Ordinance No. ~~22~~ 23-19

Ordinance To Enact Amended Polk County Chapter 18 Subdivision Ordinance

TO THE HONORABLE MEMBERS OF THE POLK COUNTY BOARD OF SUPERVISORS:

Ladies and Gentlemen:

WHEREAS, on July 1, 1996 the Polk County Board of Supervisors enacted the Ordinance No. 49-96, entitled as Polk County Chapter 18 Subdivision Ordinance; and

WHEREAS, the Polk County Chapter 18 Subdivision Ordinance had subsequent amendments in 2001, 2005, 2017, and 2019; and

WHEREAS, on April 16, 2019, the Polk County Zoning Administrator filed pursuant to Wisconsin Statute Section 59.69(5)(e) a petition that sought to amend the Polk County Chapter 18 Subdivision Ordinance, through the enactment of the proposed Amended Polk County Chapter 18 Subdivision Ordinance; and

WHEREAS, amendment of the Conservation Design Development standards of the Polk County Chapter 18 Subdivision Ordinance will allow unique physical property features to be included in the total lot area; however, will also require all lots to have at least a net project area of 7,000 square feet; and

WHEREAS, the proposed amendments also eliminate the need for internal common open space in a Conservation Design Development; and

WHEREAS, on May 8, 2019 the Polk County Environmental Services Committee, as the planning and zoning committee, opened and held a public hearing on the petition to amend the Polk County Chapter 18 Subdivision Ordinance and no public comment was received; and

WHEREAS, the Polk County Environmental Services Committee recommends the Polk County Board of Supervisors enact as and for the county's subdivision ordinance under Wisconsin Statute Chapter 236, the attached proposed ordinance, entitled "Amended Polk County Chapter 18 Subdivision Ordinance".

NOW, THEREFORE, pursuant to Wisconsin Statute Section 59.69(5)(e), the Polk County Board of Supervisors ordains as follows:

1. The Amended Polk County Chapter 18 Subdivision Ordinance, attached hereto and incorporated herein, is enacted.

2. Pursuant to Wisconsin Statute Sections 59.14(1) and 985.01(5), the County Clerk is directed to cause to be published the ordinance enacted herein.

3. The Amended Polk County Chapter 18 Subdivision Ordinance shall be effective upon passage and publication as provided by law.

Funding Source/ Funding Amount:	Not Applicable
Date Reviewed as to Appropriations:	Not Applicable
Committee Recommendation as To Appropriation:	Not Applicable
Effective Date:	Upon Passage and Publication
Dated Submitted To County Board	May 21, 2019
Submitted and Recommendation of the Polk County Environmental Services Committee: Kim O'Connell, Committee Chair	

Review by County Administrator:	Review By Corporation Counsel
☒ Recommended ☐ Not Recommended ☐ Reviewed Only Nick Osborne, County Administrator	☒ Approved as to Form ☐ Recommended Malia T. Malone, Corporation Counsel

County Board Action

At its regular business meeting on May 21, 2019 the Polk County Board of Supervisors enacted the above-entitled ordinance: Ordinance No.23-19:
Ordinance To Enact Amended Polk County Chapter 18 Subdivision Ordinance, by majority vote of the entire membership of a ~~vote of ___ in favor and ___ against.~~ majority voice vote

Dean Johansen, County Board Chairperson — Dated: 5/22/19

Attest: Sharon Jorgenson, Polk County — Dated: 5-22-19

Certification of Publication

The above-enacted ordinance, Ordinance No.23-19: Ordinance To Enact Amended Polk County Chapter 18 Subdivision Ordinance, was published in the Inter-County Leader on the 12 day of June, 2019.

Sharon Jorgenson, County Clerk — Dated: 5-30-19

CERTIFIED COPY OF POLK COUNTY ORDINANCE

STATE OF WISCONSIN

COUNTY OF POLK

I, Sharon E. Jorgenson, Polk County Clerk do hereby certify that the attached hereto and incorporated herein is a full, true and correct copy of the Polk County Ordinance No. 23-19: Ordinance to Enact Amended Polk County Chapter 18 SubdivisionOrdinance as adopted by the Polk County Board of Supervisors on the 21st day of May 2019.

Sharon E. Jorgenson 5/22/19

Sharon E. Jorgenson, Polk County Clerk Date

Polk County Ordinance No. 23-19, Ordinance to Enact Amended Polk County Chapter 18 Subdivision Ordinance

Notice is hereby given that the Polk County Board of Supervisors adopted the ordinance listed above during the Tuesday, May 21, 2019, regular meeting of the Polk County Board of Supervisors.

Ordinance No. 23-19 shall be effective upon publication on June 5, 2019.

The purpose of the Polk County Chapter 18 Subdivision Ordinance is to regulate and control subdivision development within Polk County in order to promote public health, safety, general welfare, water quality, and aesthetics. This can be accomplished by requiring an orderly layout and use of land, providing safe access to highways, roads and streets, facilitating adequate water, sewer, transportation, surface drainage systems, parks, playgrounds and other public facilities.

The new amendments allow slopes over 20% and other unique physical property features to be included in the lot area instead of the common open space, and all internal common open space requirements for a conservation design development under Appendix B have been removed. A net buildable area of 7,000 square feet per lot was adopted as a new requirement under this type of subdivision.

Complete copies of Ordinance No. 23-19 may be obtained by contacting the Polk County Clerk office, located at 100 Polk County Plaza, Suite 110, Balsam Lake, Wisconsin or by calling 715-485-9226. The complete document may also be viewed on line on the Polk County Website at: www.co.polk.wi.us under the Division of Zoning.

POLK COUNTY CHAPTER 18 SUBDIVISION ORDINANCE

Ordinance No. 23-19
Polk County Chapter 18 Subdivision Ordinance
Enacted: May 21, 2019; Published: June 5, 2019
Effective Date: June 5, 2019

Polk County Land Information Department
Polk County Government Center
100 Polk County Plaza, Suite 130
Balsam Lake, WI 54810
715-485-9111
715-485-9246 Fax
www.co.polk.wi.us/landinfo/zoning

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18.01 PURPOSE

The purpose of this Ordinance is to regulate and control subdivision development within Polk County in order to promote public health, safety, general welfare, water quality, and aesthetics. This can be accomplished by requiring an orderly layout and use of land, providing safe access to highways, roads and streets, facilitating adequate provision of water, sewer, transportation and surface drainage systems and parks, playgrounds and other public facilities.

18.02 AUTHORITY

This Ordinance is adopted under the authority granted by Chapters 59.69, 87.30, 92, 145, 236, and 281, Wisconsin Statutes.

18.03 DEFINITIONS

The definitions set forth in Chapter 236 of the Wisconsin Statutes are incorporated into this Ordinance. In addition, for purposes of this Ordinance, certain words or phrases used herein are defined as follows:

(A) County. The County of Polk, a political subdivision of the State of Wisconsin.

(B) Committee. The subcommittee of the Polk County Board of Supervisors responsible for the administration of land use regulations including subdivisions. The name of the Committee at the time of the adoption of this ordinance is the Environmental Services Committee. The Committee is the County Zoning Agency under Chapter 236 and Chapter 59 of the Wisconsin Statutes.

(C) CSM. A Certified Survey Map showing division of land prepared in accordance with sec. 236.34, Wisconsin Statutes, and this Ordinance.

(D) Director. The county staff person responsible for the implementation and administration of land use ordinances in Polk County.

(E) DNR. The Wisconsin Department of Natural Resources. Wisconsin Administrative Code rules promulgated by DNR are preceded by "NR", as in NR 115.

(F) DOA. The Wisconsin Department of Administration. Wisconsin Administrative Code rules promulgated by DOA are preceded by "Adm", as in Adm 47.

(G) DSPS. The Wisconsin Department of Safety and Professional Services. Wisconsin Administrative Code rules promulgate by DSPS are preceded by "SPS", as in SPS 383.

(H) DOT. The Wisconsin Department of Transportation. Wisconsin Administrative Code rules promulgated by DOT are preceded by "Trans", as in Trans 233.

(I) Driveway. An access used for purposes of ingress and egress serving not more than two (2) lots.

(J) Dwelling. A main building or principle structure designed for human habitation. This includes manufactured homes, mobile homes, camping units, travel trailers, bunkhouses, and other temporary sleeping units.

(K) Easement. Part of a lot so designated on a CSM or plat and utilized for a specific purpose.

(L) Extraterritorial subdivision approval jurisdiction. The unincorporated area or within one and one half (1-1/2) miles of the corporate limits of a city of the fourth class or a village if the city or village has a subdivision ordinance or official map.

(M) FEMA. The Federal Emergency Management Agency responsible for implementing the National Flood Insurance Program.

(N) Flag Lot. A lot where access to the public road system is by a narrow strip of land, easement, or private right-of-way, greater than 100 feet in length.

(O) Impervious Surface. An area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in Wis. Stat. § 340.01(54) or sidewalks as defined in Wis. Stat. § 340.01(58) are not considered impervious surfaces.

(P) Lot. A parcel of land occupied or designed to provide space necessary for one principal building and its accessory buildings or uses, including the open spaces required by this ordinance and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office of the County Register of Deeds, or any part of a large parcel when such part complies with the requirements of this Ordinance as to width and area for the district in which it is located.

(Q) LWRD. The Polk County Land and Water Resources Department.

(R) Navigable waters. Waters deemed navigable under the navigable-in-fact principle of Chapter 30, Wisconsin Statutes.

