



**PUBLIC NOTICE & AGENDA  
BELOIT PLAN COMMISSION  
City Hall Forum - 100 State Street, Beloit, WI 53511  
7:00 PM  
Wednesday, September 7, 2022**

1. CALL TO ORDER AND ROLL CALL
2. MINUTES
  - 2.a. Consideration of the minutes of the August 3, 2022 Plan Commission meeting  
[Attachment](#)
3. PUBLIC HEARINGS
  - 3.a. Consideration of an Ordinance to repeal and recreate Section 2-500, to amend Sections 5-804(b), 2-109, 2-103(b), and the Tabular Summary of Development Review Procedures of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit and to amend Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit pertaining to Conditional Use Permits  
[Attachment](#)
4. REPORTS
  - 4.a. Consideration of an easement to the City of Beloit from Martin Lee LLC over the property located at 2757 Prairie Avenue  
[Attachment](#)
5. STATUS REPORT ON PRIOR PLAN COMMISSION ITEMS  
*Conditional Use Permit for 530 East Grand Avenue*  
*Conditional Use Permit for 2680 Cranston Road*
6. FUTURE AGENDA ITEMS  
*Certified Survey Map for 2557 S Madison Road in the Town of Beloit*  
*Final Plat of Tall Trees Subdivision in the Town of Turtle*  
*Conditional Use Permit - 601 Third Street - Deviate Event*
7. ADJOURNMENT

\*\* Please note that, upon reasonable notice, at least 24 hours in advance, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information to request this service, please contact the City Clerk's Office at 364-6680, 100 State Street, Beloit, WI 53511.



**MINUTES  
PLAN COMMISSION  
City Hall Forum - 100 State Street, Beloit, WI 53511  
7:00 PM  
Wednesday, August 3, 2022**

**1. CALL TO ORDER AND ROLL CALL**

Chairperson Weeden called the meeting to order at 7:00 PM. Chairperson Weeden, Commissioners Ramsden, Jacobsen, Finnegan, Toral, and Anderson were present. Commissioner Janke and Councilor Dunkin were absent.

**2. MINUTES**

**2.a. Consideration of the minutes of July 20, 2022 Plan Commission meeting**

Motion was made by Commissioner Ramsden seconded by Commissioner Anderson to approve the minutes. Motion prevailed, voice vote (6-0).

**3. PUBLIC HEARINGS**

**3.a. Consideration of an Ordinance to amend Section 6.2.11(b)(4) and (6) of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances and Section 12.08(4) of the Subdivision Ordinance, Chapter 12 of the General Ordinances of the City of Beloit pertaining to minimum dwelling standards and lot sizes**

Julie Christensen, Community Development Director, presented the staff report and recommendation.

Chairperson Weeden asked if the only thing that was changed was the terminology of the title since last meeting. Ms. Christensen said that the tiny homes reference was not in the ordinance itself, and what the ordinance really offers greater flexibility in the development of housing.

Chairperson Weeden opened the public hearing.

Susan Adams, 703 Milwaukee Road, the Secretary of the League of Women Voters, stated she is in favor of the ordinance to allow smaller houses here in Beloit. Ms. Adams said they have studied the housing and homeless issues in Beloit, and with this change, it would allow for more home ownership and decrease homelessness. Ms. Adams stated that there are about 50 percent rentals in Beloit, and there are not enough rentals that people can afford. Since the passage of Act 176 in 2016, it is difficult for the City to enforce housing codes if landlords do not maintain their properties.

Ms. Adams said that the new apartments are too expensive for many of the residents, and there are very few houses for sale that people can afford. This process would help

maintain stability of property and land use and maintain neighborhood character. These are issues that the League supports, and supporting this change they are relying on the past studies and consensus by the League on zoning, housing, and homelessness. This ordinance change would not solve all the problems mentioned, but it may give more people access and hope to afford a home.

Commissioner Ramsden asked about the studies if they have been published. Ms. Adams said that they are on the website under positions.

Commissioner Finnegan said that he could not rebuild his home if it burned down because it is only 900 square feet, and he likes the idea of being able to build 700-800 square foot homes, and to make more affordable housing. Commissioner Toral said he has been looking at studies with tiny homes in cities and most of them emphasize the economic social environment. Commissioner Ramsden said he has some reservations about it as far as possible negative impacts on neighborhoods and property values, and as long as it has to go through the PUD process and public hearings on a case-by-case basis, he will vote in favor of it.

Chairperson Weeden said that Plan Commission needs to look at the potential for it to impact the tax base, and Plan Commission needs to do everything to increase the tax base. Chairperson Weeden said that most of it is based off of new construction, and the City is very dependent on the tax base. Chairperson Weeden said that his concern with this new development is that some developer comes in and buys 40 acres and put in 200 tiny homes, and that property could be used for higher tax residential development.

Chairperson Weeden also stated that the City has trouble recruiting major retailers to the City of Beloit because the demographics do not support the minimum requirements for retail outlets. Chairperson Weeden said he is not sure if we open the door for tiny homes or lower value housing, how it will impact this and there could be the potential for harm to our community.

Commissioner Ramsden asked if that is market driven as to what real estate will be developed at that location, and can the Plan Commission do anything. Chairperson Weeden asked what are the market factors that drive upper housing development. Commissioner Finnegan said that Janesville has zero lot line condominiums with 1,200 square foot duplexes, and he has a lot of 450 square foot houses that he is selling and the guy buying those were most excited about buying those from him.

Commissioner Jacobsen said she supports the amendment change to the ordinance because it is a need for the community, and we do have high end housing being developed in the City. Commissioner Jacobsen said that our city is landlocked differently where a lot of high-end development is going in the Town of Turtle and Town of Beloit.

Chairperson Weeden said sure but why would we intentionally open the door for lower value residential development when we have the opportunity for and the demand for higher value development. Commissioner Jacobsen said it is a known community need and the wages for the people in the community can afford these size houses. Commissioner Anderson said that the PUD process gives the Plan Commission the opportunity to look at the highest and best use, and those conversations still need to happen with each project that comes through.

