

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

**Minutes of the Plan Commission meeting held on November 17, 2020.**

Deputy Clerk Caren Brustmann called the meeting to order at 6:31 p.m. There was a motion by Adkins, seconded by Muckerheide to appoint Trustee Adkins as acting Chairperson. Motion carried 5-0

Members present: Commissioners Deb Anderson, Mike Knapp, Roger Johnson, Jim Muckerheide, Trustee Scott Adkins

Excused: Village President Anthony LeDonne

Others present: Assistant Village Administrator Kelsey McElroy-Anderson, Village Attorney John Macy, Assistant Development Director Kasey Fluett, Deputy Clerk Caren Brustmann and applicants.

A quorum of the Village Board was not present at the meeting.

**Consideration and possible action on the minutes on the Plan Commission meeting of October 20, 2020.**

A motion by Adkins, seconded by Muckerheide to approve the minutes of the Plan Commission meeting of October 20, 2020 as presented. Motion carried 5-0

**Consideration and possible action on a Plan of Operation and site plan for RG Tree Service LLC (N61W23198 Silver Spring Drive).**

Applicant Eric Geisberger, N50W16294 Pinoak Ct, Menomonee Falls, WI was present and will be using the headquarters for office and storing equipment.

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating this site is zoned B-4. The lawn and landscape services is a permitted use in accordance with Section 17.0419 (C)(5)(j) in the B-4 Central Mixed Use Business District. RG Tree Service will purchase the property from Lake Country Lawn Care and use the location as its headquarters for office and storing equipment. The site plan shows the three buildings, the front building along Silver Spring is an office building (1,900 sq. ft.) with two tenants, second building is a block garage (2,400 sq. ft.) and a third building is a metal shed

(5,000 sq. ft.). To improve the site the new owner will add parking stalls for employees and plant a line of Arborvitae along the property line abutting the residential homes. Hours of operation are Monday through Friday 8:00 a.m. to 5:00 p.m. The site has sufficient parking for the office building for the tenants. RG Tree adding 9 parking stalls for the 5 employees. There is no outside storage at this site.

Plan Commission Comments: None

A motion by Johnson, seconded by Adkins to approve the Plan of Operation and site plan for RG Tree Service LLC (N61W23198 Silver Spring Drive); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A, also to include equipment must be parked on current or future asphalt or concrete.

Motion carried 5-0

**Consideration and possible action on a Plan of Operation and site plan for AAGM Properties LLC (N60W22951 Silver Spring building 6 unit 11 and 12.**

Applicant Guseppe “Joe” Militello, 19115 Chapel Hill Dr Brookfield, WI was present and stated he will be storing lawn and snow equipment in the units for his property management company.

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating this site is zoned M-1. The property management services for rental properties is a permitted use in accordance with Section 17.0422 (A)(3)(c) in the M-1 Industrial District. The owner of AAGM Properties will use this 3,000 square foot building for equipment related to his property management company. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

Plan Commission Comments: None

A motion by Adkins, seconded by Anderson to approve the Plan of Operation and site plan for AAGM Properties LLC N60W22951 Silver Spring building 6 unit 11 and 12 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

Motion carried 5-0

**Consideration and possible action on a Plan of Operation, site plan, architectural Plan and lighting plan for an addition for Bevco Engineering (W222N5739 Miller Way).**

President of Bevco Engineering, Eric Weber, 5739 Miller Way Sussex, WI, who currently employs 55 people, was present and stated the addition is needed due to the company's growing needs. Mr. Weber also noted the addition, design, and materials match the existing building.

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating this site is zoned BP-1. The manufacturing, designing and assembling of electrical components is a permitted use in accordance with Section 17.0420 (A)(6)(e)(2) in the BP-1 Business Park District. Bevco Engineering has been operating in the Village since 2001, they design, build and warehouse electrical control panels until shipment. They employ 55 people, hours of operations are Monday through Friday 6:00 a.m. to 5:00 p.m. The site has 75 parking stalls and is sufficient to accommodate the 55 employees. Due to their growing needs they are adding on 13,900 square feet to their existing 25,300 square foot building.

The following are comments for the plans for the addition: Site • Adding 13 parking stalls • Addition meets all required setbacks Architecture • Building meets height requirements • Material to be used meets the Design Standards Lighting • Lighting plan meets requirements • Building wall lights should match or blend with existing wall lights

Plan Commission comments: None

A motion by Johnson, seconded by Adkins to approve the Plan of Operation, site plan, architectural plan and lighting plan for an addition for Bevco Engineering (W222N5739 Miller Way); a finding that the use and structures meet the principals of 17.1002(A-H), subject to any conditions by the ARB, review by the Village Engineer and the standard conditions of Exhibit A. Motion carried 5-0

**Consideration and possible action on a Plan of Operation and site plan for Momentum Early Learning, new owners with interior expansion plan (W248N5250 Executive Drive Suite 400).**

Jennifer Miller and husband, W248N5250 Executive Dr Sussex, WI were present and are requesting to expand the day care into the 14,000 empty tenant space formerly occupied by Flabbergast Kids Center, to support 200 children and 40-50 employees.

Attorney Macy reviewed the Plan Staff Memo (see attached); stating this site is zoned BP-1. The commercial day care center is a permitted use in accordance with Section 17.0420 (A)(2)(a) in the BP-1 Business Park District. The approved day care facility has been operating in the Village since 2009, recently new owners purchased the business and will soon purchase the multi-tenant building. A change in business ownership and expansion of a business requires Plan Commission approval. The new owners are requesting to expand the day care into the 14,000 empty tenant space formerly occupied by Flabbergast Kids center. The expansion will allow the day care to grow from 10,000 square feet to a 24,000 square foot facility. The licensed day care provides services for infants 6 weeks-12 years and currently are at capacity with 135 children, the expansion will allow them to support 200 children and increase their number of employees to 40-50. Hours of operations are Monday through Friday 6:00 a.m. to 6:00 p.m. The site has 181 parking stalls with 28 allocated to other users.

Plan Commission comments: Chairperson Adkins inquired if weekend hours are offered by Momentum.

