

Unless specifically noticed otherwise, this meeting and all other meetings of this body are open to the public. Proper notice has been posted and given to the media in accordance with Wisconsin Statutes so that citizens may be aware of the time, place and purpose of the meeting.

## **MEETING NOTICE**

Planning Commission Agenda

**Thursday, December 5, 2019 – 5:00 PM**

Council Chambers – New London Municipal Building

1. Call to Order
2. Adopt Agenda
3. Roll Call
4. Approval of the October 31, 2019 meeting minutes
5. CSM approval- Schultz annexation
6. CSM approval- Combination of 2 parcels- Brad and Rene Riley
7. Kist Bottling Company- Option 1 or 2
8. Taft Park CSM
9. Discuss/Recommendation for Ordinance revision- Conditional Use Permit
10. Other Matters
11. Adjournment

\*Agenda items are listed so as to accurately describe the actions or issue being considered instead of simply the document listing title or the parties to a contract. This is done as such titles or a list of parties to a contract conveys insufficient information to the public on whether a topic or project they are interested in is being considered. It is the policy of the City of New London to comply in good faith with all applicable regulations, guidelines, etc. put forth in the Americans with Disabilities Act (ADA). To that end, it is the City's intent to provide equal opportunity for everyone to participate in all programs and/or services offered, to attend every public meeting scheduled, and to utilize all public facilities available. Any person(s) in need of an alternative format (i.e. larger print, audio tapes, Braille, readers, interpreters, amplifiers, transcription) regarding information disseminated by the City of New London should notify the City 48 hours prior to a meeting, etc., or allow 48 hours after a request for a copy of brochures, notices, etc. for delivery of that alternative format. Contact ADA Coordinator Chad Hoerth by telephone through: (Relay Wisconsin) – 920/ 982-8500 or (Voice) – 920/982-8500 and in person/letter at 215 N. Shawano Street, New London, WI 54961.

City of New London  
Planning Commission Minutes

**October 31, 2019**

Call to Order: The October 31, 2019 Planning Commission meeting was called to order by Acting Chairman Henke at 5:00 PM.

Adopt Agenda: Motion by Gabert, second by Spilman to adopt the agenda. Motion carried 6/0.

Roll Call: Those in attendance were Goller, Gabert, Spilman, Steingraber, Henke and Thompson. Steinhorst and Noel - excused. Others in attendance: Lou Leone-City Administrator

Approval of the September 26, 2019 Planning Commission Minutes: Motion by Gabert, second by Steingraber to approve the September 26, 2019 meeting minutes as presented. Motion carried 5/0

London Acres Final Plat Approval: The proposed final Plat for the London Acres Subdivision was discussed. The Director of Public Services has approved the plan and the planning Commission members saw no need for any changes. Motion by Thompson, Second by Spilman to recommend approval of the London Acres Final Plat to Council. Carried 6/0

**Other Matters:** It was agreed that the November meeting will be held Dec 5th and December Meeting will be held on Jan 2nd because our regular meeting dates conflict with Thanksgiving and Christmas.

Adjournment: Motion by Goller and second by Gabert to adjourn. Meeting adjourned at 5:15 pm.

# "ANNEXATION MAP"

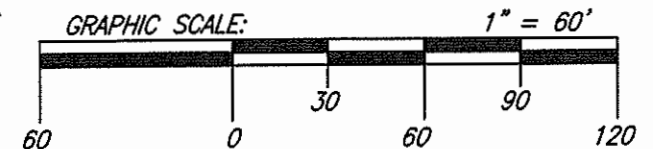
DESCRIPTION OF PARCEL TO BE ANNEXED FROM THE TOWN OF HORTONIA  
TO THE CITY OF NEW LONDON:

A PARCEL OF LAND BEING PART OF THE NORTHEAST 1/4 OF THE FRACTIONAL  
SOUTHWEST 1/4 AND PART OF THE NORTHWEST 1/4 OF THE FRACTIONAL  
SOUTHWEST 1/4, ALL IN SECTION 18, TOWNSHIP 22 NORTH, RANGE 15 EAST,  
TOWN OF HORTONIA, OUTAGAMIE COUNTY, WISCONSIN, BOUNDED AND  
DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF  
SECTION 18; THENCE N01°02'39"W, 1317.58 FEET ALONG THE WEST LINE OF THE  
FRACTIONAL SOUTHWEST 1/4 OF SECTION 18 TO THE SOUTH LINE OF THE  
NORTH 1/2 OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 18 AS PREVIOUSLY  
SURVEYED AND MONUMENTED; THENCE N89°03'05"E, 1468.73 FEET ALONG SAID  
SOUTH LINE TO THE EASTERLY LINE OF CERTIFIED SURVEY MAP NO. 4239 AND  
THE POINT OF BEGINNING; THENCE N34°23'22"W, 252.79 FEET ALONG SAID  
EASTERLY LINE; THENCE N71°33'14"E, 243.77 FEET TO THE WESTERLY  
RIGHT-OF-WAY LINE OF C.T.H. "T"; THENCE S28°21'35"E, 183.25 FEET ALONG SAID  
WESTERLY RIGHT-OF-WAY LINE; THENCE S28°25'43"E, 137.01 FEET ALONG SAID  
WESTERLY RIGHT-OF-WAY LINE TO THE SOUTH LINE OF THE NORTH 1/2 OF THE  
FRACTIONAL SOUTHWEST 1/4 OF SECTION 18 AS PREVIOUSLY SURVEYED AND  
MONUMENTED; THENCE S89°03'05"W, 240.77 FEET ALONG SAID SOUTH LINE TO  
THE POINT OF BEGINNING. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF  
RECORD. SAID DESCRIBED PARCEL CONTAINS 63,829 SQUARE FEET [1.4653  
ACRES] OF LAND MORE OR LESS.