Chairperson Weeden said that there needs to be some safeguards in there to make sure that those two types of residential property developments proceed proportionally. Chairperson Weeden said that Plan Commission can look back each year to see what residential properties percentage is at to feel comfortable. Commissioner Finnegan said that he thinks the 1,000 square foot minimum is too big and this allows for flexibility. Otherwise, we need to reduce the minimum square footage.

Commissioner Anderson asked Chairperson Weeden if he wants to cap it at a limit to a certain number of units on a property, so that the developer is not building on a 40-acre property. Chairperson Weeden said he would base the quota off of the value, so it would be some percentage that is invested in new residential construction off the previous year or two.

Ms. Christensen said that it would be difficult for City staff to base it off of percentage growth. Ms. Christensen said Plan Commission can put in what they want, but if they make it too difficult for City staff, it will not work.

Commissioner Toral said he will vote in favor of this item. Commissioner Toral said that from the studies on the concept of this type of development, this increases population density, stimulates population growth, stimulates demand for businesses in the community, and from a social perspective it'll provide pathways to home ownership, credit, and stability for families.

Commissioner Jacobsen moved to approve the Ordinance to amend Section 6.2.11(b)(4) and (6) of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances and Section 12.08(4) of the Subdivision Ordinance, seconded by Commissioner Toral. Motion prevails, voice vote (5-1), with Commissioner Weeden voting no.

#### 4. REPORTS

##### 4.a **Discussion of protentional comprehensive plan amendments to allow for additional affordable housing in the City of Beloit (this will be handed out at the meeting)**

Ms. Christensen asked that this item be laid over.

5. **STATUS REPORT ON PRIOR PLAN COMMISSION ITEMS**

Ms. Christensen updated the Plan Commission on the actions taken by City Council related to a variety of items previously reviewed by Plan Commission. Ms. Christensen said the next Plan Commission meeting is scheduled for September 7, 2022.

6. **FUTURE AGENDA ITEMS**

Julie Christensen outlined the future agenda items.

7. **ADJOURNMENT**

Commissioner Anderson moved to adjourn the meeting, seconded by Commissioner Finnegan at 7:35 PM. Motion carried, voice vote (6-0).

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Tim Weeden, Chairperson



## **REPORT TO THE PLAN COMMISSION**

**Plan Commission Meeting Date:** September 7, 2022

**Agenda Item:** 3a

**File Number:** ZTA-2022-02

### **General Information**

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**Request:** Consideration of an Ordinance to repeal and recreate Section 2-500, to amend Sections 5-804(b), 2-109, 2-103(b), and the Tabular Summary of Development Review Procedures of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit and to amend Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit pertaining to Conditional Use Permits

**Background:** The Plan Commission held a workshop on November 23, 2021 with the Council President, Council Vice President and the City Manager to discuss modifying the role of Plan Commission. Following that workshop, the Plan Commissioners submitted specific initiatives they would like to undertake and submitted them to staff. Then, over the course of five Plan Commission meetings, they arrived at three specific initiatives which were submitted to the City Council President and City Manager for their consideration. Council President Dunkin authorized moving forward with the initiatives submitted which included an amendment to the Zoning Ordinance to allow for Plan Commission to be the approving authority for Conditional Use Permits.

### **Staff Analysis**

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Section 1 of the proposed Ordinance is a repeal and recreate of Section 2-500, the Conditional Use Permit section of the Development Review Procedures Article of the Zoning Ordinance.

- The purpose section is a new section.
- The site plan submittal requirements have been revised to only include a simple site plan, rather than full civil drawings. This is typically what is provided by applicants, as we have traditionally relaxed the site plan standards for Conditional Use Permits. This Ordinance will require the specific items we need to be included on a Site Plan submitted with a Conditional Use application.
- Section 2-507 is a new section which requires compliance with State law (see Exhibit A). It also contains specific language on conditions imposed as well as the duration, transfer, or renewal of the Conditional Use Permit. Additionally, it includes language on the failure to act by Plan Commission, the discontinuance of a Conditional Use Permit, and existing Conditional Use Permits.

- Section 2-514 includes language on revocation of Conditional Use Permits. There is currently no language in the Zoning Ordinance to address non-compliance with an approved Conditional Use Permit. This section gives Plan Commission the authority to revoke a Conditional Use Permit, provided that there is evidence to support revocation.
- Sections 2-515 and 2-517 outline how appeals will be handled, and Section 2-517 indicates that if a Conditional Use Permit is denied, the applicant must wait one year to reapply unless it meets specific conditions.

Section 2 of this Ordinance modifies the sections of the Wellhead Protection section of the Zoning Ordinance related to how Conditional Use Permits are approved.

Section 3 of this Ordinance modifies the Board of Appeals section of the Code of General Ordinances to expressly state that Conditional Use Permits are approved by Plan Commission. This is included in that section, as State Law allows for the Board of Appeals to review Conditional Use Permits.

Section 4 of this Ordinance modifies Section 2-109 which is in the general section of the Development Review Procedures. Because Conditional Use Law requires substantial evidence for any conditions, we want to ensure that any conditions approved comply with that standard.

Section 5 of this Ordinance adds the Community Development Authority to the list of entities whose fees are waived for applications.

Section 6 of this Ordinance changes the decision-making authority for Conditional Use Permits from City Council to Plan Commission.

A public notice was published in the Beloit Daily News on August 24 and 31, and no comments were received.

**STAFF RECOMMENDATION:**

The Planning and Building Services Division recommends **approval** of the attached Ordinance to repeal and recreate Section 2-500, to amend Sections 5-804(b), 2-109, 2-103(b), and the Tabular Summary of Development Review Procedures of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit and to amend Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit pertaining to Conditional Use Permits.

