ENROLLED ORDINANCE 171-36

AMEND THE TEXT OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO INCORPORATE REVISED SHORELAND ZONING PROVISIONS TO COMPLY WITH REVISED STATE SHORELAND ZONING RULES AND LAWS AND TO MODERNIZE VARIOUS CODE PROVISIONS (SZ-1459M)

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Floodland Protection Ordinance on January 23, 1970, and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.692, Wisconsin Statutes, and

WHEREAS, Waukesha County is required by Chapter NR115 of the Wisconsin Administrative Code to update the Waukesha County Shoreland and Floodland Protection Ordinance by October 1, 2016 to comply with revised shoreland zoning rules and laws, and

WHEREAS, the Waukesha County Shoreland Zoning Advisory Committee guided the preparation of ordinance amendments to the Shoreland and Floodland Protection Ordinance, and

WHEREAS, the Waukesha County Department of Parks and Land Use held a public informational meeting for the proposed amendments at the Delafield Town Hall on June 23, 2016, and

WHEREAS, the proposed amendments have been the subject of a public hearing held on July 12, 2016, following the notice and procedures of Section 59.692 Wisconsin Stats., and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.692 Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance is hereby amended to adopt proposed text amendments. The amendments are available for viewing on the Waukesha County website at www.waukeshacounty.gov/planningandzoning and are on file in the office of the Waukesha County Department of Parks and Land Use and are more specifically described in the "Staff Report and Recommendation" by reference SZ-1459M, also on file in the office of the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance.

BE IT FURTHER ORDAINED that this Ordinance shall become effective on September 28, 2016.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with each of the Town Clerks within Waukesha County.

AMEND THE TEXT OF THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO INCORPORATE REVISED SHORELAND ZONING PROVISIONS TO COMPLY WITH REVISED STATE SHORELAND ZONING RULES AND LAWS AND TO MODERNIZE VARIOUS CODE PROVISIONS (SZ-1459M)

Presented by:
Land Use, Parks, and Environment Committee

David D. Zimmermann, Chair

Kathleen M. Cummings

Keith Hammitt

Robert L. Kolb

William Mitchell

Thomas J. Schellinger

Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 9/27/16, Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: ____

Date: 10/4/16, Paul Farrow, County Executive

## COMMISSION ACTION

The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **SZ-1459M (Waukesha County Park and Planning Commission - Text Amendments)** in accordance with the attached "Staff Report and Recommendation".

**PARK AND PLANNING COMMISSION** **August 18, 2016**

Richard Morris, Chairperson

James Siepmann, Vice Chairperson

William Mitchell, Secretary

Robert Peregrine

Gary Goodchild

William Maslowski

Absent
Keith Hammitt

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE**
**STAFF REPORT AND RECOMMENDATION**
**TEXT AMENDMENTS TO THE WAUKESHA COUNTY**
**SHORELAND AND FLOODLAND**
**PROTECTION ORDINANCE**

**FILE NO.:** SZ-1459M

**DATE:** August 18, 2016

**PETITIONER:** Waukesha County Park and Planning Commission

**REQUEST:**
Text amendments are proposed to the Waukesha County Shoreland and Floodland Protection Ordinance to incorporate revised shoreland zoning provisions in order to comply with revised State shoreland zoning laws and rules and to modernize various code provisions.

**PUBLIC HEARING DATE:**
July 12, 2016.

**PUBLIC REACTION/PUBLIC INVOLVEMENT:**

- *Shoreland Zoning Advisory Committee (SZAC).* An 18-person advisory committee comprised of stakeholders representing different interests guided selection of recommended code revisions. The committee was inclusive of lake district and association members, the development community and local planners and officials. Many of the committee members are also lake property owners.
- *Dedicated Webpage (www.waukeshacounty.gov/planningandzoning - go to "News and Events" 2016 Shoreland Zoning Update Materials).* A webpage was created for this project and SZAC materials, project summary documents and presentation boards are available on this page to help explain the project.
- *Public Information Meeting, June 23, 2016.* Approximately 50-60 people attended an information meeting held at the Town of Delafield Hall. Two written comments were provided at the meeting supporting the adoption of the proposed amendments.
- *Public Hearing, July 12, 2016.* Four citizens attended the public hearing along with a Corporation Counsel and County Board representative. A number of questions and comments were offered by hearing attendees. The Public Hearing Minutes attached as Exhibit "A" summarize comments offered in advance of and at the public hearing.

**COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:**
The proposal to incorporate revised provisions in order to comply with revised State shoreland zoning laws and rules and to modernize various code provisions will make reasonable use of property more attainable to all properties, including the smallest, most non-conforming properties. The amendments comply with the recommendations of the County Development Plan in providing for a broad range of land uses while also providing adequate protection for lakes, streams and other natural resources.

**STAFF ANALYSIS:**
State law requires all counties to incorporate the new requirements of State shoreland zoning law and rules by October 1, 2016. Shoreland laws and rules have been modified significantly multiple times over the past couple of years, making the ordinance update task complex. Law changes now prohibit counties from

enacting shoreland zoning provisions that are more restrictive than specified shoreland rules, whereas State rules had formerly been the minimum requirements only. Staff also saw the need to update the ordinance as an opportunity to modernize various other zoning provisions with the specific goal of reducing the number of unnecessary variances. To accomplish these goals, Waukesha County convened a Shoreland Zoning Advisory Committee (SZAC) comprised of building contractors, developers, engineers, lake district and association members, natural resource experts and various town and county officials to guide the update. The committee met four times in early 2016 and reached consensus on virtually all topics.

As noted above, Planning & Zoning Staff held a Public Information Meeting regarding the SZAC's recommendations at the Town of Delafield Hall on June 23, 2016. Notice of the meeting was distributed to all towns, all affected lake associations and districts, the Metropolitan Builders Association and local news outlets. The meeting was well attended and comments received at the meeting were overwhelmingly positive. Several comments, questions and recommendations from property owners and builders were received in advance of, during and after the Information Meeting. All have been considered and a number of changes were made to draft language in direct response to those comments. A summary of comments received and responses to comments is attached as part of the Public Hearing Minutes (Exhibit "A").

Planning & Zoning Staff, working with Corporation Counsel, prepared draft text amendments to incorporate the recommendations of the SZAC and many of the recommendations of the public. The proposed amendments were circulated to the SZAC, all towns and DNR for review. The shoreland division of the DNR provided written comments on July 27, 2016 and the floodplain division of the DNR provided written comments on August 8, 2016. Planning and Zoning Staff have addressed all DNR comments.

The proposed text amendments are available for viewing on the Planning and Zoning Division webpage at www.waukeshacounty.gov/planningandzoning - click "2016 Shoreland and Floodland Protection Ordinance Amendments." The amendments are available in both "track changes" format (deletions in strike-through and text additions in colored font) and in a final format with all changes accepted. An explanation of each change of substance can be found in the right margin of the "track changes" version. As noted above, changes to State laws and rules must be incorporated in the proposed ordinance amendments. Some of the most notable changes to the State's shoreland zoning requirements are described below:

- **Improvements to non-conforming structures.** State law has become far less restrictive relative to improvements to non-conforming structures. Law now requires that structures that are sub-standard to shore setback must be allowed to be improved and expanded. For example, a non-conforming house that is 10' from the shore, rather than the required 75', must now be allowed to expand vertically, whereas previously, no expansion would have been permitted.

- **Impervious surface.** State rules now require counties to limit the amount of impervious surface on riparian lots and non-riparian lots fully within 300' of a navigable waterway. Prior State rules did not include impervious surface provisions.

- **Mitigation.** State rules will allow some projects to exceed basic impervious surface limits if mitigation is provided. The State allows counties to develop their own mitigation options and scoring requirements. Mitigation is also required in other limited scenarios for horizontal expansions or re-location of certain non-conforming structures.

The following is a brief summary of proposed SFPO amendments by topic. A more detailed summary is attached as Exhibit "B" with references to Sections and page numbers taken from the draft "track changes" version of the ordinance amendments. Presentation sheets, which also summarize the main topics, are attached as Exhibits "C" – "I":

**Proposed building area and height provisions:**

The SZAC supported replacing the existing floor area ratio and open space limits of the SFPO with a maximum building footprint system. The footprint system was favored because it greatly simplifies building area calculations and will give most owners significantly more overall building area. Staff presented data to the SZAC that revealed that over 50% of the lots subject to the SFPO are less than 20,000 square feet. The SZAC focused on the development of a zoning scheme that would allow for reasonable use of property- regardless of property size. Floor area ratio relief was the most common variance request over the past two years and relief from these provisions was commonly sought for sub-standard lots (lots less than 20,000 square feet). Accessory building floor area ratio is also proposed to be replaced by accessory building footprint limits. Standardization of minimum building area requirements across all zoning districts is proposed to match the R-3 District (1100 s.f. minimum). Minimum dwelling unit sizes for multi-family units are proposed to be reduced to match market trends and further the recommendations of the Regional Housing Plan.

The SZAC preferred the development of a tiered building height limitation system. State law requires that building height not exceed 35' within 75' of the shoreline, whereas current building height limits extend to 46'. The SZAC acknowledged that building area and height limits must be considered together. With building area becoming much more permissive, the committee supported a maximum overall height of 42' for buildings beyond 75' of the shore provided that a lot is at least 65' in width. Permit statistics revealed that more than 90% of recently permitted homes voluntarily built at a height of 42' or less. After hearing the concerns of one local custom home builder about accommodating unique architectural designs, Staff and two builders that were also members of the SZAC later met and agreed that 44' building height can be provided in limited scenarios where specified mitigating considerations are provided. The builder has since expressed his strong support for the change and the proposed amendments, in general.

**Shore Setback**

State law has changed recently regarding shore setback averaging. Averaging is now permitted with principal structures that are within 250' of a proposed principal structure. Averaging cannot reduce shore setback to less than 35', whereas the SFPO currently specifies 30'. State law also requires that the SFPO be revised to remove provisions that allow for averaging when one adjacent lot contains a structure more than 75' from the shore. State law allows "reverse" averaging where the pattern of development exceeds 75' from the shore in limited situations. Reverse averaging will only be applicable within the Delafield Shoreland Overlay District.

