

DODGE COUNTY BOARD OF ADJUSTMENT MINUTES
October 15, 2015

The Dodge County Board of Adjustment met on this 15th day of October, 2015, at 7:00 p.m., on the 1st Floor of the Administration Building, in Rooms 1H and 1I, located at 127 East Oak Street, Juneau, Wisconsin.

Chairman Armin Reichow called the meeting of the Dodge County Board of Adjustment to order.

Roll Call was taken.

Members present were as follows: Armin Reichow, Harold Hicks, Wayne Uttke, William Nass, and Edward Premo (Alternate 1). Members excused were Leon Schraufnagel.

Chairman Reichow noted that a quorum is present.

Joseph Giebel of the Land Resources and Parks Department was in attendance at the request of the chairman;

The Chairman asked the staff to confirm compliance with the open meeting law and public hearing notice requirements for the hearings before the Board.

Mr. Giebel indicated that the meeting was properly noticed in accord with the open meeting law and noted that each of the public hearings listed on the agenda received a class two notice and the mailing notices were sent in accord with the statute and code requirements.

The agenda was reviewed by the Board.

The minutes from the October 8, 2015 meeting were reviewed by the Board.

Motion by William Nass to approve the minutes as written.

Second by Ed Premo Vote: 4-0 Motion carried.

The staff explained the hearing procedures to those in attendance;

The Chairman read the public hearing notice for the first public hearing.

PUBLIC HEARING

Howard and Barb Krohn – Request for a variance to the terms of the Highway Setback Overlay District provisions of the Dodge County Land Use Code to allow a replacement garage to be located within the highway setback line of Bay Street. The site is located on Lot 23, Block 2, Sinissippi Bay Subdivision in part of the NE ¼, NE ¼, Section 32, Town of Hubbard, the site address being N5194 Wildcat Road.

Motion by Ed Premo to approve the variance request to allow a replacement garage to be located within the highway setback line of Bay Street as proposed.

Second by William Nass Vote: 5-0 Motion carried.

Howard and Barb Krohn

Request for a waiver of the double fees that were charged for the permit and variance applications.

Motion by Wayne Uttke to approve the request for waiver of the double fees that were charged for the land use permit application and the variance application request.

Second by Harold Hicks Vote: 5-0 Motion carried.

PUBLIC HEARING

Robert and Kathleen Schraufnagel – Request for a variance to the terms of the land division provisions of the Dodge County Land Use Code to allow the creation of a lot where said lot will not meet the lot width requirements of the Code. The site is located in part of the NE ¼, SE ¼, Section 8, Town of Leroy – North Point Road.

Motion by Ed Premo to approve the variance request to allow the creation of a lot where said lot will not meet the lot width requirements of the Code subject to the following conditions:

1. A 2-lot certified survey map is submitted and approved for these lots;
2. The following statement shall appear on the certified survey map: “These lots are intended for agricultural and open space use only and no non-farm residential structures shall be constructed on the lots unless the lots are successfully rezoned out of the A-1 Prime Agricultural Zoning District and all required approvals are obtained.”
3. The following highway/road setback line shall be shown on the certified survey map;
 - County Highway: 100 feet from the centerline or 67 feet from the road right-of-way, whichever distance is greater;
 - Town Road: 75 feet from the centerline or 42 feet from the road right-of-way, whichever distance is greater;
4. A highway access permit shall be required for any new access to County Road Z.

Second by William Nass Vote: 5-0 Motion carried.

PUBLIC HEARING

Brian Christian – Request for a variance to the terms of the Highway Setback Overlay District provisions of the Dodge County Land Use Code to allow the construction of an attached garage where said addition will be located approximately 2 feet within the required highway setback lines of Creek Road, within the required vision triangle site line and where said addition is considered an expansion of a nonconforming structure. The site is located in part of the SW ¼, SW ¼, Section 7, Town of Clyman, the site address being W7638 Creek Road.

Motion by Harold Hicks to approve the variance request to allow the construction of an attached garage where said addition will be located approximately 2 feet within the required highway setback lines of Creek Road, within the required vision triangle site line and where said addition is considered an expansion of a nonconforming structure subject to the following conditions:

1. The appellant shall sign and record a variance agreement with the Dodge County Register of Deeds prior to the issuance of the County Land Use Permit for this construction

Second by Ed Premo Vote: 5-0 Motion carried.

PUBLIC HEARING

Birschbach & Associates, LTD, agent for Vanderloop Enterprises LLC, - Request for a variance to the terms the Dodge County Land Use Code to allow the construction of a commercial building where said structure will be located approximately 6 feet within the required highway setback lines of US Highway 151. The site is located in part of the SW ¼, NW ¼, Section 14, T12N, R14E, Town of Trenton, the site address being N8750 and N8766 Buckhorn Road.

Motion by Wayne Uttke to deny the variance request to allow the construction of a commercial building where said structure will be located approximately 6 feet within the required highway setback lines of US Highway 151.

Second by Ed Premo Vote: 3-2 (William Nass, Armin Reichow) Motion carried.

Motion by Wayne Uttke to adjourn the meeting.

Second by William Nass Motion carried. 8:50 PM

Respectfully submitted,

Wayne Uttke, Secretary

Disclaimer: The above minutes may be approved, amended or corrected at the next committee meeting.

Land Resources and Parks Department Staff Report

County Administrative Appeal Application No. 2015-0823

Applicant (Agent):

Birschbach & Associates LTD
Allan Birschbach - Architect
P.O. Box 1216
Appleton, WI 54912-1216

Owner:

Vanderloop Enterprises LLC
Attn. Robb Vanderloop
W2834 Dundas Road
Brillion, WI 54110

Filing Date: December 21, 2015

Hearing Date: January 21, 2016

Location

The appellant is the owner of the following described property which is the subject of the administrative appeal:

PIN#: 044-1214-1423-000; 044-1214-1423-001

Part of the SW ¼, NW ¼, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

County Jurisdiction

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the I-1 Light Industrial Zoning District.

Review Criteria

Subsections 2.3.13.A through 2.3.13.F of the Dodge County Land Use Code details procedural matters and the format of an Appeal. Appeals of a decision of any review and decision-making body shall be made to the Board of Adjustment, unless otherwise provided for in the Code. The Board shall hold a public hearing on each appeal and, following the public hearing, act to approve or deny the appeal. The concurring vote of a majority of the Board shall be necessary to reverse any order, requirements, decision or determination of the Land Use Administrator or the Committee, or to decide in favor of the appellant on any matter upon which it is required to pass under this Code. Any further appeal of decisions made by the Board of Adjustment shall be made to the courts, as provided by law, unless otherwise provided for in the Code.

Reason for Appeal

1) **Administrative Decision / Measurement / Order in Dispute**

The appellant is appealing the December 16, 2015 decision of the Dodge County Land Use Administrator to deny Administrative Adjustment Application; County Activity No. 2015-0800.

Relief being sought by the appellant:

The applicant is requesting that the Land Use Administrator's December 16, 2015 decision to deny the Administrative Adjustment request be reversed and that the Board approve an administrative adjustment to the highway setback requirement at this location as requested.

Stated Purpose of the Code Provisions

The highway setback provisions of the County Land Use Code promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects.

The purpose of the Administrative Adjustment provisions of the Code are to allow the Land Use Administrator to grant an administrative adjustment to allow minor relief from certain setback provisions of the code when an administrative adjustment request meets all of the criteria listed in Section 2.3.2.D of the Dodge County Land Use Code.

The provisions of the code as they relate to an Administrative Adjustment are as follows:

Subsections 2.3.2.A through 2.3.2.E of the Dodge County Land Use Code details the required review and approval procedures for Administrative Adjustments. The Land Use Administrator shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 2.3.2.D.

Section 2.3.2.D of the Code lists the approval criteria that must be considered when acting on an Administrative Adjustment. Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that:

(1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or

(2) all of the following criteria have been met:

- 1) The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;
- 2) The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
- 3) Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and
- 4) The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

Physical Features of Site

The features of the proposed construction and property that relate to the Appeal and Administrative Adjustment request are as follows:

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the I-1 Light Industrial Zoning District.

The site is not located within the County's Shoreland or Floodplain Jurisdiction.

The topography of the site is gently rolling with slopes ranging from 0 to 6%;

Proposed Land Use for the site: Commercial agricultural sales and maintenance facility.

Land Use, Area: Agricultural to the north, south and west, industrial warehouse to the east within the City of Beaver Dam.

The site is not designated as an Archaeological Site.

The proposed use of the property is consistent with the Dodge County Comprehensive Plan:

- The site is designated as Industrial according to the County's Future Land Use Map. The areas mapped as industrial areas represent where industrial type land uses are anticipated.
- The light industrial zoning district is intended to include uses of a light industrial nature, including manufacturing, warehousing, storage facilities, machinery and equipment sales and storage, and transportation facilities which generally do not produce offensive smoke, odors, noise, health hazards, or frequent traffic congestion.

The Dodge County Highway Setback Ordinance was adopted by the Town of Trenton on April 7, 1953. The County's current setback standard for state highways are the same as the original standards adopted in the Dodge County Highway Setback Ordinance in 1952.

Certified survey map #3508 is on file with the Dodge County Register of Deeds Office, dated February 3, 1995 (document #804886). The property line locations and the highway setback lines are shown on this survey map. (Exhibit 1)

Certified survey map #3652 is on file with the Dodge County Register of Deeds Office, dated August 29, 1995 (document #813853). The property line locations and the highway setback lines are shown on this survey map. (Exhibit 2)

Findings of Fact:

A record of the permit activity and the proceedings associated with this development project is attached as Exhibit 3.

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department. (Exhibit 4)

On December 16, 2015, the Dodge County Land Use Administrator filed a decision to deny the Administrative Adjustment request. (Exhibit 5)

On December 26, 2015, the applicant filed an administrative appeal of the December 16, 2015 decision by the Land Use Administrator to deny the administrative adjustment. The applicant is requesting that the Administrative Adjustment decision of the Land Use Administrator be reversed based on the reasoning listed in the appeal application. (Exhibit 6)

Exhibit 1

12

UTTECH LAND SURVEYING

P.O. BOX 594
BEAVER DAM, WI 53916
(414) 885 - 5339

CERTIFIED SURVEY MAP NO. 3508

A SURVEY OF PART OF THE SW.1/4 OF THE NW.1/4 OF SECTION 14,
T. 12 N., R.14 E., TOWN OF TRENTON, DODGE COUNTY, WISCONSIN.

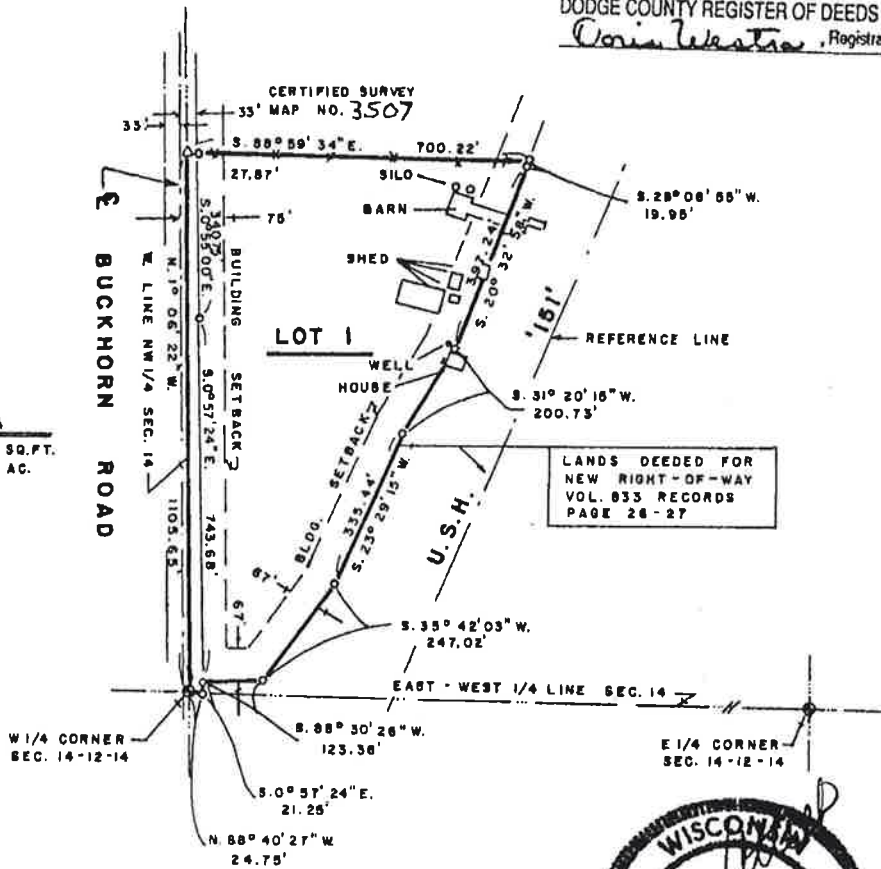
OWNER: Ralph F. Zubke Estate

NOTE: This Lot is intended for agricultural purposes only and
no residential structures are permitted.

Document # 804886
Received this 3rd day of
Feb. 1995 at 1:21 P.M.
and recorded in Vol. 21
of CSMs, Page 72-73.
DODGE COUNTY REGISTER OF DEEDS
Conrad Johnston, Registrar

BEARINGS REFERENCED
TO U.S.N. '151'

AREA
487,890 ± SQ.FT.
11,200 ± AC.



LANDS DEEDED FOR
NEW RIGHT-OF-WAY
VOL. 833 RECORDS
PAGE 26 - 27

LEGEND

- CAST ALUMINUM MONUMENT
- △ HARD NAIL AND CAP SET
- 1" X 24" IRON PIPE SET

SCALE: 1" = 300'
0' 300'



February 1, 1995

CERTIFIED SURVEY MAP NO. 3508

I, Eugene C. Uttech, Registered Land Surveyor of the State of Wisconsin, do hereby certify that by order of Donna Zubke, I have made a survey of part of the SW.1/4 of the NW.1/4 of Section 14, T.12 N., R.14 E., Town of Trenton, Dodge County, Wisconsin and being more particularly described as follows:

Beginning at the West 1/4 corner of said Section 14; thence N.1°06'22"W., along the West line of said NW.1/4, 1105.65 feet; thence S.88°59'34"E., 700.22 feet to the Westerly right-of-way line of relocated U.S.H. "151", as the same is described in Volume 833 of Records on page 26 and 27 in the Dodge County Register of Deeds Office; thence S.28°06'55"W., along said Westerly right-of-way line, 19.95 feet; thence S.20°32'58"W., continuing along said right-of-way, 397.24 feet; thence S.31°20'15"W., continuing along said right-of-way, 200.73 feet; thence S.23°29'15"W., continuing along said right-of-way, 335.44 feet; thence S.35°42'03"W., continuing along said right-of-way line, 247.02 feet; thence S.88°30'26"W., continuing along said right-of-way line, 123.36 feet to the East right-of-way line of Buckhorn Road; thence S.0°57'24"E., along said East right-of-way line, 21.25 feet to the South line of said NW.1/4 of Section 14; thence N.88°40'27"W., along said South line, 24.75 feet to the point of beginning.

Said parcel contains 11.200 acres.

I further certify that this map is a correct representation of all of the exterior boundaries of the land surveyed and the division of that land; that I have complied with the provisions of Chapter 236.34 of the Wisconsin State Statutes and the Dodge County Subdivision Control Ordinance in surveying and mapping the same.