## NOTE:

NO FIELD SURVEY WORK  
COMPLETED AT THIS TIME.

GRAPHIC SCALE:



NORTH IS REFERENCED TO THE WEST LINE OF  
THE FRACTIONAL SOUTHWEST 1/4 OF SECTION  
18, TOWNSHIP 22 NORTH, RANGE 15 EAST, CITY  
OF NEW LONDON, OUTAGAMIE COUNTY,  
WISCONSIN WHICH BEARS N01°02'39"W PER THE  
CITY OF NEW LONDON COORDINATE SYSTEM.

OWNERS:  
RICHARD P. & LEAH  
KRAUTKRAMER

LANDS DESCRIBED  
IN DOC.#1869946

EAST LINE OF THE NORTHWEST 1/4 OF  
THE FRACTIONAL SOUTHWEST 1/4 OF  
SECTION 18-22-15 AS EVIDENCED

SOUTH LINE OF THE NORTH 1/2 OF THE FRACTIONAL  
SOUTHWEST 1/4 OF SECTION 18-22-15 AS  
PREVIOUSLY SURVEYED AND MONUMENTED

CLIENT:  
CYNDY SCHULZ  
N3785 C.T.H. "T"  
NEW LONDON, WISCONSIN 54961

OWNERS:  
ROBERT D. JR &  
CYNTHIA SCHULZ



## CAROW LAND SURVEYING CO., INC.

615 N. LYNNDAL DRIVE, P.O. BOX 1297  
APPLETON, WISCONSIN 54912-1297  
PHONE: (920)731-4168 FAX: (920)731-5673

SCALE	1" = 60'
DRAWN BY	cp RDD
PROJECT NO.	A1911.1

WEST LINE OF THE FRACTIONAL  
SOUTHWEST 1/4 OF SECTION 18

SOUTHWEST CORNER  
SECTION 18-22-15

LOT 1  
CSM#4239

DR. (60')