**ATTACHMENTS:** Proposed Ordinance and Public Notice



## Exhibit A Conditional Use Law

### Wis. Stats. 62.23(7)(de)

**(de)** *Conditional use permits.*

1. In this paragraph:
  - a. “Conditional use” means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a city, but does not include a variance.
  - b. “Substantial evidence” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.
2.
  - a. If an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit. Any condition imposed must be related to the purpose of the ordinance and be based on substantial evidence.
  - b. The requirements and conditions described under subd. [2. a.](#) must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The applicant must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence. The city's decision to approve or deny the permit must be supported by substantial evidence.
3. Upon receipt of a conditional use permit application, and following publication in the city of a class 2 notice under ch. [985](#), the city shall hold a public hearing on the application.
4. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the city zoning board.
5. If a city denies a person's conditional use permit application, the person may appeal the decision to the circuit court under the procedures contained in par. [\(e\) 10.](#)

### Wis. Stats. 62.23(7)(e)(10)

10. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board or bureau of the municipality, may, within 30 days after the filing of the decision in the office of the board of appeals, commence an action seeking the remedy available by certiorari. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the board of appeals and on due cause shown, grant a restraining order. The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

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COMMUNITY DEVELOPMENT DEPARTMENT

## **NOTICE TO THE PUBLIC**

August 23, 2022

To Whom It May Concern:

The Beloit Plan Commission and City Council are considering an Ordinance to repeal and recreate Section 2-500, to Amend Sections 5-804(b), 2-109, 2-103(b), and the Tabular Summary of Development Review Procedures of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit and to amend Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit pertaining to Conditional Use Permits.

The following public meetings will be held regarding the proposed Ordinance:

**City Plan Commission:** Wednesday, September 7, 2022, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**City Council:** Monday, October 3, 2022, at 7:00 PM, or as soon thereafter as the matter can be heard in The Forum, Beloit City Hall, 100 State Street.

**We are interested in your opinion.\***

**\*You may mail your comments to the attention of Hilary Rottmann at 100 State Street or via email to [rottmanh@beloitwi.gov](mailto:rottmanh@beloitwi.gov). You may also call (608) 364-6708 to provide your comments over the phone.**

ZTA-2022-02, CUP Ordinance

**ORDINANCE NO. 3761**

**AN ORDINANCE TO REPEAL AND RECREATE SECTION 2-500, TO AMEND SECTIONS 5-804(b), 2-109, 2-103(b), AND THE TABULAR SUMMARY OF DEVELOPMENT REVIEW PROCEDURES OF THE ZONING ORDINANCE, CHAPTER 19 OF THE CODE OF GENERAL ORDINANCES OF THE CITY OF БЕЛОIT AND TO AMEND SECTION 1.77(6)(a)3 OF THE CODE OF GENERAL ORDINANCES OF THE CITY OF БЕЛОIT PERTAINING TO CONDITIONAL USE PERMITS**

The City Council of the City of Beloit, Rock County, Wisconsin do ordain as follows:

**Section 1.** Section 2-500 of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit, is hereby repealed and recreated to read as follows:

**“2-500 CONDITIONAL USE PERMITS.**

**2-501 PURPOSE.** The development and execution of this section is based upon the division of the City into districts within which the use of land and buildings and the height and location of buildings and structures in relation to the land are substantially compatible. However, there are certain uses that, because of their unique or varying characteristics, cannot be allowed as a permitted use in a particular district without consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use of the particular location.

**2-502 APPLICATION FOR CONDITIONAL USE PERMIT.** An application for a conditional use permit shall be filed with the Zoning Officer on a form prescribed by the City, accompanied with the required fee. The application shall include a statement in writing by the applicant and evidence showing that the proposed conditional use conforms to the standards set forth in section 2-506 and the following plans and information:

- a. Scale, north arrow, date, names of owner(s), applicant, and person preparing the plan, along with phone numbers and addresses of each.
- b. All existing lot lines as recorded in the Rock County Real Property Description Department.
- c. Existing and proposed streets and street improvements including, but not limited to, sidewalks, driveways, street landscaping, and adjacent lot driveways.
- d. A parking plan which clearly shows the proposed layout and design of the off-street parking area including, but not limited to, number of

spaces, traffic control structures, aisles, required stacking spaces for drive-through uses, and fencing. This plan must include the dimensions of the parking spaces, internal driveways, and vehicle ingress and egress.

- e. Building, fence, and wall elevations with height dimensions, if applicable.
- f. Distances between exterior walls of structures and property lines, with a clear delineation of outdoor storage, refuse and service areas.
- g. If the conditional use permit application relates to outdoor seating, the applicant shall include the location and number of proposed tables and chairs.
- h. Any additional information required by City Council, Plan Commission, Community Development Department, Public Works-Engineering Division, or Fire Department.

**2-503 ZONING OFFICER'S REVIEW AND REPORT.** The Zoning Officer shall review each proposed Conditional Use Permit application and provide a report on the application to the Plan Commission.

**2-504 HEARING ON APPLICATION.** Upon receipt of the application, Zoning Officer's recommendation, and any other required material, the Plan Commission shall hold a public hearing on the application for a conditional use at such time and place as shall be established by the Plan Commission.

**2-505 NOTICE OF HEARING.** Notice of the time, place and purpose of the public hearing shall be given as a Class 2 notice under the Wisconsin Statutes in the official City paper. Notice of time, place and purpose of the public hearing shall also be sent to the applicant and to the nearby property owners as required by section 2-105 of this Article.

**2-506 STANDARDS.** No conditional use permit shall be approved unless the deciding body finds:

- a. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
- b. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- c. That the conditional use will not substantially diminish or impair property values within the neighborhood of the subject property;

- d. That the conditional use will not impede the normal and orderly development and improvement of the surrounding property;
- e. That the exterior architectural design or site layout of the proposed conditional use is not dissimilar or otherwise incompatible with existing or proposed development in the immediate neighborhood that it will cause a depreciation in property values;
- f. That adequate utilities, access roads, drainage or other necessary facilities will be available to serve the proposed use at the time of its occupancy or use;
- g. That adequate measures will be taken to minimize traffic congestion; and
- h. That the conditional use will comply with all applicable regulations of this chapter.

**2-507 PLAN COMMISSION REVIEW.** The Plan Commission shall comply with §62.23(7)(de), Wis. Stats., when making its decision.