Approved by the Dodge County Planning and
Surveyor Commission

Certified this 3rd day of Feb. 1995

James R. Edman
Deputy County Clerk



Job No. 94-2141 A
Sheet 2 of 2 Sheets

Exhibit 2

UTTECH LAND SURVEYING

P.O. BOX 594
 BEAVER DAM, WI 53916
 (414) 885 - 5339

BEARINGS REFERENCED
 TO U.S.H. "151"

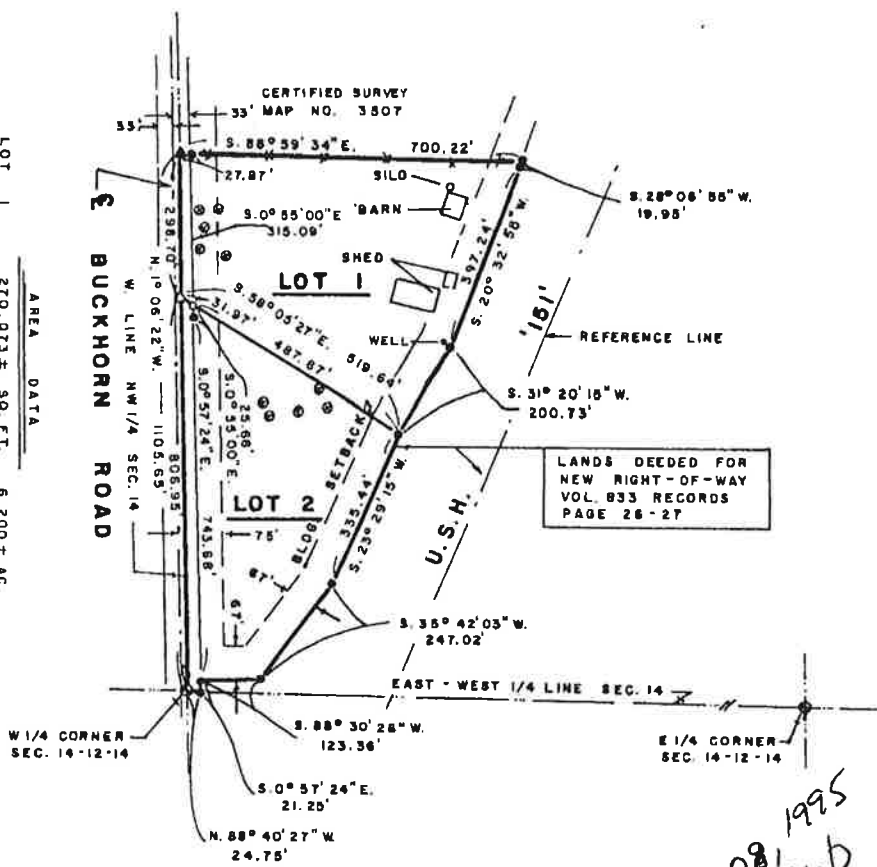
CERTIFIED SURVEY MAP NO. 3652

A RESURVEY OF LOT 1 OF CERTIFIED SURVEY MAP NO. 3508 AS RECORDED IN VOLUME 21 OF CERTIFIED SURVEYS ON PAGES 72 AND 73 IN THE DODGE COUNTY REGISTER OF DEEDS OFFICE; SAID LANDS BEING PART OF THE SW.1/4 OF THE NW.1/4 OF SECTION 14, T.12N., R.14E., TOWN OF TRENTON, DODGE COUNTY, WISCONSIN.

OWNER: Ralph F. Zubke Estate

NOTE: There shall be no direct vehicular access to U.S.H. "151" from Lots 1 or 2. Access shall be from Buckhorn Road only.

	AREA	DATA
LOT 1	270,073 ±	50. FT. 6,200 ± AC.
LOT 2	217,817 ±	50. FT. 5,000 ± AC.
TOTAL	487,890 ±	50. FT. 11,200 ± AC.



LEGEND

- CAST ALUMINUM MONUMENT
- △ HARD NAIL AND CAP SET
- 1" X 24" IRON PIPE SET
- ▲ HARD NAIL AND CAP FOUND
- IRON PIPE FOUND
- ⊙ SOIL BORING

SCALE: 1" = 300'

JOB NO. 94 - 2141 A
 SHEET 1 OF 2 SHEETS

AUGUST 28, 1995
 EUGENE C. UTTECH
 S-1451
 BEAVER DAM, WIS.
 LAND SURVEYOR

UTTECH LAND SURVEYING

P.O. BOX 594
BEAVER DAM, WI. 53916
(414) 885 - 5339

CERTIFIED SURVEY MAP NO. 3652

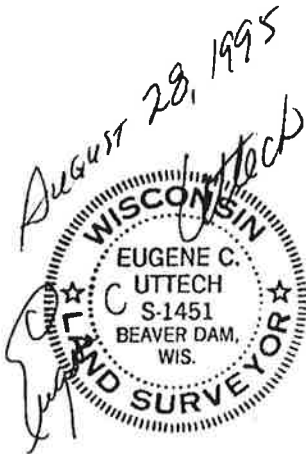
I, Eugene C. Uttech, Registered Land Surveyor of the State of Wisconsin, do hereby certify that by order of Donna Zubke, I have made a resurvey of Lot 1 of Certified Survey Map No. 3508 as recorded in Volume 21 of Certified Surveys on Pages 72 and 73 in the Dodge County Register of Deeds Office; said lands being part of the SW.1/4 of the NW.1/4 of Section 14, T.12 N., R.14 E., Town of Trenton, Dodge County, Wisconsin and being more particularly described as follows:

Beginning at the West 1/4 corner of said Section 14; thence N.1°06'22"W. along the West line of said NW 1/4, 1105.65 feet to the Southwest corner of Lot 1 of Certified Survey Map No. 3507 as recorded in Volume 21 of Certified Surveys on Pages 70 and 71 in the Dodge County Register of Deeds Office; thence S.88°59'34"E. along the South line of said Certified Survey Map No. 3507, 700.22 feet to the Southeast corner of said Certified Survey Map No. 3507 and the Westerly right-of-way line of relocated U.S.H. "151", as the same is described in Volume 833 of Records on Pages 26 and 27 in the Dodge County Register of Deeds Office; thence S.28°06'55"W. along said Westerly right-of-way line, 19.95 feet; thence S.20°32'58"W., continuing along said right-of-way, 397.24 feet; thence S.31°20'15"W., continuing along said right-of-way, 200.73 feet; thence S.23°29'15"W., continuing along said right-of-way, 335.44 feet; thence S.35°42'03"W., continuing along said right-of-way 247.02 feet; thence S.88°30'26"W., continuing along said right-of-way, 123.36 feet to the East right-of-way line of Buckhorn Road; thence S.0°57'24"E. along said East right-of-way, 21.25 feet to the South line of said NW 1/4 of Section 14; thence N.88°40'27"W. along said South line, 24.75 feet to the point of beginning.

Said parcel contains 11.200 acres, more or less.

I further certify that this map is a correct representation of all of the exterior boundaries of the land surveyed and the division of that land; that I have complied with the provisions of Chapter 236.34 of the Wisconsin State Statutes in surveying and mapping the same.

Document # 813853
Received this 29th day of August 19 95 at 3:40 P.M.
and recorded in Vol. 22
of C.S.M., Pages 79 + 80.
DODGE COUNTY REGISTER OF DEEDS
Corin Westra, Registrar



Job No. 94-2141A
Sheet 2 of 2 Sheets

Approved by the Dodge County Planning and Surveyor Committee
Certified this 29 day of August 19 95
Frank A. Lunsford DWP
Deputy County Clerk

VOL. 22 PAGE 80

Exhibit 3

Record of the permit activity and proceedings associated with the development of the property owned by Vanderloop Enterprises LLC.

Location: PIN#: 044-1214-1423-000; 044-1214-1423-001; Part of the SW ¼, NW ¼, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

On April 7, 2014, the Dodge County Planning, Development and Parks Committee approved a conditional use permit (County ID #14-0053) to allow the establishment of a retail farm equipment dealership on this site within the I-1 Light Industrial Zoning District subject to 9 conditions.

- The Conditional use permit (County ID #14-0053) was issued by the Department on April 8, 2014, in accord with the decision of the Planning, Development and Parks Committee.
- The expiration date of the Conditional use permit was extended by the Land Resources and Parks Department on August 20, 2015. Expiration Date: April 8, 2016;

On April 25, 2014, the property was deeded to Vanderloop Enterprises LLC.

August 20, 2015, an application for a County Land Use Permit (County ID #15-0536) was made by the applicant in order they be allowed to construct a commercial agricultural sales and maintenance facility on this site.

The County Land Use Permit application (County ID #15-0536) was denied by the County Land Use Administrator on September 4, 2015, for the following reasons:

- Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. As proposed, a portion of the proposed structure will be located approximately 60' 10.5" from the road right-of-way or 6' 1 ½" within the required setback and therefore not in compliance the setback requirements of the Code.
- Chapter 8.2 of the Code lists the parking requirements of the Code. The Code requires a minimum of 92 parking spaces, 4 of which are required to meet the handicapped accessible requirements of the Code. According to the application, 77 parking spaces were proposed, with 2 spaces designed to meet the handicapped accessible requirements of the Code therefore not in compliance with the Code.

The Department also notified the applicant on this date that the land use permit application was found to be incomplete and that the following additional information was required in order to complete the application: a landscaping and buffering plan, a lighting plan and a copy of the State approved construction plans.

On September 16, 2015, a variance application (County ID #15-0613) was filed by the applicant with a request to allow the construction of a commercial building where said structure was to be located approximately 6' within the required highway setback lines of US Highway 151.

On October 15, 2015, the Board of Adjustment voted 3-2 to deny the variance request (County ID #15-0613) as proposed. According to the Board of Adjustment decision, the Board made the following findings:

1. There are no physical limitations that are unique to the property that prevents the appellant from complying with the highway setback provisions of the code;
2. The highway setback provisions of the code are not unnecessarily burdensome in this case and do not create a hardship;
3. The appellant has other options available to construct a complying structure on this lot;
4. The proposed project is not harmful to the public's interests.

On September 29, 2015, the original land use permit application was revised by the applicant. The construction project was divided into two phases. A separate application for a County Land Use Permit (County ID #15-0650) was submitted by the applicant for Phase 1 of the project. The applicant also requested a waiver to the landscaping and buffering requirements of the Code. A revised site plan was submitted and the parking plan was modified to comply with the Code requirements. A lighting plan was submitted to the Department for review.

- Phase 1 of the project included the proposed storage structure, wash bay, garage, a portion of the office and show room, the parking areas and the display hills.
- The parking plans for this site were modified by the applicant to comply with the Code requirements.
- Construction of Phase 1 of the project began prior to the submission of this revision and land use permit application.
- Phase 2 of the project included the remaining portion of the sales/showroom facility.

On October 5, 2015, the request for waiver of the landscaping and buffering requirements of the Code was reviewed by the Planning, Development and Parks Committee

- The waiver of the landscaping plan was approved subject to the condition that the applicant submit an alternative landscaping plan for review and approval by the Committee.
- The Committee also directed the staff to issue the Land use permit application (2015-0650) for Phase 1 of the project.
- Construction of the facility was started prior to obtaining approvals and prior to the issuance of the land use permit.

On October 6, 2015, the land use permit application (County ID #15-0650) for Phase 1 of the project was issued by the Department in accord with the Committee decision.

On November 4, 2015, an alternate landscaping plan was submitted to the Planning, Development and Parks Committee for review. The applicant also requested to meet with the Committee to discuss the construction issues for this project and to request the authorization to start construction on Phase 2 prior to receiving final approval of the offer to purchase additional road right-of-way from the State Department of Transportation.

On December 7, 2015, the Planning, Development and Parks Committee granted approval of an alternate landscaping plan for the property. The Committee also voted to allow the staff to issue a land use permit for Phase 2 of the project contingent upon receiving a letter or e-mail correspondence from the State Department of Transportation or other applicable State Department confirming the tentative approval to sell the required road right-of-way to Vanderloop Enterprises LLC as shown on the site plan submitted with the request.

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department (County ID #15-0800).

On December 16, 2015, the Dodge County Land Use Administrator filed a decision to deny the Administrative Adjustment request (County ID #15-0800). The Land Use Administrator found that:

- The Administrative Adjustment request is not necessary in order to satisfy federal requirements for reasonable accommodations of housing for protected groups under the Federal Fair Housing Amendments Act or the Americans with Disabilities Act;
- The Administrative Adjustment request is not consistent with the stated purposes of the highway setback provisions or the administrative adjustment provisions of the Code;
 - The “jog” in the property line does not constitute a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the highway setback provisions of the code.
 - There are existing Certified Survey Maps (CSM) on file that clearly document the lot line locations and the County’s highway setback line requirements for this property. The CSM’s also show that there is sufficient area within the lot in which to design and locate a structure in compliance with the setback requirements.
 - To simply ignore the highway setback provisions of the Code and to allow the applicant to design and construct the facility within the highway setback lines when the lot line locations are clearly established before the project is started and in those situations when the applicant has

other options for a compliant location or when the applicant has the option to design a smaller facility is contrary to the stated purpose and spirit of the Code.

- The lot line locations, including the “jog” in the lot line were established well before the applicant owned the property, well before the land use permit was submitted and well before the facility was designed and the applicant has the option to design a structure in compliance with the Code. To simply ignore the setback requirements of the Code and to approve an administrative adjustment to the setback requirements of the code in this case will have a significant adverse impact on the general welfare of the general public;
- The applicant has not demonstrated that there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the highway setback provisions of the Code;
- On the basis of the information presented in the Administrative Adjustment application and on the record for this matter, all of the criteria listed in Section 2.3.2.D of the Code cannot be met for this request and therefore the request for an administrative adjustment to the highway setback provisions of the Code was denied.

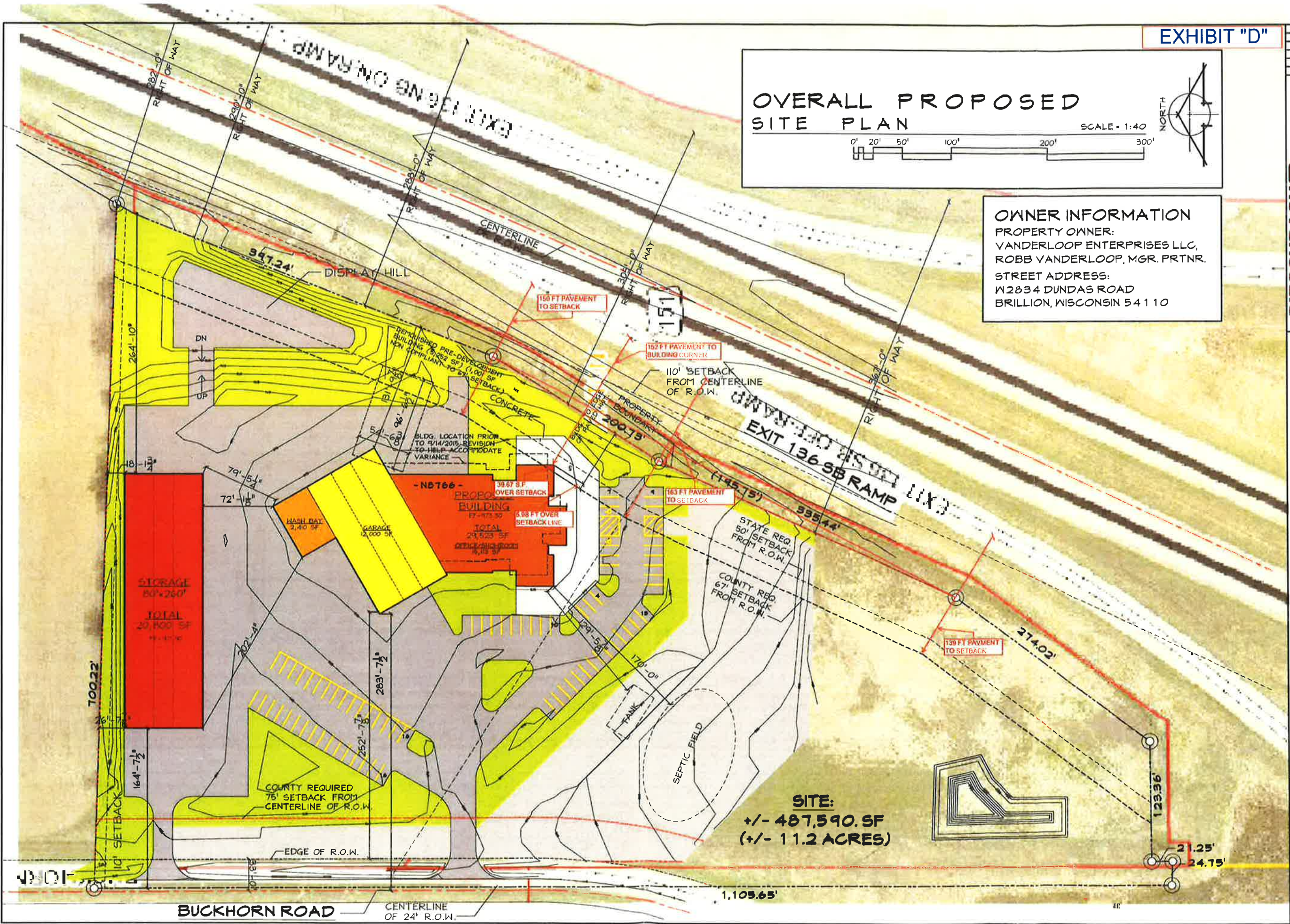
On December 26, 2015, the applicant filed an administrative appeal (County ID #15-0823) of the December 16, 2015 decision by the Land Use Administrator to deny the administrative adjustment. The applicant is requesting that the Administrative Adjustment decision of the Land Use Administrator be reversed based on the reasoning listed in the appeal application.

