Sheboygan Plan Commission,

The Wisconsin Society for Ornithology (WSO) urges the Sheboygan Plan Commission to deny the application of the Kohler Company for a Conditional Use Permit (CUP) to construct a golf course and associated structures on land north of Kohler-Andrae State Park.

WSO is a state-wide nonprofit organization dedicated to the conservation, study and enjoyment of Wisconsin's birds. Formed in 1939, we are the state's only state-wide bird conservation organization. The US Fish and Wildlife Service estimates that over 1.6 million Wisconsinites enjoy watching birds at some level.

We oppose the issuance of this CUP because of the importance of the bird habitat that will be lost forever if this golf course is constructed. Like all living things, birds require suitable habitat to survive.

The golf course proposed by Kohler is a significant bird conservation issue that warrants WSO's concern. The proposed golf course would eliminate a large portion of the native vegetation on this this large, currently undeveloped site, depriving birds of critically important and increasingly rare habitat. It is important to native birds who breed in the area, but it is vitally important to migratory birds as a "stopover site."

Every spring and fall, tens of millions of migrating birds sweep through the Great Lakes region on their journeys between their breeding and wintering grounds. Because some of these birds may breed as far north as Greenland and the Arctic Ocean and many spend their winters as far south as Central or South America, seldom are these migration flights a one-shot deal; most are multiple-leg trips. To successfully make this journey they need spots, called stopover sites, that can provide them with critical food and shelter. Loss of stopover habitats poses an ongoing threat to migratory bird populations nationwide.

The Great Lakes region poses another challenge for migrating birds. The size of the lakes is a barrier to some migrating birds, while others will readily cross these large expanses. Those that do cross the lakes depend heavily on stopover sites along the shorelines. Birds often migrate at night, and at dawn will make their way towards land to find suitable stopover habitat in which to rest and refuel. Likewise, birds encountering bad weather while crossing the lake will also reverse direction and head for shorelines. Wisconsin birders themselves flock to the western shore of Lake Michigan during spring migration to see these flocks of migrants.

Prior to European settlement, the landscape along the Lake Michigan shoreline was dominated by northern or central hardwood forests, interspersed with a mixture of wetlands, and minor inclusions of other vegetative cover. Today, the landscape is dominated by extensive agricultural lands and human

developments. The forest cover that remains is generally fragmented and scattered and housing developments have encroached on many of the remaining forest blocks. Those few undeveloped forest stands are the critical remnants of the migration stopover habitat that once was widespread in this region. **The Kohler parcel is one of the few remaining large forest blocks with enough resources to support large numbers of migrants of many species through extended stopovers, which migratory bird biologists refer to as "full-service hotels."**

The DNR's *Ecological Landscapes of Wisconsin* publication says this about the lakeshore landscape in the Sheboygan area:

> "The Lake Michigan shoreline is heavily used by migratory birds of many kinds, including waterfowl, loons, grebes, gulls, terns, shorebirds, raptors, and passerines. Many sites along the Lake Michigan shore are popular with birders because of the high diversity of birds and many rarities that can be observed there... Providing and maintaining a sufficient variety and abundance of the habitats needed by these birds is a priority conservation goal."

DNR's *Ecological Landscapes* publication goes on to say that one of the management needs for this lakeshore landscape is to:

> "Work with private and public partners to identify and protect additional shoreline forests, as these habitats are in very short supply, public land is scarce, and bird use during migration periods is heavy. Reforestation of some areas along the Lake Michigan shoreline that are used as migratory stopover sites for land birds is generally desirable."

The area south of Sheboygan, including the state park lands, has been recognized by others as an important resource for migratory birds. It's been identified as an Important Bird Area, or IBA, a world-wide program in which Wisconsin participates. This area was recognized as an IBA due to the extensive use by birds as on-shore migratory stopover habitat and off-shore wintering waterfowl habitat. This area has also been identified by the Wisconsin Stopover Initiative as a Tier 1 area, the highest level of significance for migratory bird stopover habitat.

There is a long history of converting woodlands and other natural habitats in the Sheboygan area to urban, commercial, and agriculture land uses. This increases the significance of those few remaining blocks of undeveloped forest, including the site of the proposed project, as migratory bird stopover habitat. There just isn't much left for these migrating birds. Since 1970 North America has lost nearly 3 billion birds. This staggering decline has been brought on by loss of habitat, insects and degradation of nesting and migratory environments.

Construction of a large project such as the proposed golf course on this property would significantly diminish the area's value as a critical stopover habitat for migratory birds. We encourage the city to take this into account when considering whether to approve or deny the pending Conditional Use Permit for the golf course project.

There are specific sections of the Sheboygan Municipal Ordinances that are relevant to the characteristics of the bird habitat on this site.

Ord. 15.206(2)(g)(3)(a) provides that the applicant for a CUP shall demonstrate that clear cutting [more than 50% of the canopy] will improve the level of environmental protection on the subject property. Kohler has not met this test. The tree and shrub canopy is the very element of the ecology of this property that makes it most valuable for migratory birds.

The staff recommendation for the approval of this CUP entirely ignores this requirement and makes no finding whatsoever.

Ord. 15.905(4)(c)3 requires the Plan Commission when reviewing the application to ask whether "the proposed conditional use, in its proposed location and as depicted on the required site plan, [will] result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, …." As it is worded, the clear implication is that the Plan Commission is to make a finding that the proposed condition use does not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, or environmental factors."

Once again, your staff recommendation is entirely silent on these issues. It is unquestioned that the proposed use of the land will result in a substantial and undue adverse impact on the property itself, on Kohler-Andrae State Park and on the environment of the area.

It is not entirely surprising that the staff recommendation is silent on these issues…so is the application. Kohler makes no mention of the impact of the project on birds and does not appear to recognize that this property is an important jewel in a necklace of bird stopover sites along the lake. As those pearls are destroyed, one by one, the necklace fails, and the birds are deprived of habitat they require for survival.

The plan submitted to the City appears to have been prepared before the water levels in Lake Michigan rose to their current level. Acknowledging that lake levels rise and fall over periods of years, it is clear nevertheless that portions of the proposed golf course will be periodically submerged and that the Ordinary High-Water Mark of the lake is variable. The provisions of the Public Trust Doctrine are likely to be implicated if fill or structures are placed on what will be, from time to time, the bed of lake Michigan.

We submit that this application is based on an out-of-date plan.

Finally, the CUP application is entirely premature, since many other permits that are required from the DNR, the Corps of Engineers and other bodies have not been issued. Until those permits are issued, there is no point in issuing a CUP for this project.

Thank you for the opportunity to provide these comments on behalf of birds and the thousands of Wisconsin residents who enjoy and appreciate birds and are concerned about their preservation. Please contact me if you have any questions or if we can be of further assistance. I can be reached at (262) 442-7530 or at president@wsobirds.org.

Sincerely,

Mary Korkor, President
The Wisconsin Society for Ornithology, Inc.

From: Mike Kleist
To: Development
Subject: CUP letter Black River Golf Course
Date: Monday, December 14, 2020 10:07:36 AM

The purpose of this letter is to show support for the CUP for the proposed Black River Golf Course. My family and I have lived in the Sheboygan area for the last 15 years and have grown fond of the various lake Michigan beaches as well as Kohler Andre State Park. We enjoy spending time at the beach as well as camping and we feel the addition of this golf course will further enhance the area. Similar to other golf courses near state parks, this will provide a lifetime of quality outdoor activity for people of all ages. Also the added economic activity this brings to the Sheboygan area is very important. We are confident Kohler company will construct this course and run it in the most environmentally responsible way, as it does with its other business interests.

Sincerely
Mike Kleist

Alizée Desmoulin
1704 North 35th Street
Sheboygan Wisconsin 53081
(920) 803-1668
alizee.desmoulin@gmail.com

December 15, 2020

The City of Sheboygan Plan Commission must refuse the Kohler Company proposed golf course in the Black River Forest of the Town of Wilson for the following reasons:

1. The proposed project is abutting Lake Michigan, one of the largest bodies of freshwater in the world. Several state, federal, and international treaties have been enacted to protect this precious and unique resource, among them the Great Lakes Compact between the United States and Canada. Would the building of a golf course counter any of these legally binding provisions?
2. The Black River runs through the proposed golf course property. It has already been declared an "impaired navigable waterway" according to the DNR. This designation legally requires the highest national protection. The inevitable drainage of contaminants from the golf course is contrary to this U.S. Geological Survey ruling of the Black River floodplain.
3. There is a substantial acreage of intact wetlands upon the proposed golf course property. Wisconsin law, under the Clean Water Act, requires the protection of all wetlands from contamination, draining, and filling, due to the essential ecosystem functions they provide when in an intact condition, including mitigating floods and droughts, cleaning surface water, and providing percolation for groundwater recharge.
4. The majority of the proposed golf course property is covered in mature, climax, old-growth woodland. Known colloquially as the Black River Forest, this ecosystem is primarily composed of native red pine and white pine species, a combination that is a unique product of the geology along the Lake Michigan shoreline. As such, it is one of the last stretches of this forest left untouched by human encroachment and development projects like the one proposed.
5. The proposed golf course project property contains sensitive dune habitat that has taken hundreds of thousands of years, following the last glaciation, sculpting much of this Great Lakes region, to arrive at its present pristine state of accumulated sands for the occurrence of a thriving, vibrant, and ecologically-balanced juniper species sand dune habitat.
6. The western shoreline of Lake Michigan is an environment critically important to wildlife because it is ecologically considered one of only four flyways through the United States (the East Coast, West Coast, and Great Plains are the other three). As such, any drastic or minor modification of habitat to make way for humans threatens the survival of any North American continental migratory species, whose danger of extinction is heightened as a direct result. Due to this unique location, Wisconsin must safeguard its natural resources to avoid imperiling wildlife species of national and state significance.
7. The Black River Forest provides a habitat extension of wetland, dune, and forest environments for wildlife species who call the Kohler Andrea State Park their home. Any reduction in acreage in an already strained-for-space collection of ecosystems would completely fragment the protected lands of the park. This would diminish the viability and survival of all species due to

the destruction of intact large tracts of undeveloped landscape. The resulting homogenization of habitat would threaten the survival of all park species, requiring a certain range and therefore plunge the park species to the south into danger of extinction from the entire area.

8. The dense undergrowth and lush vegetation of this miniature wilderness provides habitat for potentially undiscovered native species of wildlife. Although several scarce club moss species are easily visible, the often impenetrable cover conceals other life forms of flora and fauna that could be decimated before even being discovered.
9. The Town of Wilson designates this property as P1. This land use classification is for passive outdoor public recreational purposes and therefore would not accommodate the for-profit, ultra-active, commercial use of the property. Under the zoning regulations, this land is not to be built upon, in order to maintain the integrity of the sensitive site as a wildlife and water corridor. However, the proposed golf course plans include the construction of architectural structures in direct contradiction to the only allowable use of parks and protected areas at this location.
10. The Friends of the Black River Forest members have voluntarily created and maintained the woodland trails that snake through the property and provide for biking, birdwatching, hiking, and horseback riding. Approval of Kohler's golf course would erase all the endless hours of hard work that have neither been acknowledged nor compensated for. Would this give Town of Wilson residents' claim to adverse possession?
11. After an extensive tour of the property, a Native American member of the Ho-Chunk Nation found that ancient burial mounds, potentially from several Native American tribes formerly residing in the Great Lakes region, are currently located on the Black River Forest property. Observation of the abundant hills would substantiate this finding, giving Native American Nations burial ground rights because tribal law supersedes commercial development.
12. The plan utilizes State Park land to the south of the proposed golf course to access the property instead of using Kohler land at the north end of the property for access. This easement, if approved, would be contrary to the original intent of Herb V. Kohler, Sr. who gifted land to the state of Wisconsin in the 1965 Warranty Deed. The wording read that this land had to be maintained in perpetuity for the benefit and enjoyment of the public for passive recreation, thereby prohibiting the addition of campgrounds, maintenance sheds, and the like.
13. In addition, Herb V. Kohler Sr. wanted the land currently proposed for the golf course to be maintained as wilderness in perpetuity as well, so the golf course project is diametrically opposed to the original intent for this property. Why should Herb V. Kohler, Jr. be allowed to desecrate the family legacy of safeguarding the land? There is an article in the Sheboygan Press documenting Kohler's attempt to gift all of the Black River Forest land to the State. He only retracted his offer when discovering that campgrounds would be developed on the property.
14. If the proposed golf course project is approved, the effects upon the Kohler Andrea State Park would be total. Since there is only one main entrance leading into the State Park, access to public recreation would be severely hampered in favor of private commercial recreation if Kohler usurps the Park's entry and purpose. In addition, if as planned, a PGA golf tournament would be held at this property north of the park, all access points for residents and visitors to the park could be closed to the public, as is already the case for Whistling Straits in the Town of Mosel. Traffic would be an impossible issue to contend with for all concerned.

15. Any Environmental Impact Statement should include information regarding floral and faunal habitat of the Black River Forest species listed on the Federal Endangered Species Act.

In conclusion, I adamantly recommend refusal of the proposed Kohler golf course in the Town of Wilson. I am in favor of safeguarding the Black River Forest for future generations, while upholding the written mission statement of the Department of Natural Resources, as well as Wisconsin State Statutes.

In addition, I would like to bring your attention to Kohler Company's negative environmental legacy, in particular, the Environmental Protection Agency's Scorecard report at: http://scorecard.goodguide.com

1. In a comparison with Rock, Milwaukee, Manitowoc, and Dane counties, Sheboygan County has the greatest overall amount of recognized toxins released to the environment. Sheboygan County releases 546,259 pounds of pollutants. Of these, Kohler Company generates roughly 51,421 pounds of pollutants annually. Thus, Kohler ranks third in Sheboygan County as the most polluting industry. The factories of Kohler Company release benzene, lead, chromium and nickel. Other chemicals include manganese, antimony, copper, zinc, barium and triethylamine.

2. Of the two Environmental Protection Agency recognized superfund sites in Sheboygan County, the Kohler Company landfill is located in Kohler, only 300 feet from the Sheboygan River. The site has been used to dispose of industrial wastes, municipal wastes and foundry sludge. The groundwater beneath is contaminated with cadmium, chromium and phenols and, according to the Environmental Protection Agency, has contaminated drinking water sources.

3. This groundwater feeds directly into an aquifer that is used for drinking. This Sheboygan harbor and river landfill site extends eight miles through the towns of Kohler, Sheboygan and Sheboygan Falls, all within Sheboygan County. This landfill has been leaching heavy metals and PCBs into the Sheboygan River and its two tributaries: the Mullet and Onion Rivers. These contaminants are at such high levels as to initiate a ban on ingesting fish from the Sheboygan River and its tributaries. The site is still being decontaminated through national funding.

This information should prove advantageous in determining the relative merit of any environmental statements provided by Kohler Company during this investigative process undertaken by the City of Sheboygan Plan Commission at this time. In view of this, all Environmental Impact Statements should be performed by a third party to ensure an unbiased outcome and especially in consideration of the despicable ecological track record and federally recognized contamination of the Kohler Company in Sheboygan County.

Pelishek, Chad

From: Duellman, Janet on behalf of Development
Sent: Thursday, December 10, 2020 9:29 AM
To: Pelishek, Chad; Sokolowski, Steve
Cc: 'gleannah57@gmail.com'
Subject: FW: (Kohler Golf Course)

Please see below email.

Janet M Duellman
Community Development Planner
920/459.3380

From: Geralyn Leannah [mailto:gleannah57@gmail.com]
Sent: Wednesday, December 9, 2020 9:15 PM
To: Development
Subject:

ONCE AGAIN as in the Town of Wilson,
Sheboygan is being asked by Kohler to rush a process of granting the company a Conditional Use Permit with exceptions, which is NOT in an approvable form.
These are my concerns with A RUSHED CUP PROJECT. I care about our friends, the City residents. I am asking you to insist
that the Plan Commission protect my interests and follow the City's own ordinances so after the agreements are all signed I will not come to regret it.
I caution the plan commission:
To expect the applicant to provide substantial evidence which can be verified.
This includes a new golf course plan layout design since the land for 4 holes in the original plan has now been eroded by Lake Michigan.
This includes reviewing permits when Kohler is granted them. Kohler does not have any permits needed to build its course or use Kohler Andrae State Park land. FBRF won the contested hearing revoking Kohler's Wetland Fill Permit. Kohler has NO wetland fill permit. The Administrative Law Judge's decision was supported by the incompleteness of impact information, particularly on groundwater impacts. Kohler appealed. Kohler has NO Stormwater permit. Kohler asks for a CUP and an extension on beginning construction claiming that it will win all litigation. This in itself is a cautionary note as FBRF has won all our cases so far.
The application does not address the overlay zoning districts, shoreland-wetland, woodland, or steep slope.
There is no traffic study addressing tournaments. What will be the costs to the City and County of these tournaments, infrastructure maintenance?