LOT 2  
CSM#7471

HILLSHIRE

N.199644.6770  
E.2330338.6470

N.202283.8464  
E.2330290.5482

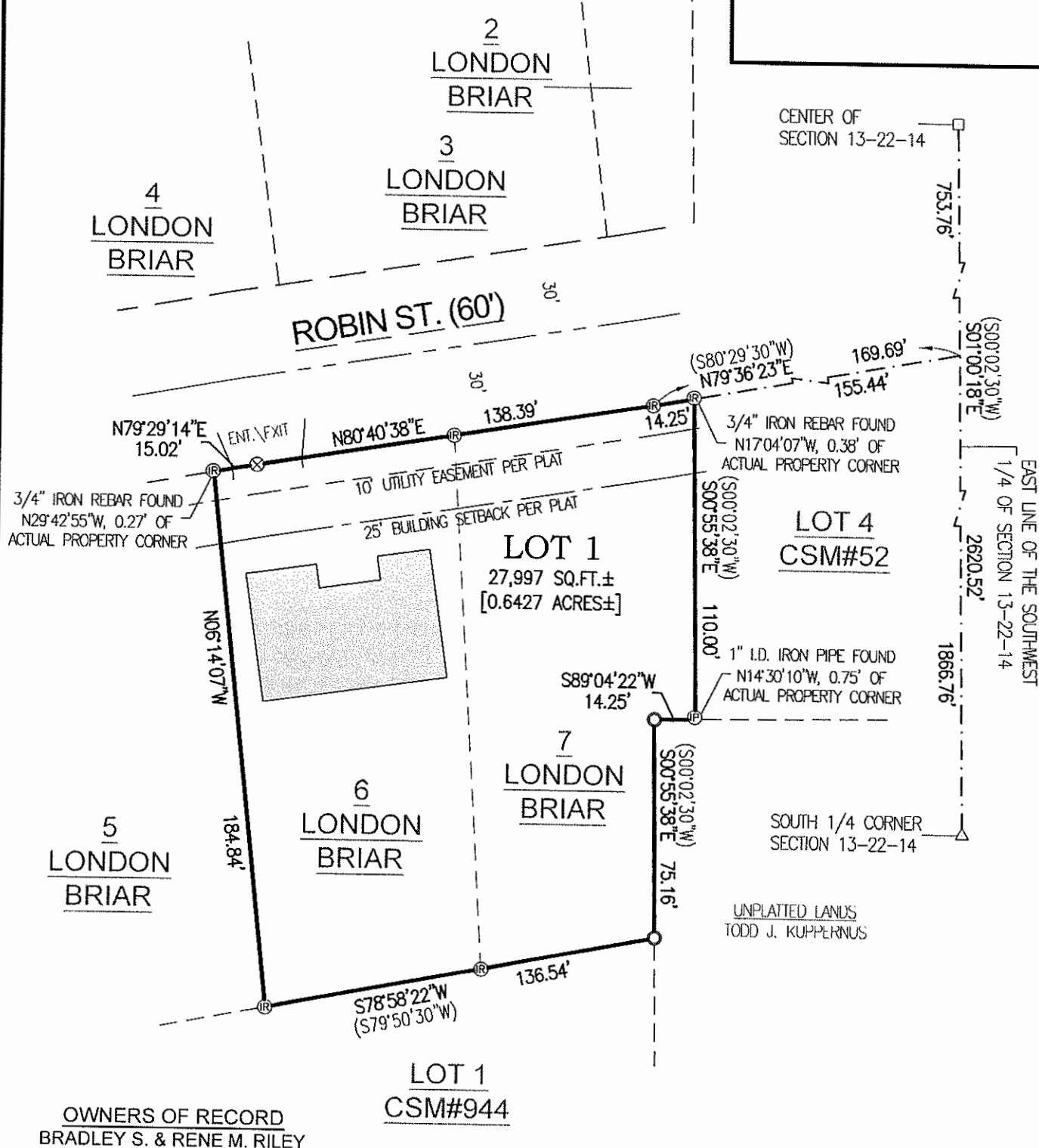
WEST 1/4 CORNER  
SECTION 18-22-15

# CERTIFIED SURVEY MAP NO. \_\_\_\_\_

BEING ALL OF LOTS 6 AND 7, LONDON BRIAR PLAT, LOCATED IN THE  
NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 13, TOWNSHIP 22  
NORTH, RANGE 14 EAST, CITY OF NEW LONDON, WAUPACA COUNTY,  
WISCONSIN.

## NOTE:

FOR BUILDING SETBACKS, CONSULT THE  
CITY OF NEW LONDON.



ROBERT F. REIDER, PLS-1251 DATED  
CAROW LAND SURVEYING CO., INC.  
615 N. LYNDALE DR., P.O. BOX 1297  
APPLETON, WISCONSIN 54912-1297  
PHONE: (920)731-4168  
A1606.35-19 DATED: 10-22-2019  
DRAFTED BY: (mcr RDD)

**CERTIFIED SURVEY MAP NO. \_\_\_\_\_**

BEING ALL OF LOTS 6 AND 7, LONDON BRIAR PLAT, LOCATED IN THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 13, TOWNSHIP 22 NORTH, RANGE 14 EAST, CITY OF NEW LONDON, WAUPACA COUNTY, WISCONSIN.

**OWNER'S CERTIFICATE:**

AS OWNERS, WE CERTIFY THAT WE CAUSED THE LANDS DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED AND MAPPED AS REPRESENTED HEREON. WE FURTHER CERTIFY THAT THIS MAP IS REQUIRED BY S.236.10 OR S.236.12 OF THE WISCONSIN STATUTES TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION: CITY OF NEW LONDON.

IN THE PRESENCE OF:

\_\_\_\_\_  
BRADLEY S. RILEY

\_\_\_\_\_  
RENE M. RILEY

STATE OF WISCONSIN)

)SS

WAUPACA COUNTY )

PERSONALLY CAME BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, THE ABOVE NAMED PERSON(S), TO ME KNOWN TO BE THE PERSON(S) WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_.



\_\_\_\_\_  
ROBERT F. REIDER, PLS-1251  
CAROW LAND SURVEYING CO., INC.  
615 N. LYNNDAL DRIVE, P.O. BOX 1297  
APPLETON, WISCONSIN 54912-1297  
PHONE: (920)731-4168  
A1606.35-19 (RFR) 10-22-2019

10-23-19  
DATED

# Memo

**To:** Lou Leone – City Administrator

**From:** Paul Hanlon

**CC:**

**Date:** 11/27/2019

**Re:** Kist Bottling – 414 E Cook Street

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In reviewing the question regarding a retail store being operated in an M (Manufacturing) zoning it appears there is no provision in the Ordinance 17.11-5 (2) Permitted Uses or 17.11-5 (3) Conditional Uses to allow the retail use.

