

**CITY OF LA CROSSE, WISCONSIN
CITY PLAN COMMISSION
REPORT
June 1, 2015**

➤ **AGENDA ITEM - 15-0430 (Lewis Kuhlman)**

Preliminary Plat of Willow Heights to the Town of Shelby, Wisconsin.

➤ **ROUTING:** J&A Committee

➤ **BACKGROUND INFORMATION:**

The City is reviewing this preliminary plat because it is within the City's extraterritorial plat jurisdiction which extends three miles beyond its borders. The purpose of Wisconsin's extraterritorial plat approval jurisdiction is to help cities and villages influence the development pattern of areas outside the city/village boundaries that will probably be annexed to the city or village. In addition, it helps cities and villages protect land use near its boundaries from conflicting uses outside the city/village limits.

The subject preliminary plat would subdivide property depicted on attached **MAP 15-0430** into 24 single-family residential lots ranging in size from 1.33 to 8.47 acres, with one parcel over 37 acres. There are two out lots (1.26 and 1.35 acres) that will be dedicated for parks. The subdivision will be served by private wells, on-site wastewater treatment, and stormwater drainage facilities. Easements are included for future public sanitary sewer connections.

The City updated its extraterritorial plat review regulations in August 2014 to reflect a 2013 Wisconsin Court of Appeals ruling, *Lake Delavan Property Co. v. City of Delavan*. The court held that Cities and Villages cannot use their subdivision regulations to deny extraterritorial subdivision approvals based on the proposed use of the subject property. Delavan was found to be regulating use by restricting land divisions to a density of no more than one lot per 35 acres "in order to protect rural character and farming viability."

Since the City of La Crosse had a similar clause, it amended [Sec. 113-39](#) of the Code to comply with the ruling. [Ord. No. 4830](#) removes the paragraphs of that section differentiating agricultural and nonagricultural subdivisions. Most importantly, the ordinance states, "No subdivision as defined in this Ordinance will be permitted within the City of La Crosse's extraterritorial jurisdiction." While not explicit, the intent of this clause is to encourage redevelopment of the region's central city and discourage sprawl. This intention is important in keeping costs per capita low (i.e. for infrastructure and public services) and preserving our natural resources.

However, this subsection of the Code goes on to state, “The Plan Commission and Common Council may make exceptions...” The plat must meet each of the following criteria in order to be granted an exception.

1. It must be compatible with adjacent development (i.e. similar lot size, traffic generation, access, noise, visual features).
2. It must not adversely affect the City’s ability to provide public services, install public improvement or accomplish future annexations.
3. It must be infill of vacant land or provide permanent open space lands. Here, “Infilling is defined as a subdivision or land division which will accommodate the development of vacant land located such that surrounding existing land uses render the land impractical for any but similar uses.”
4. It must be suitable for use; it must not harm the health, safety and welfare of future landowners and residents.
5. It must not conflict with any municipality’s existing or planned public investment.
6. It must follow the most stringent land division ordinance whether it is the County, the Town or the City’s ordinance.

State statute upholds the City’s ability to object to a plat and hold it to the City’s standards: “Where more than one governing body or other agency has authority to approve or to object to a plat and the requirements of such bodies or agencies are conflicting, the plat shall comply with the most restrictive requirements,” [236.16\(4\)](#), Wis. Stats.

A large concern regarding new subdivisions is that the County has approximately 2,400 vacant lots already available – enough for one hundred years of development. While most of the vacant lots are in the Holmen School District (30%), about 20% of the vacant lots are in the La Crosse School District.

Another concern is the potential use of City infrastructure by Town of Shelby residents. La Crosse County has an average household size of 2.4 people. The average daily person trips in Wisconsin is 3.76. Here, that would mean ~58 people in 24 households take an average of ~217 daily trips. The 2008 Annual Average Daily Traffic on Highway 33 was 7,700 to the west of Knobloch Road and 2,200 to the east, demonstrating that residents in this area already generate many trips to La Crosse.

The City works with neighboring Towns on shared issues. First, the City has a mutual aid agreement with surrounding Towns to provide services as needed. For example, the City’s Fire Department would assist the Shelby Fire Department put out a fire if called upon. Having both Fire Departments review this preliminary plat provided a broader perspective for emergency response. Second, the City recently established a Boundary Agreement Task Force that has met three times since April.