OVERALL PROPOSED SITE PLAN

SCALE = 1:40

OWNER INFORMATION
 PROPERTY OWNER:
 VANDERLOOP ENTERPRISES LLC,
 ROBB VANDERLOOP, MGR. PRTRN.
 STREET ADDRESS:
 W2834 DUNDAS ROAD
 BRILLION, WISCONSIN 54110

<p>PROPOSED FACILITY FOR: VANDERLOOP EQUIPMENT <small>TERRITORIAL, DUNDAS COUNTY, WI 53091</small></p>	<p>REVISIONS:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> <p>DRAWN BY: AHM</p> <p>APPROVED BY:</p> <p>PROJECT NO: 2016-002-00</p> <p>DATE: 04/18/2016</p> <p>SHEET TITLE: OVERALL PROPOSED SITE PLAN</p> <p>SHEET NO: CS0</p>	NO.	DATE	DESCRIPTION						
NO.	DATE	DESCRIPTION								



SITE:
 +/- 487,590. SF
 (+/- 11.2 ACRES)

Exhibit 4

**DODGE COUNTY LAND RESOURCES
AND PARKS DEPARTMENT**
127 E. Oak Street • Juneau, WI 53039
PHONE: (920) 386-3700 • FAX: (920) 386-3979
E-MAIL: landresources@co.dodge.wi.us

τ THIS AREA FOR OFFICE USE ONLY τ	
Activity No. 150800	Issue Date: Dated 12/16/15
Application Date: 12-8-15	Receipt #: 893914

Administrative Adjustment

Application Fee: \$450 (After the Fact Application Fee: \$900)

Names and Mailing Addresses		Property Description				
Applicant (Agent) BIRSCHBACH & Associates, Ltd., Allan R. Birschbach, Architect	Parcel Identification Number (PIN) 044-1214-1423-000/001					
Street Address P.O. Box #1216	Town Trenton					
City • State • Zip Code Appleton, Wisconsin 54912-1216	SW ¼ NW ¼	Section 14	T 12	N	R 13	E
Property Owner (If different from applicant) Vanderloop Enterprises LLC, Robb Vanderloop, Managing Prtnr.	Subdivision or CSM # Lots 1 & 2 CSM 3508 (Volume 21, Page 72 & 73)					
Street Address W2834 Dundas Road	Site Address N8750 & N8766 Buckhorn Road					
City • State • Zip Code Brillion, Wisconsin 54110	Is this property connected to public sewer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					

Address the following Administrative Adjustment criteria described in the Notice and Application. Attach additional sheets if necessary.

List the current use and improvements located on this site:

Vacant undeveloped land - former existing metal storage building removed. I-1 Light Industrial Zoning. Phase I of an implement dealership presently under construction.

Provide a description of all nonconforming structures and uses on this site:
At this time there are no known non conforming structures and uses on this site.

ADMINISTRATIVE ADJUSTMENT BEING REQUESTED

List the section of the Code and the dimensional standard for which you are requesting an administrative adjustment:

Section 2.3.2.A allows for a 10% modification to the Section 5.1.2.E for Nonresidential Uses from an Expressway setback of 67 feet per table 5.1.2-2: Minimum Setback Distances.

Describe the administrative adjustment which you are requesting: Modify the 67' setback to 61.02' for the southeast corner of the Ph-II proposed showroom portion of the Vanderloop Eqmt. implement dealership. 67' x 10% = 6.7'. The proposed exact setback modification needed is 5.98 feet per Davel Engineering surveying crew.

Are you requesting an administrative adjustment in order to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act?

Yes; No;

How would the interest of the public or neighbors be affected by granting or denying this Administrative Adjustment?
The public or neighbors would not be affected by granting this Administrative Adjustment. The Board of Adjustment concurred with this on their decision for the denial of the variance October 15, 2015.

What unique features of this property or unusual aspect of the site or proposed development project prevent you from complying with the terms of the Land Use Code from which you are requesting an administrative adjustment?

The property line along the highway off ramp right of way has a "jog" at this location that appears to have no meaningful purpose. If the property line were "straight" as would be expected the setback from the right of way would be 70.5' at the proposed building location. See Davel Exhibit "B" attached.

Describe the rationale for the administrative adjustment request that you are seeking:

Phase II of this construction project has been on HOLD pending resolving the setback issue. A variance was denied for lack of proving a hardship. An administrative adjustment provides a means to stay within the Land Use Code requirements without purchasing the sliver of land from the State, without a variance, and without changing the architectural design both interior and exterior which is a problem although self imposed. Upon learning that there was a setback issue, we moved the portion of the building not under construction at the time as far away from the right of way as was possible. This last 39.67s.f. (adjusted for the 5.98' surveyed distance) we cannot correct without a redesign of the showroom portion of the building that compromises the architectural symmetry of the building and results in an interior layout that is not as efficient and burdensome to the owner for the life of the building. See Exhibit "C".

CERTIFICATE

I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Dodge County Land Resources and Parks Department and members of the Dodge County Board of Adjustment to enter the above described property for purposes of obtaining information pertinent to my application request.

Signature of owner or authorized agent: _____

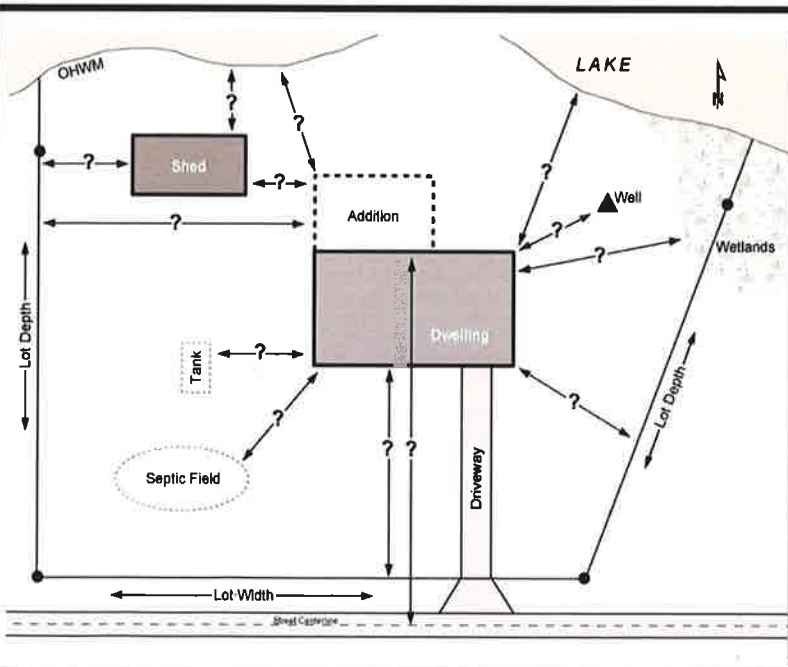
[Handwritten Signature]
Allan R. Birschbach, WI Architect 4501-5

Date: 12-07-2015

Daytime Contact Number (920) 730 - 9200

SITE PLANS AND BUILDING PLANS

All applications must be accompanied by a site plan. Figure 1 below is an example of an acceptable plan.



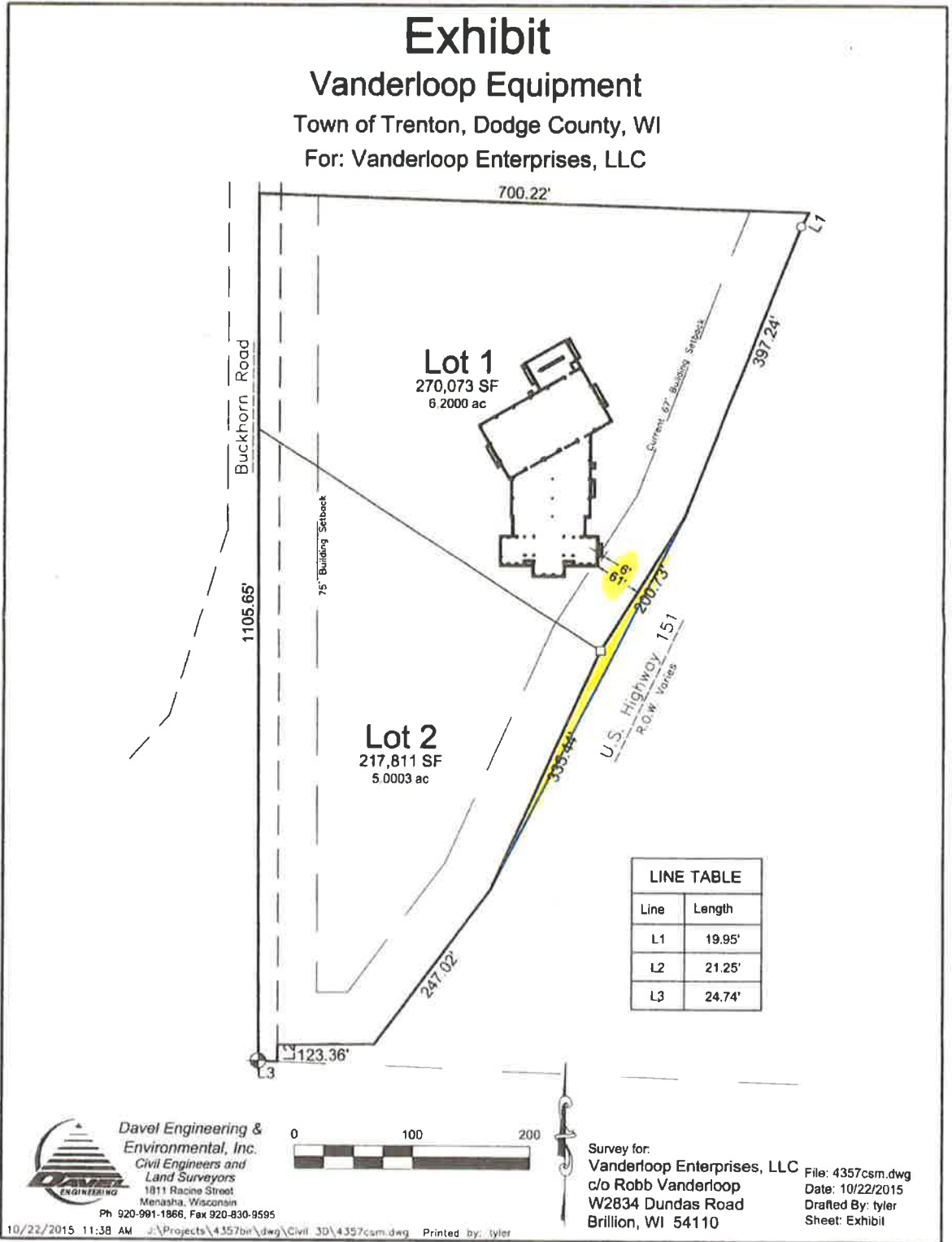
Site plans must be drawn to scale and/or all dimensions given, such as:
 Location and dimensions of the project
 Location and dimensions of existing structures
 Dimensions of the property
 Location and names of abutting roads, lakes & Streams
 North arrow
 Owner's name

Distances must be shown from the project to:

- Lot lines
- Road right-of-ways & centerline
- Water bodies Ordinary High Water Mark (O.H.W.M.)
- Septic & holding tanks
- Soil absorption systems
- Nearby structures (within 50 feet)

Exhibit

Vanderloop Equipment
 Town of Trenton, Dodge County, WI
 For: Vanderloop Enterprises, LLC



Davel Engineering & Environmental, Inc.
 Civil Engineers and Land Surveyors
 1811 Racine Street
 Menasha, Wisconsin
 Ph 920-991-1866, Fax 920-830-9595

Survey for:
Vanderloop Enterprises, LLC
 c/o Robb Vanderloop
 W2834 Dundas Road
 Brillion, WI 54110

File: 4357csm.dwg
 Date: 10/22/2015
 Drafted By: tyler
 Sheet: Exhibit

5.1.2 Additional Regulations

5.1.2.A For lots not served by public sewer, soil and site evaluation may require larger lot areas. A lot shall contain sufficient area for a building site and sanitary system without encroaching on environmentally sensitive areas and access to the building site shall not cross an environmentally sensitive area.

5.1.2.B Deleted, See Appendix 20

5.1.2.C Minimum lot sizes for multi-family dwellings shall not be less than required in Table 5.1.1-1 above, but may be increased as shown in Table 5.1.2-1 below. Multi-family dwellings shall provide not less than 500 square feet of usable open space per dwelling unit, plus 100 square feet of additional usable open space for each bedroom over 2 in a dwelling unit.

Table 5.1.2-1: Increases in Minimum Lot Area for Multi-Family Dwellings

Number of Bedrooms in Each Unit	Minimum Lot Area Per Dwelling Unit (square feet)	
	Public Sewer	On-Site Sewer
3 or more bedrooms	4,000	12,000
2 bedrooms	3,500	10,000
1 bedroom	3,000	8,000

5.1.2.D Applies both at building setback line and at the ordinary highwater mark. Soil and site evaluation may require larger widths.

5.1.2.E Highway, street and road setbacks are measured from the centerline of the highway, street or road and/or from the highway, street and road right-of-ways whichever is greater. Minimum setback distances are provided in Table 5.1.2-2.

Table 5.1.2-2: Minimum Setback Distances

Type of Abutting Roadway	Minimum Setback Distances (feet)	
	From Centerline	From Right-of-Way
Streets and Town Roads (designated)	60	27
Streets and Town Roads (undesignated)	75	42
Federal, State, and County Trunk Highways	100	67
Expressways and Freeways		
- Residential Uses	---	200
- Nonresidential Uses	---	67

x 10% = 6.7'

5.1.2.F Deleted (June 16, 2009)

5.1.2.G Within the C-1 General Commercial District, in existing platted areas that are or previously have been in commercial use, interior lots served by public sanitary sewer shall have no minimum front or street yard. Corner lots shall have no minimum front or street yard on the yard facing the principal street and shall have a minimum 10 foot front or street yard on the yard facing the nonprincipal street (as the principal street is determined by the Land Use Administrator).

2.3 SPECIFIC REVIEW AND APPROVAL PROCEDURES
 2.3.1 Summary Table of Development Review Procedures

Table 2.3.1 summarizes the development review and approval procedures for all types of applications.

Table 2.3.1: Summary Table of Development Review Procedures

Type of Application	Preapp. Meeting Req.	Review and Decision-Making Bodies					Referral to Affected Towns Required
		Land Use Administrator	Hearing Officer	Planning and Development Committee	County Board of Supervisors	Board of Adjustment	
Administrative Adjustments		H (optional); R/FA				APP	
Amendments to the Code				H; R/R	R/FA		YES
Appeals						H; R/FA	
Certificates of Zoning Compliance		R/FA				APP	
Conditional Use Permits				H; R/FA		APP	
Hardship Relief Petitions			H; R/R		R/FA		
Land Use Permits		R/FA				APP	
PUDs (Preliminary & Final)	YES	R		H; R/R	R/FA		YES
Rezoning		R		H; R/R	R/FA		YES
Major Subdivision	YES	R		H; R/FA			YES
Condominium Plat		R/FA					
Minor Land Division		R/FA or RTC		H (optional); R/FA upon referral)			YES
Variances						H; R/FA	

H Hearing Required
 R Review and Report
 R/R Review and Recommendation
 R/FA Review and Final Action
 APP Appeal (includes public hearing)
 RTC Refer to Committee

2.3.2 Administrative Adjustments

2.3.2.A Applicability

This section sets out the required review and approval procedures for Administrative Adjustments, which are modifications of 10 percent or less of any numeric Dimensional Standard set out in Chapter 5, except those related to water setbacks, residential density, or nonresidential intensity.

