



VILLAGE OF KIMBERLY, WI
NOTICE OF VILLAGE PLAN COMMISSION MEETING

DATE: Tuesday, May 20, 2025
TIME: 5:00 pm
LOCATION: Village Hall, Rick J. Hermus Council Chambers
515 W. Kimberly Ave.
Kimberly, WI 54136

Notice is hereby given that a Plan Commission meeting will be held on Tuesday, May 20, 2025, at the Village Hall. This meeting is open to the public and the agenda is listed below.

- 1) Call to Order
- 2) Roll Call
- 3) Moment of Silent Reflection, Pledge of Allegiance
- 4) Election of Vice-Chair
- 5) Approval of Minutes from the 4/15/2025 Meeting
- 6) Unfinished Business
 - a) None
- 7) New Business for Consideration and Approval
 - a) Extraterritorial Certified Survey Map – W3110 Creekview Lane, Appleton, WI (Town of Buchanan)
 - b) Certified Survey Map – 103/109 W Kimberly Avenue
 - c) Site & Architectural Review – 103/109 W Kimberly Avenue (New Construction – Dance Studio)
- 8) Discussion: § 525-93: Accessory uses and structures and § 525-134: Definitions and word usage.
 - a) Total garage size allowance
 - b) Attached and detached garage
 - c) Definition of “Utility Structure” (inclusion of gazebos and pergolas)
- 9) Adjournment

Plan Commission

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/894788813>

You can also dial in using your phone.

Access Code: 894-788-813

United States (Toll Free): [1 866 899 4679](tel:18668994679)

United States: [+1 \(571\) 317-3116](tel:+15713173116)

Any person wishing to attend the meeting who because of their disability is unable to attend, is requested to contact the ADA Coordinator at 920-788-7500 at least 48 hours prior to the meeting so that reasonable accommodations may be made.

VILLAGE OF KIMBERLY
PLAN COMMISSION MINUTES
04/15/2025

A meeting of the Village Kimberly Plan Commission was called to order on Tuesday, April 15, 2025, at 5:00pm in the Rick J. Hermus Council Chambers, 515 W. Kimberly Ave, by President Kuen.

Commissioners Present: President Chuck Kuen, Commissioners: Norb Karner, Dean Schiesl, Michael Robach, Jeremy Freund, Todd Schneider and Dave Vander Velden
Commissioners Excused: None
Staff Present: Deputy Clerk Erica Ziegert, Administrator/Director of Public Works Danielle Block and Community Development Director Sam Schroeder and Brad Werner of McMahon

Approval of Minutes from the 03-18-2025 Meeting

Commissioner Karner moved, Commissioner Freund seconded the motion to approve. Motion carried by unanimous vote.

Unfinished Business

None

New Business

Site & Architectural Review – Iron Forge Fitness and Training located at 724 S Railroad Street (Change of Use – Fitness Center)

The applicant has withdrawn their application. No action was taken.

Site & Architectural Review – Uros of A location at 120 E Kimberly Avenue (Change of Use – Vehicle Sales)

Commissioner Vander Velden moved, Commissioner Karner seconded the motion to approve the site plan and architectural components for Uros of A located at 120 E Kimberly Ave as presented, contingent upon the following: (1) A minimum 2-foot landscape strip shall be added along the Kimberly Avenue sidewalk and the Elm St sidewalk up to the driveway apron opening within one year of occupancy; (2) Within three years of occupancy, the area north of the building shall have the concrete paving removed and be completely restored to grass OR shall be replaced with a new hard surface pad meeting the ordinance with a minimum 10 feet vegetative buffer to the north property line; no parking of vehicles, trailers or equipment north of the building until such a time that the parking area would be restored; and (3) Any dumpster or refuse shall be enclosed in the building or shall be located in the rear of the building and enclosed as to be out of view from the general public. Motion carried by unanimous vote.

Adjournment

Commissioner Karner moved, Commissioner Freund seconded the motion to adjourn. Motion carried by unanimous vote at 5:31pm.

Erica Ziegert
Deputy Clerk
Dated 04/16/2025



Village of Kimberly Request for Plan Commission Recommendation

ITEM DESCRIPTION: Extraterritorial Certified Survey Map – Lot Reconfiguration – W3110 Creekview Lane, Appleton, WI (Parcels 030040101, 030040102, and 030171900)

REPORT PREPARED BY: Sam Schroeder, Community Development Director

REPORT DATE: May 20, 2025

EXPLANATION: McMahon and Associates, Inc on behalf of the property owner, David Berghuis, has submitted a certified survey map (CSM) to reconfigure the parcel boundaries of three properties within the Town of Buchanan. Said CSM falls within the Villages extraterritorial plat approval jurisdiction. Extraterritorial plat approval jurisdiction refers to Villages and Cities authority alike outside of the Villages corporate boundary to review plats and CSM's to ensure comprehensive and cohesive development patterns throughout the state of Wisconsin.

This area specifically, is already built out having two single family lots with homes as well as a larger outlot. The purpose of the CSM is just to reconfigure these lots lines to more accurately reflect the ownership desire of the properties.

Staff has no concerns.

Attached to this staff report includes:

1. CSM Application
2. CSM

RECOMMENDED ACTION: Staff recommends approval of the proposed Extraterritorial Certified Survey Map for W31110 Creekview Lane, Appleton, WI as presented.

Street Department
426 W. Kimberly Ave.
Kimberly WI 54136
920-788-7507

West: residential

Significant Natural Amenities (slope, vegetation, large tree stands, etc.): _____

None

Floodplains, navigable streams, wetlands, and other development restrictions: _____

Floodway and navigable stream as shown on map

Note:

- It is recommended that the applicant meet with Village Department staff prior to submittal to review the project and submitted materials.
- Application Fees must be submitted with the application.

SUBMITTAL REQUIREMENTS – Must accompany the application to be complete.

➤ Basic Materials

- ☐ Completed Application
- ☐ Legal Description of Site
- ☐ Two (2) full size paper prints of the preliminary or final plat prepared in accordance with Village Subdivision Regulations
- ☐ Twelve (12) copies of the subdivision plat reduced to 8 ½" x 11"
- ☐ One copy of the Certified Survey Map
- ☐ Digital (PDF) Copy of Preliminary Plat, Final Plat, or CSM

Staff Use Only:

Fees Collected: _____ Date Received: _____ Staff Initials: _____

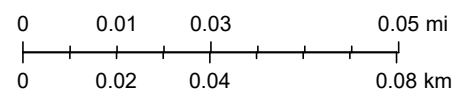
Outagamie County GIS Map



5/13/2025, 10:58:10 AM

1:2,257

- Tax Parcel Information
- PLSS Sections
- X Govt Lot Corner
- Meander Line
- Plat Boundary Lines
- Plat Boundary
- X Streets
- X LOCAL



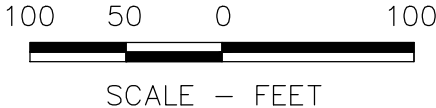
CERTIFIED SURVEY MAP

SHEET 1 OF 5

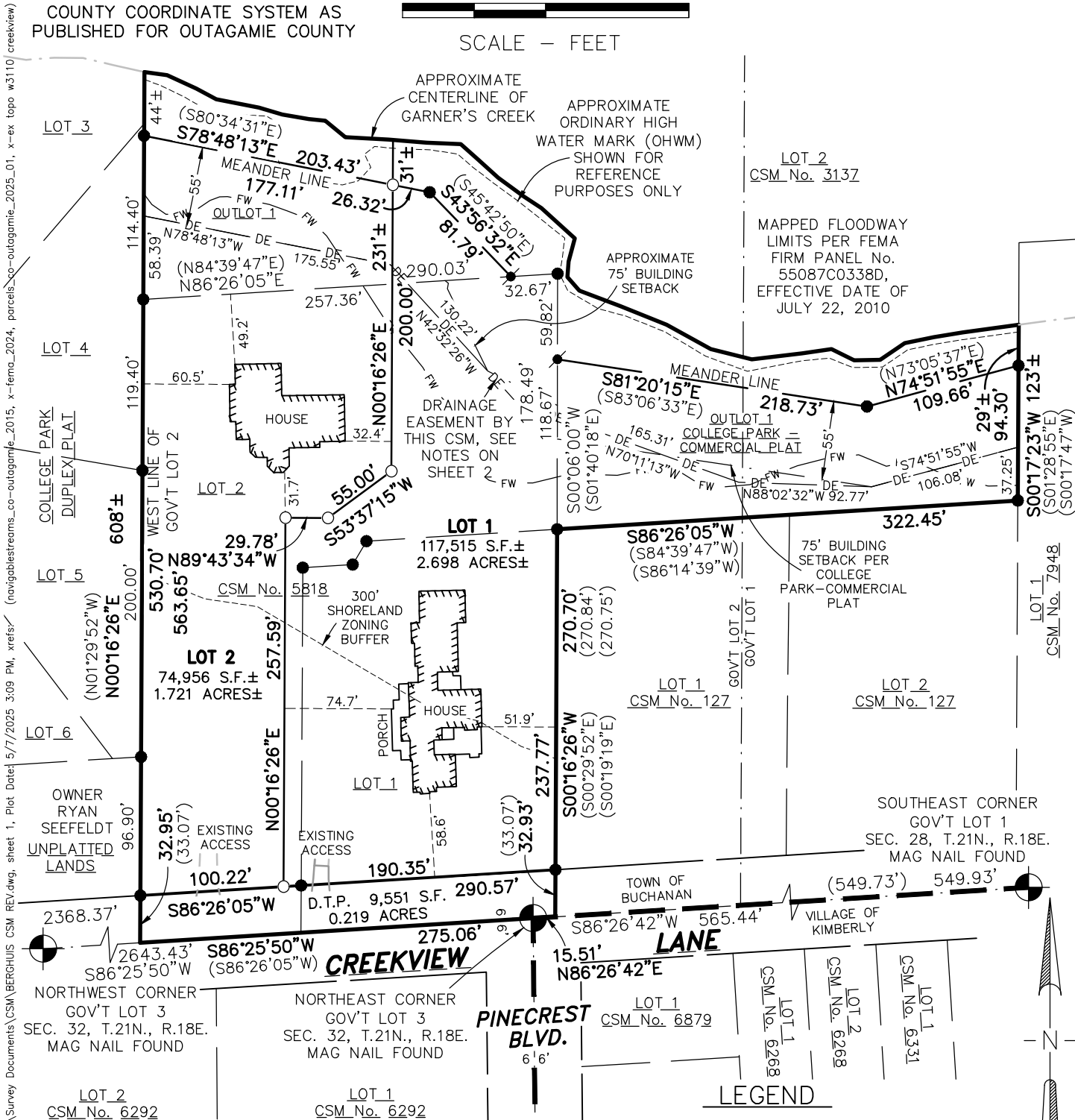
ALL OF LOTS 1 & 2 OF CERTIFIED SURVEY MAP No. 5818,
RECORDED IN VOLUME 34 OF CSM'S ON PAGE 5818 AS
DOCUMENT No. 1801595 AND OUTLOT 1 OF COLLEGE
PARK—COMMERCIAL PLAT, RECORDED IN CABINET F ON PAGES
29–30 AS DOCUMENT No. 1070087, LOCATED IN GOVERNMENT
LOTS 1 & 2, SECTION 28, TOWNSHIP 21 NORTH, RANGE 18 EAST,
TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN

BEARINGS ARE REFERENCED TO THE
NORTH LINE OF GOVERNMENT LOT 3,
SECTION 32, TOWNSHIP 21 NORTH,
RANGE 18 EAST WHICH BEARS
S86°25'50"W PER THE WISCONSIN
COUNTY COORDINATE SYSTEM AS
PUBLISHED FOR OUTAGAMIE COUNTY

FOR: —DAVID BERGHUIS
—W3110 CREEKVIEW LANE
—APPLETON, WI 54915



SCALE — FEET



- — 3/4" x 18" ROUND IRON REBAR
WEIGHING 1.5 lbs./lineal ft. SET
- — 3/4" ROUND STEEL REBAR FOUND
- — 1" IRON PIPE FOUND (1.315" O.D.)
- ⊙ — CERTIFIED LAND CORNER
OUTAGAMIE COUNTY
- S.F. — SQUARE FEET
- () — RECORDED BEARING AND/OR DISTANCE
- FW — MAPPED FLOODWAY LIMITS (SEE NOTE)
- — CORPORATE BOUNDARY LINE
- D.T.P. — DEDICATED TO THE PUBLIC
- DE — PROPOSED DRAINAGE EASEMENT, SEE NOTES

McMAHON
ENGINEERS ARCHITECTS

McMAHON ASSOCIATES, INC.
1445 McMAHON DRIVE NEENAH, WI 54956
CKALKOFEN@MCMGRP.COM
PH 920.751.4200 FX 920.751.4284
DRAFTED BY: Corey W. Kalkofen

CERTIFIED SURVEY MAP

SHEET 2 OF 5

ALL OF LOTS 1 & 2 OF CERTIFIED SURVEY MAP No. 5818, RECORDED IN VOLUME 34 OF CSM'S ON PAGE 5818 AS DOCUMENT No. 1801595 AND OUTLOT 1 OF COLLEGE PARK-COMMERCIAL PLAT, RECORDED IN CABINET F ON PAGES 29-30 AS DOCUMENT No. 1070087, LOCATED IN GOVERNMENT LOTS 1 & 2, SECTION 28, TOWNSHIP 21 NORTH, RANGE 18 EAST, TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

I, Corey W. Kalkofen, Wisconsin Professional Land Surveyor S-2726, certify that I have surveyed, divided and mapped all of Lots 1 & 2 of Certified Survey Map No. 5818, recorded in Volume 34 of CSM's on Page 5818 as Document No. 1801595 and Outlot 1 of College Park-Commercial Plat, recorded in Cabinet F on Pages 29-30 as Document No. 1070087, located in Government Lots 1& 2, Section 28, Township 21 North, Range 18 East, Town of Buchanan, Outagamie County, Wisconsin containing 202,022 square feet (4.638 acres) more or less of land, includes all land between the centerline of Garner's Creek and the meander lines as shown on the map.

That I have made this survey by the direction of the Owner(s) of said Land.

I further certify that this map is a correct representation of the exterior boundary lines of the land surveyed and the division of that land, and that I have complied with section 236.34 of the Wisconsin Statutes and the subdivision regulations of Outagamie County and the Town of Buchanan in surveying, dividing and mapping the same.

Given under my hand and seal this ____ day of _____, 20____.

Corey W. Kalkofen, WI Professional Land Surveyor S-2726

BUCHANAN DRAINAGE EASEMENT RESTRICTIONS

PROPOSED DRAINAGE EASEMENT IS AT LEAST 75 FEET FROM THE APPROXIMATE ORDINARY HIGH WATER MARK.

THE FOLLOWING USES, STRUCTURES AND ACTIVITIES ARE PROHIBITED IN ANY EASEMENT OR OUTLOT USED FOR DRAINAGE: FILLING, GRADING AND EXCAVATING EXCEPT FOR THE CONSTRUCTION OF PUBLIC STREETS, UTILITY CROSSINGS AND DRAINAGE IMPROVEMENTS AND FACILITIES; CONSTRUCTION OR PLACEMENT OF ANY BUILDING OR STRUCTURE INCLUDING FENCES; THE CULTIVATION OF CROPS, FRUITS OR VEGETABLES; THE PLANTING OF TREES OR SHRUBS; THE DUMPING OR DEPOSITING OF ASHES, WASTE, COMPOST, TEMPORARY FILL, OR MATERIALS OF ANY KIND OR NATURE; THE STORAGE OF VEHICLES, EQUIPMENT, MATERIALS, OR PERSONAL PROPERTY OF ANY KIND. THESE RESTRICTIONS MAY BE ENFORCED BY ANY LOT OWNER, HOMEOWNERS' ASSOCIATION OR BUCHANAN BY PROCEEDINGS IN LAW OR EQUITY AGAINST ANY PERSON VIOLATING OR ATTEMPTING TO VIOLATE THE RESTRICTION.

DRAINAGE MAINTENANCE EASEMENT

THE PROPERTY OWNER(S) ARE RESPONSIBLE FOR ALL DRAINAGE MAINTENANCE ACTIVITIES. BUCHANAN SHALL HAVE AN UNQUALIFIED RIGHT TO ENTER UPON ANY EASEMENT USED FOR DRAINAGE FOR INSPECTION AND TO MAINTAIN AND REPAIR ALL DRAINAGEWAYS, DRAINAGE FACILITIES AND DRAINAGE IMPROVEMENTS IF THE PROPERTY OWNER(S) FAIL TO DO SO. BUCHANAN MAY EQUALLY ASSESS ALL LOTS FOR MAINTENANCE AND REPAIR AND BUCHANAN ADMINISTRATIVE COSTS. THE PURCHASE OF ANY LOT CONSTITUTES A WAIVER OF OBJECTION TO ASSESSMENT AND AGREEMENT TO PAY ASSESSMENTS WHICH WILL BE PLACED ON THE ANNUAL TAX BILL AS A SPECIAL ASSESSMENT.

NOTES

THE APPROXIMATE ORDINARY HIGH WATER MARK AS SHOWN ON THIS MAP IS APPROXIMATE AND IS SHOWN FOR REFERENCE PURPOSES ONLY. "THE LOCATION OF THE APPROXIMATE ORDINARY HIGH WATER MARK SHALL BE THE POINT ON THE BANK OF A NAVIGABLE STREAM OR ON THE SHORE OF A LAKE UP TO WHICH THE PRESENCE AND ACTION OF SURFACE WATER IS SO CONTINUOUS AS TO LEAVE A DISTINCTIVE MARK BY EROSION, DESTRUCTION OF TERRESTRIAL VEGETATION, OR OTHER RECOGNIZED CHARACTERISTICS".

ANY LAND BELOW THE ORDINARY HIGH WATER MARK OF A LAKE OR A NAVIGABLE STREAM IS SUBJECT TO THE PUBLIC TRUST IN NAVIGABLE WATERS THAT IS ESTABLISHED UNDER ARTICLE IX, SECTION 1, OF THE STATE CONSTITUTION.

THE WI DNR SURFACE WATER VIEWER MAP IDENTIFIES WETLAND INDICATOR SOIL TYPES WITHIN THE SUBJECT PROPERTIES. DUE TO WETLANDS, INDICATOR SOILS, AND/OR WATERWAYS WITHIN THE SUBJECT PROPERTIES, COORDINATE WITH WISCONSIN DEPARTMENT OF NATURAL RESOURCES REGARDING POTENTIAL PROTECTIVE AREAS.

PRIOR TO DEVELOPMENT, A WETLAND DELINEATION MAY BE REQUIRED ON LOTS 1 & 2. OUTAGAMIE COUNTY CODE OF ORDINANCES, SECTION 48-7(C)(4)A REQUIRES A WETLAND SETBACK OF 10FT. TO 30FT., 50FT., OR 75FT., DEPENDING ON THE SUSCEPTIBILITY OF THE WETLAND.

PER US ARMY REGULATORY GUIDANCE LETTER NO. 05-02, DATED JUNE 14, 2005: ALL APPROVED WETLAND DETERMINATIONS COMPLETED AND/OR VERIFIED BY THE US ARMY CORPS OF ENGINEERS MUST BE IN WRITING AND WILL REMAIN VALID FOR A PERIOD OF FIVE YEARS, UNLESS NEW INFORMATION WARRANTS REVISION OF THE DETERMINATION BEFORE THE EXPIRATION DATE, OR A DISTRICT ENGINEER IDENTIFIES SPECIFIC GEOGRAPHIC AREAS WITH RAPIDLY CHANGING ENVIRONMENTAL CONDITIONS THAT MERIT RE-VERIFICATION ON A MORE FREQUENT BASIS.

A CURRENT TITLE POLICY WAS NOT PROVIDED BY THE OWNER/CLIENT AT THE TIME THIS SURVEY WAS PREPARED; THEREFORE, EASEMENTS AND RESTRICTIONS OF RECORD MAY AFFECT THIS PROPERTY THAT ARE NOT SHOWN.

CERTIFIED SURVEY MAP

SHEET 3 OF 5

ALL OF LOTS 1 & 2 OF CERTIFIED SURVEY MAP No. 5818, RECORDED IN VOLUME 34 OF CSM'S ON PAGE 5818 AS DOCUMENT No. 1801595 AND OUTLOT 1 OF COLLEGE PARK—COMMERCIAL PLAT, RECORDED IN CABINET F ON PAGES 29—30 AS DOCUMENT No. 1070087, LOCATED IN GOVERNMENT LOTS 1 & 2, SECTION 28, TOWNSHIP 21 NORTH, RANGE 18 EAST, TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN

CERTIFICATE OF DEVELOPMENT & LAND SERVICES DEPARTMENT

This Certified Survey Map has been reviewed by the Outagamie County Development & Land Services Department on the ____ day of _____, 20____

Department representative

OUTAGAMIE COUNTY ZONING COMMITTEE APPROVAL

Pursuant to the land division regulations of Outagamie County, Wisconsin, all of the requirements for approval have been fulfilled. This Certified Survey Map was approved by the Outagamie County Zoning Committee on the ____ day of _____, 20____

Debbie Vanderheiden, Chairperson

CERTIFICATE OF TOWN TREASURER

I, being the duly elected, qualified and acting Town Treasurer, do hereby certify that in accordance with the records in my office there are no unpaid taxes or unpaid special assessments on any of the lands included in this Certified Survey Map.

Cynthia Sieracki, Town Treasurer

Date

CERTIFICATE OF COUNTY TREASURER

I, being the duly elected, qualified and acting County Treasurer, do hereby certify that the records in my office show no unredeemed tax sales and no unpaid taxes or unpaid special assessments on any of the lands included in this Certified Survey Map.

County Treasurer

Date

Printed Name

NOTES:

—THIS CERTIFIED SURVEY MAP IS ALL OF TAX PARCEL NOS. 030040101, 030040102 & 030171900.

—THE PROPERTY OWNERS OF RECORD ARE DAVID T. BERGHUIS AND BERGHUIS REVOCABLE TRUST DATED SEPTEMBER 15, 2010.

—THIS CERTIFIED SURVEY MAP IS CONTAINED WHOLLY WITHIN PROPERTY DESCRIBED IN DOCUMENT NOS. 2159200 AND 1886297.

SHEET 4 OF 5

ALL OF LOTS 1 & 2 OF CERTIFIED SURVEY MAP No. 5818, RECORDED IN VOLUME 34 OF CSM'S ON PAGE 5818 AS DOCUMENT No. 1801595 AND OUTLOT 1 OF COLLEGE PARK-COMMERCIAL PLAT, RECORDED IN CABINET F ON PAGES 29-30 AS DOCUMENT No. 1070087, LOCATED IN GOVERNMENT LOTS 1 & 2, SECTION 28, TOWNSHIP 21 NORTH, RANGE 18 EAST, TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN

Resolved, that this Certified Survey map in the Town of Buchanan, was hereby approved and accepted by the Town Board of the Town of Buchanan, Outagamie County, Wisconsin, on this _____ day of _____, 20____.