(S) Net project area. The area of a lot exclusive of wetlands, ponds, lakes, drainage ways, dedicated road rights-of-way or road easements, floodplains, and slopes of 20% or greater. (Note: Building within floodplains and on slopes of 20% or greater is not restricted, however, further erosion control measures may be necessary)

(T) NRCS. The Natural Resource Conservation Service, a division of the USDA.

(U) OHWM. The ordinary high water mark is the point on the banks or shore up to which the presence and action of water is so continuous as to have a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristics.

(V) Outlot. A lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that

which is accessory to the open space use. An Outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

(W) Parcel. Contiguous land not separated by road or railroad rights-of-way.

(X) Plat. A map of a major subdivision pursuant to Wis. Stat. 236.

(Y) Road. A public or private way for vehicular traffic that includes the following:

(1) Cul-de-sac roads have a turn-around at one end.
(2) Dead-end roads are closed at one end.

(Z) Shoreland area. All land within 300 feet of the OHWM of a navigable river or stream and within 1,000 feet of the OHWM of a navigable lake, pond, or flowage or to the landward side of the flood plain, whichever is greater.

(AA) Subdivider. Any person, partnership, corporation or other entity that submits to the County a proposed Subdivision for review and approval, or any person, partnership, corporation or other entity that executes the final Subdivision Plat or CSM which is recorded and effectuates the Subdivision.

(BB) Subdivision. A division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or building development where the act of division creates or results in one or more parcels, lots, outlots, or building sites. Subdivisions are further defined as:

(1) Major Subdivision. A subdivision creating five (5) or more lots and/or outlots, within a 5-year period from a parcel of land existing on June 30, 1996. Major subdivisions require state DOA approval.

(2) Minor Subdivision. A subdivision creating one (1) to four (4) lots and/or outlots, within a 5-year period from a parcel of land existing on June 30, 1996.

(3) A subdivision can be created by the following means (not an exclusive list):

Recording a state or major subdivision plat or a CSM.

Recording any other document or instrument that creates a parcel not previously created pursuant to this Ordinance or its predecessor.

Foreclosure of a mortgage or a land contract if the foreclosure creates and/or conveys a parcel not previously created pursuant to this Ordinance.

(CC) Town. Any town within the County.

(DD) USDA. The United States Department of Agriculture.

(EE) USGS. The United States Geological Survey, a division of the United States Department of the Interior.

(FF) Wetland. An area where water is at, near, or above the land surface long enough to support aquatic or hydrophytic (water-loving) vegetation and has soils indicative of wet conditions.

18.04 COMPLIANCE AND REQUIREMENTS

No person, partnership, corporation or other entity shall subdivide any land in the unincorporated areas of the County subject to this Ordinance without complying with the applicable rules and regulations listed below:

(A) Chapters 59, 87, 92, 15, 236, and 281, Wisconsin Statutes.

(B) For state approved subdivision plats, the rules of the Wisconsin Department of Administration (DOA) regarding that agency's administration of Chapters 236.13(2m), 236.15, 236.16, 236.20, and 236.21(1) and (2), Wisconsin Statutes.

(C) Statutory requirements relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting road (TRANS 233, Wisconsin Administrative Code).

(D) Statutory requirements regulating development within floodplain, wetland, shoreland areas, and Standard Best Management Practices, including Chapter 30, Wisconsin Statutes, and NR 102, 103, 115, 116, 118, and 151 Wisconsin Administrative Code.

(E) All County and Town land use regulations, including this Ordinance, and all other applicable local and county regulations and plans.

(F) Dedication of lands for streets, highways, and parkways, parks, playgrounds, trails, waterways, and public transit facilities pursuant to an adopted County or Town comprehensive plan or County development plan. Whenever a parcel of land to be divided within the jurisdiction of this Ordinance encompasses all or any part of a road, highway, parkway, park, playground, trail, waterway, or public transit facility that has been designated on a duly adopted city, village, town or County comprehensive plan, public facilities plan, or park plan, it shall be made a part of the subdivision and dedicated in the locations and dimensions indicated in said plan.

(G) Regulations applicable to the St. Croix Riverway district and/or to the banks, bluffs and blufftops of the Lower St. Croix River, as provided in the Polk County Lower St. Croix Scenic Riverway Ordinance.

18.05 EXEMPTIONS

(A) The following subdivisions are exempt from Sections 18.11-14, 18.18(B) &(C), 18.20, and 18.22 of this Ordinance:

(1) The single division of a fractional or full quarter-quarter section into two (2) equal parcels. (Ex. North ½ SE1/4, NW1/4 and South ½ SE1/4, NW1/4)

(2) Lots created by CSM for utility and/or telephone transmission facilities not to exceed 10,000 square feet in size.

(3) The sale or exchange of parcels of land between owners of abutting property if additional parcels are not thereby created and the parcels resulting are not reduced below minimum lot sizes required by this Ordinance or other applicable laws or regulations.

(4) Transfers of land by will or court order except when a division of land occurs in said transfer.

(5) Leases creating less than five parcels for terms not to exceed ten years;

(6) Easements;

(7) Mortgages;

(8) Cemetery plats made under Chapter 157.07, Wisconsin Statutes.

(9) Assessors' plats made under Chapter 70.27, Wisconsin Statutes.

(B) The document, Plat, or CSM shall identify the specific exemption claimed. Anyone using an exemption described in this section shall be subject to prosecution under this Ordinance if the Committee subsequently determines that the exemption was not available.

(C) A parcel created by virtue of any exemption under this section is not exempt from other applicable regulations. Any parcel that does not satisfy the standards of any regulation or law as to characteristics, such as parcel size or dimension, standards governing waste disposal, or the like, shall not be eligible for relief from such standards by variance.

18.06 ABROGATION AND GREATER RESTRICTIONS

This Ordinance does not repeal, abrogate, annul, impair, or interfere with easements, covenants, agreements, rules, regulations, local ordinances, or permits. Where this Ordinance or local regulations or ordinances imposes greater restrictions, those greater restrictions shall govern.

18.07 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.

18.08 DISCLAIMER OF LIABILITY

The County does not guarantee, warrant, nor represent that only those areas delineated as floodways or flood fringe areas on plats and CSM's will be subject to periodic inundation. Nor does the County guarantee, warrant, nor represent that the soils shown to be unsuitable for a given land use from tests required by this Ordinance are the only unsuitable soils on the parcel. The County asserts that there is no liability on the part of the County, its agencies, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Ordinance.

18.09 SEVERABILITY

If any section, provision or portion of this Ordinance is determined to be invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

18.10 SURVEY REQUIRED

(A) Any division of a parcel of land creating a lot or outlot shall be implemented using a CSM or Plat prepared as required pursuant to this Ordinance by a Wisconsin registered land surveyor unless it is exempted under Section 18.05. Any applicable Town regulations or County standards that may have been adopted by a Town as its standards shall apply.

(B) A survey is not required for the sale or exchange of parcels of land between owners of abutting property if additional parcels are not thereby created and the parcels resulting are not reduced below the minimum lot sizes required by this Ordinance or other applicable laws or regulations. However, the legal description or preliminary map of such lot line adjustment shall be reviewed by the County prior to recording any document evidencing the contemplated sale or exchange of real estate under this exemption. The legal description or preliminary map shall clearly describe or indicate the parcel to which it is to be attached.

(C) Whenever a subdivision requires the perpetuation, restoration, or use of a U.S. Public Land Survey System corner the Land Surveyor shall comply with Wisconsin Administrative Code A-E 7.08, U.S. Public Land Survey Monument Record as each may be amended, and any other applicable law or regulation, prior to the County granting final approval.

18.11 APPLICATION AND REVIEW OF PRELIMINARY PLATS

(A) Pre-application meeting.

(1) Before applying for approval of a preliminary plat, the subdivider or agent shall meet with the Director and other County staff for a pre-application meeting to receive advice and assistance, and review the procedures and requirements of this Ordinance, other regulations, and any plans or data that may affect the proposed land division and/or development. All subdivisions must reference bearings to the Polk County Coordinate System.

(2) County Staff may require the subdivider to bring a sketch-concept drawing of the proposed subdivision to the pre-application meeting, along with a USGS quadrangle map and County soils map for the proposed subdivision and relevant adjacent land. As part of the pre-application review, the proposal may be referred to DNR or other appropriate state agencies for review and comment. Pre-application procedures may include a site visit by County staff.

(3) A principal function of the pre-application procedure shall be to review the concept of the proposed subdivision, the characteristics of the parcel proposed to be subdivided and relevant adjacent land to identify and document suitability questions. The assignment of the vertical datum will be discussed at the pre-application meeting.

(B) Preliminary plat application.

(1) The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider even if only a portion is proposed for development. The preliminary plat application shall show or identify the original parcel of which the proposed subdivision was part on the effective date of this Ordinance, and the present status of the remainder of the original parcel as it existed on the effective date of this Ordinance. Each preliminary plat shall be based upon a boundary survey by a Wisconsin registered land surveyor at a scale of not more than 100 feet to one inch and shall show, at a minimum, the data identified below on its face or in accompanying materials:

(a) The date, graphic scale and north point.

(b) The name of the proposed plat.

(c) The name, address and telephone number of the subdivider and, if different, the person to be contacted regarding the plat.

(d) The owner of record.

(e) A scale drawing of the exterior boundaries of the proposed subdivision referenced to a line established in the U.S. Public Lands Survey, and the total acreage encompassed thereby.

