



AGENDA OF THE GREEN BAY PLAN COMMISSION

THURSDAY, JANUARY 21, 2021, 6:00 PM
Virtual Meeting. Public may join via Zoom.

A. Zoom Meeting Information.

- I. This item contains documents which provide call in information and instructions for the Zoom Meeting.

B. Roll Call.

- I. Members: Lisa Hanson - Chair, Jacob Miller – Vice-Chair, Ald. Veronica Corpus-Dax, Sidney Bremer, Randall Petrouske, Derius Daniels and Autumn Linsmeier.

C. Approval of the Agenda.

- I. Approval of the agenda for the January 21, 2021, special meeting of the Green Bay Plan Commission.

D. Regular Business.

- I. (ZP 20-23) Reconsideration with possible action on the request to authorize a Conditional Use Permit (CUP) for a Material Recovery Facility (Auto & Metal Salvage Operation) at 1156 Velp Avenue, submitted by Burrows Midwest, LLC/dba Midwest Scrap Metal, property owner (Ald. R. Scannell, District 7).

E. Informational.

- I. Cancellation: The Monday, January 25, 2021 Plan Commission Meeting has been cancelled.

Date of Next Meeting: Monday, February 8, 2021.

F. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov

- 2) **ACCESSIBILITY:** Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) **QUORUM:** Please take notice that a majority or quorum of the Common Council will attend this Plan Commission meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) **REPRESENTATION:** The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Plan Commission

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/84137675822?pwd=L2EyVlpDSlZGZ1FjcmlpWnZlOEVnUT09>

Meeting ID: 841 3767 5822

Password: 483400

One tap mobile

+1 312 626 6799,,841 3767 5822# US (Chicago)

+1 646 876 9923,,841 3767 5822# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Germantown)

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

Meeting ID: 841 3767 5822

Password: 483400

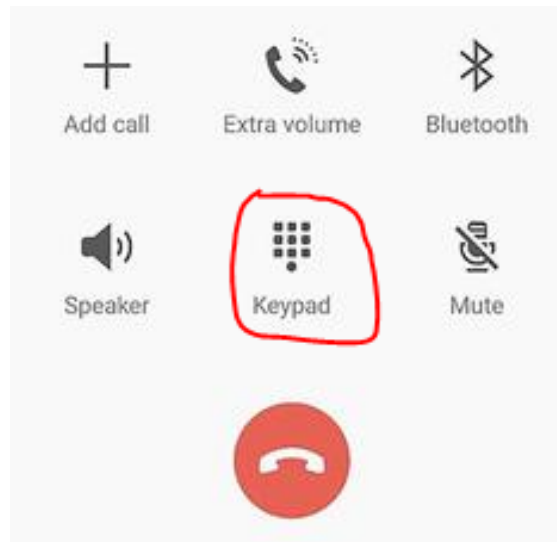
Find your local number: <https://us02web.zoom.us/j/84137675822?pwd=L2EyVlpDSlZGZ1FjcmlpWnZlOEVnUT09>

Additional Information

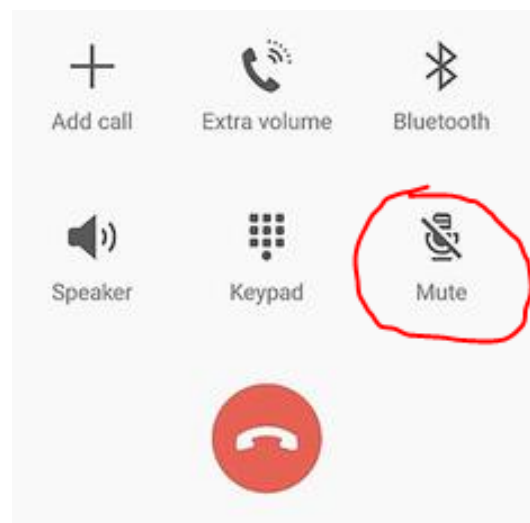
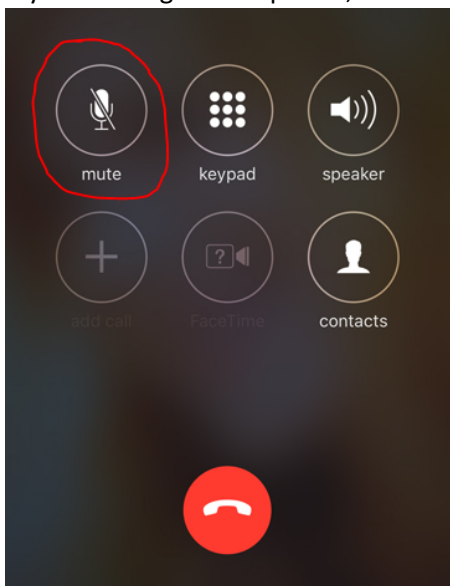
1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must give their name and address
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order*
2. All zoom meetings will have a password in the instructions. Please enter when prompted.
3. Please log into the Zoom meeting 10 minutes before the meeting starts to ensure proper technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
4. Once you are in the meeting please mute yourselves.
 - a. You may unmute yourself when you are called upon to speak.
5. Waiting room
 - a. When you call in, all callers/participants will be placed in a “waiting room.”
 - b. Persons on the agenda will be admitted to the meeting, and then once the item is concluded, the host will permanently mute you from the meeting (you can still hear the meeting).
6. Using Zoom with a tablet or computer
 - a. Tablet—you will be asked to sign in. Download the app either with the Apple Store or the Play Store
 - b. Computer—you will be asked to sign in. You may download the app or click on the link to open Zoom in your browser.
7. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You’ll receive another email confirming that you’re registered for the meeting.
 - b. If you’re using a phone, your registration will still be tied to an email.
8. Raising your hand
 - a. Committee members—you can either use CivicClerk and request to speak or you can “raise your hand” in the zoom meeting (you’d need to use a computer or tablet) to let the host know you’d like to speak. You can also un-mute yourselves and start speaking.
 - b. Persons on the agenda—you can “raise your hand” but you’d need to use a computer. You will be allowed to speak, per Wisconsin Open Meetings Rules, once the committee has “opened the floor for interested parties to speak.” Once the committee is finished with your agenda item, the host will mute you permanently, unless the committee opens the floor again.
9. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—well in advance of the meeting, please download the Zoom Meeting app before you join a meeting by using either the Apple Store or the Play Store. You will be asked to input your name, thus identifying you for the meeting. You’ll also be asked to verify your email.
 - d. Computer—well in advance of the meeting, please download the Zoom Meeting app, but you can also click on a link to open the Zoom Meeting in your browser. You will be asked to input your name, thus identifying you for the meeting.
 - e. For tablet and computer users—if you download the app you will be asked to verify your email.
10. Zoom etiquette
 - a. Muting yourselves when you’re not talking will prevent your background noise from interfering with others’ ability to listen to and participate in the meeting.
 - b. If you’re using a telephone, please identify yourself with your phone number and name before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourselves.
11. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching live on YouTube will see a gray screen with the City logo during closed session.
12. Persons interested in listening to the meeting can go to www.youtube.com/CityofGreenBay

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
 - a. If you're using a smartphone, you can access the keypad by clicking "Keypad" on your screen



3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not need to talk, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button



- b. If you're using a computer, you should see a Mute button in the Zoom application





Report to the Green Bay Plan Commission

MEETING DATE

January 21, 2021

PREPARED BY

David Buck, Staff

AGENDA ITEM # D.1

(ZP 20-23) Reconsideration with possible action on the request to authorize a Conditional Use Permit (CUP) for a Material Recovery Facility (Auto & Metal Salvage Operation) at 1156 Velp Avenue, submitted by Burrows Midwest, LLC/dba Midwest Scrap Metal, property owner (Ald. R. Scannell, District 7).

BACKGROUND

* The Plan Commission recommended approval of this CUP request with seven conditions (a-g below) on October 12, 2020. On October 20, 2020, the Green Bay Common Council referred this item back to the Plan Commission for additional consideration. The referral was based on comments submitted after the Plan Commission action that were felt to be relevant to the Plan Commissions evaluation of this petition. On November 2, 2020, the Plan Commission postponed action on the petition until January 2021, to allow the applicant to respond to allegations brought up at the meeting as well as to invite the public to provide relevant information to the City. Staff reached out to those property owners within 400 ft. of the subject property, Alderpersons Scannell (District 7) and Steuer (District 10) as well as the adjoining Neighborhood association.

As of the drafting of this staff report, one communication/comment was received and is attached.

Reason for Request: To permit the use of the property for automobile & metal salvage operations.

Zoning and Land Uses:

Subject Property: C2 Highway Commercial & GI General Industrial - Material Recover

North: GI General Industrial Warehousing

South: C1 General Commercial and R-1 Low Density Residential - Hair Salon & single-family homes.

