

Date: April 30, 2020

To: Town of Eagle Plan Commission and Town Board

From: Tim Schwecke, AICP, Town Planner

Subject: A. Conditional use for a personal storage facility located at S90W35710 CTH NN (EGLT1818999002); Innovations Real Estate Holdings LLC (Kevin Kenney, agent)
Application: 2020-02; <https://s.zoninghub.com/TLTZ59QXJF>

B. Site plan and plan of operation for a personal storage facility located at S90W35710 CTH NN (EGLT1818999002); Innovations Real Estate Holdings LLC (Kevin Kenney, agent)
Application: 2020-03; <https://s.zoninghub.com/HDXGUPOXB4>

Meeting: May 4, 2020 Plan Commission and Town Board meeting

The Plan Commission and Town Board conducted the public hearing for the conditional use at their meeting on March 2, 2020, and adjourned the hearing to the next regular meeting scheduled for April 6, 2020.

Due to COVID-19, that meeting was not held. A new public hearing notice was therefore published for the public hearing (attached).

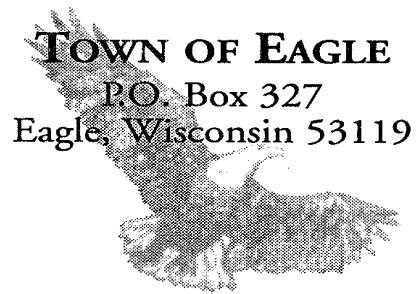
At the meeting in March, the petitioner asked for the adjournment of the hearing so that they could investigate the potential of creating a separate lot for the ministorage facility. As it turned out, it is not possible to create such a lot given the configuration of the existing buildings on the site (i.e., minimum lot area and setbacks and offsets). The petitioner therefore understands that the subject property will not be further divided unless significant changes are made to the existing buildings.

The petitioner has prepared a revised site plan showing the additional landscaping in front the building (attached).

With regard potential motions, please refer to the previous staff report (attached).

Attachments:

1. Second public hearing notice
2. Revised site plan
3. Staff report for March 2, 2020
4. Draft conditional use order



**Joint Public Hearing
Town of Eagle Plan Commission and Town Board**

The Town of Eagle Plan Commission and Town Board will conduct a joint public hearing on Monday, May 4, 2020, at 7:00 p.m. at the Eagle Municipal Building, located at 820 East Main Street, Eagle, to consider an application submitted by Innovations Real Estate Holdings LLC (Kevin Kenney, agent) to establish a personal storage facility as a conditional use on property located at S90W35710 CTH NN (EGLT1818999002). Additional details may be available online: <https://s.zoninghub.com/TLTZ59QXJF>.

A public hearing was initially held March 2, 2020 and was adjourned to April 6, 2020. The meeting on April 6 was cancelled due to COVID-19 concerns. This notice is for the rescheduled meeting indicated above.

All interested parties will be heard. The public hearing will be conducted in the order indicated on the meeting agenda.

For information regarding this public hearing, contact Tim Schwecke, Town Planner, at 920-728-2814. A copy of the above application materials may be obtained by calling Lynn Pepper, Town Clerk, at 262-594-5800 during normal office hours.

Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, please contact Lynn Pepper, Town Clerk, at 262-594-5800.

Lynn M. Pepper, Eagle Town Clerk

SITE, GRADING, DRAINAGE, & EROSION CONTROL PLAN INNOVATIONS SELF STORAGE

LOT 1 OF CERTIFIED SURVEY MAP NO. 7138 LOCATED IN PART OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23,
TOWN 5 NORTH, RANGE 17 EAST, TOWN OF EAGLE, WAUKESHA COUNTY, WISCONSIN

WISCONSIN STATE PLAT COORDINATE SYSTEM
SOUTH ZONE (NAD-83)
SECTION 23-5-17
S 89°03'53" W
E 2643.95'

NOTE: EXISTING GRAVEL BASE
TO REMAIN AND BE
SUPPLEMENTED AND
GRADED FOR 2 1/2"
BITUMINOUS BINDER LIFT
OF PAVEMENT AND
FUTURE 1" FINISH LIFT.