(f) The location and names of adjacent plats, tax parcel number, certified survey maps, parks, and cemeteries, underscored with a dotted or dashed line.

(g) The location, right-of-way width and names of any existing roads or other public ways, easements, railroad or utility rights-of-way, and any existing access control limitations included within or adjacent to the proposed plat, underscored with a dotted or dashed line.

(h) The location, construction plans, and specifications for all public and private roads required by applicable Town regulations. The preliminary plat shall identify areas suitable for driveways and shall require the subdivider to dedicate access restrictions and such restrictions shall be explained within the application material, and noted on the face of the plat.

(i) Dimensions, size and numbers of all lots contained within the preliminary plat. Where applicable, size shall be indicated with inclusion and exclusion of rights-of-way and areas below the OHWM of navigable waters.

(j) A general statement indicating the existing land use and zoning designation and any proposed or anticipated changes to the land use and/or zoning designation. Each lot description shall identify the net project area and the driveway access to the abutting road. In some cases, the County may require the subdivider to show all required setbacks for each lot.

(k) The locations of all storm water plan soil borings shall be shown with cross-reference to test results within soil test forms (SBD-8330) or other report documents.

(l) Specific identification of all proposed outlots, indicating purpose and proposed ownership and control. Any lot or outlot owned by a

homeowners association or commonly owned, and any private road shall have deed restrictions or covenants against all lots within the subdivision providing for assessments against the lots within the subdivision for taxes. The plat shall reference these deed restrictions.

(2) County staff shall conduct an on-site review. The following information may be required by the County based on that review:

(a) The surveyed location of existing property lines, buildings, streams, rivers, watercourses, ponds, and lakes as identified in the DNR "Inland Waters Inventory". The locations of other significant features within the proposed subdivision such as, wetlands, rock outcrops, wooded areas, etc.

(b) The water elevations referenced to the assigned datum, of on-site lakes, ponds or streams at the date of the survey, the OHWM, and depicted flood areas from "FEMA" maps and floodplain zoning maps.

(c) The contours at vertical intervals of not more than two (2) feet for a slope less than 20% and five (5) feet for a slope of 20% or more. Land areas with 20% slope or greater shall be shaded or otherwise clearly indicated.

(d) The location and dimensions of all land proposed to be dedicated for parks, playgrounds, trails, and drainage ways.

(e) Stormwater Management and Erosion and Sediment Control plans. The Director may waive the requirements of Sections 18.11 (B)(2)(c) and (e), and Section 18.12 (B)(1) for LWRD review, under authority of Sections 18.11 (B)(2), and 18.14(A)(2).

1. Stormwater Management and Erosion and Sediment Control Plans shall meet or exceed the design criteria, standards, specifications and Best Management Practices identified in paragraphs (2) through (9) below and in the following documents or their subsequent revisions:

a. NR 151 Subchapters I, III, and IV.

b. The Wisconsin Stormwater Manual, DNR WR-349-94.

c. The Wisconsin Construction Site Best Management Practices Handbook, DNR WR-222-93.

d. DOT Erosion Control Product Acceptability List.

e. DOT Standard Specifications for Highway and Structure Construction Manual.

f. DOT Facilities Development Manual..

g. USDA Technical Guide 4.

h. LWRD Policy Procedures.

i. Any erosion and sediment control measures shall be installed before land disturbing activities commence.

2. Stormwater management and erosion and sediment control plans shall be certified by a registered professional engineer.

3. A developer's agreement (if required) shall contain a provision that requires the registered professional engineer to do the following:

a. Commit to oversee installation of all stormwater management and erosion and sediment control features shown on the approved plans.

b. Submit a set of record drawings upon completion.

c. Certify that all required improvements have been installed in substantial conformance with the approved plans. (This certification shall not release the subdivider from the responsibility to construct improvements in accordance with approved plans until Town and County inspections have been made, and approval of the substantial conformance conditions has been given by the respective public agencies).

4. Post development runoff volume must be maintained or reduced compared to pre-development conditions for the 25-year, 24-hour, Type II storm event.

5. Peak runoff discharge rates must be maintained or reduced compared to pre-development conditions for the 2-, 10-, and 100-year, 24-hour, Type II storm event.

6. A maintenance plan shall be submitted for all designed stormwater ponds.

7. Perennial and intermittent streams, springs, and drainage ways that contain concentrated flow water or during a 10-year, 24-hour, Type II storm event shall be required to have a minimum filter strip for sediment trapping as defined in NRCS Filter Strip Practice Standard, Code 393.

8. Constructed drainage swales shall be designed at a minimum to accommodate a 10-year, 24-hour, Type II storm event.

(f) Wetlands, floodplains and lands within shoreland jurisdiction proposed for filling and grading.

(Note: Wetland depictions on final plats shall be based on field identification and on-site staking performed by a wetland delineator hired by the subdivider and may be reviewed for accuracy by the DNR and/or County. Floodplain boundaries are to be based on maps approved by the County.)

(3) In addition to the above information, the subdivider must submit a completed Town government checklist for each requested Subdivision.

(4) If a subdivider or the surveyor engaged by the subdivider demonstrates to the satisfaction of the Committee that the appropriate Town officials were or should have been aware of a request to complete a checklist and the Town officials failed, refused or neglected to complete the checklist, despite diligent efforts by the subdivider or surveyor to convince the Town officials to do so, the Committee may waive the requirement of the checklist. The Committee shall not, however, waive the sanitary soil testing requirement without written approval by the Town.

(5) The County may refuse to approve the subdivision or assess costs if the Town requirements for public improvements are not complied with.

(6) The Committee may require additional data or details relevant for proper review. Descriptive data shall be sufficiently precise to allow the Committee to determine compliance. Existing features shall be shown as such by distinctive underscoring or other identifiers.

(C) Condominiums

(1) A condominium plat prepared pursuant to Wisconsin Statutes § 703.11, and other applicable statutes, shall be subject to this Ordinance. The condominium plat shall be reviewed by the Director in the same manner as

a subdivision plat, comply with applicable design standards, and provide for the installation of required improvements.

(a) Common facilities and open space may be held as common elements described in condominium instruments. The condominium instruments shall conform to the requirements of Wisconsin Statutes Chapter 703, as amended.

(b) The applicant shall provide to the Director a description of the condominium association, including draft condominium instruments, and all documents governing maintenance and use of common facilities and common open space.

(c) The condominium plat shall follow the same design and installation standards for the common open space that are found in this Ordinance.

18.12 PROCEDURE FOR PRELIMINARY PLAT REVIEW

(A) The subdivider shall submit two (2) legible copies of the preliminary plat or survey to the Director and the required number of legible copies for each of the reviewing agencies, as deemed necessary by the Director, listed in (B), below. In addition to the procedures set forth below, any subdivision must comply with the provisions of Section 18.11 and Chapter 236.12 of the Wisconsin Statutes.

(B) The Director shall transmit copies of the preliminary plat as follows:

(1) Two (2) copies to the following:

(a) The LWRD;

(b) The town(s) within which the proposed subdivision is located;

(c) If a plat is not made pursuant to a CSM, the DOT if the subdivision abuts or adjoins a state trunk highway or a connecting road; and

(d) The DNR if shorelands or floodplains are contained within the proposed subdivision.

(2) One (1) copy to the following:

(a) The Lake Protection and Rehabilitation District if within the District's sub-watershed; and,

(b) Any city or village having extraterritorial subdivision approval jurisdiction.

(A) With the exception of state approved subdivisions, the agencies listed above are not considered to be objecting agencies, however, the County reserves the right to consider all comments and/or reports received by the above, in the County's review process. In addition, the County shall determine compliance of the plat with Chapters 236.16, 236.20, and 236.21, Wisconsin Statutes, for plats that are not reviewed by the DOA.

(B) The Director shall notify each agency listed above when the copies are sent that it has 45 days from receipt to submit comments and/or reports to the Director.

(C) The Director shall compile comments and/or reports from (B) above, and issue a written evaluation report on all relevant aspects of the preliminary plat within 60 days of submittal of the preliminary plat, with copies made available to the town(s), the Committee, the Lake District (if applicable), and the subdivider.

(F) The subdivider may include a phasing plan for a preliminary plat, subject to approval by the Committee. All future phases of the plan must be approved and recorded as final plats within the timeframe of the phasing plan, not to exceed 36 months. If any portions of a preliminary plat have not been approved and recorded as a final plat within 36 months, the remaining unrecorded portions of the preliminary plat are null and void, and must be resubmitted as a preliminary plat, subject to any and all regulations in effect at the time of re-submittal.

(G) Within ninety (90) days from the date of submittal of the preliminary plat, the Committee shall approve, approve conditionally, or reject the preliminary plat. The Committee shall not approve a subdivision or plat requiring state approval unless the state agencies have issued approvals or have notified the Committee that the agencies have no objection to the plat or unless the approval or non-objection has been deemed to occur by state law. Action by the Committee may be postponed past the 90-day limit by written agreement between the Committee and the subdivider, or upon a determination by the Committee that additional information is required. A postponement shall not exceed 40 days. The Committee's action shall be provided, in writing, to the Town(s), Lake District (if applicable), and subdivider. (Note: Postponements shall not constitute approval. Plats meeting the statewide definition of subdivision in Chapter 236.02(12), Wisconsin Statutes, shall be subject to the provisions of Chapter 236.11, Wisconsin Statutes, with respect to time available for review and approval of the preliminary plat.)