The City’s Fire Department provided comments (attached) for the subdivision to meet its access requirements. The comments are based on the State-adopted requirements found in the National Fire Protection Association (NFPA) 1, Chapter 18. They ensure that firetrucks are able to easily access developments. Here, the roadway is wide

enough and not gated, but there were issues with grade and turnaround areas. The current road grade is greater than a ten percent at one point, but the finished grade is planned to be less than five. Also, while many driveways are currently on a grade greater than a ten percent, their finished grade will be lessened as required by Shelby's driveway permits. There is one turnaround on Willow Trail and one on Acorn Court on the roughly 3,200 foot length road, so the plat will need another to comply with the NFPA Code. There may also be issues with snow removal that the applicant will have to address.

Erosion control plans for ground disturbance on land with 20% to less than 30% slopes must be adequately implemented and enforced by the County or City. If they are not, the DNR will not approve sewer service extensions on any lands with 20% to less than 30% slopes. While this plat isn't connecting to the City sewer initially, it could affect sewer extension elsewhere. Erosion control plans and amendments must be approved by the County Land Conservation Committee if disturbance on lands where 20% to less than 30% slopes are present. That committee has reviewed and approved this plat with conditions.

Other points to keep in mind include:

- While Willow Heights would benefit the La Crosse School District, new development within the city would benefit them *and* the City.
- Undoubtedly, most residents of Willow Heights will work and shop in La Crosse. While they benefit from their proximity to La Crosse, they do not pay City taxes or contribute to the maintenance of some of the infrastructure that they depend upon.
- Encouraging higher-end housing outside the city limits that is easily accessible to the city contradicts city objectives to improve the housing stock within the city. Shelby can attract well-off residents with lower taxes and new luxury homes. La Crosse has higher taxes and has a greater percentage of low-to-moderate income housing. This disparity has the potential to worsen with each extraterritorial plat the City approves.

➤ **GENERAL LOCATION:**

Section 12, T15N, R7W, off Knobloch Road on Irish Hill Golf Course, Town of Shelby

➤ **RECOMMENDATION OF OTHER BOARDS AND COMMISSIONS:**

The Town of Shelby approved the preliminary plat on Monday, March 23rd with the conditions that the parkland not include sidewalks and be deeded and maintained by the town, and that a row of shrubs or a split rail fence is installed along the south end of Knobloch Road to provide a safety barrier.

The County approved it on Monday, May 5th with conditions that include soil conditions for stormwater management, stockpile locations, DNR permits, bond for erosion control, and final soil stabilization.

➤ **CONSISTENCY WITH ADOPTED COMPREHENSIVE PLAN:**

This preliminary plat is not consistent with the City's adopted comprehensive plan. The Future Land Use Map has identified the property as Agriculture/Rural Residential with a minimum density of one dwelling unit per 35 acres. The area was formerly a golf course and does not support the land use objective of targeted redevelopment (investing in the riverfront, distressed neighborhoods, and activity centers) or compact and contiguous growth. Additionally, the property would not support the transportation objective for smart growth. Further, it does not support the City's housing objectives to create a mix of housing options since the subdivision is intended for high-end single-family homes.

This preliminary plat is also not consistent with the County's adopted comprehensive plan or *Coulee Vision 2050*. However, neither anticipated that this site would no longer be a golf course. The County's 2008 Future Land Use Map had it as Recreational, while the amended Future Land Use Map has it as Public-Institutional. *Coulee Vision 2050's* Future Land Use Map shows it as Agricultural and based on the preferred alternative of "More Infill, Less Sprawl."

➤ **PLANNING RECOMMENDATION:**

When relying on ideal planning principles, smart growth concepts, city rejuvenation and preservation, and a strict interpretation of the City's current ordinance, and for all of the reasons listed above, this extraterritorial plat should be rejected. However, numerous Wisconsin Supreme Court and Wisconsin Court of Appeals decisions in recent years have limited the authority of cities and villages to require plats to comply with required public improvements and with the proposed use of the land. The Consideration of these cases, push staff to a broader interpretation the City's current ordinance.

Technically, the Municipal Code does not permit subdivisions within its extraterritorial jurisdiction, though this may difficult to enforce. The implicit intent of that subsection of the code is to prevent sprawl that strains City resources, services, and infrastructure without adding value to the City, and to promote compact and contiguous growth. It is in the City's best interest to encourage redevelopment that brings new residents into the city, not allow for new development that could draw residents out.

