

CITY OF WISCONSIN DELLS MEETING AGENDA

Meeting Description CITY PLAN COMMISSION

Date: TUESDAY, JULY 12, 2016 Time: 5:15PM Location: MUNICIPAL BUILDING 300
LA CROSSE STREET, WISCONSIN DELLS, WI

	Committee Members		
Mayor Brian Landers-Chair	Alder. Mike Freel	Fire Chief Scott Walsh	Chris Lechnir
	Tifani Jones	Dan Anchor	Jeff Delmore

AGENDA ITEMS:

1	CALL MEETING TO ORDER AND ATTENDANCE
2	APPROVAL OF THE MINUTES FROM THE JUNE 15, 2016 MEETING
3	PUBLIC HEARING TO CONSIDER THE CONDITIONAL USE PERMIT (CUP) APPLICATION FROM BRAD PREISSEL FOR OVERNIGHT LODGING AT 815 WASHINGTON, WIS. DELLS, COLUMBIA CO. TAX PARCEL 1052.2. THE PROPERTY IS ZONED C-1 COMMERCIAL-NEIGHBORHOOD
4	DISCUSSION AND DECISION ON ITEM #3 (CUP-PREISSEL)
5	PUBLIC HEARING TO CONSIDER THE LAND OWNER-INITIATED ZONING MAP AMENDMENT APPLICATION FROM GARY PICHA TO REZONE COLUMBIA CO., CITY OF WISCONSIN DELLS TAX PARCEL 1008.2 TO AMEND THE ZONING CODE TO ALLOW A FUNERAL HOME AS A CONDITIONAL USE IN THE C-2 COMMERCIAL-DOWNTOWN ZONING DISTRICT SO THE APPLICANT CAN THEN APPLY FOR A CONDITIONAL USE PERMIT FOR A FUNERAL HOME AT 1101 BROADWAY
6	PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT APPLICATION FROM GARY PICHA TO CONSTRUCT A FUNERAL HOME AT 1101 BROADWAY (PARCEL 1008.2, COLUMBIA COUNTY) THE PARCEL IS ZONED PART C-1 COMMERCIAL-NEIGHBORHOOD AND PART C-2 COMMERCIAL-DOWNTOWN (CONTINGENT ON ZONING AMENDMENT APPROVAL ALLOWING A FUNERAL HOME IN C-2 ZONING THROUGH THE CUP PROCESS)
7	DISCUSSION AND DECISION ON ITEM #5 (ZONING AMENDMENT-PICHA)
8	DISCUSSION AND DECISION ON ITEM #6 (CUP-PICHA)
9	DISCUSSION AND DECISION ON TOURIST ROOMING HOUSE
10	ANY OTHER ITEMS FOR REFERRAL TO FUTURE MEETING
11	SET DATE FOR THE NEXT PLAN COMMISSION MEETING (<u>MONDAY, AUGUST 8, 2016</u>)
12	ADJOURNMENT

Open Meetings Notice: If this meeting is attended by one or more members of the Common Council who are not members of this committee, their attendance may create a quorum of another city commission, board or committee under the Wisconsin Open Meetings Law; However, no formal action will be taken by any governmental body at the above stated meeting other than the body, committee, commission, or board identified in this meeting notice. Please be advised that upon reasonable notice, the City of Wisconsin Dells will furnish appropriate auxiliary aids and services to afford individuals with disabilities an equal opportunity to participate in meeting activities.

MAYOR BRIAN LANDERS CHAIRPERSON

DISTRIBUTED JULY 8, 2016

Overnight Lodging CUP
Brad Preissel
Vacation rental of single family home
Staff report – Plan Commission 011116

The City of Wisconsin Dells has received a request from Brad Preissel to convert the house located at 815 Washington (Parcel 1052.2) to Overnight Rentals. This property is in the C-1 Commercial-neighborhood Zoning District, which requires a Conditional Use Permit per the City of Wisconsin Dells zoning code.

This is an existing house that has been used as a single family home. As such it should not have any significant effect on traffic flow, the natural environment or future development of the area.

The owner had stated the home has 3 bedrooms and 2 bathrooms. The expected occupancy of the house will be 8-10 people with a maximum of 12. Rental of the home will be booked by the Blackhawk Motel which is owned and operated by the applicant. A general standard is to provide 1 bathroom for every 6 occupants, so the occupancy should be limited to 12 people or less. The parking requirement for a motel is 1 parking space per room, so this 3 room house should have 3 parking stalls. The house has an approximately 40 ft by 65 ft backyard which would be utilized for parking. This could be developed to allow 3 cars to park with direct access to the alley. Based on other parking standards of 3 occupants per car, it does seem possible that 12 people would have 4 cars. There can be concerns with allowing separate parking stalls for required parking where one car blocks another. In this case, there does not appear to be adequate space for additional parking stalls to be added. It may be acceptable to not require the additional parking be constructed at this time, but any approval should be contingent on the parking being constructed and approved by the City, if it is deemed necessary in the future. Due to the limited space on the lot, if parking becomes an issue and adequate space cannot be provided, the applicant may have to limit the number vehicles renters can have for the home.

Overnight vacation rentals of single family homes present similar issues as employee housing facilities. The existence and extent of these issues lies primarily in the management of the property. If this house were to be a "party house", it could create a substantial nuisance to surrounding properties and create issues for the City. The applicant has stated they will only rent the house to families. It is recognized that the applicant operates the Blackhawk motel in close proximity to this property. It is also recognized that the applicant has a stellar reputation as the operator of the Blackhawk motel. Given the proximity of this property to the Blackhawk motel, it appears that the applicant will have more than adequate supervision of this property. However, this property does not have a significant buffer between it and the surrounding properties. Due to the full development of this area, there does not appear to be much opportunity for additional buffers to be installed. Approval should carry a contingency that the applicant cooperate with the City and neighbors to install any buffering that may be desired and feasible.

It should also be noted that this use is only allowed in Commercial districts, and this property does fall within the C-1 Commercial-neighborhood district, which allows both residential and commercial uses. The C-1 district acts as a transition to the Residential districts north and south of the downtown Commercial district. The C-1 district also runs along north River Rd and south along Vine St. Overnight rental of single family homes is not allowed in the City's Residential Zoning districts.

The owner has stated that rental bookings for this property will be through the Blackhawk motel. It is expected that as the applicant, the owner of the property accepts ultimate responsibility for the management of the property. As such, the owner/applicant will be responsible to correct any nuisances that may occur on the property. It should be made clear to the owner/applicant that violation of conditions, poor management of the facility, or the creation of nuisances from this overnight use will result in revocation of the use permit. Due to the relative uniqueness of this use in the City, the issues this use has caused in the Village of Lake Delton, and the importance of the management of the use; the granting of this permit should be non-transferrable and any new owner or operator of the property will have to obtain a new CUP. Based on the applicant's reputation as a motel operator and the proximity of this property to their existing motel and associated management and maintenance staff, this office does NOT see the need to limit this CUP to 1 year to evaluate the management.

This office has been contacted by some of the surrounding property owners. All have expressed concerns that the proposed use could cause problems for their properties. Some are comfortable with the applicants reputation that the property will be managed to prevent any significant issues. One property owner still has concerns with the affect this will have on the sale of their property, see attached e-mail.

As such, approval of this **CUP** should carry the following contingencies:

1. The building inspector ensures there are no code or safety issues with the house
2. The overnight rental of the house will be subject to PRT & room tax, and clear documentation of these taxes are provided to the City upon request.
3. Additional parking spaces will be constructed and/or other operation measure be taken to address parking issue, to City satisfaction, if deemed necessary by the City in the future.
4. This location is not allowed to be the source of any sort of nuisance and the owner comply with any orders by the City to address any nuisance concerns.
5. The applicant cooperate with the City and neighbors to install any buffers that may be desired and are feasible.
6. Applicant abide by the following restrictions:
 - a. Owner provides current, primary contact information to the Police Dept.
 - b. Rentals are to families only.
 - c. Renters sign an agreement not to cause excessive noise, not to trespass on neighboring property, and not to cause any other nuisance
 - d. This permit is non-transferrable, any new owner or operator of the property will have to obtain a new Overnight Lodging permit.

Optional:

- e. The owner obtains an Overnight Lodging permit annually to ensure continued proper management of the property.

Chris Tollaksen
City of Wisconsin Dells
07/08/16

July 6, 2016

To whom it may concern:

I, Mike Fedewa support granting a conditional use permit to Brad Preissel, for overnight lodging at 815 Washington Ave, in which reservations will be made thru Black Hawk Motel.

The Black Hawk is a seasonal business, with Brad being an owner and active manager. Brad has stated that:

-he will provide his cell phone number should there be any noise issues or other concerns.

-the rental will have a 4 to 5 night minimum for bookings that are made weeks in advance, resulting in families reserving the unit.

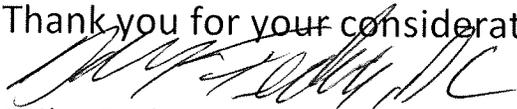
-On Black Hawk's website and all confirmations and registrations, the following is stated: "Parties & Profanity will not be tolerated, quiet hours strictly enforced". This applies to all units.

-the rental will be well maintained, year round.

-the rental is planned be rented during the summer months and some weekends in the spring and fall.

-if the application for overnight lodging is denied, Brad has stated he will convert to the home into apartments to become a multi-housing.

Thank you for your consideration,



Mike Fedewa

819 Washington Ave.

Chris Tollaksen

From: Jim Anacker [jjima@spring-brook.com]
Sent: Friday, July 08, 2016 10:26 AM
To: Chris Tollaksen
Subject: Conditional use permit 815 Washington

Chris,

My wife and I own the home at 807 Washington. I have some concerns about the granting of a conditional use permit for overnight rentals at 815 Washington. We currently have a long term rental in or house but I plan to do some work on the home and put it on the market in the next couple years. I have worked as a real estate broker for 23 years and realize the external impact that overnight rental homes can have, particularly during the sales process. I do not know what affect it will have on the value of our property in the future (I'm guessing it won't increase it) but I absolutely know that the marketability of our property will be affected. Our home will likely sell to a young family with small children as their first home. I am concerned that a transient use of 815 Washington will extend the amount of time necessary to sell our home. My impression is that the group that will be managing this home are reputable but I am concerned about the impact that the use of this property will have on mine. I will try to be at the meeting on Tuesday at 5:15 but have a scheduling problem that I may not be able to change. If I can't be there could you share my concerns. If you have any questions please give me a call.

Thanks!

Jim Anacker
Broker/Owner
Cold Water Realty, LLC
jjima@spring-brook.com
Cell (608) 963-1880

CONDITIONAL USE APPLICATION
Wisconsin Dells, Wisconsin
 Version: May 21, 2007

General instructions. Complete this application as it applies to your project and submit one copy to the zoning administrator along with the required application fee. Before you formally submit your application and fee, you may submit one copy to the zoning administrator who will ensure it is complete. If you have any questions, don't hesitate to contact the zoning administrator at 608-253-2542. You may obtain a digital copy of this file from the zoning administrator.

- Office Use Only -

Initial application fee	\$525.00
Receipt number	55961
Application number	_____

1. Applicant information

Applicant name BRAD PREISSEL

Street address P.O. Box 15

City Wis. Dells

State and zip code WI 53965

Daytime telephone number 393-0876

Fax number, if any 253-7333

E-mail, if any blackhawkmotel@blackhawkmotel.com

2. Subject property information

Street address	<u>815 WASHINGTON AVE</u>	
Parcel number	<u>11291-1052.2 LOT 17 BLACK 61</u>	Note: the parcel number can be found on the tax bill for the property or may be obtained from the City.
Current zoning classification(s)		
Describe the current use	<u>RESIDENTIAL</u>	

3. Proposed use. Describe the proposed use.

RENT Home To Families / OVERNIGHT GUESTS WHO RESERVE DIRECT WITH BLACK HAWK MOTEL

4. Operating conditions. For non-residential uses, describe anticipated operating conditions (hours of operation, conditions that may affect surrounding properties, etc.)

Home To ^{be} RENTED DURING MONTHS OF OPERATION FOR BLACKHAWK MOTEL - MID MARCH THRU LATE OCTOBER, w/ THE MAJORITY OF THE RENTALS OCCURING DURING THE SUMMER MONTHS. PROPERTY WILL BE MANAGED & MAINTAINED BY BRAD / BLACKHAWK MOTEL

CONDITIONAL USE APPLICATION

Wisconsin Dells, Wisconsin

Version: May 21, 2007

5. **Off-site effects.** Describe any potential nuisances and mitigating circumstances relating to street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials.