As this facility does manufacture bottled soda water and soda mixes for dispensers it would not be appropriate to change the zoning to a Commercial zone.

Under 17.11-5 (2) 9, retail uses requiring extensive outside storage are allowed in the M-P (Manufacturing Park) zoning. This would be a use similar to Tractor Supply.

The options on how to make the retail store a permitted use are:

1. Amend 17.11-5(2) to allow retail stores as part of a manufacturing operation under the M (Manufacturing) zoning;
2. Rezone the property to M-P (Manufacturing Park) and then a retail use would be allowed under 17.11-5 (2) 8, which allows any permitted use in a B-2 (Highway Commercial) district.

Option #1 is the easiest way to solve the problem. It would only involve an amendment to the Zoning Code.

If Option #2 is chosen there would be a change to the Comprehensive Future Land Use Map along with the rezoning of the property.

I would recommend the Planning Commission choose Option #1 and just amend the Ordinance.

If you have further questions or concerns, or would like me to draft the amendment, please let me know.

Respectfully,

Paul Hanlon

SHEET 1 OF 3 SHEETS



**CERTIFIED SURVEY MAP NO. \_\_\_\_\_**

BEING ALL OF LOTS 5 AND 6 AND PART OF LOT 4, ALL IN BLOCK 4, MILLERD AND TAFT'S PLAT TO THE VILLAGE OF NEW LONDON AND VACATED STATE STREET LYING SOUTH OF THE SOUTH LINE OF N. WATER STREET AND NORTH OF THE WOLF RIVER, LOCATED IN GOVERNMENT LOT 7, SECTION 12, TOWNSHIP 22 NORTH, RANGE 14 EAST, CITY OF NEW LONDON, WAUPACA COUNTY, WISCONSIN.

**SURVEYOR'S CERTIFICATE:**


I, ROBERT F. REIDER, PROFESSIONAL WISCONSIN LAND SURVEYOR, CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED ALL OF LOTS 5 AND 6 AND PART OF LOT 4, ALL IN BLOCK 4, MILLERD AND TAFT'S PLAT TO THE VILLAGE OF NEW LONDON AND VACATED STATE STREET LYING SOUTH OF THE SOUTH LINE OF N. WATER STREET AND NORTH OF THE WOLF RIVER, LOCATED IN GOVERNMENT LOT 7, SECTION 12, TOWNSHIP 22 NORTH, RANGE 14 EAST, CITY OF NEW LONDON, WAUPACA COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH ¼ CORNER OF SAID SECTION 12; THENCE N00°46'21"W, 1667.90 FEET ALONG THE WEST LINE OF THE SOUTHEAST ¼ OF SECTION 12 TO THE WESTERLY EXTENSION OF A SOUTH RIGHT-OF-WAY LINE OF N. WATER STREET; THENCE N89°30'18"E, 884.03 FEET ALONG SAID EXTENSION AND ALONG A SOUTH RIGHT-OF-WAY LINE OF N. WATER STREET TO THE POINT OF BEGINNING; THENCE CONTINUING N89°30'18"E, 83.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE; THENCE N89°25'32"E, 60.00 FEET ALONG A SOUTH RIGHT-OF-WAY LINE OF N. WATER STREET TO THE WEST LINE OF BLOCK 5, MILLERD & TAFT'S PLAT TO THE VILLAGE OF NEW LONDON; THENCE S00°16'05"W, 63.77 FEET ALONG SAID WEST LINE TO THE STARTING POINT OF A MEANDER LINE OF THE NORTH BANK OF THE WOLF RIVER, SAID POINT BEARS N00°16'05"E A DISTANCE OF 21 FEET MORE OR LESS FROM THE NORTH BANK OF THE WOLF RIVER; THENCE N89°53'46"W, 142.16 FEET ALONG SAID MEANDER LINE TO THE TERMINATION POINT OF SAID MEANDER LINE, SAID POINT BEARS N00°30'15"W A DISTANCE OF 21 FEET MORE OR LESS FROM THE NORTH BANK OF THE WOLF RIVER; THENCE N00°30'15"W, 62.20 FEET TO THE POINT OF BEGINNING. INCLUDING ALL OF THAT LAND LYING BETWEEN THE ABOVE DESCRIBED MEANDER LINE AND THE NORTH BANK OF THE WOLF RIVER BOUNDED BY THE EXTENSION OF THE RESPECTIVE LINES OF THE ABOVE DESCRIBED PARCEL TO SAID RIVER BANK. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

THAT I HAVE MADE SUCH SURVEY UNDER THE DIRECTION OF CITY OF NEW LONDON, ATTENTION CHAD HOERTH, 215 N. SHAWANO ST., NEW LONDON, WISCONSIN 54961.