As mentioned previously, the Municipal Code does allow the Plan Commission and Common Council to make exceptions if they meet all of the criteria. In review of the criteria, this plat:

1. Complies with requirements to be compatible with adjacent development.
However, it is important to note that not all adjacent property is developed. There are three residences along Knobloch Rd similar to what is being proposed, but the plat is predominantly adjacent to undeveloped land – steep, forested slopes. There

are two other subdivisions nearby – though not adjacent – on Knobloch Rd. (Battlestone Ridge and Boulder Ridge) and another subdivision planned (The Quarry at Irish Hill).

2. Complies with the requirement to not adversely affect the City’s ability to provide public services, install public improvement or accomplish future annexations. The plat is intended not to use City services or improvements, but may connect to its sewer system in the distant future.
3. In broad interpretation, complies with the requirement that the plat be infill or provide open space. While strictly speaking, the infill criterion would be difficult to meet since the land could practically be used for something else, like a golf course or agriculture. This again leads us to the “use” principle that the State Court System has ruled on. For the open space criterion, there are two outlots for parks, but may be of dubious utility for public purposes. The plat meets the required 0.10 acres of park space per lot for a total of 2.4 acres minimum of dedicated land. The Town doesn’t want a park with equipment and utilities that need upkeep. The open space is on land that is a challenge to build on due to a high pressure gas line near Knobloch Rd. and on wooded land between Lots 19 and 20.
4. Complies with requirement that it is not unsuitable for use. Given the site’s slope, the plat may have been unsuitable due to “unfavorable topography” or “severe erosion potential.” Specifically, unfavorable topography could make it difficult for fire trucks or ambulance access. While potential driveways are indicated on land that currently have more than a ten percent grade, the finished grade will be less.
5. Complies with requirement to not conflict with any municipality’s existing or planned public investment.
6. Does not comply with requirement to follow the most stringent subdivision ordinance – the City’s. For example, the cul-de-sacs and blocks are too long for City standards, the lot lines do not meet the road at a right angles, the subdivision does not include street trees, etc. However, in the past, per Municipal Code 113-9(a) the City has waived those requirements. The topography surrounding the City of La Crosse is challenging; if this plat was closer to the City and/or not located into a coulee, or if there was potential for annexation in the short to mid-term, Planning staff would not recommend a waiver. At a recent meeting with the Developer, staff suggested that the Developer request waivers from the Municipal code; that request is attached.

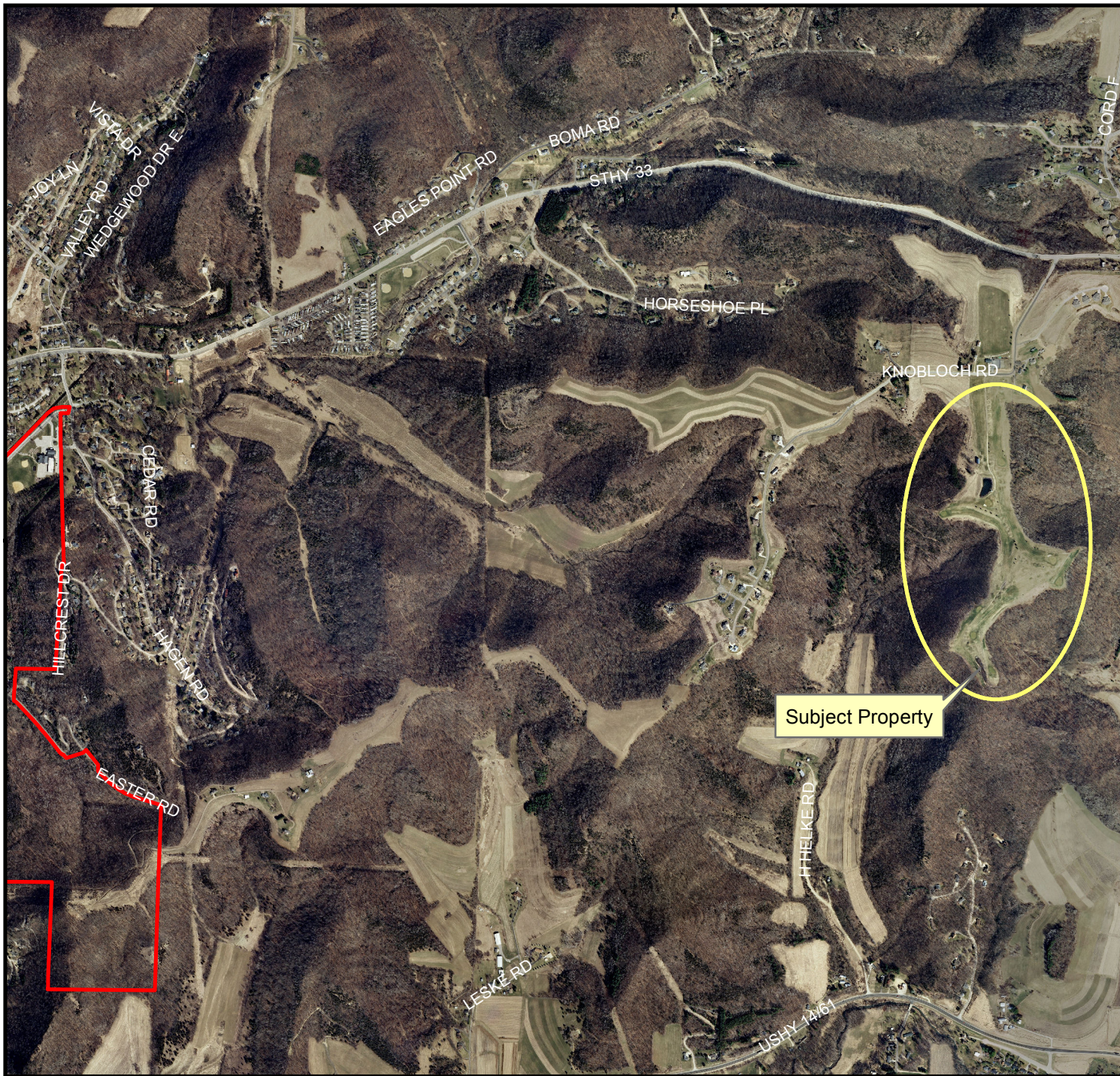
Planning Staff recommends conditional approval of this preliminary plat.