- a. **Options.** A request for a conditional use permit may be approved, approved with conditions or limitations, or denied.
- b. **Imposition of Conditions or Limitations.** In approving a grant of a conditional use permit, the Plan Commission may impose such conditions or limitations on the permit as it considers necessary to protect the public health, safety and welfare. Any such conditions or limitations may include a time limit for the conditional use permit to exist or for the operation or activity permitted by the permit to be carried on. The conditions or limitations shall be supported by substantial evidence as that term is defined by §62.23(7)(de), Wis. Stats.
- c. **Duration, Transfer or Renewal.** The Plan Commission may provide for an expiration date of a conditional use permit in order to enable a review of the use or the property under the permit, and may, if satisfied after such review that the use of the property pursuant to the conditional use permit is satisfactory, renew the permit or may add additional conditions or limitations on the permit as a condition of renewal. If the Plan Commission determines that the permittee has committed serious or repeated violations of the conditions or limitations on the permit or that renewal of the permit adversely affects the public health, safety and welfare it may refuse to renew the permit.
- d. **Written Findings Required.** The Plan Commission shall make written findings that stipulate such conditions and limitations upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the

public interest and to secure compliance with the standards and requirements specified in section 2-505 above.

- e. **Guarantees.** In all cases in which conditional uses are granted, the Plan Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- f. **Failure to Act.** Failure of the Plan Commission to act within 90 days of the date the application was filed shall constitute denial of the request.

**2-508 MINOR ALTERATIONS OF CONDITIONAL USE.** The Zoning Officer may approve minor alterations or additions which are compatible with the concept approved by the Plan Commission and the standards in subsection 2-506 of this section. If there is a dispute about whether an alteration or addition is minor, the Plan Commission shall approve any alterations or additions.

**2-509 AMENDMENTS.** Any non-minor modification, alteration, expansion or addition made subsequent to the initial issuance of a Conditional Use Permit shall require an amendment to the Conditional Use Permit. The procedure and standard governing issuance of a Conditional Use Permit shall be followed when considering any amendment to an existing Conditional Use Permit.

**2-510 EXPIRATION OF CONDITIONAL USE STATUS.** A conditional use permit shall terminate upon the expiration of the term of such conditional use permit unless otherwise extended pursuant to section 2-511 below.

**2-511 LAPSE OF CONDITIONAL USE; EXTENSION.** In any case where a conditional use has not been established within one (1) year after the date of issuance of the permit, then without further action by the Plan Commission and without further notice to the applicant, the conditional use permit shall lapse and become null and void. Prior to the date the conditional use permit lapses, the permit holder may apply to the Plan Commission for an extension of this time requirement. The Plan Commission may, in its discretion, grant, deny, condition or modify an extension request, but such extension shall not exceed one (1) year.

**2-512 DISCONTINUANCE OF CONDITIONAL USE.** In any case where an established conditional use is discontinued for a period of one (1) year, then without further action by the Plan Commission and without further notice to the permit holder, the conditional use permit shall lapse and become null and void.

**2-513 EXISTING CONDITIONAL USE PERMITS.** All conditional use permits existing at the effective date of this Ordinance [Insert Date] which would be classified as a conditional use in the district concerned if they were to be established after the effective date of this Ordinance, and are legally operated under the terms and conditions of their conditional use permits, are hereby declared to be conforming conditional uses to the extent of their existing operation. Any proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.

#### 2-514 REVOCATION OF CONDITIONAL USE.

- a. **Revocation.** If a permit holder fails to comply with the conditions of the permit or should the use, or characteristics of the use, be changed without prior approval of the City, the conditional use permit may be revoked.
- b. **Zoning Officer Determination.** Upon the determination by the Zoning Officer that the conditions and stipulations of an approved conditional use have not been complied with, the Zoning Officer shall send written notice to the permittee of the actions necessary to comply with the conditional use permit. The notice shall specify that failure to comply with the required conditions or stipulations within thirty (30) days will invalidate the conditional use permit and may also lead to enforcement action under this chapter. Appeals of the revocation of the conditional use permit may be made to the Plan Commission.
- c. **Appeal to Plan Commission.** The procedure for appealing a determination to revoke of a conditional use permit shall generally follow the same application procedure required when considering a new conditional use permit. The permittee shall be provided notice of any reason or reasons that will be considered by the Plan Commission as a basis for upholding the decision to revoke the conditional use permit. A Public Hearing shall be conducted by the Plan Commission, and the permittee shall have an opportunity to appear before the Plan Commission and present evidence and testimony opposing any the decision to revoke the conditional use permit.
- d. **Plan Commission decision.** The Plan Commission may, after reviewing the evidence, revoke the conditional use permit provided that there is a preponderance of evidence to support the revocation of the permit. Any decision of the Plan Commission to revoke the conditional use permit shall be reduced to writing and provided to the permittee. The decision of the Plan Commission to revoke a conditional use permit may be appealed to the City Council.
- e. **Effect of Revocation; Waiting Period.** If a conditional use permit has been revoked under this section, no person may reapply for a conditional use permit for the same premises within one (1) year of the date of the revocation.

#### 2-515 APPEAL TO CITY COUNCIL.

- a. An applicant or permittee who is aggrieved by a decision of the Plan Commission or the Zoning Officer may appeal to the City Council.
- b. The appeal shall be in writing and shall specify the grounds for the appeal with specific reference to the findings of the Plan Commission.

- c. The appeal shall be filed with the City Clerk’s Office within 20 days of the date of the written decision of the Plan Commission.
- d. The City Council shall hold a public hearing and provide notice to the applicant or permittee and the Zoning Officer, as well as the public notice required in section 2-505.
- e. In reviewing the appeal, the City Council has the authority to conduct a de novo review of the application. The City Council shall generally follow the review process outlined in section 2-507, including the requirement to act consistent with section §62.23(7)(de), Wis. Stats.

**2-516 APPEALS.** The decision of the City Council may be appealed to the circuit court as provided in section 62.23(7)(de)5., Wis. Stats.