N/A

6. **Review criteria.** The plan commission in making its recommendation and the common council in making its decision must consider the factors listed below. Provide a response to each. (See Section 19.373 of the Municipal Code.)

- a. Consistency of the proposed use with the city's comprehensive plan and neighborhood plan or other subarea plan, if any

N/A

- b. Effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site

Minimal, PARKING IN REAR OF HOUSE / OFF-STREET PARKING.

- c. The suitability of the subject property for the proposed use

LOCATED ONLY 1.5 BLOCKS FROM BLACKHAWK

- d. Effects of the proposed use on the natural environment

N/A

- e. Effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances

BRAD'S CELL PHONE # WILL BE PROVIDED TO NEXT DOOR NEIGHBOR MIKE FEDERWA & OTHER NEIGHBORS, SO BRAD CAN ADDRESS ANY NOISE COMPLAINTS, IF ANY.

- f. Effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the district ?

- g. Effects of the proposed use on the city's financial ability to provide public services

Increased sales tax rev.

Chris Tollaksen

From: Black Hawk Motel [blackhawkmotel@blackhawkmotel.com]
Sent: Thursday, July 07, 2016 3:46 AM
To: Chris Tollaksen
Subject: RE: House overnight

Chris,

This is a 3 bedroom house, not 4 as in your report.

According to the spec sheet for Wisconsin Dells Realty...it gives the following dimensions:

Living / Great room 22 x 12
Dining room 10 x 12
Kitchen 12 x 12
2nd bedroom 11 x 17
Full bath and laundry.

Upper Level:
Master bedroom 26 x 13
3rd bedroom 10 x 11
Full bath

Sidewalk from Washington street side leads to entry door on the west side of home. This door opens into the living room area. Entrance also in back (north side of home) where there would be 3 parking spots. Upon entering the back of home, there is an open laundry area and staircase to the left leads upstairs. There is the 1st floor bedroom on the right and the bath is just past the laundry area which is located under the staircase. There is also an outside entry door to the basement. The basement would only be accessible to Black Hawk staff.

I would have the home set up to sleep 8-10, and definitely not more than 12. The Master bedroom upstairs would most likely have 2 Queen beds, the other two bedrooms would have 1 either king or queen bed each. May add a queen sofa sleeper in the living room area to have it sleep 10, however I prefer to stay away from sofa sleepers if possible.

I have a signed letter of support from Mike Fedewa who lives next door and also spoke with Bob Van Wie and assured them the plan is to rent to families as we place a 4-5 minimum on the home when booking weeks in advance. I will also provide my cell phone for any concerns. Also, clearly stated twice on our website (on the lodging tab) and on registration and confirmations is the following: "Parties and Profanity will not be tolerated, quiet hours strictly enforced." I can also have signs made for in the home and on our website stressing the importance of this because it's a residential area. I can also state home has 3 off street parking spots.

I will get you a copy of the spec sheet and also the signed letter. Let me know if there is anything else that you need? Thank you for the mentioning the Black Hawks stellar reputation, much appreciated.

Brad

From: Chris Tollaksen [mailto:ctollaksen@dellscitygov.com]
Sent: Wednesday, July 06, 2016 6:28 PM
To: Black Hawk Motel <blackhawkmotel@blackhawkmotel.com>
Subject: House overnight

Gary Picha has requested a zoning code change to allow the land use 8.5 - "Funeral home" as a Conditional Use in the C-2 Commercial downtown Zoning District. Funeral homes are currently prohibited in the C-2 District.

This Zoning Code Amendment application is to allow the consideration of a Conditional Use Permit application for a Funeral home at 1101 Broadway, (parcel 1008.2) which is currently the location for Mitzi's grill, which fronts Broadway and is the 2nd to last business west of Hwy 13.

The applicant currently operates their Funeral home at 321 Washington Ave. which is in the C-2 Commercial downtown Zoning district. In February of 2016 the City approved this applicant for a funeral home on a vacant piece of property fronting Michigan Ave. just east of Hwy 13. The Michigan Ave. property had been platted for a condominium development and was zoned R-5 Residential multi-family. The condominium development never materialized and was dissolved. The applicant got approval from the City to re-zone the Michigan Ave. property from R-5 to C-1 Commercial neighborhood, which allows Funeral homes as a Conditional use. Subsequently, the applicant has determined the costs to construct a new funeral home from the ground up are prohibitive based on the size of the Wisconsin Dells market (~6,600 residents). The applicant has stated that they have done an exhaustive search of the area for an appropriate location for their Funeral home.

A Funeral home is currently not permitted in the C-2 Commercial downtown Zoning district, but is permitted as a Conditional Use in the C-1 Commercial neighborhood. The City has always considered properties fronting Broadway from the Wisconsin River bridge to Hwy 13 to be the main downtown commercial zone, so it does not seem prudent to re-zone this single parcel to something other than C-2 Commercial downtown. Although it should be noted that this parcel is approximately 210 ft deep, and the C-2 Zoning on the parcel only extends 120 ft deep; the back 90 ft of the property are zoned C-1 Commercial neighborhood. The existing building is wholly in the front 120 ft of the property, so the proposed Funeral home would exist entirely in the C-2 Zoning district, with only the back parking lot in the C-1 zone.

If a Funeral home is desired in this building fronting on Broadway, then the decision should be that the C-2 Zone is an appropriate place for a Funeral home. It appears that this decision would be based on 1 or 2 situations: 1) The current prohibition on Funeral Homes in the C-2 Commercial Downtown Zoning district is an error or 2) There has been some change that justifies amending the Zoning Code.

The current owner of the property has suggested it is possible the prohibition on Funeral homes is an error. This appears to be based on what they consider to be similar uses that are permitted in the C-2 Zone. The Zoning code attempts to list all potential Land Uses and designate where those uses are permitted or prohibited. The Land Uses listed in the Zoning code are grouped in categories, and a Funeral home is in the "General Services" Category. There are 11 land uses in this category, and the following 4 are permitted in the C-2 Zone: Administrative services, Financial services, General services, and Professional Services. The following remaining land uses are prohibited in the C-2 Zone: Body-piercing establishment, Commercial kennel, Funeral home, Sexually-oriented business, tattoo establishment, large animal veterinary clinic, small animal veterinary clinic, and Skilled trade services.

The Zoning code was updated in 2007 after the City acquired the consulting services of a Zoning professional. Prior to that time, Funeral homes were permitted in the C-2 Zone. This office does not have any records or direct knowledge of a specific reason as to why the decision was made to prohibit Funeral homes. This office does have records of explicit comparisons of every land use before and after the Zoning code change in 2007. These records clearly indicate the change to prohibit Funeral homes in the C-2 Zone and City officials reviewed these changes prior enacting them. It is also noted that the current zoning code documents the purpose of the C-2 Commercial downtown zoning district as:

- (a) **C-2 Downtown commercial.** This district is primarily intended to accommodate and create a high level of employment and business activity. This district hosts businesses that primarily cater to tourists and to a lesser extent businesses that serve the needs of city residents. Retail operations and specialty stores are common along with indoor attractions. General retail, professional services, and offices are permissible but less common. Sidewalk cafes are common during the warmer months of the year. There is a balanced mix of one and two-story buildings. Where this district abuts a residential district, appropriate screening and landscaping will be

provided to lessen associated impacts. Residential uses can occur in this district primarily on the upper levels of buildings. Parking is available on the street and in nearby public parking lots and garages.

The 2007 Zoning code update was facilitated by a consultant, and it is assumed that is a planning standard is for Funeral homes to not be permitted in a downtown commercial zone.

Considering the current efforts by the City to revitalize the downtown area and increase the tourism market in the downtown, it seems to this office that a more prudent zoning change would be to be more restrictive of General Services in the C-2 Zoning district, rather than less restrictive. One example of the conflicting interests of locally focused service businesses and tourism focused businesses was observed during the redevelopment of the 700 block of Oak St. It was the desire of the majority of the downtown revitalization committee to expand the sidewalks and reduce the parking on the 700 block of Oak St. While resistance to the removal of parking came from tourism based businesses owners as well, the law office adjacent to the outdoor High Rock seating area expressed a specific concern. The law office would be classified as a "Professional Service" land use, and they initially expressed a desire to maintain a drop-off parking stall in front of their businesses to accommodate their clients. After further consideration, the law office recognized the potential for their location to become a more tourism centered business and expressed their support for removal of the parking stall in front of their property in favor of an expanded sidewalk that could be utilized by a potential future tourism based business.

While this office feels this example demonstrates the changing landscape of the C-2 Zoning district, and hopes to be planning for the eastern end of Broadway to develop as vibrantly as the western end of Broadway. However, this office also recognizes the need to provide services to the local community. The Brooks report identified a revitalized downtown that is embraced by the local community as important to the future success of the downtown tourism market. This need to serve the local community has been emphasized by the applicant as justification to allow their business at the requested location in the C-2 Zone. The applicant has stated that in this area, this location is the only viable location for their business, which does provide an important service to the local community.

Another possible reason for why prohibiting a Funeral home at the proposed location is an error is the size of the C-2 Zoning District. The C-2 Commercial downtown Zoning district runs from the Wisconsin River all the way to STH 13. It has been pointed out, that in the Brooks downtown revitalization report, a downtown overlay district was proposed as recommendation 7. The Brooks recommended downtown overlay district would only extend from the river to Church St. As the proposed Funeral home would be located east of Church St., it is suggested that this location is more suitable for a Funeral home than the portion of the C-2 Zone west of Church St. It should be noted that when implementing the Design Review recommendation of the Brooks report, the City discussed the downtown overlay district, and determined that the downtown district should in fact include the entirety of the C-2 Zone and extend east all the way to STH 13. It was discussed that Design Standards of the downtown should not be limited to the area west of Church St. Again, when the specific Design Standards for the downtown were being developed, the Design Review Committee revisited premise that the area east of Church St. had a different feel than the rest of the C-2 Zone and may not need as strict of design standards. Upon further discussion by the Design Review Committee, it was again determined that that area east of Church St. was just as much a part of the downtown as the area west of Church St., and the Design Standards should remain the same for the entirety of the C-2 Zone. There two exceptions; the standards for Parking areas and the standards for Windows, Doors, & Garages are different east and west of Church: 1) side yard Parking areas West of Church St shall not be more than 70 ft wide west of Church St, and shall not be more than 140 ft wide east of Church St.; and there shall be no garage doors facing Broadway west of Church St. 2) Ground level facades west of Church St shall require 35% clear glass while east of Church St only 25% clear glass is required. These differences do not seem to indicate that the allowable land uses in the C-2 Zone should be different east of Church St. It should be reiterated, to date these actions have been part of the implementation of the Design Standard recommendation from the Brooks report. No significant discussions or decisions have been made on the Brooks recommendation 14 to "Create allowable uses ordinance for the River Arts District", which would be a more directly applicable to this requests amendment. The Full Brooks report is available for review at Dells area development web-site"
"<http://www.dellstourismdevelopment.com/downtown-branding-development-marketing-action-plan-2/>"

It should be noted that the city Business Improvement District (BID) collects revenues based on a properties proximity to the central downtown area. BID Zone 1 is considered the heart of the downtown, and it extends from the Wisconsin River east to Church St. This property is in BID Zone 2.

If it is determined that the decision to prohibit Funeral homes in the entire C-2 Zone was in fact intentional, then there some compelling rationale should be identified as to why Funeral homes should now be permitted. Clearly, business reasons have given by the applicant and current property owner. The applicant sites rationale including: The existing Funeral home is no longer adequate, constructing a new Funeral home in another zone is cost prohibited, and no other suitable properties have been identified to date. The current property owner sites changes including: the restaurant at this location is no longer viable in the current seasonal market, and no other suitable buyer of the property has been identified to date after 7 years of actively marketing the restaurant. The current building owner has also stated that the restaurant will be closing an if the Funeral home is not allowed, this building will sit empty. This begs the question of what will happen to the current Funeral home if that business moves to this new location. The current building owner has also pointed out potential tax benefits due to renovating the existing building rather than letting it sit empty. These changes do not appear this office to be compelling reasons to amend the zoning code.

If this Zoning Code amendment is approved, it would seem prudent to re-visit the Brooks land use recommendations.