2.3.2.B Application Filing

Applications for Administrative Adjustments shall be submitted to the Land Use Administrator.

2.3.2.C Review and Action

The Land Use Administrator shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the Approval Criteria of Section 2.3.2(D).

2.3.2.D Approval Criteria

Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that: (1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or (2) all of the following criteria have been met:

2.3.2.D.1 The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

2.3.2.D.2 The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;

2.3.2.D.3 Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and

2.3.2.D.4 The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

2.3.2.E Hearings

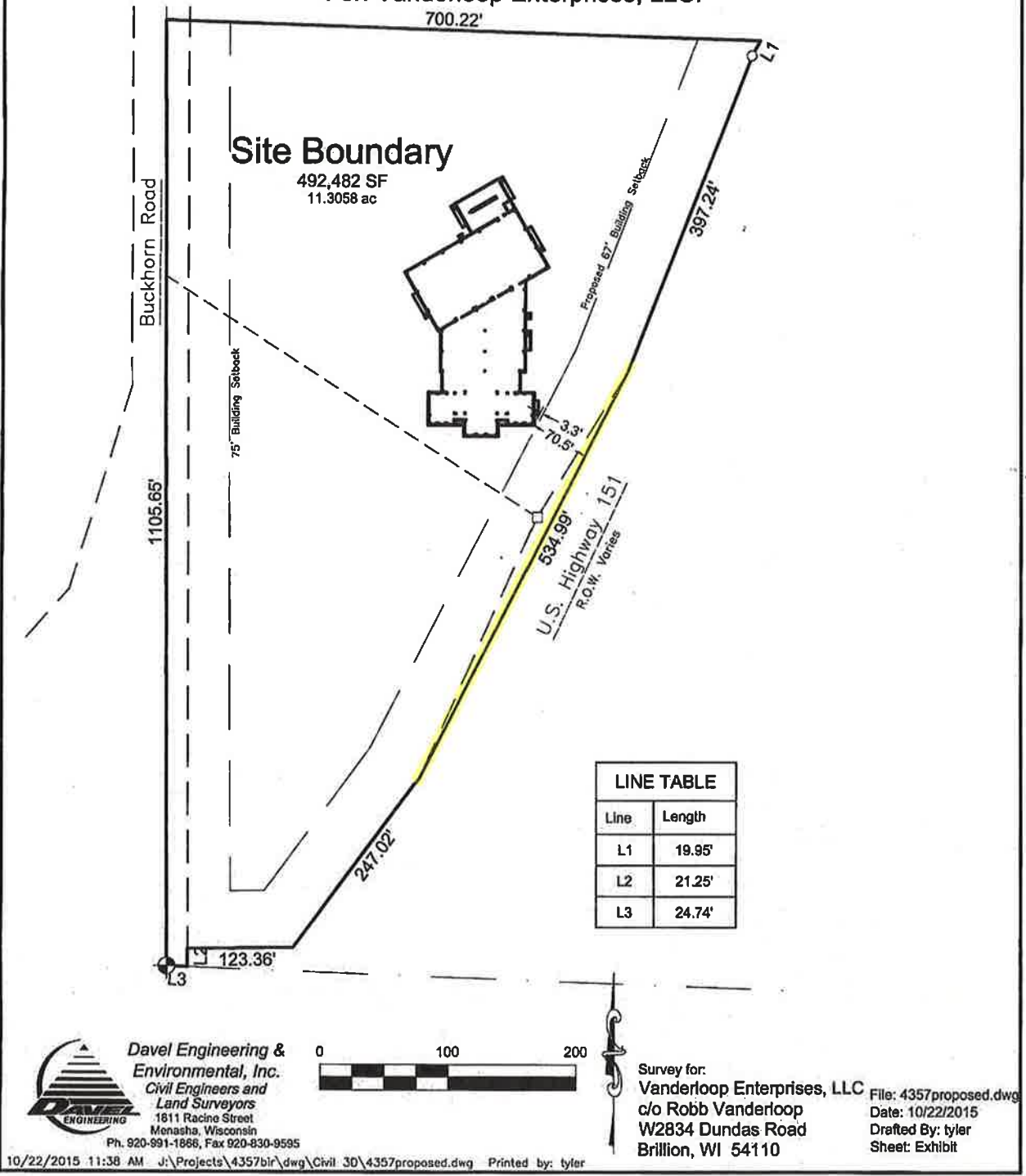
No public hearing is required for an Administrative Adjustment. However, the Land Use Administrator may refer the application to the Board of Adjustment, who may schedule a public hearing on an Administrative Adjustment if they consider the application to be controversial, or believe granting the Administrative Adjustment would have an adverse impact upon surrounding property owners or the County as a whole. Additionally, the Land Use Administrator shall schedule a public hearing on the Administrative Adjustment application if requested to do so by the applicant. In such cases, written and published notice shall be provided for the public hearing pursuant to the general notice provisions of Section 2.2.6. The Board of Adjustment shall base its decision upon input received at the public hearing and upon the Approval Criteria of Section 2.3.2(D).

Exhibit "B"

Vanderloop Equipment

Town of Trenton, Dodge County, WI

For: Vanderloop Enterprises, LLC.



LINE TABLE	
Line	Length
L1	19.95'
L2	21.25'
L3	24.74'

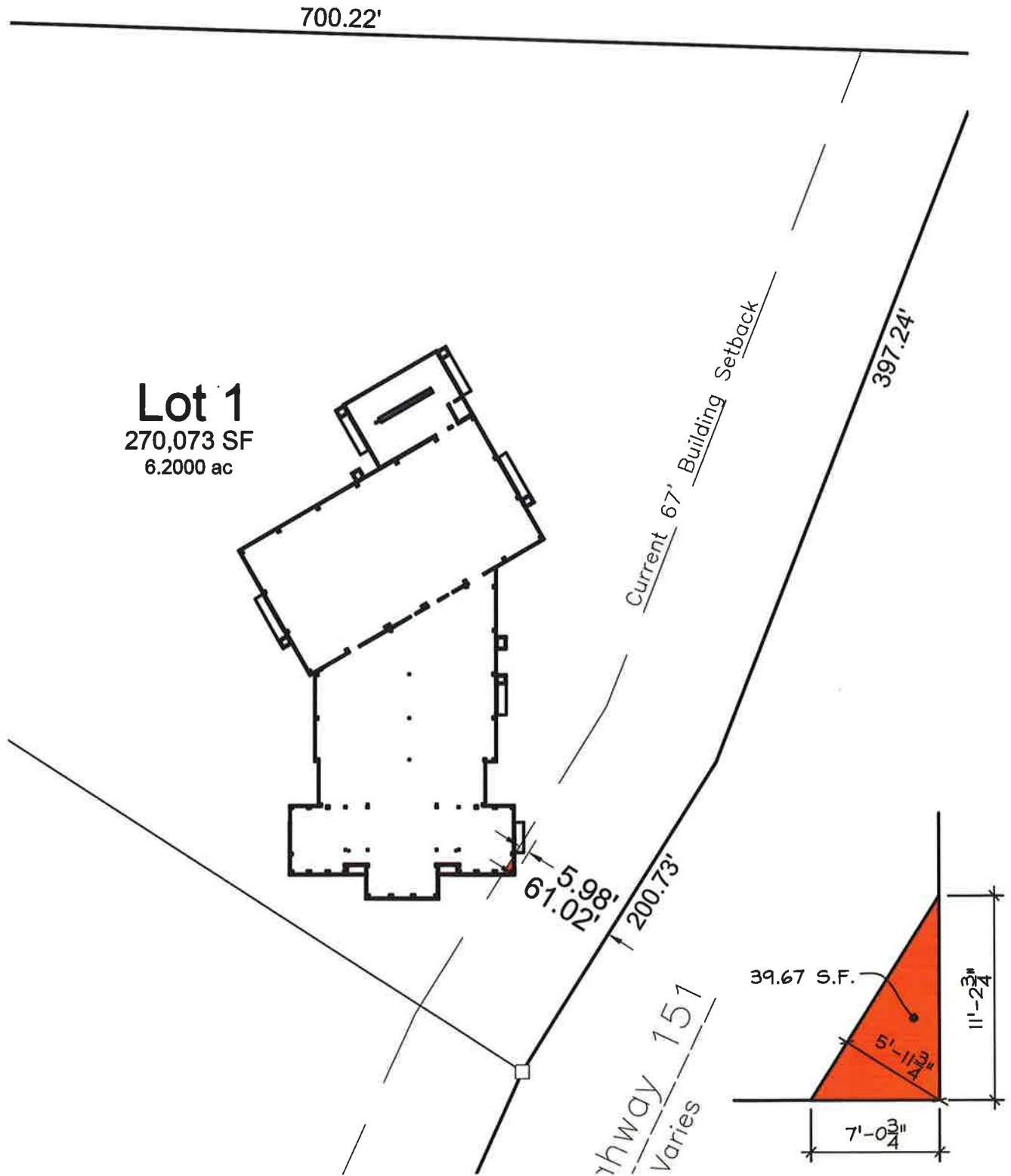
Davel Engineering & Environmental, Inc.
 Civil Engineers and Land Surveyors
 1811 Racine Street
 Menasha, Wisconsin
 Ph. 920-991-1868, Fax 920-830-9595



Survey for:
Vanderloop Enterprises, LLC
 c/o Robb Vanderloop
 W2834 Dundas Road
 Brillion, WI 54110

File: 4357proposed.dwg
 Date: 10/22/2015
 Drafted By: tyler
 Sheet: Exhibit

Exhibit "C"





Dodge County

Land Resources and Parks Department

127 East Oak Street · Juneau, WI 53039-1329
PHONE: (920) 386-3700 · FAX: (920) 386-3979
EMAIL: landresources@co.dodge.wi.us

December 21, 2015

Birschbach & Associates LTD
Attn. Allan Birschbach
P.O. Box 1216
Appleton, WI 54912-1216

RE: Notice of Action / Filing of Decision – Administrative Adjustment
County application/petition 2015-0800
Owner: Vanderloop Enterprises LLC – Attn. Robb Vanderloop
PIN#: 044-1214-1423-000; 044-1214-1423-001
Part of the SW ¼, NW ¼, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

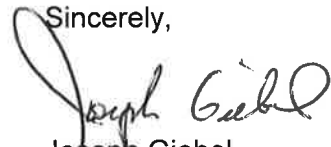
Dear Mr. Birschbach:

On December 16, 2015, the review of your Administrative Adjustment request was completed. On the basis of the information presented in the application and the record on this matter, it is my position that all of the criteria listed in Section 2.3.2.D of the Code cannot be met for this request for an administrative adjustment to the highway setback provisions of the Code and therefore the request is hereby denied.

A copy of my decision has been enclosed.

You have the right to appeal this decision to the Board of Adjustment. Such appeals shall be filed with the Land Resources and Parks Department within 30 days after the date of written notice of the decision or order of the review and decision making body. If you have any questions, feel free to give me a call.

Sincerely,



Joseph Giebel
Manager – Code Administration

cc: Vanderloop Enterprises LLC – Robb Vanderloop

Land Resources and Parks Department Administrative Adjustment

County Administrative Adjustment Application No. 2015-0800

County Land Use Permit Application No. 2015-0536 - Phase 2 (As revised on 10-5-2015)

Applicant (Agent):

Birschbach & Associates LTD
Attn. Allan Birschbach
P.O. Box 1216
Appleton, WI 54912-1216

Owner:

Vanderloop Enterprises LLC
Attn. Robb Vanderloop
W2834 Dundas Road
Brillion, WI 54110

Application Date: December 8, 2015

Decision Date: December 16, 2015

File Date: December 21, 2015

Location

The appellant is the owner of the following described property which is the subject of the administrative adjustment request:

PIN#: 044-1214-1423-000; 044-1214-1423-001

Part of the SW ¼, NW ¼, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

County Jurisdiction

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the I-1 Light Industrial Zoning District.

Review Criteria

Subsections 2.3.2.A through 2.3.2.E of the Dodge County Land Use Code details the required review and approval procedures for Administrative Adjustments. The Land Use Administrator shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 2.3.2.D.

Section 2.3.2.D of the Code lists the approval criteria that must be considered when acting on an Administrative Adjustment. Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that:

(1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or

(2) all of the following criteria have been met:

1) The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

2) The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;

3) Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and

4) The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

Appellants Request

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department with a request to allow up to a 10% modification to the minimum highway setback requirement of 67 feet from the road right-of-way of US Highway 151 for a proposed commercial agricultural sales facility on this site.

Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. As proposed, a portion of the proposed structure will be located approximately 61.02' from the road right-of-way or 5.88' within the required setback and therefore not in compliance the setback requirements of the Code.

The appellant is requesting an Administrative Adjustment to the highway setback provisions listed in Section 5.1.2.E and Table 5.1.2-1 of the code.

Purpose Statement

The highway setback provisions of the County Land Use Code promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects.

The purpose of the Administrative Adjustment provisions of the Code are to allow for minor relief from certain setback provisions of the code if there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code.

Physical Features of Site

The features of the proposed construction and property that relate to the Administrative Adjustment request are as follows:

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the I-1 Light Industrial Zoning District.

The site is not located within the County's Shoreland or Floodplain Jurisdiction.

The topography of the site is gently rolling with slopes ranging from 0 to 6%;

Land Use, Site: Commercial agricultural sales and maintenance facility under construction.

Land Use, Area: Agricultural to the north, south and west, industrial warehouse to the east within the City of Beaver Dam.

The site is not designated as an Archaeological Site.

The existing use is consistent with the Dodge County Comprehensive Plan:

- The site is designated as Industrial according to the County's Future Land Use Map. The areas mapped as industrial areas represent where industrial type land uses are anticipated.
- The light industrial zoning district is intended to include uses of a light industrial nature, including manufacturing, warehousing, storage facilities, machinery and equipment sales and storage, and transportation facilities which generally do not produce offensive smoke, odors, noise, health hazards, or frequent traffic congestion.

There is a certified survey map (CSM #3508) for the property on file with the Dodge County Register of Deeds Office, dated February 3, 1995 (document #804886). The property line locations and the highway setback lines are clearly shown on this survey map.

There is a certified survey map (CSM #3652) for the property on file with the Dodge County Register of Deeds Office, dated August 29, 1995 (document #813853). The property line locations and the highway setback lines are clearly shown on this survey map.

Findings of Fact:

On April 7, 2014, the Dodge County Planning, Development and Parks Committee granted a conditional use permit to allow the establishment of a retail farm equipment dealership on this site within the I-1 Light Industrial Zoning District subject to the following conditions:

1. The business operation shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting or the risk of fire, explosion or other accident and shall not be detrimental to the public health and safety or general welfare of the immediate neighborhood or community;
2. It shall be the responsibility of the applicant to obtain all other Federal, State and/or local municipality permits and approvals that may be required for the proposed business operation on this site;
3. The business shall be operated in accord with the business narrative submitted with the Conditional Use Permit application;
4. All hazardous wastes used or generated in the operation of the proposed business shall be handled and disposed of in accord with the applicable regulations;
5. All exterior lighting shall meet the functional and security needs of the proposed development without adversely affecting adjacent properties;
6. The construction or placement of signs on this lot shall require a Dodge County Land Use permit and said signs shall be designed in compliance with subsection 8.9 of the Dodge County Land Use Code;
7. Any future construction or development of this site shall require a Dodge County Land Use permit and said construction and development shall be designed and constructed in compliance with the Dodge County Land Use Code;
8. Any significant change to or expansion of the business operation and/or of its facilities may require that a new Conditional Use Permit be obtained;
9. The decision of the Committee is valid for one year.

