

ENROLLED ORDINANCE 164-46

APPROVE LAND USE PERMIT TO THE VILLAS OF MAPLEWOOD TERRACE
CONDOMINIUM ASSOCIATION TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN
A PATH CONNECTION TO THE BUGLINE TRAIL

WHEREAS it is deemed desirable to allow The Villas of Maplewood Terrace Condominium Association to construct, operate, repair and maintain a five (5) foot wide asphalt path on Waukesha County's land for the purpose of allowing public pedestrian and nonmotorized access to the Bugline Trail, in the Village of Sussex, and

WHEREAS in the consideration of receiving permission for the path, The Villas of Maplewood Condominium Association shall pay the normal Land Use Permit Fee of \$106.00.

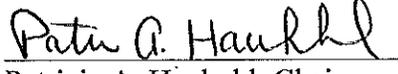
THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Land Use Permit to construct, operate, repair and maintain a five (5) foot wide by fifty-six (56) foot long asphalt path on Waukesha County's land for the purpose of allowing public pedestrian and nonmotorized access to the Bugline Trail, in the Village of Sussex, between The Villas of Maplewood Terrace Condominium Association and Waukesha County, which is on file in the Office of the Department of Parks and Land Use, is hereby approved.

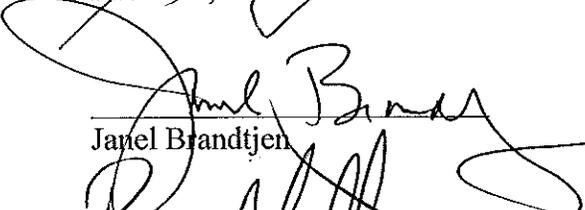
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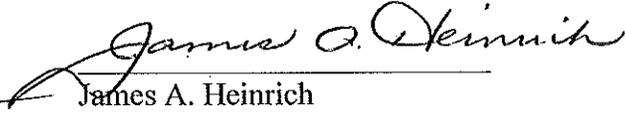
Presented by:
Land Use, Parks and
Environment Committee

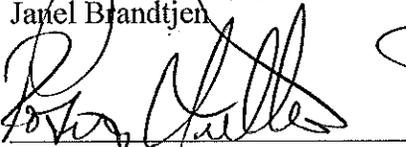
Approved by:
Finance Committee


Fritz Ruf, Chair

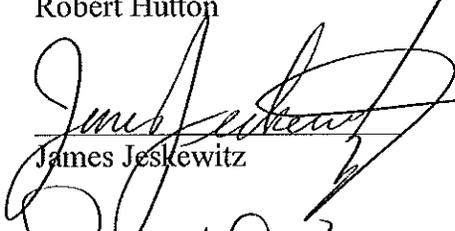

Patricia A. Haukohl, Chair

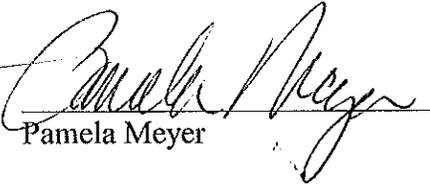

Janel Brandtjen


James A. Heinrich


Robert Hutton

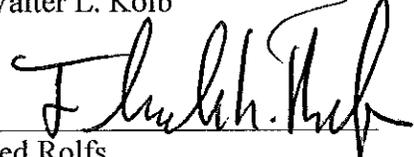
absent
Robert Hutton


James Jeskewitz

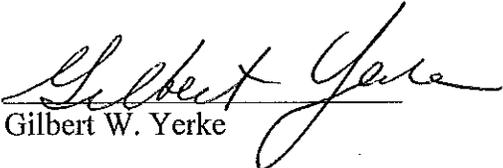

Pamela Meyer

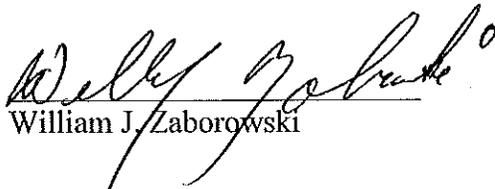

Walter L. Kolb

absent
Jean Tortomasi

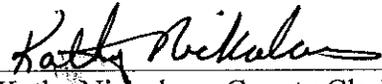

Ted Rolfs


Steven C. Wimmer


Gilbert W. Yerke


William J. Zaborowski

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: October 30, 2009, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