The current Zoning code contains the following guidance on Zoning Code amendments:

19.452 Basis of decision

The plan commission in making its recommendation and the common council in making its decision shall consider the following factors:

- (a) the amendment is consistent with and furthers the intent of the city's comprehensive plan
- (b) the amendment is consistent with and furthers adopted neighborhood plans, if any
- (c) the amendment is consistent with other planning documents adopted by the common council
- (d) the code with the amendment is internally consistent
- (e) the amendment is the least restrictive approach to address issues of public health, safety, and welfare
- (f) the city has or will have the financial and staffing capability to administer and enforce the amendment

This office has come up the following conclusions in considering the above factors:

- (a) The City's comprehensive plan was completed in 2003 and is a little outdated. The plan identifies establishing a "B-1 Community commercial" zone & a "B-2 Hospitality commercial" zone, but does not appear to offer much guidance in locating these zones. It appears to this office that the 2007 creation of the "C-1 Commercial neighborhood" zone & the "C-2 Commercial downtown" zone was based on the same philosophy presented in the Comprehensive plan. However, the new Zones created in 2007 do not appear to have significantly changed the boundaries of the previous zones. The Comprehensive plan identifies a concern with the scattered nature of the Community or Neighborhood land uses, and how this adversely affects traffic pattern. If this zoning code amendment is approved, it would seem prudent to revisit these concerns.
- (b) The City has no neighborhood plans.
- (c) Other planning documents adopted by the common council include: 1) the Brooks downtown revitalization report and 2) the Design Standards. This code amendment appears consisted with the Brooks plan. The Design Standards do not consider land uses.
- (d) This office feels the consistency of the code with this amendment may be questionable considering the existing code statement that the C-2 District "hosts businesses that primarily cater to tourists and to a lesser extent businesses that serve the needs of city residents"
- (e) This amendment would make the code less restrictive, and this office does not feel this amendment would affect public health, safety, and welfare.
- (f) This amendment would not affect the ability of the city to administer the code.

Optional Zoning Map amendment Contingency:

As the applicant is a proposed purchaser of the property, the Zoning change is contingent on approval of the CUP, and the applicant taking control of the property.

ZONING CODE AMENDMENT APPLICATION

Wisconsin Dells, Wisconsin

Version: May 21, 2007

General instructions. Complete this application as it applies to your project and submit one copy to the zoning administrator along with the required application fee. Before you formally submit your application and fee, you may submit one copy to the zoning administrator who will ensure it is complete. If you have any questions, don't hesitate to contact the zoning administrator at 608-253-2542. You may obtain a digital copy of this form from the zoning administrator.

- Office Use Only -

Application fee	\$525.00
Receipt number	<u>05865</u>
Application number	_____

1. Applicant information

Applicant name Gary Picha

Street address Picha Funeral Home

City Wisconsin Dells

State and zip code WI 53965

Daytime telephone number 608-963-7550

E-mail, if any gdp@gmail.com

2. Subject property information

Street address	1101 Broadway	
Parcel number(s)	1008-2	Currently operated as <u>Mitzi's Restaurant</u>
	Note: The parcel number can be found on the tax bill for the property or may be obtained from the City.	
Current zoning classification(s)	C-2 Downtown Commercial	
Proposed zoning classification(s)	C-2 Downtown Commercial (code amndmnt)	Note: If multiple districts are proposed, show the proposed configuration on the map provided as part of #5.

3. From the list below, check the reasons why you believe the zoning map / zoning classification should be changed.

<input type="checkbox"/>	The designation of the official zoning map and/or zoning classification should be brought into conformity with the city's comprehensive plan.
<input type="checkbox"/>	A mistake was made in mapping on the official zoning map and/or zoning classification.
<input checked="" type="checkbox"/>	Factors have changed (e.g., availability of new data, the presences of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
<input checked="" type="checkbox"/>	Growth patterns or rates have changed, thereby creating the need for an amendment to the official zoning map and/or zoning classification.

4. For each of the reasons checked above, provide additional detail.

See Zunker Exhibit A and Picha Exhibit B

ZONING CODE AMENDMENT APPLICATION

Wisconsin Dells, Wisconsin

Version: May 21, 2007

5. **Review criteria.** The plan commission in making its recommendation and the common council in making its decision must consider the factors listed below. Provide a response to each. (See Section 19.452 of the Municipal Code.)

- a. The amendment is consistent with and furthers the intent of the city's comprehensive plan

We wonder if the original intent of the ordinance was to prohibit funeral homes in C-2 downtown commercial with other local professional services being permitted that are not tourism oriented. The Brooks Report expresses a different sentiment toward property east of Church St and suggests it might be treated differently than "Downtown Commercial".

- b. The amendment is consistent with and furthers adopted neighborhood plans, if any:

There are no current neighborhood plans.

- c. The amendment is consistent with other planning documents adopted by the common council

Other zoning code amendments have been adopted where it has been determined that more accommodating measures be taken to promote business, or potential oversights regarding permitted uses have taken place.

- d. The code with the amendment is internally consistent

Funeral homes have very limited permitted or conditionally permitted opportunities. They are permitted in C-3, of which the city has very few parcels zoned. They are conditionally permitted in C-1. For the past 7 years, no suitable C-1 zoned properties have become available, nor do we believe there any suitable buildings located in C-1.

- e. The amendment is the least restrictive approach to address issues of public health, safety, and welfare

A funeral home will not restrict issues of health, safety, and welfare. It is a necessary service within a community. The current funeral home lacks necessary size and accommodations.

- f. The city has or will have the financial and staffing capability to administer and enforce the amendment

This amendment would have a nominal, if any, impact.

5. **Project map.** Attach a scaled map showing the information as listed at the end of this application. Use one of the following page sizes as appropriate: 8½" x 11", 11" x 17", or 24" x 36".

6. **Applicant certification**

◆ I certify that the application is true as of the date it was submitted to the City for review.

Zunker Exhibit A

Zoning Change Reasons

- The Brooks study and report recognized that the Wisconsin Dells downtown business district does not extend any further east than Church Street and concluded that property east of Church Street is not the same as the downtown properties and should not be treated the same as properties within that area west of Church Street (the downtown business district). Furthermore, this is in the very last block of the present zoning area, farthest from downtown, not in the middle of the area.
- The present usage as a restaurant is not sustainable since this area of Broadway is strictly seasonal. Additionally, a prime focus for downtown Dells has become sidewalk cafes, and the closing of Mitzi's will provide improved business opportunities and chances for success for any restaurants in the downtown area.
- Mitzi's has been for sale as a restaurant for 7 years and we have not been successful in finding a buyer. The only solution is to change the type of business.
- We have run the restaurant for 45 years and will not continue to do so. This will result in a vacant building until and if a buyer is found.
- Gary Picha is a respected local businessman who needs this property to stay competitive while still located in Wisconsin Dells.
- The property at 1101 Broadway will be completely renovated and will be a year round respectable business. It will also increase the property tax value.
- There are many other types of allowable businesses that could go into the property, including greenhouses, a group day care center, financial, general and professional services, a sports/fitness center, health care office or a bus/rail transit terminal, none of which has any different or better impact than the proposed use. I believe that given these examples, it is probable that the proposed usage should have been allowed and may have not been permitted in error.
- I believe that this request for a zoning change for this purpose is fair and will have a positive impact for Wisconsin Dells.

Lawrence and Mary Zunker
1610 Valley Drive
Wisconsin Dells

Picha Exhibit B

Zoning Change Reasons

- C-3 is the only district where funeral homes are permitted (only 4 areas, all on the edge of the city limits).
- C-1 is the only district where funeral homes are conditionally permitted (lack of C-1 zoned properties suitable---attempted to locate over the past 7 years).
- The property recently purchased for funeral home development has been determined to be cost prohibitive. The cost of new commercial construction for a funeral home are not economically feasible in a market area of this size. The Picha Funeral Home in Wisconsin Dells serves a market area of approximately 6,600 residents.
- The Mitzi's Restaurant location is very desirable and suitable in terms of building square footage, location, and parking (47 stalls).
- With regard to traffic, funeral processions currently leave any of the area churches or the existing funeral home, proceed to Broadway, and to a cemetery. There would not be significant change to traffic flow or hardship created. Most services take place in the churches, and the visitations at the funeral home, resulting in little difference in traffic flows. The traffic in and out of the parking area at the proposed location would likely be less than with the existing restaurant (average of 6 visitations per month).

- (f) **R-3 Residential – mixed.** This district contains a mix of housing types including single-family, two-family, and multi-family dwellings. New projects developing under this classification must be at least 5 acres in size and include a mix of housing types. Parks, trails, and similar public facilities are also allowed.
 - (g) **R-5 Residential – multi-family.** This district is intended to exclusively accommodate multi-family units not exceeding two stories.
 - (h) **R-9 Mobile home park.** This district is for the exclusive use and development of mobile home parks.
 - (i) **C-1 Neighborhood commercial.** This district is found near established and developing residential areas and is intended to accommodate low intensity commercial activities that serve the immediate area. Development standards ensure the compatibility of this district to those residential districts that may adjoin.
 - (j) **C-2 Downtown commercial.** This district is primarily intended to accommodate and create a high level of employment and business activity. This district hosts businesses that primarily cater to tourists and to a lesser extent businesses that serve the needs of city residents. Retail operations and specialty stores are common along with indoor attractions. General retail, professional services, and offices are permissible but less common. Sidewalk cafes are common during the warmer months of the year. There is a balanced mix of one and two-story buildings. Where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts. Residential uses can occur in this district primarily on the upper levels of buildings. Parking is available on the street and in nearby public parking lots and garages.
 - (k) **C-3 Highway commercial.** This district is intended to accommodate high traffic commercial activities that focus on vehicle traffic along major road corridors.
 - (l) **C-4 Large-scale commercial.** This district is intended to host indoor and outdoor tourist attractions, lodging, and businesses that cater to tourists.
 - (m) **M-1 Mixed use.** This district is intended to accommodate a wide range of complimentary commercial and residential uses.
 - (n) **I-1 Industrial.** This district is intended to accommodate those types of activities typically associated with manufacturing of finished products, storage, and wholesale operations. Processing of raw materials is not permitted except as a conditional use.
 - (o) **PDD Planned development.** Planned development districts are a special type of zoning district and are initially proposed by a developer to account for a desired mix of uses. Each district is unique and therefore has its own set of development standards that are documented in the general development plan, and associated development agreement, if any. PDD districts are to be numbered sequentially (i.e., PDD-1, PDD-2, etc.).
- (2) **Overlay districts.** In addition to the base districts enumerated above, the city is also divided into the following overlay districts to account for unique conditions or requirements as further described in subsequent chapters:
- (a) **Floodplain overlay districts.** The floodplain overlay districts are based on flood studies conducted in the city and on approved floodplain maps. Each of the districts has unique development standards based on flooding characteristics. The provisions relating to these overlay districts are contained in chapter 20 of the municipal code.
 - (b) **Shoreland-wetland overlay district.** The provisions relating to this district are contained in chapter 26 of the municipal code.
 - (c) **Wisconsin River shoreland buffer overlay district.** The provisions relating to this district are contained in division 9 of this article.
 - (d) **Wellhead protection overlay district.** To protect the water quality of public water supplies within the city, standards are included to control land uses that have a potential to contaminate wellfields. The provisions relating to this overlay district are contained in division 10 of this article.
 - (e) **County shoreland zoning overlay district.** For those parcels annexed into the city after May 7, 1982, there is an overlay district that extends from the ordinary high-water mark of navigable rivers inland for a distance of 300 feet. Pursuant to state law, building placement, minimum lot size, minimum lot width, and vegetation management along the navigable waters are governed by the county's shoreland zoning requirements.

19.614 to 19.629 reserved

Marketing:

1. Best of Downtown brochure (1/2 cost)	\$7,000
2. Pole banners (40 x \$125 each)	5,000
3. Marketing domain names	100
4. Downtown website including photography	18,500
5. Photography/videography (1 year – all seasons)	35,000
6. Opportunities brochure	8,500

Sub-total: \$74,100

Sub-total all recommendations: \$36,814,100

* Writing of ordinances for smoking ban | retail allowable uses | blade signs | restrictions on temporary signs & plastic/vinyl banners | exterior displays | establishment of a Design Review Committee | creation of a zoning overlay district

The first order of business is to sit down and go through each of these and perhaps some can be assigned to existing organizations able to take on certain tasks including funding of them.

Others can be categorized by grant-available activities, for instance Community Development Block Grants can be awarded under “planning grants” or “capital project” grants. Some of these projects can be offset with revenue bonds (parking garage, for one), some with transportation grants (wayfinding system), and some can be offset with naming rights (Oak Street Plaza), or can become public/private development projects (public market pavilion).