East: GI General Industrial - Auto service and outdoor storage.

West: GI General Industrial - Manufacturing

Comprehensive Plan: The 2022 Smart Growth Plan designates the southern half of the subject site suitable for commercial uses and the northern half of the subject site as general Industrial. Additionally, the Velp Avenue Areawide Plan (adopted in June 2017) designates the property as Transformative Opportunity Site #3 with the most desirable and compatible land-uses to include commercial, office, mixed-use and modern industrial uses. The proposed use of the entire property for salvage operations is not consistent with the recommendations of the Comprehensive and Velp Avenue Plans.

Additional Information following Postponement: This item was postponed at the August 31, 2020, Plan Commission meeting. The Plan Commission wanted to allow additional time for public comment as well as requested additional information including review of current activities, alderperson comments, neighborhood contact, potential traffic impacts, potential environmental impacts and the submission of comments from D. Nelson (received too late to be shared at the previous meeting).

An inspector from the city investigated the site on September 10, 2020 and observed that at that time the operation of the material recovery business is in compliance with their approved site and operation plan

currently on file with the city. Staff has been in contact with both the Alderperson of the district, where the property is located, Ald. Scannell (District 7) and Alderperson Steuer (District 10) whose district is located directly across Velp Avenue to the south. They indicated that they will be present at the Plan Commission meeting or provide a statement.

The Mather Heights Neighborhood Association was contacted and held a neighborhood meeting on the topic on September 21, 2020, with approximately 20 residents in attendance. In general, the neighbors were not in favor of an industrial use of any kind on the property. But more specific, expressed concerns related to noise levels, poor views of the operation from the south, concern of potential environmental impacts, potential debris from transport vehicles accumulating in the area, stormwater management and drainage, protection of the southern part of the site along Velp Avenue from becoming industrial in use and the potential for afterhours drop-off of materials at the site when it is unmanned.

The city received comments from an area business called Global Recognition, who felt the inclusion of salvage operations in the area would depress property values and marketability of their property, create a negative image of the Velp Avenue Corridor limiting desire of other businesses to locate or expand and concern that the truck traffic and speeds would negatively affect the corridor. A letter from adjacent business, Alwin Manufacturing, was received as well opposing the proposed CUP based on potential for water run-off, contamination, unsightliness of scrap piles, potential to attract rodents and pests and that the use is contradictory to the recently adopted Velp Avenue Plan.

The City's traffic engineer reviewed the proposal relating to the impact this use may have on the intersection of Velp and Winford. He stated he would need additional detail on the business operation to conduct a thorough analysis but that the proposed use would likely not affect the level of service or safety situation at the intersection or along Velp Avenue. He stated the intersection is newer and the design can accommodate truck traffic.

Land use is regulated through the Zoning Ordinance as well as general regulation of noise, dust, odors and other nuisances. Salvage dealers are licensed through the WI Department of Transportation, who also regulate and monitor their operations. This license requires conformation of permits through the WI Department of Natural Resources, who are responsible for regulations related to air pollution, stormwater, waste handling, spills and wastewater. Environmental impacts related to the salvage operation are generally regulated by the State of Wisconsin.

A large submittal from Mr. Dennis Nelson was received the afternoon of August 31, 2020 and was not able to be included within the Plan Commission packet. The submission was vetted by the Law Department to determine relevance of the contents as they relate to the land use matter at hand. The submission is included as an attachment to this staff report.

Based on information collected/received, staff added two recommended conditions of approval that include:

5. No drop-off/pick-up or other business operations be permitted after 7:00 p.m. on Monday through Friday or after 1:00 p.m. on Saturdays.
6. Area prohibited for salvage uses (referenced in condition 1) be brought forward for a zone change request from the General Industrial District designation to a Commercial District designation.

Original Report: The subject property is an existing 138,000 sq. ft. / 3.17 acre parcel located at the northwest corner of the Velp Avenue-Winford Avenue intersection. The lot is currently vacant of all buildings but is fully covered with impervious concrete and compacted gravel, loose gravel at the location of recently demolished 15,000 sq ft building, and the remnants of a stone and block wall/display structure. The site also contains two curb-cuts along Velp Avenue and six curb-cuts along Winford Avenue.

The request for the Conditional Use Permit (CUP) is to permit the newly established material recovery use

to include automobile salvage/scrap yard operations, both defined in the Zoning Code as:

- Material recovery facility (major): A facility for the deposit, sorting, or batching, but not processing, of post-consumer recyclable materials, including limited compacting or crushing of recyclable materials.
- Auto salvage yard, scrap yard: A facility where scrap or salvage materials, including used motor vehicles, are sorted, stored, dismantled, assembled, and distributed, including wholesale and retail sales of such materials. Scrap or salvage materials include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles, plastics, and aluminum cans.

The petitioner intends to redevelop the site as a secondary scrap yard for the collection of metals and junk/salvaged vehicles as described in the submitted application. Current commercial material recovery operations began in August 2020, with operating hours Monday – Friday from 6 a.m. to 6 p.m. Proposed public operating hours for salvage are Monday-Friday from 7 a.m. to 4 p.m. and Saturdays from 7 a.m. to 12 p.m. Anticipated site modifications would be made over an undefined timeframe and include an industrial truck scale, 5,400 sq. ft. warehouse, 600 sq. ft. mobile storage container to function as an office space, outdoor storage of “rolloffs/luggers/trailers”, outdoor storage and stockpiles of scrap materials, and outdoor equipment parking/storage.

The Comprehensive plan depicts the north half of the site suitable for general industrial uses consistent with the request while the southern half is designated for commercial uses not consistent with the request. The Velp Avenue Areawide Plan’s recommendation is primarily for mixed-use and modern industrial uses such as small scale production facilities and showrooms with the general intent of reserving the Velp Avenue frontage for commercial and less intense industrial uses that will redefine Velp Avenue as a gateway corridor to the downtown with greater “curb appeal”. However, the zoning designation of a majority of the site is currently GI General Industrial. To facilitate the proposed use while also retaining consistency with adopted plans, staff is recommending that the proposed material recovery/scrap operations be limited along the Velp Avenue frontage to the extent needed to provide suitable area for the development of commercial or less-intense industrial uses.

After consultation with a commercial real estate professional and the City’s Economic Development staff, it was determined that a minimum of approximately 1 acre of land would be needed to be reserved for commercial redevelopment along the frontage. This equates to an area extending from the Velp Avenue right-of-way to the northeast 130 ft. along the western property line and 200 ft. along the Winford Avenue right-of-way / eastern property line (.88 acres) and staff is recommending that Salvage operations be prohibited within this area.

Evaluation of the property during standard CUP request evaluation revealed that the site is currently in a semi-blighted state with no longer used improvements remaining in place at various locations including remnants of former building, piles of gravel, two unused curb cuts on Velp Avenue and six curb cuts on Winford Avenue, four of which appear to be unused on the submitted site plan. While many of these improvements may need to be removed in relation to recently issued demolition permits, staff believes it is important to include a condition of CUP approval that the area prohibited for salvage uses (referenced above) shall have pavement, curb-cuts, and other improvements removed and be returned to vegetative ground cover as well as the unused curb-cuts along Velp and Winford Avenues be removed.

Operations of this type and intensity with primarily outdoor industrial business require fencing as a screen within the existing Zoning Code. The site currently has a fence with fabric covering that is somewhat impervious to sight. However, this regulation assumes that other industrial or heavier commercial uses are adjacent/nearby. The close proximity to low density residential uses (across Velp Avenue to the south) can often be incompatible. Additionally, visual, noise and other impacts associated may hinder potential redevelopment of the Velp Avenue frontage. In an attempt to minimize and/or alleviate these potential issues, staff is recommending that screen/buffer be enhanced along the south side of the fencing with established buffer design for nonresidential uses in residential districts (Zoning Code Section 13-1820) which

is the inclusion of a landscaped buffer/vegetative screen a minimum of six ft. in height and not less than 90 percent opaque on a year-round basis.

Although the proposed use of the site is not the most desirable and not fully consistent with the long range plans adopted by the City, Staff is supporting the CUP request with the inclusion of the proposed conditions suggested in order to achieve the highest level of compliance with adopted plans while still allowing the salvage operation to be established.

Ald. R. Scannell, Mather Heights Neighborhood Association and property owners within 400 ft. have been notified of the request as well as the placement of a zoning action notification sign along the Velp Avenue frontage. Staff has received six inquiries as of the drafting of this report, three of which were simply inquiries and three of which were objections. The objections are based on concerns over noise levels of the operations, views of the materials stored outside from Velp Avenue, negative impacts on redevelopment efforts of the Velp Avenue corridor and potential negative impact to property values of homes on the south side of Velp Avenue.