On April 8, 2014, a Conditional use permit was issued by the Department in accord with the decision of the Planning, Development and Parks Committee.

On April 25, 2014, the property was deeded to Vanderloop Enterprises LLC.

On August 20, 2015, the expiration date of the Conditional use permit was extended to April 8, 2016.

On August 20, 2015, an application for a County Land Use Permit was made by the applicant in order they be allowed to construct a commercial agricultural sales and maintenance facility on this site.

On September 4, 2015, this permit was denied by the County Land Use Administrator for the following reasons:

- Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. As proposed, a portion of the proposed structure will be located approximately 60' 10.5" from the road right-of-way or 6' 1 ½" within the required setback and therefore not in compliance the setback requirements of the Code.
- Chapter 8.2 of the Code lists the parking requirements of the Code. The Code requires a minimum of 92 parking spaces, 4 of which are required to meet the handicapped accessible requirements of the Code. According to the application, 77 parking spaces were proposed, with 2 spaces designed to meet the handicapped accessible requirements of the Code therefore not in compliance with the Code.

On September 4, 2015, the applicant was also notified that the land use permit application was found to be incomplete and that the following additional information was required in order to complete the application: a landscaping and buffering plan, a lighting plan and a copy of the State approved construction plans.

On September 16, 2015, a variance application was made by the applicant with a request to allow the construction of a commercial building where said structure was to be located approximately 6' within the required highway setback lines of US Highway 151.

On September 29, 2015, the applicant requested a waiver to the landscaping and buffering requirements of the Code. A revised site plan was submitted and the parking plan was modified to comply with the Code Requirements. A lighting plan was submitted to the Department for review.

On October 5, 2015, the original land use permit application was revised by the applicant. The construction project was divided into two phases. A separate application for a County Land Use Permit was submitted by the applicant for Phase 1 of the project.

- Phase 1 of the project included the proposed storage structure, wash bay, garage, a portion of the office and show room, the parking areas and the display hills.
- The parking plans for this site were modified by the applicant to comply with the Code requirements.
- Construction of Phase 1 of the project began prior to the submission of this revision and land use permit application.
- The applicant requested a waiver to the landscaping and buffering requirements of the Code.
- Phase 2 of the project included the remaining portion of the sales/showroom facility.

On October 5, 2015, a request for waiver of the landscaping and buffering requirements of the Code was reviewed approved by the Planning, Development and Parks Committee on condition the applicant submit an alternative landscaping plan for review and approval by the Committee. The Committee also directed the staff to issue the Land use permit application for Phase 1 of the project. Construction of the facility was started prior to obtaining approvals and prior to the issuance of the land use permit.

On October 6, 2015, the land use permit application for Phase 1 of the project was issued by the Department.

On October 15, 2015, the Board of Adjustment voted 3-2 to deny the variance request as proposed. According to the Board of Adjustment decision, the Board made the following findings:

1. There are no physical limitations that are unique to the property that prevents the appellant from complying with the highway setback provisions of the code;
2. The highway setback provisions of the code are not unnecessarily burdensome in this case and do not create a hardship;
3. The appellant has other options available to construct a complying structure on this lot;
4. The proposed project is not harmful to the public's interests.

On November 4, 2015, an alternate landscaping plan was submitted to the Planning, Development and Parks Committee for review. The applicant also requested to meet with the Committee to discuss the construction issues for this project and to request the authorization to start construction on Phase 2 prior to receiving final approval of the offer to purchase additional road right-of-way from the State Department of Transportation.

On December 7, 2015, the Planning, Development and Parks Committee granted approval of an alternate landscaping plan for the property. The Committee also voted to allow the staff to issue a land use permit for Phase 2 of the project contingent upon receiving a letter or e-mail correspondence from the State Department of Transportation or other applicable State Department confirming the tentative approval to sell the required road right-of-way to Vanderloop Enterprises LLC as shown on the site plan submitted with the request.

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department.

Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. According to the information presented with the application, a portion of the proposed structure will be located approximately 61.02' from the road right-of-way or 5.88' within the required setback and therefore not in compliance the setback requirements of the Code. The appellant is requesting an Administrative Adjustment to the highway setback provisions of Section 5.1.2.E and Table 5.1.2-1 of the code. The request to reduce the highway setback requirement at this location by approximately 6' represents a modification of approximately 8.9% of the required setback.

According to the application, there is a "jog" in the property line along the highway off ramp that creates the setback issue. According to the applicant, the "jog" in the lot line appears to have no meaningful purpose. If the property line was straight, the setback would be 70.5' at this location which would be in compliance with the Code.

According to the application, the applicant's rationale for the administrative adjustment request is as follows: Phase 2 of this construction project has been on Hold pending resolution of the setback issue. A variance was denied (by the Board of Adjustment) for lack of proving a hardship. The administrative adjustment provides a means to stay within the Land Use Code requirements without purchasing of the sliver of land from the State, without a variance, and without changing the architectural design both interior and exterior which is a problem although self-imposed. Upon learning that there was a setback issue, we moved the portion of the building not under construction at the time as far away from the right of way as was possible. This last 39.67 square feet (adjusted for the 5.98' surveyed distance) we cannot correct without a redesign of the showroom portion of the building that compromises the architectural symmetry of the building and results in an interior that is not as efficient and burdensome to the owner for the life of the building.

Decision

In order to grant an administrative adjustment, the following findings must be made: The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or all of the following criteria have been met: The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code; The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public; Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and the requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

The first criteria that is considered is whether the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act. According to the application materials submitted, the applicant indicated that the modification is not necessary in order to satisfy federal requirements for reasonable accommodations of housing for protected groups under the Federal Fair Housing Amendments Act to the Americans with Disabilities Act. It is my position that the proposed request is not necessary in order to satisfy the federal requirements for reasonable accommodations of housing for protected groups under the Federal Fair Housing Amendments Act or the Americans with Disabilities Act.

The second criteria that is considered is whether the requested administrative adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code. In making this determination, the stated purposes of the Code are considered. The purpose of the highway setback provisions of the County Land Use Code is to promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects. The purpose of the Administrative Adjustment provisions of the Code are to provide minor relief from the setback provisions of the code if there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code.

According to the information provided in the application, the applicant contends that there is a unique feature or unusual aspect of the site that prevents the applicant from complying with the setback provisions of the Code. According to the applicant, there is a "jog" in the property line off of the ramp right of way at this location as shown in Exhibit B and C. According to the applicant the "jog" in the lot line has no meaningful purpose and if the lot line were straight at this location, the project would comply.

In this case, it is my position that the "jog" in the lot line location is not a unique feature or unusual aspect of this site that would prevent the applicant from complying with the setback provisions of the Code and would suggest that an administrative adjustment be granted. According to the County's records, there are two certified survey maps on file for this property and the "jog" in the lot line and the required highway setback lines are clearly shown on the survey maps. The surveys also document that there is sufficient area on this lot in which to design and locate a structure in compliance with the setback requirements. The lot line locations and setback requirements for this lot were established well before the project was started. It is my position that the Administrative Adjustment provisions of the Code does not give the Land Use Administrator the summary power to ignore the highway setback provisions of the Code or its objectives, and that the burden falls on the applicant to convincingly demonstrate to the Land Use Administrator that there is a unique feature or unusual aspect of the

site that is not shared by landowners in general that would prevent the applicant from complying with the highway setback provisions of the Code. To simply ignore the highway setback provisions of the Code and to allow the applicant to design and construct the facility within the highway setback lines when the lot line locations are clearly established before the project is started and in those situations when the appellant has other options for a compliant location or when the applicant has the option to design a smaller facility is contrary to the stated purpose and spirit of the Code. It is my position that proposed administrative adjustment request is not consistent with the stated purposes of the highway setback provisions or the administrative adjustment provisions of the code and therefore does not meet this criteria.

The third criteria that is considered is whether the requested adjustment eliminates an unnecessary inconvenience to the applicant and whether the request will have a significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public. The applicant states in their application that Phase 2 of this project was placed on hold pending resolving the setback issue. It is stated in the application that a variance was denied (by the Board of Adjustment) for lack of proving a hardship and stated that an administrative adjustment would provide a means to bring the project into compliance without having to purchase additional right-of-way from the State Department of Transportation, without a variance and without changing the architectural design of the interior and exterior portions of the building. They also stated that the design modifications which would be needed to correct the setback issue would compromise the architectural symmetry of the building and would result in an interior layout that is not as efficient and would be burdensome to the owner. The applicant also indicated that the setback issue is a self-imposed problem.

It is my position that the "jog" in the lot line location as noted by the applicant does not by itself create an unnecessary inconvenience in this case that would suggest that an administrative adjustment be granted in this case. The administrative adjustment provisions of the Code are not intended to provide relief from the typical setback provisions of the code unless there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code. There are two certified survey maps that are on file for this property that clearly show the location of the lot lines and the required highway setback lines for this property. The certified survey maps also clearly show that there is sufficient area on this lot in which to design and locate the proposed facilities in compliance with the setback requirements. The lot line locations, including the "jog" in the lot line were established well before the applicant owned the property, well before the land use permit was submitted and well before the facility was designed and the applicant has the option to design a structure in compliance with the Code. To simply ignore the setback requirements of the code and to approve an administrative adjustment to the setback requirements of the code in this case will have a significant adverse impact on the general welfare of the general public.

The fourth criteria to be considered is whether any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical. One of the purposes of the highway setback provisions of the Code is to provide for a uniform setback for all structures along all roads in order to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects. If an Administrative Adjustment to the highway setback provisions of the code is granted in this case, the applicant should be required to enter into an agreement with the County which protects the County from having to purchase the facility should the facility need to be removed in the future for road improvement or relocation purposes.

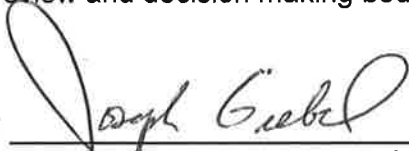
The final criteria to be considered is whether the requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general. It is my position that the request is related to a numeric dimensional standard that is listed in Section 5 of the Code and that the Land Use Administrator has the authority under Section 2.3.2 of the Code to review this application under the Administrative Adjustment provisions of the Code. As stated previously, according to the applicant, the only unique feature or unusual aspect of the site or project that they indicated would prevent the applicant from complying with the setback provisions of the Code is

the "jog" in the property line off of the ramp right of way at this location as shown in Exhibit B and C attached to the application. As stated previously, it is my position that the certified survey maps on file for this property clearly show the lot line locations and the required building setback lines for this property and there is sufficient room on the property to design and locate a structure in compliance with the required setback lines. It is my position that the applicant has not convincingly demonstrated that there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code and that would suggest that an administrative adjustment be granted in this case.

On the basis of the information presented in the application and on record for this matter, it is my position that all of the criteria listed in Section 2.3.2.D of the Code cannot be met for this request and therefore the request for an administrative adjustment to the highway setback provisions of the Code is hereby denied.

You have the right to appeal this decision to the Board of Adjustment. Such appeals shall be filed with the Land Resources and Parks Department within 30 days after the date of written notice of the decision or order of the review and decision making body. If you have any questions, feel free to give me a call.

Signed



Joseph Gebel – Manager of Code Administration

Dated:

12/16/15

Filed:

12/21/15



**DODGE COUNTY LAND RESOURCES
AND PARKS DEPARTMENT**
127 E. Oak Street • Juneau, WI 53039
PHONE: (920) 386-3700 • FAX: (920) 386-3979
E-MAIL: landresources@co.dodge.wi.us

THIS AREA FOR OFFICE USE ONLY	
Activity No.	Issue Date:
Application Date: 12/26/15	Receipt #: 893937

Administrative Appeal

Application Fee: \$450 (After the Fact Application Fee: \$900)

Names and Mailing Addresses	Property Description						
Applicant (Agent) BIRSCHBACH & Associates, Ltd., Allan R. Birschbach, Architect	Parcel Identification Number (PIN) 044-1214-1423-000/001						
Street Address P.O. Box #1216	Town Trenton						
City • State • Zip Code Appleton, Wisconsin 54912-1216	<table border="1"> <tr> <td>SW ¼</td> <td>NW ¼</td> <td>Section 14</td> <td>T N 12</td> <td>R 13</td> <td>E</td> </tr> </table>	SW ¼	NW ¼	Section 14	T N 12	R 13	E
SW ¼	NW ¼	Section 14	T N 12	R 13	E		
Property Owner (If different from applicant) Vandertoop Enterprises LLC, Robb Vandertoop, Managing Partner	Subdivision or CSM # Lots 1 & 2 CSM 3508 (Volume 21, Page 72 & 73)						
Street Address W2834 Dundas Road	Site Address N8750 & N8766 Buckhorn Road						
City • State • Zip Code Brillion, Wisconsin 54110	Is this property connected to public sewer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						

Address the following appeal criteria described in the Notice and Application. Attach additional sheets if necessary.

List the current use and improvements located on this site:

Vacant undeveloped land - former existing NON CONFORMING metal storage building removed. I-1 Light Industrial Zoning. Phase I of an implement dealership presently under construction.

Provide a description of all nonconforming structures and uses on this site:

At this time there are no known non conforming structures and uses on this site.

Reason for the appeal (Complete the section for the type of administrative decision being appealed)

ZONING DISTRICT BOUNDARY DISPUTE

List the location and zoning districts involved

Describe the petitioner's boundary location criteria:

Describe the petitioner's Boundary Determination and what relief the petitioner is seeking:

LAND USE CODE INTERPRETATION

List section and number of code

Describe petitioner's interpretation of the code and rationale for their interpretation and what relief the petitioner is seeking:

ADMINISTRATIVE DECISION / MEASUREMENT / ORDER IN DISPUTE

List the decision, measurement or order in dispute and what relief the petitioner is seeking:

Administrative Adjustment County Application 2015-0800 which was DENIED on December 16, 2015.

See attachments EXHIBIT "A", EXHIBIT "B", EXHIBIT "C", and EXHIBIT "D".

CERTIFICATE

I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Dodge County Land Resources and Parks Department and members of the Dodge County Board of Adjustment to enter the above described property for purposes of obtaining information pertinent to my application/appeal/variance request.

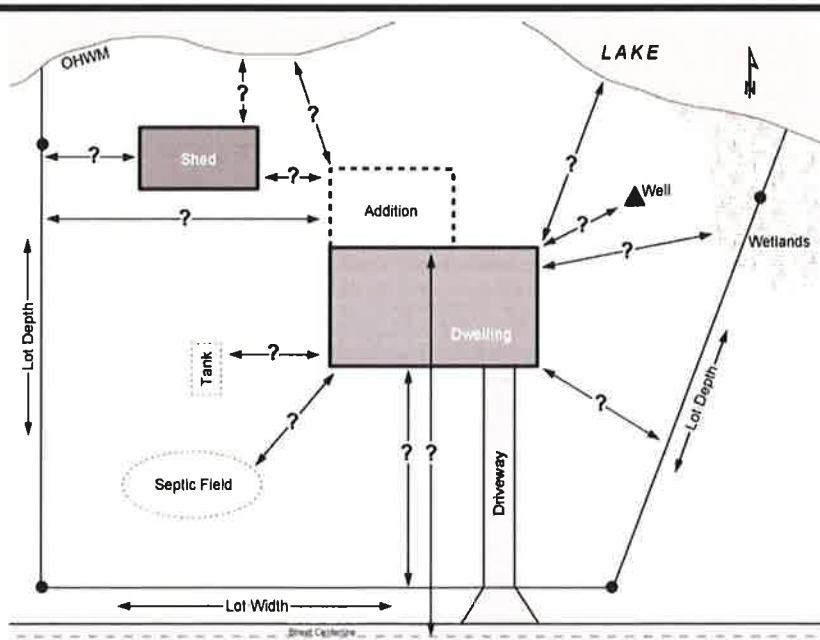
Signature of owner or authorized agent:  Date: December 18, 2015

Allan R. Birschbach, WI Architect 4501-5

Daytime Contact Number (920) 730 9200

SITE PLANS AND BUILDING PLANS

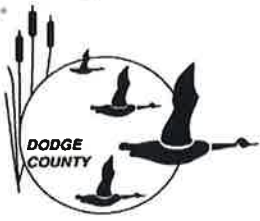
All applications must be accompanied by a site plan. Figure 1 below is an example of an acceptable plan.