The goal is to come up with preliminary sources for each project and securing funding for each to have it in place before the end of 2015. Work can begin as soon as funding is in place.

7. Create a downtown Overlay District

When to be implemented: Fall 2014

To be implemented by: City of Wisconsin Dells

Approximate cost: None (if done internally)

Funding options: None required

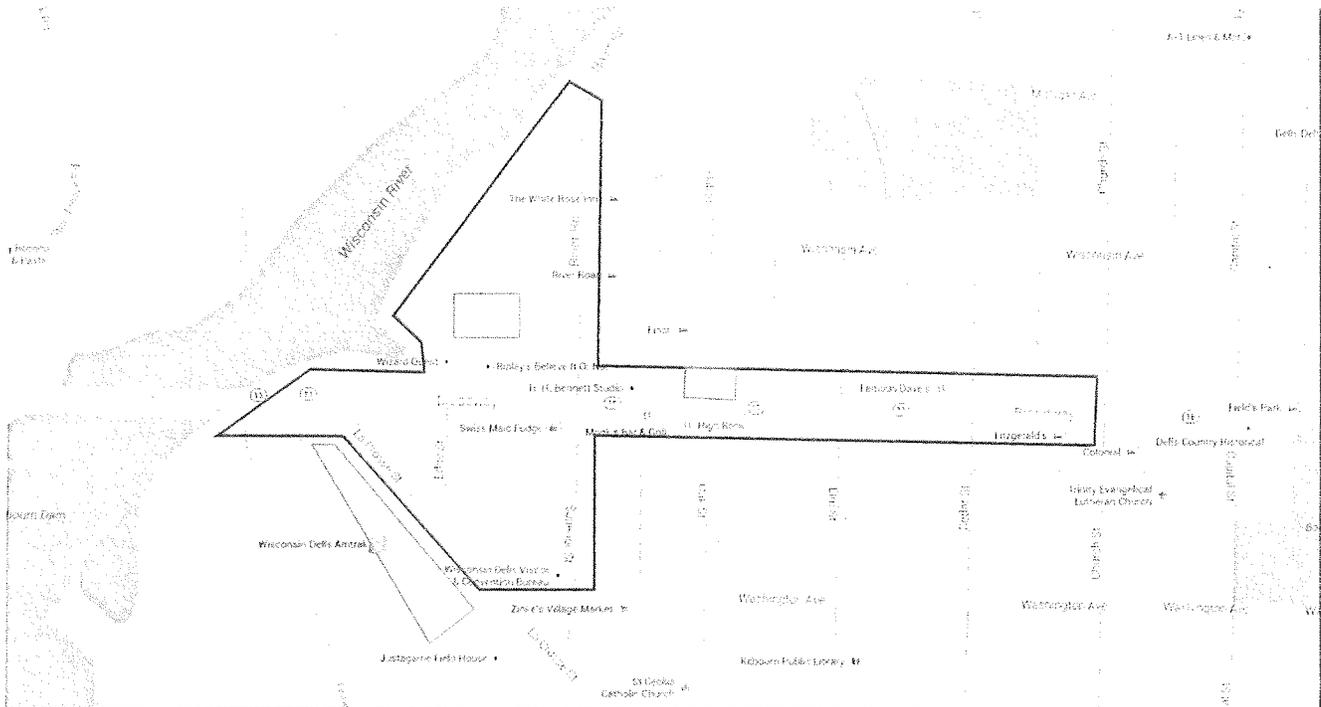
Rationale and explanation: This plan includes numerous zoning and other downtown development ordinances, which should only be applied to a specific area of downtown, and therefore, a designated zoning district needs to be identified and specific ordinances would only apply to properties and businesses within those boundaries.

The recommended boundaries begin along the Wisconsin River on the east side of the bridge and run along the river bank north to where River Road bends, and includes both sides of River Road to the alleyway between Wisconsin Avenue and Broadway. It would then extend east to Church Street and then south to the alley on the south side of Broadway, and then west to both sides of Superior Street, and south to Washington Avenue, and then along LaCrosse Street to the river. See the accompanying map.

In essence, the zoning district encompasses Broadway from the bridge to Church Street and the waterfront area just beyond the White Rose Inn, and then the area south of Broadway along LaCrosse, Eddy, and Superior Streets.

For property owners who will complain about ordinances being put in place restricting the use of their properties and controlling signage, beautification, and other elements, they should be reminded that the city is about to invest more than \$36 million dollars in that district with the sole purpose of making it THE showcase for small towns throughout the Midwest,

and this will substantially increase the value of their properties. This will net them much more long term value, while increasing the tax base, and reducing the turnover in downtown. To make this work it MUST be a public/private partnership effort. These zoning recommendations and other ordinances pale in comparison to the major projects in this plan that will make downtown a year round destination for locals and visitors.



8. Contract with an engineering firm to develop a plan for a LaCrosse Street Parking Garage.

When to be implemented: Fall 2014 (or as grant funding becomes available)

To be implemented by: City of Wisconsin Dells

Approximate cost: \$80,000

Funding options: CDBG or other grants

Rationale and explanation:

As we begin moving to the European Standard, Americans are eating later at night, shopping later at night, and are looking for pedestrian-oriented experiences where they can stroll, walk and talk without the fear of being hit by a car or listen to the noise of heavy traffic. In other words, Americans want out of their cars, and they want plazas and central gathering places, downtowns full of life, with sidewalk cafes street artisans, and above all, walkable communities.

As part of this, downtown should have more centralized parking. The only location that makes sense is along LaCrosse Street where there is ample land that can accommodate 750 parking spaces in a structure that will also provide nearly 600 covered spaces – part of the puzzle of making downtown a year round destination.

While this location is not centralized for businesses located near Church Street (six blocks up the street) it won't intrude on residential units and is located for easy access from virtually all of the Dells attractions and resorts (just over the bridge coming into downtown) except for the sports fields located east of downtown.

In a perfect world, a parking garage would be located at the LaCrosse Street area (see map) and a second one at or near

Rationale and explanation:

Wisconsin Dells has always been a family-friendly destination – the best in the Midwest. Yet many merchants will allow workers to stand in front of the business for smoke breaks, which sends a poor message to kids, affects passers-by (and customers) and presents a negative image of downtown – it is recommended that business owners discourage and/or forbid their employees from smoking in front of their businesses on Broadway. Many states have enacted laws banning smoking within 20 to 50 feet of any public entrance. If workers need to take a smoke break, they should use the back alleyways to do so. Many businesses already have their employees do this but others do not.

In the future it is hoped that these back alleys can become part of the pedestrian experience, perhaps with all kinds of mural art, or other activities. As this happens, smoking may also be banned in these areas as well.

Signs indicating smoking is not allowed should be placed where appropriate. In fact, with the elimination of some parking along Broadway (coming up), the parking limit signs could be replaced with signs “Welcome to the River Arts District,) and reference the smoking ban if the sign is in such an area.

While this is hard to police, merchants should be educated as to the new law and the effect it has on visitors and particularly, children – the primary audience in Wisconsin Dells. Once again, use the example of Disney where employees are never allowed to smoke in view of any visitors. Designated areas of the River Arts District would be designated “no smoking zones.”

14. Create allowable uses ordinance for the River Arts District

When to be implemented: Fall 2014

To be implemented by: The City of Wisconsin Dells

Approximate cost: Part of the urban planning contract

Funding options: N/A

Rationale and explanation:

Think of downtown the same way you'd think of a mall. This is the way lifestyle retail centers also operate: To succeed they must have like businesses grouped together. This is referred to as “clustering,” and this is why gas stations and fast food restaurants for years have “clustered” on all four corners of busy intersections. This is why malls have food courts. And this is what makes dining districts work. Think Branson, Missouri and 49 music theaters; this town of just 6,500 residents hosts 7.5 million visitors a year due to the clustering of music theaters. Think Napa Valley and its 200+ wineries. All of these are examples of clustering. Or think of Tanger Outlets. The business mix is carefully orchestrated. They don't just let anyone willing to pay the rent lease a space there.

When you visit a successful mall – or lifestyle retail center – you will never find laundromats, architectural offices, tax preparation services, county or city offices, or other non-retail businesses there. They know they must orchestrate the business mix. The same philosophy applies to The River Arts District: You must orchestrate your business mix.

This is why cities throughout North America are starting to implement zoning ordinances, because so many individual property owners, each with their own agenda, do not work together to create an outstanding destination, which only happens with an orchestrated business mix.

If you go back to the Brand Promise, the goal is to upscale somewhat the offerings downtown and to focus on evening retail, dining and entertainment. If there were 30 non-chain/franchise restaurants in the district and many were the caliber of the High Rock Café, the district would become a stand alone year round destination for the 160,000 residents that live within 30 miles of the Dells. And when you have people downtown during the evening hours for the dining experience, retailers will typically stay open later to take advantage of that traffic.

Cities around the country have and continue to develop restrictive ordinances controlling the business mix. Many have gone so far as to restrict corner retail to dining only, and others only allow retail and food services in street level shops. The River

Arts District needs to follow suit. This restrictive zoning still allows for much of downtown to include “neighborhood retail” for shoe repair, pharmacies, banks and other uses, but within the district the restrictions would be as follows:

- Limit the number of t-shirt shops and souvenirs to no more than ten. What makes up a souvenir or t-shirt shop? When at least 35% of the inventory is dedicated to either t-shirts or souvenirs.
- Encourage and recruit additional sit-down restaurants – particularly higher quality restaurants along with coffee shops and delis.
- Encourage and recruit additional retail shops that focus on home accents, art, books, wine, fashion, gourmet deli items, floral shops, a bike shop, outfitter, fine jewelry, a bakery, gourmet kitchen store, etc.
- Restrict the number of chains or franchises (restaurants and retail shops) to no more than six.
- Restrict the number of ticket outlets, timeshare sales to no more than six within the district.

However, it's important that this zoning effort be cooperative. If the city imposes “allowable uses” for street level shops, then it's important that the city be there to help that land owner recruit a business that fits the retail mix – and that is part of this plan.

With regards to existing downtown businesses, none of these are pushed out, but if their spaces become available for sale or lease, then the allowable uses ordinance does come into play. With regards to professional services and non- retail uses, these would be encouraged in second story locations.

To support this recommendation we hope you'll watch the Roger Brooks video “Downtown Critical Mass,” which showcases case histories and why this is so important.

As the ordinance is being drafted, work with your property owners rather than impose it on them. Most will agree that their investment will realize a much greater return when they work together to orchestrate the business mix in their buildings collectively.

Here are some additional notes and examples regarding the regulation of commercial properties. While you will see Manhattan and instantly think, “How can that possibly apply to the River Arts District in Wisconsin Dells?” Remember that these ordinances are for very small neighborhoods – not for the entire city. In every case you see here, most are smaller geographic areas than you have in downtown Wisconsin Dells.

Restrictive Retail Zoning Ordinances

Most commonly seen in highly desirable, affluent neighborhoods with low vacancies and high rents. Typical tools:

- . Mandated/prohibited uses
- . Size caps
- . Conditional permitting
- . Density guidelines
- . Quota system
- . Manhattan, NY http://www.nyc.gov/html/dcp/html/zone/zh_special_purp_mn.shtml
- . Special 125th Street District. To ensure active and diverse retail uses, special regulations restrict the amount of ground floor street frontage that may be occupied by banks, office and residential lobbies, and other non-active uses. Also requires inclusion of arts and entertainment uses for developments over a certain size.
- . Special Madison Avenue Preservation District . Retail continuity is ensured for the famed specialty shops by mandating that the ground floor of buildings on Madison Avenue must be occupied by selected uses . San Francisco, CA <http://www.sf-planning.org/index.aspx?page=2839> uses formula retail controls to protect San Francisco's vibrant

small business sector and create a supportive environment for new small business innovations .

Calistoga, CA prohibits formula restaurants and visitor accommodations, and requires that other types of formula businesses undergo review and apply for a special use permit from the Planning Commission. Intended to preserve the unique and historic character of the downtown commercial district.

Bainbridge Island, WA limits large-store retail to three commercial zones, and limits auto-oriented development to two of three of these zones. Does not have an overall cap on retail square footage; however, it does have size limits in certain overlay districts and zones. Also limits the location and size of formula take-out food restaurants. Formula take-out food restaurants are permitted in only one zone and may not exceed 4,000 square feet, nor occupy more than 50% of any building.