**2-517 SUBSEQUENT APPLICATIONS.** No application for a conditional use that is denied wholly or in part by the Plan Commission (or, on appeal, by the City Council) shall be resubmitted for a period of one (1) year from the date of the final decision, unless:

- a. The decision expressly states that it is placed on file without prejudice, and
- b. The applicant provides substantial new evidence or proof of a change of conditions that would support approval or conditional approval of the application.”

**Section 2.** Section 5-804(b) of the Zoning Ordinance, Chapter 19 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“b. The purpose of the Wellhead Technical Review Committee is to provide objective and scientific technical review of requests for conditional use permits and to make recommendations to the Plan Commission and ~~ultimately to the~~ City Council, if applicable, to grant or deny conditional use permits based upon the facts discovered in those reviews, to make recommendations on any and all conditions placed on a conditional use permit, and to give advice on matters concerning groundwater.”

**Section 3.** Section 1.77(6)(a)3 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“3. Pursuant to §62.23(7)(e)(1), Wis. Stats., the City Council authorizes the Plan Commission and, upon appeal, reserves unto itself the power to approve applications for special exceptions (conditional use permits) ~~after submitting those applications to the Plan Commission for review and recommendation.~~”

**Section 4.** Section 2-109 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:



“2-109 CONDITIONS OF APPROVAL. In approving development applications, decision-making bodies shall be authorized to impose such conditions upon the premises benefited by the approval as may be necessary to reduce or minimize any potential adverse impact upon other property in the area as long as the condition relates to a situation created or aggravated by the proposed use, ~~and~~ is roughly proportional to its impact, and is not otherwise prohibited by law.”

**Section 5.** Section 2-103(b) of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

“(b) Fees are not required with applications initiated by the City Council, Community Development Authority, or Plan Commission.”

**Section 6.** The Summary of Development Review Procedures immediately following section 2-104 of the Code of General Ordinances of the City of Beloit, is hereby amended to read as follows:

**Summary of Development Review Procedures (Commentary)**

Procedure	Review and Decision-Making Authority				Public Notice (See §2-105)
	Staff	BOA	PC	City Council	
Zoning Ordinance Text Amendments	R	—	<R>	<DM>	N (Class 2)
Zoning Map Amendments (Rezoning)	R	—	<R>	<DM>	N (Class 2)
PUD Master Land Use Plan	R	—	<R>	<DM>	N (Class 2)
Final PUD Plan	DM	<A>	—	—	N (Class 1) +M
Conditional Use Permits	R	—	< <del>R</del> DM>	< <del>DM</del> A>	N (Class 2)
Site Plan Review	DM	<A>	—	—	N (Class 1) +M
Certificates of Zoning Compliance	DM	<A>	—	—	N (Class 1) +M
Certificates of Occupancy	DM	<A>	—	—	N (Class 1) +M
Appeals of Administrative Decisions	DM	<A>	—	—	N (Class 1) +M
Variances	R	<DM>	—	—	N (Class 1) +M

Notes :

R	=	Review Body (Responsible for Review and Recommendation)
DM	=	Decision-Making Body (Responsible for Final Decision to Approve or Deny)
A	=	Authority to hear and decide appeals of Administrative Decisions
BOA	=	Board of Appeals
PC	=	Plan Commission
< >	=	Public Hearing Required
N	=	Newspaper Notice Required
M	=	Mailing of Notice Required
PUD	=	Planned Unit Development

**Section 7.** If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**Section 8.** This ordinance shall be in force and take effect upon passage and publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY COUNCIL FOR THE CITY OF BELOIT**

\_\_\_\_\_  
Regina Dunkin, President

**ATTEST:**

\_\_\_\_\_  
Marcy Granger, City Clerk-Treasurer

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_

01-611100-5231- \_\_\_\_\_

2-500 ORD 20220726 (22-1100).docx



## **REPORT TO THE PLAN COMMISSION**

**Plan Commission Meeting Date:** September 7, 2022

**Agenda Item:** 4.a

**File Number:** RPB-2022-04

### **General Information**

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**Applicant:** City of Beloit Water Resources Division

**Owner:** Martin Lee LLC

**Address/Location:** 2757 Prairie Avenue

**Applicant's Request:** Acquisition of a permanent Water Main Easement at 2757 Prairie Avenue

### **Staff Analysis**

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**Request Details:** City Council approved a Conditional Use Permit for a Drive Through use on June 6, 2022. The site plans for the proposed development are currently under review by City staff. During this process, it was determined that an additional public fire hydrant was needed along Prairie Avenue to correct an existing gap in public safety infrastructure. The closest public hydrant is on Hart Road. There are private hydrants located on the property west of 2757 Prairie but are still too far away to be useful. The proposed permanent easement will allow the City to install a water main and hydrant, and perform maintenance and repairs as needed. The property owner, Martin Lee LLC, has agreed to grant the attached easement to the City. The document specifies that the City will pay \$1.00 for this easement.

**Surrounding Land Use and Zoning:** The subject property is zoned C-3, Community Commercial, and is planned to be a drive-through coffee shop. To the north, east, and south are Pizza Hut, CubeSmart, and a strip mall. All of the parcels are zoned C-3. To the west are single-family dwelling units zoned R-1A, Single Family Residential.