**Impervious Surface and Mitigation:**

Staff conducted detailed analysis of existing impervious surface conditions on lakefront properties and presented findings to the SZAC. Staff compiled a sample of nearly 40 properties and found that the

average impervious surface on the parcels was 30%. Further analysis of all riparian properties on several lakes revealed that a majority of parcels were developed with at least 25% impervious surface. Accordingly, Staff recommended, and the SZAC supported, employing the State's "Highly Developed Shoreline" (HDS) option for qualifying shorelines. The HDS option would allow for impervious surface limits twice those of the General Standard (30% vs. 15%) for residential properties. HDS also allows for 40% impervious surface, with mitigation, versus the General Standard limit of 30%, with mitigation. Some lake shorelines (i.e. Willow Spring Lake, Ashippun Lake, etc.) and most riverine shorelines will not be eligible for HDS, as properties along these waterways do not meet the smaller lot size and more intensely developed qualifying criteria. The Highly Developed Shoreline Map is available at the following link www.waukeshacounty.gov/planningandzoning- click "2016 Shoreland and Floodland Protection Ordinance Amendments."

Mitigation is required if property owners wish to exceed basic impervious surface thresholds or horizontally expand or relocate a non-conforming structure within the shore setback. Staff prepared a Mitigation Handbook that the SZAC supported which details the fifteen mitigation options and scoring system being proposed. The handbook contains graphics that help the reader understand the various available mitigation techniques. Examples include providing a native shoreland buffer, rain gardens or removing or screening retaining walls. The Mitigation Handbook is also available at the website link mentioned above.

**Boathouses:**

DNR has advised that they believe that the County's existing prohibition of boathouses on lots less than 100' wide or on lots less than 15,000 square feet are no longer permissible because of recent law changes. Accordingly, these existing requirements are proposed to be removed from the code, which means that many more lots will become eligible for boathouses. The SFPO must be revised to comply with other current law requirements. Two notable changes are that boathouses cannot contain plumbing and new boathouses must be located within access/viewing corridors. The SZAC supported new maximum size limitations for boathouses (450 sq. ft. and 15' wide). Boathouse height is proposed to be controlled via maximum sidewall height and roof pitch standards rather than by the existing overall height limit because of State law changes. The proposed amendments will generally allow for 15' tall pitched roof boathouses and 12' flat roof boathouses.

**Miscellaneous:**

There are numerous other amendments that did not neatly fit within one of the above categories. Several notable miscellaneous amendments are summarized below:

- *AD-10 and RRD-5 Rural Density Districts.* Remove prime agricultural soils provisions while preserving districts as flexible large lot and/or residential cluster districts. These changes are supported by the Town of Vernon where these districts are widely mapped.

- *Adjacent Substandard Lots.* Replace existing substandard lot language that prohibits the sale of adjacent substandard lots of record with language that is consistent with new State rules. The State rules only allow the development of lots that are substandard to NR 115 lot size limits if the adjacent substandard lots have never been formally combined or if a building has never been built across a lot line.

- *Floodplain and Wetland Setback.* Per State law, floodplain setback provisions may only apply to an area that is regulated as a floodplain. Floodplain setback is proposed to be limited to 35 ft., rather than the existing 75 ft., and the setback area must be within the 0.2% chance floodplain as designated by FEMA. All floodplain setback averaging and vertical separation relief provisions will be removed because of the proposed reduced 35 ft. setback. The 50 ft. setback relief for structures built three (3) vertical feet above a wetland will be removed because wetland boundaries are not based on an elevation and impacts of development on a wetland increase as the slope increases. Relief is proposed for structures nonconforming to wetland setback. In addition, relief is proposed for small accessory buildings where wetland setbacks cannot be achieved.

- *Lots on opposite sides of a road.* Clarify that a lot located on the opposite side of the road from another parcel may be allowed an accessory building without a principal building being present so long as a principal building exists on the opposite lot and a Certified Survey Map (CSM) ties the lots together. In such cases, building footprint standards will be applied to each individual lot, not the combined acreage.

- *Nonconforming Structures.* Introduce a tiered relief scheme for improvement of structures legal non-conforming to various zoning requirements (i.e. road setback, offset, shore setback and wetland setback), whereas variances would currently be required for most such improvements.

- *Offset.* Revise required side/rear offsets to simplify available offsets via specified lot width ranges.

- *North Lake Overlay District.* The proposed amendments bring forward minimum basement floor elevations in an area that has been subject to flooding at least three times in the past 40 years. These amendments were prepared, in part, upon the request of the North Lake Management District and were supported by the Town to protect property owners from damage.

- *Road Setback.* Allow for road setback to be reduced from 50' to 35' for new subdivisions abutting local roads to reduce driveway expense for property owners and impervious surfaces. Amend road setback averaging provisions to be consistent with shore setback averaging.

- *Tree cutting.* State rules require shore cutting provisions to limit tree removal within 35' of the shore in order to preserve shore cover, protect natural beauty and minimize erosion and runoff. The SFPO must be revised to limit tree removal in said areas to no more than 35% of the shoreline whereas the SFPO currently limits removal to 30% of the shoreline. Language is also proposed to clarify that limited tree removal is allowed within areas zoned Environmental Corridor to facilitate permissible boathouses and access paths. Priority tree preservation standards are being proposed for areas within 300' of the shore. Said standards are proposed to apply to a specified list of native trees that are 12" or more in diameter. Said trees can be removed to construct permitted improvements and the standards will not apply within the Environmental Corridor District, where existing provisions are proposed to remain.

**STAFF RECOMMENDATION:**
It is the opinion of the Planning and Zoning Division Staff that this request be **approved,** subject to the following conditions:

1. This approval is contingent upon final WDNR review and certification and edits required by WDNR shall be incorporated into the proposed text as necessary.

2. This approval is contingent upon the final review of the Waukesha County Corporation Counsel and any edits deemed necessary shall be incorporated, as necessary.

The proposed amendments will update the Shoreland and Floodland Protection Ordinance to be compliant with revised State laws and rules. The proposed amendments will also simplify zoning provisions while making reasonable use permitted by right for even the most substandard and nonconforming parcels while still upholding the purpose and intent of the code.

Key stakeholders have been intimately involved in guiding the preparation of these amendments to help ensure that the proposed code is viable for all while ensuring the protection of the County's valued lakes and waterways. If approved, Staff believes that the SFPO administration and permitting processes will become more efficient for landowners, the development community and Staff, alike, resulting in time and cost savings for all involved.

Respectfully submitted,

*Jason Fruth*

Jason Fruth
Planning and Zoning Manager

Enclosures: Exhibits "A" – "I"

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**EXHIBIT "A"**

**WAUKESHA COUNTY PUBLIC HEARING MINUTES OF THE PARK AND PLANNING COMMISSION ADMINISTRATION CENTER, ROOM AC 155/159 TUESDAY, JULY 12, 2016, 6:30 P.M.**

| | | | |
|---|---|---|---|
| Commission Members Present: | James Siepmann | Robert Peregrine | Gary Goodchild |
| | William Maslowski | William Mitchell | Richard Morris |
| Members Absent: | Keith Hammitt | | |
| Staff Members Present: | Jason Fruth, Planning and Zoning Manager<br>Amy Barrows, Senior Planner<br>Kim Haines, Principal Assistant Corporation Counsel | | |
| Guests Present: | Mark Prange<br>Bill Groskopf, Groskopf Construction<br>Dan & Lois Mishich<br>Supervisor Steve Whittow | | |

Mr. Siepmann opened the public hearing and asked Jason Fruth, Planning & Zoning Manager, to provide an overview. Mr. Fruth described that there would be two hearings conducted successively. He explained that the first was relative to the proposed amendments to the Waukesha County Shoreland & Floodland Protection Ordinance (SFPO). He explained that the second hearing is relative to the Waukesha County Shoreland & Floodland Subdivision Control Ordinance.

Mr. Fruth indicated that preparation of the proposed amendments was guided by the Shoreland Zoning Advisory Committee (SZAC). He also described that a public information meeting for the amendments had been held by County Staff on June 23, 2016 at the Town of Delafield Hall. He indicated that the informational meeting was both well attended and well received. He noted that only two written comments were submitted at the hearing- both expressed support for the amendments.

Mr. Fruth then described specific verbal and written comments that were received by Staff ahead of the public hearing:

- A question was asked about how the highest eave limitations would apply to a planned flat roof home. Staff analyzed this issue and consulted with SZAC members and is recommending that flat roofed structures be limited to 35' to the eave (overall height) rather than the typical 32' limitation. The individuals that raised the issue attended the public hearing and expressed their support for the change.
- A local custom home builder expressed a concern about the proposed 42' overall building height limit for homes more than 75' from the lake. He indicated that customer preferences for 10'+ basement heights along with steep pitched rooflines may make 42' difficult. Planning Staff and two builders that were also members of the SZAC later met with the builder and the group agreed that 44' building height be provided as an option in limited scenarios where specified mitigating considerations are provided. The builder has since expressed his strong support for the change and the proposed amendments, in general.

- A local builder expressed concern that the proposed 10' maximum boathouse sidewall height might be constraining for boat clearance. Staff analyzed this issue and consulted with SZAC members and have prepared revised ordinance language that would allow for 12' boathouse sidewalls if a flat roof is proposed. The builder expressed satisfaction with this change. The same builder also expressed a preference for the proposed 15' wide boathouse maximum to be amended to 20'. Staff considered this request and continues to recommend that 15' remain the maximum. Staff explained at the public hearing that the SZAC was generally concerned that changes to State law would now allow boathouses on much smaller properties with the SFPO's existing frontage and lot size requirements being rendered unenforceable. Staff explained that research of typical boat sizes revealed that typical boat width is approximately 8.5' and typical length ranges from 16'-24'. Staff explained that 15' of width would provide ample space for a typical boat while providing enough room to walk around a boat and/or store other marine equipment on the side of the boat.

- The Town of Delafield requested that, for fire safety purposes, the amendments incorporate the building separation requirements of the Town Zoning Code. Staff agreed with this recommendation and has added the 20' separation requirement between a principal structure and another building and the 10' separation requirement between an accessory structure and another building to the Delafield Shoreland Overlay District.