Date: 11-2-09, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-10/27/09

(ORD) NUMBER-1640047

- 1 D. FALSTAD.....AYE
- 3 R. HUTTON.....AYE
- 5 J. JESKEWITZ.....AYE
- 7 P. HAUKOHL.....AYE
- 9 J. HEINRICH.....AYE
- 11 F. RUF.....AYE
- 13 P. DECKER.....AYE
- 15 P. MEYERS.....AYE
- 17 J. TORTOMASI.....AYE
- 19 S. WIMMER.....AYE
- 21 W. ZABOROWSKI.....AYE
- 23 J. PLEDL.....
- 25 G. YERKE.....AYE

- 2 T. ROLFS.....AYE
- 4 J. DWYER.....AYE
- 6 J. BRANDTJEN.....AYE
- 8 T. SCHELLINGER.....AYE
- 10 D. SWAN.....AYE
- 12 P. WOLFF.....AYE
- 14 B. MORRIS.....AYE
- 16 D. PAULSON.....AYE
- 18 K. CUMMINGS.....AYE
- 20 P. JASKE.....AYE
- 22 P. GUNDRUM.....AYE
- 24 W. KOLB.....AYE

TOTAL AYES-24

TOTAL NAYS-00

CARRIED_____

DEFEATED_____

UNANIMOUS K

TOTAL VOTES-24

LAND USE PERMIT

This Land Use Permit is made between Waukesha County (hereinafter "Owner"), and The Villas of Maplewood Terrace Condominium Association ("Association").

PROPERTY DESCRIPTION:

See attached Exhibit "A"

PURPOSE OF LAND USE PERMIT:

This Land Use Permit will allow the Association, including its agents, contractors and subcontractors, to construct, operate, repair and maintain a five (5) foot wide asphalt path ("Path") on Owner's land for the purpose of allowing public pedestrian and non-motorized access from the Association's land to the Owner's Bugline Recreational Trail.

TERMS:

1. FOR AND IN CONSIDERATION of a sum of One Hundred and Six Dollars (\$106.00), the Owner does hereby permit the Association, the right, permission and authority to construct, operate, repair and maintain the Path as a connection to the Owner's Bugline Recreational Trail on those lands located in the Northwest ¼ of Section 26, Town 8 North, Range 19 East, Village of Sussex, Waukesha County, Wisconsin. The area where the Association must place the Path is hereinafter called the "Land Use Permit Area" and the location of the Land Use Permit Area is shown on the attached Exhibit "A", which is incorporated into this Land Use Permit by reference.
2. The Association may not (a) trim, cut down or remove trees or brush on the Owner's property, or (b) install any fencing, fixtures, signs or gates on the Owner's property unless it obtains prior written approval of the Director of the Waukesha County Department of Parks and Land Use.
3. The Association agrees that the Bugline Recreational Trail shall remain open for public use at all times, including during construction, repair, maintenance and related activities by the Association. The Association shall have the right of access upon the Land Use Permit Area for the purposes of exercising the rights herein acquired, and the Association shall promptly restore the premises to the condition existing prior to entry. The restoration shall not apply to any trees or brush which may be permitted to be removed pursuant to the rights granted herein. The Association shall be liable to make prompt payment for any damage caused by it or its agents to any of Owner's trail, fences, parking lots, trail improvements, signs, entrance gates, park improvements, or any other fixtures or facilities of the Owner and for the unauthorized removal of trees.
4. The Association must maintain the Path in a safe condition for the purposes intended and so as to not cause harm or injury to the public. The Owner is not responsible for maintenance of the Path as part of the Bugline Recreational Trail.
5. The Owner reserves the right to utilize its land and the Land Use Permit Area for all purposes, including future trail improvements, signage, pavement and grading.
6. Hold Harmless: Excepting any claims arising out of negligence or willful acts on the part of the Owner, its employees, agents, or assigns, the Association will defend, indemnify and hold harmless the Owner and all of its departments, agencies, boards, officers, employees and agents from any and all liability, loss, damages, expenses and costs, including attorneys fees and expenses, that it may suffer or incur as the result of any injury to or death of any person or damage to property which results from any action or omission, in whole or in part, negligent or

otherwise, of the Association or its agents in connection with any use of the Owner's land under this Land Use Permit.