STATE OF WISCONSIN)
)ss
COUNTY OF OUTAGAMIE)

I, Cynthia Sieracki, being the duly elected, qualified and acting clerk of the Town of Buchanan, Outagamie County does hereby certify that the Town Board of the Town of Buchanan passed by voice vote on this _____ day of _____, 20____ authorizing me to issue a certificate of approval of this Certified Survey Map, upon satisfaction of certain conditions, and I do also hereby certify that all conditions were satisfied and the APPROVAL WAS GRANTED AND EFFECTIVE ON THE _____ day of _____, 20____.

Dated _____ Town Clerk, Cynthia Sieracki

This Certified Survey Map in the Town of Buchanan, is hereby approved as surveyed and mapped by the Village of Kimberly, Outagamie County, Wisconsin.

Dated this _____ day of _____, 20____.

Village Clerk, Jennifer Weyenberg

CERTIFIED SURVEY MAP

SHEET 5 OF 5

ALL OF LOTS 1 & 2 OF CERTIFIED SURVEY MAP No. 5818, RECORDED IN VOLUME 34 OF CSM'S ON PAGE 5818 AS DOCUMENT No. 1801595 AND OUTLOT 1 OF COLLEGE PARK-COMMERCIAL PLAT, RECORDED IN CABINET F ON PAGES 29-30 AS DOCUMENT No. 1070087, LOCATED IN GOVERNMENT LOTS 1 & 2, SECTION 28, TOWNSHIP 21 NORTH, RANGE 18 EAST, TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WISCONSIN

OWNER's CERTIFICATE OF DEDICATION

David T. Berghuis, As Owner of Tax Parcel No. 030040101, I hereby certify that I caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented on this Certified Survey Map. I also hereby certify that this Certified Survey Map is required by s. 236.10 or s. 236.12 to be submitted to the following for approval or objection:

Town of Buchanan
Outagamie County

Dated this _____ day of _____, 20__.

David T. Berghuis

State of Wisconsin)
)ss
_____ County)

Personally appeared before me on the _____ day of _____, 20__, the above named person(s) to me known to be the person(s) who executed the foregoing instrument, and acknowledged the same.

Notary Public

_____ County, _____

My commission expires_____

OWNER's CERTIFICATE OF DEDICATION

Berghuis Revocable Trust dated September 15, 2010, As Owners of Tax Parcel Nos. 030040102 & 030171900, We hereby certify that we caused the land described on this Certified Survey Map to be surveyed, divided, mapped and dedicated as represented on this Certified Survey Map. We also hereby certify that this Certified Survey Map is required by s. 236.10 or s. 236.12 to be submitted to the following for approval or objection:

Town of Buchanan
Outagamie County

Dated this _____ day of _____, 20__.

Thomas G. Berghuis, Trustee

Terese A. Berghuis, Trustee

State of Wisconsin)
)ss
_____ County)

Personally appeared before me on the _____ day of _____, 20__, the above named person(s) to me known to be the person(s) who executed the foregoing instrument, and acknowledged the same.

Notary Public

_____ County, _____

My commission expires_____



Village of Kimberly Request for Plan Commission Recommendation

ITEM DESCRIPTION: Certified Survey Map – Lot Combination – 103/109 W Kimberly Avenue (Parcels 250-051600, 250-051700, and 250-051800)

REPORT PREPARED BY: Sam Schroeder, Community Development Director

REPORT DATE: May 20, 2025

EXPLANATION: Harris & Associates on behalf of the buyer and developer, Footworks Dance Company by Kim LLC (Footworks), has submitted a certified survey map (CSM) to combine three parcels located at 103-109 W Kimbelry Avenue. These three parcels are currently owned by the Village of Kimberly. The Village and Footworks entered into a development agreement whereas the Village agreed to sell and Footworks agreed to purchase and development these vacant lots east of the Alley (Lot 3 of the presented CSM). Included with this submitted CSM is a separate agenda item to review and approval the site and architectural components of the new construction.

All three parcels are zoned B-1, General Business District. Combining these lots does conform to the Zoning Code and Comprehensive Plan.

As part of the sale of land, the Village will still own the properties to the west of the alley. It is the intention of the Village to construct a public parking lot on half of this property. With that, a request was made to include the reconfiguration of these lots as part of one CSM, shown as Lots 1 and 2 in the presented CSM. However, due to the final design of the proposed parking lot not being finalized, the Village is requesting these lots be removed from the presented CSM prior to signatures. The Village will need to resubmit at a later date.

Attached to this staff report includes:

1. CSM Application
2. CSM

RECOMMENDED ACTION: Staff recommends approval of the proposed Lot 3 of the presented Certified Survey Map located at 103-109 W Kimberly Avenue as presented removing Lots 1 and 2.



VILLAGE OF KIMBERLY
Plan Commission Application
Certified Survey Map
Plat
Planned Unit Development

Submit to:

Street Department
426 W. Kimberly Ave.
Kimberly WI 54136
920-788-7507

Applicant Information

Petitioner: Keith W. Walenski, Harris & Associates, Inc. Date: 5-2-2025

Petitioner Address: 2718 N. Meade Street City: Appleton State: WI Zip: 54911

Telephone #: (920) 733-8377 Fax: () _____ email: kwalenski@harrisinc.net

Status of Petitioner (please check one): ___ Owner ☒ Representative ___ Tenant ___ Prospective Buyer

Petitioner's Signature (required): Keith W Walenski P.L.S.

Owner Information

Owner(s): Village of Kimberly Date: 5-2-2025

Owner(s) Address: 515 W. Kimberly Avenue City: Kimberly State: WI Zip: 54136

Telephone #: (920) 788-7500 Fax: () _____ email: sschroeder@vokimberlywi.gov

Ownership Status (please check one): ___ Individual ___ Trust ___ Partnership ☒ Corporation

Property Owner Consent (required):

By signature hereon, I/We acknowledge that Village officials and/or employees may, in the performance of their functions and duties, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Village for incomplete submissions or other administrative reasons.

Property Owner's Signature: _____ Date: _____

CSM/Subdivision Information

Address/Location of Proposed Project: 103, 109, 117 & 121 W. Kimberly Ave. Zoning: B-1

Proposed Project or Use: Dance Studio - Parking Lot

Current or Last Use of Property: Vacant

Reason for Land Division: Sell off vacant land for development

Proposed Number of Lots: 3 Proposed Lot Sizes: Min. 7,382 Max. 14,768 Average: NA

Acreage Contained in Parcel(s): Total = 0.68 Acres

Land Uses Surrounding this Address: North: Business

South: Residential

East: Business

West: Business

Significant Natural Amenities (slope, vegetation, large tree stands, etc.): None

Floodplains, navigable streams, wetlands, and other development restrictions: None

Note:

- It is recommended that the applicant meet with Village Department staff prior to submittal to review the project and submitted materials.
- Application Fees must be submitted with the application.

SUBMITTAL REQUIREMENTS – Must accompany the application to be complete.

- Basic Materials
 - ☐ Completed Application
 - ☐ Legal Description of Site
 - ☐ Two (2) full size paper prints of the preliminary or final plat prepared in accordance with Village Subdivision Regulations
 - ☐ Twelve (12) copies of the subdivision plat reduced to 8 ½" x 11"
 - ☒ One copy of the Certified Survey Map
 - ☐ Digital (PDF) Copy of Preliminary Plat, Final Plat, or CSM

Staff Use Only:

Fees Collected: _____ Date Received: _____ Staff Initials: _____
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Outagamie County GIS Map



5/13/2025, 11:39:24 AM

 Tax Parcel Information  Plat Boundary Lines  Streets

 PLSS Sections  Plat Boundary  LOCAL

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km

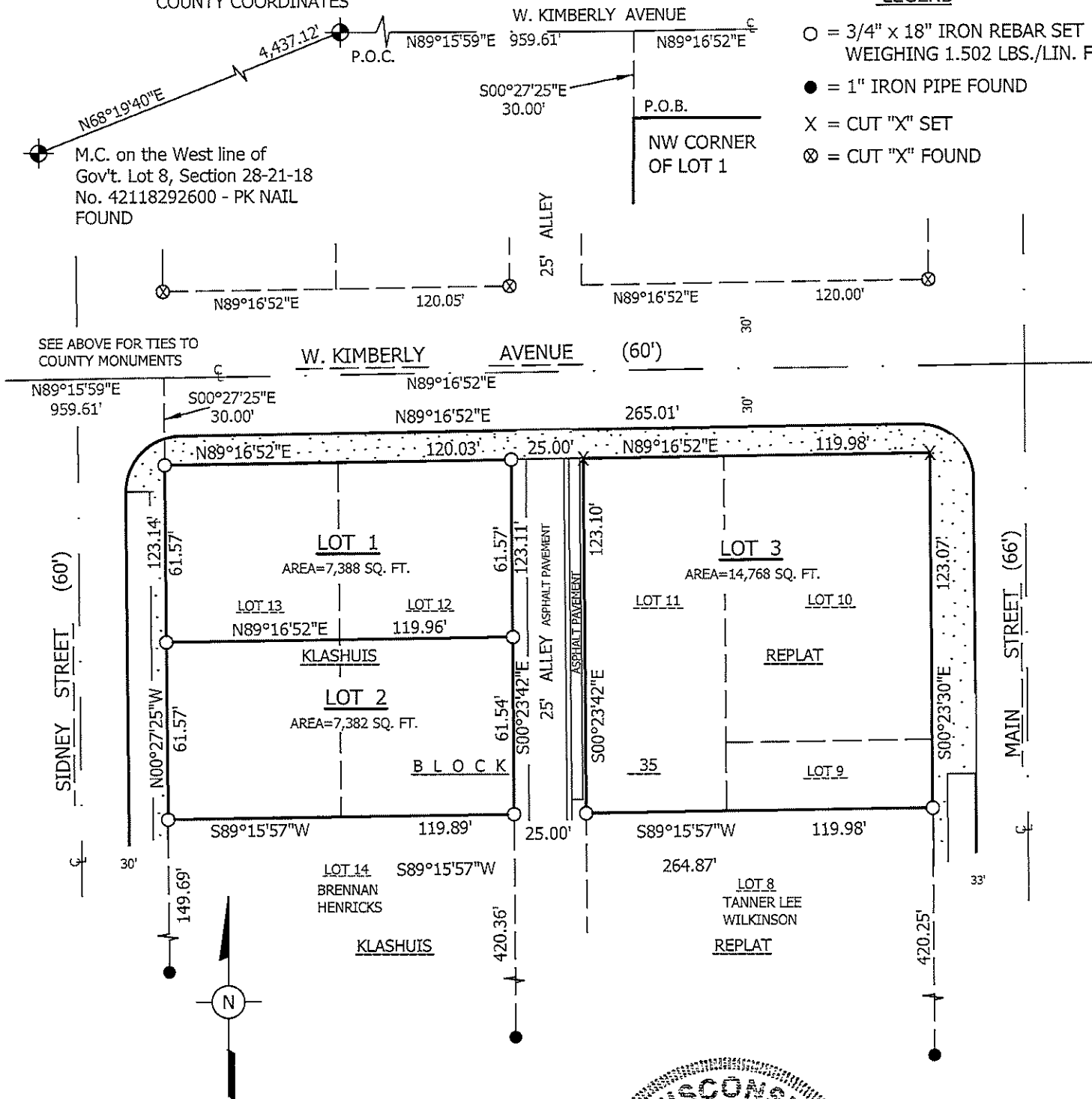
OUTAGAMIE COUNTY CERTIFIED SURVEY MAP

All of Lots 9, 10, 11, 12 & 13, Block 35, KLASHUIS REPLAT of part of Lot 4 of SANDERS PLAT and the south 3 feet of vacated W. Kimberly Avenue adjacent thereto, being a part of Government Lot 4, Section 27, Township 21 North, Range 18 East, Village of Kimberly, Outagamie County, Wisconsin.