Who pays for this? Sheboygan and Sheboygan County taxpayers?
Verification of the economic benefit to the City of Sheboygan by a firm independent of Kohler. Sheboygan businesses remember well the PGA traffic being routed around the City. The Town of Mosel states its financial benefit from the PGA was negligible.
Clarification of Kohler's jobs' numbers. Numbers provided are based on jobs projected to be created apart from the operation of the course throughout the county and state.
Experts consulted regarding Shoreland Overlays and deforestation allowed. How will Kohler show the deforestation of over 50% of the land will improve the environmental protection of the property particularly when no permits have been granted by the DNR.
FBRF's standing and that of residents (the right to bring suit against an entity) was affirmed in appellate court. This was a major victory for Wisconsin residents' rights in light of several years of the politicization of the DNR which started and continued many environmental crises.
Kohler has now presented this decision to the Supreme Court and asked the Supreme Court to review the appellate court decision.
Cautionary Background
The Town of Wilson knows well, as does FBRF, that Kohler arranges every agreement to meet its aim of getting what it wants. We have documented that this involves skirting environmental law, maneuvers only certain Town or City officials are privy to, asking for exceptions based on their word that the details can be worked out later.
You may know that Kohler secretly planned an annexation of its land to the City while keeping its CUP application to the Town of Wilson incomplete. Wilson spent many hours and legal fees reviewing Kohler's requests in good faith. Kohler has stated that the political climate of Wilson changed thereby necessitating that move. That meant that people had been elected to make sure the applications and permits were in line with Town ordinances which may could have resulted in Kohler's making adjustments to its procedures. The Company didn't want to.
During the annexation vote the majority of the Common Council dismissed any concern for the impacts to the 4th most visited park in the state, the impact of massive fertilizer and pesticide flowage into Lake Michigan, the impacts to local wells, flooding from filled in wetlands, loss of wildlife, killing endangered species, AND the human costs to Wilson residents and Park visitors from skirting environmental law. Everything came down to how it would increase Sheboygan's tax base.
If it all comes down to money, the question City residents should have is how much will my taxes be impacted by paying for the hidden costs that have not been mentioned. (The Town of Mosel's taxes went up because Kohler sued to reduce its tax base by 5 million dollars citing a bad year. There are 800 residents in Mosel. This was a significant blow to the services that had already been funded.

Pelishek, Chad

From: Adams, Charles
Sent: Monday, December 14, 2020 4:30 PM
To: Pelishek, Chad
Subject: FW: Comment: proposed golf course proposal at City Plan Commission

From: Alderperson Mary Lynne Donohue
Sent: Monday, December 14, 2020 11:43 AM
To: Mayor Vandersteen; Alderperson Jim Bohren
Cc: Wolf, Todd; Alderperson Ryan Sorenson; Adams, Charles
Subject: Comment: proposed golf course proposal at City Plan Commission

Mayor and Alder Bohren:

I am writing with continued concerns regarding the terms and conditions of the proposed conditional use permit requested by the Kohler Company for its golf course in the Town of Wilson.

As an initial matter, this permit application is untimely filed and not ripe for consideration. As has been noted, there are presently five unresolved lawsuits dealing with this project. There is no pressing reason or need to bring this matter before the Plan Commission with barely two weeks' notice to the communities impacted by the project. Paragraph 38, in fact, notes that the time limits for completion of the permit conditions are tolled. It is a waste of staff and community time to structure this agreement when the scope of the project may be limited in the future. The proper course of action is to file this application until such time as the allowable scope of the project is clear.

Other comments have explicitly outlined a number of serious and continuous concerns about the project. Those analyses seem to be well-documented and cause for significant concern to commission members.

For the purposes of this comment, however, I want to remind members of the commission of two important provisions of the original development agreement between the city and the Kohler Company. The first was a provision for public access, on land, along the Lake Michigan shoreline along the the length of the project. The Company agreed to this provision. In view of changing lake levels, and revetments that will be required, unfortunately, to avoid having part of the golf course underwater, **all of the parties need to keep in mind this agreed upon part of the development agreement. At a minimum, the conditional use permit must set out the Company's agreed upon responsibilities.**

My second concern is the lack of any provision in the conditional use permit (or an additional memorandum of understanding, if appropriate) for reimbursement of attorneys' fees incurred by the city. Again, the modified original development agreement provided for additional fee reimbursement for likely litigation seen as a by-product of this annexation and resulting environmental degradation. The Company agreed to substantially higher reimbursement; it is my understanding that the increased amount has already been expended. Therefore, the permit, if approved in spite of its untimely nature, needs to provide for reimbursement to the city for all incurred attorneys' fees.

I would request that a copy of this comment be sent to all members of the Plan Commission.

Thank you for your attention to these matters.

Mary Lynne Donohue
Alderperson, District 3
Vice-President, Common Council; Chair, Finance & Personnel; Licensing, Hearings and Public Safety; Mead Public Library Board of Trustees

920-458-1027

Sokolowski, Steve

From: Duellman, Janet on behalf of Development
Sent: Friday, December 11, 2020 4:23 PM
To: Pelishek, Chad; Sokolowski, Steve
Cc: 'susaninaruba@yahoo.com'
Subject: FW: Kohler land grab

Please see below.

Janet M Duellman
Community Development Planner
920/459.3380

-----Original Message-----
From: Susan Daugherty [mailto:susaninaruba@yahoo.com]
Sent: Friday, December 11, 2020 10:11 AM
To: Development
Subject: Kohler land grab

Please do not allow Kohler to grab land for a useless golf course, for which locals will foot the bill.

I have visited your town and as an outsider, I am not in favor of another golf course there. You have plenty. Kohler is not a good neighbor. The company has lost its way. Once natural areas are lost, they are gone forever.

Kristin S. Daugherty
Madison, WI

From: Emily G
To: Development
Subject: Kohler Co."s Conditional Use Permit (CUP) - City of Sheboygan
Date: Sunday, December 13, 2020 10:02:17 PM

Removal of 4 acres of Wisconsin State Park property, which is owned and cherished by the citizens of Wisconsin, and giving it to the Kohler Company for their commercial use is wrong. It also goes against the rules governing the Federal Land and Water Conservation Act (LAWCON). In addition, this action would be contrary to State of Wisconsin rules and past policies against giving away or selling state park property without just cause or need.

As concerned citizens, we have fought political influence, an incomplete environmental study of the impacts by a state agency, and the division of land by the developer's hostile annexation of land from the Town of Wilson to the City of Sheboygan, circumventing the township's environmental review. Destroying an ecosystem is unthinkable and unconscionable at a time when the whole world is understanding the critical need for preservation of our land, air and water.

The rights of citizens are equal to those of a billionaire. No one is above the law. No one should be allowed regulatory passes to contaminate our water, land, and air and take land away from the people of Wisconsin.

The injuries will include loss of wildlife to result from development of the course, and the impact the course would have on the remaining part, including more traffic and noise. The area is home to several endangered bird and plant species, and provides critical habitat for migrating birds.

Please do not rule in favor of moral bankruptcy.
Please favor the good people of Wisconsin and wildlife conservation.

Emily Grandy

NEW NORTH

Public comment Conditional Use Permit (December 15, 2020) for the Proposed Kohler Golf Course

New North, Inc., the 18-county economic development corporation in northeast Wisconsin is affirming our support for Kohler's conditional use permit for an outdoor institutional land use, and more specifically a privately-owned public golf course and associated ancillary land use described in their application. We realize this development has been under review for several years, with the city annexing the subject property in 2017. Our areas of focus are talent and business development. This project will assist our region, and the County and City of Sheboygan specifically, in addressing both initiatives, by attracting significant investment and providing amenities that will attract visitors who can see the value and benefit of living in the region. This development also helps to address the retention of talent. Businesses cannot grow without the talent to manage and operate companies. A diverse economy, strengthened by collaboration, will drive regional success.

The reputation of the Kohler Co. precedes itself when it comes to building golf courses that are environmentally sound, of the absolute highest quality, successful and respectful to the communities around them. The fact that the project will be built and owned by a local Wisconsin family with a solid track record of promoting environmental sustainability and running quality recreational public golf courses and businesses also speaks to long-term stability. This development on approximately 250 acres of private land owned by Kohler will allow for the development of an 18-hole championship-caliber public golf course, a clubhouse, and support amenities. This will reinforce Sheboygan County's reputation as one of the world's premier golf destinations by positioning this in the top 50 courses in the world upon maturity, create jobs and benefit the local and regional economy. The economic impact study reflects nearly $21 Million in annual economic output for the State of Wisconsin and the creation of 227 FTE jobs within the state. The added job creation due to the project's development will create additional well-paying jobs for local residents. This project will preserve and enhance the property's environmental features and removing invasive species.

In addition to the opening of approximately 250 acres of private property for public enjoyment and recreational use, the location adjacent to an existing State Park provides additional benefit. At Kohler's expense they will enhance the State Park entrance to improve access. This will enhance the City as an attractive tourism destination with a world class golf course – with a "Sheboygan" moniker.

The Kohler Co. has been very open about this project, providing details and information to the community during an exhaustive planning and approval process. It's clear that this is more than just a passing investment for the company. The Kohler Family has been an active and caring part of this community for generations, and the company has owned this land for more than 75 years.

In closing, this conditional use request aligns with the City's Comprehensive Plan which includes sustainable economic growth and job creation as well as enhancing quality of life within the City, capitalizing on Lake Michigan and its natural assets. On behalf of New North, we support the conditional use permit that will allow this asset to the community and region to proceed.

Barb LaMue, President & CEO | The New North, Inc.
2740 W. Mason Street, Green Bay, WI 54303 |PH (920) 676.1960
barb.lamue@thenewnorth.com

Barb LaMue is President & CEO of New North, Inc., a 501(c)3 nonprofit, regional marketing and economic development corporation fostering collaboration among private and public sector leaders throughout 18 counties in Northeast Wisconsin.

PINES BACH

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122 W Washington Ave, Ste 900
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Attorney Leslie A. Freehill
lfreehill@pinesbach.com

* Also admitted to practice in Illinois

December 14, 2020

VIA E-MAIL ONLY
development@sheboyganwi.gov

City of Sheboygan Plan Commission
City Hall
807 Center Ave.
Sheboygan, WI 53081

Re: Written comments for December 15, 2020 public hearing on the Kohler Company application for a conditional use permit for construction and operation of a golf course in the City of Sheboygan

Dear Members of the Plan Commission:

The Friends of the Black River Forest ("FBRF") submit this letter in opposition to the Kohler Company's application for a conditional use permit ("Application") to develop a golf course (the "Project") on its lakeshore property newly annexed into the City's jurisdiction. FBRF is a non-profit corporation whose mission is to promote the preservation of the Black River, its wetlands, the forest, and the adjoining Lake Michigan shore as an ecological whole. Its members and supporters live, work, and recreate in or near the Black River and Lake Michigan in Sheboygan County, including around the site Kohler proposes to develop.

FBRF opposes the Project because the Application is incomplete, the Plan Commission's review is premature, the public has been deprived of a meaningful opportunity to review the Application and supporting materials, and the Application does not meet the requirements for the conditional uses Kohler proposes. For these reasons, the permit should be denied or, in the alternative, a decision from the Plan Commission set over until the Application is appropriately completed, reviewed by the City, and provided to the public with adequate time for review and comment.

The Project is proposed on a vast, undeveloped tract between Lake Michigan and the Black River. The Property is almost entirely forested, with mature trees, and hasn't been logged in over 150 years. It is characterized by ridge and swale topography, created as Lake Michigan levels receded from their post-glacial high about 12,000 years ago. Soils on the site are very sandy and highly permeable, underlain by a shallow groundwater aquifer. Between the

sandy, highly permeable soils and high groundwater table, the Property is very susceptible to groundwater contamination due to the ability of contaminants to rapidly migrate downward, with little natural attenuation.

The Property contains three types of high-quality wetlands which are directly connected to the groundwater: Great Lakes ridge and swale, interdunal, and forest floodplain. Great Lakes ridge and swale communities are imperiled in Wisconsin due to the rarity of the plant community (6-20 occurrences or few remaining individuals or acres) and because they are vulnerable to extirpation from the state. Interdunal wetlands are considered critically imperiled in Wisconsin (five or fewer occurrences or very few remaining individuals or acres) and globally because of extreme rarity (6 to 20 occurrences or few remaining individuals or acres) and/or factor(s) making them very vulnerable to extinction throughout its range.

The uplands on the site also have significant ecological value, with the Great Lakes beach and Great Lakes dune plant communities rated as imperiled in Wisconsin. The wetland and uplands together host extremely rare plant communities that require the specific environment and geographical location the Property provides in order to survive. This includes the ridge and swale system created by a combination of wind, lake influence, sandy soils, clean groundwater and lack of disturbance. The floodplain forest is high quality and rare in the region because of the loss of ash trees and increases in invasive species.

A variety of wildlife uses the Property, including some threatened and endangered species and species of special concern. The Property is also an important stopover point for migratory birds, due to the paucity of unfragmented forest blocks elsewhere along the Lake Michigan shoreline. For these reasons and the deficiencies outlined below, the Property is a poor site for the proposed Project and the Application should be denied.

I. The Application is incomplete and Plan Commission review is premature.

A. The Application is missing key information.

A CUP application must be complete at the time it is first noticed for public hearing. *Weber v. Town of Saukville*, 209 Wis. 2d 214, 238, 562 N.W.2d 412, 421 (1997). Kohler's Application was incomplete at the time of the first public notice on November 30, 2020, and remains incomplete today.

First, if a proposed CUP site contains lands that fall within overlay districts, the applicant must compile a detailed map accurately depicting the boundaries of those districts on the property and submit it to the City. Sheb. Ord. § 15.509(2). The Application does not include this. Kohler alleges Exhibit 9 meets the requirements of the ordinance; however, Exhibit 9 relies on outdated information. The Application does not accurately identify where the Lake Michigan ordinary high water mark (OHWM) falls on the Property, a critical omission

considering the factual findings the Plan Commission would have to make in order to approve the CUP (described at length below). This lack of an accurate OHWM designation was identified as a problem by the DNR as far back as November 2017, at the time DNR drafted an environmental impact statement for the Project. At that time, Kohler relied on an old calculation from 2012, when the Lake's level was at a historic low, a calculation which was already long outdated by 2017. DNR did not agree with Kohler's OHWM calculation then. Kohler now submits the same plans with the same faulty OHWM to the Plan Commission, despite the fact that portions of the Project above Kohler's alleged OHWM have already been washed away by Lake Michigan. (*See* sections II(a) and III (b), below.) Kohler's OHWM omission cannot be overlooked.

Second, the first public notice was published on Monday, November 30, yet an open records request to the City revealed that the City did not have accurate legal descriptions of the parcels involved until Friday, December 3, 2020. (FBRF Exh. 1.)

Third, one of the two specific conditional uses Kohler requests, clear cutting, may only be permitted in an SR-5 district upon an applicant's affirmative showing that the proposed activity "will **improve** the level of environmental protection on the subject property." Sheb. Ord. § 15.206(2)(g)(3)a. (emphasis added). This Kohler has not done, not only because the Application itself fails to make this affirmative showing, but because the Project has been found to have a net negative environmental impact by the DNR.[1](*See* FBRF Exh. 2 at 581:12-17, Testimony of Pam Biersach, Director of the Office of Business Services - Fish, Wildlife and Parks Division, Wisconsin Department of Natural Resources.) This is explained in greater detail in section II(c)(1) below. Kohler makes no attempt in the Application to demonstrate that the Project will improve environmental protection of the Property, and thus the Application is incomplete.

For these reasons, the Application is incomplete and therefore precludes the Plan Commission's review and approval at this time.

B. A decision upon review of an incomplete CUP application cannot be upheld as a matter of law.

A CUP applicant bears the burden of presenting substantial evidence that the criteria of the applicable conditional use ordinances have been met. Wis. Stat. § 62.23(7)(de)2.b. Similarly, whether the Plan Commission decides to grant or deny the permit, its decision must be supported by substantial evidence. Wis. Stat. § 62.23(7)(de)2.b.; *see also Roberts v. Manitowoc Cty. Bd. of Adjustment,* 2006 WI App 169, ¶ 28, 295 Wis. 2d 522, 537, 721 N.W.2d 499, 506.

[1] DNR experts found that the Project would only overcome these net adverse environmental impacts with off-site mitigation, which is proposed beyond the City's jurisdiction and therefore beyond the Plan Commission's consideration under the City's ordinance restricting its review to environmental protection "on the subject property." *See* FBRF Exh. 2 at 581:12-17, and Sheb. Ord. § 15.206(2)(g)(3)a.