A motion by Anderson, seconded by Knapp to approve the Plan of Operation and site plan, new owners with an interior expansion plan for Momentum Early Learning (W248N5250 Executive Drive Suite 400); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

Motion carried 5-0

**A. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Michael Schmalz, N60W22951 Silver Spring building 10 unit 20.**

Michael Schmalz, 7553 S Cambridge Dr Franklin, WI was present.

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating this site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and ByLaws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner

to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Plan Commission Comments: None

Plan Commission stated the Petitioner had met the standards and directed staff to prepare a Conditional Use Order for review at the December 15, 2020 meeting at 6:30 p.m.

Public Comments: None

A motion by Adkins, seconded by Anderson to adjourn the hearing to December 15, 2020 at 6:30 p.m. Motion carried 5-0

**Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Bookin' It, LLC N60W22951 Silver Spring building 9 unit 18.**

Michael Stanley, W177N5422 Legend Ct Menomonee Falls, WI was present.

Attorney Macy reviewed the Plan Staff Memo (see attached); stating this site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and ByLaws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Plan Commission Comments: None

Plan Commission stated the Petitioner had met the standards and directed staff to prepare a Conditional Use Order for review at the December 15, 2020 meeting at 6:30 p.m.

Public Comments: None

A motion by Adkins, seconded by Anderson to adjourn the hearing to December 15, 2020 at 6:30 p.m. Motion carried 5-0

**Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Mark Bush, N60W22951 Silver Spring building 1 unit 1 and 2.**

Mark Bush, N35W23687 Auburn Ct Pewaukee, WI was present.

Attorney Macy reviewed the Plan Staff Memo (see attached); stating this site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium building at the Venture Space site. The 3,000 square foot building will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Plan Commission Comments: None

Plan Commission stated the Petitioner had met the standards and directed staff to prepare a Conditional Use Order for review at the December 15, 2020 meeting at 6:30 p.m.

Public Comments: None

A motion by Adkins, seconded by Muckerheide to adjourn the hearing to December 15, 2020 at 6:30 p.m. Motion carried 5-0

**Introduction of a Conditional Use, Plan of Operation and site plan for Mike Kaerek N60W22951 Silver Spring building 7 unit 14.**

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium building at the Venture Space site. The 1,500 square foot building will be used to store personal items. The owners must follow the Declarations and By-Laws

established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Plan Commission Comments: None

A motion by Adkins, seconded by Knapp to direct staff to schedule the public hearing for December 15, 2020 at 6:30 p.m.

**Consideration and possible action on an amendment to the Conditional Use site plan for Amazon (N53W24700 S. Corporate Circle).**

Attorney Brian Randall of Davis & Kuelthau, was present to review the requested modifications, noting Amazon is not seeking to change any conditions of the Conditional Use, but seeking changes to the site plan only. Exhibits of the site plan modifications are attached.

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating this site is zoned BP-1. Amazon was approved as a Conditional Use by the Plan Commission March 2018, this approval was for lease of half the building and adding parking on the north side of the property. October 2019 a new Conditional Use was granted for leasing the entire 192,000 square foot building and adding more parking to the north and south of the property. Amazon is proposing a change to the site plan. The request is to modify the configuration of the northern parking lot for additional van parking to improve internal traffic flow and to the east side to strip the paving area to accommodate 60 van parking stalls each marked with an assigned number for easy locating. It should be noted Amazon is seeking to change the site plan only, not the conditions of the existing facility.

A motion by Adkins, seconded by Anderson to approve the request to change the site plan given all other terms and conditions of conditional use remain and all other plans as originally approved, change to plan is not substantial and therefore a public hearing is not required, and approval of the requested amendment to site plan as presented.

Motion carried 5-0

**Administrative renewal of Conditional Use: Sussex Petro Mart gas/car wash Station (N62W23456 Silver Spring Dr.).**

Attorney Macy reviewed the Plan Staff Memo (copy attached); stating Conditional Uses are administratively renewed for 5-year periods. When a renewal comes up the Village Administrator or designee will give notice to the Plan Commission of the intent to renew. See renewal language in the Conditional Use Permits attached as Exhibit B. Such renewal does not preclude the Plan Commission from reviewing and or acting on changes up to an including termination of the same during the renewal period per standard rules of the Zoning Code and the CU permit. Unless the Plan Commission requests further review, the following Conditional Uses will administratively renew as of January 1, 2021 until January 1, 2026.

No action taken.

**5. Consideration and possible action on CSM's, Plats, Zoning and Planning Items:**

Commissioner Johnson requested a review/discussion of current and future plans of a concrete slab, which appears to be permanent, at Old Brook Park in relationship to Mammoth Corners.

Commissioner Knapp requested a review of the occupancy code in regards to partial completed construction be discussed on a future agenda.

**6. Other items for future discussion** - None

**Adjournment:**

A motion by Adkins, seconded by Anderson to adjourn the meeting at 7:47 pm.

Motion carried 5-0

Respectfully Submitted,

Caren Brustmann  
Deputy Clerk



**Exhibit "A"**

**Village of Sussex  
Plan Commission**

**Standard Conditions of Approval  
Plan of Operation and Site Plan**

The Plan Commission for the Village of Sussex authorizes the Building Inspector to issue a building permit to the Petitioner and approves the general layout, architectural plans, ingress and egress, parking, loading and unloading, landscaping, open space utilization, site plan and plan of operation subject to the following conditions:

1. Presentation compliance. Subject to Petitioner operating the premises at all times in substantial conformity with the presentation made to the Village Plan Commission, as modified or further restricted by the comments or concerns of the Village Plan Commission.

2. Inspection compliance. Subject to the Petitioner submitting to and receiving the approval from the Village Administrator, written proof that the Village Building Inspector and Fire Chief have inspected the subject property and have found that the subject property is in substantial compliance with applicable federal, State, and local laws, statutes, codes, ordinances, policies, guidelines and best management practices, prior to this approval being effective.

3. Regulatory compliance. Subject to the Petitioner and Owner fully complying with all Village, County of Waukesha, State of Wisconsin and federal government codes, ordinances, statutes, rules, regulations and orders regarding the premises, including but not limited to compliance with Section 17.1000 of the Village of Sussex Zoning Code entitled "Site Plan Review and Architectural Control," as determined by Village Staff.

