AGENDA - FINAL

WAUKESHA COUNTY PARK AND PLANNING COMMISSION - Regular Meeting Thursday, December 11, 2025 1:00 PM Room AC255/259 Administration Center, 515 W. Moreland Blvd., Waukesha, WI 53188

CALL TO ORDER
CORRESPONDENCE
MEETING APPROVAL

2026 Commission Meeting Dates

<u>MINUTES</u>

Approval of the September 18, 2025 Minutes

PUBLIC COMMENT

CONDITIONAL USE

CU137 (Margaret and Dale Bergman) Town of Merton, Section 12

Part of Lot 8, Marshall Park, part of the SE ½ of Section 12, T8N, R18E, Town of Merton. More specifically, the property is located at N82 W28285 Marshall Drive.

Request: Land altering activities associated with the construction of a parking area,

retaining walls and the installation of a holding tank beneath the parking area.

CU136 (Mundschau Scheel) Town of Ottawa, Section 18

Parcel 1, Certified Survey Map No. 6125, located in part of the SW ¼ of Section 18, T6N, R17E, Town of Ottawa. More specifically, the property is located at W395 S3644 Hardscrabble Road

Request: Conditional Use approval for a Limited Family Business for small engine

repairs.

PLAN OF OPERATIONS

SP284 (Mundschau Scheel - NP Small Engine) Town of Ottawa, Section 18

Parcel 1, Certified Survey Map No. 6125, located in part of the SW ¼ of Section 18, T6N, R17E, Town of Ottawa. More specifically, the property is located at W395 S3644 Hardscrabble Road.

Request: Site Plan/Plan of Operation approval for a Limited Family Business for small

engine repairs.

ADJOURNMENT

Robert Peregrine, Chairperson

Park and Planning Commission

Thursday, December 11, 2025

(The Staff Reports and Recommendations for the issues listed above are available upon request. For questions regarding this agenda, please call (262) 896-8300).

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE STAFF REPORT AND RECOMMENDATION CONDITIONAL USE

DATE: December 11, 2025

FILE NO.: CU137

OWNER: Margaret Bergman

800 Clover Court Hartland, WI 53029

APPLICANT: Dale Bergman

800 Clover Court Hartland, WI 53029

TAX KEY NO.: MRTT 0336.011

LOCATION:

The subject property is described as part of Lot 8, Marshall Park, part of the SE ¼ of Section 12, T8N, R18E, Town of Merton. More specifically, the property is located at N82 W28285 Marshall Drive, Hartland, WI 53029, containing approximately 0.17 acres.

ZONING CLASSIFICATION:

R-3 Residential District.

EXISTING LAND USE:

Residential.

PROPOSED LAND USE:

Land altering activities associated with the construction of a parking area, retaining walls and the installation of a holding tank beneath the parking area.

PUBLIC HEARING DATE: November 19, 2025

PUBLIC REACTION:

Neighbors to the subject property attended the public hearing and chose to speak. Scott Susek, neighbor to the west of the property, voiced concern over the size of the new retaining wall structure and the ability for Mr. Bergman to construct a detached garage or accessory building in the far future. Mark Brue, neighbor to the north and grantor of the ingress-and-egress easement for Mr. Bergman's property, voiced concern about any improvements that would take place within the easement area and the ability for a detached accessory building to be constructed in the future on the new parking pad.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

At their meeting on November 19, 2025, the Town of Merton Plan Commission unanimously recommended to the Waukesha County Park and Planning Commission approval of the request.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCDP) AND THE TOWN OF MERTON COMPREHENSIVE DEVELOPMENT PLAN:

The subject property is designated as Low Density Residential (20,000 sq. ft. – 1.4 acres/dwelling unit) on the Waukesha County Comprehensive Development Plan (CDP) and the Town of Merton Land Use Plan. The Plans contain recommendations relative to preservation of topography. The Plans recommend that

CU137 Bergman Page 2

slopes in excess of 12% be preserved. As conditioned, the proposed grading activities are in conformance with the plan recommendations and allow for the redevelopment of the parcel.

STAFF ANALYSIS:

The applicant is seeking conditional use approval of land altering activities at the property located at N82 W28285 Marshall Drive for the purpose of creating a parking pad off an existing ingress-and-egress easement on the property to the north, razing the existing residence on-site, and regrading the site for the construction of a new 32' x 32' residence (see Exhibit B) in a location conforming to the Waukesha County Shoreland Protection Ordinance.

The property is located on the eastern side of Lake Keesus in the Town of Merton. The property is located off Marshall Drive and is serviced through an access easement through the property to the north, N82 W28275 Marshall Drive. This easement serves both Mr. Bergman's property and the property directly to the east and provides access and a parking area for both lots. The topography of these sites includes a steep drop-off at the northern property lines of approximately five to seven feet. This prevents these properties from parking directly on their own land. The easement provides both access and parking within the existing area. Visitors then gain access to the property from a walkway down to the residence.

In addition, Mr. Bergman is seeking to raze the existing residence on his property and replace it with a 32' x 32' new residence. The new structure's location, size, height, and other requirements are within the standards of the Shoreland Protection Ordinance. The existing structure was built in the early 1940's, according to the property owner, and is in need of replacement. The owner claims that the current drainage in the area leads to the existing structure's foundation and that regrading on the site would alleviate drainage problems.