Substantial evidence is "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion." Wis. Stat. § 62.23(7)(de)1.b. Substantial evidence is not conjecture, speculation, or uncorroborated hearsay. *Gehin v. Wis. Group Ins. Bd.*, 2005 WI 16, ¶ 48, 278 Wis. 2d 111, 692 N.W.2d 572.

In other words, the City cannot grant Kohler's Application unless substantial facts and information, not personal preferences or speculation, exist in the record to show that the Application meets the requirements of the City's conditional use ordinances. If a CUP application omits any such evidence at the time of the Plan Commission's review, like the Application at hand, the Commission's decision cannot meet this substantial evidence standard and the decision will not withstand judicial scrutiny. Such is the case here.

C. The public has not had a meaningful opportunity for review of the Application.

By letter to the City Attorney dated December 3, 2020, FBRF called the Commission's attention to a number of deficiencies in the City's notice of public hearing and its failure to disclose the contents of Kohler's CUP application (the "Application") or the results of the City's review of the Application to the public within a timeframe for meaningful review as a matter of law. *See Weber v. Town of Saukville*, 209 Wis. 2d 214, 562 N.W.2d 412 (1997). FBRF stands by the statements in its December 3 letter and incorporates them herein. Further deficiencies are identified below.

Furthermore, the Zoning Administrator did not disclose to the public the results of its review of the Application until Friday, December 11. Earlier correspondence had suggested concerns and discussions beforehand. For example, through FBRF's open records request, it learned that there were at least some "fire dept. concerns" that led to a meeting between the applicant and city officials. (FBRF Exh. 3.) The content and outcomes of those concerns, along with any others the City has identified, were not disclosed until just three days before the deadline for written comments. The public cannot possibly comment on them in any meaningful way by the December 15, 2020 public hearing.

D. Kohler concedes that rushing the Application through Plan Commission review at this time is not necessary.

By letter dated November 20, 2020, Kohler requested an extension to commence construction of the Project beyond the ordinary 365 days to begin construction, should the CUP be granted. In the letter, Kohler concedes that due to pending lawsuits currently preventing the Project from proceeding, Kohler expects it would not be able to break ground for *at least another year*. FBRF agrees. Therefore, the extension request only serves to highlight how unnecessary the Plan Commission's review is at this early date, when

construction is not impending and the public has been given less than two weeks to review the Application and almost no opportunity to learn the results of the City's review.

More importantly, the outcomes of at least three of the lawsuits—the wetland individual permit, parkland transfer, and the stormwater permit—may significantly alter the plans for the golf course, if they do not outright prohibit the Project. It is premature for the Plan Commission to make findings about the Project before the Project is in its final form, and impossible to craft meaningful conditions for the proposed uses without complete information or final plans.

Although the City has now indicated it intends to apply its natural resource protection regulations "subject to, conditioned upon, and automatically adjusted to" conform to permits from DNR, the U.S. Army Corps of Engineers, or other jurisdictional authorities,[2] it may not rely upon future determinations of other bodies in order to make present factual determinations that its own regulations have been met. Therefore, review of the Plan Commission is premature and should be delayed until necessary state and federal permits are obtained.

E. The Pre-Annexation and Development Agreement does not predetermine Plan Commission approval.

Lastly, the Pre-Annexation and Development Agreement, which Kohler provides as an exhibit to the Application, states "the City shall use its best good faith efforts to grant any necessary governmental approvals on a timely basis." (CUP App. Exh. 16 at 2.) It is important to note that a municipality may not contract away its zoning authority, including the grant or denial of a conditional use permit. *State ex rel. Zupancic v. Schimenc*, 46 Wis. 2d 22, 28, 174 N.W.2d 533 (1970); *Town of Cedarburg v. Shewczyk*, 259 Wis.2d 818, 829-30, 656 N.W.2d 491 (Ct. App. 2002). The Plan Commission, therefore, must review the Application with impartiality and may not overlook substantive or procedural deficiencies of the Application or review process.

II. The Application does not meet the requirements for a conditional use permit.

Pursuant to Sheb. Ord. § 15.202(4)(a), "[l]and uses listed as permitted as a conditional use (designated as a "C" in Sections 15.203 and 15.204) are permitted subject to all the requirements applicable to uses permitted by right as listed in Subsection (2), above, plus any additional requirements applicable to that particular land use as contained in Section 15.206." Each is addressed below.

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[2] *See* City of Sheboygan Request for City Plan Commission Consideration at 7, available as of Friday, December 11, 2020, at https://go.boarddocs.com/wi/coswi/Board.nsf/files/BW7MTH5CC5F2/$file/Kohler%20Company%20Golf%20Course.pdf.

A. Kohler has not demonstrated that clear cutting more than 50% of the woodlands will improve environmental protection of the Property.

One of Kohler's proposed conditional uses is clear cutting. (CUP App. at 8.) Clear cutting is defined as "the one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction (including by fire) of trees in an area (or combined areas) of more than 50 percent of the woodlands on a property." Sheb. Ord. § 15.206(2)(g). Importantly, conditional use for clear cutting requires the applicant to "demonstrate that clear cutting **will improve** the level of environmental protection on the subject property." Sheb. Ord. § 15.206(2)(g)(3)a. Kohler has not and cannot demonstrate that the Project will improve the level of environmental protection on the Property—currently in a pristine, environmental state with rare resources.

First, the outcomes of environmental permits are still pending, foremost among these being its DNR wetland individual permit. Following sworn testimony of experts during that contested case hearing, an administrative law judge found the following facts:

> Construction of the project will require deforesting about 50-60% of Kohler's property, and some of the state park property. Tree clearing will occur on the site for each golf course hold, the access road, the clubhouse/parking lot complex, the practice range, the maintenance facility, the restrooms, and the irrigation pond. The deforestation will adversely impact the site's value as wildlife and migratory bird habitat. The loss of tree cover and replacement with managed turf will alter the hydrology of the soil. The alteration of the hydrology along with adding nutrients to maintain the managed turf will adversely impact the floristic diversity of the wetlands.
>
> Interior forest bird nesting habitat will be eliminated due to the deforestation associated with the project and construction of golf course facilities. Wildlife species that rely on the closed canopy will be impacted by these changes.
>
> Forest edges created by tree-clearing will increase opportunities for invasive species and will reduce habitat value.

(FBRF Exh. 4, the Wetland Permit Decision, at 8-9 ¶ 34; 13 ¶¶ 55-56 (internal citations omitted).) These and other adverse environmental impacts were supported by the sworn testimony of DNR and other experts at the contested case hearing, as described in detail in section II(c)(1) below.

Second, the Property's characteristics have changed dramatically in the years that Kohler has sought to develop the Property. Not least of these changes is substantial erosion along Lake Michigan, which now consumes portions of the proposed golf course including hole #18, and very nearly holes #7 and #8. (FBRF Exh. 5.)[3] Mature trees have already plunged

[3] Photos reproduced with permission of Erik Thielen, 12/14/20.

into the lake from where they currently grow at the lake's edge, and many more are projected to be clear-cut for the Project. The clear-cutting Kohler proposes is certain to further destabilize the lakeshore, and Kohler has no plans to address the obvious problem. Without any evidence to the contrary, the Plan Commission cannot find that clear-cutting will enhance the environmental protection of the Property, and the permit must be denied.

B. Kohler has not met the conditional use requirements for an outdoor institutional use in SR-5.

Outdoor institutional conditional land uses include privately protected green space areas and privately owned golf courses. Sheb. Ord. § 15.206(3)(d). Outdoor institutional use does not contemplate major events like golf tournaments drawing tens of thousands, if not hundreds of thousands, of visitors to the course, as Kohler intends. Such a use bears more similarity to "outdoor commercial entertainment" use, which "ha[s] the potential to be associated with nuisances related to noise, lighting, dust, [and] trash," among other things. Sheb. Ord. § 15.206(4)(i). Golf tournaments and their likelihood to cause nuisances are a major concern of the Project, not least of all because the current plan does not even provide enough parking for an outdoor institutional use.[4]

C. Kohler's written justification for seeking a conditional use permit is lacking.

Sheb. Ord. § 15.905(c)1-6. provides six factors for consideration by the Zoning Administrator and Plan Commission, which Kohler has attempted to address in its application. The Friends offer the following response to Kohler's written justification.

1. *How is the proposed conditional use (the use in general, independent of its location) in harmony with the purposes, goals, objectives, policies and standards of the City of Sheboygan Comprehensive Plan, this Chapter, and*

[4] A golf course outdoor institutional use requires unique parking requirements: "one space per three expected patrons at maximum capacity " plus "36 spaces per nine holes, plus one space per employee on the largest work shift, plus 50 percent of spaces otherwise required for any accessory uses (e.g., bars, restaurant)." Sheb. Ord. § 15.206(4). Bars and restaurants permitted as conditional uses each require "one space per every three patron seats or lockers (whichever is greater); or one space per three persons at the maximum capacity of the establishment (whichever is greater)." Sheb. Ord. § 15.206(4)(h)(4).

The Project as proposed would create 181 parking stalls at the main clubhouse, plus 32 stalls for maintenance staff next to the separate maintenance building (approximately 1,200 feet from the clubhouse). (CUP App. at 2.) Kohler does not provide maximum capacity numbers for its bar or restaurant but, regardless, 213 total spaces is less than the absolute minimum of 233 required by ordinance without accounting for the bar and restaurant. The Application states that the golf course will host 380 daily visitors and 102 employees, which amounts to 127 stalls and 34 stalls under the ordinance, respectively, plus 72 stalls ("36 spaces per nine holes," § 15.206(4)). The minimum would only increase with the capacity numbers for the bar and restaurant, demonstrating that under any circumstance, 213 is not enough.

any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?

The Project conflicts with the 2011 City of Sheboygan Comprehensive Plan (hereinafter, the "Plan"), which emphasizes a City goal to "preserve natural resources and advance community sustainability for the benefit of present and future generations." (Plan at 75.) Established City policies in this regard include, among other things:

- Preserve environmentally sensitive lands by directing new development away from mapped environmental corridors and isolated natural areas;
- Work with appropriate agencies to monitor Lake Michigan lake levels and to ensure water quality and protection of the lake's ecosystem from invasive species;
- Cooperate with WisDNR to protect wildlife habitat, particularly rare and endangered species;
- Identify open space lands that are important to the overall quality of life in the community and take measures to assure their conservation; and
- Work with Sheboygan County, neighboring municipalities, State and Federal agencies, and property owners to encourage an orderly, efficient development pattern that preserves natural resources, minimizes conflicts between urban and rural land uses, and prevents erosion.

(*Id*. at 75-75.) The Plan's "Natural Resources" map flags the Property as an area with both terrestrial and aquatic rare and endangered species. (Plan App. A at 139, Map A-3.) Portions of the Property are also marked as environmental corridor, where the Plan calls for the City to "prohibit new development," "preserve, protect, and enhance open spaces and conservancy areas along the Sheboygan River, Pigeon River, Black River, and Lake Michigan," and "preserve woodlots and other environmental areas that serve to protect wildlife and vegetative resources." (Plan at 25-26.)

The City's ordinances reiterate the City's goal of preserving its precious natural resources:

> An important goal of the City of Sheboygan Comprehensive Master Plan is the protection of natural resources which are sensitive to disruption caused by development and/or other land use activities. These resources include: Floodways, Floodplain Areas, Floodfringes, Wetlands, Drainageways, Lakeshores, Steep Slopes, and Woodlands. (These resources are defined in Subchapter 15-5). These resources serve important functions which are lost when these areas are subject to development and/or other land use activities, in the absence of correct mitigation approaches. In many instances, these functions cannot be provided by other natural or man-made features. Specific broad categories of such functions include the protection and enhancement of air, surface water, ground water, and soil quality, habitat provision and diversification; aesthetic diversification; and buffering effects.

Sheb. Ord. § 15.303(1).

To implement these policies, goals, and objectives, the Plan provides two overarching recommendations: (1) protect Lake Michigan, and (2) protect environmental corridors. (Plan at 76-77.)

The Project furthers none of these goals, policies, or recommendations. Instead, it will devastate the unique environmental characteristics of the Property. Direct evidence of this was provided in the sworn testimony of DNR and FBRF experts at the June 14-18, 2018 contested case hearing concerning the Project's wetland individual permit, which was subsequently overturned. (FBRF Exh. 4.) At that hearing, experts testified to the following adverse environmental impacts of the Project:

Great Lakes ridge and swale wetlands:

- The Property has over four total acres of ridge and swale wetlands. Great Lakes ridge and swale communities are ranked by the state as imperiled in Wisconsin due to the rarity of the plant community (6-20 occurrences or few remaining individuals or acres) and because they are vulnerable to extirpation from the state. (FBRF Exh. 6, Pre-filed Testimony of Patricia Trochlell, retired DNR wetland ecologist, M.S., at 6:18-7:4.)
- The DNR rated the Great Lakes ridge and swale wetlands on the Property as exceptional for floristic integrity, human use values (recreation), and wildlife habitat and high for fish and aquatic life and groundwater processes. All of these characteristics will be lost in portions of the wetlands directly filled by the Project, which are approximately 67 of the 87 ridge and swale wetland areas scattered across the Property. (FBRF Exh. 6 at 8:4-13 (Trochlell).)
- All of the unfilled Great Lakes ridge and swale wetlands are expected to be affected by secondary impacts, due to construction on and alteration of the upland ridges. These systems need the ridges to create the unique topography and microclimate, wildlife habitat, aquatic life habitat, and rare species habitat for the overall complex. Retaining the wetland swales while destroying or significantly changing the ridges will destroy the system and destroy or degrade the floristic integrity, wildlife habitat, and groundwater process functional values. (FBRF Exh. 7, Hearing Transcript excerpt of Trochlell testimony at 1175:10-1176:11; FBRF Exh. 8, Pre-filed testimony of Quentin Carpenter, Senior Lecturer (Emeritus), UW Madison, Ph.D., at 8:11-19, 12:21-4; FBRF Exh. 9, Hearing Transcript excerpt of Carpenter Testimony, at 927:21-935:23.)

Interdunal wetlands:

- The Property has 0.4886 of interdunal wetlands. Interdunal wetlands are considered critically imperiled in Wisconsin (five or fewer occurrences or very few remaining individuals or acres) and globally because of extreme rarity (6 to 20 occurrences or few remaining individuals or acres) and/or factor(s) making them very vulnerable to extinction throughout its range. (FBRF Exh. 6 at 6:22-7:4 (Trochlell).)

- The DNR has rated the Property's interdunal wetlands as exceptional for floristic integrity, human use values, and wildlife habitat, and high for fish and aquatic life habitat and groundwater processes. (FBRF Exh. 6 at 8:4-13 (Trochlell).)
- All the site's interdunal wetlands are expected to be affected by secondary impacts to wetland functional values. Tree clearing and grading will affect wetland hydrology, and irrigation water, pesticides, and fertilizer applications will increase nutrients and reduce floristic integrity. (FBRF Exh. 6 at 11:2-17 (Trochlell).)

Floodplain forest wetlands:

- The Property contains 44.167 acres of high-quality, intact floodplain forest wetlands. The DNR has rated the floodplain forest wetlands as high to exceptional in floristic integrity; exceptional for human use values (recreation) and wildlife habitat; and high for groundwater processes, fish and aquatic life habitat and shoreline protection. (FBRF Exh. 6 at 8:4-13 (Trochlell).)
- The area of floodplain forest wetland to be filled is the highest quality portion of the overall floodplain forest wetland, because it is where the groundwater discharges and supports the highest diversity and integrity of plants. All of the functional values of the filled wetlands will be lost. (FBRF Exh. 7 at 1161:12-1163:19 (Trochlell).)
- The Project will also result in 2.974 acres of secondary impacts to floodplain forest wetland functional values attributable to tree-clearing. (FBRF Exh. 10, Hearing Transcript excerpt of Radermacher Testimony (DNR), at 441:3-9.) The floodplain forest wetlands will also suffer secondary impacts from other activities, including changes in hydrology due to construction, as well as floristic quality, floristic diversity, impacts to wildlife habitat, impacts to water quality, and human use and aesthetics. (FBRF Exh. 10 at 441:10-442:13 (Radermacher); FBRF Exh. 8 at 8:1-10 (Carpenter).)

Uplands:

- The uplands on the site also have significant ecological value, with the Great Lakes beach and Great Lakes dune communities rated S2. (FBRF Exh. 6 at 6:18-7:5 (Trochlell).) The wetland and uplands together host extremely rare plant communities that require the specific environment and geographical location the Kohler site provides in order to survive. This includes the ridge and swale system created by a combination of wind, lake influence, sandy soils, clean groundwater and lack of disturbance. The floodplain forest is high quality and rare in the region because of the loss of ash trees and increases in invasive species. (FBRF Exh. 6 at 9:12-10:5 (Trochlell).)