- The Lake Pewaukee Sanitary District expressed concern about lack of erosion control at some lakefront construction sites. Planning & Zoning Staff advised the District that they will continue to remind individuals that are inquiring about demolition permits that most demolition projects require a permit for erosion control from the Land Resources Division.

- Written questions were submitted relative to the applicability of proposed SFPO provisions to a particular property on Road M in the Town of Merton. Mr. Fruth explained that the substandard lot provisions would not apply to lots separated by a road. He also clarified that tree replacement requirements would not apply to trees that fall on their own and that priority tree rules would not apply or override environmental corridor cutting provisions.

Mr. Siepmann then opened the floor to public comments:

Mr. Mark Prange offered the following additional questions and comments during the public hearing:

- Why are decks being considered impervious?

  Mr. Fruth and Ms. Barrows clarified that they had consulted with DNR on this topic and that DNR confirmed that decks must be treated as impervious but that if special provisions are provided to treat runoff from them, they may be able to be excluded from calculations. The proposed impervious surface standards provide for deck runoff to be treated and excluded from calculations.

Mr. Prange stated that he felt that a professional would need to be retained to prove decks should be excluded.

- What are the effects of the proposed split jurisdictional parcel language on parcels zoned Environmental Corridor District?

  Mr. Fruth explained that the proposed language was modeled after language drafted by the Town of Waukesha and was prepared to clarify that the full parcel's area would be used to demonstrate compliance with Shoreland Ordinance area limits. He noted that Staff would further assess the potential impacts of this language as it relates to environmental corridor properties.

- Are accessory structure floor area ratio limits decreasing for some properties?

  Mr. Fruth replied, yes, accessory structure standard changes will give owners of smaller and modest sized lots more allowable accessory structure square footage, whereas the maximum for the largest properties is proposed to decrease from 3% to 2%. It should be noted that the existing requirements restrict accessory floor area, whereas the proposed provisions would limit accessory footprint. He explained that the change to 2% was proposed to better match the requirements of local towns. He noted that Genesee is an example of a town that regulates 2%. He noted that Genesee and other communities have experienced problems with businesses illegally operating out of very large structures on large properties.

  Mr. Prange stated his objection to the change.

Bill Groskopf stated that although he had served on the SZAC for the project, he now questioned whether an 18' boathouse width might be better. He also questioned the requirement of a garage type door. Planning Staff responded that the garage type door requirement has long been a part of the ordinance and was part of the code to ensure that boathouses didn't become dwelling units. Staff also clarified that different types of garage type doors are acceptable (pull down, swinging, glass, etc.). Staff noted that they had contemplated recommending 12' for boathouse width but recommended the more generous 15' width to allow for a boat along with access way space and room for storage of other marine gear, kayaks, etc.

Mr. and Mrs. Mishich offered the following additional questions and comments during the public hearing:

- Would a 35' high flat roof building be accommodated by the proposed ordinance?

  Staff responded, yes, the height from lowest point of building to highest eave is proposed to increase to 35' for flat rooftops.

- Would driveways count towards impervious surface calculations?

  Staff answered, yes, and explained that porous material could be used to avoid having to count the driveway or mitigation could be provided to allow for the highly developed shoreline 30% impervious surface requirements to be exceeded. Staff explained that the proposed Mitigation

Handbook contains many different options that can be selected from if they wish to maximize allowable hard surfaces up to 40%.

- What would the offsets be for boathouses on our property?

  Staff indicated that it appeared their setback would likely be 10'.

- How would retaining walls be handled relative to impervious surface calculations?

  Staff explained that the SZAC agreed that each lineal foot of wall would be counted as one square foot of impervious surface. A follow up question was asked as to whether walls of less than two feet would be counted? Staff responded, yes.

Mr. Groskopf asked whether a survey would be required for all projects subject to impervious surface rules? Staff responded that many projects would require a survey but that some may be able to rely upon old surveys or other sources.

Mr. Peregrine asked how slanting walls would be counted. Mr. Siepmann noted that all walls would be treated the same.

Mr. Prange indicated that he felt the language that requires a restriction be filed to clarify location of the access/view corridor for tree removal of three or more trees along the shoreline is restrictive. Staff stated that the restriction requirement is proposed to make all involved aware of the location of the authorized access/view corridor to help ensure compliance with State law relative to shore cutting.

Mr. Groskopf stated that he does not like the State's new rules on shore setback averaging but noted that he understands that there is nothing that counties can do about them.

With there being no further comment, Mr. Siepmann closed the first public hearing.

Mr. Siepmann opened the second public hearing relative to the Shoreland & Floodland Subdivision Control Ordinance.

Mr. Groskopf indicated that he did not fully understand the nature of the changes.

Mr. Fruth explained that the changes are limited to adding a lot area and width table to the ordinance.

There were no other comments from the public and the hearing was closed.

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EXHIBIT "B"

# Detailed Summary of Proposed Shoreland and Floodland Protection Ordinance Amendments

**Building Area Summary** (Sections 3(j)4 and 5, pgs. 80-82)

**Why are changes to existing floor area ratio (ratio of building area to lot) and open space regulations being proposed?**

- Existing standards do not provide for reasonable use of many existing non-conforming lots.
- FAR does not control overall building size or volume, as exposed basements, areas with vaulted ceilings and attic spaces do not count.
- Eliminate unnecessary variances.

**Proposed "Building Footprint" Provisions:**

Overall Building Footprint: Maximum 17.5% or 1,100 sq. ft. (whichever is greater) all residential districts.

Existing FAR % limits converted to footprint % for all other zoning districts (i.e. A-2 District 10% FAR becomes- 10% Footprint).

Accessory Building Footprint:

| Lot Area | Maximum Accessory Building Footprint |
|---|---|
| <14,000 sq. ft. | 600 sq. ft. |
| 14,000 sq. ft. or greater | 750 sq. ft. or 2% of lot area, whichever is greater |

*Exceptions available for farm consolidation parcels in farmland preservation areas.

**Compliance with overall maximum footprint also required.

Improvements to structures non-conforming to footprint standards:

- Limit structures that exceed the footprint standards to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.
- No horizontal expansions are permitted.
- Vertical expansions limited to area of allowable footprint for structure (i.e. if structure currently has a 3,000 sq. ft. footprint and 2,000 sq. ft. is allowed, the proposed 2nd story shall not exceed 2,000 sq. ft).

**Height** (Section 3(i), pgs. 74-76)

**Why are changes to structure height provisions being proposed?**

- State law requires structures 75' or less from the shore to be a maximum of 35' in height.
- Elimination of FAR prompts need for height controls to be re-visited in tandem with proposed footprint scheme.

Current Height Limitations

| | |
|---|---|
| Lowest exposure to highest floor line | 27' |
| Lowest exposure to highest eave | 36' |
| Lowest exposure to highest point of roof | 46' |

*Examination of 104 recent new home permits showed 92% were proposed to be 42' or less.

Proposed Principal Building Maximum Height:

- 35' (lowest exposure to highest peak) within 75' of shore or lots < 65' wide.
- 35' overall height when a flat roof is provided on all lots.
- 42' (lowest exposure to highest peak) beyond 75' of shore & lots 65' or more in width.
    - 1 ft. increase per 10 ft. setback from 75' shore or DSO setbacks, max. height 44'.
    - Requires planting of 3 native trees at least 2" dbh.
- 32' Maximum height (lowest exposure to highest eave) beyond 75' of shore & lots 65' or more in width.

Proposed Maximum Accessory Building Height:

*Within 75' of shore*:

- Building sidewalls cannot exceed 10' or 12' if a flat roof is provided, unless slope exceeds 3:1, in which case side walls can be 15' high if flat roof is provided.
- Roof pitch cannot exceed a pitch of 8:12 rise to run.

*75' or more from shore*:

- 18' height limit to remain for residential districts and increase rural residential districts height (non-farm building) limit from 15' to 18'.
- Limit 1' height increase provision that provides an additional foot of height for each additional foot that a structure is offset from property lines to the rural residential/agricultural districts.

**Shore Setback Summary** (Section 3(h)2, pgs. 66 – 71)

**Required shore setback remains 75', per State law.**

**Shore Setback averaging (adjacent structures within 75' of shore):**

- State law allows for structures on adjacent lots that are located within **250'** (increased from 200') of a proposed structure to be used for setback averaging as follows:
    - If principal structures substandard to shore setback exist on both adjacent lots and within 250', a proposed principal structure may be located a distance equal to the average setback, **but no less than 35' from the OHWM.**
    - If a principal structure exists on an adjacent lot and within 250 ft. of a proposed structure in only one direction; is the closest principal structure; and is set back less than 75 ft. from the OHWM, the shore setback shall be equal to the average of 75 ft. and the distance that the adjacent structure is set back from the OHWM, **but no less than 35 ft.**

- The following County shoreland setback averaging provisions are less restrictive than current State law and must be modified:
  - If an adjacent building on one side of the subject parcel contains a structure setback further than 75', setback averaging can no longer be used- even if the structure on the other side is substandard to shore setback.
  - An existing building substandard to shore setback on the subject parcel can no longer be used for averaging to achieve an addition.
  - The administrative provision that allows Zoning Administrator to reduce required shore setback when a minimum 30' deep building envelope is not available is not permitted by State law.
  - Shore setback can currently be reduced to 30' w/ averaging (law now requires 35').
- *Delafield Shore Setback Averaging (adjacent structures beyond 75' of shore).*

  Within the Delafield Shoreland Overlay District, if the closest principal structure in each direction to a proposed structure exists on an adjacent lot and within 200 ft. of the proposed structure and both of the principal structures are set back more than 75 ft. from the OHWM (based on required setback at time of construction), the setback shall be equal to the average of the setbacks required for those structures.

**Improvements to structures non-conforming to shore setback only.**

- Reconstruction, remodeling and repair permitted without limitation.
- Vertical expansions may be allowed (may not exceed 35' in height).
- Horizontal expansions within setback (up to a maximum of 200 square feet) allowed if mitigation is provided and expansion is minimum of 35' from shore. Horizontal expansions beyond setback permitted.
- Relocation permitted if 35' or more from shore with mitigation (if no conforming location available).