TO BE REPLACED IN
FUTURE WITH ENCLOSED
18'X154' STORAGE BUILDING
13-13'X18' UNITS

14'X18' PART OF BUILDING
TO BE REMOVED WHEN
NEW 18'X154' BUILDING IS
BUILT

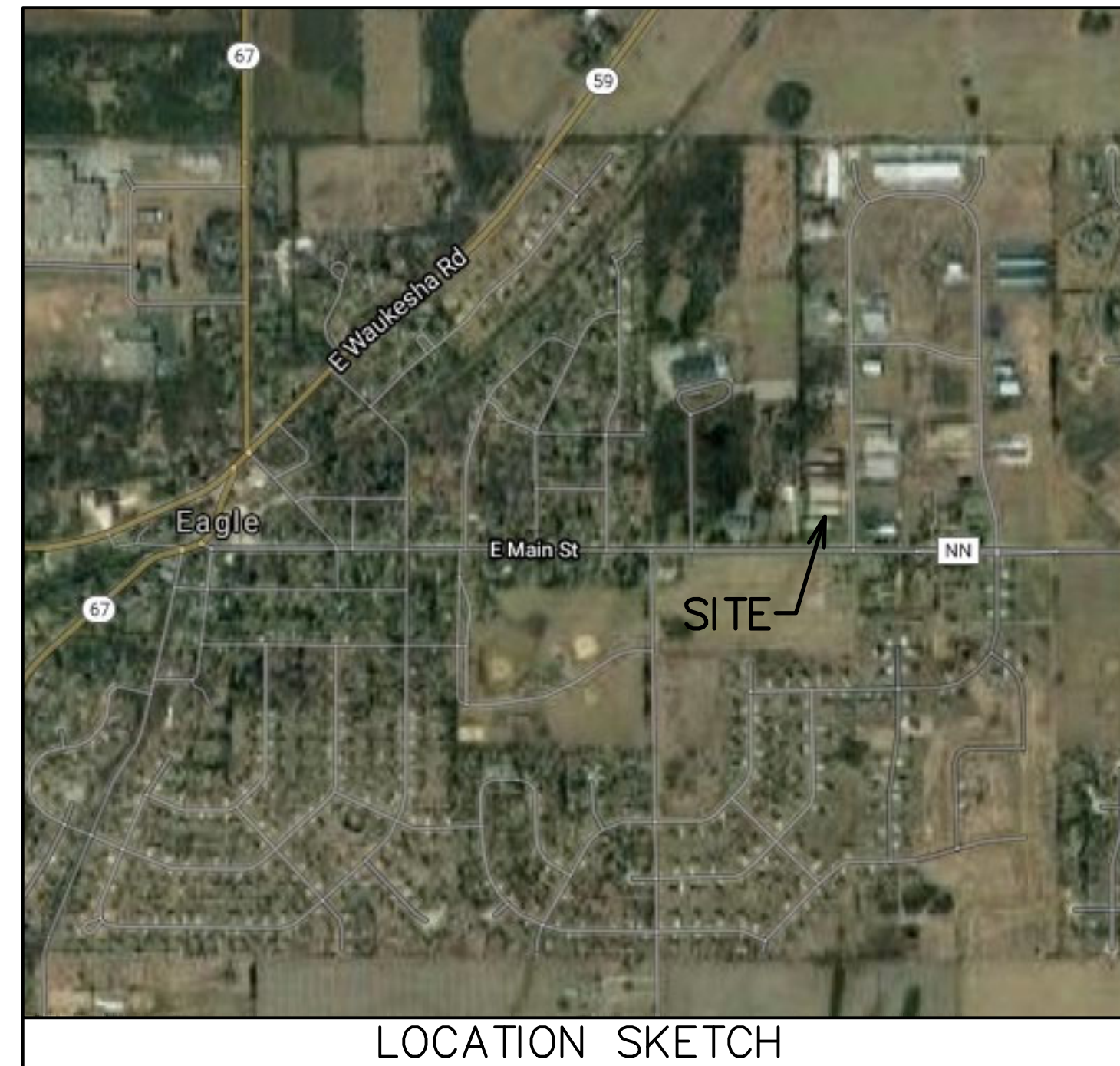
PROVIDE SILT
FENCE WITH
BALE CHECK

COUNTY TRUNK HIGHWAY "NN"
[VARIABLE WIDTH R.O.W.]