Resident and migratory bird habitat:

- The Property hosts a strong diversity of resident and migratory birds, many of which prefer the large block of unfragmented forest on the Property. It is an

important stopover point for migratory birds, due to the paucity of unfragmented forest blocks elsewhere along the Lake Michigan shoreline. (FBRF Exh. 11, Pre-filed Testimony of William Mueller, Director of the Western Great Lakes Bird & Bat Observatory, M.S., at 7:11-9:4, 9:19-12:11; FBRF Exh. 12, Hearing Transcript excerpt of Mueller Testimony, at 232:20-24.) Forest clearing for the Project will eliminate 50% of the high quality migratory bird stopover habitat currently present on the Property, which is a substantial reduction, and the remaining habitat will be significantly reduced in quality. (FBRF Exh. 12 at 224:4-225:25 (Mueller).) Human disturbance by foot, golf cart, and vehicular traffic due to the Project will further negatively impact the quality of remaining bird habitat on the Property. (FBRF Exh. 11 at 14:6-9 (Mueller).)

Groundwater:

- Between the sandy, highly permeable soils and high groundwater table, the Property is very susceptible to groundwater contamination due to the ability of contaminants to rapidly migrate downward and little natural attenuation of those contaminants. (FBRF Exh. 13, Pre-filed Testimony of John Jansen, P.G., P.Gp., Ph.D., Senior Geophysicist/Hydrogeologist, at 7:19-8:4, 10:10-15.) Nutrients and chemicals applied to the ground surface are likely to infiltrate to groundwater due to the Property's shallow aquifer and permeable soils. (FBRF Exh. 14, Hearing Transcript excerpt of Jansen Testimony, at 50:7-20.) Nitrogen applied to the turfgrass is likely to have a significant adverse impact on groundwater quality. (FBRF Exh. 14 at 91:2-7, 1091:5-16, 1147:18-1148:19, 1152:7-1153:5 (Jansen).) Phosphorus applied during turfgrass establishment is also likely to have a significant adverse impact to groundwater quality. (FBRF Exh. 9 at 315:1-316:11 (Carpenter).)

Threatened and endangered plant species:

- Populations of the Property's seven state threatened or endangered plant species, one federally threatened plant species, and four plant species of state concern currently present at the site are expected to be negatively impacted by the Project. Populations of state threatened Sand reedgrass, and rare prairie dunewort, and common moonwort on the Site are likely to suffer a decrease in genetic diversity and, thus, species stability due to the project. (FBRF Exh. 7 at 144:9-11 (Trochlell); FBRF Exh. 15 (Trochlell).)

Endangered bird species:

- Nesting and migratory habitat for piping plover, a state and federal endangered bird species, will be eliminated due to the Project's disturbances near the shoreline. (FBRF Exh. 12 at 240:11-19 (Mueller).)

Overall adverse impacts:

- Pam Biersach, the DNR's Director of the Office of Business Services in the Fish, Wildlife and Parks Division, testified that the Project will have a net negative environmental impact. (FBRF Exh. 2 at 581:12-17 (Biersach).)
- Geri Radermacher, the DNR's water permitting specialist who surveyed the Property and who has 17 years of experience in her position, testified that she has seen no other site in Wisconsin that has wetlands with higher functional values than the Property. (FBRF Exh. 10 at 406:17-25, 439:2-11 (Radermacher).)
- Pat Trochlell, DNR's retired wetland ecologist who surveyed the Property and who has 37 years of experience, testified that the Project will have the most significant wetland impact of any that she has ever reviewed. (FBRF Exh. 6 at 16:7-9 (Trochlell).)

These adverse environmental impacts will more than outweigh any alleged benefits of the Project, and for this reason the CUP does not comply with the natural resources protection goals, policies, and objectives of the Comprehensive Plan.

In its Application, Kohler also claims the Project will further the City's priorities by promoting economic growth and job creation, enhancing lakefront and riverfront property, and advancing arts, cultural facilities, and events. (CUP App. at 3.) Each of these claims is suspect.

First, the golf course as proposed will be largely inaccessible to the general public, despite Kohler's insistence that it is a "public course." Kohler's stated goal is to build a "championship-caliber public golf course," among the "top 50 golf courses in the world." (CUP App. at 1.) Although the course may be technically open to the public, that is true only for a fee, and one that will likely be cost-prohibitive to local residents, much as Kohler's Whistling Straits golf course is currently. Even Kohler's own Hospitality Construction Portfolio Manager, John Hoekstra, has admitted that Whistling Straits is "very expensive" and that he "consider[s] it a privilege to get out there once a year." (FBRF Exh. 16, Hearing Transcript excerpt of Hoekstra Testimony, at 1052:14-16.) The Project is aimed at surpassing Whistling Straits in "championship caliber"—and presumably in cost as well. To imply that the Project will be an asset of artistic, cultural, or event import to the City or its residents is disingenuous.

Second, Kohler's projections for economic growth and job creation are overstated and deserve independent scrutiny from the City.[5] For example, to support its projected tax

[5] Kohler cites an economic impact study conducted in 2017 which projects various levels of economic impact to the City, Sheboygan County and region due to the golf course. (See CUP App. Exh. 4 at 2.) Among these is the assertion that the Project will create local jobs in construction as well as a boon for local contractors, tradespeople, and business suppliers. (*Id.*) Kohler fails to note, however, that nowhere does it guarantee local contractors, tradespeople, or business suppliers will be utilized for construction, or for staffing the golf course

revenues for local government, Kohler points the Commission to its Pre-Annexation and Development Agreement with the City for the proposition that the aggregate assessed value of the Property will be $9,200,000. (CUP App. 3.) However, the actual language of that Agreement reserves for Kohler the absolute right to "contest, challenge, or protest real estate taxes or other taxes assessed or imposed against the Property or any part thereof," so long as Kohler is no longer seeking reimbursement of certain utility expenses under Section 4(c)(ii) of the Agreement. (*See* CUP Exh. 16 at 12 ¶ 5(t) and 7 ¶ 4(c)(ii).) In other words, Kohler is free to demand, contest, or sue to obtain a lower tax assessment from the City.

This Kohler has done before, and the City should be extremely wary of Kohler's promises. Kohler once similarly touted the high assessed property value of its Whistling Straits Golf Course to the Town of Mosel in an effort to gain support for that development. However, by 2011, Kohler demanded that the Town reduce its assessed property value by a shocking $5 million due to "weakened business conditions." (*See* FBRF Exh. 17 at 2.) That legal challenge, which resulted in a $3,416,000 reduction in assessed property value, resulted in permanent lost tax revenue for the Town and, at least temporarily, in higher property taxes for other Town residents. *Id*. The City has no reason to believe Kohler will not do the same here—and indeed, the Agreement's reservation of Kohler's right to challenge City taxes suggests that is a door Kohler is interested in keeping open.

2. ***How is the proposed conditional use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the City of Sheboygan Comprehensive Plan, this Chapter, and any other plan, program, or ordinance adopted, or under consideration pursuant to official notice by the City?***

The location of the Project in its specific location is perhaps the most problematic aspect of it, and the most discordant with the City's Comprehensive Plan and ordinances, as outlined above.

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upon completion. In fact, to date Kohler has relied upon out-of-state consultants for much of its design and management plans (e.g. John Sanford of Florida, and Stuart Cohen of Maryland, respectively).

Other aspects of Kohler's economic impact study are similarly suspect, conflict with the Application, and require an independent analysis by the City. For example, the Application states the golf course will employ "102 employees during peak times," and be closed entirely from January to the start of the spring golf season. (CUP App. at 8-9.) Despite this, the economic impact study inexplicably projects post-construction employment at 124 full-time equivalent (FTE) jobs in the City, 227 in the County, and 250 in the region, which the study states will generate $5.8 million in salaries and benefits. (CUP App. Exh. 4 at 3.) This is simply not possible given Kohler's estimate of 102 employees, and only at peak times. Moreover, "full-time equivalent" jobs projected in the study are not the same as actual full-time jobs, which a year-round and provide benefits. The unspoken reality is that the vast majority of the jobs the golf course would generate will be seasonal, part-time jobs in maintenance and the bar, restaurant, and pro shop. For these reasons alone, the City must conduct an independent study in order to discern the actual, realistic economic impact of the Project.

The Project's location adjacent to Kohler Andrae State Park is of particular concern, not least of which is that the Project will consume part of the Park itself. In response to this question, however, Kohler compares the Project and its proximity to the Park to the golf course adjacent to Peninsula State Park in Door County, Wisconsin. (CUP App. at 4.) This is a false analogy. Peninsula Golf Course, opened in 1917, is owned by the State of Wisconsin and leased to the Peninsula Golf Association for management.[6] The State presumably generates revenue from the golf course. Furthermore, in contrast to the proposed Kohler golf course's exclusivity and expense, Peninsula Golf Course is truly a public golf course, open to the general public. For example, one round of the six-hole short course costs $10.[7]

The Project is not located within the City's Target Economic Growth Areas and Redevelopment Corridors," meaning the City did not identify the Property as a place where economic development is desired or necessary. (*See* 2011 Comp. Plan at 44.) In fact, the City's map identifying these economic growth areas identifies the Property as the "Kohler Company Forest Preserve State Wildlife Refuge." *Id*.

In its Application, Kohler also makes a series of mischaracterizations about the Project, including that the majority of the Property's dunes will be retained and that the Project will remove invasive species and preserve the natural flora. (CUP App. at 4.) These claims not only defy common sense, but were disputed and ultimately discredited by experts at the wetland permit contested case hearing. (*See* section III(c)(1) above.)

For example, while it is technically true that the Project will remove some invasive species currently present on the Property, it must necessarily do so in order to clear cut more than 50% of the *total vegetation* on the site, as Kohler proposes. Along with those invasive species, of course, more than 50% of the native species on the Property will also be removed, and then replaced with non-native turf. That loss of native vegetative can hardly be outweighed by removal of some invasive species along with it. Construction of a golf course is not necessary in order to remove invasive species from the Property.

As to the extensive sand dunes on site, preserving the dunes themselves, versus simply preserving their topography, are two very different things. While Kohler may be preserving the "undulating dune topography"—i.e. the elevation changes the dunes currently provide—the sand dunes themselves will largely be covered over by fairway and greens and will not exist in their natural state. (*See* CUP App. Exh. 3.)

3. ***Does the proposed conditional use, in its proposed location and as depicted on the required site plan, result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-***

[6] *See* https://www.peninsulagolf.org/facilities/history.
[7] *See* https://www.peninsulagolf.org/golf/rates.

way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development?

Yes. The Project in its proposed location and as depicted in its site plan will have substantial and undue adverse impacts on environmental factors, as described in detail above.

The Project clearly will also have a substantial and undue adverse impact on neighboring Kohler Andrae State Park, which will be reduced in size and partially paved for the golf course entrance and maintenance buildings. (CUP App. at Exh. 3.) The Project will also abut many residential properties to the north. While Kohler points out that another golf course, Riverdale Country Club, is located near those residential properties, Riverdale does not host championship tournaments that draw tens of thousands of people, as Kohler plans to do. In its Application, Kohler does not even attempt to address the obvious disruptions, challenges, and potential impacts of these huge events.

Other Kohler promises are similarly hollow. For example, Kohler boasts that it has agreed not to construct lakeshore barriers in violation of Wisconsin's public trust doctrine, but that is already enshrined in the State's constitution and would prohibit Kohler from doing so anyway. *See* Wis. Const., Art. IX § 1. The City's Pre-Annexation and Development Agreement with Kohler also requires that Kohler provide "appropriate levels of public access to unique ecosystems and to burial mounds during daylight hours," CUP App. Exh. 16 at 6, yet nowhere in the Application does Kohler explain how it will provide that access. Instead, it seems to imply that its mere existence will facilitate access while ignoring the fact that its plans will destroy many existing ecosystems and that observation of those ecosystems remaining and of burial mounds will limited by bordering fairways and greens in active use.

4. ***Does the proposed conditional use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property?***

No. The Property is currently zoned as SR-5, which would allow five dwelling units per acre, but is also subject to the City's natural resource overlay districts—a point which the Application admits then consistently overlooks. The existence of these zones on portions of the Property demonstrates by law that the City intends those areas to be "permanently protected green space" where development is "severely limited." *See* Sheb. Ord. §§ 15.034, 15.204. Unlike sparsely scattered residences that would also be subject to the overlay districts, and thus developed conscientiously and sparingly, the Project is a vast, indiscriminate environmental transformation of the Property, hosting traffic of at least 481

people daily and 41 vehicles per hour. (CUP App. at 8; Exh. 5 at 2.) This is not consistent with the City's desired land use, intensity, or impacts, as clearly set forth in Sheb. Ord. subch. 15-5, "Natural Resource Protection Regulations."

5. ***Is the proposed conditional use located in an area that will be adequately served by, and will not impose an undue burden on any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?***

No. The newly-annexed Property currently has no existing improvements, facilities, utilities, or services provided by the City. The Application includes a utility plan that includes boring beneath the Black River and various wetlands. The City has not provided the public with any review of what burden this will place on public agencies, other than the obvious fact that it will present new burdens that did not exist prior to annexation. It is also important to note that Kohler states the utility plan will "significantly accelerate opportunities to extend public services, not just to the Property, but to points north, south and west" of the Property. (CUP App. at 7.) However, none of those areas are within the City's jurisdiction, and therefore these is no reason the City would need opportunities to service them.

6. ***Do the potential public benefits of the proposed conditional use outweigh any and all potential adverse impacts of the proposed conditional use after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts?***

For all of the foregoing reasons, including the severe adverse environmental impacts of the Project, Kohler's suspect economic analysis, and the substantial burdens the Project will place on neighboring properties, FBRF maintains that the potential adverse impacts will outweigh its potential benefits.

III. The Application does not adequately address the requirements for a conditional use in the City's natural resource protection districts, which are present throughout the Property.

Pursuant to Sheb. Ord. § 15.202(2) and (4), a conditional use must abide by "any additional requirements imposed by applicable overlay zoning districts." An application for proposed development within any City overlay district must include a "detailed site analysis" in order to provide "clear identification of permanently protected green space areas," which are wetlands, lakeshore, woodlands, and steep slopes. Sheb. Ord. § 15.509(1). The detailed site analysis "shall be shown on a map of the subject property which depicts the location of all protected natural resource areas… and as located by an on-site survey," and the map must conform to various criteria, including that "[a]ll natural resource areas which require protection under the provisions of this chapter shall be accurately outlined and clearly

labeled." § 15.509(2); *see also* § 15.908(3)(c)15. (requiring a map showing the "location and type of any permanently protected green space areas," which are the natural resource protection overlay districts").

The City and Kohler maintain that Exhibit 9 demonstrates compliance with the ordinances,[8] but it does not. For example, Exhibit 9 does not accurately depict the ordinary high water mark of Lake Michigan, a feature that must be accurately mapped per Sheb. Ord. § § 15.505(1). Other deficiencies of the proposed conditional uses within each district are outlined below.

A. Wetland Overlay Zoning District

Kohler concedes that at least six acres of the Property fall within the City's wetland overlay zoning district. (CUP App. at 8 and Exh. 8.) Public or private parks or recreational areas may only be permitted as conditional uses in the wetland overlay district, and only provided that:

1. Any private recreation or wildlife habitat area must be **exclusively** for that purpose;
2. **No filling** is to be done; and
3. Ditching, excavating, dredging, dike and dam construction may be done in wildlife refuges, game preserves, and private wildlife habitat areas, but only to improve wildlife habitat or to otherwise enhance the value of a wetland or other natural resource.

Sheb. Ord. § 15.504(3)(c). Any proposed use that does not comply with these three factors is prohibited as a matter of law. Sheb. Ord. § 15.504(4)(a).

It is beyond dispute that the Project does not exclusively provide private recreation or wildlife habitat; it will also provide retail, bar, and restaurant space—and directly on top of current wetlands. It is beyond dispute that the Project will involve wetland filling. (*See* CUP App. Exh. 9 at 1 (demarcating wetland proposed to be filled).) That the Project does not fulfill these requirements is obvious, and it cannot receive a CUP.

B. Lakeshore Overlay Zoning District

Kohler concedes that at least seven acres of the Property fall within the City's lakeshore overlay zoning district. (CUP App. at 8 and Exh. 8.) Lakeshore lands are "the land margins of navigable waters which are identified as 'lakes and other water bodies as shown on USGS 7.5 minute topographic maps for the City of Sheboygan" and include "all areas within

[8] *See* City of Sheboygan Request for City Plan Commission Consideration at 6, available as of Friday, December 11, 2020, at https://go.boarddocs.com/wi/coswi/Board.nsf/files/BW7MTH5CC5F2/$file/Kohler%20Company%20Golf%20Course.pdf.