**Wetland and Floodplain Setback Summary** (Section 3(h)2, pgs. 66 – 71)

- Recent State law prohibits a County from regulating floodplain matters beyond *any* floodplain boundary. Therefore, the 75-ft. floodplain setback and averaging provisions must be removed. The proposed amendments include a 35-ft. floodplain setback if the area of the setback is located within the 0.2% chance floodplain as designated by FEMA. These areas are most vulnerable to flooding outside of the regulated floodplain, but within an unregulated studied floodplain.
- Remove the 50' setback relief provision relative to wetlands 3' vertically separated from a proposed structure and instead allow relief via amended non-conforming structure provisions because wetland boundaries are not determined by elevation and there is no environmental benefit to a vertical separation.

- Provide for maximum 200 square foot sheds to be located a minimum of 35' from wetlands and floodplains provided no other conforming location exists.
- All other existing wetland setback averaging provisions remain in place.

*Structures nonconforming to wetland and floodplain setback*

- Within 35 ft. of a wetland or floodplain: Limit structures to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.
- 35 ft. and greater (wetland only). In addition to the above:
  - Allow vertical expansions that meet the height requirements
  - Allow horizontal expansions (principal structures only) that do not exceed 200 sq. ft. in area over the life of the structure.
  - Allow the replacement or relocation of a structure of equal or less size if no other conforming location is available as determined by the Zoning Administrator and provided the structure is no closer to the wetland than the existing structure.
  - Mitigation is required to offset the impacts of any horizontal expansion.

**Offset** (Section 3(h)3, pgs. 72 – 74)

**Existing offset (measurement from side and rear lot line) requirements:**

- Residential districts: 20' minimum (unsewered), 14' (sewered)
- Accessory buildings less than 200' sq. ft.: 5' minimum.
- Substandard lots: Proportionate relief available for side offset based upon average lot width.

  i.e. (50' wide lot/120' required lot width X 20' required offset= 8.3' required offset)

**Proposed offset reductions for sub-standard lots (lots less than 120' wide (unsewered), or 84' (sewered):**

| Lot Width (ft.) | Required Offset (ft.) |
|---|---|
| 35 ft. or less | 5' |
| > 35 ft. - 50 ft. | 7' |
| >50 ft. to < 84 ft. | 10' |
| 84 ft. to < 120 ft. | 14' |

*Within agricultural, commercial, or industrial districts, if lot does not comply with the district lot width standards, the offset requirements specified in the above table apply, unless the district offset is less restrictive.

*Other proposed offset changes:*

- Include all structures, not just buildings, as being subject to the offset provisions.
- Reduce deck/patio side offset requirements to 50% of distance of specified offset, but no closer than 5 ft. Stairs and walkways may be permitted 5 ft. from a lot line.

*Structures nonconforming to offset*

• *Within 5 ft. of lot line*
  - Limit structures to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.

• *5-10 ft.* In addition to the above:
  - Expansions require a special exception, provided the expansion is no closer to the offset than the existing structure and provided the area of the expansion does not exceed 50% of the footprint of the existing structure, cumulatively over the lifetime of the structure from the effective date of the revised ordinance.

• *Greater than 10 ft.* In addition to the above:
  - Expansions are permitted by right, provided the expansion is no closer to the offset than the existing structure and area of expansion does not exceed 50% of the footprint of the existing structure, cumulatively.
  - Expansions that exceed 50% of the footprint of the existing structure require a special exception provided the area of the expansion is no closer to the offset than the existing structure.

***Road Setback*** (Section 3(h)1, pgs. 63 – 66)

**Current setback requirements:** 50' (unsewered), 35' (sewered)

**Proposed setback relief:**

35' (if lot located on a local road and sewered or platted in a subdivision recorded after 10/1/16, applicable in most districts).

**Improvements to structures non-conforming to road setback only.**

*Structures nonconforming to road setback*

• Within 20 ft. of base setback line:
  - Limit improvements to interior and exterior remodeling and the replacement of less than 50% of the existing exterior structural members over the lifetime of the structure.

• 20 to < 35 ft. In addition to the above:
  - Allow vertical expansions that meet the height requirements.
  - Allow horizontal expansions (principal structures only) that do not exceed 200 sq. ft. in area over the life of the structure provided the expansion is no closer to the road than the existing structure.
  - Allow the replacement or relocation of a structure of equal or less size if no other conforming location is available as determined by the Zoning Administrator and provided the structure is no closer to the road than the existing structure

- 35 ft. and greater. In addition to the above:
  - ➢ Allow horizontal expansions (principal structures only) provided the expansion is no closer to the road than the existing structure.

**Road Setback Averaging:**

Modify road setback averaging to be consistent with shore setback averaging to make averaging available only if similar type structures exist on adjacent properties within 250 ft. and on the same side of the road. The existing building on the subject property may be used for averaging.

## Impervious Surface Summary (Section 3(t), pgs. 95 - 98)

**What is impervious surface?**

An area that releases as runoff all or a majority of the precipitation that falls on it. Examples include, rooftops, driveways, patios, decks, sidewalks, swimming pools.

**Why are impervious surface regulations being proposed?**

- Required by State law in order to reduce amount of sediment and pollutants entering lake.
- Protect water quality and fish and wildlife habitat.
- Economic analysis concluded that water quality directly relates to property values.

**Where do impervious surface rules apply?**

- Within 300' of the ordinary high water mark (OHWM) of a navigable water on any riparian (shore) lot or any non-riparian lot that is entirely within 300' of the OHWM.

**How is impervious surface coverage calculated?**

Divide the surface area of existing and proposed impervious surface on a riparian lot or a non-riparian lot fully within 300' of the OHWM by the total surface area of the lot and then multiply by 100.

| **Impervious Surface Limitation Recommendations** | |
|---|---|
| ***General Standard*** | ***Highly Developed Shorelines*** |
| 15% (without mitigation) | 30%- residential use (without mitigation) |
| 30% (with mitigation) | 40%- residential use (with mitigation) |
| | 40% commercial/industrial use (without mitigation) |
| | 60%- commercial/industrial use (with mitigation) |

*Existing IS can be maintained, repaired, replaced, relocated or modified.
*Treated impervious surfaces are exempt.

Proposed Application (as recommended by SZAC):

- Employ General Standard for shorelines that do not meet highly developed criteria (i.e. Ashippun Lake, Willow Spring Lake, Mukwonago River, Oconomowoc River, etc.)
- Employ Highly Developed Shoreline Standard for all areas that meet qualifying criteria (i.e., most large lakes (Okauchee, Pewaukee, Lac La Belle, North and other densely settled shorelines (i.e., Keesus, Pretty, parts of Eagle Spring, Phantom and Beaver Lakes).

Treated Impervious Surface (Per State law, excluded from Impervious Surface calculations)

- *Proposed Performance Standard*
  - The first ½ inch of runoff from the area of impervious surface (IS) to be excluded from the IS calculation must either infiltrate or be treated according to the IS coverage standards of NR 115 and State Shoreland law.
  - The calculation of the runoff volume is simply the area of the IS to be excluded multiplied by the runoff depth (1/2 inch or 0.04 ft.). For example: (1,000 sq. ft.)(0.04 ft.) = 40 cubic feet.
  - The stormwater infiltration or treatment system shall comply with an adopted County or State post-construction stormwater management technical standard or guidance document.

- *Proposed Exclusion Standard*

  The County may exclude an impervious surface from the IS calculation provided the property owner can demonstrate that one or more of the following general standards apply, and that all applicable stormwater BMP technical standards are met:

  1. One half inch of runoff from the impervious surface is treated by a stormwater BMP* (defined); or
  2. One half inch of runoff from the surface is discharged to an internally drained pervious area that retains the runoff on or off the parcel to allow infiltration into the soil.

- *Proposed County permitting standard*

  A County Stormwater Permit shall be issued and all technical standards of the County Stormwater Management & Erosion Control Ordinance be met. This will include application materials, financial assurance, and recorded maintenance agreement.

**Mitigation Summary** (Section 3(u), pgs. 98 – 107)

**What is mitigation?**

Balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

**Why are mitigation standards being proposed?**

- Required by State law for the following activities:
  - Exceed basic Impervious Surface (IS) thresholds (see IS Summary Sheet for more detail).
  - Relocation of a similar sized structure within the shore setback (existing structure must be 35' from shore).

- Horizontal expansion (200 sq. ft. or less) of a structure within the shore setback (existing structure must be 35' from shore).

- Advisory committee supported use of mitigation to allow for expansions of structures substandard to wetland setback.

**Mitigation Options:** Vegetative Buffers, side yard buffers, decrease width of access/view corridor, screen retaining walls, remove retaining walls, increase shore setback, remove improvements within 75' of shore, remove seawall/rip rap, use of earth tone building materials, remove non-conforming structure or 2nd story of boathouse, remove boathouse, treated impervious surface, restore part of property to natural state, maintain/establish shoreline habitat (fallen trees/fish sticks), and alternative approved methods.

**How much mitigation is required?**

A Mitigation Handbook has been prepared that details the number of points available for each of the above practices. The Handbook details the number of required points for different types of projects. Mitigation must be proportionate to offset the potential impacts of the activity being proposed.

**How will mitigation practices be maintained and monitored over time?**

- Deed restrictions will be recorded against property describing maintenance requirements.
- Inspections by applicant/landscape consultant with reports to County after year 1, 3 and every 5 years thereafter.
- Periodic random inspections by Staff.

## Boathouse Provisions Summary (Section 3(s), pgs. 94 and 95)

**Why are changes to boathouse rules being proposed?**

- State law changes prohibit counties from setting minimum lot size requirements for boathouse eligibility.
- Removal of lot size requirements for boathouses increases need for maximum size limits.
- DNR interpretation of State law changes prohibits counties from regulating overall height of boathouses to less than 35', which prompts need for alternative height measures.
- NR 115 prohibits installation of plumbing in boathouses.
- State law requires boathouses to be constructed within access/viewing corridors.