THAT THIS MAP IS A CORRECT REPRESENTATION OF THE EXTERIOR BOUNDARY LINES OF THE LAND SURVEYED.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236.34 OF THE WISCONSIN STATUTES AND THE SUBDIVISION ORDINANCE OF THE CITY OF NEW LONDON.



 11-21-19  
ROBERT F. REIDER, PLS-1251 DATED  
CAROW LAND SURVEYING CO., INC.  
615 N. LYNNDAL DRIVE, P.O. BOX 1297  
APPLETON, WISCONSIN 54912-1297  
PHONE: (920)731-4168  
A1910.4 (RFR) 11-21-2019

**SUBDIVISION ADMINISTRATOR'S CERTIFICATE:**

I, GARY HENKE, MAYOR FOR THE CITY OF NEW LONDON, DO HEREBY CERTIFY THAT THE CERTIFIED SURVEY MAP AS SHOWN ABOVE IS IN COMPLIANCE WITH CHAPTER 18, SUBDIVISION AND PLATTING CODE OF THE NEW LONDON MUNICIPAL CODE AND THEREBY GRANT APPROVAL OF THE LOT LAYOUT AS SHOWN HEREON,

\_\_\_\_\_  
DATED

\_\_\_\_\_  
GARY HENKE, MAYOR



**CERTIFIED SURVEY MAP NO.**

BEING ALL OF LOTS 5 AND 6 AND PART OF LOT 4, ALL IN BLOCK 4, MILLERD AND TAFT'S PLAT TO THE VILLAGE OF NEW LONDON AND VACATED STATE STREET LYING SOUTH OF THE SOUTH LINE OF N. WATER STREET AND NORTH OF THE WOLF RIVER, LOCATED IN GOVERNMENT LOT 7, SECTION 12, TOWNSHIP 22 NORTH, RANGE 14 EAST, CITY OF NEW LONDON, WAUPACA COUNTY, WISCONSIN.

**TREASURER'S CERTIFICATE:**

I HEREBY CERTIFY THAT THERE ARE NO UNPAID TAXES OR UNPAID SPECIAL ASSESSMENTS ON ANY OF THE LAND INCLUDED ON THIS CERTIFIED SURVEY MAP.

DATED

DATED

**OWNER'S CERTIFICATE:**

AS OWNERS, WE CERTIFY THAT WE CAUSED THE LANDS DESCRIBED ON THIS CERTIFIED SURVEY MAP TO BE SURVEYED, DIVIDED AND MAPPED AS REPRESENTED HEREON. WE FURTHER CERTIFY THAT THIS MAP IS REQUIRED BY S.236.10 OR S.236.12 OF THE WISCONSIN STATUTES TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION: CITY OF NEW LONDON.

IN THE PRESENCE OF:

BY: CITY OF NEW LONDON

**GARY HENKE, MAYOR**

JACKIE BEYER, CLERK

STATE OF WISCONSIN)

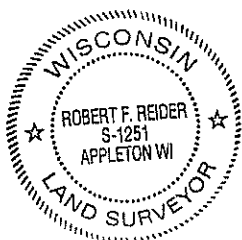
155

WAUPACA COUNTY )

PERSONALLY CAME BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, THE  
 ABOVE NAMED PERSON(S), TO ME KNOWN TO BE THE PERSON(S) WHO EXECUTED THE  
 FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING  
 INSTRUMENT.

NOTARY PUBLIC

MY COMMISSION EXPIRES



ROBERT F. REIDER, PLS-1251

CAROW LAND SURVEYING CO., INC.

615 N. LYNNDAL DRIVE, P.O. BOX 1297

APPLETON, WISCONSIN 54912-1297

PHONE: (920)731-4168

A1910.4 (RFR) 11-21-2019

DATED

## Beyer, Jackie

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**From:** Henke, Gary  
**Sent:** Wednesday, November 20, 2019 10:04 AM  
**To:** Beyer, Jackie  
**Subject:** FW: Ordinance change

Jackie

Would you please make this a part of the next Planning Comm Agenda -

*Gary Henke*

Mayor, City of New London  
215 N. Shawano Street  
New London, WI 54961  
920.982.8500 ext. 103

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**From:** Attorney Earl Luaders [<mailto:marlene@luaderslaw.com>]  
**Sent:** Wednesday, November 20, 2019 9:37 AM  
**To:** Henke, Gary  
**Subject:** Ordinance change

Gary:

I have reviewed the synopsis of Act 67 regarding conditional use permits as well as 17.06 (our condition use permit ordinance). First, as a housecleaning matter I would suggest wherever the word "grant" appears it should be substituted with "permit".