WEST 1/4 CORNER
23-5-17
SOURCE BENCHMARK:
ELEVATION=926.18'

S 89°03'53" W 2643.95'
[2644.03']

MAP SCALE IN FEET - ORIGINAL 1"=20'



LOCATION SKETCH

- LEGEND
- = FOUND CONCRETE COUNTY MONUMENT
 - = FOUND IRON PIPE STAKE
 - △ = FOUND MAG NAIL IN PAVEMENT
 - {XXX} = RECORDED AS
 - XXX--- = EXISTING CONTOURS
 - XXX--- = PROPOSED CONTOURS
 - XXX--- = PROPOSED FINISHED SPOT ELEVATION
 - XXX--- = DRAINAGE FLOW DIRECTION

LOT SIZE	- 130,896 SQ. FT. (3.00 AC.)
ZONING	- BUSINESS/INDUSTRIAL
AREA OF EXISTING BUILDINGS	- 26,465 SQ. FT.
AREA OF PROPOSED BUILDING	- 8,650 SQ. FT.
TOTAL BUILDING AREA	- 35,115 SQ. FT. (26.8%)
OTHER IMPERVIOUS AREAS	- 67,925 SQ. FT. (51.9%)
GREEN SPACE AREA	- 27,856 SQ. FT. (21.3%)
WAREHOUSE RENTAL UNITS	- 30 10'x25' UNITS 5 10'x15' UNITS
LAND DISTURBANCE AREA	- 40,000 SQ. FT. (0.92 AC.)

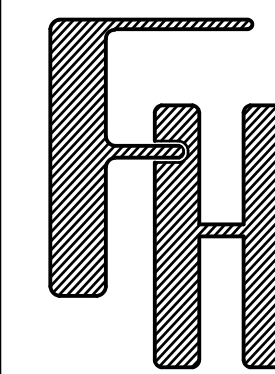
SITE SUMMARY

NOTE: PROPOSED NEW BUILDING AREA OF 8,650 SQUARE FEET FOR SELF STORAGE IS LOCATED FULLY OVER EXISTING IMPERVIOUS DRIVE AND OPERATIONS AREA. THE NEW PAVEMENT AREAS ARE ALSO FULLY OVER EXISTING IMPERVIOUS AREA EXCEPT FOR ABOUT 1,500 SQUARE FEET OUTSIDE OF THE PRESENT FENCED AREA. DUE TO THESE CONDITIONS, THERE IS NO NET INCREASE IN RUNOFF VOLUME REQUIRING STORM WATER DETENTION OR WATER QUALITY CONSIDERATIONS. LAND DISTURBANCE IS UNDER ONE ACRE.

NOTE: SEE PLAN FOR FUTURE REPLACEMENT OF EXISTING COVERED BUNKER BUILDING.

SHEET 1 - SITE, GRADING, DRAINAGE &
EROSION CONTROL PLAN
SHEET 2 - FLOOR PLAN
EXTERIOR ELEVATIONS
GENERAL SPECIFICATIONS
SHEET 3 - FOUNDATION PLAN
SECTIONS/DETAILS

SHEET INDEX



INNOVATIONS SELF STORAGE

SITE PLAN

S90W35710 COUNTY ROAD "NN",
EAGLE, WI 53119

SITE, GRADING, DRAINAGE, &
EROSION CONTROL PLAN

FARRIS, HANSEN & ASSOCIATES, INC.

ENGINEERING - ARCHITECTURE - SURVEYING

7 RIDGEWAY COURT P.O. BOX 437
ELKHORN, WISCONSIN 53121

OFFICE: (262) 723-2098 FAX: (262) 723-5886

REVISIONS

2/3/2020 - TS
WORK RD. 5' TO NORTH TO
PROVIDE 45' BETWEEN BLD.

4/6/2020 - TS
ADJUST LANDSCAPING
AND SITE PLAN

PROJECT NO.