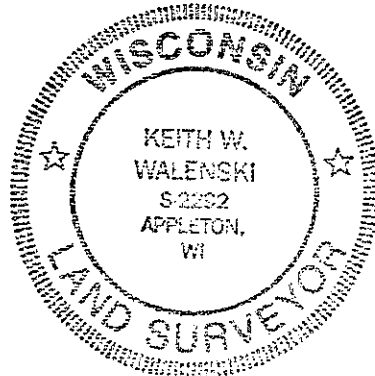
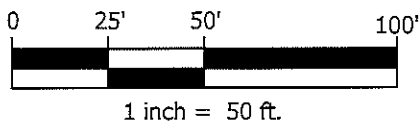
Witness point on the West line of Gov't. Lot 6 Section 27-21-18.
No. 42118273130 - PER COUNTY COORDINATES

LEGEND

- = 3/4" x 18" IRON REBAR SET WEIGHING 1.502 LBS./LIN. F
- = 1" IRON PIPE FOUND
- X = CUT "X" SET
- ⊗ = CUT "X" FOUND



North is referenced to the line between a M.C. on the West line of Gov't. Lot 8, Section 28-21-18, and a witness point on the West line of Gov't. Lot 6 Section 27-21-18, recorded to bear N68°19'40"E per Wisconsin Coordinate System, Outagamie County.



Keith W. Walenski 5-2-25
KEITH W. WALENSKI P.L.S.-2292 Date

HARRIS
& ASSOCIATES, INC.
CONSULTING ENGINEERS
AND LAND SURVEYORS

2718 NORTH MEADE ST.
APPLETON, WI 54911
TEL: (920) 733-8377
FAX: (920) 733-4731
WWW.HARRISING.NET

OUTAGAMIE COUNTY CERTIFIED SURVEY MAP

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SURVEYOR'S CERTIFICATE

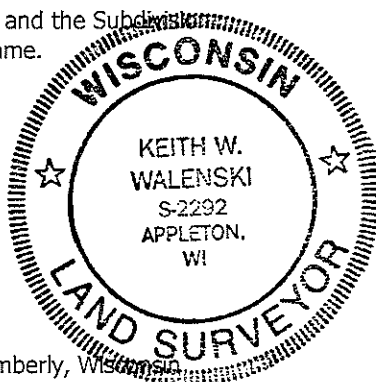
I, Keith W. Walenski, Professional Wisconsin Land Surveyor, certify that I have surveyed, divided combined and mapped all of Lots 9, 10, 11, 12 & 13, Block 35, KLASHUIS REPLAT of part of Lot 4 of SANDERS PLAT and the south 3 feet of vacated W. Kimberly Avenue adjacent thereto, being a part of Government Lot 4, Section 27, Township 21 North, Range 18 East, Village of Kimberly, Outagamie County, Wisconsin, described as follows: Commencing at a witness point on the West line of Government Lot 6, Section 27, Town 21 North, Range 18 East and the Centerline of W. Kimberly Avenue, thence N89°15'59"E, 959.61 feet; thence S00°27'25"E, 30.00 feet to the Southeast corner intersection of W. Kimberly Avenue and Sidney Street being the point of beginning; thence N89°16'52"E, along the South line of W. Kimberly Avenue, 265.01 feet to the Southwest corner intersection of W. Kimberly Avenue and Main Street; thence S00°23'30"E, 123.07 feet; thence S89°15'57"W, 264.87 feet to the East right-of-way of Sidney Street; thence N00°27'25"W, along the East right-of-way line of Sidney Street, 123.14 feet to the point of beginning, containing 29,538 sq. ft. (0.68 acres.)

That I have made such survey, map and land division as shown hereon, under the direction of the Village of Kimberly.

That this map is a correct representation of the exterior boundary lines of the land surveyed and the division and combination of that land.

That I have fully complied with the provisions of Chapter 236.34 of the Wisconsin Statutes and the Subdivision Ordinances of the Village of Kimberly in surveying, dividing, combining and mapping the same.

Keith W Walenski 5-2-25
Keith W. Walenski PLS - 2292 Date



VILLAGE BOARD OF KIMBERLY APPROVAL

This Certified Survey Map has been reviewed and approved by the Village Board of Kimberly, Wisconsin on this _____ day of _____ 2025.

Village President _____ Date _____

Village Clerk _____ Date _____

VILLAGE TREASURER'S CERTIFICATE

I do hereby certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in this Certified Survey Map.

Village of Kimberly Treasurer _____ Date _____

COUNTY TREASURER'S CERTIFICATE

I do hereby certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in this Certified Survey Map.

Outagamie County Treasurer _____ Date _____

OUTAGAMIE COUNTY CERTIFIED SURVEY MAP

All of Lots 9, 10, 11, 12 & 13, Block 35, KLASHUIS REPLAT of part of Lot 4 of SANDERS PLAT and the south 3 feet of vacated W. Kimberly Avenue adjacent thereto, being a part of Government Lot 4, Section 27, Township 21 North, Range 18 East, Village of Kimberly, Outagamie County, Wisconsin.

OWNER'S CERTIFICATE

The Village of Kimberly as owner, does hereby certify that we caused the land described to be surveyed, divided mapped and combined do further certify that this Certified Survey Map is required by S.236.10 or S.236.12 of the Wisconsin Statutes be submitted to the Village of Kimberly, WI for approval or objection.

Dated this _____ day of _____, 2025.

Village Representative _____ Date _____

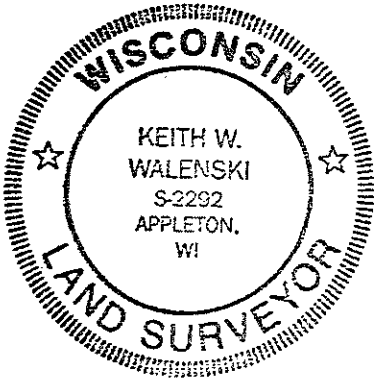
State of Wisconsin) ss
Outagamie County)

Personally came before me this _____ day of _____, 2025, the above named person to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public _____ My commission expires _____

GENERAL NOTES:

- 1. This CSM is all of tax parcel No's. 250051700, 250051800, 250051900, 250052000 and 250051600.
- 2. This CSM is contained wholly within the property described in Document No. 1956695, 1880071, 1750967 and 1211764.
- 3. The Land contained within this CSM is zoned B1 - General Business District.



Keith W. Walenski 5-2-25
KEITH W. WALENSKI P.L.S.-2292 Date



Village of Kimberly Request for Plan Commission Recommendation

ITEM DESCRIPTION: Site & Architectural Review – Footworks Dance Company 103/109 W Kimberly Avenue

REPORT PREPARED BY: Sam Schroeder, Community Development Director

REPORT DATE: May 20, 2025

EXPLANATION: Harris & Associates, Inc. on behalf of Footworks Dance Company by Kim LLC (Footworks) has submitted a site review application to construct a new dance studio at 103/109 W Kimberly Avenue. These lots are vacant and owned by the Village.

In April, the Village and Footworks entered into a development agreement whereby the Village agreed to sell Footworks the property and Footworks agreed to construct their new dance studio at this location. Footworks currently operates out of a leased facility in Kimberly. Upon approval, the land would officially be transferred to Footworks.

The property totals 14,768 SF and zoned B-1, general business district.

The new building would be 60 feet by 110 feet for a total of 6,600 SF. The building would be located on the north half of the property with the front entrance along W Kimberly Avenue. A private parking lot totaling 12 parking stall will be located south of the building. Per the development agreement, the Village will also be building a public parking lot west of the alley. This lot would be roughly 16+/- stalls. Combined with on-site parking, the public parking lot and street parking, the area will have enough parking to support this development.

The site plan does indicate a 10 foot buffer area along the south side of the property abutting the single-family residential home. This area will be planted with arborvitae to create a large vegetative screen meeting the intent of the code.

This dance studio primarily functions as an evening business, with many classes throughout the evening hours during the week. Dance competitions outside of the studio often fall on the weekends.

Attached to this staff report includes:

1. Site Plan Review Application
2. Project Description
3. Plan Drawings

Scope of Project – Reference Project Description and Plans for additional insight.

1. 6,600 square foot dance studio
2. Hip roof with asphalt shingles
3. LP Smart siding and brick around the façade
4. Minimal windows to ensure privacy
5. 12 parking stalls in the rear of the building

6. Landscape buffer in the rear abutting the residential use.

Staff has completed a review of the site for compliance with the Kimberly Municipal Code whereas the proposed project substantially meets code and notes the following:

1. **Facade.** Due to the location being directly located in the Village of Kimberly downtown, staff does believe some additional architectural elements can be added to improve the exterior appeal. These elements can be dormers, additional windows, additional building landscaping, modification of brick work, etc.
2. **Lighting.** No lighting plans were submitted. Staff is recommending only full cutoff style fixtures are provided on the building unless the fixture is less than 1,200 lumens meeting a more residential style fixture.
3. **Residential Buffer.** Due to the proximity of the parking lot to the residential, staff is recommending a solid fence be added in addition to the proposed landscaping per code. In adding the initial planting height of the arborvitae shall be a minimum of 5 feet.
4. **Landscaping.** The applicant shall provide details of the ground cover material in the landscape areas. In addition, verification of the areas north and east of the building shall be determined. If space allows additional landscaping or planter boxes shall be provided in the front of the façade to break up the otherwise flat wall. In addition, the 3 foot paving strip that is currently located along the alley shall be removed and the green space be expanded to provide some buffer and delineation to the alley.
5. **Grading.** Additional spot grades shall be provided and reviewed by staff prior to building permits.
6. **Parking/Paving.** All aprons and curb cuts in the public right of way shall meet the requirements of the Village upon installation.
7. **Dumpster.** The proposed plans do not indicate any location for exterior refuse. Staff recommends that any dumpster pad or refuse location be located in the rear of the building and not visible to off-site view. THE VILLAGE DOES NOT PROVIDE REFUSE COLLECTION FOR COMMERCIAL PROPERTIES.
8. **Building Inspections and Approvals.** Building plan review and inspections will be completed by the Village of Kimberly. All necessary permits shall be applied for prior to additional work being done.

RECOMMENDED ACTION: Staff recommends approval of the site plan and architectural components for Footworks Dance Company by Kim, LLC located at 103/109 W Kimberly Avenue as presented, contingent upon the following:

1. Additional façade elements shall be considered prior to the issuance of building permits to break up the long expansive walls and roof line.
2. All lighting shall be full cutoff unless it is less than 1,200 lumens and meets Village Ordinance.
3. A solid fence shall be provided within the buffer yard and the proposed landscape materials shall not be less than 5 feet tall at the time of install.
4. Additional landscaping or planter boxes shall be provided along the front of the building.
5. The 3 foot asphalt strip along the alley shall be removed and blended with the green space.
6. Grading of the site shall be verified to ensure no negative impacts to the surrounding residential development.
7. Any refuse beyond standard residential carts shall be screened from off-site view and be located in the rear of the building.