The conditions include the following:

1. The plat must include a turnaround point for emergency vehicles at Lot 6 (attached). This recommendation is based on the exception criteria set forth above and Fire Department comments.
2. The City of La Crosse waive the following sections of the City’s subdivision ordinance (see attached waiver request):
 1. 113-137 – Length of cul-de-sac
 2. 113-175 – Curb and gutter
 3. 113-177 – Sidewalks
 4. 113-178 – Central sanitary sewage

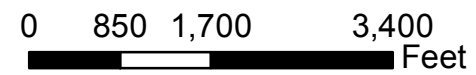
5. 113-180 – Central water supply facilities
6. 113-182 – Street trees
7. 113-185 – Street lights

The City's current ordinance is good for the City of La Crosse and therefore, staff does not recommend future modification; staff in turn hopes that Wisconsin State Court views will shift in the future to greater protection of central cities and ultimately more ideal planning principles for smart growth and land use. Extraterritorial jurisdiction plats will be reviewed on an individual basis with particular attention to location, suitability, design, compatibility and infill.



BASIC ZONING DISTRICTS

- R1 - SINGLE FAMILY
- R2 - RESIDENCE
- WR - WASHBURN RES
- R3 - SPECIAL RESIDENCE
- R4 - LOW DENSITY MULTI
- R5 - MULTIPLE DWELLING
- R6 - SPECIAL MULTIPLE
- PD- PLANNED DEVELOP
- TND - TRAD NEIGH DEV.
- C1 - LOCAL BUSINESS
- C2 - COMMERCIAL
- C3 - COMMUNITY BUSINESS
- M1 - LIGHT INDUSTRIAL
- M2 - HEAVY INDUSTRIAL
- PS - PUBLIC & SEMI-PUBLIC
- PL - PARKING LOT
- UT - PUBLIC UTILITY
- CON - CONSERVANCY
- FW - FLOODWAY
- A1 - AGRICULTURAL
- EA - EXCLUSIVE AG
- City Limits
- SUBJECT PROPERTY





Gregg A. Cleveland, Fire Chief
La Crosse Fire Department

726 5th Ave South, La Crosse, WI54601 ■ (608) 789-7260 Fax (608) 789-7276
<http://www.cityoflacrosse.org> ClevelandG@cityoflacrosse.org



Serving La Crosse and Southwestern Wisconsin Quality Emergency Services Since 1896