75 feet of the ordinary high water mark of Lake Michigan." Sheb. Ord. § 15.505(1). The Property is bordered along its entire eastern side by Lake Michigan.

Per Sheboygan Ord. § 15.505(4), "[l]akeshores **shall remain in an undisturbed state**, except for the land uses permitted in Section 15.204 per the requirements of Subsection 15.206(10)." (Emphasis added.) Neither section 15.204 nor 15.206(10) allow clear-cutting as a permitted, conditional, special or other use in a lakeshore overlay area. Therefore, clear-cutting is prohibited in lakeshore areas as a matter of law.

Even if clear-cutting were allowed in lakeshore areas, Kohler's other proposed conditional use –outdoor institutional golf course—is conditionally permitted in lakeshore districts only to the following extent:

> Only disturbance associated with the care of native vegetation is permitted. Natural resource areas which are located within or adjacent to golf play areas shall be incorporated into the course design as out-of-bounds play hazards, and shall be maintained in their natural state.

Sheb. Ord. § 15.206(10)(f)(1)a.

Kohler's CUP application makes clear that it intends to disturb the lakeshore district (the 75-foot margin along the Lake Michigan shoreline) much more than simply to care for native vegetation, and certainly not to maintain it in its natural state. *See, e.g.,* CUP App. Exh. 3.

As stated above, nowhere in the Application does Kohler accurately identify where the Lake Michigan ordinary high water mark (OHWM) falls on the Property. Without an accurate depiction, it is impossible for the Commission to determine that Project land within the lakeshore overlay district will "remain in an undisturbed state" per Sheb. Ord. § 15.505(4). This lack of an accurate, identified OHWM was identified as a problem by the DNR as far back as November 2017, at the time it drafted an environmental impact statement for the Project. Then, Kohler relied on an old calculation from 2012, when the Lake's level was at a historic low. DNR did not agree with Kohler's OHWM calculation. This is a problem Kohler appears not to have resolved, and which has only been exacerbated by the Lake's historically high water levels in recent years.[9]

Kohler now relies on the same plans, maps, and drawings it had submitted to the Department of Natural Resources (DNR) as far back as 2012—all of which are now long outdated and do not reflect current conditions. The present inaccuracy of the plans is best

[9] *See* K. Frauhammer, "Great Lakes water levels have swung from record lows to record highs. Here's why," THE WASHINGTON POST (Nov, 8, 2019), available at https://www.washingtonpost.com/weather/2019/11/08/great-lakes-water-levels-have-swung-record-lows-record-highs-heres-why/ (accessed Dec. 9, 2020).

shown in photographs of the shoreline. (*See* FBRF Exh. 5.) It is therefore beyond dispute that the plans which Kohler now submits to the Commission no longer reflect reality.

C. Woodland Overlay Zoning District

Kohler concedes that at least 170 acres of the Property fall within the City's woodland overlay zoning district. (CUP App. at 8 and Exh. 8.) Woodland overlay zones are "areas of mature climax trees whose combined canopies cover a minimum of 80 percent of an area of one acre or more." Sheb. Ord. § 15.507(1). Under Sheb. Ord. § 15.507(4), clear cutting may be permitted as a conditional use only subject to the requirements of § 15.206(2)(g), which require the applicant to demonstrate that "clear cutting will improve the level of environmental protection on the subject property."

As described in sections II(a) and III(b) above, substantial erosion along Lake Michigan has now consumed portions of the proposed golf course including hole #18, and very nearly holes #7 and #8. (FBRF Exh. 5.) Mature trees have already plunged into the lake from where they currently grow at the lake's edge, and many more are projected to be clear-cut for the Project. The clear-cutting Kohler proposes is certain to further destabilize the lakeshore, and Kohler has no plans to address the obvious problem. Without any evidence to the contrary, the Plan Commission cannot find that clear-cutting will enhance the environmental protection of the Property, and the permit must be denied.

D. Steep Slope Overlay District

Kohler concedes that at least some portion of the Property falls under the City's steep slope overlay zoning district. (CUP App. at 8 and Exh. 8.) Steep slope areas are those with "a gradient of 12 percent or greater, (equivalent to a 10 foot elevation change in a distance of 83 feet or less), as shown on USGS 7.5 minute topographic maps for the City of Sheboygan and its environs." Sheb. Ord. § 15.508(1). City ordinance requires that steep slope areas "shall remain in an undisturbed state" subject to permitted conditional uses in Sheb. Ord. § 15.204 and 15.206(10). Sheb. Ord. 15.508(4). Kohler's plans include cuts or fill of eight feet or more in some areas, and the DNR predicts significant grading of existing sand dunes as well, a far cry from leaving steep slope areas in an undisturbed state. (FBRF Exh. 13 at 14:109 (Jansen).)

Importantly, neither section 15.204 nor 15.206(10) allow clear-cutting as a permitted, conditional, special or other use in a steep slope overlay area. Therefore, clear-cutting is prohibited in steep slope areas as a matter of law. But even if clear-cutting were allowed in steep slope areas, Kohler's other proposed conditional use –outdoor institutional golf course—is severely limited to the following: "[o]nly disturbance associated with the care of native vegetation is permitted. Natural resource areas which are located within or adjacent to golf play areas shall be incorporated into the course design as out-of-bounds play hazards, and shall be maintained in their natural state." § 15.206(10)(f)1.a. The Application does not address if or how Kohler would abide by such a severe limitation.

For the reasons above, FBRF requests that the Plan Commission deny the CUP or, at a minimum, delay its decision until the City receives a complete application and the public has had an adequate time to review. FBRF reserves the right to raise additional issues not addressed herein in the future.

Thank you for your consideration.

Sincerely,

PINES BACH LLP

Leslie Freehill

Leslie A. Freehill

LAF:hmm

Enclosures

SHEBOYGAN COUNTY
ECONOMIC DEVELOPMENT
CORPORATION
DO MORE.

508 NEW YORK AVENUE, ROOM 209
SHEBOYGAN, WI 53081
920 452 2479
SHEBOYGANCOUNTYEDC.COM

December 11, 2020

City of Sheboygan
ATTN: Plan Commission
807 Center Avenue
Sheboygan, WI 53081

City of Sheboygan Plan Commission Members:

The Sheboygan County Economic Development Corporation (SCEDC) continues to support the Kohler Co. proposal to build an 18-hole championship golf course on the 250 acres of privately-owned land that was annexed into the City of Sheboygan in August 2017.

Based upon the merits, the SCEDC is in support of this project for the following reasons:

- Kohler Co. also has a strong reputation for delivering world-class products and services including championship level golf courses.
- The property will be a destination for area residents and visitors through property access, constructed amenities and the proposed observation tower all of which will display our community's amazing physical attributes.
- Enhanced entrance to Kohler-Andrae State Park, which is a popular destination for a variety of recreational activities that embrace the natural environment.
- Kohler Co. has made modifications to the original project to reduce the impact to the environment, the property wetlands, the neighbors, and state-owned property.
- According to the economic impact study, the project will generate approximately $21 million in annual economic output once fully operational.
- Kohler Co. has agreed to a minimum valuation of the project which will provide tax revenues for the City and other property taxing jurisdictions in excess of $235,000 annually based on 2019 tax rates.

Naturally, the Sheboygan County Economic Development Corporation and its Board of Directors supports investments, responsible development projects that promote long-term prosperity in Sheboygan County; therefore, the SCEDC strongly encourages the City of Sheboygan Plan Commission to approve the proposed Conditional Use Permit with the requested extension of time limits.

Sincerely,

Brian Doudna
Executive Director
Sheboygan County Economic Development Corporation

From: gridiron995
To: Development
Subject: Dont Do This
Date: Saturday, December 12, 2020 5:41:43 AM

We need to protect every bit of land that we have left. Dont ruin the beauty of this land with another golf course for a rich man who doesn't even routinely invest in his business despite the apparent needs for new equipment. This is just another vanity project for him and you're sacrificing the homes of animals and the beauty of Cherokee Marsh Wildlife Area to do it. Don't sell our state parks to the rich, they've already got everything. What we need is greater protection and respect for our marshlands.

If you're looking for a Christian point of view, remember that in Genesis God not only gave us dominion over the world but that came with an expectation of assumed responsibility. We were also to be made stewards of the world. That means we protect and respect it as a part of God’s creation.
Make the right choice.

BOARD OF DIRECTORS

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ROB LEE

ROBERT LUNDBERG

PEG SHEAFFER

ADAM VOSKUIL

Delivered via e-mail

December 14, 2020

City of Sheboygan Plan Commission
828 Center Avenue
Sheboygan, WI 53081
development@sheboyganwi.gov

RE: Kohler Golf Course Conditional Use Permit

Dear Members of the Plan Commission:

Midwest Environmental Advocates submits these comments in opposition to the Kohler Company's conditional use permit (CUP) application to construct a new golf course north of Kohler-Andrae State Park and between the Black River and Lake Michigan (the Project).

The Commission should deny Kohler's application because it fails to comply with applicable City of Sheboygan zoning ordinances. The burden to show that an application complies with those ordinances is on the applicant.[1] The property at issue is within wetland, lakeshore, woodland, and steep slope overlay districts.[2] The Project will have substantial and undue adverse impacts on important woodland and upland habitat, in violation of the general ordinance governing CUPs and those ordinances applicable to clear cutting in the woodland overlay district where the subject property lies. Finally, the Project likely fails to comply with the lakeshore overlay district zoning ordinance because Kohler proposes development too close to the current and anticipated ordinary high-water mark.

I. Kohler's Application Fails to Comply with the City's General CUP Ordinance.

Before the Commission grants a CUP, it is empowered to consider whether the proposed conditional use, in its proposed location:

> *[R]esult[s] in a substantial or undue adverse impact on* nearby property, the character of the neighborhood, *environmental*

[1] *See* Sheb. Ord. § 15.905(1)(d).
[2] *See* Kohler Application.

612 W MAIN STREET, SUITE 302 P 608.251.5047
MADISON, WISCONSIN 53703 F 608.268.0205

> *factors*, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions of this Chapter, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City or other governmental agency having jurisdiction to guide development.[3]

Similarly, a proposed conditional use "shall be denied unless the applicant can demonstrate, to the satisfaction of the City Plan Commission that the proposed Conditional Use will not create major undesirable impacts on nearby properties, the environment, nor the community as a whole."[4]

Kohler proposes that the Commission compare the impact of the Project to an imaginary baseline where the entire subject property is already developed as suburban residential use. Specifically, Kohler proposes that "[t]he density and intensity of the golf course, which is allowed as a conditional use, should be compared to the density and intensity of the 5 dwelling units per gross acre allowed in SR-5 as of right."[5] The subject property, however, does not contain a development of suburban homes. Instead, it is *currently* woodland, wetland, and undeveloped land that provides key habitat, including rare and imperiled dunes connected to the Kohler-Andrae State Park. Thus, the Commission should evaluate the impact of Kohler's Project from that *undeveloped* baseline.

Compared to the actual status quo of the subject property, the Project cannot meet requirements in the City's CUP ordinance because of Kohler's planned deforestation and other development of its property. Clear cutting over 50 percent of the subject property to construct the golf course and related facilities will, in addition to direct destruction of wooded bird habitat, have direct and indirect impacts on wetlands and the species that depend on those wetlands.[6] Many different species depend on the unique habitat of the Kohler-Andrae State Park.[7] These species do not observe and are therefore not confined to the Park boundaries and move between the Park and the Kohler property. According to the Wisconsin Department of Natural Resource's (DNR) Natural Heritage Inventory for the area, a variety of protected plant and animal species reside there.[8] Insect, amphibian, and reptile species are present in the area and depend on connectivity between upland areas and wetlands to satisfy their lifecycle needs.[9]

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[3] Sheb. Ord. § 15.905(4)(c)3 (emphasis added).
[4] Sheb. Ord. § 15.905(1)(d).
[5] *See* Kohler Application.
[6] Direct Test. of Patricia Trochlell Before the State Division of Hearings and Appeals, DNR 18-0002, pp. 8-12, attached as Exhibit 1.
[7] DNR, Kohler-Andrae State Park, https://dnr.wisconsin.gov/topic/parks/kohlerandrae/nature.
[8] DNR, Natural Heritage Inventory Tool, https://dnr.wi.gov/topic/NHI/Data.asp?tool=township.
[9] *See, e.g.*, DNR, Final Environmental Impact Statement for the Proposed Kohler Golf Course, Sheboygan County, pp. 40-41, 52-54, 72-73, 103-106 (Table 10) (January 2018), https://dnr.wi.gov/topic/EIA/documents/Kohler/KohlerFinalEISpublicNHC.pdf; Direct Test. of Quentin Carpenter Before the State Division of Hearings and Appeals, DNR 18-0002, pp. 5, 7, attached as Exhibit 2.

As emphasized by other commenters, the Project area has important natural value in its present state and allowing Kohler to irreversibly modify its land to construct a golf course will have substantial and undue adverse impacts on environmental factors and the habitat and fauna of the nearby property, the Kohler-Andrae State Park. Those considerations along with the factors just mentioned demonstrate why this application must be denied for failure to comply with the City's general CUP ordinance.

II. The Application Fails to Satisfy the Woodland Overlay District Ordinance and Related Land Use Regulations Regarding Clear Cutting.

The City's ordinance applicable to allowing clear cutting in any district, including in a woodland overlay district, requires applicants to "demonstrate that clear cutting [more than 50 percent of the canopy] will improve the level of environmental protection on the subject property."[10] For many of the reasons discussed above, Kohler cannot show such improvement of "environmental protection" on the subject property. On the contrary, environmental protections will worsen. Clear cutting a large portion of the property will have significant and unduly adverse impacts on bird habitat, wetland and upland habitat, the connectivity between those different habitat types, and the species that depend on them, including reptiles, amphibians, and migratory and resident birds.

III. The Application Does Not Delineate an Ordinary High-water Mark and Does Not Ensure Compliance with the City's Lakeshore Overlay Zoning District Requirements.

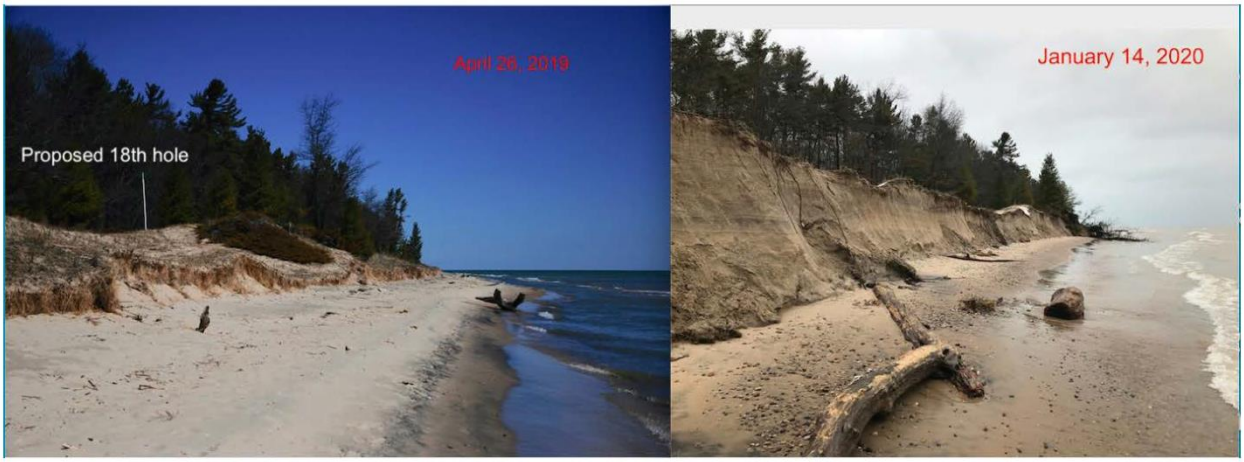
Sheboygan's lakeshore overlay zoning ordinance requires that "lakeshores shall remain in an undisturbed state."[11] Lakeshores are defined as "all areas within 75 feet of the ordinary highwater mark of Lake Michigan and inland lakes."[12] The zoning ordinance explicitly notes that its use of "lakeshore" is distinct from that used by DNR and in the Wisconsin Statutes.[13]

Sheboygan defines the ordinary high-water mark (OHWM) as "[t]he point on the bank or shore of a body of water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics."[14] This definition is consistent with the Wisconsin Supreme Court's interpretation of that phrase in cases discussing the state Public Trust Doctrine.[15] The OHWM is typically determined based on its location at the time of statehood in 1848,[16] particularly when the lakebed has been artificially filled. While the OHWM cannot change through the artificial filling of lakebed,[17] the OHWM can change through

[10] Sheb. Ord. §§ 15.206(2)(g)3.a, 15.507(4) (woodland and zoning district requirements).
[11] *Id.* § 15.505(4).
[12] *Id.*
[13] *Id.*
[14] *Id.* § 15.034.
[15] *See, e.g., Diana Shooting Club v. Husting*, 156. Wis. 261, 145 N.W. 816, 820 (1914) (citation omitted). DNR similarly interprets OHWM. Wis. Admin. Code NR § 115.03(6). Wisconsin's Public Trust Doctrine is established under Article IX, Section 1 of the Wisconsin Constitution.
[16] *See Illinois Steel Co. v. Bilot*, 109 Wis. 418, 425, 4 N.W. 855 (1901).
[17] *See Menominee River Lumber Co. v. Seidl*, 149 Wis. 316, 320-21, 135 N.W. 854 (1912).

natural processes such as accretion and reliction.[18] Riparian property owners do have the right install erosion controls,[19] but that right is subject to and may not interfere with public trust rights.[20] Whether or not controls are in place, if erosion occurs naturally over time, the OHWM may change.[21]

Given the present wave erosion line, the OHWM of Lake Michigan has shifted significantly since Kohler began preparing documents for the Project. For example, other commenters have submitted photographs showing evidence of recent natural erosion near the proposed 18th Green and inland movement of the OHWM in the last 20 months.[22]



Although Kohler has not submitted an OHWM delineation for the Project, given the recent erosion it is likely that a portion of the Project is subject to the lakeshore overlay zone and as such cannot be approved.