Secondly, I would eliminate 17.06-3(6) and (7) and replace them with the following: "Determination appealable. If the Planning Commission denies an applicant a conditional use permit, the applicant has the right to appeal this denial to the circuit court in the County of Waupaca".

Next, I would add a subsection (c) to 17.06-3(4) as follows: "C. The applicant must provide substantial evidence that the application and all requirements and conditions are or shall be satisfied. Substantial evidence means facts and information other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain his conditional use permit and that a reasonable person would accept in support of a conclusion".

17.6-3(4) should be re-written to say "Before concluding its findings and decision in each application, the Commission shall hold a public hearing on the petition." The notice of public hearing shall be published as a Class 2 notice in the City's officially designated newspaper.

Under subsection 5 of 17.06-3 (Determination), I would add the sentence "If the applicant meets or agrees to meet all of the requirements of the conditions specified in the ordinance or imposed by the Planning Commission, the Planning Commission must grant the conditional use permit."

The Act also provides that the conditions imposed must be related to the purpose of the ordinance and a review of the purpose clause (which is the preamble to 17.06-1). I think this sufficiently meets the requirements of the Act in terms of an explanation of the purpose of the ordinance and the purpose of making certain uses conditional rather than permissive.

Do you want to refer this to the Committee? Do you want me to prepare an amendment to the ordinance to follow these suggestions or does Jackie want to do that? If you need additional input from me, let me know.

Earl J. Luaders  
Attorney at Law  
P.O. Box 306  
New London, WI 54961  
(920) 982-4450  
(920) 982-4451 –fax

**17.05-10 (6) CONDITIONAL USE; ABROGATION AND GREATER RESTRICTIONS**

- (1) Any provision contained in this chapter may be conditionally amended by the City of New London as to any property located within the Central Business District, on application by the property owner. In considering whether to ~~grant~~permit such application, the Planning Commission shall give due consideration to the purpose of this chapter as stated in Section 17.05-10 (1) above. In ~~grant~~permitting such conditional use, the Planning Commission may impose reasonable restrictions it considers appropriate in carrying out the purposes of this chapter.
- (2) The enactment of this chapter is not intended to repeal, abrogate or impair any existing state or municipal statute, ordinance or regulation. In the event this chapter conflicts with any other provisions of this code, easement, covenant or deed restriction, the more stringent restriction shall apply.

## 17.06 CONDITIONAL USES

### 17.06-1 INTRODUCTION

This Ordinance regulates most uses through zoning districts as authorized in ss.66.23(7) (b) Wis. Stats. wherein the regulations are uniform within each district for each class or kind of buildings and for the use of land throughout each district. However, as set forth in section 17.03-2(2)C. Uses Classified of this Ordinance, it is recognized that there are certain uses, therein called Conditional Uses and regulated in this Section, in each district which cannot be properly classified as uses by right everywhere in that district, but which have to be given individual consideration in each case whether the use would be suitable at a specific location given the City Plan, the specific site, and the neighboring land, and given the public need for the particular location, and if so, what specific conditions should attach to such use, or whether the use would be unsuitable and should be denied. (See also Section 17.03-2(2)C Uses Permitted By Conditional GrantPermit)

### 17.06-2 APPROVAL REQUIRED

- (1) Uses listed as permitted by conditional grantpermit, or uses determined by the Planning Commission to be so similar to listed uses that the unlisted uses may within the spirit and intent of this Ordinance be classified by the Commission under Section 17.03-2 (3) Unclassified Uses as permissible by conditional grantpermit in specific districts, may be permitted in the grantpermit in specific districts, may be permitted in the district in which listed or classified, upon petition to and approval by the City Planning Wis. Stat., which power is hereby delegated to said Commission by the Common Council.
- (2) Basis for Approval:
  - A. Building, Site and Operational Plan Approval Supplanted: Processing of a conditional Use GrantPermit application under this section shall require applicant submittal and Commission evaluation of at least the same information as required by review and approval under Section 17.05 approval of Building Site and Operational Plans, and therefor separate processing under 17.05 shall not be required unless certain issues not critical to the permissibility of the GrantPermit are treated for Staged Approval under 17.05 as permitted by section 17.05(5), in which case the GrantPermit shall be contingent upon satisfying fully said section 17.05.

- B. Compliance With Performance Standards:  
Processing of a Conditional Use **GrantPermit** application shall particularly require applicant submittal and Commission evaluation of compliance with the Performance Standards set forth in section 17.04-5.
- C. District Regulations Modifiable: Processing of a Conditional Use **GrantPermit** application shall ordinarily be in accordance with the applicable numerical regulations (lot size, open space, setbacks, side and rear yards, height, etc.) of the district in which the use is being contemplated, however, the Commission in complying with this provision may vary such individual numerical requirements up or down as the spirit of the Ordinance requires. For example, the Commission may impose greater yard requirements for a large use going into a district with smaller buildings, or the Commission may waive the minimum building floor area for a utility substation structure.
- D. Standards: The principal criteria guiding the Planning Commission in reaching its decision in each case upon petitions for conditional use **grantpermits** shall be whether, in the Commission's opinion, implementation of the City Plan will be advanced, and whether the spirit of this Ordinance will be upheld including those factors given in Section 17.06-1(1) INTRODUCTION above. More specifically, the Commission shall not approve an application and set conditions unless it shall first find:
1. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  2. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor noticeably diminish and impair property values or esthetics within the neighborhood.