7. Insurance: The Association shall furnish the Owner with a Certificate of Insurance that is satisfactory to the Owner.
8. Term of Permit: The Association shall be issued this Land Use Permit for a term of twelve (12) years, commencing on the date on which the Owner executes this document. It is anticipated that the Land Use Permit will be utilized to construct the Path in the Fall of 2009 or the Spring of 2010 and if for any reason the Path is not constructed and operational by December 31, 2010, this Land Use Permit automatically terminates. If the permit is utilized and the Path is constructed and operational by the dates set forth above, this Land Use Permit will be valid for twelve (12) years and will be renewable by the Director of the Department of Parks and Land Use once for an additional period of up to twelve (12) years at the permit fee rate that is current at the time of renewal. Any renewal thereafter must be approved by the Waukesha County Board of Supervisors.
9. The Owner may revoke this Land Use Permit for any reason. Prior to any revocation for a violation of the terms of this Permit or a change in the use of the Land Use Permit Area, the Owner shall give written notice to the Association and the Association shall thereafter have sixty (60) days to remedy any violation and bring its use of the land into compliance with this Permit.
10. Upon revocation or expiration of this Land Use Permit, the Owner may require the Association to remove the Path and any facilities and fixtures placed by the Association in the Land Use Permit Area at the cost of the Association.
11. All notices to the Owner shall be sent by certified mail addressed to the Park System Manager, Waukesha County Department of Parks and Land Use, Park System Division, 515 Moreland Blvd, Room AC-230, Waukesha, Wisconsin 53188. All notices to the Association shall be sent by certified mail addressed to The Villas of Maplewood Terrace Condominium Association c/o The Ellery Group 524 Milwaukee Street, Suite 300, Delafield, WI 53018.
12. This Land Use Permit is not transferable or assignable. Should the Association dissolve, terminate, merge or change in any other manner, this Land Use Permit terminates. A new entity or landowner may apply to the Owner for a Land Use Permit for the purposes stated herein.

IN WITNESS WHEREOF, the Owner, has caused this Land Use Permit to be approved by the Waukesha County Board of Supervisors and signed by its County Executive and its County Clerk as evidenced below.

COUNTY OF WAUKESHA

Date: _____

By: _____
Daniel P. Vrakas
Waukesha County Executive

Date: _____

By: _____
Kathy Nickolaus
Waukesha County Clerk

This Land Use Permit is accepted by the Association by the signature of its authorized officer this
_____ day of _____, 2009.