Exhibits submitted along with Kohler's application even show that portions of the Project are with 75 feet of the OHWM. For example, the screenshot of Kohler's application shown on the following page clearly shows that the proposed location of the 18th Green is approximately 150 feet from the shoreline.[23] Comparing that with the immediately following Google Earth image taken near the 18th Green, which shows that the OHWM is up to 120 feet landward from the shoreline, it is evident that the 18th Green is likely much closer to the OHWM, and that the silt fence seems to be right on it in certain locations. In addition, the Commission should take into

[18] *See also* Wis. Stat. § 30.12(3m)(c)2 (To grant an individual permit to deposit materials on the bed of a navigable water, i.e., below the OWHM, DNR must find that a deposit "will not be detrimental to the public interest."). *Sterlingworth Condo. Ass'n v. DNR*, 205 Wis. 2d 710, 556 N.W.2d 702 (Ct. App. 1996) (holding that DNR is authorized to consider public trust uses when determining whether a proposed structure is detrimental to the public interest under Wis. Stat. § 30.12(3m)(c)2). *See also Attorney General v. Bay Bloom Wild Rice & Fur Farm*, 172 Wis. 363, 178 N.W. 569 (1920).

[19] *See R.W. Docks & Slips v. State,* 2001 WI 73, ¶ 21, 244 Wis. 2d 497, 628 N.W.2d 781; Wis. Stat. § 30.12.

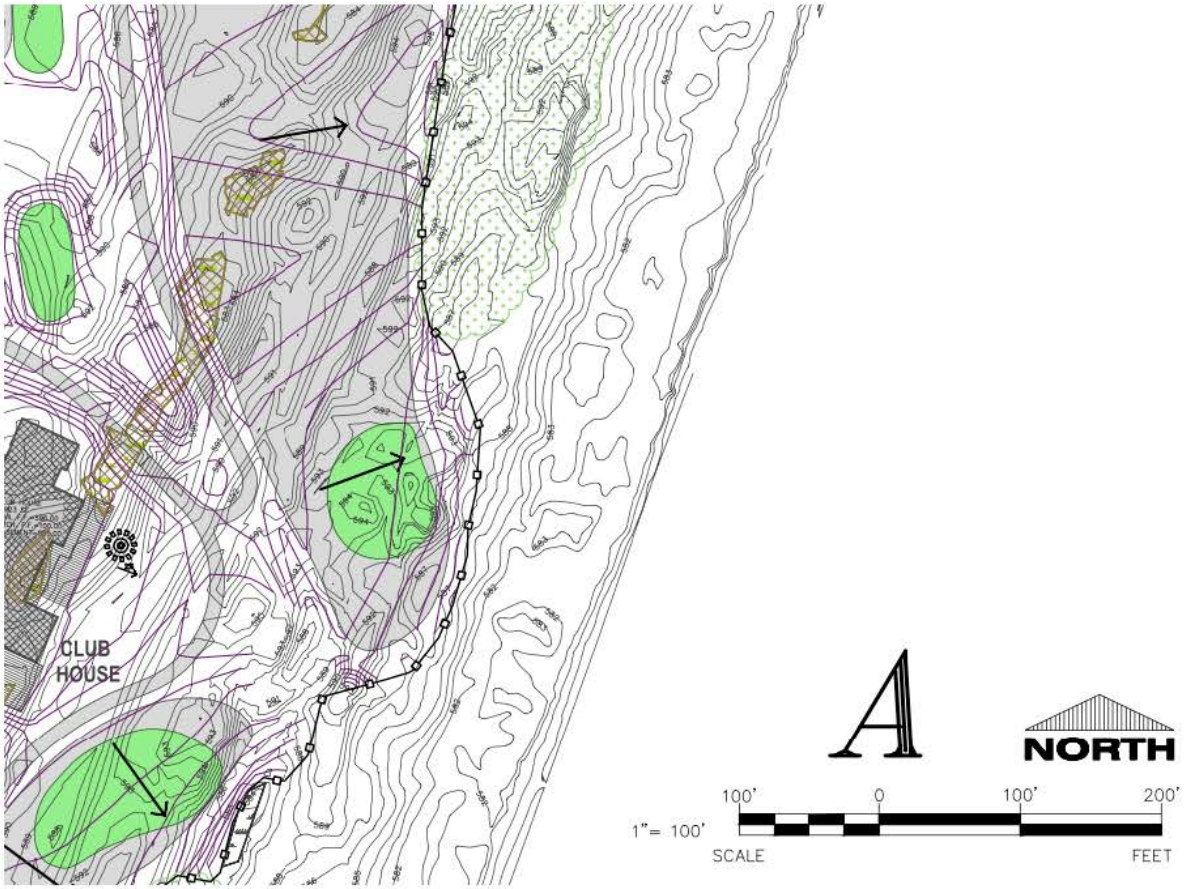
[20] *Bay Bloom*, 172 Wis. 363 at. 375.

[21] *Diana Shooting Club*, 145 N.W. at 820 (defining the OHWM as "the point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by *erosion*, destruction of terrestrial vegetation, or other easily recognized characteristics") (emphasis added).

[22] Used with permission from Erik Thelen, Comments on Kohler Company Golf Course Conditional Use Permit Application (Dec. 8, 2020), available at https://go.boarddocs.com/wi/coswi/Board.nsf/files/BW7MVM5CCF79/$file/Erik%20Thelen.pdf.

[23] Kohler Application, Exh. 9.

account anticipated, natural erosion of the shoreline in the future so that the lakeshore may *remain* in an undisturbed state.





IV. Building a High-Priced Golf Course and Bringing This Application Before the Commission Without Adequate Notice to the Public Will Not Serve the City's Values of Equity and Inclusion.

The City of Sheboygan is committed to diversity, equity, and inclusion.[24] This commitment is defined as "ensuring fair outcomes by focusing on those who have been historically marginalized and excluded."[25] Allowing a high-price-point golf course[26] as a conditional use of property and bringing this matter for hearing with inadequate public notice of Kohler's complete application materials is not in service of the City's ongoing diversity, equity, and inclusion efforts. The City "recognizes that people of color and other communities continue to be marginalized and excluded – intentionally and unintentionally – from the governance process that we depend on to protect our health, safety, and well-being" and seeks to redress those inequities.[27] The City should consider these principles as it decides how to proceed with the application, both as a matter of public process and on substance.

[24] City of Sheboygan, https://www.sheboyganwi.gov/dei/.
[25] *Id.*
[26] During some seasons, green fees at Kohler's nearby Whistling Straits course, without spending the night at a resort, can cost several hundred dollars, and a round of golf may also involve mandatory caddie fees, recommended tips, and other incidental expenses. Jason Scott Deegan, https://www.golfadvisor.com/articles/most-expensive-how-to-save-golf-courses (Mar. 10, 2020) (describing Whistling Straits as one of the most expensive golf courses in the United States).
[27] *Id.*

For those four key reasons, as well as the fact that Wisconsin does not need a golf course that will increase the nutrient loading into Lake Michigan from increased fertilizer use, destruction of buffer areas, and increased runoff, the Commission should deny the application.

Sincerely,

/s/
Andrea Gelatt
Rob Lee
Staff Attorneys

EXHIBIT 1

BEFORE THE
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

In the Matter of Wetland Individual Permit No. IP-SE-2017-60-00631 and Water Quality Certification for 3.69 acres of wetland fill or disturbance in the Town of Wilson, Sheboygan County

Case No. DNR-18-0002

DIRECT TESTIMONY OF PATRICIA TROCHLELL for FRIENDS OF THE BLACK RIVER FOREST and CLAUDIA BRICKS

Q. Please state your name and business address.

A. Patricia Trochlell, 10747 Moyer Road, Blue Mounds, WI 53517.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of Friends of the Black River Forest and Claudia Bricks.

Q. Please describe your educational background.

A. I have a B.S. degree with a major in Wildlife Management and Wildlife Biology and a minor in Soil Science. I've had post-graduate courses in wetland ecology, wetland delineation, soil science, hydrogeology, plant physiology and plant identification. I am also a State Licensed Soil Scientist and Professional Hydrologist. My CV attached as Exhibit 13 contains more information.

Q. Please describe your work experience.

A. After school I worked in various temporary positions for the Wisconsin Department of Natural Resources (WDNR) and the US Fish and Wildlife Service. In 1980 I obtained a permanent position with WDNR as a Water Management

Specialist in Southeastern Wisconsin. In that position, I authorized activities in navigable waters and reviewed and approved wetland restoration plans as part of enforcement and regulated restoration projects within the WDNR's Southeast Region. In 1987, I began working as a Wetland Ecologist in the WDNR's central office. I held this position for 30 years until January 2018 when I retired.

As the WDNR Wetland Ecologist I led a team which developed the state's wetland water quality standards. I developed the WDNR Wetland Rapid Assessment Methodology, v. 2 (WRAM) and was chief instructor for both WDNR staff, other government staff, private consultants and the public in wetland assessment, delineation, monitoring, plant identification, soils, hydrology, restoration, regulations and ecology. I co-wrote the WDNR's wetland invasive species strategy. For ten years I coordinated the WDNR's private mitigation program and reviewed hundreds of mitigation bank and permittee-responsible projects.

Q. Outside of your work for the DNR, do you have experience with other organizations working within your area of expertise?

A. Yes. I am an instructor for the Wisconsin Master Naturalist program conducted through the University of Wisconsin-Extension. I am on the board for the Empire-Sauk chapter of The Prairie Enthusiasts, which educates the public about prairies and savannas in the upper Midwest and conducts restoration activities, and for the Invasive Plants Association of Wisconsin, which is dedicated to providing information and resources to combat invasive plants in Wisconsin. I

volunteer with both of these organizations and others, as well as local governmental organizations. I am a past member of the governor-appointed licensing board of geologists, hydrologists, and soil scientists.

Q. Are you sponsoring any exhibits with your testimony?

A. Yes, I am sponsoring the following Exhibits:

Exh. 13: Curriculum Vitae for Pat Trochlell

Exh. 14: Map of Kohler site wetlands by category

Exh. 15: Map of project impact on wetlands

Exh. 16: Storm-water and wetlands: planning and evaluation guidelines for addressing potential impacts of urban storm-water and snow-melt runoff on wetlands. State of Minnesota Storm-Water Advisory Group. 1997.

Exh. 17: How hydrologic manipulations can accelerate cattail invasions via "internal eutrophication". UW Arboretum Leaflet 7. 2006.

Exh. 18: What accelerates reed canary grass invasions? UW Arboretum Leaflet 5. 2005.

Exh. 19: How ponded runoff and invasive cattails reduced wetland ecosystem services in three experimental wetlands. UW Arboretum Leaflet 27. 2013.

Exh. 20: Wildlife Action Plan. WDNR. 2015. Pages 4-108 to 4-112.

Exh. 21: Ecological Landscapes of Wisconsin, Chapter 8 – Central Lake Michigan coastal ecological landscape, 2015. WDNR. Pages J-44 to J-48.

Exh. 22: Nitrogen pollution concerns in Great Lakes coastal wetlands. 2016. M. Cooper

Exh. 23: Excerpt, WDNR Wisconsin Waterways and Wetlands Handbook

Exh. 24: WWCT Annual Report, 2017

Q. What is the purpose of your testimony in this proceeding?

A. To present my findings and conclusions from observations I made of the affected resources at the site and reviewing documents, based on my knowledge of wetlands and evaluation tools used by the WDNR.

Q. Please summarize your findings.

A. I agree with the findings in the Kohler wetland permit regarding the value of and impacts to the wetlands affected by the Kohler golf course. I disagree with the conclusion that the project as permitted will cause no significant adverse impacts to wetland functional values or to water quality, or result in no other significant adverse environmental consequences. The proposed mitigation in the permit will not offset or account for this loss.

I. IMPACTS TO WETLAND FUNCTIONAL VALUES FROM THE KOHLER GOLF COURSE PROJECT, WATER QUALITY, AND OTHER ENVIRONMENTAL CONSEQUENCES.

Q. Can you explain the term "wetland functional values"?

A. Functional values are the physical, chemical and biological processes that occur in wetlands and the values that people place on these processes. Functional values include floristic integrity, flood and stormwater storage, water quality protection, groundwater processes (recharge and discharge), shoreline

protection, wildlife habitat, fish and aquatic life habitat, and human use values, such as hunting, fishing, support of rare species or natural scenic beauty.

Q. In what manner does the DNR evaluate wetland functional values?

A. There are many ways to evaluate wetlands, but for most projects DNR uses the Wisconsin DNR Rapid Wetland Assessment Methodology, or "WRAM."

Q. Are you familiar with how to assess impacts of a project to wetland functional values?

A. Yes. As noted above, I developed the current evaluation methodology. The Wisconsin Wetland Rapid Assessment Methodology version 2 is a qualitative method developed to provide a standardized process for an individual to evaluate the extent to which a specific wetland performs a given function. The full range of wetland functions and values are covered. The presence or absence of specific characteristics is used to determine the importance of each functional value for a site. The method documents the best professional judgment of the evaluator and requires one or more field visits.

Q. Are you familiar with the proposed Kohler Golf Course project?

A. Yes.

Q. Have you been to the site proposed for the course?

A. Yes. I was at the site on four occasions while still employed at DNR: October 14, 2014, June 29-30, 2015, October 21, 2015 and May 30, 2017. The purpose of my visits was to evaluate the accuracy of the Kohler Co.'s wetland delineations, to survey wetlands, and to collect data to develop the WRAM. This included

detailed data on the plants and wildlife at the site, and included observations relevant to wetland hydrology, human use, and other functional values. I made hundreds of similar visits to other properties while I worked at DNR.

Q. Please describe the proposed Kohler golf course site, from an ecological perspective.

A. The site includes two properties: a 247-acre private parcel owned by Kohler Company and a smaller area within the Kohler Andrae State Park. The properties are located south of the city of Sheboygan. The Black River flows south to north through the properties. The area abuts Lake Michigan.

While some of the property has been altered by invasive species and a pine plantation, the area in general is relatively undisturbed and undeveloped areas with upland plant communities including Great Lakes beach, Great Lakes dune, northern dry-mesic forest and northern mesic forest. Wetland communities include hardwood swamp/floodplain forest, southern sedge meadow and alder thicket. Great Lakes ridge and swale complex is a wetland-upland complex found between the Black River and Lake Michigan. Interdunal wetlands are also present on both properties.

Great Lakes beach, Great Lakes dune and Great Lakes ridge and swale communities are ranked by the state as S2, meaning they are imperiled in Wisconsin due to the rarity of the plant community (6-20 occurrences or few remaining individuals or acres) and because they are vulnerable to extirpation from the state. Interdunal wetlands are considered critically imperiled in

Wisconsin (five or fewer occurrences or very few remaining individuals or acres) and globally because of extreme rarity (6 to 20 occurrences or few remaining individuals or acres) and/or factor(s) making them very vulnerable to extinction throughout its range. Great Lakes dune and beach communities are also ranked as S2 communities.

To better display their location on the property, a map of the wetlands by type is attached as Exhibit 14. This map was prepared under my direction using Kohler's shapefiles provided to WDNR and received by petitioners through an open records request. The map was prepared with technical assistance from Paul Mathewson, a staff scientist at Clean Wisconsin, Inc.

Q. Have you reviewed any documents related to this site and the project?

A. Yes, I've reviewed the documents related to the proposed project, such as wetland permitting documents available on the DNR's website, the DNR's environmental impact statement, the WRAMs prepared for the wetlands and plant lists, and records obtained from the DNR through open records requests. I've also reviewed other documents and studies, including UW-Madison Arboretum Leaflets and other resources I have provided as exhibits to this testimony. These are types of resources I relied on while I was in a regulatory position when evaluating wetlands.