The proposed grading (see Exhibit A) would add a significant amount of fill to the northern side of the property to create a parking pad area next to the northern property line and adjacent access easement. The proposed pad would continue the grade level from the easement area's elevation and continue it approximately 20 feet further into the property. This would allow for the parking of at least two vehicles on Mr. Bergman's property and outside the easement area. The maximum height of the retaining walled pad area would be 10.7 feet in height. Consideration of a safety railing or support would be beneficial for this project. This peak height would be on the southwestern corner of the parking area (see Exhibits C & D). According to conversations between staff and Mr. Bergman, the retaining wall will be made up of Redi-Rock textured stone material.

Mr. Bergman is seeking to put the holding tank for the property within the newly graded parking area. The grading plan for the project shows a stairway to be constructed on the eastern side of the parking area for access to the lower level of the property. Mr. Bergman noted that the material for the surfacing of the pad has not been decided and that a permeable surface, like permeable pavers, could be used. However, he noted that the area above the holding tank would need something more supportive to prevent damage.

The regrading on the site will begin with continuing the grade elevation of the existing parking area for approximately 35 feet in width and 20 feet in depth. This would add seven to nine feet of elevation within this area based on the applicant's grading plan. Other changes to the grading of the property would be elevating the eastern side and center of the property by approximately one foot. The western side of the property would remain at the same elevation but be graded to allow a gentler slope of the topography. Grading around the proposed residence would also be leveled to direct drainage toward low points along property lines and towards Lake Keesus. The proposed grading changes on the eastern side of the site do not appear that they will cause any significant drainage issues for the property to the east.

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Neighbors near the subject property have contacted staff surrounding concerns about this application. The owner to the west contacted staff concerned about the height and scale of the improvements. The neighbor to the north had some concerns about improvements taking place within the easement area, which is located on this neighbor's parcel. Both neighbors expressed major concern about an accessory structure being installed on the parking pad in the far future. While a second accessory structure could theoretically be permitted on this parcel, any structure placed on the parking pad would not meet setback requirements and would likely put the property over on its impervious surface and building footprint maximums. Because of this, no accessory structure should be permitted within the bounds of the Ordinance. The proposed residence will also be further setback from the shoreline and side property lines than the existing residence. The regrading of the site should also mitigate existing drainage issues as well.

Regarding improvements within the easement area, the presence of the ingress-and-egress easement suggests that its purpose is to provide access to the subject parcel and parcel to the east. The proposed minor improvements within the granted easement area to create meaningful access are in keeping with the intent of the easement. At the same time, improvements should be limited to creating this access and maintaining it. Improvements beyond the scope of a driveway entrance or its supports or outside of the easement area should be prohibited. County staff has not seen any reason that an improvement such as the driveway entrance to the proposed parking pad should be denied. The repaving or other resurfacing of the existing easement area with new material other than gravel should not be permitted without permission from the other grantees of the access easement.

STAFF RECOMMENDATION:

The Planning and Zoning Division Staff recommends <u>approval</u> of the request, subject to the following conditions:

- 1. A protective safety railing be installed on the perimeter of the retaining wall area above heights of over four feet.
- 2. Besides the area over the holding tank within the retaining wall, the applicant shall work with staff to find a pervious surfacing method for the majority of the parking pad area, subject to review by Environmental Health Division staff.
- 3. Any new structures, including the proposed residence, will require a zoning permit from Waukesha County Planning and Zoning Division.
- 4. No additional accessory structure will be permitted within the new parking pad area on the top of the proposed retaining wall. A deed restriction shall be recorded that prevents this kind of building at this location.
- 5. A stormwater permit must be obtained from the Land Resources Division and drainage plans provided to include a drain tile system for the wall with outlets to protect steep slopes and neighboring properties.
- 6. A landscape plan must be submitted to show screening of the proposed retaining wall with at least 50% of the wall screened from both the east and west property lines.
- 7. The project shall not create adverse drainage conditions on neighboring properties.

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8. The nonconforming shed, which projects onto the property to the east, shall be removed or relocated to a conforming location.

9. The material for the retaining wall shall be earth toned in color, especially either a shade of rust or brown.

This approval will allow the petitioners to grade their property to allow for full parking within their property area and not within the easement area on a neighboring property. This regrading also would prepare the site for a new residence that would replace the existing residence on-site. No accessory building or structure is included in this approval. While the grading on-site will be considerable, the modifications should improve access for the property. As conditioned, no adverse drainage will be allowed and retaining walls will be screened from view.

Respectfully submitted,

Evan G. Hoier

Evan G. Hoier Senior Land Use Specialist

Attachments: Exhibits A, B, C and D

EXHIBIT A

said Lot Eight (8); thence North 14°13' East along the Westerly line of said Lot Eight (8) One Hundred Twenty-five (125.0) feet to a point; thence South 16°56' West One Hundred Three and Five tenths (103.5) feet to a point on the monumented shore line of said Lot Eight (8) Fifty (50.0) feet distance from the Southwest monumented corner thereof; thence South 78°15' West Fifty (50.0) feet, along the said monumented shore line to the

place of beginning.