4. Satisfaction of Engineer. Subject to the Developer satisfying all comments, conditions, and concerns of the Village Engineer regarding the Petitioner's application prior to this approval being effective.

5. Required plans. Subject to the Developer submitting to and receiving written approval from the Village Administrator of all of the following plans as deemed necessary by the Village Administrator:

- A. Landscaping plan
- B. Parking plan
- C. Lighting plan
- D. Signage plan
- E. Traffic plan
- F. Grading plan

- G. Tree preservation plan
- H. Open space plan
- I. Water plan
- J. Surface and stormwater management plan
- K. Sewer plan
- L. Erosion control plan
- M. \_\_\_\_\_
- N. \_\_\_\_\_
- O. \_\_\_\_\_
- P. \_\_\_\_\_

6. Screening of All Dumpsters. Subject to the Petitioner and Owner screening all dumpsters as required by the ordinance to the satisfaction of the Village Administrator.

7. Payment and reimbursement of fees and expenses. Subject to the Petitioner and Owner paying all costs, assessments and charges due and owing to the Village of Sussex either by the Petitioner or imposed on the subject property, including, but not limited to, real estate taxes, personal property taxes, utility bills, special assessments, permit fees, license fees and professional fees which shall include all costs and expenses of any type that the Village incurs in connection with Petitioner’s application, including the cost of professional services incurred by the Village (including engineering, legal and other consulting fees) for the review of and preparation of the conditions of approval, attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce any of the conditions of this approval due to a violation of these conditions by the Petitioner or the Owner, as authorized by law.

8. Condition if the Property is in the B-4 Central Business District. If the property is in the B-4 Central Business District, the Petitioner shall comply with the standards and conditions found within the Village of Sussex Downtown Design and Development Plan and other plans as may be approved from time to time by the Community Development Authority in its role as a Redevelopment Authority to guide development within the Village’s Downtown.

9. Subject to acceptance. The Owner by requesting a permit either directly or through an agent, and accepting the same is acknowledging that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.

10. Any official named in this document can appoint a designee to perform his or her duties.



MEMORANDUM

TO: Plan Commission  
FROM: Kasey Fluet, Assistant Development Director  
RE: Plan Commission meeting of November 17, 2020  
DATE: November 12, 2020

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All Code Sections in this memo refer to the Sussex Municipal Code Chapter 17 version dated March 25, 2014 with subsequent amendments thereto.

01. **Roll call.**
02. **Consideration and possible action on the minutes of the Plan Commission meeting of October 20, 2020.**
03. **Consideration and possible action on Permitted Uses and Site Plans:**
  - A. **Consideration and possible action on a Plan of Operation and site plan for RG Tree Service LLC (N61W23198 Silver Spring Drive).**

This site is zoned B-4. The lawn and landscape services is a permitted use in accordance with Section 17.0419 (C)(5)(j) in the B-4 Central Mixed Use Business District. RG Tree Service will purchase the property from Lake Country Lawn Care and use the location as its headquarters for office and storing equipment. The site plan shows the three buildings, the front building along Silver Spring is an office building (1,900 sq. ft.) with two tenants, second building is a block garage (2,400 sq. ft.) and a third building is a metal shed (5,000 sq. ft.). To improve the site the new owner will add parking stalls for employees and plant a line of Arborvitae along the property line abutting the residential homes. Hours of operation are Monday through Friday 8:00 a.m. to 5:00 p.m. The site has sufficient parking for the office building for the tenants. RG Tree adding 9 parking stalls for the 5 employees. There is to no outside storage at this site.

**Policy Question:**

1. Are there any concerns with the Plan of Operation?
2. Are there any concerns with the property?

**Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for RG Tree Service LLC (N61W23198 Silver Spring Drive); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

- B. **Consideration and possible action on a Plan of Operation and site plan for AAGM Properties LLC (N60W22951 Silver Spring building 6 unit 11 and 12.**

This site is zoned M-1. The property management services for rental properties is a permitted use in accordance with Section 17.0422 (A)(3)(c) in the M-1 Industrial District. The owner of AAGM Properties will use this 3,000 square foot building for equipment related to his property management company. The owners must also follow the declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

**Policy Question:**

1. Are there any concerns with the Plan of Operation?
2. Are there any concerns with the property?

**Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for AAGM Properties LLC N60W22951 Silver Spring building 6 unit 11 and 12 a finding that the use and structures meet the principals of 17.1002(A-H), subject to payment of any water RCA fees, receiving final occupancy from the Building Inspector and the standard conditions of Exhibit A.

**C. Consideration and possible action on a Plan of Operation, site plan, architectural plan and lighting for an addition for Bevco Engineering (W222N5739 Miller Way).**

This site is zoned BP-1. The manufacturing, designing and assembling of electrical components is a permitted use in accordance with Section 17.0420 (A)(6)(e)(2) in the BP-1 Business Park District. Bevco Engineering has been operating in the Village since 2001, they design, build and warehouse electrical control panels until shipment. They employ 55 people, hours of operations are Monday through Friday 6:00 a.m. to 5:00 p.m. The site has 75 parking stalls and is sufficient to accommodate the 55 employees.

Due to their growing needs they are adding on 13,900 square feet to their existing 25,300 square foot building. The following are comments for the plans for the addition:

Site

- Adding 13 parking stalls
- Addition meets all required setbacks

Architecture

- Building meets height requirements
- Material to be used meets the Design Standards

Lighting

- Lighting plan meets requirements
- Building wall lights should match or blend with existing wall lights

The plans will be reviewed at the December Architectural Review Board meeting.

**Policy Question:**

1. Are there any concerns with the Plan of Operation and various plans?
2. Are there any comments directed to the ARB?

**Action Items:**

1. Act on the plan of operation and various plans.
2. Recommend the plans to be reviewed by the ARB.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation, site plan, architectural plan and lighting plan for an addition for Bevco Engineering (W222N5739 Miller Way); a finding that the use and structures meet the principals of 17.1002(A-H), subject to any conditions by the ARB, review by the Village Engineer and the standard conditions of Exhibit A.