Q. Have you seen the wetland permit issued by WDNR on January 17, 2018?

A. Yes.

Q. Did you draft the permit?

A. No.

Q. Have you evaluated the wetlands on the Kohler site using the methodologies you described earlier?

A. Yes. As reflected in the WRAM, for Great Lakes ridge and swale wetlands, functional values are rated exceptional for floristic integrity, human use values and wildlife habitat, high for fish and aquatic life and groundwater processes and low for flood and stormwater storage and water quality protection. Exceptional and high ratings indicate a wetland that has significant functional values are rare and should be protected. For the hardwood swamp/floodplain forest, floristic integrity is rated as high to exceptional. Human use values and wildlife habitat are rated exceptional. Groundwater processes, fish and aquatic life habitat and shoreline protection are rated high and flood and stormwater storage and water quality protection are rated medium. (Exhibits 151-156.)

Q. What types of wetlands would be impacted by the project?

A. The wetlands on the site that would be impacted by the project include the hardwood swamp, Great Lakes ridge and swale, southern sedge meadow, alder thicket and interdunal wetlands.

A map of the wetlands impacted and the infrastructure causing the impact is attached as Exhibit 15. This map was prepared in the same way as Exhibit 14.

Q. The Kohler application anticipates filling 3.69 acres of wetlands. How, if at all, will these direct impacts affect the wetland functional values?

A. The wetland functional values in the filled wetlands will be lost. This will be especially significant for rare wetlands, e.g., Great Lakes ridge and swale and interdunal wetlands, and high to exceptional quality wetlands, e.g., the floodplain forest complex. For forested wetlands, the highest quality area where groundwater discharges is the area proposed to be filled. This will have a greater impact on the entire wetland because of the change in hydrology.

Q. The wetland permit in this case states that the loss of the 3.69 acres of wetlands and wetland functional values is irreversible and of high significance. Do you agree?

A. Yes.

Q. Please explain the basis for this answer.

A. The wetland and upland plant communities on this site are extremely rare and require the specific environment and geographical location the Kohler site provides in order to survive. This includes the ridge and swale system created by a combination of wind, lake influence, sandy soils, clean groundwater and lack of disturbance.

A unique assemblage of both upland and wetland plant species are present on the dunes, interdunal wetlands and ridge and swale complex (WDNR, Exh. 20). These include upland forests with mature red oak, white pine, red maple and American beech trees. Great Lakes dune habitat is dominated by grasses and forbs, some of which are rare, e.g., dune thistle. Ridges are generally forested. Wetlands in the floodplain forest support some

trees, e.g., black ash, speckled alder, skunk cabbage and lake sedge. Interdunal wetlands have Baltic rush and several upland and wetland species. The swales vary but often have Canada bluejoint grass and tussock sedge and forbs. These plants and plant communities cannot be replaced. This then impacts the other functional values, like wildlife, which depend on this unique environment.

The Great Lakes wetland and upland communities are recognized as sensitive, with high levels of protection warranted (WDNR, Exh. 21).

Even if this resource could be replaced, there is little opportunity to do so. As far as I know, this is the last remaining intact unprotected Great Lakes wetland-upland complex remaining, meaning not on government land, land trust or private preserve.

Q. Aside from the direct impacts from wetland fill, the wetland permit finds this project will cause secondary and cumulative impacts to wetlands. Do you agree?

A. Yes. There will be secondary and cumulative impacts resulting from this project. Secondary impacts are defined as those impacts which are closely linked or causally related to the activity but may occur over a longer period of time. Secondary impacts expected include nutrient enrichment, chemical inputs, hydrology changes, vegetation removal, and invasion of non-native species in unfilled wetlands and subsequent loss of wetland functional values. Other secondary impacts include heavy human use which will affect wildlife use of the area.

Q. What kind of wetlands will be affected by these secondary impacts?

A. Secondary impacts are expected to affect the remaining Great Lakes ridge and swale wetlands, interdunal wetlands and most or all of the forested wetlands. Great Lakes ridge and swale wetlands will be impacted from the addition of nutrients and increase in hydrology. It is likely that these changes will result in a loss of more conservative species, such as sedge species and replacement with more tolerant non-native species, like reed canary grass and cattails (Zedler Exh. 17 & 18). Changes in canopy cover from tree removal will affect the species that can grow in these wetlands and further degrade the plant communities. This change of plant species will adversely impact habitat for aquatic life and wildlife species. Increased human presence will further affect wildlife use of these wetlands. These changes would likely be permanent, since the nutrients in the system would be continually added to maintain turf grass.

Interdunal wetlands are expected to be affected similarly, except that they will be more sensitive to these impacts. Changes in uplands adjacent to these wetlands may also modify the action of wind, which is an important factor in their development.

The floodplain forest community is expected to be significantly degraded due to the loss of edge where groundwater discharges. Conservative species which depend on groundwater discharge will be lost. The disturbance and addition of nutrients will increase non-native species invasions and adjacent roads and trails will be vectors for these species to invade.

Q. What effect, if any, will these secondary impacts have to wetland functional values?

A. One of the biggest changes will be to floristic integrity. For example, Kohler's plan to both irrigate the course and to apply nutrients like nitrogen and phosphorus will have a synergistic negative affect on native plants, which are not tolerant of high nutrients and hydrologic increases. Irrigation will increase infiltration of nutrients down into the groundwater supplying the ridge and swale and interdunal wetlands or enter the swales through runoff. The combination of wetter conditions and nutrients will degrade the native plant community and invite larger, weedy monocultures of plants like cattails and reed canary grass. (Zedlar, et al., 2013, Exh. 19). The most pristine wetland systems are the wetlands which show the greatest impact (Cooper, Exh. 22, State of Minnesota, Exh. 16). These changes will also affect other wetland functional values, like wildlife and fish and aquatic life habitat, as well as support of rare species and natural scenic beauty.

Q. The wetland permit issued by the DNR finds that the secondary impacts to wetlands are expected to be permanent and irreversible, and the significance of those impacts is high. Do you agree? Please explain your answer.

A. Yes. Adding nutrients and modifying the hydrology will change the wetland plant communities. The high to exceptional quality plant communities will be degraded, replaced with tolerant non-native invasive species. This impact is not reversible. Even if hydrology could be restored, the plants will have been lost.

Nutrients will continue to be added to the system to support turf grasses, which will allow the non-native species to outcompete more sensitive native plants.

Q. Will conditions in the wetland permit effectively address these secondary impacts?

A. No. For example, Condition #18 and #19 require a wetland restoration plan and monitoring for growth of invasive species for five years. These conditions will not keep invasive species from establishing after the five year period or bring back plants affected by other factors like nutrients. Condition #23 requiring following NR 151 for nutrient management planning and stormwater is not sufficient to protect wetland water quality, since this rule was not designed to ensure wetland functional values are protected in all cases, and certainly not in this sensitive environment. Condition #24 requires management of bentgrass, which Kohler plans to use on the course, but this species typically requires large amounts of water, will increase irrigation requirements, and will lead to additional flooding of and impact to the affected wetlands. Condition #29 requires Kohler to restore a wetland it is disturbing for a utility borehole to its original topographic elevation, but not its original plant community.

Q. The wetland permit finds that there are expected to be cumulative impacts associated with this project. Would you please explain the concept of cumulative impacts?

A. Cumulative impacts are those impacts attributable to the proposed activity which may occur, based upon past or reasonably anticipated impacts on wetland functional values of similar activities in the affected area.

Q. The permit identifies the potential for additional development and tree cutting at this site and increased applications to fill rare, sensitive, and valuable wetland plant communities as cumulative impacts associated with this project. Do you agree?

A. Yes.

Q. The permit states that significant cumulative impacts may occur with this project. Do you agree?

A. Yes. Cumulative impacts that may be expected include further adverse impacts to the wetlands in the area. Increased human activity at the course will likely lead to further degradation of adjacent wetlands and uplands, including sensitive areas on the state park property. Approval of this project is likely to result in the DNR approving more permits which will result in adverse impacts to rare, sensitive and high quality wetlands.

Q. The wetland permit concludes that the project as constructed will not result in significant adverse impacts to wetland functional values. Do you agree?

A. No. The extremely rare intact wetland complex is irreplaceable. The wetlands rank high to exceptional for functional values and the direct, secondary and cumulative loss of these functional values would be significant.

Q. Are you aware of other wetland permits the DNR has issued that have found irreversible and significant impacts to rare wetlands and that have concluded there would be no significant adverse impacts to wetland functional values?

A. Yes, only for a permit issued last year known as the "Meteor" permit. This permit authorized the filling of 16.62 acres of wetland, most of which was a rare, exceptional quality white pine-red maple swamp. This permit authorized the filling of 16.62 acres of wetland, most of which was a rare, exceptional quality white pine-red maple swamp. Otherwise, I don't know of any similar situation.

Q. Was the DNR at any time planning to deny this permit, that you are aware of?

A. Yes. I attended several meetings with staff and managers where this was discussed, because the wetlands were too important and impacts could not be effectively compensated. These meetings include internal meetings with Waterways and Wetlands Protection Section staff and my supervisor Martin Griffin. It also occurred during discussions with staff working on the EIS and WRAM documents. During my annual performance review with Pam Biersach, we discussed this topic at length and at that time, Pam told me that the permit would be denied.

Q. The wetland permit also finds that the permit will not result in significant adverse impacts to water quality or other significant adverse environmental consequences. Do you agree?

A. No.

Q. Please describe some of these other impacts and consequences.

A. The project will add nutrient and other chemical inputs to groundwater through the highly permeable soils. It will also permanently impact many rare upland and wetland plant communities and species as I've described. This includes Great Lakes dunes, Great Lakes ridge and swale and Great Lakes beach communities as well as many rare, threatened and endangered species.

Q. What is the significance of these impacts, in your opinion?

A. The impacts are irreversible and globally significant. In my opinion this project, if approved, would be the most significant wetland impact of any that I have reviewed in my 37 years with the DNR.

II. INFORMATION AVAILABLE TO THE DEPARTMENT

Q. Do you have any concerns about the information available to the DNR as it evaluated this project?

A. Yes. The Department did not have the stormwater permit application, which was submitted after the permit was issued and included more details about the project. Some project infrastructure has not been finalized and was not included in plans, such as utilities, and Kohler Co. never submitted information related to impacts from tournaments and other events that may occur on site.

Q. Did this affect the Department's ability to review the expected impacts of the project?

A. Yes.

Q. Please explain.

A. The additional information is needed in order to evaluate the impacts to wetlands, especially where there is additional ground disturbance, fill, or secondary impact. These activities may also increase cumulative impacts.

Q. Do you have any other comments on the January 17, 2018 wetland permit?

A. The findings of fact indicate the direct wetland loss to be irreversible with high significance. Secondary impacts are not expected to be compensated. The Department determined that significant cumulative impacts may occur. But the permit was issued despite these findings, which indicate that the project would not be in compliance with either S. 281.36, Stats. or ch. NR 103, Adm. Code.

III. MITIGATION.

Q. Are you familiar with wetland mitigation requirements at the time this permit was signed?

A. Yes.

Q. What is your understanding of the permit's requirements for mitigation?

A. The permit requires purchase of in-lieu fee credits. The permit also indicates Kohler will made an additional $200,000 donation to the Wisconsin Wetland Conservation Trust Wetland Restoration program administered by the DNR.

Q. Please describe the in-lieu fee program.

A. The in-lieu fee program simply requires the permittee to pay a fee to compensate for lost wetlands. The fees are used to pay for projects which restore wetlands within the watershed where the losses occurred – in this case, Northwest Lake

Michigan. There is no requirement that rare wetland types or species be replaced with similar types or species.

Q. Is there any potential for compensating for lost wetlands at the Kohler site through restoration of similar wetland types?

A. No. For the Great Lakes ridge and swale wetlands and interdunal wetlands, there is very little available wetland to restore due to the rarity of these wetland types. Kohler attempted to find potentially restorable wetlands earlier in this permit process and was not successful. (Exhibit 142.) Even if a site could be found, I do not believe these wetlands could be restored due to the unique environmental conditions they require. I have never seen these types of wetlands successfully restored.

Q. In your professional opinion, can the loss of wetland functional values caused by this project be effectively mitigated?

A. No. The direct impacts cannot be mitigated because there are no opportunities to restore or replace the extremely rare wetland and upland plant communities and species. There are no plans to compensate for secondary and cumulative wetland losses. These losses represent a permanent and irreversible loss of high quality wetlands and their functional values. Also, the wetlands located on this site that will be lost or significantly impacted are high to exceptional quality plant communities. Restored wetland plant communities have never rated high to exceptional in comparison to similar natural wetland plant community types.

Q. The permit states that the credit purchase "accounts for the temporal loss of wetland functional values associated with advanced credits." Do you agree?

A. The program provides a ratio modifier that increases the credit acreage to account for temporal wetland losses. This does not mean that replacement wetlands provide greater functional values, simply that an additional acreage is required.

Q. Are you aware of any other permits where a donation to the DNR was accepted as part of a mitigation proposal?

A. No.

Q. Do you have any concerns about the mitigation aspects of this permit?

A. Yes. The in-lieu fee program has not shown any successfully mitigated wetlands of any type in the Northwest Lake Michigan region since credits were offered starting in 2014. (Exh. 24, Table 5.) This makes it even less likely that the functional values lost through this permit will be regained.

IV. CONCLUSION.

Q. Have the opinions you have rendered in this testimony been made to a reasonable degree of scientific and professional certainty?

A. Yes

Q. Does this conclude your testimony?

A. Yes.

EXHIBIT 2

BEFORE THE
STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS

In the Matter of Wetland Individual Permit No. IP-SE-2017-60-00631 and Water Quality Certification for 3.69 acres of wetland fill or disturbance in the Town of Wilson, Sheboygan County

Case No. DNR-18-0002

DIRECT TESTIMONY OF QUENTIN CARPENTER for FRIENDS OF THE BLACK RIVER FOREST and CLAUDIA BRICKS

Q. Please state your name and address.

A. Quentin Carpenter, W8720 State Road 106, Fort Atkinson, WI 53538.

Q. By whom were you employed and in what capacity?

A. Senior Lecturer, (now Emeritus), Gaylord Nelson Institute for Environmental Studies, University of Wisconsin.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of Friends of the Black River Forest and Claudia Bricks.

Q. Please describe your educational background.

A. UW Madison, Land Resources, M.S. (1989); UW Madison, Land Resources, Ph.D. (1995).

Q. Please describe your work experience.

A. Lecturer, Institute for Environmental Studies, UW Madison (1993-2001); Senior Lecturer, Nelson Institute, UW Madison (2001-2016); Senior Lecturer Emeritus, Nelson Institute, UW Madison (currently). Since taking emeritus status, I also help operate a family farm that grows flowers and vegetables.

Q. What has been your research focus while with the University?

A. Groundwater-fed wetlands.

Q. Please describe your teaching and research experience, including any field work.

A. The Wetland Ecology course that I taught at the Nelson Institute for 21 years featured five field trips, three field exams and a semester-long field project. The other course, Field Ecology Workshop, which I taught for the Nelson Institute for 23 years, was held mostly in the field and required small groups of students to work with a real client to develop a research plan, execute the research, analyze the data and present the client with a useful report.

Over my years at the Nelson Institute I served on M.S. and Ph. D. committees of numerous students doing field research in wetlands, co-authored papers with colleagues and assisted local and state agencies with wetland issues. I was part of the field biologists' committee that created the Coefficients of Conservatism (CC) for Wisconsin that the consultants and DNR used in their assessments of this project.

In 1998, I co-lead a team of eighteen graduate students finishing their M.S. degrees in the Water Resources Program of the Nelson Institute. Our students surveyed all the major coastal wetlands (n=57) in Manitowoc County using an early version of the Wisconsin Wetland Rapid Assessment Methodology (WRAM) and later produced a 200-page report for the benefit of the Manitowoc

Co. Planning Dept. The effort was funded by the Wisconsin Coastal Program (DOA) with funds provided by the Coastal Zone Management Act of 1972.

In the course of this work, I have observed many wetlands and the processes that affect them, including in coastal environments like those present here.

Q. Are you sponsoring any exhibits with your testimony?

A. Yes, I am sponsoring the following Exhibits:

Exh. 10: Curriculum Vitae for Quentin Carpenter

Exh. 11: List of references

Exh. 12: Proximity of Major Swale and Seeps to Infrastructure

Q. What documents have you reviewed in preparing your testimony?

A. I have reviewed documents Kohler has submitted to DNR concerning wetlands on this project since early 2015, the DNR's environmental impact statement from 2017 and prior drafts, the Wisconsin Wetland Rapid Assessment Methodology (WRAM) documents prepared by DNR and the plant lists, documents on the history of the park and adjacent Kohler land, and other DNR documents obtained through public records requests. I have also reviewed the testimony of Dr. John Jansen in this case.