RECOMMENDATION

Staff is recommending approval of the CUP request with the following conditions:

- a) Salvage operations are prohibited along the Velp Avenue frontage within an area encompassed by the Velp Avenue right-of-way/western property line on the south extending northeast 130 ft. along the western property line and 200 ft. along the Winford Avenue right-of-way / eastern property line;
- b) Area prohibited for salvage uses (referenced in condition 1) shall have pavement, curb-cuts, and other improvements removed and the area returned to vegetative ground cover;
- c) Unused curb-cuts along Winford Avenue be removed and replaced with appropriate curbing as regulated by the Department of Public Works;
- d) Inclusion of a landscaped buffer/vegetative screen along the south side of the fence that is a minimum of six feet in height and not less than 90 percent opaque on a year-round basis;
- e) No drop-off/pick-up or other business operations are permitted after 7:00 p.m. on Monday through Friday or after 1:00 p.m. on Saturdays; No business shall be conducted on Sunday's;
- f) Area prohibited for salvage uses (referenced in condition 1) be brought forward for a zone change request from the General Industrial District designation to a Commercial District designation; and
- g) All conditions shall be in place prior to establishment/occupancy of the auto salvage / scrap yard use.

FISCAL IMPACT

ATTACHMENTS

1. Request for City Action - Plan Commission - Conditional Use Permit
2. ZP 20-23 Location Map_color
3. ZP 20-23 Prop Letter no. 4
4. ZP 20-23 Response Ltr 11.02.20
5. Memo from Weld Riley (January Plan Com -- ZP 20-23)
6. ZP 20-23 Resolution#2

REQUEST FOR CITY ACTION - PLAN COMMISSION

(Submit two copies to the Planning Department, Room 608 or City Clerk's Office, Room 106, City Hall)

Date: 8/6/2020

Petitioner(s): Burrows Midwest, LLC (dba Midwest Scrap Metal)

Phone Number: 920-693-8261

Address: 1156 Velp Ave City: Green Bay State: WI Zip Code: 54303

Property Owner: Sal Bs on Velp, LLC

Phone Number: 920-693-8261

Parcel Numbers (required): 18-782-E

Location of Property: 138,559 SQ FT WHITNEY OR LAVENTURE CLAIM THAT PRT OF LAVENTURE CLAIM AS DESC IN 598 R 361 EX 624 R 348 & EX PCL 112 OF TPP 1450-04-21-4.15

- Please See Attached

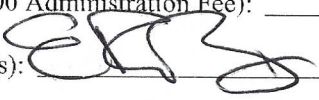
Attach maps and legal descriptions (required).

To: Honorable Mayor and Common Council, c/o City Clerk

I, Eric Burrows of Burrows Midwest, LLC, respectfully request that the City of Green Bay take the following action:

Attach Zoning Petition Form with first three items.

- ☐ Rezone Property (\$300.00 Review Fee)
- ☒ Conditional Use and CUP Amendment, including Single Lot Duplexes (\$300.00 Review Fee)
- ☐ PUD and PUD Amendments (\$350.00 Review Fee)
- ☐ Approve Preliminary City/Extraterritorial Subdivision Plat (\$150.00 plus \$35.00 per Lot/Outlot Review Fee)
- ☐ Approve Preliminary City/Extraterritorial Certified Survey Map (\$150.00 Review Fee)
- ☐ Approve Final City/Extraterritorial Subdivision Plat (\$100.00 Review Fee)
- ☐ Grant a City/Extraterritorial Subdivision/CSM Variance (\$150.00 Review Fee)
- ☐ Grant a Postponement of Development Fees (\$100.00 Review Fee) [Review by I&S and/or Park Committees]
- ☐ Development District Map Amendment (\$200.00 Administration Fee)
- ☐ Official Map/Area Development Plan Amendment (\$200.00 Administration Fee)
- ☐ Plat of Right-of-Way (\$200.00 Administration Fee)
- ☐ Discontinue a Public Utility Easement (\$200.00 Administration Fee)
- ☐ Street Name Change (\$200.00 Administration Fee)
- ☐ Declare City Property "City Surplus" (\$200.00 Administration Fee)
- ☐ Vacate a Street/Alley/Pedestrian Way (\$200.00 Administration Fee)
- ☐ Other (\$200.00 Administration Fee): _____

Petitioner Signature(s): 

Review Fee: _____

Receipt No.: _____

Zoning Petition No.: _____

Briefly describe action desired, noting the property affected and all other pertinent information.

Attach maps and legal descriptions (required).

Please See attached document.

Please contact the Planning Department in Room 608, City Hall, (920) 448-3400, if you have any questions.

Action Desired:

Burrows Midwest, LLC (dba Midwest Scrap Metal) is requesting a Conditional Use Permit (CUP) to purchase junk/ salvage vehicles. Junk/salvaged vehicles would be removed and transported to B&B Metals biweekly or sooner time frame.

Operational Activity

The Facility is located at the former County Materials Corporation operation in Green Bay, WI which ceased manufacturing in approximately 2012. Sal Bs Scrap Metal on Velp, LLC purchased the property in November 2013. Burrows Midwest, LLC (dba Midwest Scrap Metal) rents the property from Sal Bs Scrap Metal on Velp, LLC. Midwest Scrap Metal is in the process of removing and demolishing structures to allow for further redevelopment and future operations at the property. The property consists of one legal parcel, with a total acreage of approximately 3.18 acres.

Midwest Scrap Metal's will operate out of portable office of 16' x 40'. There is also intentions of having a 60' x 90' warehouse building built on the site. Bill Lorrigan Construction is in the process of submitting the application for the building permit.

Midwest Scrap Metal opened for operations in August 2020. Current operating hours are Monday through Friday from 6:00 am to 6:00 pm. All outdoor scrap processing operations are currently occurring on the central and north side of the property. These operations consist of acceptance and unloading of scrap from a variety of local commercial accounts. The scrap materials are received directly at the facility when incoming loads are weighed at the scale house. Vehicles are then directed to the appropriate unloading/storage area on the property. Commercial vehicles with ferrous metals typically unload outdoors in segregated scrap areas. The scrap is either placed on the ground on paved surfaces, or placed directly in dumpsters (if the threat of stormwater contamination is apparent).

Ferrous metals accepted include the following:

- Farm Machinery
- Clean Steel Rebar
- Machine Cast
- Transformers/Welders
- Prepared Foundry Steel
- Stove, Motor, Auto Cast & Brake Drums
- Unclean Auto Blocks
- Baling Wire/Fencing
- Electric Motors

Non-Ferrous metals accepted include the following:

- Aluminum
- Die Cast
- Lead
- Magnesium
- Radiators
- Brass
- Copper
- Stainless
- Zinc
- Sealed Units
- Auto Batteries

The following items are NOT accepted:

- Light bulbs
- Tires
- Small household batteries
- Dishwashers
- Electronics
- Precious Metals
- Treadmills
- New all plastic microwaves
- Aerosol Cans

Anticipated public operating hours are Monday through Friday from 7:00 am to 4:00 pm and Saturday from 7am until Noon. Residential items to be accepted includes the following:

- Appliances (any refrigerant remaining in appliances is removed indoors in a Refrigerant Removal Area by qualified technicians)
 - Air Conditioners
 - Dehumidifiers
 - Freezers
 - Refrigerators
- Grills
- Propane tanks (only if obvious holes are present)
- Snow blowers and lawn mowers (if all fluids are drained and tires removed)
- Bikes (with tires removed)
- Junk vehicles / Salvage vehicles

For commercial accounts, Midwest Scrap Metal also offers lugger and roll off boxes and/or trailers. Covers for lugger boxes are provided upon request. They also provide fork lift boxes and self-dumping hoppers to use inside facilities. In addition, they also provide semi-trailers and large containers for large amounts of scrap from major scrap clean ups, and can pick up large obsolete machines and equipment.

Once received, all scrap is segregated into common piles or containers and held for shipment to B&B Metals Processing Company, Inc. (B&B Metals) in Newton, WI. Junk/salvaged vehicles would be removed and transported to B&B Metals biweekly time frame. B&B Metals operates a large metal shredder capable of shredding large metal objects (including vehicles) to facilitate the reintroduction of the waste metals into various recycling streams and uses, primarily the smelting and metal industries.