PLAT OF SURVEY

BEING A PART OF LOT 8 OF MARSHAL PARK THE EAST 1/2 OF THE SE. 1/4 OF SECTION 12, T.8N., R.18E., TOWN OF MERTON, WAUKESHA COUNTY, WISCONSIN

LEGEND

- 1" IRON PIPE FOUND (UNLESS OTHERWISE STATED)
- 1" DIA. IRON PIPE SET, 18" LONG
- FIELD INLET
- UTILITY BOX
- GAS OLD MARKING, UNDER GROUND GAS
- UTILITY POLE W/ GUY WIRE

ENGINEERING SCIENCES, INC.

119 COOLIDGE AVE., SUITE 100 WAUKESHA, WI 53186 (414) 719-2769 landmark-engineering@live.com

> SURVEYOR: MARK AUGUSTINE, PLS

> > SURVEY FOR: DALE BERGMAN

PROPERTY:

N82W28285 MARSHALL DRIVE HARTLAND, WI 53029

NOTES:

PROJECT # 4065.00

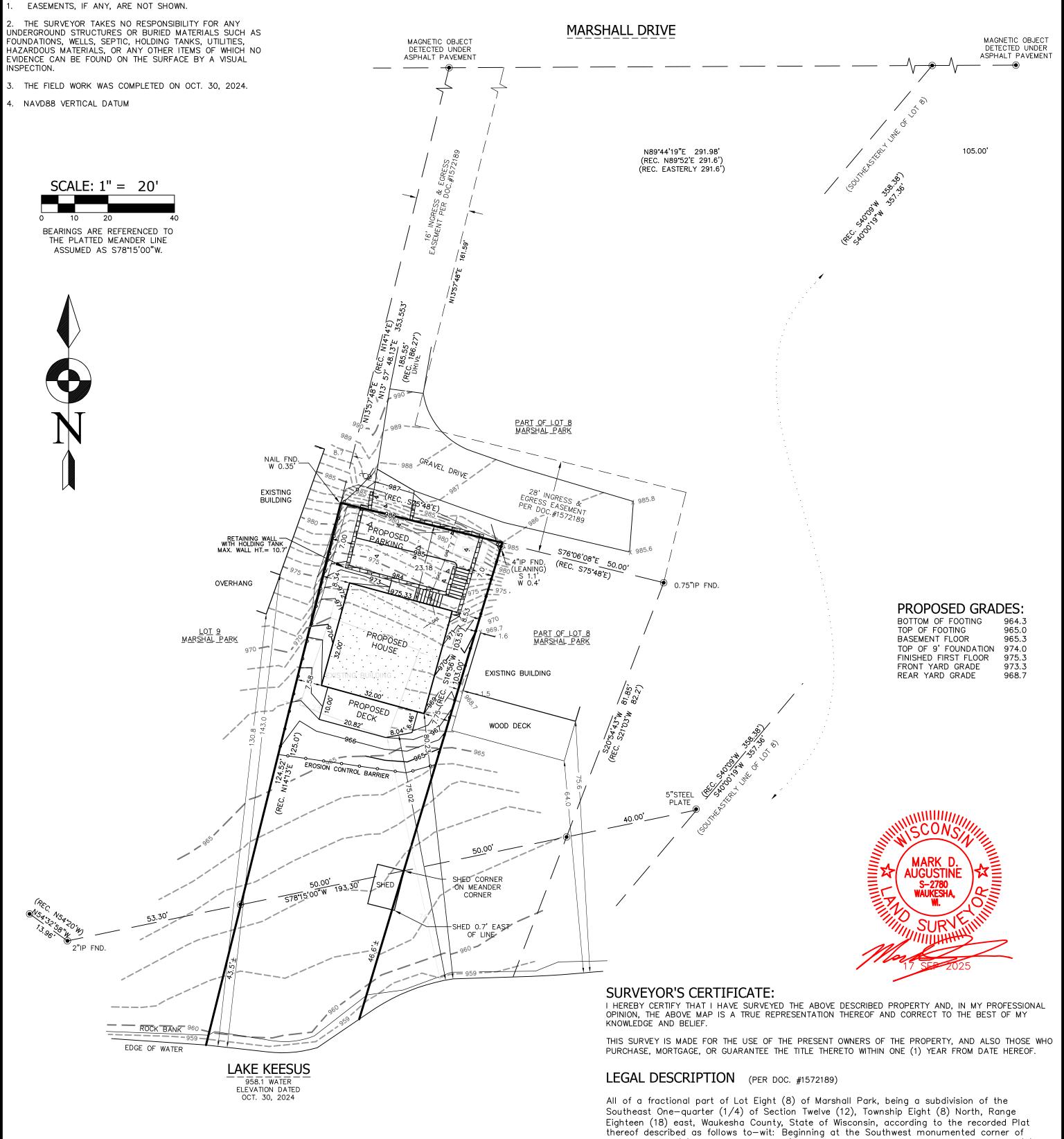
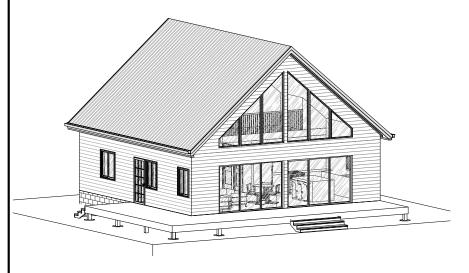
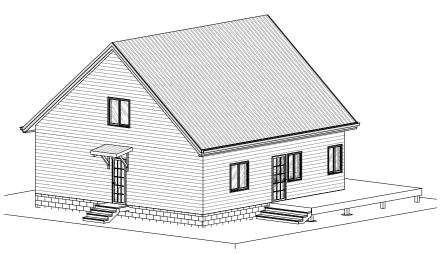