**County boathouse rules to be modified or deleted are in ~~strike-through~~. New or amended rule language is in *italics*:**

Lots eligible for boathouses

- Dwelling must be present and maximum of one boathouse per lot.
- ~~Not allowed on lots less than 15,000 sq. ft. in area or less than 100 ft. in width.~~

Boathouse Location standards

- 5 ft. shore setback and within ~~50 ft.~~ *35 ft.* of shore.
- Must be located outside of the wetland and floodplain.

- Must comply with offsets.
- *Must be located entirely within the access and viewing corridor* (per State law).

Boathouse Size requirements

- Minimum size = 200 sq. ft.
- *Maximum size = 450 sq. ft. Overhangs shall not exceed 2 ft. in width.* ~~Within Delafield Shoreland Overlay, max. size = 600 sq. ft.~~
- *The boathouse shall not exceed 15 ft. in width, measured parallel to the shore.* ~~Within Delafield Shoreland Overlay, max. width is 20'.~~
- Limited to 1-story *with a side wall height not to exceed 10 ft. and a pitch not to exceed 8:12 rise to run (equivalent to max. 15 overall height) or a side wall not to exceed 12 ft. if a flat roof if provided, unless slopes exceed 3:1, in which case side wall can increase to 15' provided that a flat roof is provided.* ~~and the height shall not exceed 15 ft.~~
- *Maximum overall and accessory building footprint limitations replace floor area ratio and accessory floor area ratio limits.*

*Boathouse use and structure requirements*

- Storage of marine and accessory items only. Human habitation prohibited.
- ~~Limited plumbing allowed, toilet or shower~~. *No plumbing allowed* (per NR 115).
- Must have a garage type door facing the lake.
- Flat roofed boathouses may be used for recreation and ~~canopies,~~ railings, and access stairs are considered ordinary appurtenances.

## Miscellaneous Zoning Matters Summary

*AD-10 and RRD-5 District revisions* (Section 15 and 16, respectively, pgs. 184 - 198)

Remove prime agricultural soils preservation requirements from these density zoning districts but continue to allow for either rural development patterns or clustered developments at 10-acre and 5-acre densities, respectively.

*AO- Existing Agricultural Overlay District*

Delete district and all references to the district throughout the ordinance as it is not mapped within the shoreland jurisdictional area.

*Applicant* (Section 2(b)18, pg. 7)

Expand definition to allow utility companies to apply for permits when they demonstrate that they hold valid easements or have established prescriptive rights.

*Breezeway* (Section 3(d)1, pg. 49)

In order for a breezeway to be considered an attachment between structures, the following criteria must be met unless the structure is located in the floodplain:

- Enclosed on all sides.
- Minimum 8 ft. in width.
- Maximum 20 ft. in length.

*C-1 Conservancy & C-1 (EFD) Existing Floodplain Development Overlay Districts* (Section 7 and 8, pgs. 144 - 159)

Modify permitted uses for compliance with State standards and to make existing provisions easier to understand. Specific standards are included for activities such as the maintenance of roads for silvicultural activities, agricultural cultivation and the establishment of parks.

*Definitions* (Section 2(b), starting on pg. 4)

Add or modify the following definitions for consistency with State law/rules and to define new terms or clearly define existing terms: access and viewing corridor; applicant; boathouse; building footprint; county zoning agency; diameter at breast height; existing development pattern; flood stage; floor area; generally accepted forestry management practices; impervious surface; infiltration; lot; lot area; lot width, minimum average; maintenance; mitigation; navigable waters/waterway; pervious area; practical difficulty; residence; road, local; routine maintenance of vegetation; runoff; setback, floodplain; setback, shore; setback, wetland; shorelands; shoreland/wetlands; Shoreland-Wetland Zoning District; stormwater; stormwater BMP; structure; and wetlands.

*Delafield Shoreland Overlay District* (Section 37, pgs. 244 - 246)

- Modify shore setback standards for compliance with State laws, see shore setback summary.
- Add Town's existing separation between building requirements at the request of the Town of Delafield, which includes a 20 ft. separation requirement from a principal structure and another building and a 10 ft. separation requirement between an accessory structure and another building.

*General Provisions* (Sections 3(a)1, 3(b)1 & 4, and 3(c)2.L; pgs. 36 – 39 and 43 , respectively)

- Specify area of jurisdiction and statutory exemptions from permitting.
- Provide accommodations for persons with disabilities in accordance with federal and state law.

*Lot Area Regulations* (Section 3(j)2.F, pgs. 78 and 79)

- If a single legal lot of record exists and is split by a road, allow the acreage from both sides of the road to be used for calculating compliance with area regulations.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, the lots shall be considered separate lots and area regulations shall be administered based upon each individual lot- not the combined acreage of the lots.
- If a property owner owns multiple lots of record that are located on opposite sides of the same road, with the lots being directly opposite one another for at least one-half of road frontage of one of the lots, an accessory structure can be constructed without benefit of a principal residence being present on the same parcel subject to the following requirements:
  - A principal residence must be present on the opposite-side parcel.
  - A CSM that encompasses both parcels shall be recorded. The CSM shall state that the lots may not be sold separately unless the accessory building is removed in the future.
  - Maximum accessory building footprint calculations shall be solely based upon the acreage of the parcel upon which it will be built.

*Minimum Building Footprint* (Section 3(o)3.H, pg. 91)

Provide provisions that allow Zoning Administrator to administratively approve a building footprint not to exceed 1,100 square feet when application of required offsets and setbacks does not provide an 1,100 s.f. footprint. The Zoning Administrator shall only administratively reduce road setback, floodplain setback and wetland setback in providing such an envelope.

*Minimum Floor Area* (Section 3(j)1, pgs. 76 -78)

- *Standardize minimum floor area requirements across all zoning districts to match the existing R-3 District requirements:*

  Minimum 1st floor area= 850 square feet

  Total floor area= 1,100 square feet

- *Reduce minimum multi-family dwelling unit size requirements as follows:*
  - 1 BR unit = 600 square feet
  - 2BR unit = 700 square feet
  - 3BR unit = 800 square feet
  - Additional 100 square feet for each additional bedroom
  - 2-family dwellings, 850 square feet per unit (1,700 square feet total)

*Minimum Lot Size*

To comply with recent law changes, the lot size requirements of the Shoreland & Floodland Protection Ordinance (SFPO) are proposed to be inserted in the Shoreland & Floodland Subdivision Control Ordinance and said requirements are proposed to be cross referenced in the SFPO.

*Multi-family Conditional Use Modifications* (Section 4(g)20, pgs. 124 and 125)

Simplify regulations in the multi-family CU section, including the consolidation of multiple tiers of density relief for ease of regulation.

*Nonconforming Structures* (Section 3(o), pgs. 85 -91)

Provide additional flexibility with a tiered relief scheme for nonconforming structures depending on the severity of nonconformity. The scheme applies to structures nonconforming to shore, wetland, floodplain, road setback, offset, building footprint, boathouse standards and height. Currently, variances are required for most improvements to nonconforming structures.

*North Lake Overlay District* (Section 26, pgs. 217 and 218)

Create overlay district to establish minimum elevation requirements for improvements near North Lake that respect the multiple documented high floods of record that have exceeded the FEMA floodplain elevation.

*Planned Unit Developments (PUDs)* (Section 4(g)22, pgs. 125 – 128)

- Incorporate NR 115 language that requires minimum PUD size of two acres or 200' of shoreline if lot sizes of off-lake lots are to be reduced below the NR 115 required minimum sizes.

- Add shore buffer requirements if off-lake lots size will be flexed below NR 115 limits.
- Consolidate multiple tiers of density relief for ease of regulation.
- Delete references to open space and floor area ratio. Add wetland setback, building footprint and accessory building footprint to the list of standards that can be flexed through the PUD process. Wetland setback can only be flexed if mitigation is provided to offset the impacts of the reduced setback.

*Public Hearings* (Section 40, pg. 258)

Per State rule, send all notices of public hearings to the WDNR and where applicable, ACOE and EFMA, at least ten (10) days prior to any hearing.

*Sewer Reductions*

References to sewer reductions were removed throughout the ordinance and instead sewer reductions are specifically identified in each applicable district in order to be more user friendly.

*Split Jurisdictional Parcels* (Section 3(a)2, pgs. 37 and 38)

Add language to clarify that the full parcel acreage can be used to demonstrate compliance with area regulations for parcels that are split between County shoreland jurisdiction and town zoning jurisdiction.

*Substandard Lots* (Section 3(j)3, pgs. 79 and 80)

- Required NR 115 language will be inserted to indicate that adjacent lots substandard to NR 115 lot size requirements cannot be used as separate building sites if one or more buildings has ever extended onto individual lots. In addition, such a substandard lot cannot be built upon if the lot was ever formally combined by deed with a single legal description, subdivision plat, certified survey map or plat of survey (with preparation of new deed).
- Remove existing code provision that prohibits sale of adjacent substandard parcels of record that are owned in common.

*Vegetative Removal* (Section 3(d)9, pgs. 55 – 59)

- Increase access/viewing corridor width limits from 30% to 35% of shore frontage and make other minor amendments to incorporate required NR 115 language.
- Clarify that shore cutting is permissible to provide for boathouses, walkways, and view corridors between the lake and house on lots zoned E-C District.
- Add specific permit and plan requirements, including replacement densities. Require 1" dbh replacement trees for removal of dead, diseased, dying trees and 2" dbh for live, healthy trees with exceptions if it is demonstrated that soil conditions, crowding or other site specific conditions warrant the replacement standards impractical.
- Require that removed shrub and groundcover be replaced with native shrub and groundcover densities specified in Wisconsin Biology Technical Note 1: Shoreland Habitat unless site conditions prohibit strict compliance, in which case Staff shall make a determination as to whether the re-planting plan meets the spirit and intent of the ordinance.

- Preservation requirements for certain priority trees according to the following:
  - Qualifying trees are limited to those live, healthy trees of 12" or more dbh that are identified in the ordinance as priority tree species.
  - Trees within a permissible view corridor or that present a safety hazard are exempt from the preservation requirements.
  - Trees within areas zoned EC Environmental Corridor District are not subject to these provisions, as unique code provisions address tree removal in said areas.
  - Priority trees may be cut to accommodate permissible structures, driveways, utilities, septic systems and an affiliated construction disturbance area extending 30' beyond the proposed improvement. Site grading that complies with other ordinance requirements that necessitates tree removal will also be permitted.
  - Replacement trees must be a minimum of 2" dbh.
  - Area of applicability. The committee recommended that such standards should apply no further than 300' from the shore.