18.13 APPLICATION AND REVIEW OF FINAL PLATS

(A) A final plat shall substantially conform to the preliminary plat. An exception to this is the incorporation of written recommendations by the review committee. The

subdivider may submit a final plat on a portion of the preliminary plat as part of a phased development. Subsequent final plats of a phased development shall conform to the approved preliminary plat, and shall be submitted within a timeframe approved by the Committee (or earlier), not to exceed 36 months. Any final plat of a phased development submitted after 36 months of the initial approval of the preliminary plat shall be reviewed as a new preliminary plat and shall conform to any and all regulations in effect at the time of the new submittal. Wetlands shall be shown on the final plat and be based upon on-site staking by a wetland delineator that may be reviewed by the County and/or DNR. CSM's shall not be accepted for final plats of major subdivisions, or for intermediate phases of phased final plats.

(B) The subdivider shall submit two (2) legible copies of the final plat, accompanying materials, and whenever a subdivision requires the perpetuation or restoration of a U.S. Public Land Survey System corner(s), the U.S. Public Land Survey Monument Record of each corner set, to the Director. The final plat shall conform to the standards of Chapter 236.20, Wisconsin Statutes regarding the legibility of documents. For state approved subdivisions, the subdivider shall comply with the provisions of Chapter 236.12, Wisconsin Statutes, as they apply to the submission of final plats. Additional requirements can be found in Appendix A.

(C) The subdivider shall submit all proposed restrictive covenants or deed restrictions in the final plat.

(D) If the final plat not subject to a phasing agreement is not submitted within twelve (12) months of the approval of the preliminary plat, the Committee may refuse to approve the final plat, based on major land use changes affecting the plat, significant ordinance revisions, or legal implications. Final plats shall be submitted within eighteen (18) months of the approval of the preliminary plat. If the final plat is not submitted within eighteen (18) months of the approval of the preliminary plat, the plat shall be reviewed as a new preliminary plat.

(E) The agencies to whom the final plat is sent shall be notified in writing that their comments or reviews must be submitted to the Director within 30 days of receipt unless a shorter deadline is established for "objecting agencies" under state law. The Director shall compile all comments and reviews and incorporate them into a comprehensive report on the proposed final plat to the Committee.

(F) The Committee shall examine the final plat for conformance with the approved preliminary plat, any conditions of approval of the preliminary plat, this Ordinance, and all laws, rules, regulations, comprehensive plans and comprehensive plan components which apply to it. The Committee shall approve, approve conditionally or reject the plat within 45 days of its submission. Failure of the Committee to take action on the plat within 45 days shall be deemed approval unless other agencies have not responded within the allowable time, there remain unsatisfied objections by other

agencies, or unless the Committee's review time has been extended by written agreement with the subdivider.

(G) The Committee shall, at the time it approves, approves conditionally, or rejects the final plat, give written notice of its decision to the Town(s) and Lake District (if applicable) where the proposed plat is located and any municipality having extraterritorial subdivision approval jurisdiction. For state approved subdivisions, the Committee shall not approve the plat unless the State agencies have issued approvals or have notified the Committee that the agencies have no objection to the plat or unless the approval or non-objection has been deemed to occur by state law.

(H) After the Committee approves a final plat, and the town required improvements have either been installed, or an agreement and sureties insuring their installation has been filed, the Director shall certify the approval upon the plat. After certification of approval, the subdivider shall record the plat and all documents relating to the plat with the County Register of Deeds. The subdivider must provide to the Director, one (1) copy of the recorded plat and recorded documents. If copies of the recorded plat and other recorded documents are not provided to the Director within 30 days of the date of certification of final approval, the County approval of the plat is terminated.

18.14 MINOR SUBDIVISIONS

(A) Minor subdivisions accomplished by CSM shall be processed under this section:

(1) County staff may require a pre-application conference between the subdivider and County staff.

(2) Subdivider shall submit to the County a preliminary CSM and accompanying application materials shall be submitted for review and approval.

(a) The content of the submittal and the process of review by the County shall be the same as for a preliminary plat, except that the Director shall have the authority to take action on the preliminary CSM, unless the subdivider requests Committee review.

(b) Based upon the on-site review required under Section 18.11 (B)(2), and any other relevant information, the Director may waive the requirements of Sections 18.11 (B)(2)(b), (c), and (e), and Section 18.12 (B)(1) for the LWRD review.

(c) The procedures and standards of Chapter 236.34, Wisconsin Statutes, shall apply to a minor subdivision.

(d) The Director must take action on the preliminary CSM within 45 days of submittal, unless waived in writing by the subdivider.

(3) Subdivider shall submit to the County a final CSM shall be submitted for each minor subdivision.

(a) Any applicable procedures and standards of Section 18.13 shall apply to a minor subdivision.

(b) The Director shall have the authority to take action on the final CSM without committee approval.

(c) The form of the CSM shall comply with Chapter 236.34, Wisconsin Statutes, and shall also contain any additional information required by the Director at either the preliminary or final review stage.

(d) The Director must take action on the final CSM within 30 days of submittal, unless waived in writing by the subdivider. If approved, the Director shall certify the approval on the final CSM.

18.15 REPLATS

(A) A replat is a change to the exterior boundaries of a previously platted subdivision or part thereof. A replat does not include the changing the interior boundaries within a previously recorded subdivision.

(B) If a replat creates one or more lots or outlots, it shall be deemed a subdivision under this ordinance.

(C) A replat that does not alter areas dedicated to the public, or lots and/or outlots owned in common by the owners of lots and/or outlots within the subdivision, shall be processed as a Subdivision under this Ordinance. Whether it is processed as a Major or Minor Subdivision depends on the number of lots and/or outlots created.

(D) A replat that proposes to alter lands dedicated to the public, or lots or outlots owned in common by the owners of lots within the subdivision, shall be processed as a subdivision under this Ordinance. The approval of the replat by the Committee shall be conditioned upon approval by a court of the alterations of the areas dedicated to the public, pursuant to Chapters 236.40 - 236.44, Wisconsin Statutes.

18.16 DESIGN STANDARDS FOR SUBDIVISIONS

(A) The purpose of subdivision design is to create a functional and attractive development, to minimize adverse effects on persons and land, and to ensure that a

project will be an asset to the community. To promote this purpose, the Subdivision shall conform to the standards of this section.

(B) General Design Standards.

(1) Subdivision design shall take into consideration existing local, County and regional plans and existing and proposed developments in the surrounding areas.

(2) Design shall be based on a site analysis. To the maximum extent practicable, the design shall: preserve the natural features of the site; avoid adverse effects on ground water and aquifer recharge; minimize effects of cut and fill; and prevent flooding.

(C) Roads and Driveways.

(1) The road system shall be designed to meet the following objectives: to permit the safe, efficient, and orderly movement of traffic; to respect natural features and topography; and to permit proper drainage.

(2) The Town Board shall determine the applicable public road, private road and driveway standards for any subdivisions within their jurisdiction.

(3) Roads may be dedicated to a public entity provided they meet said entity's road specifications. If a road is kept as private, then it shall be recorded that each lot shall hold a fractional interest in the private road (i.e. 1/40th interest in the private road when there is a 40-lot subdivision).

(4) A resolution acknowledging a town road right-of-way width less than 66 feet, but at least 49.5 feet from the Town Board may be required for a subdivision review at the discretion of the Director as part of the Town requirements.

(5) Road Numbering.

(a) The existing County program for numbering shall be used.

(b) Where a road maintains the same general direction except for curvilinear changes for short distances, the same number shall be used for the entire length of the road.

(c) A road that is not presently a through road due to intervening land over which a road extension is planned shall use the same number for existing and planned sections.

(D) Lots.

(1) Design criteria for any lot or lots shall meet the following minimum requirements unless local standards are more restrictive.

(2) The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(3) The minimum lot size of each lot created shall conform to the following minimum dimensions for each zoning district in the Polk County Comprehensive Land Use and Polk County Shoreland Protection Zoning Ordinance. The density standards must also be met along with the minimum lot size for each district. (If a Town has not adopted county zoning, the Residential or Shoreland (if applicable) area dimensions apply):

Zoning District		**Without public sewer**		**With public sewer**	
		Area			
Residential (R-1)		1 acre			
Hamlet (H-1)		30,000 sq. ft.		10,000 sq. ft.	
General Business/Commercial (B-1)		1 acre		.5 Acre (21,780 sq. ft.)	
Recreational Business/Commercial (B-2), Small Business/Commercial (B-3), Industrial (I-1)		1 acre			
Residential-Agricultural 5 (RA-5)		1 acre min.	**Density Standard**		
			8 dwellings/forty acres		
Agricultural 10 (A-1)		1 acre min.	4 dwellings/forty acres		
Agricultural 20 (A-2)		1 acre min.	2 dwellings/forty acres		
Farmland Preservation (A-3)		35 acres			
Natural Resources (N-1)		1 acre			
Mining District (M-1)		5 acres			
Shoreland		**Area**	**Width(ft.)**	**Area**	**Width (ft.)**
Shoreland	Non-Riparian	1 acre	100	20,000	90
Shoreland Riparian	Class I	1 acre	100	20,000	90
	Class II	60,000 ft^2	150		
	Class III	100,000 ft^2	250		

(4) Each lot shall have a minimum contiguous net project area of 30,000 square feet (20,000 square feet minimum with a soil loading test rate of .5 or greater), unless served by a public sewer system. The Committee may require that the plat or certified survey map contain notice to prospective purchasers that wetlands, floodplains, or steep slopes within lots may limit building or driveway locations.