Owner: Sal Bs Scrap Metal on Velp, LLC

Petitioners: Burrows Midwest, LLC (dba Midwest Scrap Metal)

Parcel#: 18-782-E

Legal Description:

Part of the Laventure Claim, West Side of the Fox River, in the City of Green Bay, Brown County, Wisconsin, more fully described as follows:

Commencing at the Brown County Surveyor's Traverse Point ID Number 40Q20: thence N60° 29'12"E, 1589.97 feet to Brown County Surveyor's Traverse Point ID Number 40021.1; thence N59° 41'47"W, 1867.36 feet to a point on the Westerly right of way of Winford Ave being 94.4 feet South of the North line of the Laventure Claim, and being the point of beginning; thence S26°29'53"W, 606.44 feet along said Westerly right of way; thence S45°35'30"W, 6.22 feet along said right of way to point #1294 of the recorded Transportation Project Plat Number 1450-04-4.15(Volume1. Transportation Project Plats, page 90, Document Number 2447897, Brown County Records); thence S26°28'52"W. 43.71 feet along said right of way to point 1315, said Transportation Project Plat; thence 47.48 feet along the arc of a 24.00 foot radius curve to the right whose long chord bears S83°09'34"W, 40.11 feet to point 1316, said Transportation Project Plat; thence N40°09'45"W, 195.45 feet along the Northerly right of way of United States Highway 141, also known as Velp Avenue to point 1317, said Transpiration Project Plat; thence N26°29'53"E, 598.53 feet: thence S64°03'47"E, 215.00 feet to the point of beginning.

Parcel contains 138,399 sq. ft / 3.18 acres more or less.

Parcel subject to easements and restrictions of record.

Amended Site Plan

Part of the Laventure Claim, West Side of the Fox River, in the
City of Green Bay, Brown County, Wisconsin.

LEGAL DESCRIPTION

Part of the Laventure Claim, West Side of the Fox River, in the City of Green Bay, Brown County, Wisconsin, more fully described as follows:

Commencing at the Brown County Surveyor's Traverse Point ID Number 40020; thence N60°29'12"E, 1589.37 feet to Brown County Surveyor's Traverse Point ID Number 40021; thence N67°41'47"W, 1867.36 feet to a point on the Western right of way of Winford Avenue being 94.4 feet South of the North line of the Laventure Claim; and being the point of beginning; thence S28°29'53"W, 606.44 feet along said Western right of way; thence S45°35'30"W, 6.22 feet along said right of way to point #1224 of the recorded Transportation Project Plat Number 140-04-21-4.15 (Volume 1, Transportation Project Plats, page 90, Document Number 2447897, Brown County Records); thence S28°28'52"W, 43.71 feet along said right of way to point 1315; said Transportation Project Plat; thence 47.48 feet along the arc of a 24.00 foot radius curve to the right whose long chord bears S83°09'34"W, 40.11 feet to point 1316; said Transportation Project Plat; thence N40°09'45"W, 195.45 feet along the Northern right of way of United States Highway 141, also known as Velp Avenue to point 1317; said Transportation Project Plat; thence N28°29'53"E, 595.53 feet; thence S64°03'47"E, 215.00 feet to the point of beginning.

Parcel contains 138,399 sq. ft. / 3.18 acres, more or less.
Parcel subject to easements and restrictions of record.

Steven M. Bode
P.L.S. 2075
May 14, 2017
Revised June 7th, 2019 (Maintenance/scale blog)
Revised August 22nd, 2019 (Per City review letter)
Revised March 10th, 2020 (Labeled Uses)
Revised May 18th, 2020 (moved scale and scale building)
Revised May 28th, 2020 (Per City Review)



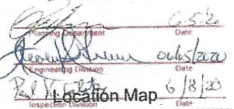
Site Coverage Calculations

Total Site = 138,399 s.f. = 100.0%
Asphalt = 111,376 s.f. = 78.3%
Concrete = 27,961 s.f. = 20.2%
Buildings = 60.2%
Grass = 1.3%

NOTES

- 1) Subject parcel is zoned G - General Industrial
- 2) Property located in Flood Zone "AE" (Base Flood Elevation Determined) and "X" (Areas determined to be outside the 0.2% annual chance floodplain) according to the FEMA FIRM 50009C0166F, dated August 19, 2009
- 3) Table A #16, There is no evidence of current earth moving work, building construction or building additions
- 4) There are no wetlands per the WDNR inventory maps
- 5) It is the Buyer's intent to provide green cloth screening as required by City Code Section 13-904
- 6) Gravel areas for the sized buildings shall be restored to green space per City Code
- 7) Key entrance drives to be abandoned, shall be abandoned in compliance with City Code Sec. 13-1706(n)
- 8) The Buyer does not intend on making any improvements, including utility related improvements, to the Property of this line other than as indicated herein
- 9) The type of material to be located on site will be primarily ferrous metals/scrap (for example, sheet metal, steel, etc.) and some non-ferrous metals/scrap (for example, aluminum siding, etc.)
- 10) No hazardous materials will be stored within the 100 year floodplain (Flood Zone AE)
- 11) REVISIONS TO THIS SITE PLAN FROM PREVIOUS SUBMITTAL:
Outdoor Roll-off Box & Lugger Box parking, new fencing, material storage areas and moved scale and maintenance 1/2 scale building.

CITY OF GREEN BAY, WISCONSIN
CONDITIONALLY APPROVED
SITE PLAN



City of Green Bay

2nd REVISED
OWNER 1156 Velp Av
RECEIVED SH 1545
JUN 05 2020
DH 70424

Owner:

SALES SCRAP METALS ON VELD LLC

Mau & Associates
LAND SURVEYING & PLANNING

TAX PARCEL NO. 18-782-E

Site Plan

SCALE
1"=3'

-  Proposed CUP Site
-  400' Property Owner Notice



City of Green Bay
Department of Community and Economic Development

January 12, 2021

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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Respectfully,

A handwritten signature in black ink, appearing to read "D. Buck".

David Buck, AICP
Principal Planner

DB:lb

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

BRETT A SIMMONS, ETAL
1123 WINFORD AVE
GREEN BAY WI 54303-4030

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

BRONSON A DUNOW
1204 WILSON AVE
GREEN BAY WI 54303-4209

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Department of Community and Economic Development

January 12, 2021

BROWN COUNTY TAX DEED
305 E WALNUT ST
GREEN BAY WI 54301

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

CARIB INVESTMENT GROUP LLC
PO BOX 8242
GREEN BAY WI 54308-8242

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

CARL D HARDTKE
2300 TOWER DR
KAUKAUNA WI 54130

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

CARMEN M SHEFCHEK
1115 WINFORD AVE
GREEN BAY WI 54303-4030

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

CHARLES MEYER
PO BOX 244
COLEMAN WI 54112

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

CHERYL L & ANTHONY P KNUPPEL
1708 E WISCONSIN AV
APPLETON WI 54911-4037

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A handwritten signature in black ink, appearing to read 'D. Buck'.

David Buck, AICP
Principal Planner

DB:lb

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

CHRISTOPHER D WILLCOX
1201 VELP AVE
GREEN BAY WI 54303-4210

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

Dear Property Owner:

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Password: 483400

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

DANIEL R & MELISSA M STAUB
1112 NEVILLE AVE
GREEN BAY WI 54303-4020

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January 12, 2021

DEBRA & STEVEN KASHDAN
180 DARCY AV
GOOSE CREEK SC 29445

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January 12, 2021

DENIS M ZELLNER
1124 NEVILLE AVE
GREEN BAY WI 54303-4020

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January 12, 2021

ERIC K ELLIOTT
405 SARATOGA ST
GREEN BAY WI 54303-4538

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FERRELLGAS INC
1 LIBERTY PLAZA
LIBERTY MO 64068-2971

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Department of Community and Economic Development

January 12, 2021

GERALD C & GLORIA P BIGELOW
1216 N BUCHANAN ST
GREEN BAY WI 54303-3702

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

GILLIS ANTHONY J & MARY ANN REVOC LIVING TRUST
PO BOX 991
GREEN BAY WI 54305

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

JACOB E HINTZ
1135 WINFORD AV
GREEN BAY WI 54303-4030

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January 12, 2021

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N7265 COZY OAKS CIR
SHAWANO, WI 54166

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David Buck, AICP
Principal Planner

DB:lb

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

JOEL K NIENOW
1127 WINFORD AVE
GREEN BAY WI 54303

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

JULIE G BECKS
911 GERARD DR
GREEN BAY WI 54302

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

KATHLEEN A SAMSON
1116 NEVILLE AVE
GREEN BAY WI 54303-4020

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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January 12, 2021

KATHRYN M & DAVID G PERRET
3507 NICOLET DR
GREEN BAY WI 54311-7201

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KENNETH C & VICTORIA J BORLEY
1175 THOMAS ST
GREEN BAY WI 54303-4021

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KERRY F RATHBURN
2425 LINA LN
GREEN BAY WI 54304

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Department of Community and Economic Development

January 12, 2021

KEVIN D STAUB, ETAL
1125 NEVILLE AVE
GREEN BAY WI 54303-4019

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

LISA K & KEVIN C SCHAUT
4373 WINDEMER LN
ONEIDA WI 54155-8637

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January 12, 2021

M T REAL ESTATE HOLDINGS LLC
1001 DISCOVERY RD
GREEN BAY WI 54311-8001

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Respectfully,

A handwritten signature in black ink, appearing to read 'D. Buck'.