*Zoning Agency Responsibilities* (Section 41(a)2, pg. 259)

Per State rule, add a provision that requires the zoning agency to keep all minutes and records of its examinations and other official actions, which shall be public record.

*Zoning Amendments* (Section 39, pgs. 251 - 257)

In order to comply with State rules, add the following language:

- Send copies of decisions to WDNR within ten (10) days of a decision.
- Remove language that states the County ordinance still applies in annexed cities/villages.
- Specify procedures for actions taken by a County Board that do not comply with Section 59.692 of Wis. State Statutes.
- Specify that Waukesha County is required to adopt all amendments to the Wisconsin Wetland Inventory Maps.

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**EXHIBIT "C"**

# Building Area and Height

## Current Building Area Limits

Open Space = area of lot devoid of buildings or covered structures

R-3 Residential District Standards

15,000 sq. ft. for unsewered lots  10,500 sq. ft. for sewered lots

- Substandard lots in other residential districts revert to R-3 district requirements
- Each zoning district has a stated amount of required open space

Limitations

- Substandard lots less than 15,000 sq. ft. are not able to comply with basic requirement

| Lot Size (sq. ft.) | Total F.A.R. permitted (at 15%) |
|---|---|
| 5,000 | 750 sq. ft. |
| 6,000 | 900 sq. ft. |
| 7,000 | 1,050 sq. ft. |
| 8,000 | 1,200 sq. ft. |

Floor Area Ratio (FAR) = Total floor area / total area of the lot

Residential District Standards

15% for unsewered lots  19.5% for sewered lots

- Percentage differs among zoning districts
- Most requested type of variance- 49 requests over last two years

Limitations

- Works best for conforming lots
- Severely substandard lots not able to acheive minimum floor area
- FAR less relevant with finished basements and vaulted ceilings

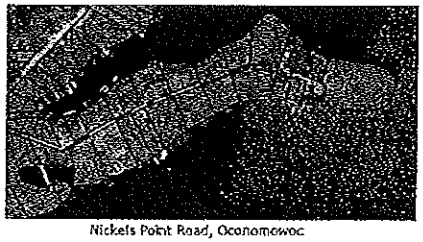
## Why are area regulations changing?

To better accommodate today's living standards on substandard lots

Provide a simplified Code for property owners

Reduce the number of variances needed for reasonable home and garage sizes

Accessory FAR may not provide for reasonable size garage



Nickels Point Road, Oconomowoc

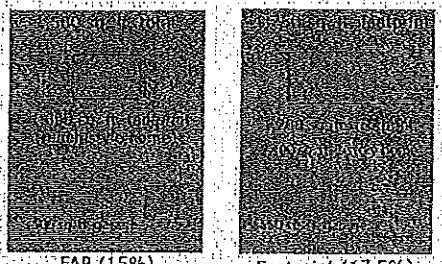
Legend

Variance requested

85% of lots on Nickels Point Rd have at least one variance request

Avg. lot size 10,094 sq. ft.

## FAR vs. Footprint
### Sample 10,000 sq. ft. parcels




*not including basements

## Height

Current Height Limits

- Tiered Scheme for principal structures
  - 27 ft. to highest floor line
  - 36 ft. to any eave
  - 46 ft. to the peak
- Waterfront structures shall not exceed 3 stories when viewed from the lake (not proposed to change)

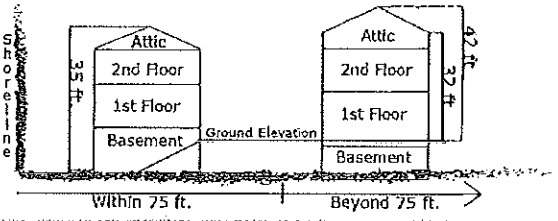
*Why are height rules changing?*

*State law requires structures 75 ft. or less from the shore to be a max. of 35 ft. in height.*

*Adapt to footprint scheme*

Proposed Height Limits

- 35 ft. to peak within 75 ft. of shore or lots less than 65 ft. wide
- 35 ft. with flat roof (all lots)
- 42 ft. to peak at least 75 ft. from shore and lots 65 ft. or more in width
  - 1 ft. increase per 10 ft. setback from 75' or OSO setback
  - Requires planting of 3 native tress 2" DBH
- 32 ft. maximum height to highest eave beyond 75 ft. of shore and lots 65 ft. or more in width




## Proposed Footprint/Lot Coverage Scheme

Building footprint = ratio of total building coverage to lot area.

Advantages

- Less focus on "useable" space
- Combined with height, produces maximum 30 envelope

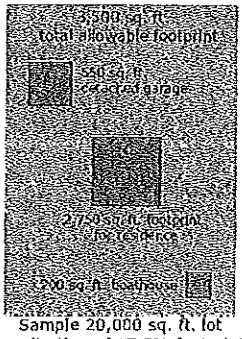
Proposed Overall Footprint Limits

- Maximum 17.5% overall footprint or 1,100 sq. ft., whichever is greater (residential)
- Simplified computation of allowable building size
- Existing FAR limits convert to footprint % for all other districts

Proposed Accessory Building Footprint Limits

| Lot Area | Max. Accessory Bldg. Footprint* |
|---|---|
| <14,000 sq. ft. | 600 sq. ft. |
| ≥14,000 sq. ft. | 750 sq. ft. or 2% of lot area, whichever is greater |

*Must comply with overall maximum footprint




Sample 20,000 sq. ft. lot application of 17.5% footprint

Nonconforming to the footprint standards?

- Structures that exceed allowable footprint are limited to interior and exterior remodeling and replacement of less than 50% of the existing exterior structural members
- Horizontal expansions not permitted
- Vertical expansions limited to the area that encompasses allowable footprint

# SHORE SETBACK

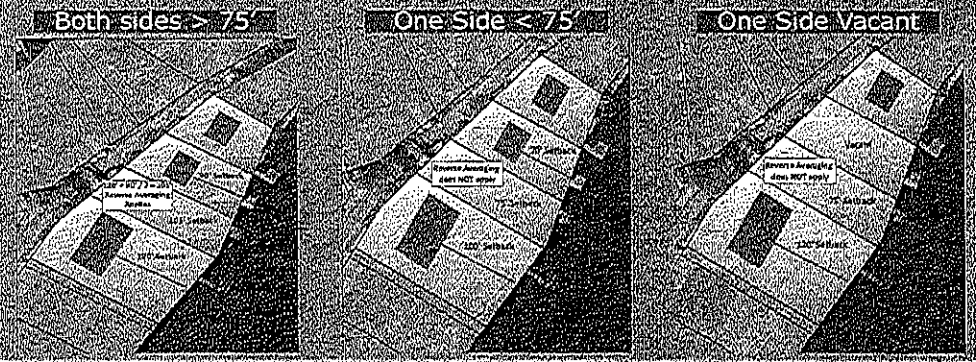
## Shore Setback Averaging

- A structure may be constructed closer than 75′ to the shore using setback averaging as follows:

1. If principal structures substandard to shore setback exist on both adjacent lots and within 250′, a house may be located a distance equal to the average setback.

2. If a principal structure exists on an adjacent lot and within 250′ of a proposed structure in only one direction; it is the closest principal structure; and is setback less than 75 ft., the average of 75′ and the setback of the adjacent structure shall apply.

**Averaging cannot reduce setback below 35′.*


## Delafield Shore Setback Averaging

- If structures are greater than 75′ from shore and are present on both sides 'reverse averaging' applies.
- Closest structures must be on adjacent lots and within 200′.

## Nonconforming Structures to Setback

- Reconstruct, remodel and repair without limitation.
- Vertical expansions allowed.
- Horizontal expansions of structures at least 35′ from shore (up to a maximum of 200′ S.F.) allowed if mitigation is provided.
- Horizontal expansions beyond setback
- Relocation if 35′ from shore (w/mitigation)

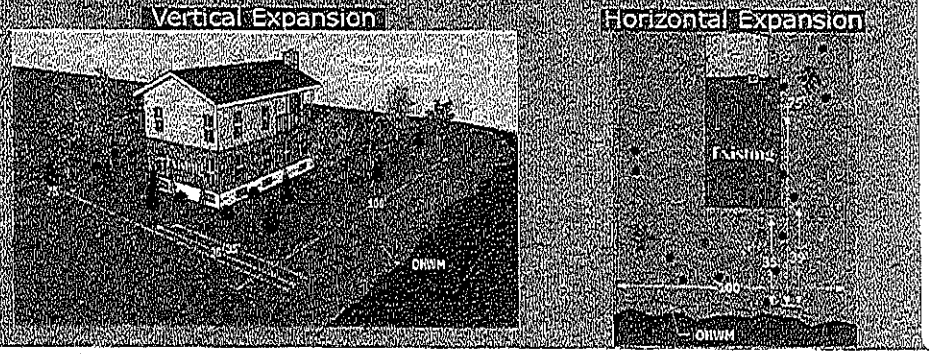



EXHIBIT "D"

# Offsets for Substandard Lots

Offset is the distance between a side or rear lot line and a structure.

EXHIBIT "E"

## Existing Offsets

*Residential districts*
20 ft. min. (unsewered); 14 ft. (sewered)

*Accessory buildings*
200 sq. ft. or less = 5 ft. min.