EXHIBIT B

32x32 MODERN GETAWAY CABIN

RECEIVED 09/26/2025 BY WAUKESHA COUNTY PLANNING AND ZONING DIVISION





NOTE: IF CONFLICT WITH NOTES ON PLANS, MOST RESTRICTIVE REQUIREMENTS WOULD GOVERN:

- 2X6 FRAMING TO BE STUD GRADE.
- 2X4 LIGHT FRAMING TO BE STUD GRADE. JOIST AND RAFTERS TO BE NO.1 D.F. (DOUG FIR.) - LARCH.
- BEAMS, STRINGERS AND HEADERS TO BE NO.1 D.F. LARCH.
- POSTS AND TIMBERS BE NO.1 D.F. LARCH.
- UNLESS OTHERWISE SPECIFIED, TIMBER SHALL BE DOUG FIR AND SHALL CONFORM TO W.C.L.I.B STANDARD GRADING AND DRESSING, RULES.
- ALL STRUCTURAL: BEAM/BEAM, BEAM/COLUMN AND COLUMN/FOUNDATION JOINTS MUST BE POSITIVELY CONNECTED WITH SIMPSON OR EQUIVALENT CONNECTORS REGARDLESS OF LACK OF CONNECTION DETAILING ON PLANS. STANDARD CONNECTIONS U.O.N SIMPSON OR EQUIVALENT:
- BEAM/COLUMN "CC" BEAM/BEAM "HUFT", COLUMN/PAD FOOTING "CB" COMBINATION LED LIGHT/VENT FAN, CAPABLE OF 5 AIR CHANGES/HOUR, AT
- INTERIOR BATHROOMS, OR ADD WHERE EXTERIOR BATHROOM WINDOW IS. THE FOLLOWING SHALL APPLY FOR:
- WATER CLOSETS: 1.6 GPF
 - SHOWER HEADS: 2.5 GPM
 - LAUNDRY FAUCETS: 2.2. GPM
 - SINK FAUCETS: 2.2 GPM
 - ALL HOSE BIBS ARE REQUIRED TO BE PROTECTED WITH A PERMANENTLY ATTACHED ATI-SIPHON DEVICE, MIN. 1 HOSE BIB REQUIRED FRONT AND
- GROUND FAULT INTERCEPTOR PROTECTION (GFI) FOR ALL EXTERIOR RECEPTACLES, IN BATHROOMS, IN UNFINISHED BASEMENTS/CRAWL SPACES, IN GARAGES AND AT COUNTER TOP IN KITCHENS OR AT BAR SINKS.
- SWITCHED LIGHT FIXTURE IN EVERY HABITABLE ROOM, BATHROOM
- STAIRWAY, HALL, ATTACHED GARAGE AND AT OUTDOOR ENTRANCES. PROVIDE 2 GFI PROTECTED EXTERIOR RECEPTACLES, WEATHER PROOF W/BUBBLE COVER ON AT THE REAR AND FRONT OF EACH DWELLING UNIT.

BUILD INFORMATION: TOTAL SF: 1363 SQ. FT. PORCH/ PATIO: 456 SQ. FT. MAX HEIGHT: DIMENSIONS: L X W 23'-11 3/4" 32'-0" x 32'-0" ROOF PITCH: 10:12 STRUCTURE: BEDROOMS:

LIGHT TIMBER FRAMING

- OUTLETS ARE REQUIRED FOR KITCHEN COUNTER SPACE 12" AND WIDER IN SUCH A MANNER THAT NO POINT ALONG THE WALL IS MORE THAN 2' FROM OUTLET OR MORE THAN 4' FOR ISLAND AND PENINSULA COUNTERS.
- OUTLETS FOR WALL SPACES 2' AND WIDER AT MAXIMUM 12' O.C. SO THAT NO POINT ALONG A WALL, FIXED GLASS, OR GUARD RAIL IS MORE THAN 6' FROM
- A DEDICATED 20 AMP BRANCH CIRCUIT FROM BATHROOM RECEPTACLES IS REQUIRED.
- WATER HEATER WILL BE SECURELY STRAPPED TO WALL WITH TWO STRAPS. ONE WITHIN 1/3 OF TOP ON 1/3 OF BOTTOM. ELEVATE WATER HEATER MIN, 18" ABOVE FLOOR ON 1 HR. PANE PEDESTAL.
- PROVIDE APPROVED SMOKE DETECTORS
- SHOWERS SHALL BE FINISHED 70" ABOVE DRAIN WITH MATERIALS NOT ADVERSELY AFFECTED BY MOISTURE.
- SAFETY GLAZING IS REQUIRED AT WARDROBE DOORS, SHOWER DOORS, AND WINDOWS AT BATH TUBS AND SHOWERS AND WITHIN 2' OF DOORS.
- PROVIDE DOUBLE TOP PLATE WITH 48" LAP SPLICES STRAPPED WITH SIMPSON
- PROVIDE FIRE BLOCKING, VERTICAL OR HORIZONTAL, SHALL CONFORM TO IRC
- ROOF SHEATHING: CDX STRUCTURAL 1 PLYWOOD OR APA RATED O.S.B. WITH NAILING PER AT ROOF FRAMING PLAN.
- ALL GLAZING SHALL BE DUAL GLAZED TO MEET THE ENERGY CODE STANDARDS
- PROVIDE R-19 IN THE EXTERIOR WALLS, PROVIDE R-38 IN THE ROOF OR CEILING UNLESS OTHERWISE RECOMMENDED BY CERTIFIED ENERGY REPORT OR LOCAL CODE REQUIREMENTS.
- DRYER VENT SHALL BE 4" SMOOTH ROUND METAL, MAX. LENGTH OF 14" WITH 90 DEGREE BENDS. ANY DEVIATION SHALL BE ENGINEERED AND APPROVED BY
- PROVIDE PLUMBING ACCESS PANEL AT ALL TUBS PER PLUMBING CODE
- ALL GLASS AT TUBS AND SHOWERS SHALL BE TEMPERED SAFETY GLASS
- PROVIDE VENTILATION AT ALL BATHS AND UTILITY ROOMS THROUGH NATURAL OR MECHANICAL MEANS AS INDICATED.
- AN APPROVED CARBON MONOXIDE ALARM SHALL BE INSTALLED IN DWELLING UNITS AS INDICATED