**CITY OF LA CROSSE AND TOWN OF SHELBY
MUTUAL AID AGREEMENT**

This agreement is entered into on March 14, 2014, between the Town of Shelby Fire Department and the City of La Crosse Fire Department to secure for each the benefits of mutual aid in fire prevention, the protection of life and property from fire, and firefighting. It is agreed that;

1. On request to an authorized representative of the Town of Shelby Fire Department by a representative of the City of La Crosse Fire Department, firefighting equipment and personnel of Town of Shelby will be dispatched when available to any point within the area for which the City of La Crosse Fire Department normally provides fire protection as designated by the representative of the City of La Crosse Fire Department.
2. On request to an authorized representative of the City of La Crosse Fire Department by a representative of the Town of Shelby Fire Department, firefighting equipment and personnel of the City of La Crosse Fire Department will be dispatched when available to any point within the firefighting jurisdiction of the Town of Shelby.
3. Mutual aid is not to be a substitute for the City of La Crosse or Town of Shelby to provide adequate staffing and equipment to meet their normal day-to-day service demands of their respective response areas.
4. The rendering of assistance under the terms of this agreement shall not be mandatory, but the party receiving the request for assistance should immediately inform the requesting department if, for any reason, assistance cannot be rendered.
5. This agreement shall not cover specialized hazardous materials responses for the Town of Shelby and the City of La Crosse.
6. Any dispatch of equipment and personnel pursuant to this agreement is subject to the following conditions:
 - A. Any request for aid under this agreement will specify the location to which the equipment and personnel are to be dispatched; however, the amount and type of equipment and number of personnel to be furnished will be determined by a representative of the responding organization.
 - B. The responding organization will report to the office in charge of the requesting organization at the location to which the equipment is dispatched, and will be subject to the orders of the officer. It will be agreed upon that both

Mutual Aid Agreement
Town of Shelby and City of La Crosse

agencies must utilize the National Incident Management System (NIMS) for the management of all emergencies.

C. A responding organization will be released by the requesting organization when the services of the responding organization are no longer required, or when the responding organization is needed within the area for which it normally provides fire protection.

D. In the event that an emergency occurs in the response territory that requires the aiding department to recall their mutual aid units, said units will be released from providing mutual aid as soon as safely possible by the incident commander.

7. Each party hereby waives all claims against the other party for compensation for any loss, damage, injury or death arising from or related to a party's performance of its obligations pursuant to this agreement.
8. The chief fire officers and personnel of the fire departments of both parties to this agreement are invited and encouraged, on a reciprocal basis, to frequently visit each other's activities for guided familiarization tours consistent with local security requirements and, as feasible, to jointly conduct pre-fire planning inspections and drills.
9. The technical heads of the fire departments of the parties to this agreement are authorized and directed to meet and draft any detailed plans and procedures of operation necessary to effectively implement this agreement. Such plans and procedures of operations shall become effective upon ratification by the City of La Crosse and Town of Shelby or their designees.
10. All equipment used by City of La Crosse Fire Department in carrying out this agreement will be owned by the City of La Crosse Fire Department; and all personnel acting for City of La Crosse Fire Department under this agreement will be employees of the City of La Crosse Fire Department.
11. All equipment used by Town of Shelby Fire Department in carrying out this agreement will be owned by the Town of Shelby Fire Department; and all personnel acting for Town of Shelby Fire Department under this agreement will be employees of Town of Shelby Fire Department.
12. This agreement shall become effective upon the date hereof and remain in full force and effect until cancelled by mutual agreement of the parties hereto or by written notice by one party to the other party, giving thirty (30) days notice of said cancellation.

Mutual Aid Agreement
Town of Shelby and City of La Crosse

Tim Candahl

Tim Candahl, Town Chairman
Town of Shelby

6-17-2014

Date

Cathy Onsager

Cathy Onsager
Town Clerk/Treasurer
Town of Shelby

6-10-2014

Date

Mike Kemp

Mike Kemp
Fire Chief
Town of Shelby

6/10/14

Date

Tim Kabot

Tim Kabot, Mayor
City of La Crosse

06/23/2014

Date

Teri Lehrke

Teri Lehrke
City Clerk
City of La Crosse

6-23-14

Date

Gregg A. Cleveland

Gregg A. Cleveland
Fire Chief
City of La Crosse

6/20/14

Date

Comments Regarding Preliminary Plat for Willow Heights – April 20, 2015

The plan review is based on the entirety of the requirements found in NFPA 1, Chapter 18