*Relief for Substandard lots*
Proportionate relief available for side offset based upon average lot width

$$\frac{\text{50' wide lot}}{\text{120' req'd lot width}} \times \text{20' req'd offset} = \text{8.3' req'd offset}$$

## Limitations of Current System

- Variability in determining offset
- Average width creates inconsistency
- System heavy on math

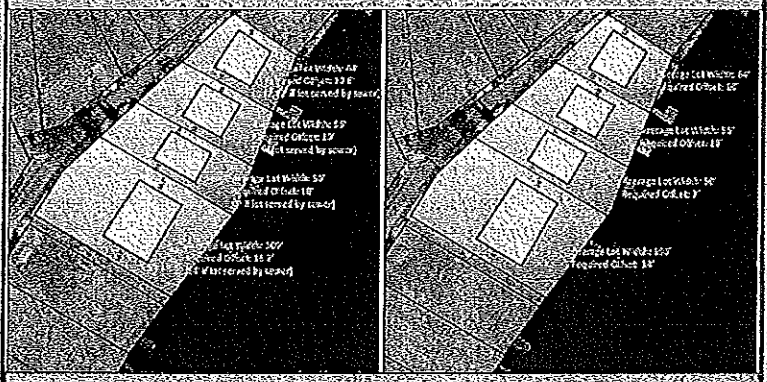
## Proposed Offset Relief

*Qualifying lots*
- Sewered: lots < 84 ft. in avg. width
- Unsewered: lots < 120 ft. in avg. width

| Lot Width (ft.) | Required Offset (ft.) |
|---|---|
| 35 ft. or less | 5 ft. |
| >35 ft.–50 ft. | 7 ft. |
| >50 ft. to < 84 ft. | 10 ft. |
| 84 ft. to <120 ft. | 14 ft. |

Substandard lots in other districts refer to above, unless district offset is more restrictive.

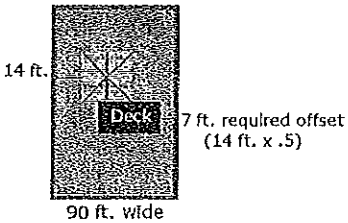
## Examples of Offset Reductions for Lots Substandard to Average Lot Width Requirements



*Existing* *Proposed*

## Decks/Patios/Walkways

- Offsets = 50% reduction
- 5 ft. absolute minimum
- Stairs & walkways = 5 ft. min.



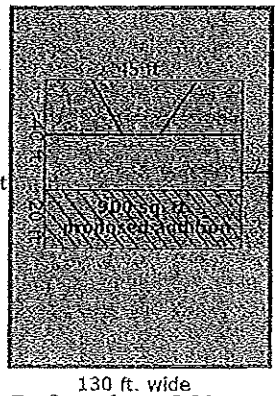

## What if my house is non-conforming to offset requirements?

Structures non-conforming to offset may be expanded depending on the severity of non-conformance.

| | |
|---|---|
| Within 5 ft. of the lot line | • Repair/replace 50% of exterior structural members<br>• Tracked over lifetime of structure<br>• Variance required for additions |
| Between 5-10 ft. (see example) | • Additions can be no closer to lot line<br>• Cannot exceed 50% of the footprint of existing structure<br>• Special Exception required from Board of Adjustment. |
| Greater than 10 ft. to required offset of the district | • Addition permitted by right if :<br>Expansion is no closer than existing structure<br>Is 50% or less than the existing footprint<br>• Expansions greater than 50% of the footprint require Special Exception. |

*Sample of non-conforming structure addition*

- Req'd offset: 20 ft.
- 1,800 sq. ft. existing footprint
- addition limited to 900 sq. ft. footprint
- 7 ft. min. offset
- Special Exception required



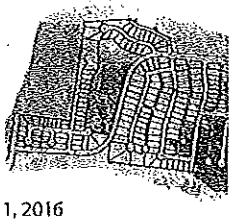
# Road Setback

Road setback is the required distance between the base setback line and a structure.

The base setback line is determined by the ultimate road right of way width and applies to all structures.

Existing Limits

50 ft. (unsewered)
35 ft. (sewered)



Proposed Setback Relief

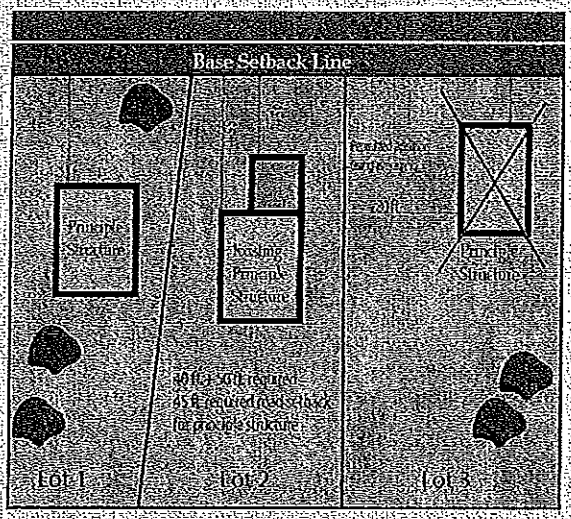
35 ft. for sewered lots if on a local road

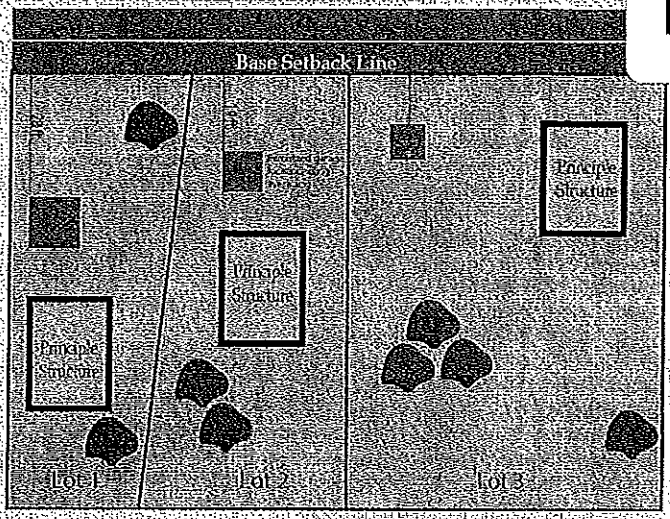
35 ft. for lots within subdivisions platted after Oct. 1, 2016

EXHIBIT "F"

## Road Setback Averaging

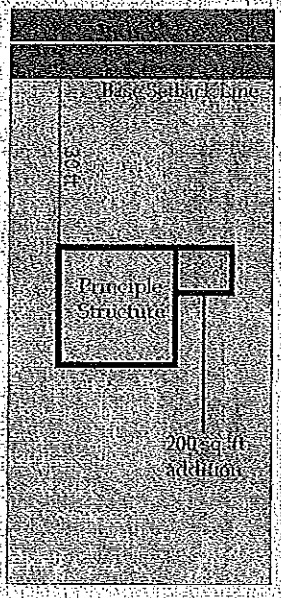
- Amend to allow averaging within 250 ft. instead of 200 ft.
- Must be located on the same side of the road
- Existing building may be used




## What if my house is non-conforming to road setback requirements?

| | |
|---|---|
| Within 20 ft. of the base setback line | • Interior and exterior remodeling<br>• Replacement of exterior structural members not to exceed 50%<br>• Tracked over the lifetime of the structure |
| 20 ft. to < 35 ft. | • In addition to the above...<br>• Allow vertical expansions<br>• Allow 200 sq. ft. horizontal expansions over the lifetime of a principle structure<br>• Expansion cannot be closer to road<br>• Replacement or relocation of equal or less size may be permitted if no other location |
| 35 ft.—50 ft. | • In addition to the above...<br>• Allow horizontal expansions to principle structures<br>• Expansions cannot be closer to the road |

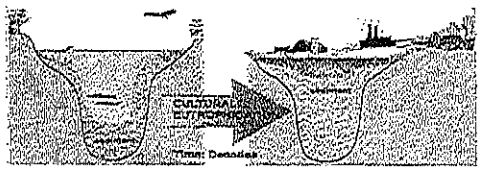



Structures permited through averaging are not subject to the above provisions

# IMPERVIOUS SURFACE

Why are Impervious Surface regulations being proposed?

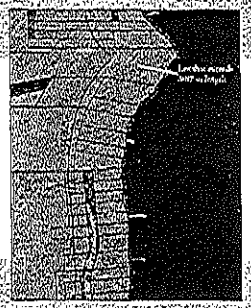
- Required by State law to reduce amount of sediment and pollutants entering lakes and streams.
- Protect water quality/fish and wildlife habitat.
- Economic analysis concluded that water quality directly relates to property values.



## APPLICABILITY

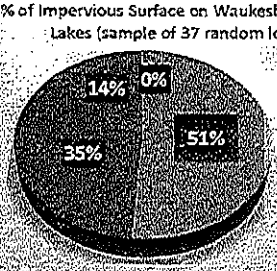
- Within 300' of the shore on any riparian lot or any non-riparian lot that is entirely within 300' of the shore.
- Highly developed shoreline limits proposed to apply to most lakefront properties (see map).
- General standard to apply to "rural" shorelines.

Example of lots exceeding 300' in length and non-riparian properties entirely within 300' of the shore.



| Impervious Surface Limitations: | |
|---|---|
| General Standards | Highly Developed Shoreline Option |
| 15% Maximum (w/o mitigation) | Up to 30% - Residential use (w/o mitigation) |
| 30% maximum (w/ mitigation) | Up to 40% - Residential use (w/ mitigation) |
| | Up to 40% Commercial/industrial use (w/o mitigaton) |
| | Up to 60% - Commercial/industrial (w/mitigation) |

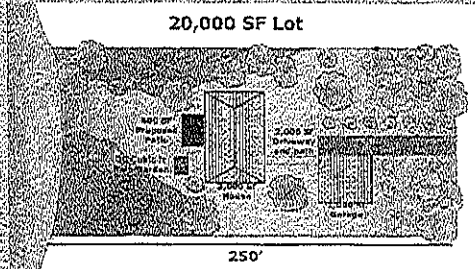
* Existing IS can be maintained, repaired, replaced, relocated or modified.
* Previous impervious surfaces are exempt




## CALCULATIONS

How is Impervious Surface Calculated?

- Divide the surface area of existing and proposed impervious surface on a riparian lot or a non-riparian lot fully within 300' of the shore by the total surface area of the lot and then multiply by 100.




- Sum of all existing impervious surfaces (IS) = 6,000

IS / 20,000 Lot = 30% IS

- Example proposes additional 500 sq. ft. patio
- 20 cubic foot rain garden to offset excess impervious surface

EXHIBIT "G"

EXHIBIT "H"

# MITIGATION

Balancing measures that are designed, implemented and function to restore natural functions otherwise lost through development.