David Buck, AICP
Principal Planner

DB:lb

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

MICHAEL S LUEDTKE
1136 WILSON AVE
GREEN BAY WI 54303-4207

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

Dear Property Owner:

You are once again being notified of a proposed zoning action because you own property within 400 ft. of this request.

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

NICOLE M & ERIK J BINNEBOSE
1123 NEVILLE AVE
GREEN BAY WI 54303-4019

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Department of Community and Economic Development

January 12, 2021

PATRICK J ATKINSON, ETAL
710 RIVERSIDE DR
SUAMICO WI 54174

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City of Green Bay
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January 12, 2021

RICHARD J ERICKSON
1129 NEVILLE AVE
GREEN BAY WI 54303-4019

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January 12, 2021

SAL BS SCRAP METALS ON VELD LLC
14520 PIONEER RD
NEWTON WI 53063

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Veld Avenue

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January 12, 2021

SANDRA M HAZAERT
1116 WINFORD AVE
GREEN BAY WI 54303-4031

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

SCOTT P ALLEN, ETAL
2070 DOVE ST
GREEN BAY WI 54304

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City of Green Bay
Department of Community and Economic Development

January 12, 2021

STUBBS LUKE LLC
1220 WINFORD AVE
GREEN BAY WI 54303

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City of Green Bay
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January 12, 2021

SUSAN A & ALLEN L NIENOW
1129 WINFORD AVE
GREEN BAY WI 54303-4030

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January 12, 2021

TAMBRA L & CURTIS J ALLEN
1119 WINFORD AVE
GREEN BAY WI 54303-4030

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Respectfully,

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David Buck, AICP
Principal Planner

DB:lb

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

TODD M & TRISHA D LEMERY
N1058 COUNTRY RD 577
MENOMINEE MI 49858

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

Dear Property Owner:

You are once again being notified of a proposed zoning action because you own property within 400 ft. of this request.

The City of Green Bay Plan Commission will continue its review of a request to authorize a Conditional Use Permit (CUP) for a Material Recovery Facility with Auto & Metal Salvage Operations at 1156 Velp Avenue. Please see the attached map for the location.

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President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

VELP PROPERTIES INC
PO BOX 9229
GREEN BAY WI 54308

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

WALTER H STILES, ETAL
1122 NEVILLE AVE
GREEN BAY WI 54303-4020

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

WS PROPERTY INVESTMENTS LLC
1649 PINECREST RD
GREEN BAY WI 54313

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Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

January 12, 2021

BURROWS MIDWEST LLC
1156 VELP AVE
GREEN BAY WI 54303

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

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President of Mather Heights Neighborhood Association



City of Green Bay
Department of Community and Economic Development

November 5, 2020

Re: (ZP 20-23) Proposed Conditional Use Permit – 1156 Velp Avenue

Dear Property Owner:

Please be advised that on Monday, November 2, 2020, the City of Green Bay Plan Commission recommended to postpone review of the request to authorize a Conditional Use Permit (CUP) for a Material Recovery Facility (including Auto & Metal Salvage Operation) at 1156 Velp Avenue until a special Plan Commission meeting in January. Final date yet to be determined.

The postponement is being done to allow the applicant to respond to allegations brought up at the meeting as well as to invite the public to provide relevant information to the City (at least six (6) days prior to said special meeting). Should you have any information (photos, video, etc.) regarding current operations at the subject site that you consider relevant for City Plan Commission consideration, please submit it to me by mail or e-mail no later than December 31, 2020.

The Plan Commission recommendation will be part of the Plan Commission's Report to Council for the virtual meeting of the City Council scheduled for **Tuesday, November 10, 2020, at 6:00 p.m.** Please visit our website at <https://greenbaywi.gov/129/Meetings-Agendas-Minutes> for additional information regarding the virtual Common Council Meeting.

If you have any questions, please do not hesitate to contact me at (920) 448-3411 or David.Buck@greenbaywi.gov.

Sincerely,

David Buck, AICP
Principal Planner

DB:jd

cc: Ald. Randy Scannell, District 7
Ald. Mark Steuer, District 10
President of Mather Heights Neighborhood Association

MEMORANDUM

TO: Mr. David Buck

CC: Ms. Vanessa Chavez

FROM: John Robert Behling and Anders B. Helquist

DATE: December 30, 2020

**RE: January Plan Commission Information – Burrows Midwest LLC’s
Proposed Conditional Use**

We are providing additional information for inclusion in the Plan Commission’s packet ahead of its special January meeting to review and consider Burrows Midwest LLC’s (“Burrows”) proposed conditional use permit (“CUP”) to purchase junk/salvage vehicles at its Velp Avenue location in the City of Green Bay.

October 30, 2020 Memo

Our October 30 memorandum to you (copy attached as Exhibit E) provided multiple reasons why the Plan Commission, and ultimately the City Council can vote to deny Burrows’ proposed CUP in compliance with Act 67. We incorporate that memo here, but for brevity’s sake, will not repeat the same reasons verbatim. We continue to request the City deny the CUP, or at minimum, place the four (4) conditions on the CUP as identified in the October 30 memo.

With that memo in mind, outlined below are additional reasons for the Plan Commission to not recommend approval of the Burrows CUP.

Eric Burrows’ Misleading November 2, 2020 Plan Commission Statement

In response to allegations of automobiles at Burrows’ 1156 Velp Avenue property (“Property”), Eric Burrows testified at the November 2 Plan Commission, but his statement does not appear to reflect the full scope of what occurred or what is occurring on the property. Eric Burrows stated that only two (2) cars were brought onto the Property at one point earlier in the fall of 2020, implied it was apparently a one-time “mistake” or “accident” which Burrows corrected “ASAP,” and implied did not or would not happen again. At the November 2 Plan Commission meeting, Eric Burrows stated, in relevant part:

What happened was that **we picked up a box** from our commercial account and when we dumped the box out there **was two cars** on the bottom of the box. And my guy immediately contacted the owner of the property. Now the box is mine, but the owner of the scrap, and asked him why we have cars in the box when it’s supposed to be only like appliances and regular scrap metal. And he says well I thought I could put that in there ‘cause I did with the previous owner. **Well, we don’t with this owner, which is Burrows Midwest.** And immediately, my guy notified me and I told him to get them off the property ASAP. But I also wanted to

find out from the person who sent us the scrap if the cars were, ah, legit with a license and everything with the state, and yes he did take care of that, but the cars were [unintelligible] and everything **and we immediately got them off the property** and sent to B&B Metals. Ah, **it was a mistake** and I'm not going to sit here and deny it 'cause I told David Buck about it, but my people took very quick action and as you can see the one picture was loading on a semi truck, **we got 'em off there ASAP to make sure there was no issue**. This was before the last meeting we had. So Mr. Burrows, both of us are not trying to hide anything here. Okay, **accidents do happen but we did what we're supposed to do. We immediately corrected the action and took care of it**, so that's the best that I can see it. . . We're not trying to hide nothing, there's nothing to hide there. That's what I need to say." (emphasis added).

Mr. Burrows' statement minimizing the amount of cars on the Property, how they arrived, or that the cars were "immediately" removed misleads the Plan Commission. Despite Eric Burrows' statement that a mere two (2) cars were brought onto the Property as an apparent one-time "mistake" or "accident" of accepting a box with cars buried in the bottom of the box and that Burrows "immediately corrected" the so-called mistake, time-stamped photos show this incident of cars arriving in the bottom of a box was not a one-time accident. Photos show automobiles being brought onto the Property in plain sight. More than two (2) cars are shown in piles on the Property.

Attached to this memo are time-stamped photos of both the automobiles being brought onto the Property and multiple automobiles remaining on the Property. The photos include:

- Automobiles being brought onto the Property on October 8, 2020, on an open trailer, not buried in a box. (Exhibit A) (photos taken and provided by Dennis Nelson);
- Different sets of automobiles being brought onto the Property on October 6, 2020 and October 9, 2020 on an open trailer, not buried in a box (photos taken by Luke Stubbs, see Affidavit of Luke Stubbs, attached as Exhibit B, Exhibits 1-2);
- Multiple automobiles in both September and October (more than 2 cars) on the Property, either in piles or being salvaged, scrapped, or loaded for shipment. (Exhibit C) (photos taken and provided by Dennis Nelson); and
- Multiple automobiles on September 29, 2020, September 30, 2020, and October 1, 2020 (more than 2 cars) on the Property, either in piles or being salvaged, scrapped, or loaded for shipment (photos taken by Luke Stubbs, see Affidavit of Luke Stubbs, attached as Exhibit B, Exhibits 3-6).

Prior to the CUP's issuance, one of Act 67 requirements is that Burrows "must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." Wis. Stat. § 62.23(7)(de)2.b. (emphasis added). After seeing these photos and hearing Eric Burrows' November 2 testimony that only two (2) cars were accidentally brought on site and that they were "immediately" removed, the Plan Commission would be right to question Mr. Burrows' future testimony or new explanations regarding automobiles on the Property.