1. Fire department access roads shall have an unobstructed width of not less than 20 ft.
2. Fire department access roads shall have an unobstructed vertical clearance of not less than 13 ft.
3. Minimum required widths shall be maintained at all times and shall not be obstructed in any manner including the parking of vehicles.
 - a. Curves shall not reduce the width of the roadway
4. The Town of Shelby and/or the City of La Crosse shall require a means of unlocking any security feature that is installed.
5. The Town of Shelby and/or the City of La Crosse shall have the authority to require access boxes to be installed in an accessible location where access to the area is difficult because of security.
6. Means shall be provided to override normal operation and allow any gate to remain open until manually closed.
7. The Town of Shelby and/or the City of La Crosse shall have the authority to require fire department access be provided to gated subdivisions or developments through the use of an approved device or system.
8. The clear opening through gates shall have a usable width of at least 2 feet wider than the means of access it controls and swing in the direction of emergency travel.
9. Roadways shall be constructed of a hard, all-weather surface designed to support all legal loads of the Town of Shelby and the City of La Crosse.

Number of Means of Access

1. If multiple access routes are required, they shall be located as remotely from each other as practical and acceptable to the Shelby Fire and La Crosse Fire Departments.
2. The use of traffic calming devices shall be approved by the Shelby and/or La Crosse Fire Departments.

3. When a bridge is required to be used as part of a fire department access road, it shall be constructed and maintained in accordance with nationally recognized standards.
4. The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.
5. Vehicle load limits shall be posted at both entrances to bridges.

Grades

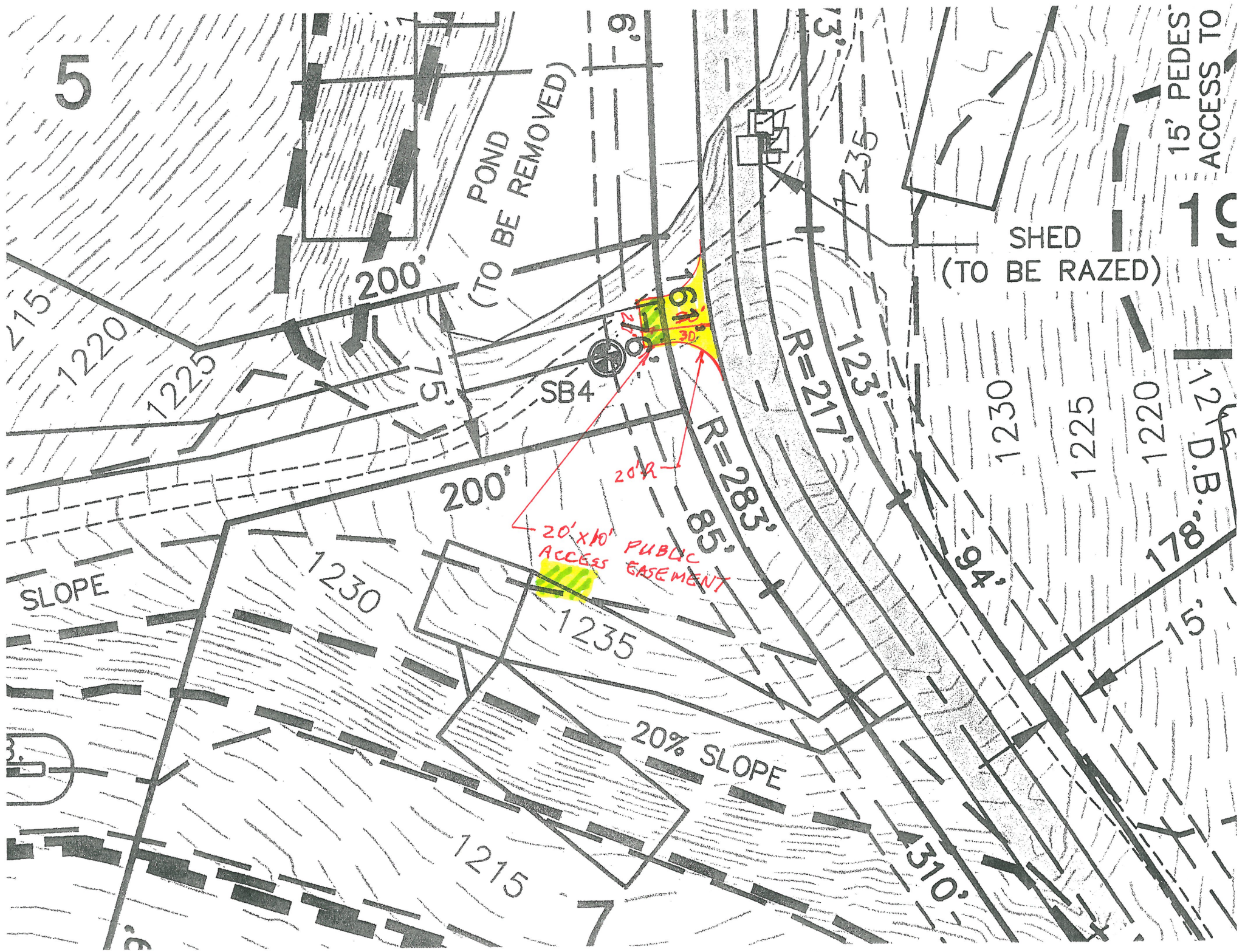
1. Grades shall not exceed the maximum approved.
2. The angle of approach and departure shall not exceed 1 foot drop in 20 feet or the design limitations of the fire apparatus for the Shelby and/or La Crosse Fire Departments.