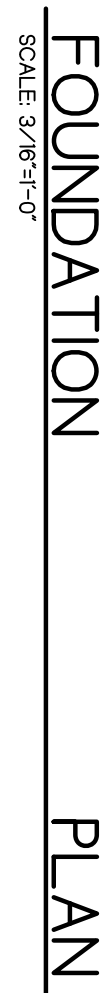
10208

DATE

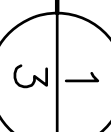
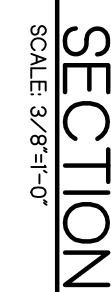
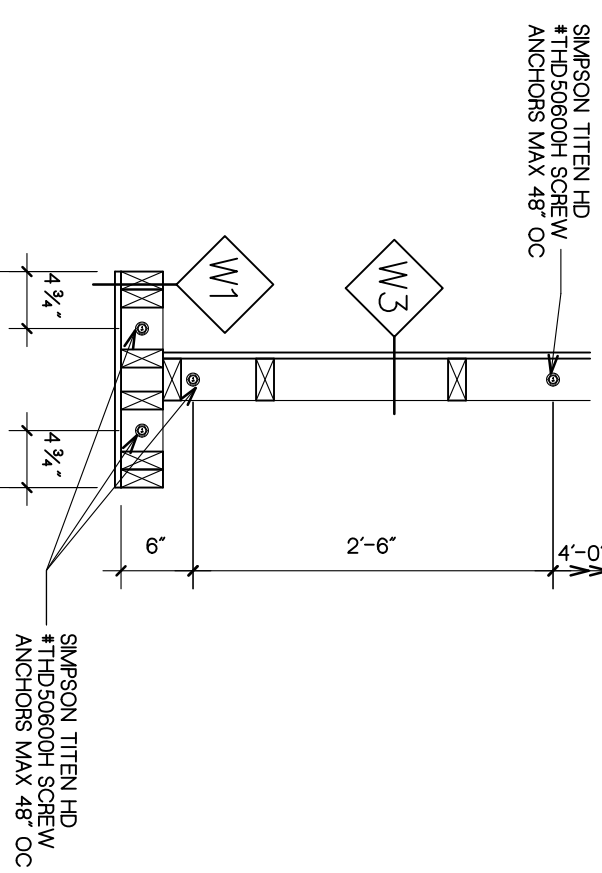
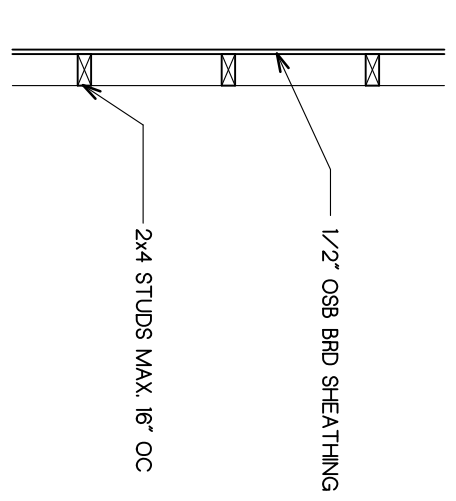
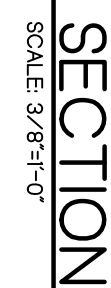
01/15/2020

SHEET NO.

1 OF 3



PLAN



Date: February 28, 2020

To: Town of Eagle Plan Commission and Town Board

From: Tim Schwecke, AICP, Town Planner

Subject: A. Conditional use for a personal storage facility located at S90W35710 CTH NN (EGLT1818999002); Innovations Real Estate Holdings LLC (Kevin Kenney, agent)