VILLAGE OF KIMBERLY

Site Review Application

Submit to:

Planning & Zoning
515 W. Kimberly Ave.
Kimberly WI 54136
920-788-7500

Applicant Information

Petitioner: Harris & Associates, Inc.- Calvin L. Tollefson Date: _____

Petitioner Address: 2718 N. Meade Street City: Appleton State: WI Zip: 54911

Telephone #: (920) 733-8377 Fax: () _____ email: ctollefson@harrisinc.net

Status of Petitioner (please check one): ☐ Owner ☒ Representative ☐ Tenant ☐ Prospective Buyer

Petitioner's Signature (required): Calvin L. Tollefson

Owner Information

Owner(s): Kim Mader Date: _____

Owner(s) Address: 728 Schelfhout City: Kimberly State: WI Zip: 54136

Telephone #: (920) 850-5651 Fax: () _____ email: kimjansen72@gmail.com

Ownership Status (please check one): ☒ Individual ☐ Trust ☐ Partnership ☐ Corporation

Property Owner Consent (required):

By signature hereon, I/We acknowledge that Village officials and/or employees may, in the performance of their functions and duties, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Village for incomplete submissions or other administrative reasons.

Property Owner's Signature: Kim Mader Date: 5/5/25

Site Information

Address/Location of Proposed Project: 103 W. Kimberly Avenue Zoning: B-1

Proposed Project or Use: Dance Studio

Current or last Use of Property: Vacant

Land Uses Surrounding this Address: North: Business

South: Residential

East: Business

West: Vacant

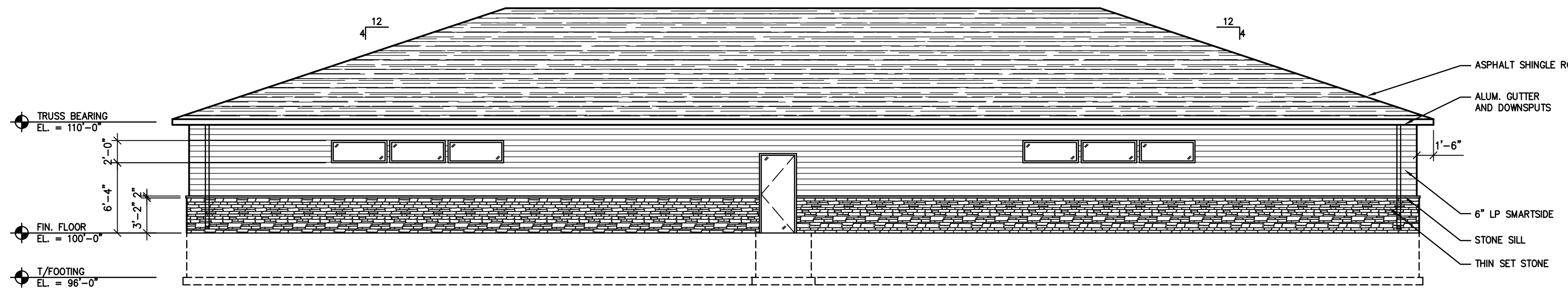
- It is recommended that the applicant meet with Village Department staff prior to submittal to review the project and submitted materials.
- Application Fees must be submitted with the application.

KIM MADER
NARRATIVE

The owner is proposing a 6,600 square feet building with twelve (12) parking spaces including one (1) handicap space. The building will be utilized as a dance studio. The existing use of the property is a vacant lot.

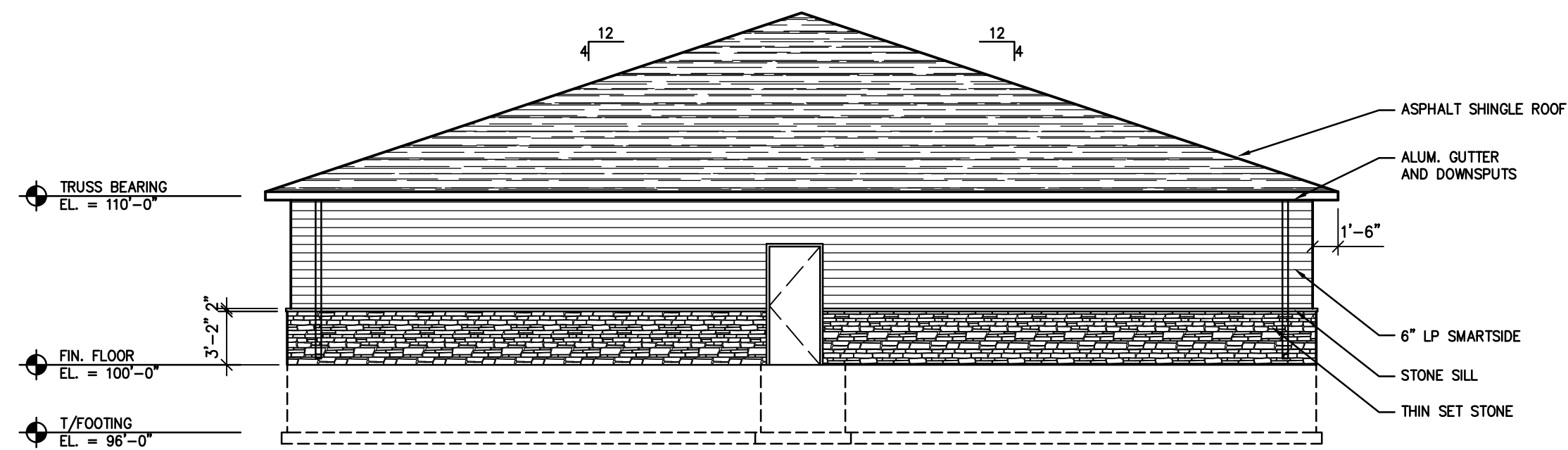
The studio will conduct classes in the evening during the work week until 9:00 p.m. There will be minimal effects to the adjacent properties concerning noise, glare, odor, fumes, and vibrations.

The adjacent properties located to the north, east and west are zoned business and the south property is residential. The proposed building will be located on the north side of the site with the parking stalls on the south side of the building. The parking spaces will have the vehicles facing the building and not toward the south residential property.