Q. What else have you done to prepare for your testimony?

A. I have done a literature search of published materials and conference presentations concerning Ridge and Swale, Interdunal and Forested Seepage wetlands around the Great Lakes.

Q. Please summarize your findings.

A. My findings, based on the review of documents above, my experience, and my education and research, are:

1. The proposed site contains three wetland types (ridge and swale S2, interdunal S1, and forested seep S2.) S1 means critically imperiled in Wisconsin and S2 means imperiled.
2. The wetlands are structurally intact, most show little disturbance and their floristic diversity remains high despite some exotics.
3. The present wetlands developed with and are dependent upon the stabilized dune ridges hydrologically. The interdunal wetlands near the lake are likely dependent on the ridges also since they are between the ridge complex and the lake, but there is insufficient information provided by the applicant to be sure.
4. The gross alteration of the landscape required to sculpt the golf course, the alteration of the hydrologic processes that irrigation will bring, the addition of nutrients and toxins to the source water of the wetlands from fertilizer and pesticides applied to the course, and the additions of many more humans requiring infrastructure and services will certainly degrade all the wetlands in the footprint or the course and many surrounding it.
5. No amount of tinkering around the edges can resolve the problems described in Finding 4, and no generic standard will stop the inevitable degradation after the course is built. I have reviewed the IPM/Nutrient Management Plan submitted 10/27/17 by Kohler. The plan appears generic and not substantively different

from that required under technical standard 1100 and other sources of BMPs. No evidence is presented that in this sandy situation additional nutrient inputs will not inevitably reach the wetlands, and when they do, alter their functional values.

I. EXPECTED ENVIRONMENTAL IMPACTS OF THE PROPOSED KOHLER GOLF COURSE.

Q. Are you familiar with the proposed Kohler Golf Course project site?

A. Yes. Aside from the documents reviewed, I have hiked through the site many years ago when it was open to the public. I have also visited Kohler-Andrae State Park multiple times over the years.

Q. Please describe the significant features of the site.

A. The most noticeable feature to me is the linear swale stretching the north-south length of the property parallel to Lake Michigan. (Exh. 12, blue outline.) This swale is intermediate in size and depth to the much-deeper swales I have seen at Point Beach State Forest and the Woodland Dunes preserve in Manitowoc Co. and The Ridges Sanctuary in Door Co. and the more-subtle ridges and swales found to the south at Chiwaukee Prairie. Remnants of other swales appear above and below this long feature, but they are intermittent. This classic ridge and swale complex is the last remaining south of Point Beach and the last that occurs in a forested setting. Those at Chiwaukee Prairie are less acute and occur in a low prairie setting. The long swales have connectivity missing from the intermittent ones and are excellent habitat for amphibians.

Q. Are you familiar with the term "wetland functional values," as that term is used by the Department of Natural Resources?

A. Yes, I have become familiar with it and applied it during my work, and I recall when DNR first began using the term. Another way to describe wetland functional values is "ecosystem services," as found in the latest edition of the standard text, Wetlands (Mitsch and Gosselink, 5th ed. 2015).

Q. Have the wetlands on the proposed golf course site been well-documented?

A. Yes, the field staff of consultants and DNR appear to have done a thorough job of locating and characterizing the wetlands on the property.

Q. Can you characterize the wetlands on site and their ecological significance, based on the information you have reviewed?

A. Yes, I have worked for decades doing field work in groundwater-fed wetlands so most of the plant species found here are quite familiar. I would characterize almost all the species as mesotrophic to slightly oligotrophic and most as competition-intolerant.

The gradient eutrophic – mesotrophic -oligotrophic is a standard ecological descriptor for nutrient status. In general, eutrophic sites have many available nutrients and the plants growing there produce lots of biomass, but these sites have few species because competition is intense; an example would be a cattail marsh with drainage from a cow yard. In contrast, oligotrophic sites receive few available nutrients, produce little biomass and contain more species because competition is less; a bog, which only receives nutrients from rainwater,

would be an example. Mesotrophic sites are intermediate and are often the most diverse in flora. The swales receive nutrients primarily from the atmosphere and from shallow groundwater, although they might get an occasional dose of surface runoff if the ground is frozen. Since the soils on the Kohler site are very sandy and little-disturbed, one would expect the groundwater the swales receive is nutrient-poor.

Q. Do agree with the WRAM ratings (Exhibits 153-156) of the wetland functional values for the wetlands as described?

A. Yes, based on the vegetation and soil descriptions and the rarity/threat ratings (S1 to S3), I would have made the same judgment. The site has all the characteristics of rarity, diversity and integrity expected of a State Natural Area, and in fact once was designated as such an area in the 1960s.

Q. The permit allows Kohler to fill 1.37 acres of ridge and swale/relic ridge and swale wetlands. How will this affect the wetland functional values?

A. It will eliminate the wetland functional values for that acreage. Although this amount may seem low, it is a significant fraction of the acreage of these rare wetlands on the site. It also fragments the large linear swale I described earlier and ignores the off-site or secondary effects likely to hit the remaining wetlands of this type. The filling will be especially detrimental to amphibians and the fragmentation provides additional opportunities for exotics and pollution to enter the swales.

Q. The permit also allows Kohler to fill 2.23 acres of forested floodplain wetlands. How will this affect the wetland functional values?

A. Again, those values will be eliminated. The forested wetlands (mostly seeps in the upper region) have some of the highest floristic quality ratings on the site, and they seem to be particularly hard-hit as the plan was modified to fill fewer acres of the swales. The proximity of the golf course will certainly ruin the aesthetic experience of anyone walking the area and wildlife will also be affected, affecting human use values. The proximity of the golf course to these seeps is highly likely to alter their water quantity and quality thereby changing the vegetation.

Q. Do you have concerns beyond the direct fill impacts to wetlands in this case?

A. Yes. Focusing on the direct fill portion of the impact may distract from the larger picture that the golf course proposal is for a complete ecosystem makeover, which cannot be accomplished without great collateral damage. In other words, focusing on the direct fill ignores the fact that the wetlands remaining are still dependent on the upland dunes for their sustenance. Topographic remodeling of these dunes and nutrient, water and pesticide additions will inevitably convert the remaining ridge and swale wetlands to a less-diverse wetland type, exemplifying secondary impacts.

Q. Please elaborate on the current nutrient and water conditions of the ridge and swale systems.

A. Based on my past experience, ridge and swale and sandy-soiled seep communities receive some nutrients from the atmosphere and occasional intense precipitation events running off, especially in frozen ground conditions where there is no infiltration possible; however, most of their nutrient input comes from precipitation leaching through porous soils and arriving as shallow groundwater discharge to the surface or at least to the root zone.

As the distance between recharge and discharge is short and the rate of water movement is rapid through porous soils, I would expect the "hydroperiod" to be "pulsed"; that is, after an intense rain, the water level in the wetland rises in a few hours to days. Were the inputs to these wetlands mostly direct precipitation, the vegetation would likely be more like a bog or "poor fen." If the groundwater discharge to the wetlands were from a deep aquifer, which has had years to decades to dissolve minerals, I would expect the wetland to show vegetation akin to a calcareous fen, and a hydroperiod that is much smoother in response to precipitation events. The wetland vegetation at this site is not indicative of either a bog or fen, confirming low nutrient and low carbonate inputs.

Q. Please describe any likely impacts from nutrient inputs to these wetlands.

A. The relationship between nutrient addition to ecosystems and ecosystem change is so long established that we have the word, "eutrophication." There is no doubt in my mind that the inevitable leakage of fertilizer from the course into the wetlands will effect a negative change to the wetlands; the only question is how

quickly. In a systems analysis, the assertion that Kohler can increase an input (N) and not show an output to groundwater ignores the law of conservation of mass. Where does it go? There is no "sink" in the well-oxygenated sandy soil system that can send it into the atmosphere as N2 via denitrification; and, sending it to "storage" becomes less effective with time as more biomass means more decomposition of biomass into soluble organic nitrogen compounds, which can also be transported down to the wetland. In an oxygen-rich environment such as is present here, soluble organic nitrogen can also be re-mineralized to NO3, which will then leach to the wetlands. (Fig. 6.3 of the 5th ed. of Mitsch and Gosselink)

Q. Have you reviewed the October 27, 2017, Integrated Golf Course Pest Management plan described in Condition #22 of the permit?

A. Yes. This plan seems to be quite generic and contains no evidence that what is applied to the golf course will not end up in the wetlands.

Q. Have you reviewed NR 151 and Technical standard 1100, mentioned in Condition #23 of the permit?

A. Yes. The Technical standard permits 8 to 10 pounds N per 1000 sq. ft. where soils are sandy. This is higher than for heavier soils. Clearly the standards are designed to grow grass and not protect groundwater.

Q. Will application at the levels approved in the permit affect the wetlands?

A. Yes.

Q. How if at all would plants found in the wetlands be impacted by the increase in nutrients?

A. As explained above, an increase in nutrients invariably causes changes in the plant community shifting it toward the eutrophic state.

Q. Have you in your research witnessed impacts to other wetlands affected by new nutrient inputs?

A. Yes, unfortunately, in my 30+ years working in wetlands, I have seen numerous wetlands convert from high diversity to low diversity after a change in their nutrient inputs. A classic example was the Greene Prairie in the South Arboretum of UW-Madison. Henry Greene spent the 1940s carefully recreating a wet prairie in a former farm field. His work persisted until about 1990 when there was a change to the stormwater drainage system upstream that increased the amount of stormwater sent into the area. In the next ten years, the reed canary grass that had inhabited just the bottom fringe moved up the gentle gradient to take over about the bottom third of the Greene Prairie. My Field Ecology Workshop began monitoring a transect across this area in 1993. Each year for about 15 years, we observed the reed canary grass advance, but then it slowed in subsequent years, and now seems to be stabilized at the high water mark of the stormwater. The stormwater was draining from streets, roofs and lawns and was certainly nutrient-rich. The original soil was quite nutrient-poor, being derived from an old glacial lake. This example is similar to what is likely

to happen when increased water and increased nutrients are added to the Kohler wetlands.

Q. Have you reviewed Kohler's projected irrigation water needs as described on page 10 of its Environmental Impact Report and page 27 of the final EIS?

A. Yes.

Q. Are there likely to be any impacts to the remaining wetlands on site due to Kohler's irrigation activities?

A. Yes. Irrigation will occur during drier periods to keep the grass unnaturally green for this site. Water leaking through the sand will likely increase levels in the wetlands, not allowing them to dry down as has been the previous hydrological regime. Given the erratic nature of our summer rains (mostly thunderstorms), there will certainly times when an intense downpour will surprise the irrigators and cause a pulse of water and nutrients and other chemical to head for the wetlands down-gradient.

Q. The wetland permit states that 4.79 acres of wetlands will be affected by secondary impacts. Do you agree?

A. No, I believe this number understates secondary impacts. I would expect essentially all of the wetlands proximate to the golf course will be impacted. They are dependent on the upland dunes, including most of the large swale I discussed above. Exhibit 12.

Q. How, if at all, will these secondary impacts affect the functional value of the remaining wetlands?

A. Between the nutrient additions, which will eventually destroy or degrade the floristic integrity function, the ecosystem remodeling, noise and human presence that will destroy the current wildlife habitat and the irrigation and nutrient additions which will degrade groundwater, few wetland functions will remain.

Q. The permit concludes that the golf course project, if constructed in accordance with the permit and its conditions, will "not result in significant adverse impacts to wetland functional values, in significant adverse impacts to water quality, or in other significant adverse environmental consequences." Do you agree?

A. No. I have read all the conditions. All are well meaning but they only trim around the edge of the problem, which is that this a complete ecosystem remodeling. Furthermore, most of the conditions imposed have no basis in research. They are almost all generic recommendations and "BMPs." There is no evidence presented to show that using these standards protect the functional values of the wetlands, especially floristic integrity and wildlife habitat. As explained above, it appears that the proponents have not applied the Nitrogen Cycle and how it works at this particular site. There is every reason to expect significant adverse impacts based on theory and field experience. This is the opinion of DNR field staff and I agree with them.

Q. Do you have any other comments on the January 17, 2018 wetland permit?

A. I find this permit incredibly myopic as it ignores the close, dependent relationship of the upland dunes and the wetlands to be affected directly and

indirectly. I do not believe I have ever seen a permit granted when the recommendations of professional staff were so strong in pointing out dangers but the final recommendation assumed that all of these could be avoided by implementing generic BMPs, with no evidence provided how this would happen.

II. MITIGATION

Q. Have you reviewed Kohler's mitigation proposal?

A. Yes. It is simply money to restore some other habitats.

Q. Do you have any opinion as to whether this mitigation will offset the loss of wetland functional values from this project?

A. Yes. There are but a handful of ridge and swale wetlands in Wisconsin and almost none in the southern lake area. If this project is approved, it will eliminate through direct and secondary impacts the ridge and swale system at the Kohler site. The functional values attributable and unique to these wetlands will be gone.

After that, we will have just Chiwaukee Prairie in the southern lake area, which is not really a classic ridge and swale. There are no remaining similar quality sites for sale because they are already under public ownership or already destroyed. Interdunal wetlands are even more rare, and the secondary effects of the golf course are likely to degrade the few remaining on this site. Forested wetland are also scarce, and the direct and indirect effects of the project will impact the best of those on the site. (Exh. 12, red outline.)

Q. Are you aware of any ridge and swale wetland sites that have been successfully rehabilitated or created?

A. No. At best, some have been improved by clearing houses (Indiana Dunes National Park) or removing exotics.

Q. Are you aware of any interdunal wetland sites that have been successfully rehabilitated or created?

A. Yes, at Chiwaukee Prairie...

Q. Are you aware of any floodplain forest that have been successfully rehabilitated or created?

A. No, not of the seepage type found near the upper edge of the Black River portion of the site.

III. CONCLUSION.

Q. Have the opinions in your testimony been given to a reasonable degree of scientific and professional certainty?

A. Yes.

Q. Does this conclude your testimony?

A. Yes.

Dear Members of the City of Sheboygan Plan Commission,

I write concerning the application the Kohler Company for a conditional use permit for a golf course on property within the City of Sheboygan. In this letter I will address two of many of my concerns.

Before I comment I think it is important to review the Plan Commission's statutory responsibilities. These are outlined under the laws of the State of Wisconsin as follows:

Stats. Sec. 62.23 (7)(de)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.

I. As Kohler Co., through its employee Dirk Willis, admits in its cover letter to apply for the conditional use permit it cannot meet the time requirements of a conditional use permit due to pending litigation. You should ask

yourself what is the purpose of granting a permit at this time if Kohler Co. cannot fulfill the time requirements required by our ordinance? I do not know why, but I see no benefit to the City of Sheboygan by granting the permit at this time. I fear there is more than meets the eye, and until you know you have an obligation to protect the City's interest.

II. The other issue I wish to address is Kohler Co's inadequate response to paragraph 5(v) of the Agreement between the City and Kohler Co.. This paragraph states:

Public Trust Compliance. Developer agrees that it shall not construct any barriers on the Property to prohibit access to Lake Michigan in violation of Wisconsin's public trust doctrine such that it shall be possible for walkers to traverse adjacent to the shoreline on dry land.

As those of us who live in Sheboygan know Lake Michigan has risen dramatically in the last few years. This has caused severe erosion issues, especially when we have high winds from either the northeast, east or southeast. The Kohler Co. property in question is not immune from these forces of nature. As seen in the attached photos of the property, taken on December 13, 2020, the erosion continues.

When you look at the contour map in Kohler Co. Exhibit 9 you can see that only one dune line separates the proposed clubhouse from Lake Michigan. The clubhouse, as proposed, will soon be subject to the forces of Lake Michigan. If you look at the contour map many tees, fairways and greens are also under immediate threat from the forces of Lake Michigan. In addition, in making your decision, please consider that Exhibit 9 is already an out-of-date contour map because of the erosion caused by recent heavy waves.

How can this be prevented? We can hope that lake water levels will drop but with the dramatic weather we have seen this is a not likely given the effects of climate change. If water levels do not drop some type of protective barrier will be built (see Roger Miller's comments on revetments). A protective barrier

will “prohibit access to Lake Michigan” as we have seen at Whistling Straits. With a barrier it will not be possible “for walkers to traverse adjacent to the shoreline on dry land”.

Since Kohler Co.’s application for a conditional use does not address this important clause of the Agreement their request should be denied.

Respectfully submitted
December 14, 2020

James P Van Akkeren
432 Lincoln Ave.
Sheboygan, WI 53081