Westwood Village, CA limits certain uses such as auto repair and pool halls and uses a density-related formula for fast food establishments; they are permitted provided the total along any public street does not exceed one for every 200-400 feet of lot frontage along that street. The Specific Plan has very detailed guidelines for permitted uses (see Section 5: Uses). <http://cityplanning.lacity.org/complan/specplan/pdf/wwdvil.pdf>

Arcata, CA limits the number of formula restaurants to nine at any one time. Newport, RI and Davis, CA have regulations for various types of restaurants.

Berkeley, CA has a quota system limiting the number of food service establishments. Telegraph Avenue Commercial District Provisions are very detailed. Retail Sales section is below; entire table located at <http://codepublishing.com/CA/Berkeley/cgi/NewSmartCompile.pl?path=Berkeley23E/Berkeley23E56/Berkeley23E56090.html#23E.56.030>

15. Benches at facades facing out, flanked with planters/pots

When to be implemented: Fall 2014

To be implemented by: The City of Wisconsin Dells working with the Business Improvement District

Approximate cost: \$100,000

Funding options: Paid through sponsorships, donations, BID revenues

Rationale and explanation:

Benches downtown should be plentiful and should ALWAYS be placed at the façade facing out – never at the curb facing in, or facing other benches. Every bench should be flanked with large pots or planters with at least a 24-inch planting surface.

Benches, even when not used, convey “welcome.” When you drive through a neighborhood and see an open chair on a front porch, it makes the home feel welcoming. The same applies to businesses: A bench outside the store flanked with pots or planters makes the shop feel welcoming. Within the River Arts District there should be at least 100 benches, and these need to be attractive and comfortable – actual seating surfaces, not vandal-proof aggregate. The benches downtown currently uses are fine, they simply need to be repositioned.

Notice the photo below: This was not staged, but is a common site. Eighty percent of all consumer spending is done by women. They are the shoppers, while often husbands sit outside the shops people watching.

There should be a common style throughout downtown, and these can be donated by organizations such as Kiwanis, Rotary and other auxiliary organizations, or can be “sponsored” with a plaque or engraving on the bench showcasing the sponsoring company or organization. If a grant or other funding source can be secured, begin the bench program immediately. If done over time, consider adding ten benches per month.

Additionally, current benches need to be relocated from existing locations to the facades, facing the street. Here’s why this is important:

- a. No one likes sitting with their backs to vehicular traffic.
- b. Having benches at the curb facing in creates a closed atmosphere; people like to people-watch, which includes

Future Land Use

City of Wisconsin Dells – Land Use Element

As the Housing Plan Element was discussed and developed, many issues regarding housing types, lot sizes, affordability, and specific housing needs were documented and prioritized. This Element should be referenced for these details. With the changing nature of our society, communities are now faced with meeting the housing needs of a much more diverse spectrum of family types. Single-parent households, empty nesters, and childless professionals demanding alternatives to the large-lot, detached single-family home and its associated maintenance are changing the dynamics of today's housing market. This Land Use Element provides opportunities for the development of a diverse set of housing types in new neighborhoods in order to accommodate all family types and families of varying incomes.

Commercial: Commercial development and land uses are the life's blood of the City of Wisconsin Dells. Existing commercial development is focused in the downtown corridor areas on both the east and west sides of the Wisconsin River. Current commercial uses can be categorized into three basic types; 1) community commercial, 2) hospitality commercial, and 3) large-scale, commercial operations. Community commercial can be defined as operations with goods and services that mostly focus on meeting every day needs. These are businesses such as the local grocery store, eye doctor or pharmacy upon which local residents depend. While these businesses also capitalize on extended stay visitors to the area, their scattered nature throughout the community can cause increased rates of traffic and general congestion by not being located in any centralized area. Hospitality commercial can be defined as tourism oriented businesses such as fudge shops, specialty shops, small-scale attractions, and convenience operations. These businesses are ideally suited for pedestrian based foot traffic and currently line the major Broadway downtown corridor. While ideal from the standpoint of visibility, pedestrian/vehicular conflicts, random use placement, and contrasting theme and design styles all contribute to the potential for improvement. Large scale commercial can be defined as major attraction and extended stay operations such as resort hotels, theme parks, golf and go-cart facilities, and the like. These operations by nature require larger tracts of land in order to accommodate not only the facility but also needed parking. To date, the majority of these uses have been constructed on the west side of the Wisconsin River. While this general area is appropriate for these uses, the challenge ahead is in finding areas to plan for future like uses and developments.

Given these parameters, the City recognizes the need to establish areas for all types of commercial uses catering to the multifaceted needs of its dynamic tourism based economy. Specific to the City's future land use, several areas have been designated for specific types of development. These include:

- Expansion of the City to the north along STH 12/16 up to its intersection with I90/94. Associated development is envisioned to include large scale commercial operations, building upon what is already in existence and being back filled with housing and open space uses.
- Expansion of the River District concept to additional locations throughout the City.

Staff Report

City of Wis. Dells Plan Commission, 07/12/2016

Conditional Use Permit – Funeral Home 1101 Broadway.

Zoning Change – Funeral Home in C-2 Commercial downtown Zoning district.

The following report is only necessary if a Zoning Code amendment is approved to allow a Funeral home in the C-2 Commercial downtown Zoning district.

Following an application to amend the Zoning Code to allow a Funeral Home in the C-2 Commercial downtown Zoning district, the City received a Conditional Use Permit application from Gary Picha to remodel Mitzi's grill at 1101 Broadway (parcel 1008.2) into a Funeral home.

A Funeral home would appear to be a low impact commercial use on this property. The applicant currently operates other funeral homes in the area, and expects to be conducting services on this site 4 or 5 times a month. Cremations would not be conducted on this site. The specifics of how the site will be laid out will be address during the Site Plan approval process. The City will want to ensure that adequate buffering will be provided between any new construction and the existing uses in the area, especially the homes to the east.

This property falls within Wellhead Protection Zone 2, for municipal Wells 3&6. The embalming chemicals used at this funeral home are regulated substances. While a funeral home is not specifically listed as prohibited, the Zoning Codes includes in the list of permitted uses "municipally sewered commercial and industrial uses that do not use regulated substances". However, a commercial use may use regulated substances in Zone 2 of the Wellhead protection zone, if the aggregate use, storage, handling, and/or production of regulated substances does not exceed 20 gallons or 160 pounds at any time. The applicant has stated that the embalming process is only required with about ½ of the services performed, and requires less than 5 gallons of chemical to be on-site. For additional information on the chemicals used in a Funeral home, please refer to the Staff report from February 2016, when the applicant was going to construct a Funeral home in Wellhead protection Zone 1.

There could be concerns with how local traffic for this use could conflict with the high tourism traffic. The C-2 Zone is exempt from the parking requirement of 3 parking stalls per patron, plus a stall for each employee for both Funeral homes and restaurants. This location has about 50 parking stalls, so it should be sufficient for 150 occupants. The building code would consider an assembly area of 2250 sq ft to have an occupancy load of 150. This building appears to be approximately 6000 sq ft. It is assumed that the applicant understands that parking limitations associated with operating his business at this location, however if parking issues do arise they should be addressed to the satisfaction of the City.

CUP Contingencies:

1. Approval of the CUP is contingent on the applicant taking control of the property.
2. Any parking issues that may arise are addressed to the satisfaction of the City.

Chris Tollaksen
City of Wis. Dells

CONDITIONAL USE APPLICATION

Wisconsin Dells, Wisconsin

Version: May 21, 2007

General instructions. Complete this application as it applies to your project and submit one copy to the zoning administrator along with the required application fee. Before you formally submit your application and fee, you may submit one copy to the zoning administrator who will ensure it is complete. If you have any questions, don't hesitate to contact the zoning administrator at 608-253-2542. You may obtain a digital copy of this file from the zoning administrator.

- Office Use Only -

Initial application fee	\$525.00
Receipt number	_____
Application number	_____

1. Applicant information

Applicant name Gary Picha
Street address Picha Funeral Home
City Wisconsin Dells
State and zip code WI 53965
Daytime telephone number 608-963-7550
Fax number, if any _____
E-mail, if any gdp@gmail.com

2. Subject property information

Street address	<u>1101 Broadway</u>	
Parcel number	<u>1008-2</u>	Note: the parcel number can be found on the tax bill for the property or may be obtained from the City.
Current zoning classification(s)	<u>C-2 Downtown Commercial</u>	
Describe the current use	<u>Restaurant - seasonal</u>	

3. Proposed use. Describe the proposed use.

Funeral home and monument sales.

4. Operating conditions. For non-residential uses, describe anticipated operating conditions (hours of operation, conditions that may affect surrounding properties, etc.)

Approximately 6 visitations/services per month between the hours of 10AM & 8PM for 2-4 hrs per visitation. There would be no apparent adverse impacts on surrounding properties or businesses.

CONDITIONAL USE APPLICATION

Wisconsin Dells, Wisconsin

Version: May 21, 2007

5. **Off-site effects.** Describe any potential nuisances and mitigating circumstances relating to street access, traffic visibility, parking, loading, exterior storage, exterior lighting, vibration, noise, air pollution, odor, electromagnetic radiation, glare and heat, fire and explosion, toxic or noxious materials, waste materials, drainage, and hazardous materials.

This site is easily accessed for the current use. There will be no changes to accessibility. There is sufficient parking (47 stalls) on site. Additional on street parking is available on Broadway and Plum St.

6. **Review criteria.** The plan commission in making its recommendation and the common council in making its decision must consider the factors listed below. Provide a response to each. (See Section 19.373 of the Municipal Code.)

a. Consistency of the proposed use with the city's comprehensive plan and neighborhood plan or other subarea plan, if any

b. Effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site

Little change, if any, from current funeral procession routing.

c. The suitability of the subject property for the proposed use

Very suitable. There would be no changes to the existing building footprint needed. Exterior changes would be cosmetic only. Interior layout would change.

d. Effects of the proposed use on the natural environment

NONE

e. Effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances

NONE

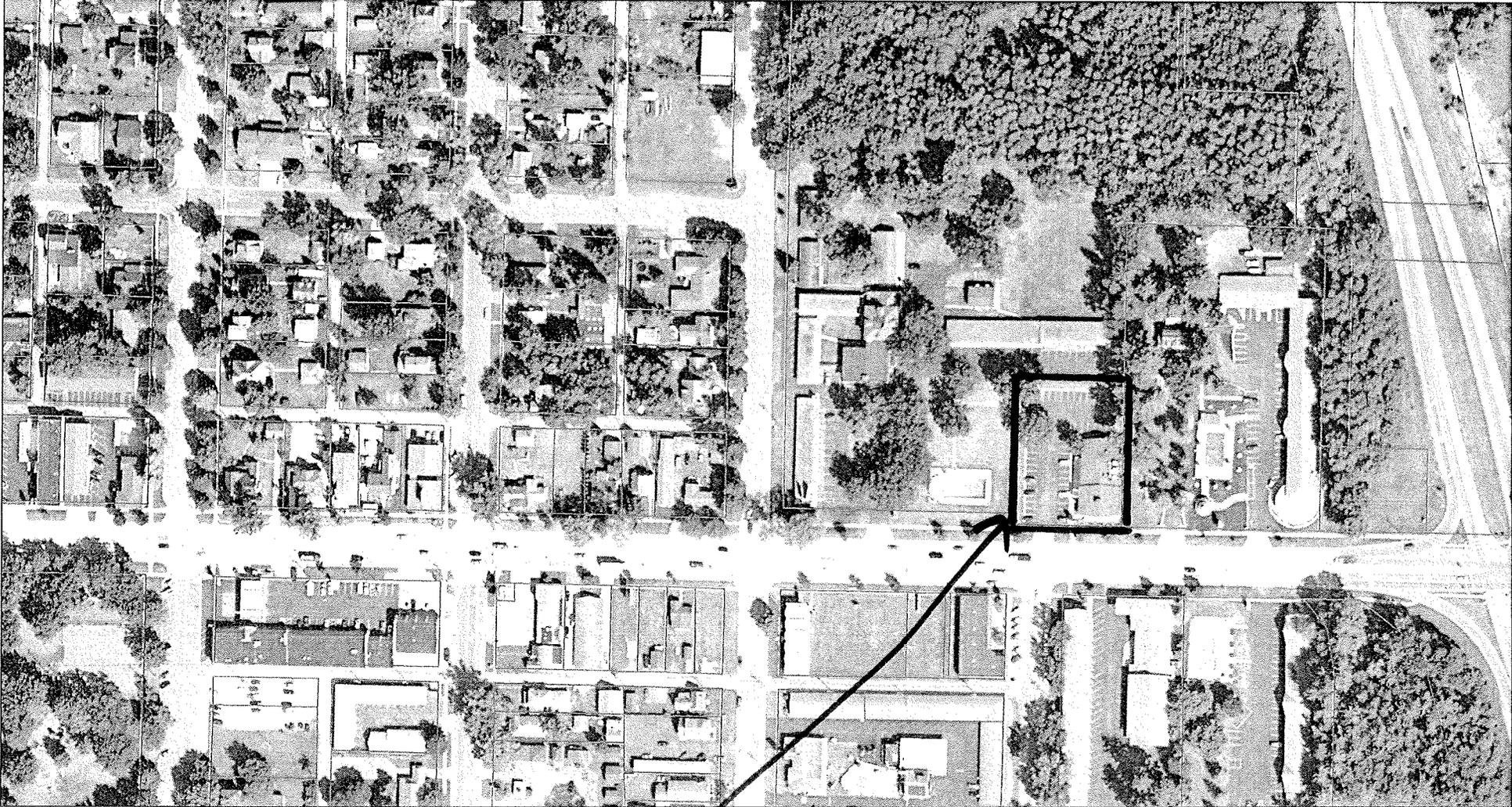
f. Effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the district

NONE

g. Effects of the proposed use on the city's financial ability to provide public services

NONE

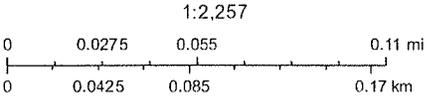
GIS Map



June 10, 2016

 Columbia Co Properties

Subject parcel



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

uses circled are currently permitted.