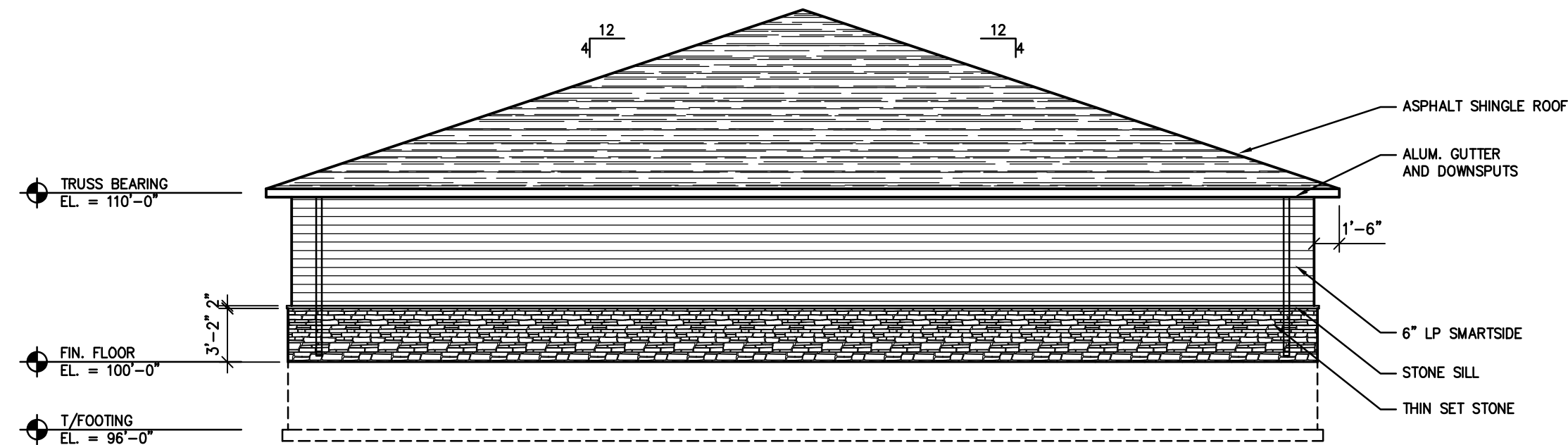
SOUTH ELEVATION

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



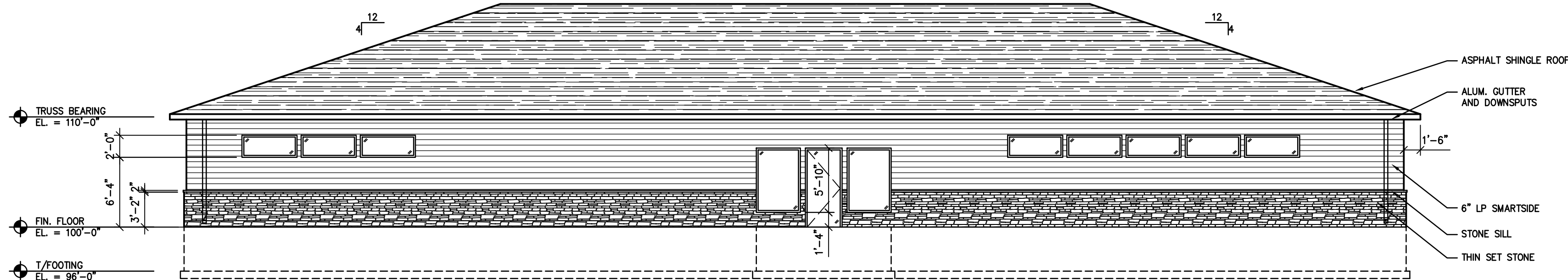
WEST ELEVATION

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




EAST ELEVATION

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



NORTH ELEVATION

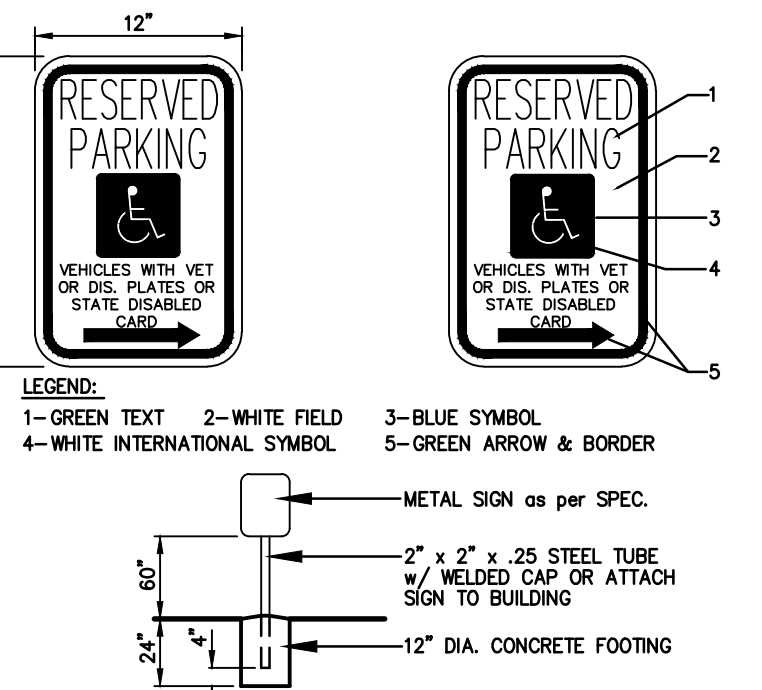
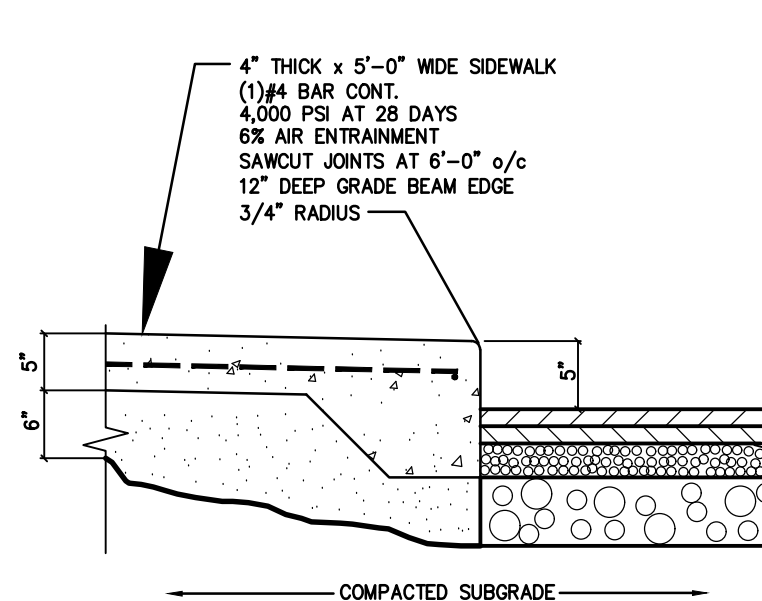
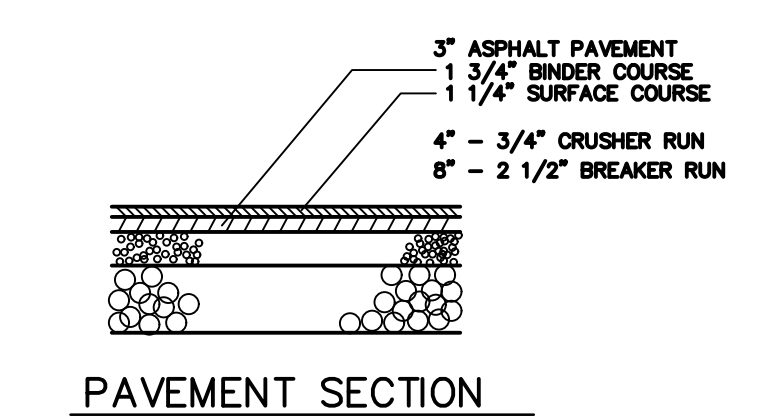
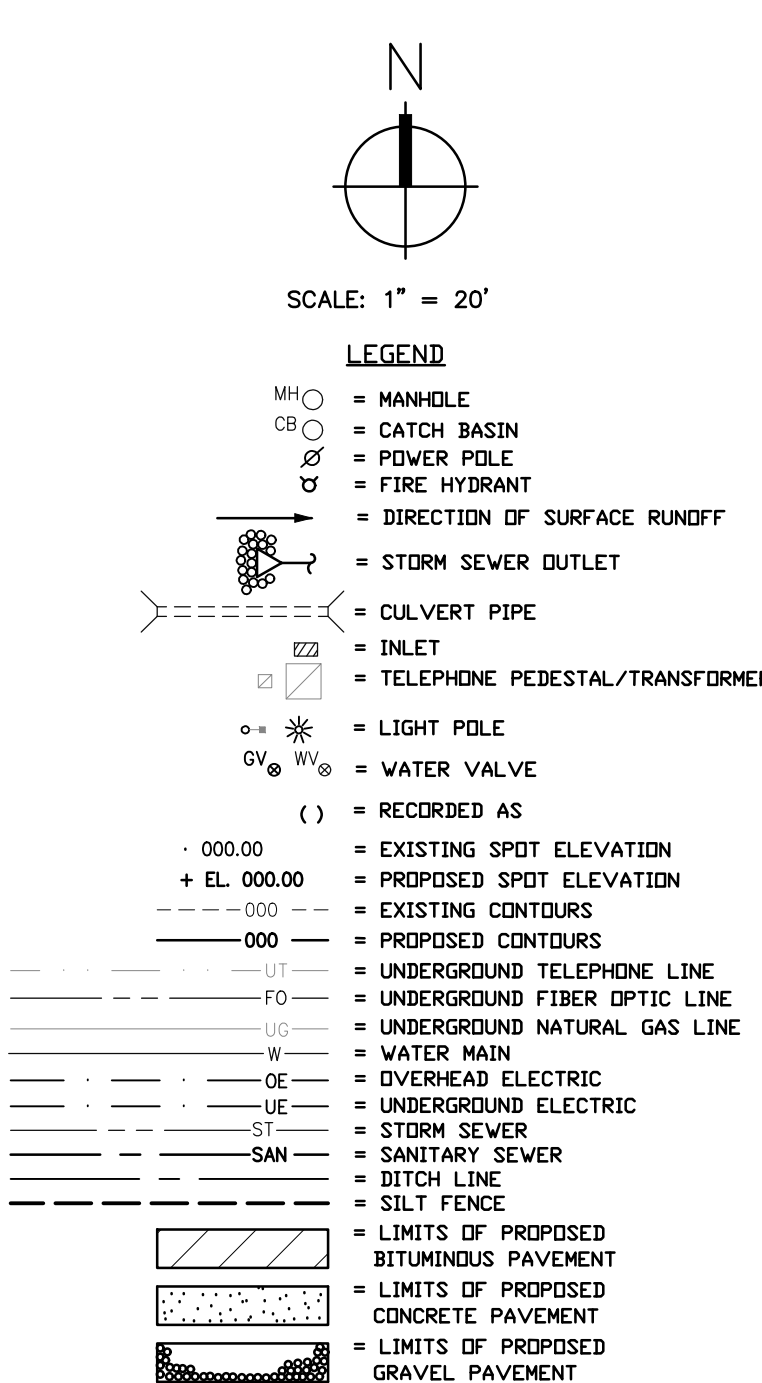
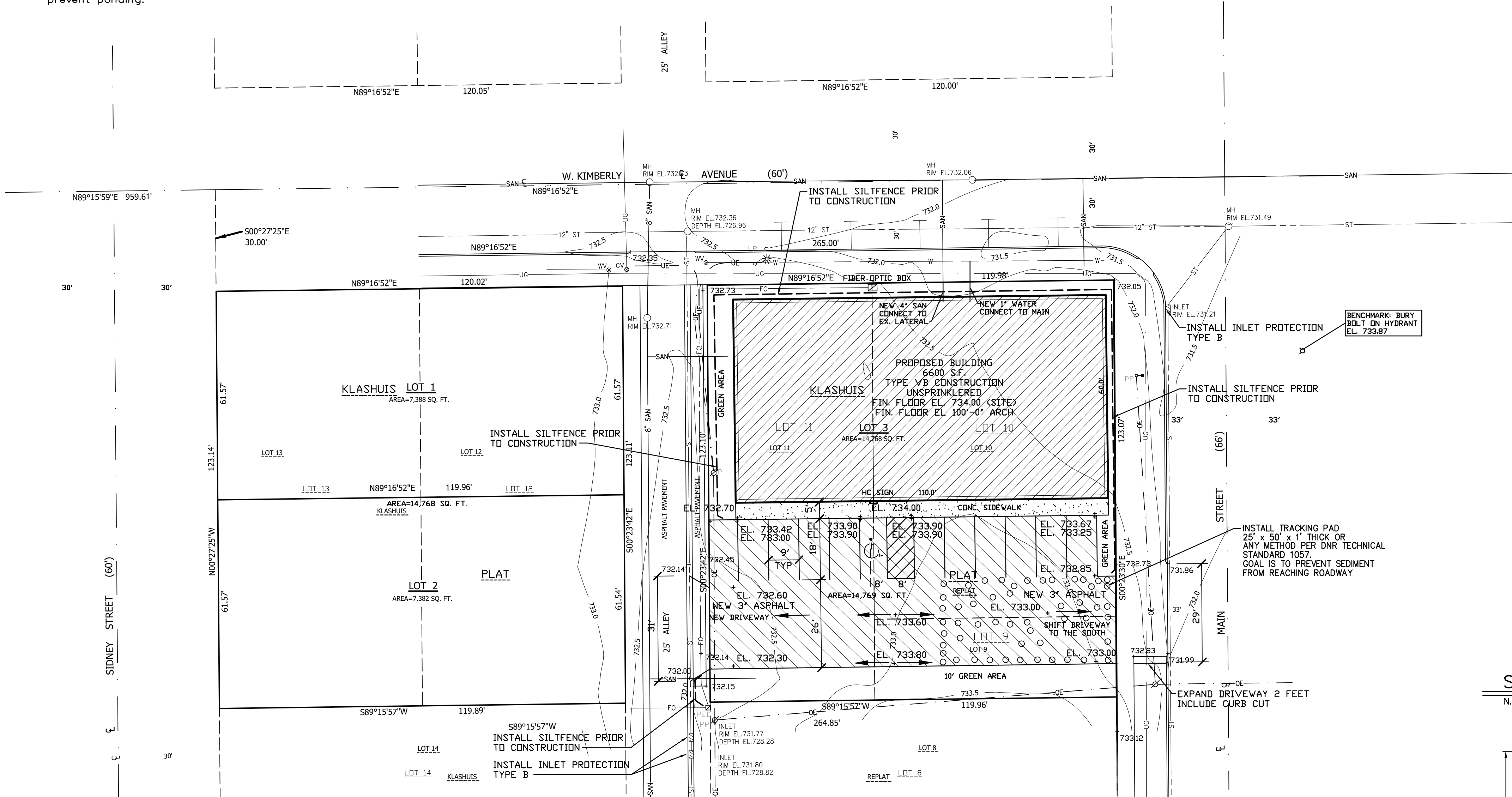
SCALE: 1/8" = 1'-0"

PROJECT: KIM MADER DANCE STUDIO		REV. NO. 1	DESCRIPTION 101 WEST KIMBERLY AVENUE, KIMBERLY, OUTAGAMIE COUNTY, WISCONSIN	DATE 00-00-00	BY	REV. NO.	DESCRIPTION	DATE	BY	<div><div></div><div>HARRIS & ASSOCIATES, INC. CONSULTING ENGINEERS AND LAND SURVEYORS</div></div>	2718 NORTH MEADE ST. APPLETON, WI 54911 TEL: (920) 733-8377 FAX: (920) 733-4731
LOCATION: KIMBERLY, OUTAGAMIE COUNTY, WISCONSIN											
DESCRIPTION: EXTERIOR ELEVATIONS											
DRAWN BY: GJW											
CHECKED BY:											
DATE: 05-05-25											
SHEET											
A2.0											
PROJECT-NUMBER 7959											