**D. Consideration and possible action on a Plan of Operation and site plan for Momentum Early Learning, new owners with interior expansion plan (W248N5250 Executive Drive Suite 400).**

This site is zoned BP-1. The commercial day care center is a permitted use in accordance with Section 17.0420 (A)(2)(a) in the BP-1 Business Park District. The approved day care facility has been operating in the Village since 2009, recently new owners purchased the business and will soon purchase the multi-tenant building. A change in business ownership and expansion of a business requires Plan Commission approval. The new owners are requesting to expand the day care into the 14,000 empty tenant space formerly occupied by Flabbergast Kids center. The expansion will allow the day care to grow from 10,000 square feet to a 24,000 square foot facility. The licensed day care provides services for infants 6 weeks-12 years and currently are at capacity with 135 children, the expansion will allow them to support 200 children and increase their number of employees to 40-50. Hours of operations are Monday through Friday 6:00 a.m. to 6:00 p.m. The site has 181 parking stalls with 28 allocated to other users and per code they need .XXXXXX

**Policy Question:**

1. Are there any concerns with the Plan of Operation?
2. Are there any concerns with the property?

**Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan , new owners with an interior expansion plan for Momentum Early Learning (W248N5250 Executive Drive Suite 400); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

**04. Conditional Use Public Hearing(s) and consideration and possible action on Conditional Use Permits and Plans on the following items:**

**A. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Michael Schmalz condominium N60W22951 Silver Spring building 10 unit 20.**

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

### **The Conditional Use Standards:**

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.

B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.

D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.

E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.

G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission determines are appropriate when considering a Conditional Use Permit.

A. Conditional Use permits shall have the following process:

1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.

2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rationale for denial.

3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.

a) Procedure for a Public Hearing before the Plan Commission:

- 1) Refer to Section 17.1401.
- 2) Any person may appear in person, by agent, or attorney.
- 3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.
- 4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.

4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

- a) The remaining questions/standards that need to be proved/responded to.
- b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.
- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
- d) Adjourn the public hearing to a date certain.

5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.

7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.

D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.

E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### **17.0506            CONDITIONAL USES**

A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:



5. Finance, Insurance, Real Estate, and Leasing
  - a) Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

## The General Provisions of Chapter 17.0200

### The Zoning District Standards 17.0400

17.0422

#### **M-1 INDUSTRIAL DISTRICT**

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. Permitted Uses

1. Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
2. Finance, Insurance, Real Estate, and Leasing

- (a) Commercial air, rail, and water transportation equipment rental and leasing.
- (b) Construction, mining, and forestry machinery and equipment rental and leasing.
- 3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial launders under permit from the Wastewater Utility.
  - (e) Fitness centers
- 4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning
    - (5) Upholstery of furniture, automotive
  - (c) Wood and Paper Products
    - (1) Wood furniture and wood products
    - (2) Paper products (non pulp)
    - (3) Printing, binding, and associated printing services
  - (d) Home, health, beauty, and cleaning Products
    - (1) Toiletries
    - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
    - (3) Cosmetic manufacturing
    - (4) China, pottery, porcelain, clay, ceramics, silverware
    - (5) Glass and glass products
    - (6) Jewelry
    - (7) Home décor items, art, lamps, furniture, wallpaper
    - (8) Brooms and brushes
  - (e) Machinery and Metal Products
    - (1) Rolled wire, metal product manufacturing
    - (2) Tool and die, and machining
    - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
  - (f) General manufacturing
    - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
    - (2) Electrical appliances, switches, cable, and components
    - (3) Vehicles, vehicle parts, and equipment
    - (4) Sporting goods, hobby products, and marking devices
    - (5) Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Retail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as

- building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
- (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
- (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
- (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
- 9. Parking Lots
  - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

**B. Permitted Accessory Uses**

- 1. Garages for storage of vehicles used in conjunction with the operation of an industry.
- 2. Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- 3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

**C. Conditional Uses**

- 1. Conditional uses as allowed in Section 17.0500 Conditional Uses
- 2. No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

**D. Certain Incompatible Uses Prohibited**

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- 1. Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
- 2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
- 3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

**E. Lot Area and Width**

- 1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
- 2. Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

F. Building Height and Area

1. No building or parts of a building shall exceed 60 feet in height.
2. No building or buildings shall occupy more than 50 percent of the lot area.

G. Setback and Yards

1. There shall be a minimum structure setback of 40 feet from the street right-of-way. This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
3. There shall be a rear yard of not less than 25 feet.
4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

H. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

I. Development Design Standards

1. The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

J. Plans and Specifications to be Submitted to Plan Commission

1. To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

1. Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
2. Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single

- operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
  4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
  5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
  6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
  7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

### **Site Plan Review Standards 17.1000**

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also adhere to the intent of the Downtown Development and Design Plan.

B. No structure shall be permitted:

1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or drabness, in order to realize architectural uniqueness between lots.

3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade

facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.

G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.

1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.

2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

**Any other standards from Chapter 17 that may be relevant.**

Comments from the public if any.

The Plan Commission continues the public hearing and:

1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order. The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to December 15, 2020 at 6:30 p.m.

**B. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Bookin' It, LLC N60W22951 Silver Spring building 9 unit 18.**

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owners are purchasing a condominium unit at the Venture Space site. The 1,500 square foot unit will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

**The Conditional Use Standards:**

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.

B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.

D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.

E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.

G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission determines are appropriate when considering a Conditional Use Permit.

A. Conditional Use permits shall have the following process:

1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.

2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rationale for denial.

3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.

a) Procedure for a Public Hearing before the Plan Commission:

1) Refer to Section 17.1401.

2) Any person may appear in person, by agent, or attorney.

3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.

4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.

4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

a) The remaining questions/standards that need to be proved/responded to.

b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.



- c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.
- d) Adjourn the public hearing to a date certain.

5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.

7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.

D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.