The Plan Commission would be correct to question the applicant's credibility and whether they carry the burden of being able to show they can meet City requirements through substantial evidence, i.e., facts, not speculation.

Other City Code Noncompliance Concerns

In addition to Burrows needing to meet their burden under Act 67 that, through substantial evidence, Burrows is and will comply with City requirements, the City Code also requires the "conditional use shall, in all other respects, conform to . . . all other applicable city ordinances." (Section 13.205(e)(7), City Code). For the reasons discussed below, we believe meeting this important standard is also difficult for Burrows.

While the Plan Commission reviews the CUP, the Plan Commission may want to ask and consider the following: If the City approves a CUP where an applicant so regularly and openly engages in uses for which it is not authorized under City Code, what message does and will that send to other businesses and individuals regarding the importance or enforceability of the City's Code?

Automobiles Storage at the Property and the City's Permitting Requirements

The September and October photos (Exhibits A-C) make clear there are multiple automobiles being brought onto the Property, not just two (2) cars buried in the bottom of a box.

As Mr. Buck testified at the Plan Commission's October 12 meeting, if cars were being set up for demolition on the site without a permit, that activity would be illegal under the City's Code and not allowed. Engaging in that use without a CUP violates the City's Zoning Code. It is "unlawful to use or improve any structure, land, or water in violation of any of the provisions of [Section 13]." (Section 13.219, City Code). Burrows does not have a CUP for auto salvage and is required to obtain a CUP prior to engaging in that auto salvage use.

Additionally, without having a permit from the City Clerk for auto salvage storage, using the property to store junked automobiles is also against City Code. Section 6.08(2) provides, "No person shall accumulate or store any junked automobile or parts thereof outside of any building on any real estate within the city unless a permit is obtained from the city clerk for such use of the premises." We are unaware of Burrows obtaining this additional permit from the City.

Failure to Report Automobile and Other Scrap Transactions

There is reason to believe Burrows is also not complying with the City Code regarding the reporting requirements of certain scrap metal purchases. If these violations are occurring, they are not only contrary to City Code, but are serious violations of the public trust and are an additional reason to deny the proposed CUP or in the alternative, place conditions on the CUP requiring strict compliance with all applicable federal, state, and local laws and regulations.

State law recognizes the importance of maintaining the integrity of certain scrap metal purchases to ensure such purchases are made from sources who lawfully obtained the scrap metal. The failure to comply with the recordkeeping requirements of certain scrap metal purchases under Wis. Stat. § 134.405(3) and/or failure to provide records when requested by law enforcement under Wis. Stat. § 134.405(4)(c) can result in serious penalties. Each day a scrap dealer knowingly violates

Wis. Stat. § 134.405 constitutes a separate violation. (Wis. Stat. § 134.405(5)(b)). Repeat offenders can be found guilty of a Class I felony. (Wis. Stat. § 134.405(5)(ap)).

The City Code, through its authorization under Wis. Stat. § 134.405(6)(b), enacted an ordinance requiring electronic reporting of certain scrap metal transactions. Under City Code, “junk dealers”, which Burrows is, are required to submit electronic reports of certain scrap transactions to the Green Bay Police Department. Section 6.07(8) of the City Code provides:

Junk dealers **must** submit an electronic report of every regulated property transaction to the police department no later than the business day following the date of purchase, by transferring it from their computer to the web server via modem designated by the city police department. The electronic reports shall include each seller's or deliverer's name, date of birth, identification number, and address, and the number and state of issuance of the license plate on each seller's or deliverer's vehicle. All required records **must be transmitted completely and accurately after the close of business each day** in accordance with standards and procedures established by the police department using procedures that address security concerns of the junk dealer and the police department.

(emphasis added). “Regulated property” means “nonferrous scrap, metal articles, and proprietary articles.” (Section 6.07(1)(c), City Code) (Definitions for those terms are in Wis. Stat. § 134.405(1), which the City incorporates in Section 6.07 of its Code.) According to Burrows’ CUP application, they accept non-ferrous metals. Based on the photos, Burrows has also accepted automobiles to scrap and salvage on the Property.

To our knowledge, Burrows has not reported regulated property transactions to the Green Bay Police Department through the Northeastern Wisconsin Property Reporting System (NEWPRS). Based on a December 14, 2020 conversation between a representative of our client (Patrick Young) and the Green Bay Police Department, we understand there were no electronically-reported transactions from Burrows in Green Bay. No records or reports were provided or disclosed to Mr. Young, but as of December 14, 2020, we understand there were no electronic reports provided by either Burrows Midwest, B&B Metals, Eric Burrows, or Rob Burrows to the Green Bay Police Department regarding scrap metal transactions. (See Affidavit of Patrick Young attached as Exhibit D).

As a long-time scrap dealer with experience in this industry at other locations in eastern Wisconsin, Burrows has no reasonable basis to not know about Wis. Stat. § 134.405, NEWPRS, or to fail to report transactions under NEWPRS to the Green Bay Police Department. In fact, Eric Burrows implied some sort of integrity check with the seller occurred when the two (2) cars were brought to the Property in a box. Burrows checked to see if they were “legit with a license and everything with the state,” but again, there was no record in NEWPRS of Burrows reporting any such transactions with the Green Bay Police Department.

This raises legitimate concerns regarding Burrows’ ability to comply with an important City ordinance to help maintain the integrity of scrap metal purchases. The proverbial “black eye” on

the scrap metal industry can spread to other businesses in the scrap metal sector, including our client's reputation.

As part of the substantial evidence required during this CUP process, we respectfully request the Plan Commission or City Planning Department either: (a) obtain written confirmation from the Green Bay Police Department regarding Burrows' compliance or noncompliance with Section 6.07(8) of the City Code prior to December 14; and/or (b) require Burrows to submit to the Plan Commission all electronic reports they filed prior to December 14 and thereafter with Green Bay, as required by Section 6.07(8).

Conclusion

Thank you again for your review and consideration. For the reasons set forth in this memo and our October 30 memo, we respectfully request the Plan Commission recommend denial of the Burrows CUP, as it has the flexibility to do under Act 67. In the alternative, we request the four conditions identified in the October 30 memo and a condition requiring strict compliance with all applicable local, state, and federal laws, ordinances, and regulations be imposed on the proposed CUP.

Exhibit A





Exhibit B

[Affidavit of Luke Stubbs on following pages]

AFFIDAVIT

STATE OF WISCONSIN)

BROWN COUNTY)

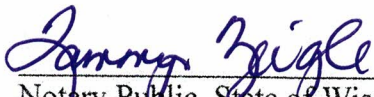
Luke Stubbs, being first duly sworn on oath, states as follows:

1. This Affidavit is being made in support of the memorandum to David Buck from John Robert Behling and Anders B. Helquist ("Memo") regarding property located at 1156 Velp Avenue, Green Bay, Wisconsin ("Property").
2. Affiant is the owner of Beyond Redline Performance LLC, located at 1220 Winford Ave., Green Bay, Wisconsin, which is located across the street from the Property.
3. Affiant took photos of activity on or at the Property on October 6, 2020, Exhibit 1, and October 9, 2020, Exhibit 2, copies of which are attached to the Memo and upon information and belief, show automobiles being brought onto the Property.
4. Affiant took photos of activity on or at the Property on Sept 29, 2020, Exhibit 3, September 30, 2020, Exhibit 4, October 1, 2020, Exhibit 5 and Exhibit 6, copies of which are attached to the Memo and upon information and belief, show automobiles being stored or otherwise scrapped or salvaged on the Property.



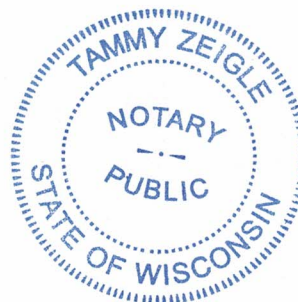
Luke Stubbs

Subscribed and sworn to before me
This 29 day of December, 2020.



Notary Public, State of Wisconsin

My Commission: 4/23/2022



Oct. 6, 2020 10:10 A.M. L. STUBBS Exhibit 1



OCT. 9, 2020
3:01 p.m.

L. STUBBS Exhibit 2



9/29/2020 9:30 A.M. L. STUBBS
Exhibit 3



Sept. 30, 2020
12:12 p.m.