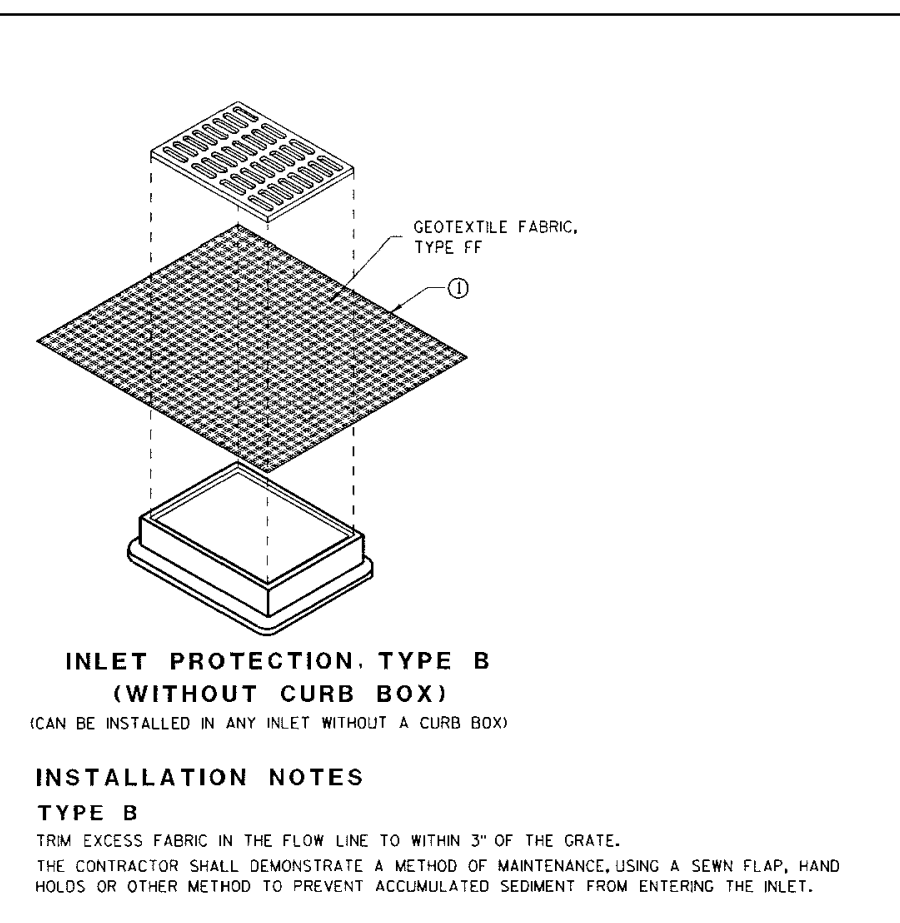
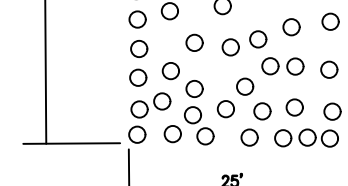
EROSION CONTROL NOTES

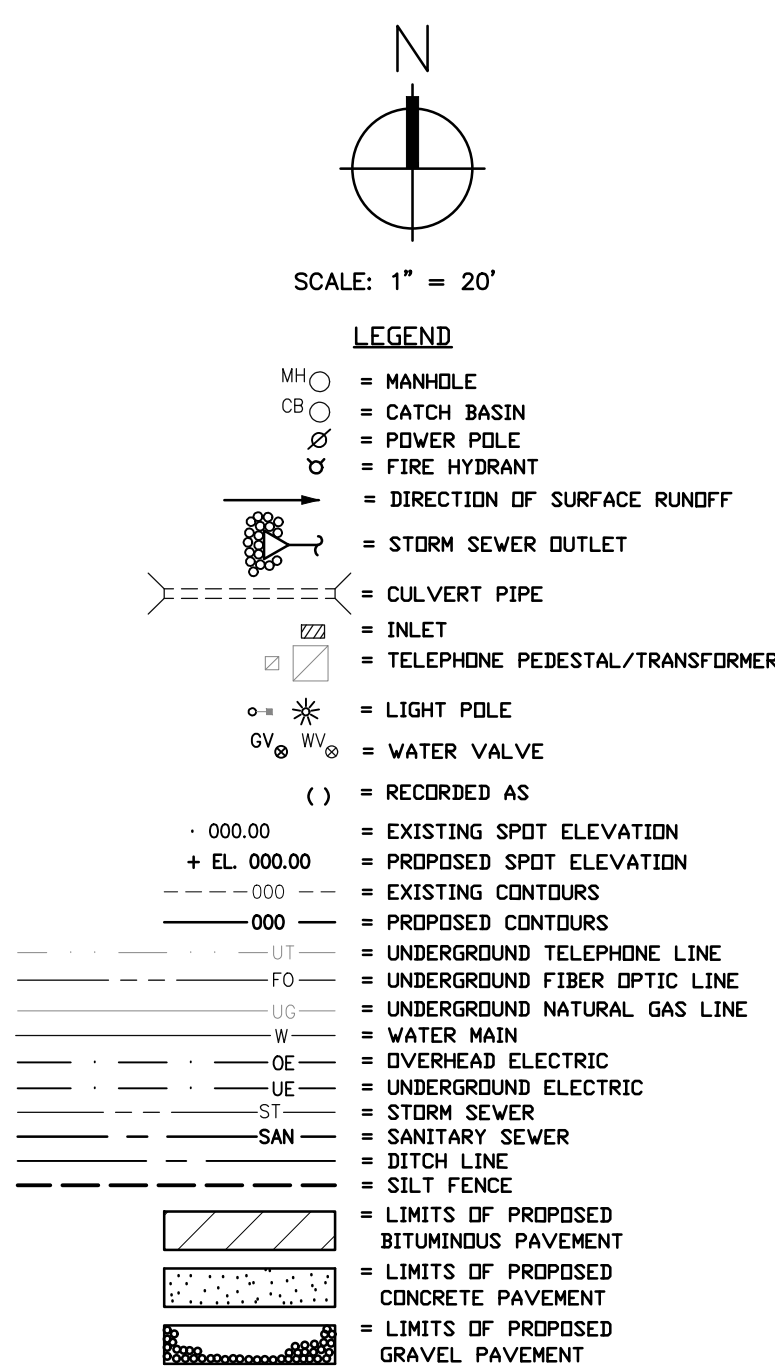
- All site contractors should obtain the Wisconsin Department of Natural Resources Technical Standards.
- All erosion and sediment control measures shall be constructed, inspected and maintained in accordance with the Erosion Control Plan, WDNR Technical Standards and the WPDES General Permit for the site. Inspection reports shall be maintained.
- All sediment control measures shall be adjusted to meet field conditions at the time of construction and installed prior to any grading or disturbance of existing surface material. BMPS shall be installed around all soil stockpiles. Stockpiles left in place greater than 7 days shall be properly stabilized.
- Weekly inspection and maintenance of all sediment control structures shall be provided to ensure intended purpose is accomplished. Sediment control measures are to be in working condition at the end of each working day.
- Within 24 hours of a rainfall of 0.5 inches or more, sediment control structures shall be inspected for integrity. Any damaged structures shall be corrected immediately.
- Sediment control measures shall not be removed until the areas served have established vegetative cover.
- Gravel mats shall be installed at all construction site exits to prevent tracking of soil. The gravel mat shall consist of 3"-6" clear stone placed 12" deep, for a minimum of 50'.
- Tracked soil shall be collected daily from paved roads located near the construction site.
- Dewatering shall conform to DNR Technical Standard 1061.
- Woven geotextile filter fabric shall be used to protect storm water catch basins per WDOT inlet protection types B or D. A minimum of 10 inches of fabric shall extend beyond the grating to provide a handhold when removing. Fabric shall be type FF. Inlets shall remain protected until the entire drainage area of the inlet is restored. Alternative protection shall be utilized around the catch basin if flooding may cause damage to adjacent buildings or properties. The catch basin shall be inspected after each rainfall event and cleaned as needed to maintain flow. If fabric is ripped it shall be replaced by the end of the work day. Fabric shall not be ripped or cut to prevent ponding.




- Overland flow shall be prevented from leaving the work site by installing straw bale or filter fabric fencing parallel to the contours located downhill from the work area.
- Sediment control for pipeline construction:
 - Excavated trench material shall be placed on the uphill side of the trench.
 - Immediately following pipe installation, the trench shall be backfilled, compacted and stabilized at the end of each working day.
- All disturbed ground outside of the everyday construction area at a minimum be temporarily seeded/mulched with oats or rye if the area is left inactive for more than 7 days.
- The existing grass street terrace shall be maintained as a buffer during construction. It shall be restored with temporary seed and mulch at a minimum 7 days after the completion of all lateral installations and other construction activity. If the terrace is not to be restored during final landscaping, a permanent seed mix shall be utilized.
- All erosion control practices damaged due to winter weather shall be repaired/replaced immediately.
- The WPDES Permit, Erosion Control Plan and Stormwater Management Plan shall be kept on site at all times.
- An Inspection Log shall be maintained and kept on-site.
- Minimize offsite airborne dust by watering disturbed areas when overly dry.
- All waste generated at the construction site will be properly disposed of and not be allowed to run into the storm sewer system.
- No excess concrete washout will be deposited in or near the ditch areas. Once hardened the concrete shall be disposed of as construction waste.
- Off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next work day. Off-site deposits occurring as a result of land disturbance shall be cleaned up by the end of the work day.



PREFERRED GRADATION OF STONE	
SIZE	PERCENT BY WEIGHT PASSING
3"	100
2 1/2"	90-100
1 1/2"	25-60
3/4"	0-20
3/8"	0-5





LANDSCAPE TREE/ SHRUB SCHEDULE						
SYM.	COMMON NAME	LATIN NAME	QTY.	COND.	SIZE	REMARKS
 AA	AMERICAN ARBORVITAE	THUJA OCCIDENTALIS	17	2 GAL	3'-4'	ALL PLANT MATERIAL SHALL CONFORM TO "AMERICAN STANDARDS FOR NURSERY STOCK"
 JB	JAPANESE BARBERRY	BERBERIS THUNBERGII "CRIMSON PYGMY"	8	2 GAL	2'-3'	
 GS	GOLDFLAME SPIREA	SPIREA x BUMALA "GOLDFLAME"	5	3 GAL	2'-3'	



Village of Kimberly Request for Plan Commission Recommendation

ITEM DESCRIPTION: Discussion: § 525-93: Accessory uses and structures and § 525-134: Definitions and word usage.

REPORT PREPARED BY: Sam Schroeder, Community Development Director

REPORT DATE: May 20, 2025

EXPLANATION: In 2021, the Village updated several sections of code within the Zoning Code to better reflect the intent and/or desires of the community. With a new administration interpreting the code and new projects being requested for the 2025 building season, staff wanted to ensure these interpretations and desires were consistent.

Section 525-93, Accessory uses and Structures as well as some definition under Section 525-134 are attached and referenced herein.

NUMBER OF GARAGES – ATTACHED AND DETACHED

§ 525-93B.(1) states the following:

- (1) Accessory and utility structure number limits.
 - (a) Single-family dwellings: One attached garage, one detached garage or accessory structure, and one utility structure.
 - (b) Two-family dwellings: One attached garage per dwelling unit, one detached garage or accessory structure per dwelling unit, and one utility structure per dwelling unit.

Staff interpretation: the sections underlined above would indicate that you are not permitted both an attached garage and a detached garage due to the “or” used within. Based on this language you are permitted a utility structure (shed/less than 150SF) and an attached garage or detached garage but not both.

Staff question: There are a lot of instances throughout the community that have both an attached garage and detached garage. It is the Villages desire to allow both?

Note: § 525-93B.(4) restricts the total area of detached structures to 30% of the rear yard.