## 17.06-2 (d) cont.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. that adequate utilities, access roads, street access that does not impede public traffic flow, drainage, and other necessary facilities have been or are being provided.

## 17.06-3 PROCEDURE

- (1) Petition: A request for Conditional Use GrantPermit shall begin with a petition by an applicant capable of agreeing to and abiding by the conditions the Commission shall impose upon the use. If said applicant is other than the owner of the site upon which the grantpermit is proposed, the applicant shall demonstrate that they have an interest in the land, such as a prospective lease or purchase agreement which is specifically enforceable should the applicant's petition be grantpermitted.
- (2) Filing of Petition: The petition shall be filed with the Zoning Administrator who shall place it upon a Plan Commission agenda after first being assured by City Professional Staff review that the application is complete and that it addresses concerns which the staff, on the basis of this Ordinance, finds the Commission will or should raise.
- (3) Petition Content: The petition shall be accompanied with sufficient information to enable the Commission to fully accomplish the review and decision required of it by 17.06-2(2) Basis of Approval, above. Accordingly the Commission shall require, as appropriate, the information normally required under Sections 17.05 Approval of Building, Site, and Operational Plans, as well as Section 17.04-5 Performance Standards. The Commission may establish administrative forms and applications to aid in the processing of such petitions, and may require therein any other pertinent information as it deems necessary to fulfill this Section.



## 17.06-3(3) cont.

~~(3) (4)~~ Hearing: Before concluding its findings and decision on each application, the Commission shall hold a public hearing on the petition; following the same notice provisions contained in this Ordinance for petition to rezone a property. The notice of public hearing shall be published as a Class 2 notice in the City's officially designated newspaper.

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- A. The Commission may have the draft conditions completed by the time of the hearing in order to gain public input thereto, or the Commission may hold the hearing before the formulation of draft conditions for purpose of gaining public suggestions thereon.
- B. Where the Commission holds a hearing prior to the drafting of conditions, or where the Commission in its judgment makes substantial revisions to the conditions as drafted and presented to public hearing, the Commission may, at its sole discretion, hold a second public hearing for the purpose of learning public opinion thereon.

~~C.~~ The applicant must provide substantial evidence that the application and all requirements and conditions are or shall be satisfied. Substantial evidence means facts and information other than merely personal preferences or speculation, directly pertaining to the requirement and conditions an applicant must meet to obtain his conditional use permit and that a reasonable person would accept in support of a conclusion.

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~~(4) (5)~~ Determination: Following necessary staff and Commission review, investigation, public hearing, as soon as practical shall render its decision in writing, and a copy made a permanent part of its records. Such decision shall include an accurate and complete description of the use as permitted, including all the conditions applicable thereto, or if disapproved, the principal reasons for disapproval. If the applicant meets or agrees to meet all of the requirements of the conditions specified in the ordinance or imposed by the Planning Commission, the Planning Commission must grant the Conditional Use Permit.

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~~(6)~~ Determination Not Appealable: As provided for in ss.62.23(7) (c) Wis. Stats where the power to approve or deny conditional use grant applications as special exception uses may be assigned by Ordinance to the Planning Commission as set forth in 17.06-2 preceding, applications denied, or conditions approved under this Section, because of the close relationship intended by this Ordinance between the specificity of those conditions and the permissibility of impermissibility of the petitioned use under this section, shall not be appealable to the Zoning Board of Appeals as otherwise provided

in Section 17.13 of this Ordinance.

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17.06-3 cont.

(7) ~~Administrative Review: Nothing in (6) preceding shall preclude the petitioner or an aggrieved party from seeking a review by the Planning Commission of the Commission's decision, where it is claimed an error in facts or in application of this Ordinance was made.~~

A. ~~Such review must be requested within 30 days from the date of the meeting where action on the petition was taken. If requested by an aggrieved party, mailed notice to the petitioner's address as found on the petition must be made by the party simultaneously with the review request to allow the petitioner the opportunity of avoiding expenses that might otherwise be incurred during the period until the review is completed. The petitioner may introduce at the rehearing evidence of unavoidable expenses incurred during the period between original action on the petition and the rehearing.~~

B. ~~Reaffirmed Decisions: Where the Commission reaffirms its original decision on the petition, no notices or public hearing are necessary.~~

C. ~~Reversed or Modified Decisions: Where the Commission is inclined to reverse or modify the original action taken on the petition, it shall first give notice to the same parties and in the same manner as the first public hearings to give opportunity for interested parties to be heard, with the fee for notice and hearing paid from the Commissions' budget. Where the reversal or modification is to an approved grant, the Commission shall take into consideration whether its action would have an unfairly high financial impact upon original grant petitioners.~~

ADD: Determination appealable. If the Planning Commission denies an applicant a conditional use permit, the applicant has the right to appeal this denial to the circuit court in the County of Waupaca.