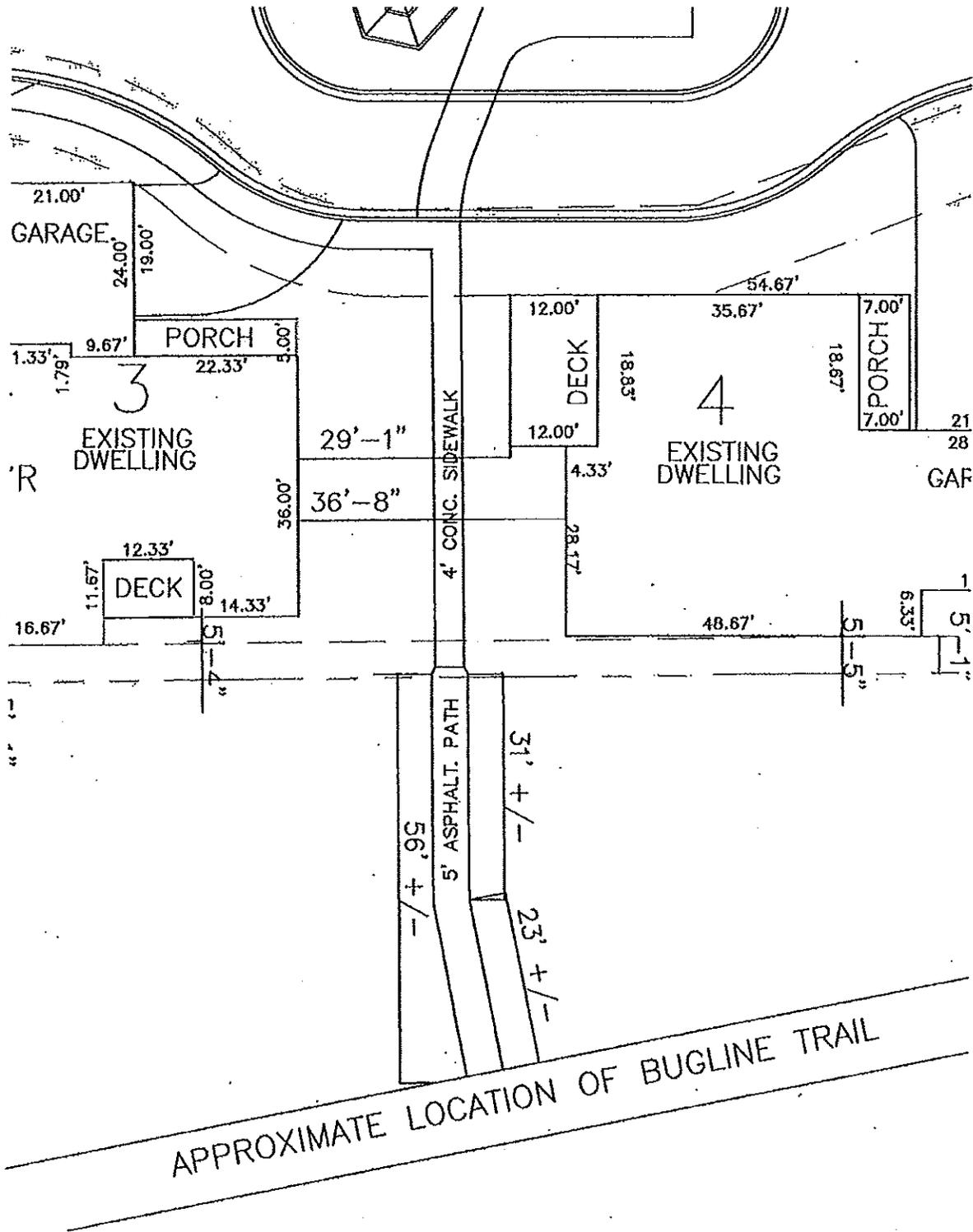
By _____

(Title) _____

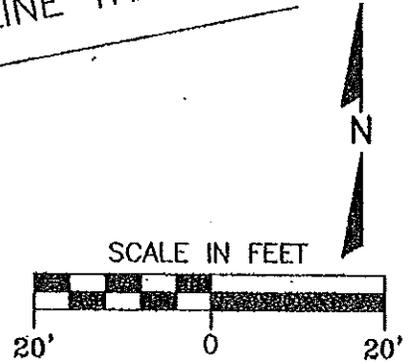
The Villas of Maplewood Terrace Condominium
Association

This instrument was drafted by:
Attorney Deborah B. Price
Waukesha County Corporation Counsel Office

EXHIBIT A



APPROXIMATE LOCATION OF BUGLINE TRAIL



164-0-047

FISCAL NOTE

APPROVE LAND USE PERMIT TO
THE VILLAS OF MAPLEWOOD TERRACE CONDOMINIUM ASSOCIATION
TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN A PATH CONNECTION
TO THE BUGLINE TRAIL

This ordinance authorizes the County Parks and Land Use Department to enter into a land use permit with the Villas of Maplewood Terrace Condominium Association in the Village of Sussex. This permit allows the Association access to the County's Bugline Recreation Trail. The Association will be charged a permit fee of \$106, which will be accounted for in the Parks and Land Use General Fund Budget, where the costs are incurred for issuing these permits.

The term of this permit is twelve (12) years. After this term expires, this agreement is eligible for one additional renewal for a period of twelve (12) years, upon approval of the Director of Parks and Land Use and the County Board, at the permit fee rate that is current at that time.

Lawrence M. Dahl
Accounting Services Manager
10/7/2009