E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does

not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

**17.0506            CONDITIONAL USES**

A.        The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:

- 5.        Finance, Insurance, Real Estate, and Leasing
  - a)        Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1)        Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2)        Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

**The General Provisions of Chapter 17.0200**

**The Zoning District Standards 17.0400**

17.0422

**M-1 INDUSTRIAL DISTRICT**

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

A.        Permitted Uses

- 1.        Educational, Health Services, and Social Services

- (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
2. Finance, Insurance, Real Estate, and Leasing
- (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
3. General Services
- (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial laundries under permit from the Wastewater Utility.
  - (e) Fitness centers
4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
- (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning
    - (5) Upholstery of furniture, automotive
  - (c) Wood and Paper Products
    - (1) Wood furniture and wood products
    - (2) Paper products (non pulp)
    - (3) Printing, binding, and associated printing services
  - (d) Home, health, beauty, and cleaning Products
    - (1) Toiletries
    - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
    - (3) Cosmetic manufacturing
    - (4) China, pottery, porcelain, clay, ceramics, silverware
    - (5) Glass and glass products
    - (6) Jewelry
    - (7) Home décor items, art, lamps, furniture, wallpaper
    - (8) Brooms and brushes
  - (e) Machinery and Metal Products
    - (1) Rolled wire, metal product manufacturing
    - (2) Tool and die, and machining
    - (3) Machinery for farming, construction, mining, woodworking, paper,

- textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
- (f) General manufacturing
    - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
    - (2) Electrical appliances, switches, cable, and components
    - (3) Vehicles, vehicle parts, and equipment
    - (4) Sporting goods, hobby products, and marking devices
    - (5) Signage and advertising products
  - 5. Professional, Technical, Scientific, and Administrative Services
    - (a) Laboratories, research, and development facilities
    - (b) Packaging and labeling services
  - 6. Retail Trade
    - (a) Mail-order businesses
    - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
    - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
    - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
    - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
  - 7. Public Administration and Government Services
    - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
  - 8. Transportation, and Warehousing as follows:
    - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
    - (b) Courier, delivery, postal service businesses
    - (c) Household and office goods moving company
  - 9. Parking Lots
    - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### B. Permitted Accessory Uses

- 1. Garages for storage of vehicles used in conjunction with the operation of an industry.
- 2. Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- 3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 4. Residential quarters for the owner or caretaker.
- 5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
- 6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C. Conditional Uses

- 1. Conditional uses as allowed in Section 17.0500 Conditional Uses
- 2. No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

- 1. Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this

Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.

2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

E. Lot Area and Width

1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
2. Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

F. Building Height and Area

1. No building or parts of a building shall exceed 60 feet in height.
2. No building or buildings shall occupy more than 50 percent of the lot area.

G. Setback and Yards

1. There shall be a minimum structure setback of 40 feet from the street right-of-way. This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
3. There shall be a rear yard of not less than 25 feet.
4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

H. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

I. Development Design Standards

1. The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

J. Plans and Specifications to be Submitted to Plan Commission

1. To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress,

parking, loading and unloading, and landscape plans.

K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

1. Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
2. Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

### **Site Plan Review Standards 17.1000**

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also adhere to the intent of the Downtown Development and Design Plan.

B. No structure shall be permitted:

1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or drabness, in order to realize architectural uniqueness between lots.

3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.

G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.

1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.

2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

**Any other standards from Chapter 17 that may be relevant.**

Comments from the public if any.

The Plan Commission continues the public hearing and:

1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order. The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to December 15, 2020 at 6:30 p.m.

**C. Convene the public hearing for a Conditional Use, Plan of Operation and site plan for Mark Bush, N60W22951 Silver Spring building 1 unit 1 and 2.**

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium building at the Venture Space site. The 3,000 square foot building will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

**The Conditional Use Standards:**

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.

B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees;



and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.

D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.

E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.

G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission determines are appropriate when considering a Conditional Use Permit.

A. Conditional Use permits shall have the following process:

1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.

2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rationale for denial.

3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.

a) Procedure for a Public Hearing before the Plan Commission:

1) Refer to Section 17.1401.

2) Any person may appear in person, by agent, or attorney.

3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.

4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to

the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.

4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

a) The remaining questions/standards that need to be proved/responded to.  
b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.

c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.

d) Adjourn the public hearing to a date certain.

5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.

7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in

Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.

D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.

E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

**17.0506            CONDITIONAL USES**

A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:

5. Finance, Insurance, Real Estate, and Leasing
  - a) Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the

appearance of the surrounding business park or neighboring properties.

## The General Provisions of Chapter 17.0200

### The Zoning District Standards 17.0400

17.0422

#### M-1 INDUSTRIAL DISTRICT

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### A. Permitted Uses

1. Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.
2. Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial laundries under permit from the Wastewater Utility.
  - (e) Fitness centers
4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning

- (5) Upholstery of furniture, automotive
- (c) Wood and Paper Products
  - (1) Wood furniture and wood products
  - (2) Paper products (non pulp)
  - (3) Printing, binding, and associated printing services
- (d) Home, health, beauty, and cleaning Products
  - (1) Toiletries
  - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
  - (3) Cosmetic manufacturing
  - (4) China, pottery, porcelain, clay, ceramics, silverware
  - (5) Glass and glass products
  - (6) Jewelry
  - (7) Home décor items, art, lamps, furniture, wallpaper
  - (8) Brooms and brushes
- (e) Machinery and Metal Products
  - (1) Rolled wire, metal product manufacturing
  - (2) Tool and die, and machining
  - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
- (f) General manufacturing
  - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
  - (2) Electrical appliances, switches, cable, and components
  - (3) Vehicles, vehicle parts, and equipment
  - (4) Sporting goods, hobby products, and marking devices
  - (5) Signage and advertising products
- 5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
- 6. Retail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
  - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
  - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
  - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
- 7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
- 8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
- 9. Parking Lots
  - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### B. Permitted Accessory Uses

- 1. Garages for storage of vehicles used in conjunction with the operation of an industry.
- 2. Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.

3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
4. Residential quarters for the owner or caretaker.
5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

C. Conditional Uses

1. Conditional uses as allowed in Section 17.0500 Conditional Uses
2. No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

1. Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

E. Lot Area and Width

1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
2. Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

F. Building Height and Area

1. No building or parts of a building shall exceed 60 feet in height.
2. No building or buildings shall occupy more than 50 percent of the lot area.

G. Setback and Yards

1. There shall be a minimum structure setback of 40 feet from the street right-of-way. This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
3. There shall be a rear yard of not less than 25 feet.
4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

H. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

I. Development Design Standards

1. The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

J. Plans and Specifications to be Submitted to Plan Commission

1. To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

1. Subject to the petitioner submitting to and receiving approval from the Plan Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.
2. Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
7. Subject to the petitioner's full compliance with all other applicable requirements of

the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

## **Site Plan Review Standards 17.1000**

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also adhere to the intent of the Downtown Development and Design Plan.