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BUILDING SECTIONS

STRUCTURAL PLANS

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S7	SECOND FLOOR & ROOF FRAMING PLAN	
SD	FRAMING DETAIL	

SETAWAY CABIN 32x32 MODERN

Designer: Designe Drawn By:

NOTES

- 1. Plans are copyrighted and
- inteded for personal builds only 2. Review Plans with your local builder or engineer to make sure It is suitable for your site and local requirements
- Printable sheet size is 18"x24"

REVISIONS

COVER PAGE





WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE STAFF REPORT AND RECOMMENDATION CONDITIONAL USE AND SITE PLAN/PLAN OF OPERATION

DATE: December 11, 2025

FILE NO's.: CU136 and SP284

PETITIONER: Nathaniel Scheel

W391 S3282 County Road Z

Dousman, WI 53118

OWNER: George and Carole Mundschau

W391 S3285 County Road Z

Dousman, WI 53118

NAME OF OPERATION: NP Small Engine

TAX KEY NO.: OTWT 1655.997

LOCATION:

Parcel 1, Certified Survey Map No. 6125, located in part of the SW ¼ of Section 18, T6N, R17E, Town of Ottawa. More specifically, the property is located at W395 S3644 Hardscrabble Road.

ZONING CLASSIFICATION:

AD-10 Agricultural Density-10 District in the Waukesha County Zoning Code.

EXISTING LAND USES:

Residential rental property with a 36' x 56' detached accessory building.

REQUESTED LAND USE:

Limited Family Business (LFB) Conditional Use approval for a small engine repair business.

COMPLIANCE WITH THE WAUKESHA COUNTY AND TOWN OF OTTAWA COMPREHENSIVE DEVELOPMENT PLANS (CDP):

The Waukesha County Comprehensive Development Plan (CDP) and the Town of Ottawa CDP designate the property as Agricultural 10 Acre Density (shown as Rural Density and Other Agricultural Land on the County Plan) which requires a minimum of 10 acres per dwelling unit. Conditional use requests for limited business operations are available in these categories.

PUBLIC HEARING DATE: November 3, 2025

PUBLIC COMMENT:

A gentleman who lives nearby was concerned about the vision corner easement from the driveway to Hardscrabble Road. He was concerned about the number of people dropping equipment off on a dangerous intersection due to the lack of a vision corner easement. He also asked what would happen if the property became a "lawn mower graveyard." The Town Planner informed him the driveway location is proposed to be modified and that approval will be needed from the Building Inspector, which would include a vision corner easement, if applicable. The Planner informed him that a condition of the Conditional Use is that no items for repair shall be stored outdoors.

The Town Chairwoman asked if the Conditional Use could be revoked if lawn mowers are continuously stored outdoors; the Town Planner indicated the Conditional Use would be reviewed and that the Town and County do have the ability to revoke a Conditional Use if the petitioner is not following the conditions.

TOWN PLAN COMMISSION ACTION:

On November 3, 2025, the Town of Ottawa Plan Commission unanimously recommended approval of the request to the Waukesha County Park and Planning Commission subject to the conditions below.

STAFF ANALYSIS:

In 2025, the owner of the property received a Zoning Permit to construct a 36' x 56' detached accessory building to the northeast of the existing residence. There is a gravel driveway serving the residence with a parking pad facing the accessory building. The property is served by a conventional private septic system, and a Preliminary Site Evaluation (PSE) has been approved for both the construction of and change in use of the accessory building. The surrounding landscape is rural in nature, and several adjacent properties have large outbuildings, with some located near the road.

The petitioner is proposing to use the existing accessory building for a small engine repair Limited Family Business which requires consideration of a Conditional Use and Site Plan/Plan of Operation by the Town Plan Commission and the Waukesha County Park and Planning Commission. The building has one large overhead door and one service door. Standard household outdoor lighting is proposed to be installed on the front of the building. The types of items serviced will include lawn mowers including push mowers, snow blowers, and blade sharpening.