Application: 2020-02; <https://s.zoninghub.com/TLTZ59QXJF>

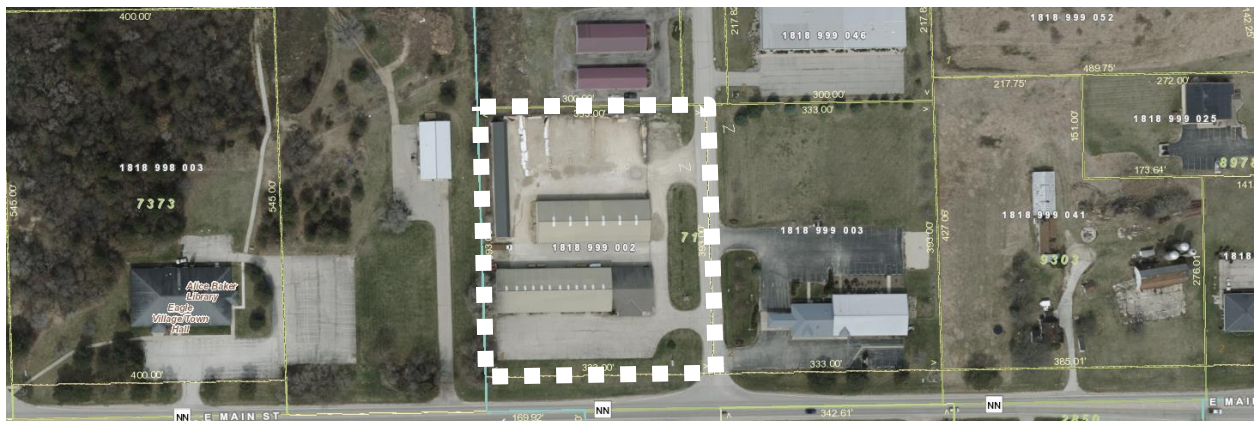
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Application: 2020-03; <https://s.zoninghub.com/HDXGUPOXB4>

Meeting: March 2, 2020 Plan Commission and Town Board meeting

A. Conditional use

Innovations Real Estate Holdings LLC owns the property at S90W35710 CTH NN and has submitted an application to establish a personal storage facility on the north side of the property as a conditional use. The remainder of the property will be used for the existing light industrial use.



Jurisdiction The subject property is located entirely in the Town's zoning jurisdiction.

Zoning The subject property is 3.0 acres and is zoned B-4 (Mixed Business). The minimum lot area is 40,000 square feet.

Consistency with comprehensive plan Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use permit that may be issued by a political subdivision does not need to be consistent with the political subdivision's comprehensive plan.

Description of proposed use A personal storage facility is described as follows:

A place where individual storage units are offered for rent, lease, sale, or other arrangement. The term includes a tract of land used to store motor vehicles and watercraft.

Development standards for the use The development standards listed below apply to a personal storage facility.

- (A) **Minimum lot size.** The minimum lot area for a personal storage facility is one acre.
- (B) **Access.** The access to a cubicle shall not open directly onto a public road right-of-way.
- (C) **Control of fugitive dust.** As part of the site plan/operation plan review process, the control of fugitive dust generated by this use, if any, shall be addressed to the satisfaction of the reviewing authority.
- (D) **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
- (E) **Uses.** Only uses that are accessory to storage shall occur. No portion of the site shall be used for fabrication, repair, or any similar use or for human habitation.
- (F) **Fencing of outdoor storage area.** An area used for outdoor storage of operational vehicles, watercraft, and the like shall be enclosed by a security fence.
- (G) **Setback of outdoor storage area.** Outdoor storage areas shall comply with the setback and offset standards for the zoning district in which the use is located.

Guidance regarding 2017 Act 67 With the adoption of 2017 Act 67, the State of Wisconsin has preempted municipal authority regarding conditional use permits in a number of respects, effective November 29, 2017. Decisions concerning conditional use permits now must be based upon "substantial evidence," which is defined as follows:

"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 a conditional use permit and that reasonable persons would accept in support of a conclusion."

Note two additional requirements of the new laws:

1. Any condition imposed must relate to the purpose of the ordinance and be based on substantial evidence.
2. If an applicant for a conditional use permit meets or agrees to meet all requirements and conditions specified in the ordinance, the conditional use permit must be granted.

The applicant must present substantial evidence demonstrating that the application and all requirements and conditions established by the Town relating to the conditional use are or shall be satisfied. Any condition imposed by the Town through ordinance or by the Town Board must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer or renewal. The Town's decision to approve or deny the application must be supported by substantial evidence.

Decision criteria In determining whether the proposed use should be approved as a conditional use, the Plan Commission and Town Board must consider the following factors as set forth in Section 500.224 of the zoning code:

1. the size of the parcel on which the proposed use will occur;
2. the presence of and compatibility with other uses on the subject property;
3. the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
4. effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
5. the suitability of the subject property for the proposed use;

6. effects of the proposed use on the natural environment;
7. effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
8. effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
9. any other factor that relates to the purposes of this chapter as set forth in s. 500.05 or as allowed by state law.