TOTAL GARAGE SIZE ALLOWANCE

§ 525-93B.(3)(b), Attached Accessory Structures states the following:

- (b) Structure area shall be the lesser of:
 - [1] One thousand four hundred square feet;
 - [2] Attached accessory structures shall not exceed the footprint square footage of the principal use areas of the principal building;

§ 525-93B.(4)(f), Detached Accessory and Utility Structures states the following (similar for (5)(f) and (g)):

- (f) Detached accessory structure area shall not exceed 1,400 square feet;
- (g) Detached accessory and utility structures, including temporary structures, taken in total shall not occupy more than 30% of the required rear yard.

Staff interpretation: Per the above, you are permitted an attached garage up to 1,400 square feet or the footprint of the home whichever is less **OR** a detached garage up to 1,400 square feet, the footprint of the home, or 30% of the rear yard whichever is less. The footprint notation of the detached structure is noted in the accessory structure FAQ and is interpreted as such.

Staff question: Should all properties be restricted to a garage of 1,400 square feet or should it solely be restricted to the footprint of the home? Should living space above an attached garage count towards the footprint of the home?

Note: All attached structures are also limited to the setbacks of a principal structure adding to the limitations.

DEFINITION OF UTILITY STRUCTURE

§ 525-134 Definitions states the following:

UTILITY STRUCTURE

An uninhabited, subordinate structure, not exceeding 150 square feet, not attached to the principal structure or a detached accessory structure, the use of which is incidental to and customary in conjunction with the principal use of the property, e.g., storage of lawn and garden equipment, gazebo, potting shed, she shed, etc.

Staff interpretation: the term gazebo does not appear to fit with the intent of this code which is to minimize the number of small sheds and outbuildings on a property. A gazebo or similarly a pergola can be more of a landscape feature.

Staff question: should gazebos and pergolas alike be removed from the intent of this definition? If there is hesitation, what if the gazebo or pergola was located within the principal building setback on a rear patio?

RECOMMENDED ACTION: Direct staff to bring back an ordinance with the following:

1. Modify the language to allow both an attached and detached garage.
2. Remove the maximum 1,400 square foot restriction for attached and detached accessory structures, relying on the footprint of the home, 30% of the rear yard for detached structures and the principal building setbacks for attached structures.
3. Modify the language to count living space above an attached garage to be counted towards the footprint of the home.
4. Remove the reference to gazebos, pergolas and the alike structures from the definition of a utility structure.

§ 525-93. Accessory uses and structures.

- A. Principal use to be present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- B. Placement restrictions in residential districts and for residential uses in nonresidential districts. Accessory uses or structures and utility structures may be established, subject to the following regulations: **[Amended 2-18-2013 by Ord. No. 2-2013; 3-1-2021 by Ord. No. 7-2021]**

(1) Accessory and utility structure number limits.

- (a) Single-family dwellings: One attached garage, one detached garage or accessory structure, and one utility structure.**
- (b) Two-family dwellings: One attached garage per dwelling unit, one detached garage or accessory structure per dwelling unit, and one utility structure per dwelling unit.**

(2) Temporary structure and children's play structure limits. Temporary structures and children's play structures, regardless of materials or type of construction shall comply with the following:

- (a) Must be less than 150 square feet;
- (b) Shall not exceed 12 feet in height;
- (c) Meet all zoning district setback requirements;
- (d) Be in good working condition and visually pleasing to the eye;
- (e) Shall not occupy any portion of the required front, street, or side yards;
- (f) Temporary structures and children's play structures, including detached accessory structures, taken in total shall not occupy more than 30% of the required rear yard;
- (g) Shall maintain a minimum of three feet to any other building or lot line;
- (h) Temporary structures are limited to seven continuous calendar days of use and shall not exceed 30 days of use per calendar year;
- (i) No more than one children's play structure is allowed per parcel, except a two family dwelling is allowed one per dwelling;
- (j) No more than one temporary structure is allowed on any parcel;
- (k) Temporary structures outside of these requirements may be allowed with an administrative permit, issued by the Zoning Administrator, and subject to conditions established by the Zoning Administrator.
- (l) Children's play structures shall not be used for storage;

- (m) Temporary structures and children's play structures shall not be constructed out of materials that would constitute a nuisance.
- (3) Attached accessory structures. All accessory structures which are attached to the principal building shall comply with the following:
 - (a) Meet the setback requirements required of the principal building;
 - (b) Structure area shall be the lesser of:
 - [1] One thousand four hundred square feet;
 - [2] Attached accessory structures shall not exceed the footprint square footage of the principal use areas of the principal building;
 - (c) The height of an attached accessory building shall not exceed the height of the principal building.
- (4) Detached accessory and utility structures in rear yard. All detached accessory and utility structures shall comply with the following:
 - (a) Shall not occupy any portion of the required front, street, or side yards.
 - (b) Maintain a minimum three-foot setback to the side and rear property lines;
 - (c) Shall not be located within three feet of any other principal or accessory building or lot line;
 - (d) Shall be less than 15 feet in height;
 - (e) Shall not exceed the height of the principal building;
 - (f) Detached accessory structure area shall not exceed 1,400 square feet;
 - (g) Detached accessory and utility structures, including temporary structures, taken in total shall not occupy more than 30% of the required rear yard.
- (5) Detached accessory and utility structures on corner lots. All detached accessory and utility structures shall comply with the following:
 - (a) Front yard and side street (front yard) setbacks: The greater of 25 feet or the same as the principal structure;
 - (b) Side and rear yard setbacks: three-foot minimum setback;
 - (c) Setback to other accessory and utility structures: three-foot minimum setback;
 - (d) Shall be less than 15 feet in height;
 - (e) Shall not exceed the height of the principal building;
 - (f) Detached accessory structure area shall be the lesser of:
 - [1] One thousand four hundred square feet;

[2] Detached accessory structures shall not exceed the footprint square footage of the principal use areas of the principal building.

(g) Detached accessory and utility structures, including temporary structures, taken in total shall not occupy more than 30% of the yard in which said structures are located.

- C. Use restrictions in residential districts. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations, as defined herein, and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.
- D. Placement restrictions in nonresidential districts. An accessory use or structure in a business or manufacturing district may be established in the rear yard or side yard and shall not be nearer than three feet to any side or rear lot line.
- E. Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than three feet to the side line of the adjacent structure.
- F. Landscaping uses. Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation includes trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.
- G. Temporary uses. Temporary accessory uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of the permanent structure, may be permitted by the Zoning Administrator.
- H. Garages in embankments in front yards. Where the mean natural grade of a front yard is more than eight feet above the curb level, a private garage may be erected within the front yard, provided that:
 - (1) Such private garage shall be located not less than five feet from the front lot line;
 - (2) The floor level of such private garage shall be not more than one foot above the curb level; and
 - (3) At least 1/2 the height of such private garage shall be below the mean grade of the front yard.
- I. Outdoor lighting. Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- J. Lawn accessories. Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, sundials, flagpoles, etc., shall be permitted in setback areas but not closer than three feet to an abutting property line other than a street line.¹

1. Editor's Note: Original Sec. 13-1-140(k), Retaining walls, which immediately followed this subsection, was repealed 3-5-2012 by Ord. No. 3-2012.

- K. Children's play structures. For purposes of this section, children's play structures, including play houses, tree houses or elevated play structures, swing sets, slides, sandboxes and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this section, whether such play structures are placed on a foundation or not. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- L. Terrace area restrictions. In addition to the definitions and restrictions contained in §§ 430-11 and 445-2 of this Code, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboards/hoops, in the terrace area.
- M. Portable storage units (containers). **[Added 4-3-2017 by Ord. No. 2-2017]**
- (1) Permitted zoning districts: R-1, R-2, R-3, R-4. When incidental to a residential dwelling:
 - (a) A temporary use permit is required pursuant to this section .
 - (b) One portable storage unit shall be the maximum number allowed on a lot for no more than 30 consecutive days and no more than 60 total days per calendar year.
 - (c) The portable storage unit shall be placed on an impervious surface.
 - (d) The portable storage unit shall not be located within 10 feet of a property line.
 - (e) The portable storage unit shall not be located within the vision corner.
 - (f) Portable storage units shall not be used for the purposes of a garage or shed.
 - (2) All other zoning districts. When incidental to a permitted principal use:
 - (a) No more than three temporary use permits per business shall be issued per calendar year .
 - (b) Two portable storage units shall be the maximum allowed per temporary use permit.
 - (c) The maximum time limit per temporary use permit shall be 30 days.
 - (d) Portable storage units shall be placed on an impervious surface.
 - (e) Portable storage units may be placed on a lot within a designated loading space.
 - (f) The portable storage unit shall not be located within the required front setback unless permitted by the Building Inspector.
 - (g) Portable storage units shall not be used for the purposes of a garage, shed or other on-site storage.

§ 525-134. Definitions and word usage.

For the purposes of this chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.

...

ACCESSORY STRUCTURE — An uninhabited, subordinate structure exceeding 150 square feet in area, attached or detached to the principal structure, the use of which is incidental to and customary in conjunction with the principal use of the principal structure, (e.g., garages, carports, workshops, pool houses, similar buildings). [Amended 3-1-2021 by Ord. No. 9-2021]

ACCESSORY USE — A subordinate use which is incidental to and customary in conjunction with the principal structure or use and which is located on the same lot with such principal structure or use. [Added 3-1-2021 by Ord. No. 9-2021]

...

BUILDABLE LOT AREA — The portion of a lot remaining after required yards have been provided.

BUILDING — Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

BUILDING, ACCESSORY — A building or portion of a building in which an accessory use of the lot is conducted. [Added 3-1-2021 by Ord. No. 9-2021]

BUILDING, DETACHED — A building surrounded by open space on the same lot.

BUILDING, HEIGHT OF — The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deckline of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.

BUILDING, PRINCIPAL — A building in which the principal use of the lot on which it is located is conducted, excluding attached accessory structures. [Amended 3-1-2021 by Ord. No. 9-2021]

BUILDING SETBACK LINE — A line parallel to the lot line at a distance parallel to it regulated by the yard requirements set up in this chapter.

...

CHILDREN'S PLAY STRUCTURE — Includes playhouses, tree houses or elevated play structures, climbing gyms, and similar structures. Swing sets, slides, sandboxes, and other generally portable play devices are not considered children's play structures except when included as a component of children's play structures. [Added 3-1-2021 by Ord. No. 9-2021]

...

GARAGE, PRIVATE — A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.

GARAGE, PUBLIC — Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.⁸

...

LOT COVERAGE (RESIDENTIAL) — The area of a lot occupied by the principal building or buildings and accessory building.

...

MINOR STRUCTURE — Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four feet in height.

...

SETBACK — The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed 24 inches; any overhang of the cornice in excess of 24 inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over 24 inches. Uncovered steps shall not be included in measuring the setback.

...

STRUCTURE — Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

TEMPORARY STRUCTURE — Any structure not requiring a permanent location on the ground and does not require attachment to something having a permanent location on the ground.
[Amended 2-18-2013 by Ord. No. 2-2013]

USE — The purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.¹³

USE, PRINCIPAL — The main use of land or building as distinguished from subordinate or accessory use.

...

UTILITY STRUCTURE — An uninhabited, subordinate structure, not exceeding 150 square feet, not attached to the principal structure or a detached accessory structure, the use of which is incidental to and customary in conjunction with the principal use of the property, e.g., storage of lawn and garden equipment, gazebo, potting shed, she shed, etc.[Added 3-1-2021 by Ord. No. 9-2021]