The operation would have one full-time employee (the petitioner) with the days of operation being Monday through Saturday from 8:00 a.m. to 5:00 p.m. The petitioner proposes that he will transport 90% of the jobs and 10% will be customer drop off/pick up. Any noise on the property will be minimal in nature and limited to approximately one (1) time per week when the petitioner is diagnosing and testing equipment. He expects it to last for no more than two (2) hours. The petitioner will have residential garbage cans and is scheduling to have them picked up once a week by LRS/GFL Environmental. He proposes that one (1) truck and one (1) trailer be utilized for the business will be stored outdoors. There is no plumbing in the accessory building as the petitioner states he uses rags for engine cleaning and other miscellaneous uses. They will be picked up and washed by ITU AbsorbTech and reused. Hazardous materials such as oil filters, oil, gasoline, coolant, and parts cleaner solution will be stored in drums and picked up regularly by Safety Kleen. The truck, trailer, and garbage cans may be stored outdoors, which is incidental to a residential use and should not be unsightly or a nuisance.

The proposed use will be screened from the road and from the residence on the property by existing vegetation both on the property and along Hardscrabble Road. As noted above, the property is served by a gravel driveway, with a parking pad facing the accessory building. A faint gravel path is currently accessed from Hardscrabble Road, which was utilized during the construction of the accessory building. The petitioner is proposing to relocate the existing drive in order to access both the residence and the accessory building and create limited parking for customers (Exhibit A).

A LFB Conditional Use (CU) allows for the operation of a family business that may operate in an attached garage or detached accessory building in residential and agricultural districts. The property is owned by the petitioner's grandfather, and the petitioner lives less than 0.5 miles from the subject

property. The residence on the subject property is currently rented by a gentleman in his late 80s. The petitioner is deeded the property and plans to move into the residence when it becomes vacant.

There are multiple standards for the LFB CU, and they are as follows:

- A conditional use permit (CUP) for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area. Because the petitioner resides nearby, he is invested in operating the business in a manner that is considerate of the surrounding area. Permitting this use on the property should not create a nuisance or adverse effect on the neighboring property owners or the existing tenant due to vegetative screening on the property and along the road. Additionally, the petitioner will not have many customers coming to the property, and any noise will be minimal. Permitting the business allows for the rural nature of the area to remain.
- All employees, except for one full-time equivalent, shall be members of the family residing on the premises. The intent of this provision is for residents of the property to be the operators of service oriented or home occupation businesses. As discussed above, the owner of the subject property is the grandfather of the petitioner, and the petitioner, who lives less than 0.5 miles away, would be the only non-family member employee. The petitioner is deeded the property and plans to move into the residence once it is vacant. The standard technically permits one (1) full-time equivalent of a non-family member and staff feels it is not unreasonable that the petitioner is that equivalent while he is not residing on the property.
- The plan commission and zoning agency shall determine the percentage of the property that may be devoted to the limited family business, and the more restrictive determination shall apply. The operation will consist of the accessory building and parking area only. Customers will bring their equipment approximately 10% of the time and the petitioner will transport their equipment the remaining 90% of the time.
- The limited family business is restricted to a service-oriented business or home occupation business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit. A small engine repair business is considered a service-oriented business. Accessories to the business may include lightbulbs, batteries, or air filters. The petitioner states he does make occasional parts sales.
- The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building. The petitioner is proposing to utilize a work vehicle and trailer and residential garbage cans. The business is for small engine repair; it is not anticipated that it will become an auto repair business or that multiple lawn mowers and trailers will be stored outdoors. The use cannot become commercial in nature, as a LFB is secondary to the residential use. It is reasonable that the truck, trailer, and garbage cans be permitted to be stored outside the building, as they are incidental to residential uses.

- The Structures used in the limited family business shall be considered to be residential Accessory Buildings and shall meet all the requirements for such Buildings. The design and size of the Structures are subject to conditions in the conditional use permit. The zoning permit for the accessory structure ensures it complies with the Zoning Code and is an accessory use to the residential use on the property.
- The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property. The petitioner plans to reside on the property and rent it from his grandfather once it is available and staff feels it would be appropriate to permit this transfer of the CUP. If his grandfather sells the property to someone other than the petitioner, the CUP will expire.
- The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the town and county to have a potential adverse effect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use. The minimum size for a property in the AD-10 District is one (1) acre; the subject property is 4.4 acres. Much of the acreage of the property spans towards CTH Z and the accessory building is well screened from adjacent properties and the existing residence on the property by existing vegetation.

STAFF RECOMMENDATION:

Based upon the above information and analysis, the Planning and Zoning Division staff recommends **approval** of the request, subject to the following conditions:

- 1. This Conditional Use applies to Tax Key Number OTWT 1655.997 (the subject property), which is owned by George and Carol Mundschau, grandparents of the applicant, Nathaniel Scheel, and all terms and conditions described herein apply to the subject property owners and the petitioner.
- 2. All vehicles, trailers, and equipment owned by the petitioner shall be currently licensed, registered, and operable at all times while stored outdoors on the subject property.
- 3. No items for repair shall be stored outdoors on the subject property.
- 4. No part of the operation shall be hazardous, harmful, noxious, offensive, or become a nuisance to the surrounding area. All activities on the subject property herein may not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor, or any other similar factor. The Town and County reserve the right to review the use at any time and require changes if said use or anything related to the use becomes a nuisance. If it is determined through complaint, inspection, or other method that the use or anything related to the use is hazardous, harmful, noxious, offensive or a nuisance, correctives measures shall be taken, if possible, or the Town and/or the County may require the nuisance be abated (removed) from the site or the use terminated.
- 5. Any outdoor diagnosing or testing of repair items shall be limited and conducted no more than two (2) hours per week.