## Why are mitigation standards being proposed?

- Required by State law for the following activities:
  - Exceed basic Impervious Surface (IS) thresholds.
    - Relocation of similar size structure within the shore setback.*
    - Horizontal expansion (200 sq. ft. or less) of structure within shore setback.*
- Advisory committee supported use of mitigation to allow for expansions of structures substandard to wetland setback.

* Existing structures must be 35' from shore

## How much mitigation is required?

- Must be proportionate to offset potential impacts of project.
- Handbook details points for different practices.

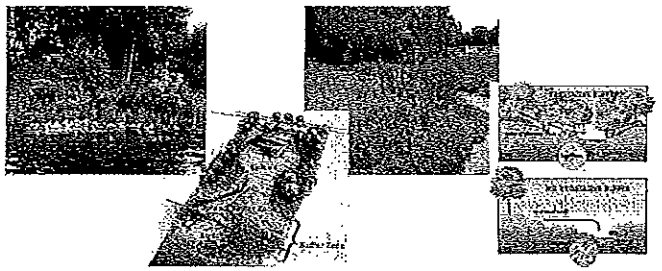
## How will mitigation practices be maintained?

- Deed Restrictions, inspections by landscape consultant, and periodic inspections by County staff.

## MITIGATION OPTIONS

- Vegetative Buffers
- Side yard buffers
- Decrease width of access/view corridor
- Screened retaining walls
- Removal of retaining walls
- Increase shore setback
- Remove improvements within 75' of shore
- Remove seawall/riprap
- Use of earth tone building materials
- Remove non-conforming structure or two-story boathouse
- Remove boathouse
- Treated impervious surface
- Maintain/establish shoreline habitat (fallen trees/fish sticks)
- Alternative approved methods

## Examples of Vegetative Buffers

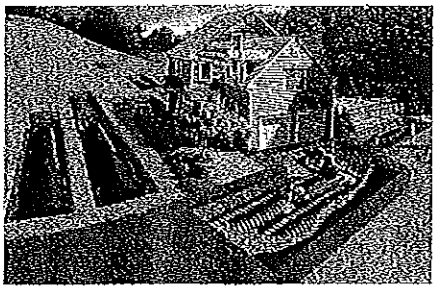


Example of Screened Retaining Wall

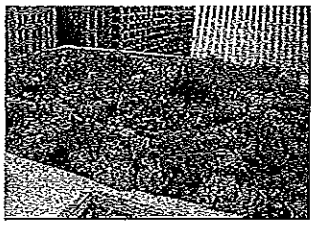
Fish sticks

## Examples of Treated Systems

Infiltration Chamber



Green Roof



Rain Garden

Pervious Concrete

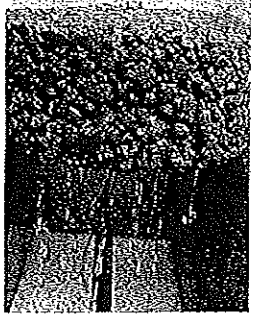


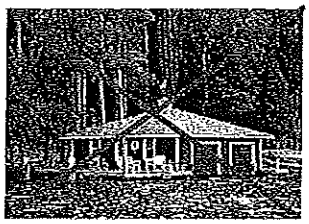
**EXHIBIT "I"**

# BOATHOUSES

## LOT SIZE

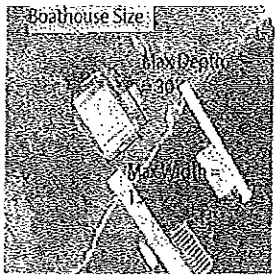
- ***Current Code*** - requires lots to contain 15,000 sq.ft. and 100' of frontage in order to have a boathouse.
- ***Proposed Code*** - per DNR, no lot size requirements for boathouses.

New wet boathouses are not permitted. All boathouses must maintain a 5' setback from the shore.



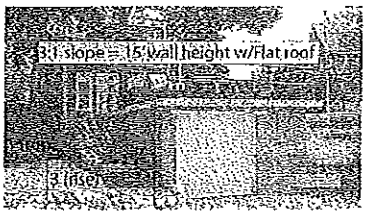
## SIZE

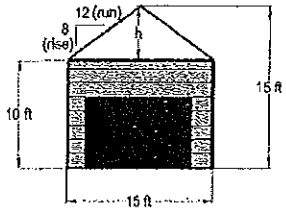
- Minimum size remains unchanged (200 sq.ft.).
- Maximum size recommended (450 sq.ft.).
- Maximum proposed width (15').
- Maximum proposed depth (30').




## HEIGHT

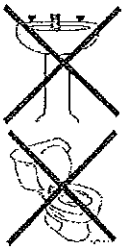
- Current limit = 15'.
- Proposed Maximum side wall height = 10', or 12' with flat roof.
  15' sidewall if slopes of 3:1 (33%) or greater (flat roof required).
- Flat roof or pitched roof.




## AMENITIES

- No human habitation.
- Per NR115, plumbing is no longer permitted.
- Must have a garage-type door facing the shore.
- Flat roofed boathouses may be used for recreation but no canopies will be permitted.

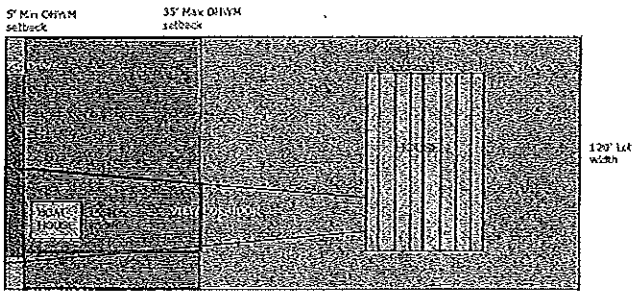


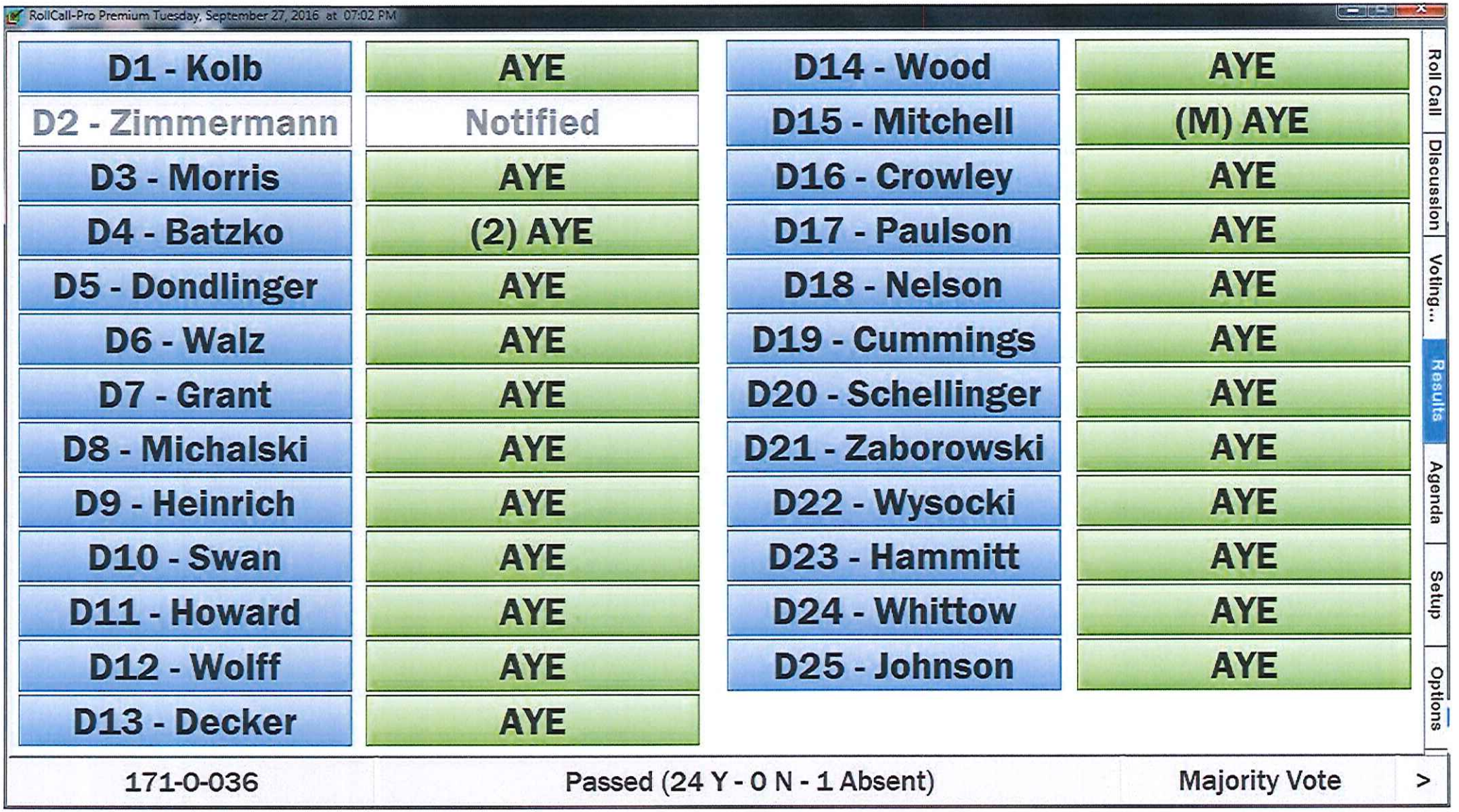
No new pumbling allowed due to NR115

All boathouses must have a garage door facing the shore

## LOCATION

- Minimum setback from Shore = 5'.
- Maximum setback from Shore = 35'.
- Must be located within view corridor (35% of shore frontage).
- Must comply with offsets.

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D2 - Zimmermann
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D14 - Wood
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D15 - Mitchell
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D22 - Wysocki
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D23 - Hammitt
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D24 - Whittow
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D25 - Johnson
AYE
Roll Call
Discussion
Voting...
Results
Agenda
Setup
Options
171-0-036
Passed (24 Y - 0 N - 1 Absent)
Majority Vote
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