(5) All lots shall front on a public or private road or driveway easement.

(6) Lot width as measured at the building setback line, and lot area for improvements, shall conform to the requirements of the County Comprehensive Land Use Ordinance, Shoreland Protection Ordinance, or any other Ordinance regulating lot size.

(7) The ratio of depth to width of a lot shall not exceed 4.5:1.

(8) Side lot lines shall be substantially at right angles or radial to street lines.

(9) A corner lot shall have extra width over the minimum requirement to permit adequate building setbacks from side streets. As a general rule, the side yard setback under this circumstance shall equal the front yard setback for the side street.

(10) To the extent feasible, lot lines shall follow political, school district, local jurisdictional and zoning boundary lines rather than cross them.

(11) Lots having frontage on two non-intersecting roads shall be avoided except where essential to provide separation of residential development from arterial roads or to overcome specific disadvantages of topography and orientation. Direct access from an arterial road to a lot with double frontage is prohibited.

(13) Flag lots are allowed. The area of the access strip shall not be included in the calculation for minimum lot size nor net project area.

(14) An impervious surface calculation of 2,500 square feet must be included for each lot when calculating storm water volumes for stormwater management plans. If more than 2,500 square feet of impervious surface is proposed for a lot, additional runoff reduction measures approved by the LWRD will be required.

(G) Design standards may be increased for those subdivisions intended for Commercial or Industrial use. The appropriateness of a commercial or industrial use within unincorporated portions of the County is primarily addressed through land use planning and zoning.

18.20 CONSTRUCTION WITHIN SUBDIVISIONS

(A) No land grading or site preparation, alteration of waterways or water features shall occur prior to approval of the preliminary plat or preliminary certified survey map by the Town and Committee.

(B) Any activity listed in paragraph (A) that is conducted prior to preliminary plat approval is taken at the Subdivider's own risk. The subdivider shall comply with approved plans and mitigate, restore, or otherwise repair the parcel to conditions outlined in the approved plan. The subdivider may be subject to fines and/or other remedial action in accordance to Section 18.23 Violation and Penalties.

(C) No building, zoning, or sanitary permit shall be issued for any lot until all the requirements of this Ordinance have been satisfied.

18.21 VARIANCES TO DESIGN STANDARDS AND APPEAL PROCESS

(A) The Committee may grant variances to design standards not required under Chapter 236 during the review and approval stages upon a showing that the subdivider will suffer unnecessary hardship if strict compliance with the standard is required. The granting of a variance shall not violate the spirit or intent of this Ordinance or other county land use regulations.

(B) Unnecessary hardship can be defined as whether compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with these restrictions unnecessarily burdensome.

(C) The Committee shall hold a public hearing on a request for a variance. A Class 2 notice shall be published for the hearing. Additionally, notice shall be mailed to the Town(s) and Lake District (if applicable) in which the proposed Subdivision is located, any municipality with extraterritorial subdivision approval jurisdiction, and adjacent landowners to the proposed Subdivision for which the variance is sought. The Director shall be responsible for providing all notices. The subdivider shall pay the applicable hearing fee as established by the Committee or Polk County Board of Supervisors before the hearing is scheduled.

(D) The Committee shall make a decision on the request for variance within ten (10) days of the hearing. Written findings of fact, conclusions, and the reasons for the decision shall be prepared, and signed by the Committee Chair. The original decision shall be filed in the Director's office. A copy of the decision shall be mailed to the subdivider, the Town(s), the Lake District, adjacent landowners and municipality(ies) which were required to receive notice of the public hearing.

(E) Any person aggrieved by the decision of the Director and/or the Committee may commence an action in circuit court seeking the remedy available by certiorari. The procedures in Chapter 59.69(10), Wisconsin Statutes, apply to this action.

18.22 FEES

Application and review fees as set forth by the Committee or the Polk County Board of Supervisors shall be paid in full at the time of application. Payments in lieu of dedications must be submitted prior to recording of final plats or CSM's. The Director shall not certify the approval upon any plat or CSM until payments are submitted.

18.23 VIOLATION AND PENALTIES

(E) Any Subdivider who fails to comply with the provisions of this Ordinance shall, upon adjudication of violation, be subject to penalties and forfeitures issued by county staff as provided in Chapters 236.30, 236.31, 236.32, 236.335, and 236.35, Wisconsin Statutes. These sections provide penalties for:

(1) Improperly recording or causing to be recorded a final plat that does not comply with submittal requirements of state statutes or County regulations.

(2) Offering for sale lots in a final plat that has not been recorded unless the offer or contract for sale includes language making the sale contingent upon approval of the final plat, and the sale void if the plat is not approved.

(3) Disturbing survey monuments in violation of state law or County regulations, or not placing survey monuments as prescribed by state law or County regulations.

(4) Subdividing lots that fail to conform to Chapter 236, Wisconsin Statutes, or any applicable DOA, DSPS, or DNR administrative rules, or this Ordinance.

(5) Selling land that abuts on a road that has not been accepted as a public road unless the seller informs the purchaser in writing that the road is not a public road and maintenance is not required to be performed by the County or Town.

(F) Any Subdivider who fails to comply with any provisions of this Ordinance that are not covered by the statutory sections identified in paragraph (A) shall, upon adjudication of violation, be subject to court costs, to a forfeiture of not less than $500 nor more than $5,000 and/or to an injunction. Each day that a violation exists shall constitute a separate offense.

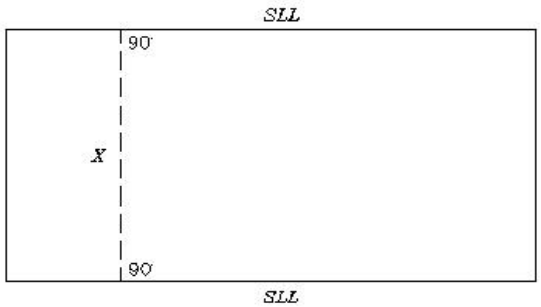
(G) Any Subdivider who fails to comply with any provisions or conditions of approval for a Subdivision shall, upon adjudication of violation, be subject to court costs, to a forfeiture of not less than $500 nor more than $5,000 and/or to an injunction, and the actual costs incurred by the County to cure or otherwise remedy the noncompliance with the conditions of approval. Each day that a violation exists shall constitute a separate offense.

18.24 AMENDMENTS

The Polk County Board of Supervisors may make amendments to this Ordinance in the manner prescribed by the Wisconsin Statutes.

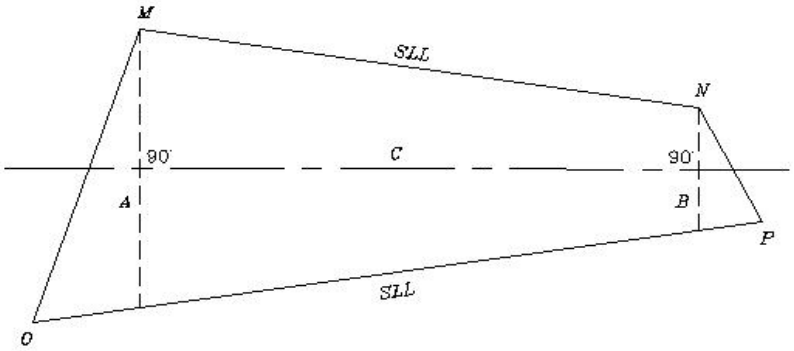
APPENDIX A LOT WIDTH DETERMINATIONS

(a) Parallel Lot Lines



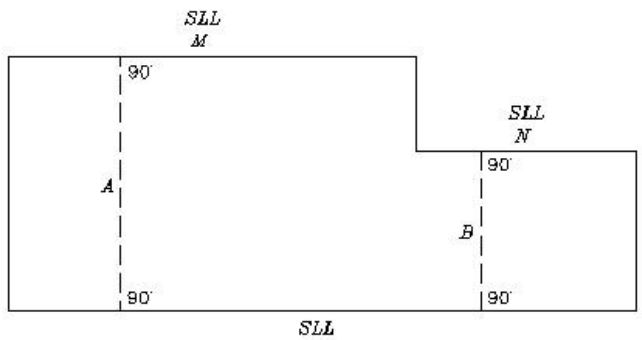
AVERAGE LOT WIDTH IS THE PERPENDICULAR DISTANCE (*X*) BETWEEN SIDE LOT LINES (*SLL*)