L. STUBBS
Exhibit 4



Oct 1, 2020 1:53 p.m. L. STUBBS
Exhibit 5



Oct. 1, 2020 1:53 p.m. L. STUBBS Exhibit 6



Exhibit C





Sep 29, 2020 at 1:58:21 PM



Oct 13, 2020 at 2:21:28 PM





Oct 13, 2020 at 3:09:14 PM







Exhibit D

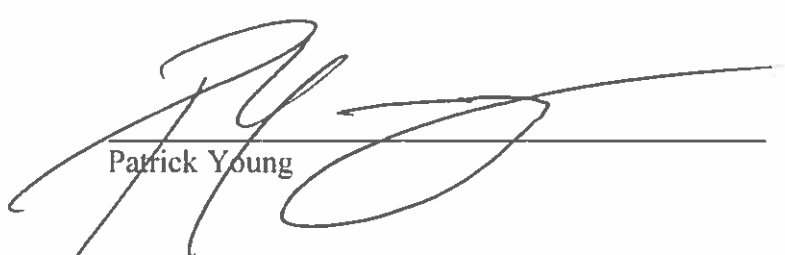
[Affidavit of Patrick Young on following page]

AFFIDAVIT

STATE OF WISCONSIN)
)
BROWN COUNTY)

Patrick Young, being first duly sworn on oath, states as follows:

1. This Affidavit is being made in support of the memorandum to David Buck from John Robert Behling and Anders B. Helquist ("Memo") regarding property located at 1156 Velp Avenue, Green Bay, Wisconsin ("Property").
2. Affiant is an employee at Alter Trading Corporation.
3. On December 14, 2020, Affiant called the Green Bay Police Department.
4. During the December 14, 2020 call with the Green Bay Police Department, Affiant asked whether Burrows Midwest, B&B Metals, Eric Burrows, or Rob Burrows had filed any electronic reports of scrap metal transactions with the City of Green Bay's Police Department through the Northeastern Wisconsin Property Reporting System (NEWPRS).
5. The City of Green Bay did not disclose or provide any records to Affiant, but upon information and belief, the Green Bay Police Department did not find any electronic reports of scrap metal transactions filed by Burrows Midwest, B&B Metals, Eric Burrows, or Rob Burrows with the City of Green Bay's Police Department through NEWPRS.


Patrick Young

Subscribed and sworn to before me
This 30th day of December, 2020.


Notary Public, State of Wisconsin Brown County

My Commission: 09/16/2023

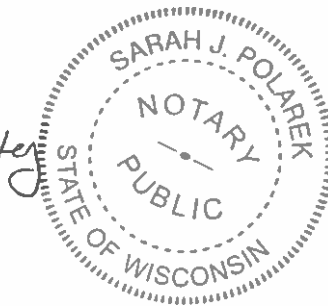


Exhibit E

[October 30, 2020 Memo on following pages]

MEMORANDUM

TO: Mr. David Buck

CC: Ms. Vanessa Chavez

FROM: John Robert Behling and Anders B. Helquist

DATE: October 30, 2020

RE: Act 67 Requirements and Burrows Midwest LLC's Conditional Use Permit

We want to follow-up regarding the potential Act 67-related requirements that may be raised at the November 2 City Plan Commission meeting regarding the proposed conditional use permit ("CUP") for Burrows Midwest LLC ("Burrows"). We kindly request this memorandum be entered into the record at the Plan Commission meeting.

Please know Act 67 does not require the City to "rubber stamp" and approve a proposed CUP. In fact, there is not only a burden on the applicant to show it can comply with the CUP's reasonable conditions, but if the City approves the CUP, there is a burden on the City to have substantial evidence that the applicant can comply with the City's laws and the proposed CUP conditions.

There is insufficient case law interpreting Act 67's requirements, but as discussed further below, based on Act 67's plain language, evidence regarding Burrows, and existing City requirements, we believe Burrows is unable to meet its burden to obtain the CUP. Further, if the City seeks to approve the CUP it will need to compile a sufficient record that the CUP approval is supported by "substantial evidence." Based on the information known to us, we are uncertain how the City can issue a CUP approval under Act 67's requirements.

Burrows Has Burden to Show Conditions and Other Legal Requirements Will be Met

Burrows will likely "agree" to follow proposed permit conditions and as a result of that agreement, Burrows will argue the City is therefore required to issue the CUP as a result. (See Wis. Stat. §62.23(7)(de)2.a.) However, Burrows' so-called "agreement" to follow the City's laws and conditions does not mean the City must eliminate its discretion and "rubber stamp" that agreement by approving the CUP. Automatically approving the CUP due to Burrows' so-called "agreement" to follow City ordinances and conditions would ignore the requirement in Act 67 that Burrows not only agree to follow conditions, but that Burrows must show it is currently satisfying and will satisfy the City's requirements.

Under Act 67, Burrows "must demonstrate that the application and all requirements and conditions established by the city relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." (Wis. Stat. §62.23(7)(de)2.b. (emphasis added). ("Substantial evidence" is defined as "facts and information, other than merely personal

preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion.” Wis. Stat. §62.23(7)(de)1.b.)

Again, though Burrows may “agree” to follow City Ordinances and CUP conditions, Burrows must provide substantial evidence to the City that it is currently meeting or will meet all City requirements, i.e., ordinances, at the property. As set forth at the October 12th Plan Commission meeting and information gathered afterwards, there were and are multiple concerns raised about Burrows’ compliance with existing City requirements. This included the following:

- During the Plan Commission meeting and after testimony from a local business owner, a series of questions were asked to Green Bay Staff Member, David Buck, who was providing background information and assisting the Commission. One of Green Bay’s other local business owners, Mr. Gerald Bigelow, commented that he had witnessed on multiple occasions, on Monday and days before, that the property is filled with automobiles, lawn mowers, and appliances. Mr. Bigelow raised both environmental concerns as well as fear that Burrows’ material recovery facility was not acting within the rules set forth by both the City and the State of Wisconsin.
- One of the Plan Commission Members, after hearing Mr. Bigelow’s testimony, asked Mr. Buck a series of questions. The first question was whether it was illegal for a material recovery facility to have cars set up for demolition currently at the site. Mr. Buck’s response was that if that was currently happening it was illegal. The second question pertained to whether lawn mowers would be legal under the City’s Code. Mr. Buck’s response was again that currently it would be illegal. During the Plan Commission Hearing, however, no one asked the Burrows family, who was part of the hearing, as to whether these activities were happening now.
- Photos taken immediately the morning of October 13 show several car bodies and lawn mowers present (Exhibit A). As Mr. Buck had indicated during the Plan Commission Hearing, this activity is not allowed under the current City Code.
- What is perhaps even more concerning is that the very day after the October 12 hearing, during the day a crane was brought in which moved car bodies into an open top trailer and were no longer visible from the public roadway. There was also video taken on October 13, where a crane appears to be moving cars into a hole that had been dug by the crane in the center of a very large scrap pile.

Based on the information presented, Burrows’ disregard for City ordinances are facts, i.e., substantial evidence, that do not support a finding that “all requirements and conditions established by the city relating to the conditional use are or shall be satisfied.” (Wis. Stat. §62.23(7)(de)2.b. (emphasis added). It simply does not “conform to the applicable regulations of the district in which it is located and all other applicable city ordinances.” (Section 13-205(e)(7), City of Green Bay Code of Ordinances).

City Decision to Approve or Deny Must be Supported by Substantial Evidence

Please recall that “the city’s decision to approve or deny the permit must be supported by substantial evidence.” (Wis. Stat. §62.23(7)(de)2.b. (emphasis added)). Based on the evidence provided to the Plan Commission regarding Burrows apparent actions at the site, we believe the City’s denial of the CUP will be supported by substantial evidence, as required under Act 67.

Based on the information presented regarding Burrows’ conduct at the site to date, the City cannot simply disregard that substantial evidence and vote to approve the CUP based on “merely its personal preferences or speculation,” but instead must have facts and information in the record, i.e., substantial evidence, that Burrows is and will comply with City requirements and permit conditions. Therefore, if the City wants to approve this CUP, it is required under Act 67 to have substantial evidence in the record that supports Burrows’ ability to comply with City requirements and conditions. That burden falls on both the City and Burrows to establish that substantial evidence prior to CUP approval. (Wis. Stat. §62.23(7)(de)2.b.)

Conditions

Despite the hurdles to issue the CUP under Act 67’s requirements, if the City is still going to issue this CUP, then we believe the following conditions are necessary and required to not only protect the public’s health, safety, and welfare, but to address the specific evidence raised regarding Burrows to help ensure City ordinances and other laws are followed in Burrows’ operation moving forward. Based on the information provided to the City, the conditions are reasonable and supported by substantial evidence. These conditions include the following:

- Prior to and as a precondition to issuing the CUP, and during the life of their operations, Burrows Midwest LLC shall first obtain and maintain in good standing any and all licenses, permits, or other approvals from local, state, or federal governmental authorities that are required for their operations at the property. These permits, licenses, and approvals may include, but are not limited to: licenses under ch. 218, Wis. Stat., licenses or permits from DATCP and the Department of Transportation, proper stormwater discharge permits, air emissions, PCB handling, scale certifications, radiation detection, fire protection, and other environmental protection measures.
- The City’s zoning office shall be notified within five (5) days of receipt of any Notice of Noncompliance, Notice of Violation, or responsible party/site remediation letter from the Wisconsin Department of Natural Resources or the U.S. EPA, or any other citation, complaint, enforcement action, or conviction against Burrows Midwest LLC or any of its principal officers, from any law enforcement or administrative agency.
- Within five (5) days of its issuance, the City’s zoning office shall be provided a copy of any inspection report or other audit conducted by the Wisconsin Department of Natural Resources, the U.S. EPA, Wisconsin Department of Agriculture, Trade and Consumer Protection, or the Wisconsin Department of Transportation.