- 6. The approved hours of operation shall be limited to between the hours of 8:00 a.m. and 5:00 p.m., Monday-Saturday. One (1) full-time employee is permitted.
- 7. All vehicles, trailers, and equipment must be parked/stored a minimum of 10 feet from any property line.
- 8. The accessory building utilized in the business shall be limited in use to indoor storage of tools/equipment used in the business and a large service bay for equipment to be repaired. Except as noted in Condition 2, all items related to the business shall be stored within the 36' x 56' accessory building.
- 9. The only maintenance type activities that shall take place on the subject property shall be maintenance and repair of small engines such as lawn mowers (push and riding) and snowblowers. No vehicular maintenance or repair is permitted as part of the small engine repair operation. All fluids including, but not limited to, chemicals, oils, gasoline, engine fluids, the parts wash solution, etc. shall be properly stored and then properly disposed of or recycled off site.
- 10. The parking area around the accessory building and the residential area shall be surfaced and maintained in a dustless condition to the satisfaction of the Waukesha County Planning and Zoning Division staff at all times that this Conditional Use Permit remains in effect.
- 11. The Waukesha County Environmental Health Division (EHD) shall review and approve of the proposed Conditional Use and Site Plan/Plan of Operation use on the subject property, **prior to the issuance of any permits**. *EHD has approved of the use*.
- 12. All trash shall be properly disposed of on a weekly basis with the regular household trash service, as proposed. All rags, hazardous materials, and fluids from the business shall be properly disposed of or recycled off site, including the parts cleaner solution. The property shall be kept clean of any trash on a daily basis.
- 13. No retail or wholesale business shall be conducted on the subject property, except for the sale of products considered accessories to the business. Customers shall only come to the subject property to drop off/pickup items for repair as necessary. In addition, the business is prohibited from manufacturing or assembling products.
- 14. There shall be no parking or loading/unloading on Hardscrabble Road related to the business. All vehicles shall park and load/unload in the subject property driveway.
- 15. No signage is proposed or permitted herein. If future signage is proposed, it shall comply with Section 7.01(7) of the Zoning Code, and a rendering of the sign shall be submitted to the Town Building Inspector and the County Planning and Zoning Division staff for review and approval prior to the issuance of any permits. No temporary signage is permitted.
- 16. If any vegetation along Hardscrabble Road is removed, it shall be replaced on the subject property to continue to provide screening. Replacement vegetation shall be at least 5' in height at the time of planting.

- 17. The Conditional Use Permit shall be issued within one year from the date of the final approval or the approval shall be null and void, and the use shall cease to exist on the property, unless an extension is granted in writing by the Town of Ottawa Plan Commission.
- 18. This Conditional Use Permit and Site Plan/Plan of Operation shall automatically expire and terminate upon the sale and/or transfer of the property and/or any portion of the property to a non-occupant of the property. The transfer or sale of the property to the Petitioner shall not terminate the Conditional Use.
- 19. The subject property is zoned AD-10 Agricultural Density-10. All uses permitted in the zoning district designated on the subject property that are the subject of this Conditional Use request are still permitted in conjunction with the approval of this Conditional Use request.
- 20. All lighting shall be hooded or beamed so as not to create undesirable glare or illumination for the neighboring properties or the surrounding area. Two (2) wall lights are proposed on the accessory building: one (1) overhead gooseneck light near the peak of the building, and one (1) wall mounted light near the entry door. Any changes to the lighting requires review and approval by the Town Planner and Waukesha County PZD.
- 21. The Town Building Inspector shall inspect the entire premises to ensure all applicable building codes are complied with, and any code violations shall be corrected to the Building Inspector's satisfaction, **prior to the issuance of an Occupancy Permit**. If State Approved Plans are required, the petitioner shall submit a set to the Building Inspector for review and approval **prior to the issuance of any permits by the Town**.
- 22. The petitioner shall have the Western Lakes Fire Department inspect the premises to ensure all applicable fire codes are complied with and any code violations shall be corrected to the Fire Chief's satisfaction, and the petitioner shall submit a list and location of any chemicals and flammable materials to the Fire Department <u>prior to the issuance of the Conditional</u> Use and Site Plan/Plan of Operation Permits.
- 23. The Town Attorney and Town Planner shall review and approve of these conditions as to form. In the event clarification is required, the item shall be referred back to the Town Plan Commission for clarification.
- 24. All conditions of the final approval and permits must be complied with.
- 25. The petitioner shall allow the premises to be available for inspection by the Town of Ottawa officials and Waukesha County staff at any reasonable time with reasonable notice.
- 26. The Petitioner shall ensure an up-to-date Site Plan and Plan of Operation is provided and on file at all times with the Town of Ottawa and Waukesha County.
- 27. The Town and County reserve the right to review any condition imposed as part of this approval if said use becomes a problem in the area. The Town Plan Commission may modify, change, delete, add, etc. any conditions, which they feel may be reasonable in order to allow this use and ensure it does not become detrimental to the surrounding area. Any major change, as determined by the Town Plan Commission and Waukesha County, may require modification to the Conditional Use and Site Plan and Plan of Operation Permits, or