(b) Nonparallel Lot Lines



AVERAGE LOT WIDTH IS $\frac{A + B}{2}$ AND LINE *C* BISECTS ANGLE FORMED BY LINES *MN* AND *OP* EXTENDED

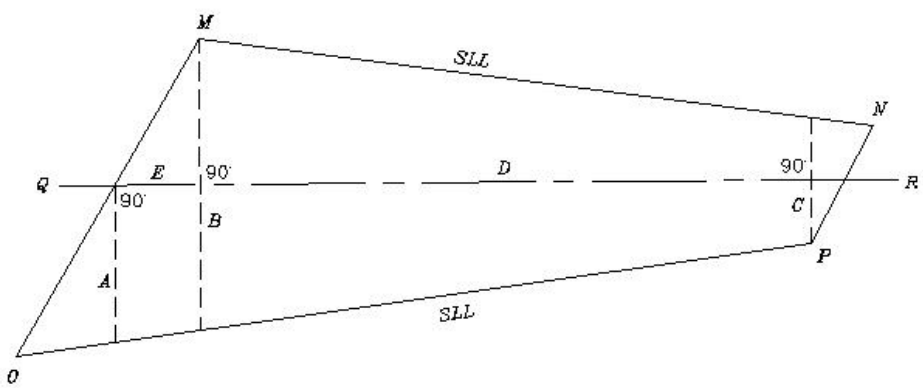
(c) Parallel Lot Lines, Alternate



AVERAGE LOT WIDTH IS $A \times \frac{M}{M + N} + B \times \frac{N}{M + N}$

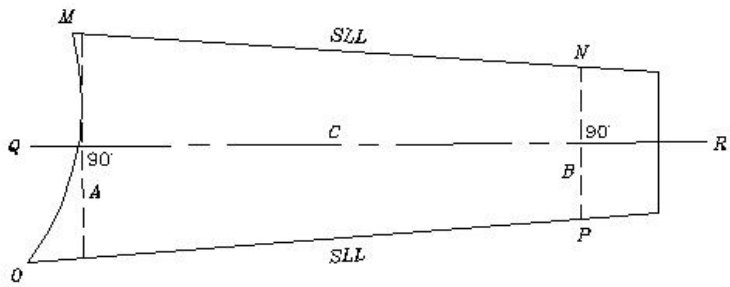
USE ONLY THAT PART OF LENGTH N THAT, WHEN ADDED TO AREA OF M PORTION OF LOT, SATISFIES MINIMUM AREA REQUIREMENTS.

(d) Nonparallel Lot Lines, Alternate 1



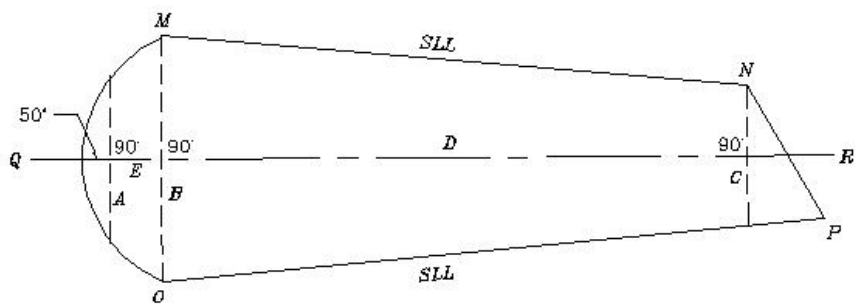
AVERAGE LOT WIDTH IS $\frac{A + B}{2} \times \frac{E}{E + D} + \frac{B + C}{2} \times \frac{D}{E + D}$ AND LINE QR BISECTS ANGLE FORMED BY LINES MN AND OP EXTENDED. D IS THE PERPENDICULAR DISTANCE BETWEEN LINES B AND C. E IS THE PERPENDICULAR DISTANCE BETWEEN LINES A AND B.

(e) Nonparallel Lot Lines, Alternate 2



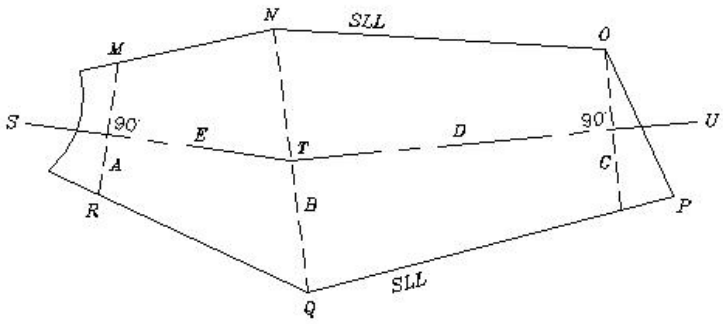
AVERAGE LOT WIDTH IS $\frac{A + B}{2}$ AND LINE *QR* BISECTS ANGLE FORMED BY LINES *MN* AND *OP* EXTENDED. *C* IS THE PERPENDICULAR DISTANCE BETWEEN LINES *A* AND *B* . LINE *NP* MAY COINCIDE WITH LOT LINE.

(f) Nonparallel Lot Lines, Alternate 3



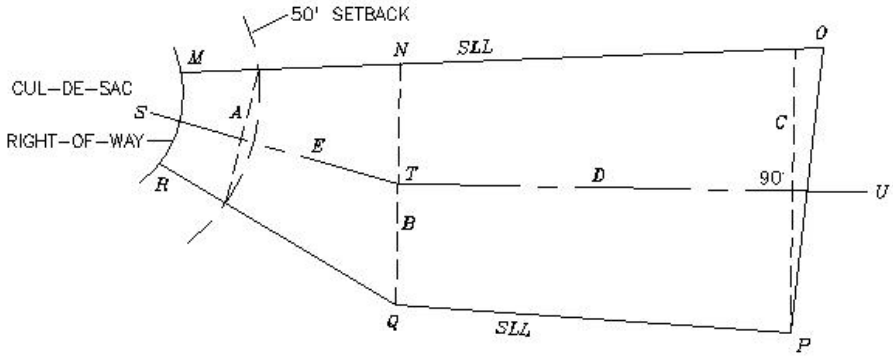
AVERAGE LOT WIDTH IS $\frac{A + B}{2} \times \frac{E}{E + D} + \frac{B + C}{2} \times \frac{D}{E + D}$ AND LINE *QR* BISECTS ANGLE FORMED BY LINES *MN* AND *OP* EXTENDED. *D* IS THE PERPENDICULAR DISTANCE BETWEEN LINES *B* AND *C* . *E* IS THE PERPENDICULAR DISTANCE BETWEEN LINES *A* AND *B* .

(g) Nonparallel Lot Lines, Alternate 4



AVERAGE LOT WIDTH IS $\frac{A + B}{2} \times \frac{E}{E + D} + \frac{B + C}{2} \times \frac{D}{E + D}$. LINE *ST* BISECTS ANGLE FORMED BY LINES *MN* AND *QR* EXTENDED AND LINE *TU* BISECTS ANGLE FORMED BY LINES *NO* AND *PQ* EXTENDED. *D* IS THE DISTANCE BETWEEN *B* AND *C*. *E* IS THE DISTANCE BETWEEN *A* AND *B*. *M* OR *R*, WHICHEVER IS AT SETBACK LINE WILL DETERMINE POSITION OF *MR*.

(h) Nonparallel Lot Lines, Alternate 5

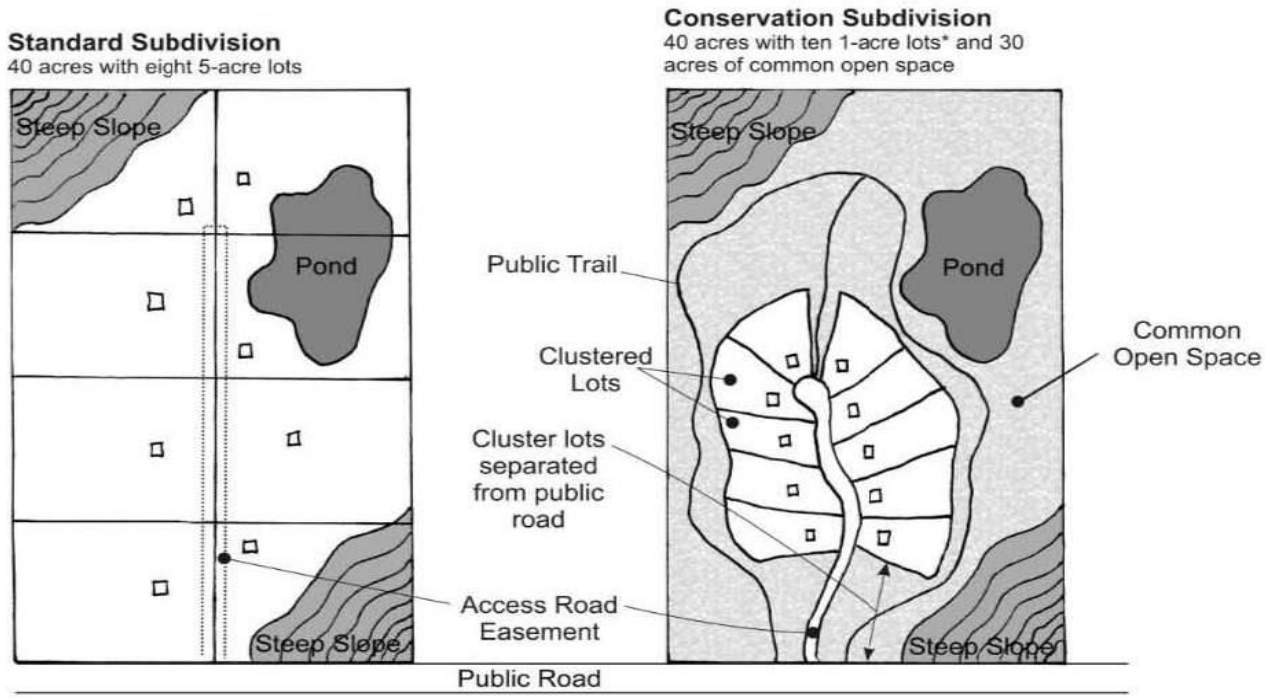


AVERAGE LOT WIDTH IS $\frac{A + B}{2} \times \frac{E}{E + D} + \frac{B + C}{2} \times \frac{D}{E + D}$. LINE *ST* BISECTS ANGLE FORMED BY LINES *MN* AND *QR* EXTENDED AND LINE *TU* BISECTS ANGLE FORMED BY LINES *NO* AND *PQ* EXTENDED. *D* IS THE DISTANCE BETWEEN *B* AND *C*. *E* IS THE DISTANCE BETWEEN *A* AND *B*.