Site plans must be drawn to scale and/or all dimensions given, such as:
Location and dimensions of the project
Location and dimensions of existing structures
Dimensions of the property
Location and names of abutting roads, lakes & Streams
North arrow
Owner's name

Distances must be shown from the project to:

- Lot lines
- Road right-of-ways & centerline
- Water bodies Ordinary High Water Mark (O.H.W.M.)
- Septic & holding tanks
- Soil absorption systems
- Nearby structures (within 50 feet)



Dodge County

Land Resources and Parks Department

127 East Oak Street · Juneau, WI 53039-1329
PHONE: (920) 386-3700 · FAX: (920) 386-3979
EMAIL: landresources@co.dodge.wi.us

Administrative Appeals - Notice and Application

An administrative appeal is a legal process provided to resolve disputes regarding Land Use Code interpretation, including decisions regarding jurisdiction, district boundary locations, development standards and related measurements and procedures, and where the reasonableness of a zoning department order is challenged. Appeals from the decision of any review and decision-making body may be made by any person aggrieved or their agent, or by an officer, department, board, or bureau of the County, or by any affected town board. Such appeals shall be filed with the Land Resources and Parks Department or the review and decision-making body from whom the appeal is taken within 30 days after the date of written notice of the decision or order of the review and decision-making body. All appeals shall be in writing and on such forms as provided by the Land Resources and Parks Department and accompanied by the appropriate filing fee.

Every appeal shall state, at a minimum, what provision(s) of the Code is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the appellant. Appeals of decisions of the Land Use Administrator or the Planning, Development and Parks Committee shall be made to the Board of Adjustment, unless otherwise provided for in the Land Use Code. The Board of Adjustment will hold a public hearing on each appeal and, following the public hearing, act to approve or deny the appeal. Upon reaching a decision in an appeal, the Board of Adjustment will notify the appellant(s) after taking final action on an appeal. You will be asked to provide written materials and testimony at the public hearing in support of your appeal. Section 2.3.13 of the Dodge County Land Use Code contains the specific code provisions and details for the appeal process.

Process

At the time of application you will be asked to:

1. Complete an appeal application form and submit the application fee noted on the application;
2. Provide detailed plans describing your lot and project (location, dimensions, materials, limiting site conditions, etc);
3. Provide a written statement of verifiable facts describing the type of administrative decision being appealed; and
4. Provide a written statement describing what relief from the provision(s) is being sought and the grounds on which the relief should be granted to the appellant;

After a complete application is received by the Land Resources and Parks Department, the department will publish a notice of your request of the appeal in the county's official newspaper describing your appeal and noting the location and time of the required public hearing before the Board of Adjustment. All neighbors located within 300 feet of your property boundaries and any affected state or federal agency will also be notified of your request.

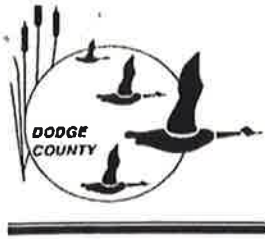
The board may conduct an onsite inspection of the site prior to the public hearing therefore it is important to have your lot lines, the proposed building footprint and any other features of your property related to your appeal clearly marked.

You will be required to provide information at the public hearing to the Board regarding your appeal. At the public hearing, you and other interested parties may appear in person or may be represented by an agent or attorney. If you or your agent do not appear at the public hearing, the board must deny your appeal and your application fee will be forfeited.

At the beginning of the public hearing, the chairman will read the public hearing notice and a staff report prepared by the Land Resources and Parks Department will be presented to the board. The appellant then will be asked to come forward and to provide information to the board regarding the appeal. After the board completes its questioning, the floor will be open to anyone in the audience wishing to speak or ask questions on the appeal. Following the public input, the applicant will have a final opportunity to address the board regarding the appeal. After all testimony is given, the public hearing will then be closed by the chairman and the next scheduled public hearing will be held.

If sufficient time remains after the public hearings are held, the board will meet to review the facts presented at the public hearing and will make a decision on the appeal. If sufficient time does not allow the board to make their decisions, the public hearing will be adjourned and the decisions will be made at a separate meeting, usually scheduled for the following morning. The applicant may be present during the review and decision making process, however, no additional testimony will be allowed regarding the appeal. A written decision will be filed in the office of the board and will be sent to the applicant and any other party requesting a copy of the decision. If you have any questions regarding the decision you are directed to contact the Dodge County Land Resources and Parks Department for assistance. **PLEASE NOTE:** An appeal decision may be appealed to circuit court by certiorari by any aggrieved party within 30 days of the filing of the written decision in the office of the board.

If you wish to file an appeal, please complete the attached application form and return it to the Dodge County Land Resources and Parks Department along with the application fee and the information requested in the application form.



Dodge County
Land Resources and Parks Department

EXHIBIT "A"

127 East Oak Street · Juneau, WI 53039-1329
PHONE: (920) 386-3700 · FAX: (920) 386-3979
EMAIL: landresources@co.dodge.wi.us

December 16, 2015

Birschbach & Associates LTD
Attn. Allan Birschbach
P.O. Box 1216
Appleton, WI 54912-1216

RE: Notice of Action / Filing of Decision - Administrative Adjustment
County application/petition 2015-0800
Owner: Vanderloop Enterprises LLC - Attn. Robb Vanderloop
PIN#: 044-1214-1423-000; 044-1214-1423-001
Part of the SW X, NW X, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

Dear Mr. Birschbach:

On December 16, 2015, the review of your Administrative Adjustment request was completed. On the basis of the information presented in the application and the record on this matter, it is my position that all of the criteria listed in Section 2.3.2.D of the Code cannot be met for this request for an administrative adjustment to the highway setback provisions of the Code and therefore the request is hereby denied.

A copy of my decision has been enclosed.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Sincerely,

Joseph Giebel
Manager - Code Administration

cc: Vanderloop Enterprises LLC - Robb Vanderloop

**Land Resources and Parks Department
Administrative Adjustment**

**County Administrative Adjustment Application No. 2015-0800
County Land Use Permit Application No. 2015-0536 - Phase 2 (As revised on 10-5-2015)**

Applicant (Agent):
Birschbach & Associates LTD
Attn. Allan Birschbach
P.O. Box 1216
Appleton, WI 54912-1216

Owner:
Vanderloop Enterprises LLC
Attn. Robb Vanderloop
W2834 Dundas Road
Brillion, WI 54110

**Filing Date: December 8, 2015
Review Date: December 16, 2015**

Location

The appellant is the owner of the following described property which is the subject of the administrative adjustment request:

PIN#: 044-1214-1423-000; 044-1214-1423-001
Part of the SW *Yi*, NW *Yi*, Section 14, T12N, R14E, Town of Trenton, the site address being N8766 and N8750 Buckhorn Road.

County Jurisdiction

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the 1-1 Light Industrial Zoning District.

Review Criteria

Subsections 2.3.2.A through 2.3.2.E of the Dodge County Land Use Code details the required review and approval procedures for Administrative Adjustments. The Land Use Administrator shall review each application for an Administrative Adjustment and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 2.3.2.D.

Section 2.3.2.D of the Code lists the approval criteria that must be considered when acting on an Administrative Adjustment. Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that:

(1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; **or**

(2) all of the following criteria have been met:

1) The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

- 2) The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
- 3) Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and
- 4) The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

Appellants Request

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department with a request to allow up to a 10% modification to the minimum highway setback requirement of 67 feet from the road right-of-way of US Highway 151 for a proposed commercial agricultural sales facility on this site.

Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. As proposed, a portion of the proposed structure will be located approximately 61.02' from the road right-of-way or 5.88' within the required setback and therefore not in compliance the setback requirements of the Code.

The appellant is requesting an Administrative Adjustment to the highway setback provisions listed in Section 5.1.2.E and Table 5.1.2-1 of the code.

Purpose Statement

The highway setback provisions of the County Land Use Code promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects.

The purpose of the Administrative Adjustment provisions of the Code are to allow for minor relief from certain setback provisions of the code if there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code.

Physical Features of Site

The features of the proposed construction and property that relate to the Administrative Adjustment request are as follows:

The County has Zoning Jurisdiction over this site as the Town of Trenton has adopted the County's Land Use Code. The site is located within the 1-1 Light Industrial Zoning District.

The site is not located within the County's Shoreland or Floodplain Jurisdiction.

The topography of the site is gently rolling with slopes ranging from 0 to 6%;

Land Use, Site: Commercial agricultural sales and maintenance facility under construction.

Land Use, Area: Agricultural to the north, south and west, industrial warehouse to the east within the City of Beaver Dam.

The site is not designated as an Archaeological Site.

The existing use is consistent with the Dodge County Comprehensive Plan:

- The site is designated as Industrial according to the County's Future Land Use Map. The areas mapped as industrial areas represent where industrial type land uses are anticipated.
- The light industrial zoning district is intended to include uses of a light industrial nature, including manufacturing, warehousing, storage facilities, machinery and equipment sales and storage, and transportation facilities which generally do not produce offensive smoke, odors, noise, health hazards, or frequent traffic congestion.

There is a certified survey map (CSM #3508) for the property on file with the Dodge County Register of Deeds Office, dated February 3, 1995 (document #804886). The property line locations and the highway setback lines are clearly shown on this survey map.

There is a certified survey map (CSM #3652) for the property on file with the Dodge County Register of Deeds Office, dated August 29, 1995 (document #813853). The property line locations and the highway setback lines are clearly shown on this survey map.

Findings of Fact:

On April 7, 2014, the Dodge County Planning, Development and Parks Committee granted a conditional use permit to allow the establishment of a retail farm equipment dealership on this site within the 1-1 Light Industrial Zoning District subject to the following conditions:

1. The business operation shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting or the risk of fire, explosion or other accident and shall not be detrimental to the public health and safety or general welfare of the immediate neighborhood or community;
2. It shall be the responsibility of the applicant to obtain all other Federal, State and/or local municipality permits and approvals that may be required for the proposed business operation on this site;
3. The business shall be operated in accord with the business narrative submitted with the Conditional Use Permit application;
4. All hazardous wastes used or generated in the operation of the proposed business shall be handled and disposed of in accord with the applicable regulations.
5. All exterior lighting shall meet the functional and security needs of the proposed development without adversely affecting adjacent properties;
6. The construction or placement of signs on this lot shall require a Dodge County Land Use permit and said signs shall be designed in compliance with subsection 8.9 of the Dodge County Land Use Code;
7. Any future construction or development of this site shall require a Dodge County Land Use permit and said construction and development shall be designed and constructed in compliance with the Dodge County Land Use Code;
8. Any significant change to or expansion of the business operation and/or of its facilities may require that a new Conditional Use Permit be obtained;
9. The decision of the Committee is valid for one year.

On April 8, 2014, a Conditional use permit was issued by the Department in accord with the decision of the Planning, Development and Parks Committee.

On April 25, 2014, the property was deeded to Vanderloop Enterprises LLC.

On August 20, 2015, the expiration date of the Conditional use permit was extended to April 8, 2016.

On August 20, 2015, an application for a County Land Use Permit was made by the applicant in order they be allowed to construct a commercial agricultural sales and maintenance facility on this site.

On September 4, 2015, this permit was denied by the County Land Use Administrator for the following reasons:

- Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. As proposed, a portion of the proposed structure will be located approximately 60' 10.5" from the road right-of-way or 6' 1' W within the required setback and therefore not in compliance the setback requirements of the Code.
- Chapter 8.2 of the Code lists the parking requirements of the Code. The Code requires a minimum of 92 parking spaces, 4 of which are required to meet the handicapped accessible requirements of the Code. According to the application, 77 parking spaces were proposed, with 2 spaces designed to meet the handicapped accessible requirements of the Code therefore not in compliance with the Code.

On September 4, 2015, the applicant was also notified that the land use permit application was found to be incomplete and that the following additional information was required in order to complete the application: a landscaping and buffering plan, a lighting plan and a copy of the State approved construction plans.

On September 16, 2015, a variance application was made by the applicant with a request to allow the construction of a commercial building where said structure was to be located approximately 6' within the required highway setback lines of US Highway 151.

On September 29, 2015, the applicant requested a waiver to the landscaping and buffering requirements of the Code. A revised site plan was submitted and the parking plan was modified to comply with the Code Requirements. A lighting plan was submitted to the Department for review.

On October 5, 2015, the original land use permit application was revised by the applicant. The construction project was divided into two phases. A separate application for a County Land Use Permit was submitted by the applicant for Phase 1 of the project.

- Phase 1 of the project included the proposed storage structure, wash bay, garage, a portion of the office and show room, the parking areas and the display hills.
- The parking plans for this site were modified by the applicant to comply with the Code requirements.
- Construction of Phase 1 of the project began prior to the submission of this revision and land use permit application.
- The applicant requested a waiver to the landscaping and buffering requirements of the Code.
- Phase 2 of the project included the remaining portion of the sales/showroom facility.

On October 5, 2015, a request for waiver of the landscaping and buffering requirements of the Code was reviewed approved by the Planning, Development and Parks Committee on condition the applicant submit an alternative landscaping plan for review and approval by the Committee. The Committee also directed the staff to issue the Land use permit application for Phase 1 of the project. Construction of the facility was started prior to obtaining approvals and prior to the issuance of the land use permit.

On October 6, 2015, the land use permit application for Phase 1 of the project was issued by the Department.

On October 15, 2015, the Board of Adjustment voted 3-2 to deny the variance request as proposed. According to the Board of Adjustment decision, the Board made the following findings:

1. There are no physical limitations that are unique to the property that prevents the appellant from complying with the highway setback provisions of the code;
2. The highway setback provisions of the code are not unnecessarily burdensome in this case and do not create a hardship;
3. The appellant has other options available to construct a complying structure on this lot;
4. The proposed project is not harmful to the public's interests.

On November 4, 2015, an alternate landscaping plan was submitted to the Planning, Development and Parks Committee for review. The applicant also requested to meet with the Committee to discuss the construction issues for this project and to request the authorization to start construction on Phase 2 prior to receiving final approval of the offer to purchase additional road right-of-way from the State Department of Transportation.

On December 7, 2015, the Planning, Development and Parks Committee granted approval of an alternate landscaping plan for the property. The Committee also voted to allow the staff to issue a land use permit for Phase 2 of the project contingent upon receiving a letter or e-mail correspondence from the State Department of Transportation or other applicable State Department confirming the tentative approval to sell the required road right-of-way to Vanderloop Enterprises LLC as shown on the site plan submitted with the request.

On December 8, 2015, an application for an Administrative Adjustment under the Dodge County Land Use Code was submitted to the Department.

Section 5.1.2.E and Table 5.1.2-2 of the Code refer to the distances that all buildings and other structures are required to be setback from public roads/highways. On an expressway or freeway, such as U.S. Highway 151, the required setback is 67 feet from the right-of-way of USH 151 for nonresidential uses. According to the information presented with the application, a portion of the proposed structure will be located approximately 61.02' from the road right-of-way or 5.88' within the required setback and therefore not in compliance the setback requirements of the Code. The appellant is requesting an Administrative Adjustment to the highway setback provisions of Section 5.1.2.E and Table 5.1.2-1 of the code. The request to reduce the highway setback requirement at this location by approximately 6' represents a modification of approximately 8.9% of the required setback.

According to the application, there is a "jog" in the property line along the highway off ramp that creates the setback issue. According to the applicant, the "jog" in the lot line appears to have no meaningful purpose. If the property line was straight, the setback would be 70.5' at this location which would be in compliance with the Code.

According to the application, the applicant's rationale for the administrative adjustment request is as follows: Phase 2 of this construction project has been on Hold pending resolution of the setback issue. A variance was denied (by the Board of Adjustment) for lack of proving a hardship. The administrative adjustment provides a means to stay within the Land Use Code requirements without purchasing of the sliver of land from the State, without a variance, and without changing the architectural design both interior and exterior which is a problem although self-imposed. Upon learning that there was a setback issue, we moved the portion of the building not under construction at the time as far away from the right of way as was possible. This last 39.67 square feet (adjusted for the 5.98' surveyed distance) we cannot correct without a redesign of the showroom portion of the building that compromises the architectural symmetry of the building and results in an interior that is not as efficient and burdensome to the owner for the life of the building.