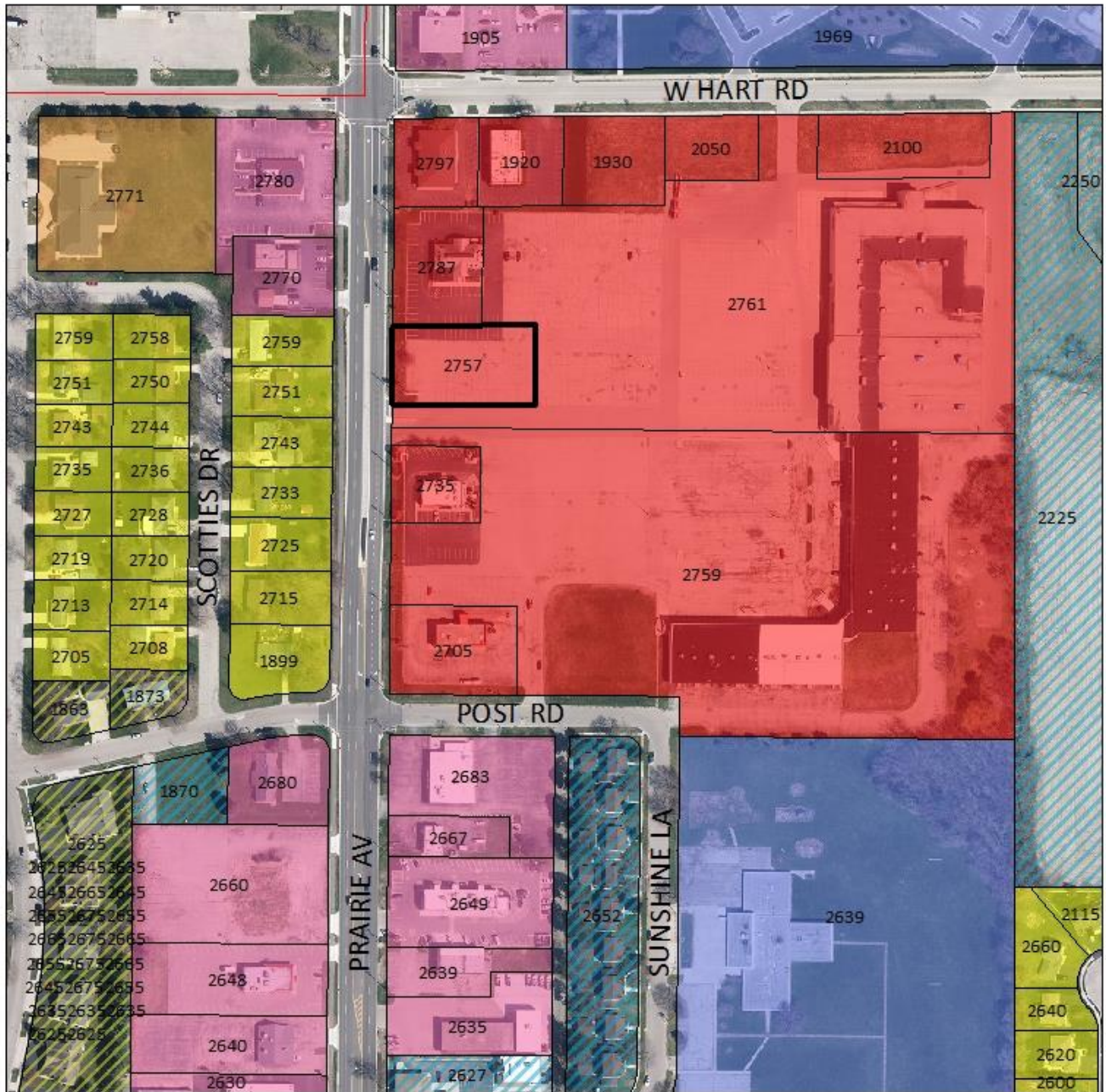
**City of Beloit Comprehensive Plan:** The City's Comprehensive Plan recommends *Planned Mixed Use* for the subject property. This request and the underlying zoning classification are consistent with this recommendation.

#### **STAFF RECOMMENDATION:**

The Planning and Building Services Division recommends **approval** of the attached permanent Water Main Easement at 2757 Prairie Avenue.





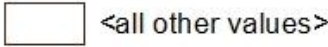











**ATTACHMENTS:** Location Map, Proposed Easement, and Easement Exhibits.

# Location and Zoning Map



## Legend

### Zoning Districts

 R-1B	 C-1	 CBD-2	 M-2
 <all other values>	 R-2	 C-2	 MRO
 R-1A	 R-3	 C-3	 PUD
 R-4	 CBD-1	 M-1	 WPO

### Classification

R-1A

**WATER MAIN EASEMENT**

**(Scooter’s Coffee)**

This indenture is made as of the \_\_\_\_ day of \_\_\_\_\_ 2022, by and between Martin Lee LLC, a Wisconsin limited liability corporation (including heirs, executors, administrators, successors and assigns of above owner(s) as may be or may become applicable), hereinafter called “Grantor,” and the City of Beloit, a Wisconsin municipal corporation (the "City").

**RECITALS**

WHEREAS, Grantor is the owner and holder of record Title to certain real property described on Exhibit A which is attached hereto and incorporated herein (the Property); and

WHEREAS, the City desires to acquire a permanent easement with the right of entry in and across the property hereinafter described with the right to build and construct and/or operate, maintain, repair, enlarge, reconstruct, relocate and inspect as may be or may become applicable the following facilities and appurtenances thereto, hereinafter called “Facilities,” in, upon and across said portion of the property; a water main, water valves, water service and associated fire hydrants, all as shown on the plan attached hereto as Exhibit B; and

WHEREAS, the initial construction and installation of the Facilities shall be made by City at City’s expense and the Facilities shall be the property of the City, subject to the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the grant of the easement hereinafter described and the payment of One Dollar (\$1.00) and other valuable considerations to the Grantor, receipt whereof is hereby acknowledged, said Grantor, being the owner and person interested in the land hereinafter described does hereby grant unto the City a permanent easement in that part of the land more particularly described on Exhibit C attached hereto (the “Easement Area”) upon the following conditions:

1. That said Facilities shall be maintained and kept in good order and condition by the City. Responsibility for maintaining the ground cover and landscaping within the Easement Area shall be that of the Grantor (including heirs, executors, administrators, successors and assigns).
2. That in and during whatever construction, reconstruction, enlargement or repair work is or becomes necessary in constructing and/or maintaining of said Facilities, so much of the surface or subsurface of the property as may be disturbed, will at the expense of the City be replaced in substantially the same condition as it was prior to such disturbance; except that the City will in no case be responsible for replacing or paying for replacing any aesthetic plantings or

<p><b>RETURN TO:</b>  City Attorney’s Office  City of Beloit  100 State Street  Beloit, WI 53511</p> <hr/> <p>Parcel Identification Number  206 - 2186 1300</p>
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improvements other than ordinary lawns or standard walks, roadways, driveways and parking lot surfacing which were required to be removed in the course of doing the above work. However, the City shall save harmless the Grantor from any loss, damage, injury or liability resulting from negligence on the part of the City in connection with said work involved in constructing and/or maintaining of said Facilities; provided that if above loss, damage, injury or liability results from the joint negligence of parties hereto, then the liability therefore shall be borne by them in proportion to their respective degree of negligence; provided further, however, that these provisions are subject to the legal defenses which under law the City is entitled to raise excepting the defense of so-called "sovereign immunity."