- the use may be terminated. Minor changes, as determined by the Town Planner and Waukesha County, may require modification to the Site Plan/Plan of Operation Permit only.
- 28. This approval is subject to the Petitioner keeping the property in compliance with all Federal, State, County, and local laws, ordinances, codes, rules, and regulations. Documentation shall be submitted to the Town and the County that all required local, county, state, and federal licenses and permits have been obtained, as necessary, **prior to the issuance of any permits.**
- 29. The petitioner is allowed to park one (1) pickup truck and one (1) trailer used in the business outdoors on the property so long as it does not become a nuisance to the neighborhood.
- 30. Subject to the Town of Ottawa's Standard Conditional Use conditions which are as follows:
 - A. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Town Plan Commission and the Waukesha County Park and Planning Commission for determination.
 - B. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order, or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America, or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a zoning or building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.
 - C. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission and the Waukesha County Park and Planning Commission as being in compliance with all pertinent ordinances.
 - D. Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Town Plan Commission and the Waukesha County Park and Planning Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.

- E. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands, or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- F. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Town Plan Commission and the Waukesha County Park and Planning Commission if the Town Plan Commission and the Waukesha County Park and Planning Commission find the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town Plan Commission and the Waukesha County Park and Planning Commission feel, in their sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- G. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
- H. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Town Plan Commission and the Waukesha County Park and Planning Commission.
- I. The Petitioner is obligated to file with the Municipal Clerk a current mailing address and a current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this Conditional Use Permit. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional permit, including proceedings to terminate this Conditional Use Permit. This condition shall be enforced by the Town of Ottawa.
- J. As a condition precedent to the issuance of the Conditional Use Permit, the owner and petitioner of the subject property shall accept the terms and conditions of the Conditional Use approval in its entirety, in writing, **prior to the issuance of any permits**. This Conditional Use/SPPO shall not be effective until and unless the owner and Petitioner accepts the terms and conditions in writing as required.
- K. Professional Fees. The petitioner shall, on demand, reimburse the Town of Ottawa for all costs and expenses of any type that the Town incurs in connection with this conditional use, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this

conditional approval due to a violation of these conditions. This condition shall be enforced by the Town of Ottawa.

L. Payment of Charges. Any unpaid bills owed to the Town of Ottawa by the petitioner, property owner, or their agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within 30 days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval. **This condition shall be enforced by the Town of Ottawa.**

If approved as conditioned, the request will allow for the detached accessory building on the property to be used for the Limited Family Business purpose of small engine repair as outlined and conditioned above. In addition, the use will comply with the Town and County Comprehensive Development Plans and will meet the purpose and intent of the Zoning Code.

Respectfully submitted,

Kassie Slotty

Senior Land Use Specialist

Attachment: Exhibit A

N:\PRKANDLU\Planning and Zoning\Conditional Uses\PROJECT FILES\Ottawa\CU136 Scheel_Mundschau\Staff Report_Exhibits_Decision Letter\CU136 Scheel Staff Report.doc

PLAT OF SURVEY



LOCATION:

Tavat Road, Ottawa, Wisconsin

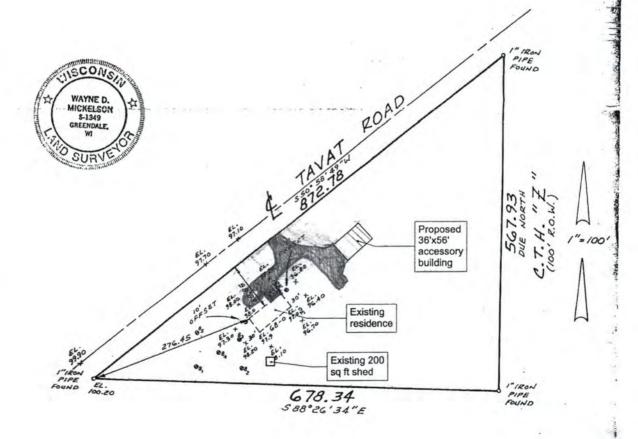
LEGAL DESCRIPTION: CERTIFIED SURVEY MAP NO. , being a part of the NE 1/4 of the SW 1/4 of Section 18, Town 6 North, Range 17 East, in the Town of Ottawa, Waukesha County, Wisconsin.

April 21, 1990

Survey No. 76673

APPROVED SURVEY/SITE PLAN

PROPOSED DRIVEWAY CHANGE: C.V. PARKING



METROPOLITAN SURVEY SERVICE, INC.
REGISTERED LAND SURVEYORS
9415 W. FOREST HOME AVE., SUITE 107 HALES CORNERS, WI 5313
529-5300

I HEREIN CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAY BE A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY. THE EXTERNOR BOUNDARIES, THE LOCATION OF ALL YES

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, MICH.
ALSO THOSE WHO PUPCHASE, MORTIDAGE, OR QUARANTEE THE TITLE THERETO WITHIN CHE IS THERE

SONED Hayre D. Michelson