Dead Ends

1. Dead end fire department access roads in excess of 150 ft. in length shall be provided with approved provisions for the fire apparatus of the Shelby and/or La Crosse Fire Departments to turn around.
2. The turning radius of the fire department access road (such as a cul-de-sac) shall be approved by the Shelby and/or La Crosse Fire Department.

Signage

1. Addresses shall be assigned in a logical, consistent manner based on the addressing system of the Town of Shelby and visible from the access road.
2. At each intersection, noncombustible signs shall be installed with the name of each road.
3. Approved “No Parking — Fire Lane” signs shall be posted in accordance with the instructions of the fire department having responsibility and a method of enforcing such provisions shall be provided by the Town of Shelby.



5

POND
(TO BE REMOVED)

SHED
(TO BE RAZED)

15' PEDES
ACCESS TO

SB4

20'x10' PUBLIC
ACCESS EASEMENT

SLOPE

20% SLOPE

D.B. 1215

178.8

15'

310'

R=217.1

R=283.5

200'

200'

1235

1230

1225

1230

1225

1220

1215

1215

1220

1235

94'

9'

13'

9'

ALT Investments, LLC

W5674 Koss Rd, Onalaska, WI 54650

May 28, 2015

To:

Randy Turtenwald, City Engineer
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

Tim Acklin, Senior Planner
City of La Crosse
400 La Crosse Street
La Crosse, WI 54601

Dear Randy and Tim:

Please accept this letter as a formal request for waiver of the following provisions of Chapter 113, Article IV of the La Crosse City Municipal Code of Ordinances as it applies to the proposed Willow Heights subdivision in the Town of Shelby. In addition to the subdivision being located outside the corporate limits, ALT Investments (developer) hereby requests waiver of the following provisions for the following reasons:

- Section 113-137 (b) – Street Design Standards, Cul-De-Sac. The length of the Willow Trail cul-de-sac is approximately 3200', is typical of the surrounding development (Boulder Ridge and Battlestone Station Condominiums), and fits with the local topography.
- Section 113-175 – Curb and Gutter. The site is to have a rural cross section with ditches and drainage ways. Curb and gutter would convey storm water pollutants that are being reduced by the roadway ditches.
- Section 113-177 – Sidewalks. Willow Trail will have a four (4) foot paved pedestrian walkway separated from the travel lanes by white pavement marking. Having the pedestrian walkway adjacent to the road maintains the rural cross section and provides for better snow removal during the winter since it is part of the pavement.
- Section 113-178 – Central Sanitary Sewerage. Residents of Willow Heights will utilize individual privately owned sewage/septic treatment systems since central sewer facilities are not available.
- Section 113-180 – Central Water Supply Facilities. There will be several community wells serving the residents of Willow Heights since municipal water service is not available. There will be a maximum of six homes that share a common well.
- Section 113-182 – Street Trees. The Covenants of Willow Heights will require residents to plant and maintain trees on individual home sites to maintain consistency and conformance with surrounding development (Boulder Ridge).
- Section 113-185 – Street Lights. No street lights are planned within the subdivision to maintain consistency and conformance with surrounding development (Boulder Ridge).

Respectfully submitted,

Andrew Temte
Member, ALT Investments, LLC
608.385.9050