3. That no structure may be placed within the limits of the easement by the Grantor except that improvements such as walks, pavements for driveways and parking lot surfacing may be constructed or placed within the Easement Area.
4. That, in connection with the construction by the grantor of any structure or building abutting said easement defined limits, the Grantor will assume all liability for any damage to the Facilities in the above described property. The Grantor will also save and keep the City clear and harmless from any claims for personal injuries or property damage caused by any negligence of the Grantor or person other than the Grantor, arising out of the construction by the Grantor of any structure or building abutting the said easement defined limits, and shall reimburse the City for the full amount of such loss or damage.
5. That no charges will be made against said lands for the cost of maintenance or operation of said Facilities in the afore-described property. Whenever the Grantor makes application for a service connection, the regular and customary service connection charge in effect at the time of the application shall be charged and paid. The Grantor shall be responsible for the routine maintenance of land on which the easement is located.
6. The Facilities shall be accessible for maintenance by the City at all times. The Grantor shall submit plans for approval to the City Engineer for any underground installation within the Easement Area, which approval shall not be unreasonably withheld, conditioned or delayed.
7. That the Grantor shall submit plans for all surface alterations of plus or minus 1 foot or greater within the limits of said easement. Said alterations shall be made only with the approval of the City Engineer of the City of Beloit, which approval shall not be unreasonably withheld, conditioned or delayed.
8. The City and Grantor shall each use, and take reasonable measures to cause their employees, officers, customers, agents, contractors and assigns to use, the Easement Area in a reasonable manner and so as not to obstruct or otherwise use the Easement Area in a manner that would unreasonably interfere with the use thereof by the other party hereto or its employees, officers, customers, agents, contractors and assigns.
9. The City and Grantor each hereby waives all rights of subrogation that either has or may hereafter have against the other for any damage to the Easement Area or any other real or personal property or to persons covered by such party's insurance, but only to the extent of the

waiving party's insurance coverage; provided, however, that the foregoing waivers shall not invalidate any policy of insurance now or hereafter issued, it being hereby agreed that such a waiver shall not apply in any case which would result in the invalidation of any such policy of insurance and that each party shall notify the other if such party's insurance would be so invalidated.

10. Either party hereto may enforce this easement by appropriate action, and should it prevail in such litigation, that party shall be entitled to recover, as part of its costs, reasonable attorneys' fees.
11. This easement may not be modified or amended, except by a writing executed and delivered by the City and Grantor or their respective successors and assigns.
12. No waiver of, acquiescence in, or consent to any breach of any term, covenant, or condition hereof shall be construed as, or constitute, a waiver of, acquiescence in, or consent to any other, further, or succeeding breach of the same or any other term, covenant, or condition.
13. If any term or provision of this easement shall, to any extent, be invalid or unenforceable under applicable law, then the remaining terms and provisions of this easement shall not be affected thereby, and each such remaining term and provision shall be valid and enforceable to the fullest extent permitted by applicable law.
14. This easement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
15. It is understood that in the event the Property may become portions of public streets; in which event, in the proceedings for the acquisition of the property needed for such streets by purchase, dedication or by condemnation, said lands shall be considered the same as though this easement had not been executed or any rights granted thereby exercised.

***Signature Page to Follow***

IN WITNESS WHEREOF, the Grantor has hereunto set its hands and seals on this \_\_\_\_\_ date of \_\_\_\_\_, 2022.

**MARTIN LEE LLC**

\_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

STATE OF WISCONSIN )  
                                      ) ss  
COUNTY OF ROCK     )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above named \_\_\_\_\_, to me known to be the person who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission is permanent or expires \_\_\_\_\_  
(SEAL)



**CITY OF БЕLOIT**

\_\_\_\_\_  
Elizabeth A. Krueger, Interim City Manager

Attest

\_\_\_\_\_  
Marcy J. Granger, City Clerk-Treasurer

STATE OF WISCONSIN )  
   ) ss  
COUNTY OF ROCK         )

Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2022, the above named Elizabeth A. Krueger, and Marcy J. Granger, to me known to be the Interim City Manager and City Clerk-Treasurer of Beloit, and the persons who executed the foregoing instrument and acknowledged the same.

\_\_\_\_\_  
Print name: \_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission is permanent or expires: \_\_\_\_\_

(SEAL)

This document prepared by:

Elizabeth Krueger  
City Attorney's Office  
100 State Street  
Beloit, WI 53511  
608-364-6623

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF PROPERTY**

Lot 4 of Certified Survey Map recorded on August 12, 2005 as Document No. 1718381 in Volume 29, pages 38, 39 and 40 of Certified Survey Maps of Rock County, Wisconsin, being a division of Lot 2 of Certified Survey Map No. 953938 as recorded June 10, 1982 in Volume 111 on page 37 of Certified Survey Maps of Rock County, being a part of Lots 4, 5 and 6 of Sunshine Village as situated in part of the Northwest Quarter of the Southwest Quarter of Section 18, Township 1 North, Range 13 East of the Fourth Principal Meridian, in the City of Beloit, Rock County, Wisconsin.