B. No structure shall be permitted:

1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.

2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or drabness, in order to realize architectural uniqueness between lots.

3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.

G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.

1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and



adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.

2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

**Any other standards from Chapter 17 that may be relevant.**

Comments from the public if any.

The Plan Commission continues the public hearing and:

1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order. The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to December 15, 2020 at 6:30 p.m.

**Staff has found the application complete and recommends scheduling the Public Hearing.**

**Policy Question:**

1. There are no policy questions this month as this item is on the agenda for scheduling purposes only.

**Action Items:**

1. Direct staff to schedule the public hearing.

**Staff Recommendation:** Staff recommends scheduling the public hearing for the November meeting.

**D. Introduction of a Conditional Use, Plan of Operation and site plan for Mike Kaerek N60W22951 Silver Spring building 7 unit 14.**

This site is zoned M-1. The use of indoor storage is a conditional use in the M-1 Industrial District in accordance with Section 17.0506 (A)(5)(a). The owner is purchasing a condominium building at the Venture Space site. The 1,500 square foot building will be used to store personal items. The owners must follow the Declarations and By-Laws established for this Condominium Association for items such as payment of bills and no outside storage.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

**The Conditional Use Standards:**

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.

B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.

D. An impact Report as outlined in Section 17.0506 A or Section 17.0506 B.

E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources.

G. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

#### 17.0503 REVIEW AND APPROVAL.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission determines are appropriate when considering a Conditional Use Permit.

A. Conditional Use permits shall have the following process:

1. The Applicant shall meet with Administrator or designee in a pre-application conference to discuss the application and plans.

2. The Applicant applies for a Conditional Use Permit by completing the Village application form. Incomplete applications will not be accepted. If that threshold is met, the Administrator or designee sets the application for introduction to the Plan Commission. If the minimum threshold is not met the application is returned to the petitioner with a rationale for denial.

3. The Administrator or designee introduces the CU application at the next available Plan Commission meeting after completion by the Administrator of the response to the Applicant's Impact Report if applicable under 17.0506 A or 17.0506 B. The application materials are provided to the Plan Commission along with a staff report on the matter outlining critical details of the application and code compliance. The Plan Commission concurs the application is complete and sets forth the application for public hearing or the Plan Commission finds the application incomplete and remands it to the Petitioner for completion.

a) Procedure for a Public Hearing before the Plan Commission:

1) Refer to Section 17.1401.

2) Any person may appear in person, by agent, or attorney.

3) The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence.

4) The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner, the costs shall be split evenly unless otherwise agreed to by the parties.

4. At the public Hearing the Plan Commission will hear from the applicant, Village, and the public on the application's compliance with the standards of the Code. The purpose of the hearing is to gather the record, for the Petitioner to prove with substantial evidence they meet the standards of the code or the public to prove they don't and to address concerns from the public and or Plan Commission and render a decision if appropriate or to determine what remains to be discussed at the next meeting. Only substantial evidence may be considered by the Plan Commission. At the summation of the initial public hearing date the Plan Commission may give the following direction to the petitioner and to the public:

a) The remaining questions/standards that need to be proved/responded to.

b) Additional conditions to include in the CU Order that the Plan Commission deems appropriate. The Petitioner will need to prove they can meet those at the adjourned public hearing date.

c) Direction to staff to prepare the Conditional Use Order or a finding the Petitioner does not meet the standards for approval for consideration at the next meeting. The Plan Commission may also delay either of these directions to hear more evidence at the next meeting, although such delay will result in another adjourned public hearing date for due process purposes.

d) Adjourn the public hearing to a date certain.

5. At the adjourned public hearing date if the public hearing was extended for additional evidence collection, the Plan Commission will hear from the applicant, Village, and the public on evidence in support or opposition to items from 17.0503 A 4.(A. and B.) and to the CU Order itself. The purpose of

the hearing is to gather the record on any additional standards imposed by the Plan Commission from the first public hearing and to gather evidence on the CU Order itself. Only substantial evidence will be considered by the Plan Commission. At the summation of the public hearing the Plan Commission will give direction requesting additional evidence and adjourn the public hearing to a date certain or close the public hearing.

6. After the closing of the public hearing the Plan Commission during its regular meeting or at a subsequent meeting where the agenda item is duly noticed shall discuss the plans and Conditional Use Order or Findings for Denial and act on the agenda item(s). The decision shall be based upon the record from the public hearings. The burden of proof is on the applicant to prove they have met the standards of the Ordinance and those set forth by the Plan Commission during the process. The Plan Commission shall render its written determination and the reasons for the same within 95 days from completion of the public hearing unless an extension is consented to in writing by the applicant. The Clerk shall mail a copy of the determination to the applicant.

7. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, or length of approval may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

B. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise specifically authorized to be modified by this Code Variances shall only be granted as provided in Section 17.1200 of this ordinance.

C. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above. The Conditional Use Order may describe changes that can be made without requiring a new permit.

D. Conditional Use Orders shall generally have 5 year terms unless otherwise specified by the Plan Commission. The Orders shall have an administrative renewal process established within the order to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission to remove the Conditional Use Order from automatic renewal if there are concerns with compliance with the CU order or concerns raised by the public about the applicant's operations. If the Plan Commission pulls the CU order from automatic approval the CU order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the CU Order and its renewal.

E. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in a CU order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order or rule of either the Village Board, County of Waukesha, State of Wisconsin, or the United States of America, or other duly constituted authority. A CU order does not constitute a building permit, nor shall a CU order constitute any other license or permit required by Village Ordinance or law.