Decision

In order to grant an administrative adjustment, the following findings must be made: **Section 2.3.2.D(1)** The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or all of the following criteria have been met:

Section 2.3.2.D(2) 1): The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

Section 2.3.2.D(2) 2): The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;

Section 2.3.2.D(2) 3): Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and

Section 2.3.2.D(2) 4): the requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

Section 2.3.2.D(1): The first criteria that is considered is whether the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act. According to the application materials submitted, the applicant indicated that the modification is not necessary in order to satisfy federal requirements for reasonable accommodations of housing for protected groups under the Federal Fair Housing Amendments Act or the Americans with Disabilities Act. It is my position that the proposed request is not necessary in order to satisfy the federal requirements for reasonable accommodations of housing for protected groups under the Federal Fair Housing Amendments Act or the Americans with Disabilities Act. **Not necessary therefore OK.**

Section 2.3.2.D(2)1): The second criteria that is considered is whether the requested administrative adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code. In making this determination, the stated purposes of the Code are considered. The purpose of the highway setback provisions of the County Land Use Code is to promote a variety of public purposes such as providing for light and air, fire protection, traffic safety, prevention of overcrowding, solving drainage problems, protecting the appearance and character of the neighborhood and for conserving property values. The highway setback provisions also provide for a uniform setback for all structures along all roads within the County in order to provide safe visibility while entering or exiting a site and to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects. The purpose of the Administrative Adjustment provisions of the Code are to provide minor relief from the setback provisions of the code if there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code.

According to the information provided in the application, the applicant contends that there is a unique feature or unusual aspect of the site that prevents the applicant from complying with the setback provisions of the Code. According to the applicant, there is a "jog" in the property line off of the ramp right of way at this location as shown in Exhibit B and C. According to the applicant the "jog" in the lot line has no meaningful purpose and if the lot line were straight at this location, the project would comply.

In this case, it is my position that the "jog" in the lot line location is not a unique feature or unusual aspect of this site that would prevent the applicant from complying with the setback provisions of the Code and would suggest that an administrative adjustment be granted. According to the County's records, there are two certified survey maps on file for this property and the "jog" in the lot line and the required highway setback lines are clearly shown on the survey maps. The surveys also document that there is sufficient area on this lot in which to design and locate a structure in compliance with the setback requirements. The lot line locations and setback requirements for this lot were established well before the project was started. **It is my position that the Administrative Adjustment provisions of the Code does not give the Land Use Administrator the summary power to ignore the highway setback provisions of the Code or its objectives, and that the burden falls on the applicant to convincingly demonstrate to the Land Use Administrator that there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the highway setback provisions of the Code.** To simply ignore the highway setback provisions of the Code and to allow the applicant to design and construct the facility within

the highway setback lines when the lot line locations are clearly established before the project is started and in those situations when the appellant has other options for a compliant location or when the applicant has the option to design a smaller facility is contrary to the stated purpose and spirit of the Code. **It is my position that proposed administrative adjustment request is not consistent with the stated purposes of the highway setback provisions or the administrative adjustment provisions of the code and therefore does not meet this criteria.**

Section 2.3.2.D(2)2): The third criteria that is considered is whether the requested adjustment eliminates an unnecessary inconvenience to the applicant and whether the request will have a significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public. The applicant states in their application that Phase 2 of this project was placed on hold pending resolving the setback issue. It is stated in the application that a variance was denied (by the Board of Adjustment) for lack of proving a hardship and stated that an administrative adjustment would provide a means to bring the project into compliance without having to purchase additional right-of-way from the State Department of Transportation, without a variance and without changing the architectural design of the interior and exterior portions of the building. They also stated that the design modifications which would be needed to correct the setback issue would compromise the architectural symmetry of the building and would result in an interior layout that is not as efficient and would be burdensome to the owner. The applicant also indicated that the setback issue is a self-imposed problem.

It is my position that the "jog" in the lot line location as noted by the applicant does not by itself create an unnecessary inconvenience in this case that would suggest that an administrative adjustment be granted in this case. The administrative adjustment provisions of the Code are not intended to provide relief from the typical setback provisions of the code unless there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the Code. There are two certified survey maps that are on file for this property that clearly show the location of the lot lines and the required highway setback lines for this property. The certified survey maps also clearly show that there is sufficient area on this lot in which to design and locate the proposed facilities in compliance with the setback requirements. The lot line locations, including the "jog" in the lot line were established well before the applicant owned the property, well before the land use permit was submitted and well before the facility was designed and the applicant has the option to design a structure in compliance with the Code. **To simply ignore the setback requirements of the code and to approve an administrative adjustment to the setback requirements of the code in this case will have a significant adverse impact on the general welfare of the general public.**

Section 2.3.2.D(2)3): The fourth criteria to be considered is whether any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical. One of the purposes of the highway setback provisions of the Code is to provide for a uniform setback for all structures along all roads in order to save tax payers of Dodge County from having to purchase non-conforming structures located within the highway setback lines, when those structures need to be removed for highway improvement or relocation projects. **If an Administrative Adjustment to the highway setback provisions of the code is granted in this case, the applicant should be required to enter into an agreement with the County which protects the County from having to purchase the facility should the facility need to be removed in the future for road improvement or relocation purposes.**

Section 2.3.2.D(2)4): The final criteria to be considered is whether the requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general. **It is my position that the request is related to a numeric dimensional standard that is listed in Section 5 of the Code and that the Land Use Administrator has the authority under Section 2.3.2 of the Code to review this application under the Administrative Adjustment provisions of the Code.** As stated previously, according to the applicant, the only unique feature or unusual aspect of the site or project that they indicated would prevent the applicant from complying with the setback provisions of the Code is the "jog" in the property line off of the ramp right of way at this location as shown in Exhibit B and C attached to the application. As stated previously, it is my position that the certified survey maps on file for this property clearly show the lot line locations and the required building setback lines for this property and there is sufficient room on the property to design and locate a structure in compliance with the required setback lines. **It is my position that the applicant has not convincingly demonstrated that there is a unique feature or unusual aspect of the site that is not shared by**

landowners in general that would prevent the applicant from complying with the Code and that would suggest that an administrative adjustment be granted in this case.

On the basis of the information presented in the application and on record for this matter, it is my position that all of the criteria listed in Section 2.3.2.D of the Code cannot be met for this request and therefore the request for an administrative adjustment to the highway setback provisions of the Code is hereby denied.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Signed Joseph Giebel
Joseph Giebel - Manager of Code Administration

Dated: 12/16/2015 _____

Filed: 12/16/15

EXHIBIT "B"

December 18, 2015



ADMINISTRATIVE APPEAL of the DENIED Administrative Adjustment Dodge County Application / Petition 2015-0800

Owner: Vanderloop Enterprises LLC, Robb Vanderloop, Managing Partner
PIN#044-1214-1423-000; 044-1214-1423-001

Part of the SW1/4, NW ¼, Section 14, T12N, R14E, Town of Trenton, Dodge County, WI
Site Addresses: N8766 and N8750 Buckhorn Road

Statement of Facts:

1. As the architect for this project, BIRSCHBACH & Associates, Ltd. erred in using the WDOT Trans 233.08 setback from an Expressway (US 151) of 50 feet rather than the Dodge County required setback of 67 feet.
2. The Owner, Vanderloop Enterprises, LLC through its contractor Bill Lorrigan Construction started construction after making an application for the Land Use Permit for the building construction, but prior to the permit being issued / denied because upon making the application they were informed that the permit would take three weeks to be processed and issued. With starting construction in September and winter approaching, time was of the essence. The actual time frame was that the application was made on August 20, 2015 and the DENIAL was issued on September 4, 2015 which was actually 15 days or 2.14 weeks.
3. No STOP WORK ORDER was issued by the Dodge County Land Resources and Parks Department during the 2.14 weeks period.
4. The major and most significant reason that the Land Use Permit was DENIED was the fact that reviewer found our unintentional error in the setback and the building as submitted was 17 feet too far over the correct setback line of 67 feet.
5. Upon learning of our error, we immediately started a redesign which moved the portion of the building that was not yet started, as far from the right of way line as possible yet maintaining the architectural symmetry and intent of the design. We were able to reduce our 17 foot error to 5.98 feet. The original area that was over the setback line was 174.38 s.f. The present redesigned building will have 39.67 s.f. over setback line if allowed to proceed.
The correction is further complicated by the fact that the building is oriented due north and south for environmental solar gain advantages, while the US 151 Expressway off ramp right of way line runs 23 degrees West of due South at this location so it is not a simple perpendicular movement of the building to accomplish the required setback.
6. **In the US 151 corridor from Fond du Lac to Madison, Dodge County has the most stringent setback requirement of 67 feet. Columbia County to the immediate south has a 50 foot setback from the right of way matching the WDOT requirement, Dane County to the south has a 42 foot setback from the right of way and therefore the WDOT requirement governs. Fond du Lac County to the north does not have a zoning ordinance but rather each township has a zoning ordinance. The Towns of Waupun and Oakfield to the immediate north have a 60 foot setback from the right of way. The Town of Fond du Lac does not have a stated setback but rather references the WDOT requirement of 50 feet.**

EXHIBIT "B"

7. There is a 1/10th acre triangular sliver of WDOT property that is created by three property line pins that would solve the setback issue if it could be purchased. The Owner continues to work on that purchase, but to date has received six of the seven entities verbal commitment to sell the needed property. It is this sliver of property that is created by the referred to "jog" in this and the original Administrative Adjustment Application which is attached as EXHIBIT "C".

Statement of Ground for Relief:

Mr. Giebel's major position in the DENIAL of the Administrative Adjustment is that we failed to convincingly demonstrate that there is a unique feature or unusual aspect of the site that is not shared by landowners in general that would prevent the applicant from complying with the highway setback provisions of the Code. We make the following arguments in rebuttal:

2.3.2.D(2) 1): We are not requesting that the Land Use Administrator ignore the highway setback. We are asking that an adjustment be made to the setback within the 10% allowed by Section 2.3.2.A of the Code. The administrator's positions are based on a project that has not been started and if we could go back, we could easily correct the situation. But the project is at least 50% complete and thus an administrative adjustment to the setback at this time would provide minor relief from the setback provisions that the Code allows when there is a unique feature or unusual aspect of the site. (See 2.3.2.D(2) 4) below.

2.3.2.D(2) 2): The "jog" by itself may not create an unnecessary inconvenience if the project was not over 50% complete. It is our position that the 67 foot setback requirement of Dodge County compared to all other municipalities along the US 151 corridor from Fond du Lac to Madison does create an unnecessary inconvenience at this time for this project.

We do not concur with the Land Use Administrators position that an Administrative Adjustment would have a significant adverse impact on the general welfare of the general public. The distance from the roadway pavement to the setback line at the north point where the "jog" begins is 150 feet. At the south end where the "jog" ends the distance from the pavement to the setback line is 139 feet. The distance from the pavement to setback line at the "jogs" middle property pin is 163 feet. The distance from the pavement to the corner of the proposed building is 152 feet. If the distances between pavement and the setback line at both the north and south ends of the "jog" are less than distance at the point of building setback in error, there cannot be a significant adverse impact on the general welfare of the general public since the distance is greater at the point of the error than at other locations along the roadway. See EXHIBIT "D" attached.

2.3.2.D(2) 3): If the Administrative Adjustment is granted by the Board of Adjustment and the Board requires an agreement between the Owner and the County which protects the County from having to purchase the 5.98 feet of the facility in the unlikely event that because of the adjustment in setback a portion of the building needs to be removed, such an agreement can be made.

2.3.2.D(2) 4): The Dodge County setback of 67 feet from an Expressway is an unusual aspect of this site that is not shared by landowners in other counties along the US 151 corridor in that all other counties and townships along this corridor have 60 foot setbacks or less. This setback requirement becomes a unique and unusual aspect of this property when compared to land owners in OTHER counties along this corridor. We contend that other landowner's provision of the Code in general means all Wisconsin landowners, not just those shared by Dodge County landowners.

We further contend that the small 1/10 acre "jog" in the property line is an unusual aspect of this particular site that is not shared by other property owners because the property line "jogs" in away from the roadway and then "jogs" back out again over the short distance of only 535 feet. There is no obstacle or curve in the roadway that requires this "jog". We content that this is an unusual aspect of this property.

EXHIBIT "B"

BIRSCHBACH & Associates, Ltd. sincerely regrets its error. It was certainly unintentional and has cost countless hours of additional work and permit fees in trying to resolve the problem. Vanderloop Enterprises, LLC regrets beginning construction prior to issuing of the Land Use Permit, because it has delayed the project far beyond the three week delay they attempted to avoid while waiting for the permit to be issued. Had construction not started the error could have been easily fixed by moving the building. A difficult lesson learned.

All parties are seeking a compromise that Dodge County can accept so that the project can move forward and create the 30 jobs that this project will ultimately bring to Dodge County.

To the best of my knowledge and belief, the statements made in this Exhibit "B" are true and correct.

Sincerely,



Allan R. Birschbach, AIA, NCARB
LEED Green Associate / LEED AP
Agent for VANDERLOOP ENTERPRISES, LLC

Architect / President
BIRSCHBACH & Associates, Ltd.
P.O. Box #1216
Appleton, Wisconsin 54912-1216
Voice: 920-730-9200
Fax: 920-730-9230
email: arb@birschbach.com



Dodge County

Land Resources and Parks Department

EXHIBIT "C"

127 East Oak Street · Juneau, WI 53039-1329
PHONE: (920) 386-3700 · FAX: (920) 386-3979
EMAIL: landresources@co.dodge.wi.us

Administrative Adjustment - Notice and Application

An Administrative Adjustment is a request for a modification of 10 percent or less of any numeric dimensional standard set out in Chapter 5 of the Dodge County Land Use Code except for those setbacks related to water setbacks, residential density or nonresidential intensity standards. The Land Use Administrator is authorized to review an Administrative Adjustment Application and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 2.3.2.(D) of the Code. The Land Use Administrator's duty is not to compromise ordinance requirements for a property owner's convenience but to apply legal criteria for granting of an administrative adjustment to a specific fact situation. Administrative Adjustments are meant to be an infrequent remedy where the code imposes a unique burden on the use of a property or where there are unique features or unusual aspects of the site which are not generally shared by the general public that would suggest an administrative adjustment be granted.

Administrative Adjustments may be approved by the Land Use Administrator only upon a finding that: (1) the modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act; or (2) all of the following criteria have been met:

2.3.2.D.1 The requested adjustment is consistent with the Dodge County Comprehensive Plan and the stated purposes of this Code;

2.3.2.D.2 The requested adjustment eliminates an unnecessary inconvenience to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;

2.3.2.D.3 Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practical; and

2.3.2.D.4 The requested Administrative Adjustment relates to a measurable standard and is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general.

No public hearing is required for an Administrative Adjustment. However, the Land Use Administrator may refer the application to the Board of Adjustment, who may schedule a public hearing on an Administrative Adjustment if they consider the application to be controversial, or believe granting the Administrative Adjustment would have an adverse impact upon surrounding property owners or the County as a whole. Additionally, a public hearing shall be scheduled for review with the Board of Adjustment if requested to do so by the applicant.

Every Administrative Adjustment request shall state, at a minimum, what provision(s) of the Code is/are involved, what relief from the provision(s) is being sought, and the grounds on which the relief should be granted to the applicant.

Process

At the time of application you will be asked to:

1. Complete an administrative adjustment application form and submit the application fee noted on the application;
2. Provide detailed plans describing your lot and project (location, dimensions, materials, limiting site conditions, etc);
3. Provide a written statement describing what relief from the code provision(s) is being sought and the grounds on which the relief should be granted to the appellant;

After a complete application is received by the Land Resources and Parks Department, the application will be reviewed by the Land Use Administrator in accord with Section 2.3.2.C of the Code.