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(8) Guarantees and Sureties: Among the conditions the Commission may set in approving an application for conditional use grant~~permit~~ may include performance bonds, letters or credit, cash deposits, or similar financial

sureties related to ensuring that certain conditions will be met, or that material or workmanship improvements covered by the conditions are guaranteed, as further authorized in Section 17.08(1) of this Ordinance.

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17.06-3 cont.

- (9) Mapping and Recording: When a conditional grantpermit is approved, the Zoning Use and Occupancy Permits shall be appropriately noted and such grantpermit shall be applicable solely to the structures, use and property as described. Indication of such a grantpermit shall also be made on the Zoning Map by appropriate code number or symbol. An official record of such grantpermit shall be prepared by the Zoning Administrator on a form prescribed therefore, which shall include the description of the use for which the grantpermit. A land covenant form provided by the City shall be recorded at the County Register of Deeds as a covenant to the existence of the grantpermit.
- (10) Termination of GrantPermits:
  - A. GrantPermits for Specific Time Periods: Where the applicant agrees, the Commission may set as one of the conditions that the use will only exist for a stated period of time or until described circumstances are fulfilled.
  - B. Failure to Comply with Conditions: Where the use upon inspection by the Zoning Administrator and review by the Planning Commission is found to be in non-conformance with one or more of the significant condition of the GrantPermit, the provisions of 17.028 ENFORCEMENT AND VIOLATIONS shall be applied in order to gain compliance. Where nonconformance to conditions continues to occur, and the Commission determines that one or more of the non-compliance conditions are of an essential nature to the grantpermitting of the original application, the Commission may petition the Common Council for termination of the entire GrantPermit or portion thereof as the Commission shall nominate.
    - 1. Hearing: The Common Council shall hold a hearing on the



Commission's Petition for Termination as set forth in 17.06-3 (4) above, giving the holder of the GrantPermit ample opportunity to explain the circumstances related to the alleged noncompliance.

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17.06-3 cont.

2. Modification or Revocation: Where the Common Council agrees in whole or part with the Commission's petition, the Common Council may modify or revoke the original GrantPermit of Conditional Use in whole or part, causing the recordation of the grantpermit on the title of the property to be accordingly amended.

(11) Application to Existing Uses:

- A. A use which existed lawfully on a lot at the time said lot was placed in a district where such use would be permitted only as a conditional use status under the procedures herein.
- B. The grantpermit of conditional use in such case shall be based upon the existing conditions at that time; however, the Planning Commission may require improvements in general building appearance, in proper storage of outside materials, in the provision of more satisfactory off-street parking, in the use of planting and fencing screens where necessary, and in operational matters relating to the control of noise, dust, odor, smoke and excessive glare or illumination of lighting, provided that such measures be within the reasonable economic capacities of such a use. Any expansion or change in use shall require changing of conditional use grantpermit.

(12) Expansion or Modification of Existing Conditional Use GrantPermits: Petitions may be made at any time for expansion or other change of the conditional use grantpermit and such petition shall not prejudice the existing grantpermit

as herein authorized.

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#### 17.07 PLANNED DEVELOPMENT PROJECTS

##### 17.07-1 INTRODUCTION AND PURPOSE

- (1) Uniform and Individual Lot Regulations: This Ordinance is predicated upon regulating the land development and use maintenance process primarily on an individual lot or tract basis, with all lots in the same district being subject to regulations which are uniform throughout that district, as prescribed by ss.62.23 (7) (b) Wis. Stats., in order to achieve the Purposes In View set forth in ss.62.23(7) (c) and in section 17.00-6 of this Ordinance.
- (2) Diversified and Grouped Lot Regulations: However, as also provided for in said ss.62.23(7) (b), with the consent of the land owners, there may be, and hereby is established, a special district in which the regulations need not be uniform throughout the district, so that there may be permitted development regulations which have the same Purposes In View as ss.62.23 (7) (c) and section 17.00-6 of this Ordinance, but which seek to allow regulation on a project basis, possibly involving many lots or tracts or multiple structures, including possibly allowing more than one principal structure per lot, which regulations as set forth in said ss.62.23(7) (b) Wis. Stats., will tend to promote over time the maximum benefits of:
  - A. coordinated area site planning
  - B. diversified location of structures
  - C. mixed compatible uses