Public notice A public hearing notice was published in the *Waukesha Freeman* on February 14 and 21 (attached) and those owners within 300 feet of the subject property have been notified.

Public comments received by the Town As of the date of this correspondence, the Town has not received any written comments.

Potential motions:

1. Adjourn the public hearing to the next meeting scheduled for April 1, 2019, at 7:00 pm.
2. Direct the Town Planner to prepare a draft decision document **for approval / for denial** to be considered at the next meeting scheduled for April 6, 2019.

B. Site Plan / Plan of Operation

The floor area of the proposed building is 8,650 square feet. The area of all buildings is less than the permissible maximum of 50 percent.

Outdoor storage There will be no outside storage related to this use.

Fencing An existing chain-link fence is located on the west and north side of the property. Additional fencing, with two gated access points, is located on the east side of the building.

Outdoor lighting The building plans show a series of wallpack lights. Additional information needs to be submitted to ensure the lights are full cut-off.

Landscaping A landscape feature is located on the east end of the proposed building. Additional details are needed in terms of the plants to be planted. Street trees should be added in the grassed area along the street frontage.

Future land divisions Given the layout of the buildings, it will very difficult, if not impossible, to subdivide the property based on the current standards for the B-4 zoning district.

Public notice Aside from being included on the meeting agenda, no other public notice is required for site plan/plan of operations reviews.

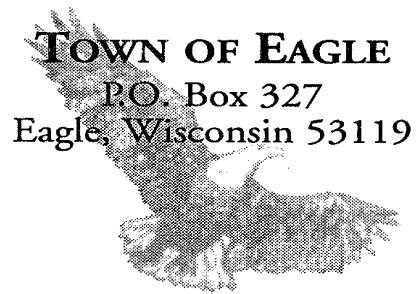
Review procedures With regard to site plan reviews, the Plan Commission makes the final decision. The Plan Commission may (1) approve, (2) approve with conditions, or (3) deny the application. If approval is granted, the Plan Commission can impose conditions deemed necessary to protect the public health, safety, and welfare.

Potential motion:

Table the application to the meeting on April 6, 2020, and direct the applicant to (1) provide details regarding the landscaping and outdoor lighting.