#### **17.0506            CONDITIONAL USES**

A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village

Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:

5. Finance, Insurance, Real Estate, and Leasing
  - a) Mini-Warehousing, small cubicle storage, and indoor storage facility
    - 1) Mini-Warehousing, small cubicle storage, and indoor storage facility in the M-1 district, if the following items are found: that traffic from the use will not reduce the functionality grade of any nearby intersection(s) without the same being mitigated; that the site is paved where any vehicles will travel, that a report from the Director of Police Services shows no substantial impact to police services or crime in the community from the operation of the facility, and that noise standards of the operations shall be at least 10% lower at the property line than the Village Ordinance. The Plan Commission must also find the design standards of the Village have fully been adhered to, and that the operation are as limited below:
    - 2) Indoor storage facility in the M-1 districts provided that no perishable products, no flammable or explosive materials, and no sales of merchandise or operation of businesses may be conducted within the facility and its sub-leased spaces. The type of facility described in this section is like a mini-warehousing or small cubicle storage, but the rental spaces are all combined together within one larger building that has the appearance of an office/industrial building. The Site for said use must be of such a remote nature that the site operations do not detract from the appearance of the surrounding business park or neighboring properties.

## **The General Provisions of Chapter 17.0200**

### **The Zoning District Standards 17.0400**

17.0422

#### **M-1 INDUSTRIAL DISTRICT**

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Village as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

#### **A. Permitted Uses**

1. Educational, Health Services, and Social Services
  - (a) General medical services if use is part of the operation of a permitted manufacturer operation in the same district.
  - (b) Commercial day care centers if the use is part of the operation of a permitted manufacturer operation in the same district and provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, under-ground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be

so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.

2. Finance, Insurance, Real Estate, and Leasing
  - (a) Commercial air, rail, and water transportation equipment rental and leasing.
  - (b) Construction, mining, and forestry machinery and equipment rental and leasing.
3. General Services
  - (a) Repair and maintenance of consumer electronics, electronic and precision equipment, commercial and industrial machinery and equipment, appliances, furniture/reupholstery
  - (b) Photofinishing laboratories
  - (c) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
  - (d) Industrial laundries under permit from the Wastewater Utility.
  - (e) Fitness centers
4. Manufacturing: The manufacture, fabrication, assembly, or processing of the following:
  - (a) Food and Beverage Products
    - (1) Bakery and flour products
    - (2) Dairy products
    - (3) Fruits, vegetables, and nuts
    - (4) Grains, seed and plant oils, cereal, and chocolate confections
    - (5) Snack food products
    - (6) Syrups, flavorings, extracts, spices, and dressings
    - (7) Tobacco and tobacco products
  - (b) Fabrics and Textile Products
    - (1) Yarn, felt, and fabric
    - (2) Carpet, rugs, drapes, canvas, and rope
    - (3) Clothing, hosiery, hats, gloves, shoes
    - (4) Packing and assembly of fur and leather products, no tanning
    - (5) Upholstery of furniture, automotive
  - (c) Wood and Paper Products
    - (1) Wood furniture and wood products
    - (2) Paper products (non pulp)
    - (3) Printing, binding, and associated printing services
  - (d) Home, health, beauty, and cleaning Products
    - (1) Toiletries
    - (2) Medical, botanical, and pharmaceutical processing (non-hazardous)
    - (3) Cosmetic manufacturing
    - (4) China, pottery, porcelain, clay, ceramics, silverware
    - (5) Glass and glass products
    - (6) Jewelry
    - (7) Home décor items, art, lamps, furniture, wallpaper
    - (8) Brooms and brushes
  - (e) Machinery and Metal Products
    - (1) Rolled wire, metal product manufacturing
    - (2) Tool and die, and machining
    - (3) Machinery for farming, construction, mining, woodworking, paper, textile, printing, food products, commercial or industrial uses, service industry, mechanical, crane, elevator, pumps, and motors.
  - (f) General manufacturing
    - (1) Electronics, telecommunications, medical instruments, scientific and laboratory equipment, measuring and recording devices
    - (2) Electrical appliances, switches, cable, and components
    - (3) Vehicles, vehicle parts, and equipment
    - (4) Sporting goods, hobby products, and marking devices
    - (5) Signage and advertising products

5. Professional, Technical, Scientific, and Administrative Services
  - (a) Laboratories, research, and development facilities
  - (b) Packaging and labeling services
6. Retail Trade
  - (a) Mail-order businesses
  - (b) Building supply stores and general sales of industrial products, such as building materials, electrical supplies, heating supplies, lighting supplies, paint and painting supplies, plumbing supplies, roofing supplies, wallpaper and wallpaper supplies, and windows and doors.
  - (c) Pharmacy if use is part of the operation of a permitted manufacturer operation in the same district.
  - (d) Commercial service facilities such as restaurants and fueling stations if use is part of the operation of a permitted manufacturer operation in the same district.
  - (e) Factory Outlets and retail sales of products made onsite in the principal industrial operation.
7. Public Administration and Government Services
  - (a) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
8. Transportation, and Warehousing as follows:
  - (a) Warehousing and wholesaling, except metal, coal, and ore materials, chemicals, and bulk petroleum.
  - (b) Courier, delivery, postal service businesses
  - (c) Household and office goods moving company
9. Parking Lots
  - (a) Parking Lots are permitted without a principal structure if the Plan Commission finds that parking lot is adjacent to and necessary for the manufacturing operation.

#### B. Permitted Accessory Uses

1. Garages for storage of vehicles used in conjunction with the operation of an industry.
2. Off-street parking and loading areas. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
4. Residential quarters for the owner or caretaker.
5. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
6. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

#### C. Conditional Uses

1. Conditional uses as allowed in Section 17.0500 Conditional Uses
2. No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.

#### D. Certain Incompatible Uses Prohibited

The following uses are considered to be incompatible with the residential characteristics of the Village and surrounding area and are herewith prohibited:

1. Manufacturing/processing of ammonia, asbestos, asphalt (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), cabbage, chlorine, coal tar, creosote, explosives, fertilizer, fish, glue, grease, gypsum, insecticide, lampblack, offal, poison, pulp, pyroxylin, and radioactive materials.
2. Storage of bulk fertilizer, explosives (except in a mineral extraction operation under a permit issued pursuant to Section 17.0506 of this Ordinance), gasoline in excess of 50,000 gallons, grease, and radioactive materials.
3. Forges, foundries, garbage incinerators, animal reduction, rubbish storage, slaughter houses, smelters, stockyards, and tanneries.

#### E. Lot Area and Width

1. Lots shall have a minimum of 15,000 square feet in area and shall be not less than 100 feet in width.
2. Lot coverage by buildings, accessory structures, surface parking and loading areas, and driveways shall occupy no more than 80 percent of the lot area. Landscaped open space shall occupy not less than 20 percent of the lot area.