APPENDIX B CONSERVATION DESIGN DEVELOPMENT FOR MAJOR SUBDIVISIONS

APPLICABILITY. Conservation Design Development (CDD) provides an alternative set of design objectives and standards for major subdivision for residential development.

(A) PURPOSE. In addition to the purposes outlined in SS 18.01, the purpose of Conservation Design Development is to allow for clustering of residential housing and permanently preserving open space. This protected open space can be any or all of the landscape elements the County feels are important, including but not limited to: woodlands, river and stream corridors, drainageways, wetlands, closed depressions, floodplains, shorelands, prairies, ridgetops, steep slopes, critical species habitat, scenic views, productive farmland, and other areas to be preserved as identified in the Polk County Comprehensive Plan by setting them aside from development. Also to provide greater design flexibility in siting dwellings and other development features than would be permitted by the application of standard regulations in order to minimize the disturbance of rural landscape elements and sensitive areas. To create groups of dwellings with direct visual and physical access to common open space.



**The conservation design development diagram also shows a 25% lot bonus of 2-lots for using these provisions.*

(B) DENSITY STANDARDS. The total number of dwelling units that are allowed in a Conservation Design Development is referred to as the Residential Base Density. See Polk County Comprehensive Zoning Ordinance § 10.3.8(C). For the purposes of this provision in determining allowed density, two-family dwellings shall count as 2 dwellings and multi-family dwellings shall count for as many families as designed for (i.e. 4-plex = 4 dwellings).

(1) RESIDENTIAL BASE DENSITY. The base density or the base number of allowable dwelling units is determined by the yield plan pursuant to § 10.3.8(C) of the Polk County Comprehensive Zoning Ordinance. Existing dwellings that will be retained shall be counted toward the base density.

(2) RESIDENTIAL GROSS DENSITY. The residential gross density, or the total number of dwelling units that are allowed in a Conservation Design Development, is the residential base density plus 25 percent of the number of dwelling units prescribed by the residential base density.

(C) PRESCRIBED LOT AREA. The lot size allowed under Conservation Design Development (CDD) is called the prescribed lot area. The prescribed lot area of new lots shall be that which results from meeting all of the standards and requirements of Conservation Design Development and Chapter 10, Polk County Comprehensive Zoning Ordinance. The prescribed lot area cannot be less than one-half acre and each lot shall have a minimum contiguous net project area of 7,000 square feet. The plat shall include the net project area size of each lot and the net project area shall be mapped on each lot.

(D) MINIMUM COMMON OPEN SPACE AREA. For Conservation Design Development, the minimum amount of common open space of the total site area excluding existing rights-of-way and utility easements shall be as described in Table 1 below. The required common open space designated above can be reduced by the minimum amount necessary to prevent any allowable lot from being reduced to an area less than one-half acre in the attempt to meet those common open space requirements.

Table 1: Minimum Required Open Space Percentage

Zoning District	Minimum Open Space Percentage
Residential	40%
Residential-Agricultural 5	60%
Agricultural-1	70%
Agricultural-2	75%

(E) DESIGN AND DIMENSIONAL STANDARDS FOR CLUSTER GROUPS. All dwelling units shall be in cluster groups. The number of dwelling units in each cluster group shall be determined as follows:

(1) For Conservation Design Developments on a site 40 acres or smaller, each cluster group shall be no more than 40 percent of the total number of dwelling units in the development and no less than 15 percent of the total number of dwelling units in the development, except as provided in (3), below.

(2) For any Conservation Design Developments over 40 acres, each cluster group shall be between 6 and 16 dwelling units.

(3) A Conservation Design Development with a total number of 16 dwelling units or less may contain a single cluster group if all other standards in § B are met.

(4) The number of dwelling units in a cluster group may be decreased or increased and each cluster group may be assembled into smaller or larger groupings, provided that the applicant can demonstrate that such an alternative design is more appropriate for the site, and will meet both the general intent and design objectives of this ordinance and the goals and objectives of the Polk County Comprehensive Plan.

(5) A plat may contain one or more cluster groups.

(6) All lots in a cluster group shall take access from interior roads.

(7) Each cluster group shall be defined by the outer perimeter of contiguous lots or abutting roads and may contain lots, roads, and cluster group interior open space. When the development does not include individual lots, such as a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than 75 feet.

(8) The outer boundaries of the lot lines of each cluster group shall conform to the separation distances in the following Table 2:

Table 2: Limiting Factor	**Separation Distance**
1. From other cluster group outer boundaries	100 ft.
2. From all subdivision site boundaries	100 ft.
3. From cropland or pastureland	100 ft.
4. From active recreation areas, such as courts or playing fields	100 ft.

(9) The dimensional standards specified in § F(8) may be reduced under the following circumstances:

(a) Separation distances in § F(8) may be reduced up to 50 percent if the applicant can demonstrate that such reduced setbacks are more

appropriate for the site concerned and will improve the project's conformance with the design objectives in § B, the intent of this ordinance, and the goals, objectives and policies of the Polk County Comprehensive Plan.

(b) All separation areas for cluster groups along existing roads shall be landscaped in accordance with § H (landscaping and buffer standards)

(c) All cluster groups shall be surrounded by open space.

(d) All lots in a cluster group shall abut common open space to the front or rear. Common open space across from a road shall qualify for this requirement.

(e) Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lots or yard areas. Roads may separate cluster groups if the road right-of-way is designed as a vegetated center median.

(f) In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. When the objective is to preserve productive agricultural land and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that some of the canopy on individual wooded lots is maintained. See § G(8).

(F) DESIGN STANDARDS FOR COMMON OPEN SPACE AREAS. On all sites developed under the Conservation Design Development regulations, the minimum amount of common open space area, as set forth in § E, shall be set aside as protected common open space. Common open space shall comply with the following design standards:

(1) The location of common open space shall be consistent with the design objectives in § B, and the goals, objectives and policies of the Polk County Comprehensive Plan.

(2) All open space areas shall be part of a larger continuous and integrated open space system. At least 75 percent of the common open space areas shall be contiguous to another common open space area. For the purposes of this section, contiguous shall be defined as either physically touching or located within 100 feet across a public right-of-way, for example, on opposite sides of an internal road.

(3) Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in preserving rural character and conserving natural resources in compliance with the intent of this ordinance and consistent with the goals, objectives and policies of the Polk County Comprehensive Plan.

(a) The protection of rural natural and cultural resources and potentially productive agricultural land as identified in the Polk County Comprehensive Plan is particularly significant.

(b) It is recognized that there may be different open space preservation objectives that will result in different areas being set aside as open space. Developments designed to preserve rural character values may look much different from developments striving to preserve viable agricultural land.

(c) Applicants must provide an explanation of the open space objectives achieved with their proposed development.

(4) Natural features shall generally be maintained in their natural condition. If recommended by a professional with pertinent qualifications, the Director may authorize a modification to improve the natural features' appearance or restore their overall condition and natural processes, in compliance with a recorded management plan.

(5) At least 80 percent of a prime farmland, as identified in the Polk County Comprehensive Plan and Polk County Farmland Preservation Plan, shall be contained in common open space. This requirement can be reduced under the following conditions:

(a) The site is predominantly prime farmland and development at the permitted density would not be possible without encroaching further on the primary environmental corridor.

(b) It can be demonstrated that additional development within prime farmland meets the overall objectives of this ordinance.

(c) Any reduction of prime farmland included in common open space below 80 percent shall be the minimum needed to achieve maximum permitted density or a stated open space objective.

(6) Common boundaries with existing or future open space on adjacent sites shall be maximized.

(7) In order to preserve scenic views, ridgetops and hilltops should be contained within common open space wherever possible.

(8) At least 80 percent of the area of existing woodlands shall be contained within common open space; 20 percent of the area of existing woodlands may be used for lots and residential development. This limitation may be exceeded under the following conditions:

(a) The site is primarily wooded, and development at the permitted density would not be possible without encroaching further on the woodlands.

(b) It can be demonstrated that additional development within the woodlands meets the overall objectives of this ordinance.

(c) The stated objective is to preserve productive agricultural land.

(d) Any encroachment on the woodlands beyond 20 percent shall be the minimum needed to achieve maximum permitted density or a stated open space objective.

(9) Any development of woodlands 40 acres or larger with at least one-quarter mile of width shall have cluster groups arranged around the periphery of the woodlands to preserve as much of the woodlands interior habitat as possible. The arrangement of the cluster groups around the periphery shall preserve natural undisturbed corridors to the interior.

(10) No common open space area shall be less than 10,000 square feet in area and not less than 30 feet at its smallest dimension. Open space not meeting this standard shall not be counted toward the total required minimum common open space area.

(11) Under no circumstances shall all common open space be isolated in one area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.

(12) Common open space shall include lands located along existing public roads in order to preserve existing rural landscape character as seen from these roads, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

(13) To ensure adequate protection of natural and cultural features, no more than 25 percent of common open space shall be used for active recreational purposes.

(14) When common open space is utilized for some or all of the permitted sewer and water facilities, then an easement shall be granted which describes the right of the individual property owner to have access to the common open space to construct, maintain, gain access and/or replace a private sewer or water facility. Additionally, the restrictive agreement on the common open space utilized for sewer or water facilities will include appropriate limitations to prevent compaction of the soils used for sewage treatment.