- In the event of a discharge (e.g., spill) of a hazardous substance, unless the discharge is specifically exempted under s. NR 706.07, Wis. Admin. Code, owner/operator who caused the discharge to the environment of a hazardous substance or who possess or controls a hazardous substance which is discharged to the environment shall immediately notify the City's zoning office of the discharge. Discharges to the environment may include recent discharges, historic discharges, and discharges caused by the long-term application of a substance.

Thank you in advance for your review and consideration and please do not hesitate to contact us with any questions you have.

Photos from Velp Avenue on Tuesday, October 13, 2020

Exhibit A







**RESOLUTION AUTHORIZING CONDITIONAL USE
APPROVAL AT 1156 VELP AVENUE
(ZP 20-23)**

FEBRUARY 02, 2021

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to Zoning Petition 20-23 and the recommendation of the Plan Commission on August 31, 2020 and January 21, 2022, the City of Green Bay does authorize a conditional-use permit for a Material Recovery Facility (Auto & Junk Yard Operation) on the following described property located at 1156 Velp Avenue, submitted by Burrows Midwest, LLC/dba Midwest Scrap Metal, property owner:

Part of the Laventure Claim, West Side of the Fox River, in the City of Green Bay, Brown County, Wisconsin, more fully described as follows:

Commencing at the Brown County Surveyor's Traverse Point ID Number 40Q20: thence N60° 29' 12"E, 1589.97 feet to Brown County Surveyor's Traverse Point ID Number 40021.1; thence N59° 41'47"W, 1867 .36 feet to a point on the Westerly right of way of Winford Ave being 94.4 feet South of the North line of the Laventure Claim, and being the point of beginning; thence S26°29'53"W, 606.44 feet along said Westerly right of way; thence S45°35'30"W, 6.22 feet along said right of way to point #1294 of the recorded Transportation Project Plat Number 1450-04-4.15(Volume I. Transportation Project Plats, page 90, Document Number 2447897, Brown County Records); thence S26°28'52"W. 43.71 feet along said right of way to point 1315, said Transportation Project Plat; thence 4 7.48 feet along the arc of a 24.00 foot radius curve to the right whose long chord bears S83°09'34"W, 40.11 feet to point 1316, said Transportation Project Plat; thence N40°09'45"W, 195.45 feet along the Northerly right of way of United States Highway 141, also known as Velp Avenue to point 1317, said Transportation Project Plat; thence N26°29' 53"E, 598.53 feet: thence S64°03 '4 7"E, 215 .00 feet to the point of beginning.

Parcel contains 138,399 sq. ft/ 3.18 acres more or less.

Parcel subject to easements and restrictions of record.

Tax Parcel No. 18-782-E

Said conditional-use permit shall be granted subject to the following conditions:

- a) Salvage operations are prohibited along the Velp Avenue frontage within an area encompassed by the Velp Avenue right-of-way/western property line on the south extending northeast 130' along the western property line and 200' along the Winford Avenue right-of-way/eastern property line;

- b) Area prohibited for salvage uses (referenced in condition 1) shall have pavement, curb-cuts, and other improvements removed and the area returned to vegetative ground cover;
- c) Unused curb-cuts along Winford Avenue shall be removed and replaced with appropriate curbing as regulated by the Department of Public Works;
- d) Inclusion of a landscaped buffer/vegetative screen along the south side of the fence that is a minimum of six feet in height and not less than 90 percent opaque on a year-round basis;
- e) No drop-off/pick-up or other business operations are permitted after 7:00 p.m. on Monday through Friday or after 1:00 p.m. on Saturdays; No business shall be conducted on Sundays;
- f) Area prohibited for salvage uses (referenced in condition 1) be brought forward for a zone change request from the General Industrial District designation to a Commercial District designation; and
- g) All conditions shall be in place prior to establishment/occupancy of the auto salvage / scrap yard use.

Adopted _____

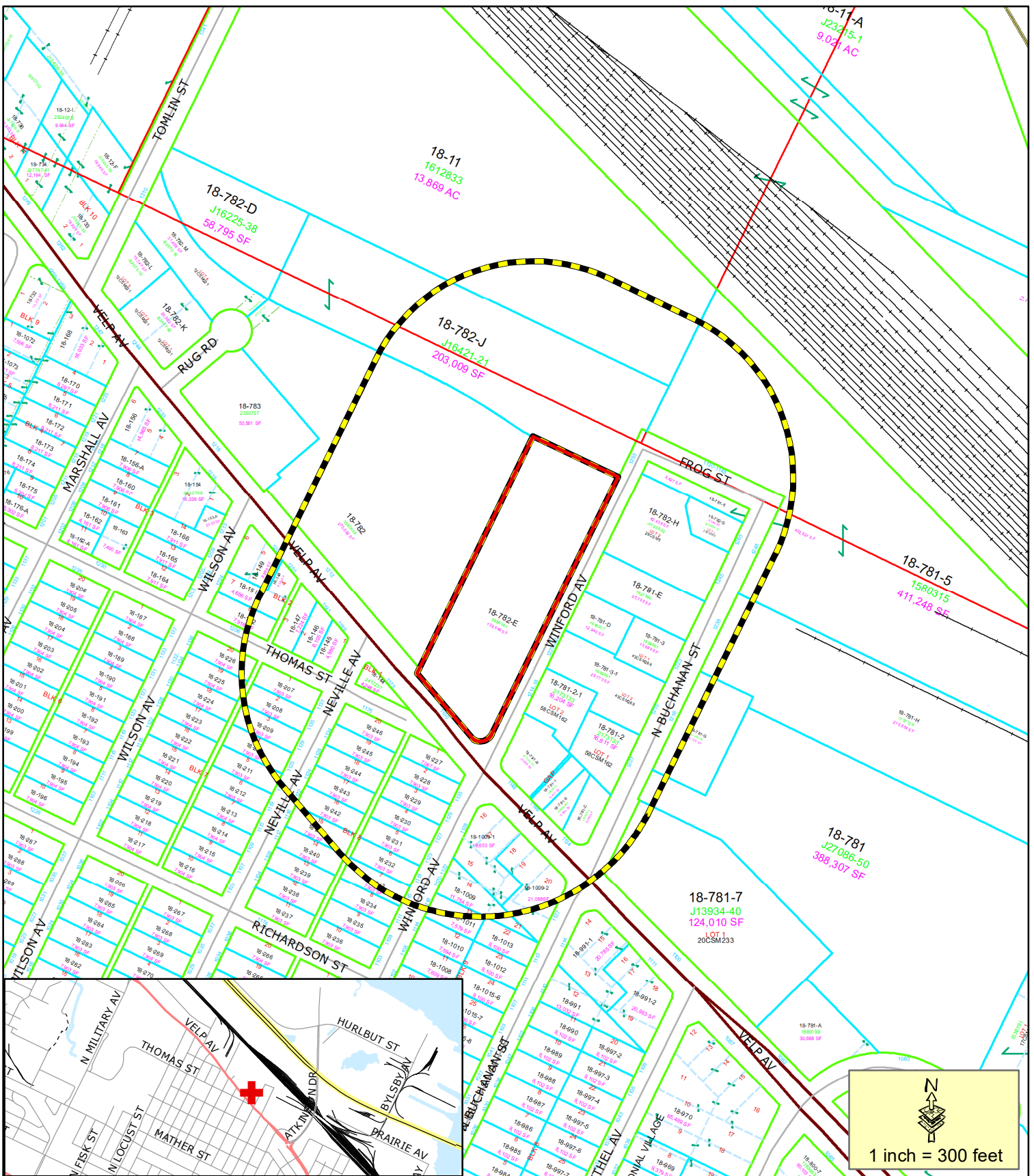
Approved _____

Mayor

Clerk

db

Attachment – Map



- Proposed CUP Site
- 400' Property Owner Notice

This is a compilation of records and data located in various City of Green Bay offices and is to be used for reference purposes only. The City of Green Bay is not responsible for any inaccuracies or unauthorized use of the information contained within. No warranties are implied.
Map prepared by DB

Zoning Petition (ZP 20-23)

Proposed Conditional Use

Permit (CUP) at

1156 Velp Avenue