**DODGE COUNTY LAND RESOURCES
AND PARKS DEPARTMENT**
127 E. Oak Street • Juneau, WI 53039
PHONE: (920) 386-3700 • FAX: (920) 386-3979
E-MAIL: landresources@co.dodge.wi.us

τ THIS AREA FOR OFFICE USE ONLY τ	
Activity No.	Issue Date:
Application Date:	Receipt #:

Administrative Adjustment

Application Fee: \$450 (After the Fact Application Fee: \$900)

Names and Mailing Addresses	Property Description																
Applicant (Agent) BIRSCHBACH & Associates, Ltd., Allan R. Birschbach, Architect	Parcel Identification Number (PIN) 044-1214-1423-000/001																
Street Address P.O. Box #1216	Town Trenton																
City • State • Zip Code Appleton, Wisconsin 54912-1216	<table border="1"> <tr> <td></td> <td>¼</td> <td>¼</td> <td>Section</td> <td>T</td> <td>N</td> <td>R</td> <td>E</td> </tr> <tr> <td></td> <td>SW</td> <td>NW</td> <td>14</td> <td>12</td> <td></td> <td></td> <td>13</td> </tr> </table>		¼	¼	Section	T	N	R	E		SW	NW	14	12			13
	¼	¼	Section	T	N	R	E										
	SW	NW	14	12			13										
Property Owner (If different from applicant) Vanderloop Enterprises LLC, Robb Vanderloop, Managing Prtnr.	Subdivision or CSM # Lots 1 & 2 CSM 3508 (Volume 21, Page 72 & 73)																
Street Address W2834 Dundas Road	Site Address N8750 & N8766 Buckhom Road																
City • State • Zip Code Brillion, Wisconsin 54110	Is this property connected to public sewer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																

Address the following Administrative Adjustment criteria described in the Notice and Application. Attach additional sheets if necessary.

List the current use and improvements located on this site:

Vacant undeveloped land - former existing metal storage building removed. I-1 Light Industrial Zoning. Phase I of an implement dealership presently under construction.

Provide a description of all nonconforming structures and uses on this site:
At this time there are no known non conforming structures and uses on this site.

ADMINISTRATIVE ADJUSTMENT BEING REQUESTED

List the section of the Code and the dimensional standard for which you are requesting an administrative adjustment:

Section 2.3.2.A allows for a 10% modification to the Section 5.1.2.E for Nonresidential Uses from an Expressway setback of 67 feet per table 5.1.2-2: Minimum Setback Distances.

Describe the administrative adjustment which you are requesting: **Modify the 67' setback to 61.02' for the southeast corner of the Ph-II proposed showroom portion of the Vanderloop Eqmt. implement dealership. 67' x 10% = 6.7'. The proposed exact setback modification needed is 5.98 feet per Davel Engineering surveying crew.**

Are you requesting an administrative adjustment in order to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the federal Fair Housing Amendments Act or Americans with Disabilities Act?

Yes; No;

How would the interest of the public or neighbors be affected by granting or denying this Administrative Adjustment?
The public or neighbors would not be affected by granting this Administrative Adjustment. The Board of Adjustment concurred with this on their decision for the denial of the variance October 15, 2015.

What unique features of this property or unusual aspect of the site or proposed development project prevent you from complying with the terms of the Land Use Code from which you are requesting an administrative adjustment?

The property line along the highway off ramp right of way has a "jog" at this location that appears to have no meaningful purpose.

If the property line were "straight" as would be expected the setback from the right of way would be 70.5' at the proposed building location. See Davel Exhibit "B" attached.

Describe the rationale for the administrative adjustment request that you are seeking:

Phase II of this construction project has been on HOLD pending resolving the setback issue. A variance was denied for lack of proving a hardship. An administrative adjustment provides a means to stay within the Land Use Code requirements without purchasing of the sliver of land from the State, without a variance, and without changing the architectural design both interior and exterior which is a problem although self imposed. Upon learning that there was a setback issue, we moved the portion of the building not under construction at the time as far away from the right of way as was possible. This last 39.67s.f. (adjusted for the 5.98' surveyed distance) we cannot correct without a redesign of the showroom portion of the building that compromises the architectural symmetry of the building and results in an interior layout that is not as efficient and burdensome to the owner for the life of the building. See Exhibit "C".

CERTIFICATE

I hereby certify that I am the owner and/or authorized agent of the property owner and that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief and I hereby authorize members of the Dodge County Land Resources and Parks Department and members of the Dodge County Board of Adjustment to enter the above described property for purposes of obtaining information pertinent to my application request.

Signature of owner or authorized agent: _____

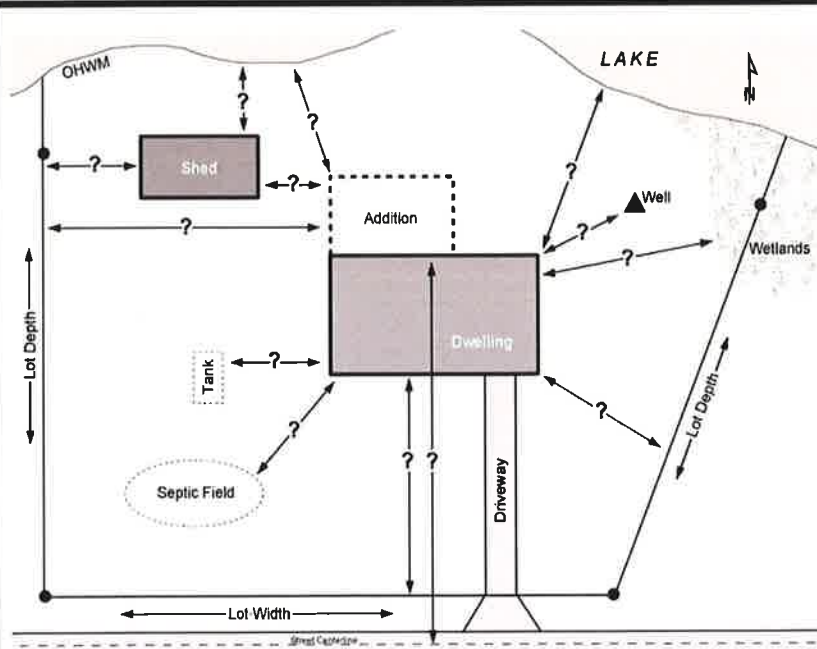
Date: 12-07-2015

Allan R. Birschbach, WI Architect 4501-5

Daytime Contact Number (920) 730 - 9200

SITE PLANS AND BUILDING PLANS

- All applications must be accompanied by a site plan. Figure 1 below is an example of an acceptable plan.



Site plans must be drawn to scale and/or all dimensions given, such as:
Location and dimensions of the project
Location and dimensions of existing structures
Dimensions of the property
Location and names of abutting roads, lakes & Streams
North arrow
Owner's name

Distances must be shown from the project to:

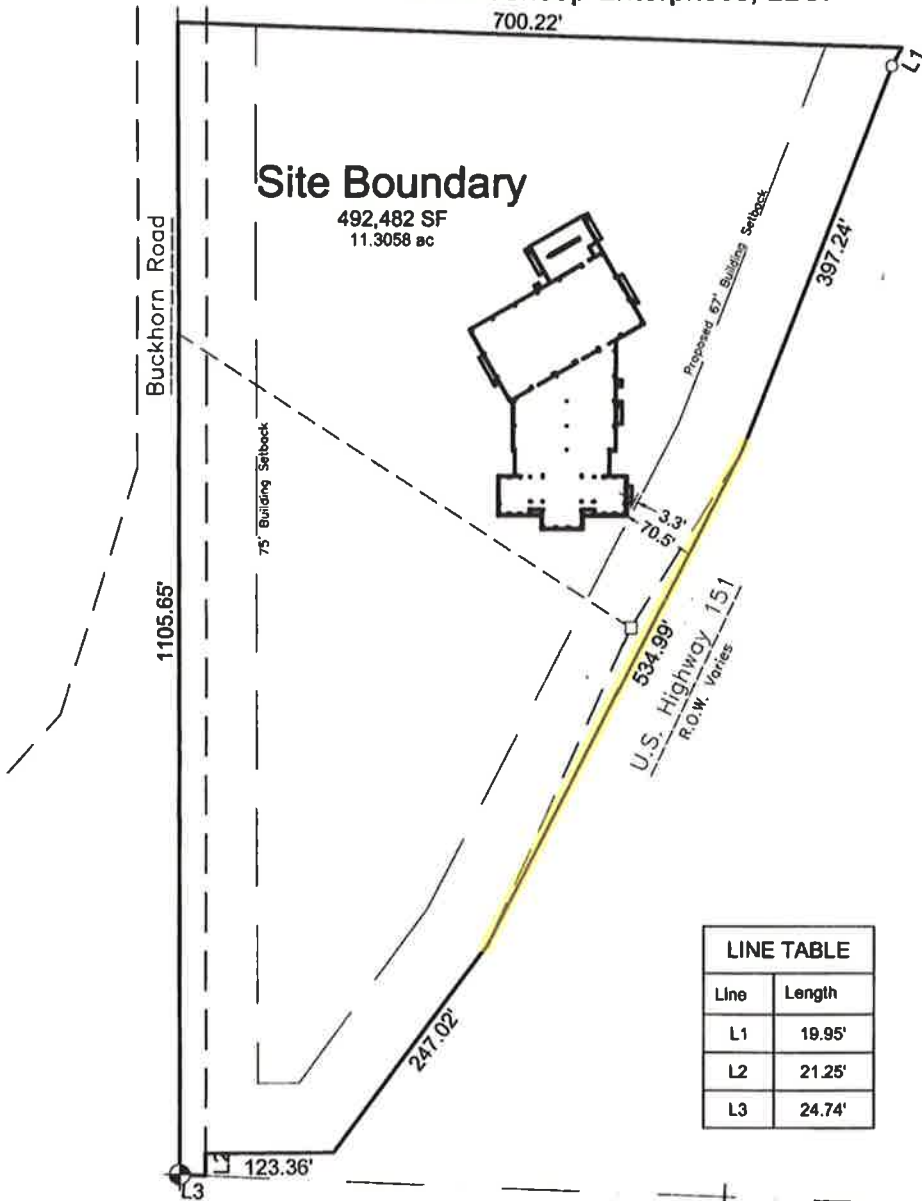
- Lot lines
- Road right-of-ways & centerline
- Water bodies Ordinary High Water Mark (O.H.W.M.)
- Septic & holding tanks
- Soil absorption systems
- Nearby structures (within 50 feet)

Exhibit "B"

Vanderloop Equipment

Town of Trenton, Dodge County, WI

For: Vanderloop Enterprises, LLC.



LINE TABLE	
Line	Length
L1	19.95'
L2	21.25'
L3	24.74'



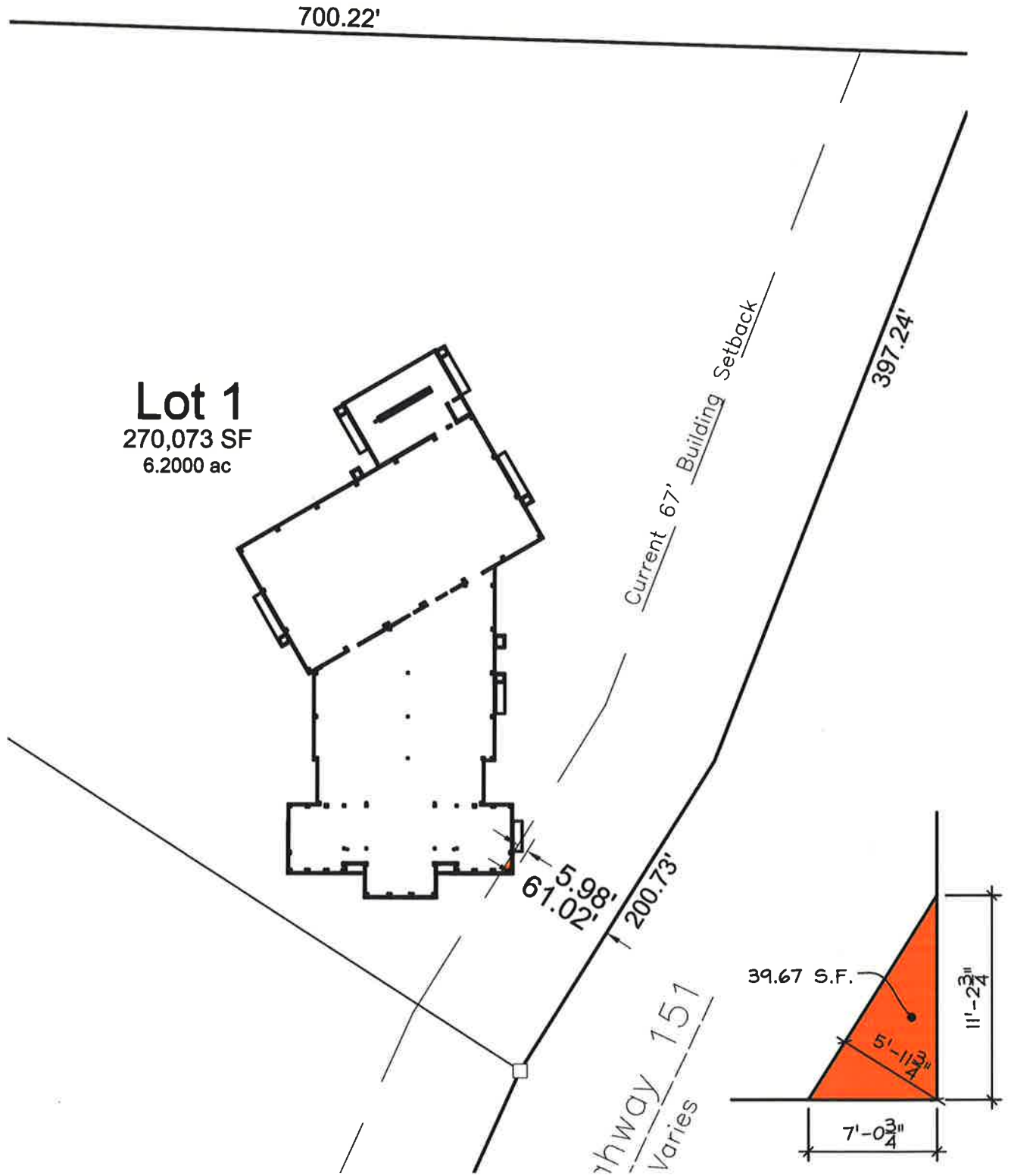
Davel Engineering & Environmental, Inc.
 Civil Engineers and Land Surveyors
 1811 Racine Street
 Menasha, Wisconsin
 Ph. 920-991-1866, Fax 920-830-9595



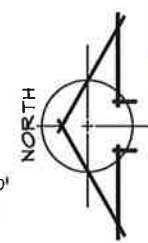
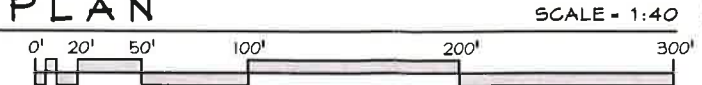
Survey for:
Vanderloop Enterprises, LLC
 c/o Robb Vanderloop
 W2834 Dundas Road
 Brillion, WI 54110

File: 4357proposed.dwg
 Date: 10/22/2015
 Drafted By: tyler
 Sheet: Exhibit

Exhibit "C"



OVERALL PROPOSED SITE PLAN



OWNER INFORMATION
 PROPERTY OWNER:
 VANDERLOOP ENTERPRISES LLC,
 ROBB VANDERLOOP, MGR. PRTR.
 STREET ADDRESS:
 W2834 DUNDAS ROAD
 BRILLION, WISCONSIN 54110

REVISIONS	BY	DATE

PROPOSED FACILITY FOR:	VANDERLOOP EQUIPMENT
INTERSTATE 94 - EXIT 136 (BUCKHORN ROAD) - NEAR BEAVER DAM	
DRAWN BY:	AHM
APPROVED BY:	
PROJECT NO:	206-002 00
DATE:	04/18/2016
SHEET TITLE:	
SHEET:	CS0