Chapter 19 – Wisconsin Dells Zoning Code

Exhibit 5-1. Principal uses by district

1.0 Agriculture		A-1	A-2	D-1	R-1	R-2	R-3	R-5	R-9	C-1	C-2	C-3	C-4	M-1	I-1	Special Standards
1.1	Agriculture – horticulture	P	P	-	-	-	-	-	-	-	-	-	-	-	-	
1.2	Agriculture - livestock	-	P	-	-	-	-	-	-	-	-	-	-	-	-	
1.3	Greenhouse	P	P	-	-	-	-	-	-	P	P	P	P	C	P	
2.0 Resource-Based Uses																
2.1	Aggregate extraction operation	C	C	-	-	-	-	-	-	-	-	-	-	-	C	
2.2	Forest management	P	P	P	-	-	-	-	-	-	-	-	-	-	-	
2.3	Game farm	P	P	-	-	-	-	-	-	-	-	-	-	-	-	
2.4	Hunting and fishing preserve	P	P	P	-	-	-	-	-	-	-	-	-	-	-	
3.0 Residential																
3.1	Mobile home park	-	-	-	-	-	-	-	P	-	-	-	-	-	-	19.700
3.2	Residence, single-family detached	P	P	-	P	P	P	-	-	P	C	-	-	C	-	19.701
3.3	Residence, two-family	-	-	-	P[2]	P	P	-	-	P	-	-	-	C	-	19.702
3.4	Residence, multi-family	-	-	-	-	-	C	C	-	C	-	-	C	C	-	19.703
3.5	Residence, townhouse	-	-	-	-	-	P	P	-	P	-	-	-	P	-	19.704
4.0 Special Care Facilities																
4.1	Adult family home	-	-	-	-	P	P	P	P	-	-	-	-	P	-	19.705
4.2	Community living arrangement, type I [3]	-	-	-	-	P	P	P	P	-	-	-	-	P	-	19.706
4.2	Community living arrangement, type II [3]	-	-	-	-	C	C	C	C	-	-	-	-	C	-	19.706
4.2	Community living arrangement, type III [3]	-	-	-	-	C	C	C	C	-	-	-	-	C	-	19.706
4.3	Emergency shelter	-	-	-	-	-	C	-	-	C	-	C	C	C	-	
4.4	Foster home and treatment foster home [4]	-	-	-	C	C	C	C	C	-	-	-	-	C	-	19.707
4.5	Group day care center	-	-	-	-	-	-	-	-	P	P	P	P	P	-	
4.6	Nursing home	-	-	-	-	-	C	C	-	C	-	-	-	C	-	
4.7	Retirement home	-	-	-	-	-	-	P	-	-	-	-	-	C	-	
5.0 Group Accommodations¹																
5.1	Campground	-	-	-	-	-	-	-	-	-	-	P	P	-	-	19.708
5.2	Group camp	C	C	-	-	-	-	-	-	-	-	-	-	-	-	19.709
5.3	Group lodging facility	-	-	-	C	C	C	P	C	C	C	C	C	C	-	19.710
5.4	Managed condominium project	-	-	-	-	-	-	C	-	C	C	C	C	C	-	
5.5	Overnight lodging	-	-	-	-	-	-	-	-	C	C	C	C	C	-	
5.6	Resort	C	C	-	-	-	-	-	-	-	C	C	C	C	-	
5.7	Timeshare project	-	-	-	-	-	-	-	-	C	C	C	C	C	-	
6.0 Food and Beverage Sales																
6.1	Micro-brewery	-	-	-	-	-	-	-	-	C	P	P	P	C	-	
6.2	Restaurant	-	-	-	-	-	-	-	-	C	P	P	P	C	-	
6.3	Tavern	-	-	-	-	-	-	-	-	C	P	P	P	C	-	19.711
7.0 General Sales																
7.1	Agriculture sales	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
7.2	Auction sales	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
7.3	Construction materials sales	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
7.4	Convenience sales	-	-	-	-	-	-	-	-	P	P	P	P	P	-	
7.5	General sales	-	-	-	-	-	-	-	-	-	P	P	P	P	-	
7.6	Manufactured housing sales	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
7.7	Off-site liquor sales	-	-	-	-	-	-	-	-	-	P	P	P	-	-	
7.8	Secondhand sales	-	-	-	-	-	-	-	-	-	-	P	-	-	C	
7.9	Shopping center	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
7.10	Specialty sales	-	-	-	-	-	-	-	-	P	P	P	P	P	C	

¹ Editor's note: A bed and breakfast is considered an accessory use and is therefore listed in Exhibit 5-2.
Table continues on next page

5-1. Principal uses by district - continued

8.0 General Services	A-1	A-2	D-1	R-1	R-2	R-3	R-5	R-9	C-1	C-2	C-3	C-4	M-1	L-1	Special Standards
8.1 Administrative services	-	-	-	-	-	-	-	-	C	P	P	P	P	-	
8.2 Body-piercing establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.712
8.3 Commercial kennel	-	-	-	-	-	-	-	-	-	-	C	-	-	C	19.713
8.4 Financial services	-	-	-	-	-	-	-	-	P	P	P	-	P	-	
8.5 Funeral home	-	-	-	-	-	-	-	-	C	-	P	-	C	-	
8.6 General services	-	-	-	-	-	-	-	-	C	P	P	C	P	-	
8.7 Professional services	-	-	-	-	-	-	-	-	C	P	P	-	P	-	
8.8 Sexually-oriented business	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.714
8.9 Tattoo establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.715
8.10 Veterinary clinic, large animal	C	C	-	-	-	-	-	-	-	-	P	-	-	P	19.716
8.10 Veterinary clinic, small animal	C	C	-	-	-	-	-	-	C	-	P	-	C	P	19.717
8.11 Skilled trade services	-	-	-	-	-	-	-	-	C	-	C	-	C	P	
9.0 Rental and General Repair															
9.1 General repair	-	-	-	-	-	-	-	-	C	-	P	-	-	P	
9.2 Large equipment rental	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
9.3 Small equipment rental	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
10.0 Vehicle Trade and Service															
10.1 Specialty vehicle sales and rental	-	-	-	-	-	-	-	-	-	-	P	-	-	P	
10.2 Vehicle fuel sales	-	-	-	-	-	-	-	-	C	-	P	C	C	-	
10.3 Vehicle repair	-	-	-	-	-	-	-	-	-	C	P	C	-	P	19.718
10.4 Vehicle sales and rental	-	-	-	-	-	-	-	-	-	-	P	C	-	C	19.719
10.5 Vehicle services	-	-	-	-	-	-	-	-	C	C	P	-	C	-	
11.0 General Storage															
11.1 Agricultural commodity storage facility	P	P	-	-	-	-	-	-	-	-	-	-	-	P	
11.2 Fuel tank farm	-	-	-	-	-	-	-	-	-	-	-	-	-	C	
11.3 Mini-storage facility	-	-	-	-	-	-	-	-	-	-	C	-	-	P	19.720
11.4 Truck terminal	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
11.5 Warehouse	-	-	-	-	-	-	-	-	-	-	-	C	-	P	
12.0 Recreation / Sports / Entertainment															
12.1 Amusement ride	-	-	-	-	-	-	-	-	-	-	-	-	P	-	19.721
12.2 Animal menagerie	-	-	-	-	-	-	-	-	-	-	C	C	-	-	19.722
12.3 Casino	-	-	-	-	-	-	-	-	-	C	P	P	-	-	
12.4 Indoor entertainment	-	-	-	-	-	-	-	-	-	P	P	P	C	C	
12.5 Indoor recreation	-	-	-	-	-	-	-	-	C	P	P	P	C	-	
12.6 Golf course / driving range	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
12.7 Miniature golf	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
12.8 Outdoor entertainment	-	-	-	-	-	-	-	-	-	-	C	C	-	C	
12.9 Park	P	P	P	C	C	C	C	C	C	C	C	C	C	C	
12.10 Recreational trail	P	P	P	C	C	C	C	C	C	C	C	C	C	C	
12.11 Sports/fitness	-	-	-	-	-	-	-	-	C	P	P	P	P	-	
13.0 Community Services / Uses															
13.1 Administrative governmental center	-	-	-	C	C	C	C	-	C	P	-	-	C	-	
13.2 Animal shelter	C	C	-	-	-	-	-	-	-	-	-	C	-	C	19.723
13.3 Cemetery	P	P	-	P	P	P	P	-	-	-	P	C	-	-	19.724
13.4 Civic use facility	-	-	-	-	-	-	-	-	-	P	P	P	C	-	
13.5 Community center	-	-	-	C	C	C	C	-	C	P	P	-	P	-	
13.6 Community cultural facility	-	-	-	C	C	C	C	-	C	P	P	-	P	-	
13.7 Community garden	P	P	-	C	C	C	C	C	-	C	P	-	P	-	
13.8 Public safety facility	-	-	-	-	-	-	-	-	C	P	P	P	C	-	
13.9 Worship facility	-	-	-	C	C	C	C	-	C	P	P	P	C	-	

5-1. Principal uses by district - continued

14.0 Health Care	D-1										Special Standards				
	A-1	A-2	[1]	R-1	R-2	R-3	R-5	R-9	C-1	C-2	C-3	C-4	M-1	I-1	
14.1 Health care office	-	-	-	-	-	-	-	-	C	P	P	-	P	-	
14.2 Health care center	-	-	-	-	-	-	-	-	-	-	P	-	C	-	
15.0 Education															
15.1 Commercial education facility	-	-	-	-	-	-	-	-	-	C	P	-	C	-	
15.2 Educational facility (K-12)	-	-	-	C	C	C	C	-	C	-	P	-	C	-	
15.3 Educational facility (higher education)	-	-	-	-	-	-	-	-	-	-	P	-	C	-	
15.4 Instructional facility	-	-	-	-	-	-	-	-	C	-	P	C	C	-	
16.0 Solid Waste Management															
16.1 Composting facility	P	P	-	-	-	-	-	-	-	-	-	-	-	C	19.725
16.2 Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.726
16.3 Solid waste transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.727
17.0 Telecommunications and Utilities															
17.1 Concealed telecommunications antennae	P	P	-	-	-	-	-	-	P	P	P	P	P	P	19.728
17.2 Unconcealed telecommunications antennae	C	C	-	-	-	-	-	-	-	-	-	-	-	C	19.728
17.3 Utility installation	C	C	C	C	C	C	C	C	C	C	C	C	C	P	
18.0 Transportation															
18.1 Bus/rail transit terminal	-	-	-	-	-	-	-	-	-	P	P	P	C	-	
18.2 Marina	C	C	-	-	-	-	-	-	C	C	C	C	C	C	
18.3 Parking lot, off-site	-	-	-	-	-	-	-	-	C	C	C	C	C	C	
18.4 Parking structure	-	-	-	-	-	-	-	-	C	C	C	C	C	-	
18.5 Railroad line	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
18.6 Street	P	P	-	P	P	P	P	P	P	P	P	P	P	P	
18.7 Taxi cab dispatch terminal	-	-	-	-	-	-	-	-	-	C	C	C	C	-	
19.0 Industrial															
19.1 Artisan shop	-	-	-	-	-	-	-	-	P	P	P	P	C	P	
19.2 Contractor yard	-	-	-	-	-	-	-	-	-	-	-	-	-	P	19.729
19.3 Industrial, heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	C	
19.4 Industrial, light	-	-	-	-	-	-	-	-	-	-	-	-	-	P	