F. Building Height and Area

1. No building or parts of a building shall exceed 60 feet in height.
2. No building or buildings shall occupy more than 50 percent of the lot area.

G. Setback and Yards

1. There shall be a minimum structure setback of 40 feet from the street right-of-way. This setback may be reduced for essential services structures by the Building Inspector for the efficient delivery of services to the public.
2. There shall be two side yards totaling not less than 40 feet in width. No single side yard shall be less than 10 feet in width for structures up to 45 feet in height. Structures in excess of 45 feet in height shall increase the minimum side yards one (1) foot for each additional one (1) foot of building height over 45 feet.
  - (a) The Plan Commission may allow a structure over 45 feet to have a smaller sideyard than required by 17.0422(G)(2), but not less than 10 feet in width if it makes a finding that:
    - (1) A railroad line runs adjacent to the side of the property that is under consideration for the reduced side yard, and
    - (2) The width of the railroad owned property plus the side yard of the property in question is sufficient to meet the side yard requirements of 17.0422(G)(2), and
    - (3) The structure height and side yard are consistent with Design Standards, The Downtown Development and Design Standards, and other development plans of the Village.
3. There shall be a rear yard of not less than 25 feet.
4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.

H. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

I. Development Design Standards

1. The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2020 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

J. Plans and Specifications to be Submitted to Plan Commission

1. To encourage an industrial use environment that is compatible with the residential character of the Village, building permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

K. Waiver of Setback and Yard Requirements.

Property owners may petition the Plan Commission to request a waiver of the side yard and rear yard requirements as set forth in Section 17.0422(G)(2) and (3), respectively, to allow two existing buildings upon existing adjoining lots to be connected. Upon consideration of any such petition, the Plan Commission may waive the side yard and rear yard requirements set forth in Section 17.0422(G)(2) and/or (3), only upon finding that all of the following conditions have been satisfied:

1. Subject to the petitioner submitting to and receiving approval from the Plan



Commission, proof that connecting the buildings in this manner serves the purpose of creating one cohesive industrial operation, that will operate under one common plan of operation, and that each of the combined buildings will serve the purpose of creating the same products.

2. Subject to the petitioner submitting to and receiving approval from the Plan Commission proof the lots are owned separately and will be leased by a single operator, who will conduct the industrial operation on both properties. All persons and entities, moreover, having an interest in the lots, buildings, improvements, or operations on those lots, must join in the petition.
3. Subject to the petitioner acknowledging that each separate parcel of land must still stand alone for all purposes as a separate and distinct lot, even though the buildings will be combined at the lot line, except as further restricted herein.
4. Subject to the property owners of the affected lots submitting to and receiving approval from the Plan Commission and Village Attorney of a deed restriction on each of the affected properties to state that at any time the combined building no longer operates as a single cohesive industrial operation under one plan of operation, then the two buildings must be separated such that each portion of each of the buildings fully complies with all then-existing setback and side yard requirements of the Village Zoning Ordinance.
5. Subject to the petitioner and all persons and entities having an interest in the lots, buildings, improvements and operations on these lots acknowledging in writing their acceptance of these conditions, and thereby acknowledging that failure to comply with the conditions or any one of them, may result in this waiver being null and void. In the event that this waiver becomes null and void, said persons and entities may then be in violation of the setback and side yard requirements stated in the Village Zoning Ordinance, and the Village shall have all lawful authority to enforce compliance with the Zoning Ordinance, including ordering the removal of that portion of the buildings that lie within the setback and offset areas.
6. Subject to all such other conditions as the Plan Commission may deem to be necessary or appropriate in order to preserve the intent of the Zoning Ordinance, to preserve property values, and to protect the health, safety and welfare. Such additional conditions may include, but not be limited to: additional yard requirements elsewhere on the property; landscaping requirements; parking requirements; open space requirements; and green space requirements.
7. Subject to the petitioner's full compliance with all other applicable requirements of the Zoning Ordinance including, but not limited to providing all other plans and specifications required by the Plan Commission. Petitioner shall also fully comply with all Village, Waukesha County, State of Wisconsin or federal ordinances, statutes, codes, rules and lawful orders.

### **Site Plan Review Standards 17.1000**

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also adhere to the intent of the Downtown Development and Design Plan.

B. No structure shall be permitted:

1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.

G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.

1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.

2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

**Any other standards from Chapter 17 that may be relevant.**

**Staff has found the application complete and recommends scheduling the Public Hearing.**

**Policy Question:**

1. There are no policy questions this month as this item is on the agenda for scheduling purposes only.

**Action Items:**

1. Direct staff to schedule the public hearing.

**Staff Recommendation:** Staff recommends scheduling the public hearing for the December meeting.

**E. Consideration and possible action on an amendment to the Conditional Use site plan for Amazon (N53W24700 S. Corporate Circle).**

This site is zoned BP-1. Amazon was approved as a Conditional Use by the Plan Commission March 2018, this approval was for lease of half the building and adding parking on the north side of the property. October 2019 a new Conditional Use was granted for leasing the entire 192,000 square foot building and adding more parking to the north and south of the property. Amazon is proposing a change to the site plan. The request is to modify the configuration of the northern parking lot for additional van parking to improve internal traffic flow and to the east side to strip the paving area to accommodate 60 van parking stalls each marked with an assigned number for easy locating.

**F. Notice of Administrative renewal of the following Conditional Uses:**

Conditional Uses are administratively renewed for 5-year periods. When a renewal comes up the Village Administrator or designee will give notice to the Plan Commission of the intent to renew. See renewal language in the Conditional Use Permits attached as Exhibit B. Such renewal does not preclude the Plan Commission from reviewing and or acting on changes up to an including termination of the same during the renewal period per standard rules of the Zoning Code and the CU permit. Unless the Plan Commission requests further review, the following Conditional Uses will administratively renew as of January 1, 2021 until January 1, 2026.

**Sussex Petro Mart gas/car wash Station (N62W23456 Silver Spring Dr.)**

Conditional Use was granted December 15, 2016 for a gas station and car wash service.

05. **Consideration and possible action on CSM's, Plats, Zoning, and Planning Items:**
06. **Other Items for future discussion.**
07. **Adjournment.**