(15) Safe and convenient pedestrian access and access for maintenance and emergency purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:

(a) At least one access point per cluster group shall be provided, having a width equal to or greater than 50 feet within the cluster group.

(b) This width may be reduced to no less than 16 feet if the applicant can demonstrate that, due to natural site conditions, meeting the above requirement would run counter to the objectives of this ordinance.

(c) This access may be in the form of an easement.

(d) Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.

(16) The following areas shall not be included in common open space areas:

(a) Private lot areas.

(b) Road and highway rights-of-way, public or private.

(c) Railroad and utility rights-of-way, except underground pipeline rights-of-way.

(d) Parking areas.

(e) Areas not meeting the requirements of § G(10).

(G) LANDSCAPING FOR CONSERVATION DESIGN DEVELOPMENT

(1) Preservation of existing native vegetation.

(a) For the purpose of conserving native vegetation and in recognition of the time value of existing native vegetation, the preservation of existing native, noninvasive vegetation shall generally be preferred to the installation of new plant material, and the excavation of sites shall be minimized.

(b) Within all required separation areas between cluster groups and external roads and site boundaries, existing woodlands and hedgerows shall be retained to the maximum extent possible.

(c) Suitable existing native vegetation shall be credited toward the landscaping requirements of this ordinance when it would equal or exceed the desirable visual impact of the new required plant material after two years of growth.

(d) All new landscaping to be installed and existing native vegetation to be preserved shall be protected in accordance with the standards specified in this ordinance.

(2) Trees Along Roads.

(a) Trees of native species shall be planted along internal roads within cluster groups.

(b) Trees may be planted, but are not required, along internal roads passing through common open space.

(c) Informal, irregular or natural arrangements are encouraged for trees along roads, to avoid the urban appearance that regular spacing may evoke.

(d) Trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the road.

(e) Tree plantings shall comply with all applicable regulations in this ordinance.

(3) Buffers

(a) Within all required separation areas between external roads and cluster groups, a vegetated buffer area at least 25 feet in width shall be maintained or established. Where no natural trees and shrubs exist, native plant materials shall be planted.

(b) Where native vegetated buffers do not exist within separation areas between cluster groups, planted buffers using native species are encouraged, to enhance privacy and a rural appearance between cluster groups.

(c) Required buffers around wetlands, all waterbodies and drainageways, and closed depressions must be naturally vegetated or planted with native plant species appropriate to the surrounding landscape.

(d) Buffers consisting of an informal, irregular or natural arrangement of native plant species combined with infrequent or prescriptive mowing are strongly encouraged, to create a low-maintenance, naturalized landscape.

(H) ADDITIONAL SUBMITTAL REQUIREMENTS FOR CONSERVATION DESIGN DEVELOPMENT.

To aid the Director in determining whether the applicant has accomplished the design objectives for Conservation Design Development (CDD) as described in § B. and has met the design standards for cluster groups and common open space in Conservation Design Development as described in § E and F., the preliminary plat application shall include the following information:

(a) All the information required in § 18.11.

(b) Vegetation of the site by general land cover type, including woodland, brush, hedgerows, grasslands, rowcrop, non-rowcrop, stand-alone trees with a diameter at 4 ½ feet from the ground of 18 inches or more, native prairie remnants, and other relevant land cover types. Plant community or predominant species present, relative age and general condition shall be described.

(c) A written description of existing wildlife habitat and the likely species of birds, mammals, amphibians, fish, and reptiles present. The presence of rare or endangered species shall be noted.

(d) Visual resources, showing viewsheds onto the site from surrounding roads and public areas. Photographs can be used to demonstrate viewsheds.

(1) CONSERVATION DESIGN DEVELOPMENT SITE ANALYSIS. The information required in § 18.11. and (I), shall be the basis for an analysis of the site to determine

principal conservation areas, secondary conservation areas, and potential development areas. Each result, (a) through (c) below, shall be mapped at a scale of no less than one inch equals 100 feet, accompanied with a narrative describing the information on the maps.

(a) Principal Conservation Areas are lands that shall be protected. No structures, buildings or developed facilities, except approved Best Management Practices are allowed in these areas. Principal Conservation Areas consist of:

1. All wetlands, including a 25 ft. buffer from any delineated wetland
2. Floodplains
3. All navigable waters, including a 75ft setback measured from the ordinary high water mark of the water.
4. Perennial and intermittent streams, springs and drainage ways that contain running water during spring runoff, during storm events or when it rains, including filter strips as defined in the NRCS Filter Strip practice standard
5. Areas of steep slopes greater than 20 percent

(b) Secondary Conservation Areas. These are features of the site that should be protected or integrated into the development to enhance open space values such as:

1. Rural character, wildlife habitat, native vegetation and agricultural production.
2. Mature native woodlands.
3. Hedgerows and rock or boulder fences or walls.
4. Freestanding trees or groups of trees of native, non-invasive species.
5. Grasslands, pastures, meadows and identified native prairie remnants.
6. Farmland.
7. Historic or archeological features.
8. Old farmsteads and farm buildings.
9. Scenic views onto the site.
10. Geologic features.
11. Steep slopes 12 percent to 19.9 percent.
12. River or stream valleys.
13. Other natural or cultural elements of the site that have enough significance or value to be spared from cleaning, clearing, grading and development.

(c) Potential development areas.

1. These areas of the site completely avoid the principal conservation areas and are sensitive to the visual and physical impacts of development on the secondary conservation areas.

2. Potential development areas that do not comprise either principal or secondary conservation areas should be the first portions of the site to look to place development.

3. The remainder of the potential development area should be placed to meet minimum open-space area requirements, maximize open space views onto the site and protect the most significant natural and cultural features of the site

(2) CONSERVATION DESIGN DEVELOPMENT YIELD PLAN.

For the purposes of determining the number of allowable dwelling units and related lots for the Conservation Design Development, a yield plan is required. The applicant shall determine the yield plan using the following method, substantiated by sufficient plans and data to verify the calculations.

(a) The yield plan is a concept review sketch drawing of a conventional subdivision using the conventional subdivision and development regulations of the Polk County Subdivision Ordinance and the Polk County Comprehensive Zoning Ordinance. It will include: the sanitary, general zoning, shoreland zoning districts, floodplain overlay district and subdivision ordinances, minimum lot size, suitability of lands for subdivision, prescribed lot area for existing dwellings, contiguous buildable area, approximate building locations, and road layout. For sites that are in the Lower St. Croix Riverway Ordinance, the Lower St. Croix Riverway Ordinance regulations also apply to the yield plan.

(b) The number of allowable dwelling units and related lots under the conventional subdivision regulations determines the base number of allowable dwelling units and related lots of the Conservation Design Development subdivision.

(3) OPEN SPACE USES AND AMOUNT

(a) The minimum amount of common open space shall be 50 percent of the gross land area of the parcel to be subdivided, excluding existing rights-of-way and utility easements.

(b) A maximum of ten percent of the common open space area can be used for active recreational uses, including structures for facilities that serve such uses.

(c) All or part of the common open space area can be used as list in the Polk County Comprehensive Zoning Ordinance § 10.3.8(A)(2) and § 10.3.8(B)(2) and (3).

(d) Common open space shall be contained in an outlot or outlots

(4) RESTRICTIVE AGREEMENT ON COMMON FACILITIES AND COMMON OPEN SPACE.

(a) Common open space shall be restricted in perpetuity from further subdivision or land development by conservation easement pursuant to Wisconsin Statutes § 700.40, and such conservation easement shall be recorded in the office of the Polk County Register of Deeds.

(b) To ensure the permanence of the legal instrument designed to restrict the division, use or development of common open space, Polk County shall be a joint holder of a conservation easement that prohibits, in perpetuity, development of the common open space that does not conform to those uses allowed in Polk County Zoning Ordinance § 10.3.8

(c) The Director can consider other legal restrictive agreements for protecting common open space, such as deed restriction, only if such other restrictive agreements permanently restrict the use of common open space to those uses allowed in Polk County Zoning Ordinance § 10.3.8, and Polk County is only obligated to enforce the use restrictions of the restrictive agreement and County ordinances.

(5) OWNERSHIP OF COMMON FACILITIES AND OPEN SPACE.

(a) Ownership of common facilities and open space shall not be transferred to another entity except in compliance with this subsection.

(b) Documentation of the proposed ownership arrangement for the common facilities and open space shall accompany the preliminary plat, including any draft contracts, articles of incorporation, by-laws, etc.

(c) Ownership of common open space and facilities shall be in the form of a fractional interest in the common area assigned to each lot, based on the number of lots in the proposed subdivision, (i.e. 1/40th interest in the common open space per lot when there is a 40-lot subdivision).

(6) MAINTENANCE OF COMMON FACILITIES AND COMMON OPEN SPACE. To ensure adequate management, operation and/or maintenance of common facilities and open space a Management Plan shall be prepared and recorded for the property in the Polk County Register of Deeds Office.

(7) ADDITIONAL INFORMATION: CONCEPT, PRELIMINARY AND CONSERVATION DESIGN DEVELOPMENT REVIEW. The approving authority, either the Director or Committee, may require any additional data or detail relevant to review. Descriptive data shall be sufficiently precise to

allow the approving authority to determine compliance. Existing features shall be shown as such by distinctive underscoring or other identifiers.