Key to table:

- The use is not permitted in the district
- C The use is allowed through the conditional use process
- P The use is permitted provided the standards are met, if any

Notes:

1. Non-residential buildings and structures may be allowed in this district through the conditional use process when used in conjunction with a permitted use.
2. In this district, one two-family residence is permitted, subject to site plan approval, on those lots denoted for such use on the face of final subdivision plat or certified survey map as approved by the common council after May 21, 2007.
3. Refer to Section 19.636 for special provisions that may apply
4. Refer to Section 19.637 for special provisions that may apply

Exhibit 5-2. Accessory uses by district

20.0	Accessory Use	A-1	A-2	D-1	R-1	R-2	R-3	R-5	R-9	C-1	C-2	C-3	C-4	M-1	I-1	Special Standards
20.1	Adult family home	-	-	-	P	P	P	P	P	P	-	-	-	-	-	19.800
20.2	Amateur radio station	-	-	-	P	P	P	P	P	-	-	-	-	P	-	19.801
20.3	ATM, exterior	-	-	-	-	-	-	-	-	C	P	P	P	C	-	19.802
20.3	ATM, interior	-	-	-	-	-	-	-	-	P	P	P	P	P	-	
20.4	Bed and breakfast	-	-	-	C	C	-	-	-	C	-	-	-	C	-	19.803
20.5	Boat dock	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
20.6	Drive-up service window	-	-	-	-	-	-	-	-	-	C	C	C	C	C	19.804
20.7	Family day care home	-	-	-	P	P	P	P	P	P	-	-	-	P	-	19.805
20.8	Fence	P	P	P	P	P	P	P	P	P	P	P	P	P	P	19.806
20.9	Foster home and treatment foster home	P	P	-	P	P	P	P	P	P	-	-	-	P	-	19.807
20.10	Garage, nonresidential	P	P	-	-	-	-	-	-	C	C	C	C	C	C	19.808
20.11	Garage, residential	-	-	-	P	P	P	P	P	P	-	-	-	P	-	19.809
20.12	Home occupation	-	-	-	C	C	-	-	-	C	-	-	-	C	-	19.810
20.13	LRG Scale Private outdoor food & bev. service	-	-	-	-	-	-	-	-	C	P	P	P	C	-	19.811A
20.135	SM Scale Private outdoor food & bev. service	-	-	-	-	-	-	-	-	C	C2	C2	C2	C	-	19.811B
20.14	Outdoor display incidental to indoor sales	-	-	-	-	-	-	-	-	-	C2	C2	C2	C	-	19.812
20.15	Outdoor furnace	P	P	C	C	C	C	-	-	C	-	C	C	-	C	19.813
20.16	Parking lot, on-site	P	P	C	-	-	P	P	P	P	P	P	P	P	P	
20.17	Play structure (residential)	P	P	-	P	P	P	P	P	P	-	-	-	P	-	19.814
20.18	Private kennel	P	P	-	P	P	P	P	P	P	-	-	-	P	-	19.815
20.19	Private stable	P	P	-	-	-	-	-	-	-	-	-	-	-	-	19.816
20.20	Roadside produce stand	P	P	-	-	-	-	-	-	-	-	-	-	-	-	19.817
20.21	Standby electrical power generator	P	P	P	P	P	P	P	P	P	P	P	P	P	P	19.818
20.22	Storage container	-	-	-	-	-	-	-	-	-	-	C	C	-	P	19.819
20.23	Swimming pool (residential)	P	P	-	P	P	P	P	P	P	-	-	-	P	-	19.820
20.24	Upper-floor residential	-	-	-	-	-	-	-	-	-	C	-	-	C	-	
20.25	Walk-up service window	-	-	-	-	-	-	-	-	-	C	C	C	C	-	19.821
20.26	Wharf	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
20.27	Wind energy system	P	P	C	C	C	C	C	C	C	C	C	C	C	C	19.822
20.28	Yard shed (residential)	P	P	-	P	P	P	P	P	P	-	-	-	P	-	19.823
20.29	Industrial District Retail	-	-	-	-	-	-	-	-	-	-	-	-	-	C	

Key to table:

- The use is not permitted in the district
- C2 The use is allowed through the conditional use 2 process.
- C The use is allowed through the conditional use process
- P The use is permitted provided the standards are met, if any

Exhibit 5-3. Temporary uses by district

21.0	Temporary Use	A-1	A-2	D-1	R-1	R-2	R-3	R-5	R-9	C-1	C-2	C-3	C-4	M-1	I-1	Special Standards
21.1	Circus	-	-	-	-	-	-	-	-	-	P	P	P	-	-	19.901
21.2	Farmers' market	C	C	-	-	-	-	-	-	P	C	C	C	C	-	
21.3	Itinerant sales	-	-	-	-	-	-	-	-	C	C	C	C	C	-	19.902
21.4	On-site construction office	-	-	-	-	C	C	-	-	C	C	C	C	C	-	19.903
21.5	On-site real estate sales office	-	-	-	C	C	C	C	-	-	-	-	-	C	-	19.904
21.6	Outdoor vendor	-	-	-	-	-	-	-	-	-	C	C	C	C	-	19.905
21.7	Seasonal product sales	P	P	-	-	-	-	-	-	C	-	P	P	C	P	19.906
21.8	Public Sidewalk café	-	-	-	-	-	-	-	-	C	P	-	-	C	-	19.907
21.9	Snow disposal site	P	P	-	-	-	-	-	-	-	P	-	-	-	P	19.908
21.10	Street performance	-	-	-	-	-	-	-	-	-	C	-	-	-	-	19.909

Key to table:

- The use is not permitted in the district
- C The use is allowed through the conditional use process

Chapter 35 TOURIST ROOMING HOUSE

- 35.01 Purpose
- 35.02 Definitions
- 35.03 Operation of Tourist Rooming Houses
- 35.04 Tourist Rooming House Permit, Property Manager License
- 35.05 Resident Agent
- 35.06 Procedure
- 35.07 Renewal
- 35.08 Room Tax
- 35.09 Inspections
- 35.10 Display of Permit, License
- 35.11 Standards for Tourist Rooming Houses
- 35.12 Special Exceptions Permits
- 35.13 Fees
- 35.14 Penalties and Fees
- 35.15 Enforcement

35.01 Purpose. The purpose of this Chapter is to ensure that the quality of tourist rooming houses operating within the Village is adequate for protecting public health, safety and general welfare, including establishing minimum standards of space for human occupancy and for an adequate level of maintenance; determining the responsibilities of owners, operators and property managers offering these properties for tourists, to protect the character and stability of all areas within the Village of Lake Delton; to provide minimum standards necessary for the health and safety of persons occupying or using buildings, structures or premises; and provisions for the administration and enforcement thereof.

35.02 Definitions.

A. For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows:

1. Words used in the present tense include the future.
2. Words in the singular number include the plural number.
3. Words in the plural number include the singular number.

B. The following definitions and conditions apply unless specifically modified:

Bathroom. Full bath.

Clerk. The Village Clerk of the Village of Lake Delton, or designee.

Corporate Entity: A corporation, partnership, limited liability company, or sole proprietorship licensed to conduct business in this state.

Dwelling Unit: One (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities and a bathroom arranged for exclusive use by one (1)

person or one (1) family. Dwelling Units include residential, tourist rooming house, seasonal employee housing and dormitory units.

License. The Property Management License issued under s.35.04.

Owner. The owner of a tourist rooming house.

Permit. An individual tourist rooming house permit issued under s.35.04.

Person. Shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word person is used in any section of this Chapter prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

Resident Agent. Any person appointed by the owner of a tourist rooming house to act as agent on behalf of the owner.

Property Manager. Any person providing property management services to a least five (5) tourist rooming houses.

Short Term Rental. The rental of a dwelling unit for a period of less than 29 consecutive days.

State. The State of Wisconsin Department of Health, or its designee.

Tourist Rooming House. Any lodging place or tourist cabin or cottage where sleeping accommodations are offered for pay to tourists or transients. Houses, cabins, and/or condominium units operated by a hotel, motel or resort are not tourist rooming houses under this Chapter.

Tourist Rooming House Complex. A condominium with eight (8) or more units operating as tourist rooming houses.

35.03 Operation of Tourist Rooming Houses.

A. No person may operate a tourist rooming house without a tourist rooming house permit. Every tourist rooming house shall be operated by a Resident Agent or licensed Property Manager.

B. Each tourist rooming house is required to have the following licenses and permits:

1. A State of Wisconsin Department of Health Service License
2. a seller's permit issued by the Wisconsin Department of Revenue;
3. a Conditional Use Permit;

4. Wisconsin Department of Revenue Premier Resort Tax number;
5. a Room Tax Permit; and
6. a permit or license issued pursuant to the provisions of this Chapter.

C. Exemptions. The following operations are exempt from complying with the requirements of this Chapter:

1. A private boarding or rooming house, ordinarily conducted as such, not accommodating tourists or transients.
2. A hotel, motel or resort license issued by the State of Wisconsin Department of Health, pursuant to s.254.64 Wis. Stats.
3. Bed and breakfast establishments.

35.04 Tourist Rooming House Permit; Property Manager License.

A. The Clerk shall issue an original tourist rooming house permit to all applicants following the approval of an application by the Village Board and the filing of all documents and records required under this Chapter.

B. The Clerk shall issue a property manager license to all applicants following the approval of the application by the Village Board and the filing of all documents and records required under this Chapter.

C. The resident agent must be authorized to allow Village employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Chapter and/or the Village Municipal Code.

D. No person may act as a property manager for a tourist rooming house without a property manager license issued in accordance with the provisions of this Chapter. The property manager license shall apply to all tourist rooming houses for which the property manager has exclusive rights for the rental of the property. The property manager must certify to the Village that each tourist rooming house operating under the property manager license complies with the standards of this Chapter.

35.05 Resident Agent; Property Manager.

A. All tourist rooming houses are required to appoint a Resident Agent for the receipt of service of notice of violation of this Chapter's provisions and for service of process pursuant to this Chapter. Such a designation shall be made by the owner and shall accompany each application form. Said applicant shall immediately notify the Clerk of any change in residence or information regarding the Resident Agent.

B. To qualify as a Resident Agent the person must meet the following requirements:

1. Be a natural person residing in or within twenty-five (25) miles of the Village of Lake Delton; or a corporate entity with offices located within twenty-five (25) miles of the Village of Lake Delton.
2. The applicant does not have pending any criminal charge and has not been convicted of a felony or misdemeanor of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Ch. 944, Wisconsin Statutes, as amended.

3. The applicant is authorized by owner to accept service of process for all Village communications, citations and orders.

C. Resident Agent Permit. Application for a Resident Agent permit, and payment of the application fee, shall be filed with the Clerk, who shall issue the permit to all qualified applicants. Each Resident Agent permit shall be for a period of one (1) year commencing on July 1, or the date of issuance, and shall expire on June 30 of each year. No fee is required for the owner of a tourist rooming house residing within twenty-five (25) miles of the Village of Lake Delton who is serving as Resident Agent.

D. Property Manager License. No person may act as a property manager for a tourist rooming house without a property manager license issued in accordance with the provisions of this Chapter. The property manager license shall apply to all tourist rooming houses for which the property manager has exclusive rights for the rental the property. The property manager shall serve as the Resident Agent for the property owner. The property manager must certify to the Village that each tourist rooming house operating under the license complies with the standards of this Chapter.

E. Property Manager qualifications. To qualify as a Property Manager the applicant must meet the following requirements:

1. Comply with the qualifications for a Resident Agent as set forth in s. 35.05 (B)
2. Shall be managing not less than five (5) tourist rooming houses operating in the Village of Lake Delton.
3. Shall hold the following licenses and permits in its name:
 - a. a Seller's Permit issued by the Wisconsin Department of Revenue;
 - b. a Room Tax Permit issued by the Village of Lake Delton;
 - c. an employer identification number issued by the Internal Revenue Service;
 - d. Wisconsin Department of Revenue Premier Resort Tax number.