## **EXHIBIT B**

### **EASEMENT AREA**

That part of Lot 4 of Certified Survey Map recorded on August 12, 2005 as Document No. 1718381 in Volume 29, pages 38, 39 and 40 of Certified Survey Maps of Rock County, Wisconsin, being a division of Lot 2 of Certified Survey Map No. 953938 as recorded June 10, 1982 in Volume 111 on page 37 of Certified Survey Maps of Rock County, being a part of Lots 4, 5 and 6 of Sunshine Village as situated in part of the Northwest 1/4 of the Southwest 1/4 of Section 18, Township 1 North, Range 13 East of the Fourth Principal Meridian, in the City of Beloit, Rock County, Wisconsin, described as follows:

Commencing at the Southwest corner of said Lot 4; thence North 00°30'37" East along the West line of said Lot 4, 17.50 feet to the point of beginning; thence continuing North 00°30'37" East along said West line 30.00 feet; thence South 89°29'23" East, 15.00 feet; thence South 00°30'37" West, 30.00 feet; thence North 89°29'23" West, 15.00 feet to the point of beginning.

Said parcel contains 0.0103 acre, more or less.

EXHIBIT B

EASEMENT EXHIBIT

**LEGAL DESCRIPTION:**

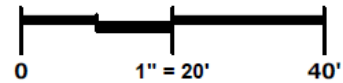
That part of Lot 4 of Certified Survey Map recorded on August 12, 2005 as Document No. 1718381 in Volume 29, pages 38, 39 and 40 of Certified Survey Maps of Rock County, Wisconsin, being a division of Lot 2 of Certified Survey Map No. 953938 as recorded June 10, 1982 in Volume 111 on page 37 of Certified Survey Maps of Rock County, being a part of Lots 4, 5 and 6 of Sunshine Village as situated in part of the Northwest 1/4 of the Southwest 1/4 of Section 18, Township 1 North, Range 13 East of the Fourth Principal Meridian, in the City of Beloit, Rock County, Wisconsin, described as follows:

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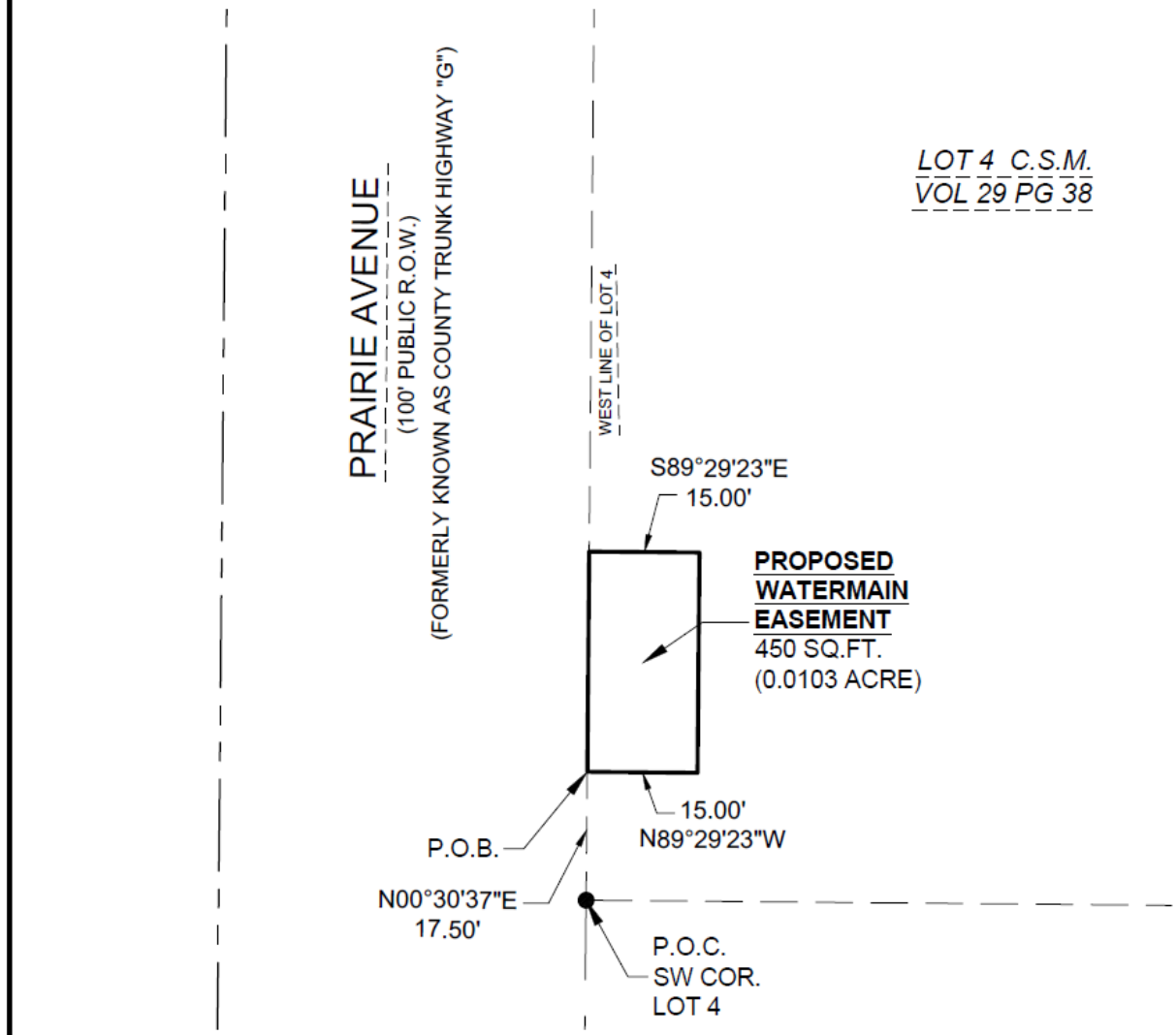
Said parcel contains 0.0103 acre, more or less.



GRAPHICAL SCALE (FEET)



LOT 4 C.S.M.  
VOL 29 PG 38



**Exhibit-Watermain Easement**

**PINNACLE ENGINEERING GROUP**  
20725 WATERTOWN ROAD | SUITE 100 | BROOKFIELD, WI 53186

WWW.PINNACLE-ENGR.COM

07/01/2022

PLAN | DESIGN | DELIVER  
PEG JOB# 2806.00WI