F. Each Resident Agent and Property Manager shall be authorized by the property owner to act as the agent for the owner for the receipt of service of notice of violation of this Chapter's provisions and for service of process pursuant to this Chapter and shall be authorized by the owner to allow Village employees, officers and their designees, to enter the owner's property for purposes of inspection and enforcement of this Chapter and/or the Village Municipal Code.

35.06 Procedure.

A. All applications for a tourist rooming house permit shall be filed with the Clerk on forms provided. Applications must be filed by the property owner or on the owner's behalf by the licensed Property Manager. Each applicant shall certify to the Village that the tourist rooming house included in the permit is in compliance with the provisions of this Chapter. No permit shall be issued unless the completed application form is accompanied by payment of the required fee.

B. Each application shall include the following information and documentation for each tourist rooming house unit:

1. Conditional Use Permit.

2. State of Wisconsin Department of Health Services License for a tourist rooming house license issued under s.254.64 Wis. Stats.
3. A copy of a completed State Lodging Establishment Inspection form dated within one (1) year of the date of issuance or renewal.
4. The Wisconsin Department of Revenue Premier Resort Sales Tax Number.
5. Proof of Insurance.
6. Seller's Permit from the Department
7. Floor plan and requested maximum occupancy
8. Site plan including available onsite parking.
9. Property Management Agreement (if applicable)
10. Designation of the Resident Agent.
11. Certification from the owner or licensee that the property meets the requirements of s. 35.12 below.
12. Applications for renewal permits filed by Property Managers are not required to include the documentation for each individual unit for items listed in subparagraph 4, 5, 6, 7, 8, 9, 10, unless the information on the renewal application has changed.

C. Terms and Filing date. Each permit and license shall run from July 1 through June 30 of the following year. All applications must be filed on or before May 1, 2014 and by May 1st of each subsequent year. The filing fee shall be paid upon filing of the application. The Clerk may conditionally accept late applications, subject to payment of the late filing fee. Any application which does not include all of the information and documentation shall not be considered as complete.

D. Application Review Procedure. When satisfied that the application is complete, the Clerk shall forward initial applications for permits and licenses to the Housing and Property Maintenance Committee for review at the next scheduled meeting or within thirty (30) days of the filing date, whichever first occurs. The Housing and Property Management Committee shall consider the application and supporting documents. If the Committee determines that the application meets the requirements of this Chapter it shall forward the application to the Village Board for approval. If the Committee determines that the application does not meet the requirements of this Chapter, it shall deny the application. If the applicant qualifies for a special exception permit under s.35.13, the Committee may recommend approval to the Village Board as a special exception permit subject to the special exceptions and conditions to be placed upon the application. Any denial or conditional approval by the Committee shall be in writing setting forth the reasons for the determination.

E. The Village Board shall consider the application and the recommendation of the Housing and Property Management Committee at its next scheduled meeting. The Village Board may approve, grant a special exception permit, or deny the application. Any denial or conditional approval by the Village Board shall be in writing setting forth the reasons for the determination.

F. The Village Clerk shall issue a permit for each tourist rooming house approved by the Village Board. The permit shall include the following information:

1. Identify the Property Owner;
2. Identify the Resident Agent/Property Manager with contact information;
3. The maximum occupancy for the premises;
4. The permit term;

5. State lodging license number; and
6. Contact information for the Village.

G. No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report dated not more than one (1) year before the date of issuance or renewal.

H. No permit or license shall be issued or renewed, if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, unless arrangements for payment have been approved by the Village Board.

I. Electronic Filing. Each application, report and supporting documentation filed under this chapter may be filed electronically in the manner and form prescribed by the Village Clerk.

35.07 Renewal.

A. Each application for a renewal of a permit or license shall include updated information for the documentation on file with the Clerk and payment of the applicable fee. The Clerk shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this Chapter. The Clerk shall request reports from the Police Department and the Zoning Administrator regarding any complaints received, calls for service or actions taken regarding the permitted properties. The Clerk shall issue renewal licenses within ten (10) days of the filing of the application unless the information provided is incomplete or otherwise not in compliance with the requirements of this Chapter and/or the reports from the Police Department and the Zoning Administrator indicate that there are complaints or actions involving the property.

B. If the Clerk finds that the license or permit should not be renewed, or that the application should be considered by the Village Housing and Property Maintenance Committee, the Clerk shall forward the application to the Village Housing and Property Maintenance Committee for action along with a written explanation of the reason for referral. Upon referral to the Property Maintenance Committee the procedures set forth in s. 35.06 (D) shall apply.

C. No permit or license shall be issued or renewed unless there is filed with the Clerk a completed Fire Inspection Report by the Village fire inspector dated within one (1) year of the issue date.

D. No permit or license shall be renewed if the applicant or property has outstanding fees, taxes or forfeitures owed to the Village, or is under an order issued by the Building Inspector, or his designee, to bring the premises into compliance with Village ordinances, unless arrangements for payment have been approved by the Village Board.

E. All permits in effect prior to the effective date of this chapter are eligible for renewal.

35.08 Room Tax.

A. Each tourist rooming house shall comply with the room tax reporting requirements of Chapter 11 of the Village Municipal Code.

B. Each Property Manager Licensee shall file consolidated room tax returns for the managed tourist rooming houses.

C. All tax returns and supporting documentation filed with the Clerk are confidential and subject to the protections provided under s. 11.48, Village Municipal Code and s.66.0 615(3) and s.77.61 Wisconsin Statutes.

35.09 Inspections.

A. Each separate unit which is offered for rental as a tourist rooming house is required to be inspected annually by the State and the Village Fire Inspector. If the State fails to inspect the tourist rooming house, the applicant may request that the building inspector conduct the inspection.

B. If the Building Inspector conducts the inspection, the holder of a permit or license shall be responsible for payment of the inspection fees.

C. If the Building Inspector or Fire Inspector at any time is unable to conduct an inspection due to denial of access, the tourist rooming house shall not operate until it has passed the inspection.

35.10 Display of Permit. Each permit shall be displayed on the inside of the main entrance door of each tourist rooming house.

35.11 Standards for Tourist Rooming Houses. Each tourist rooming house shall comply with this Chapter's requirements or any other applicable Village ordinance, or constitutes and/or causes a nuisance. Each tourist rooming house shall comply with the following minimum requirements:

A. not less than one (1) bathroom for every six (6) occupants.

B. not less one hundred fifty (150) square feet of floor space for the first occupant thereof and at least an additional one hundred (100) square feet of floor space for every additional occupant thereof; the floor space shall be calculated on the basis of total habitable room area. Floor space is determined using interior measurements of each room. Floor space does not include kitchens, bathrooms, closets, garages, or rooms not meeting Uniform Dwelling Code requirements for occupancy. The maximum occupancy for any premises without a separate enclosed bedroom is two (2) people.

C. each tourist rooming house complex shall have a manager residing on the premises.

D. not less than one and one quarter (1 ¼) onsite off-street parking spaces for every four (4) occupants based upon maximum occupancy.

E. a safe, unobstructed means of egress leading to safe, open space at ground level.

F. shall have functional smoke detectors and carbon monoxide detectors in accordance with the requirements of Chapter SPS 362 of the Wisconsin Administrative Code.

G. shall not have an accessible wood burning fireplace unless the owner provides a certificate from a licensed commercial building inspector, dated not more than thirty (30) days prior to submission, certifying that the fireplace and chimney have been inspected and are in compliance with National Fire Prevention Association Fire Code Chapter 211 Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances.

H. shall not have a hibachi, gas-fired grill, charcoal grill, or other similar devices used for cooking, heating, or any other purpose on any balcony, deck or under any overhanging structure or within ten (10) feet of any structure.

I. All Property Managers shall carry casualty and liability insurance issued by an insurance company authorized to do business in this state by the Wisconsin Office of the Commissioner of

Insurance, with liability limits of not less than \$300,000 per individual and \$1,000,000 aggregate.

J. Certification of compliance. As a condition of issuance of a license under this Chapter, the Property Manager shall certify that each managed property is in compliance with the terms and conditions of the license and this Chapter.

35.12 Special Exceptions Permits.

A. Any person asking to be relieved from the strict enforcement of this Chapter's provisions may apply for a Special Exceptions Permit. The application shall be on a form provided by the Assistant Zoning Administrator. The completed form and all supporting documents shall be filed with the Assistant Zoning Administrator along with the filing fee. The Assistant Zoning Administrator shall forward the application to the Zoning Administrator. Within ten (10) days of receiving the application for a Special Exceptions Permit, the Zoning Administrator shall issue a written report to the Village Board including his recommendation.

B. Following the review and issuance of a report by the Village Zoning Administrator, the application will be reviewed by the Committee. The Committee may require the applicant to furnish additional information it deems necessary in its review of the application.

C. When reviewing an application for a Special Exception Permit, the Committee and the Village Board will take into consideration such factors it deems appropriate, including but not limited to:

1. The Special Exceptions Permit will not be unreasonably detrimental to or endanger the public health, safety, comfort or general welfare.
2. The uses, values and enjoyment of other property in the neighborhood shall not be substantially impaired or diminished by the proposed Special Exception Permit.
3. The Special Exception Permit will not unduly create a danger to pedestrians or traffic.
4. The past experience with the applicant or similar business operations.
5. That the issuance of a Special Exception Permit will not violate the terms or conditions of a Conditional Use Permit or variance for the permitted premise.
6. The proposed special exception must comply with all other local ordinances and applicable state laws.
7. Such other factors due to the specific circumstances that the Village Housing Committee or Village Board deems appropriate.

D. After reviewing the application and supporting documentation the Committee shall forward the application to the Village Board for final action along with its recommendations.

35.13 Fees.

Permits – (Individual tourist rooming house)

Initial Permit application fee \$500

Original Permit fee \$100 + \$5.00 per person – based on maximum occupancy per unit

Renewal Permit application fee \$100

Renewal Permits \$50 + \$5.00 per person – based on maximum occupancy per unit

Licenses – (Property Management License)

Initial License application fee \$500

Initial Permit fee \$50 per unit + \$5.00 per person – based on maximum occupancy per unit

Renewal License Application fee \$100

Renewal Permit fee \$50 per unit + \$5.00 per person – based on maximum occupancy per unit

New units added under a Property Management License

Initial permit application fee \$400

Initial permit fee \$50 + \$5.00 per person – based on maximum occupancy per unit

Special Exception initial application fee \$500

Special Exception Initial Permit \$100 + \$5.00 per person – based on maximum occupancy per unit

Special Exception Renewal Permit fee \$50 + \$5.00 per person – based on maximum occupancy per unit

Late fees – Double Fee

Inspections - \$100

Resident Agent - \$50

If a property (Individual or Property Management) needs a new conditional use permit, the fee is assessed at the time of application

Currently licensed tourist rooming houses do not need to file applications and are eligible for renewal.

If a property is currently permitted, and there is a change in ownership or management, this will require a name change only.

35.14 Penalties and Fees. The following penalties shall be assessed for violations of this Chapter:

A. A violation of s. 35.03 shall be punishable by a forfeiture of not less than Five Hundred Dollars (\$500), nor more than One Thousand Dollars (\$1,000) for each violation committed hereunder. In addition, the property owner and/or the property shall be ineligible to operate as a tourist rooming house for a period of twelve (12) months from the date of entry of judgment.

B. A violation of s. 35.12 shall be subject to the penalties set forth in Chapter 11 of the Village Municipal code.

C. Any other violation of any provision of this Chapter shall be punishable by a forfeiture of not less than One Hundred Dollars (\$100), nor more than Five Hundred Dollars (\$500) for each violation committed hereunder.

D. A violation of s. 35.12 may result in the suspension of the permit or the license as it applies to the property involved.

E. Each day a violation exists after receiving the violation notice and which becomes the building inspector's order shall constitute a separate violation of this Chapter.

F. In addition to the penalties set forth above, failure to permit the inspection of a premises subject to this ordinance by the Assistant Zoning Administrator, Building Inspector or Fire Inspector, or their designee, may result in the suspension of a permit or license.

G. Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Chapter or otherwise.

35.15 Enforcement. The provisions of this ordinance shall be enforced by the Zoning Department and/or the Village Fire Chief or his designee. It shall be the duty of the Zoning Department to process applications, conduct inspections and investigate complaints of violations of this Chapter and/or the existence of a nuisance.

Passed: 4/14/2014 Ordinance 14-006