Attachments

1. Public hearing notice
2. Application materials



**Joint Public Hearing
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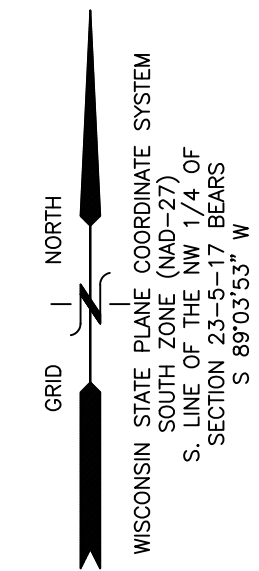
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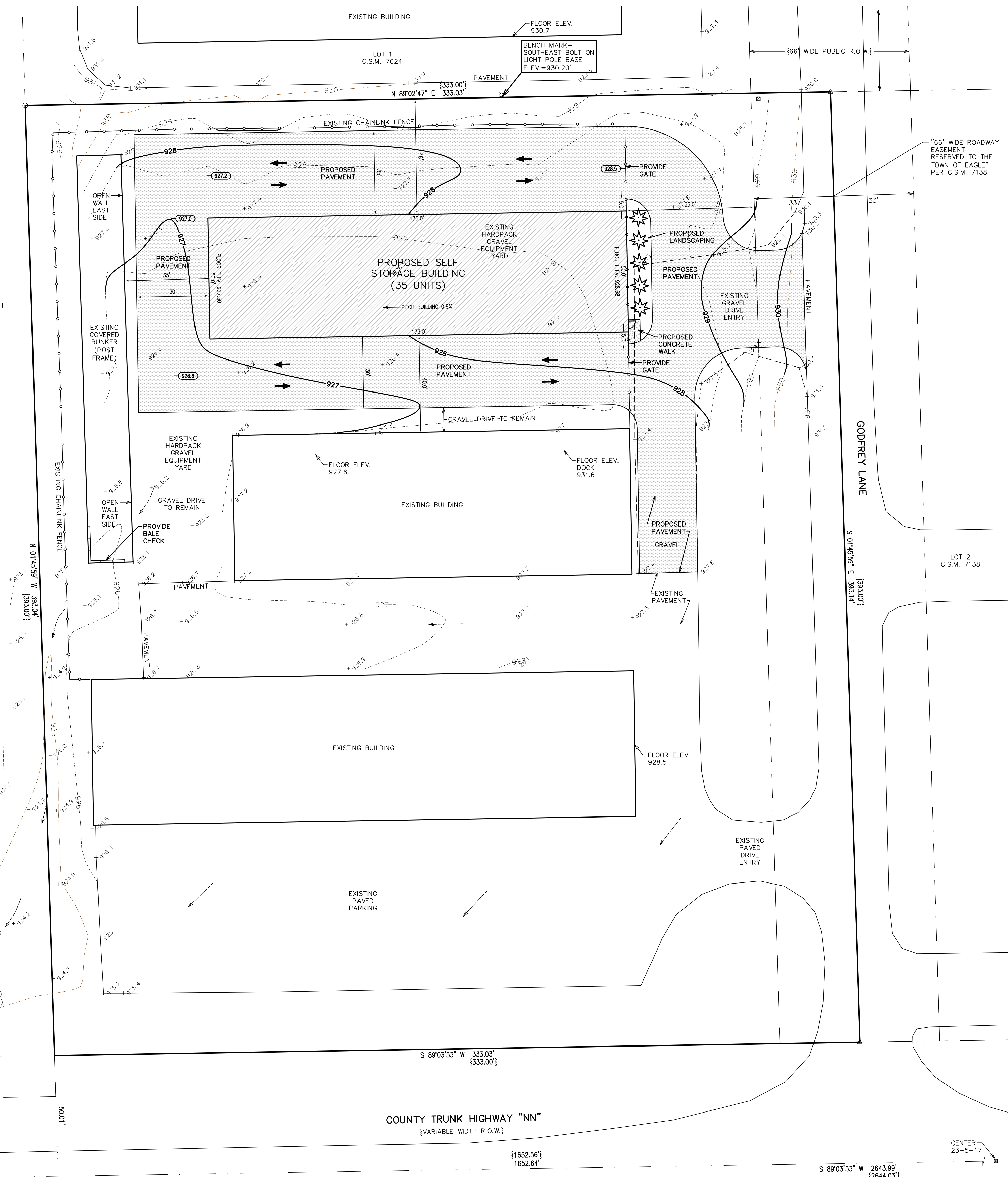
Published: February 14 and 21, 2020 in the *Waukesha Freeman*

SITE, GRADING, DRAINAGE, & EROSION CONTROL PLAN INNOVATION SELF STORAGE

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TOWN 5 NORTH, RANGE 17 EAST, TOWN OF EAGLE, WAUKESHA COUNTY, WISCONSIN



NOTE: EXISTING GRAVEL BASE
TO REMAIN AND BE
GRADED FOR 2 1/2\"/>



LOCATION SKETCH

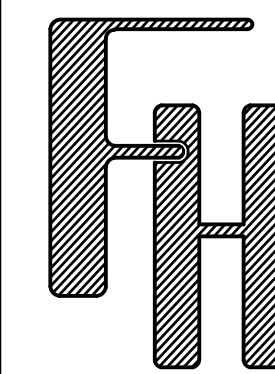
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 - - - - - = EXISTING CONTOURS
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SHEET 1 - SITE, GRADING, DRAINAGE &
EROSION CONTROL PLAN
SHEET 2 - BUILDING FLOOR PLAN &
ELEVATIONS
SHEET INDEX



INNOVATION SELF STORAGE

SITE PLAN

S90W35710 COUNTY ROAD NN,
EAGLE, WI 53119

SITE, GRADING, DRAINAGE, &
EROSION CONTROL PLAN

FARRIS, HANSEN & ASSOCIATES, INC.

ENGINEERING - ARCHITECTURE - SURVEYING

7 RIDGEWAY COURT P.O. BOX 437
ELKHORN, WISCONSIN 53121

OFFICE: (262) 723-2098 FAX: (262) 723-5886

REVISIONS

PROJECT NO.

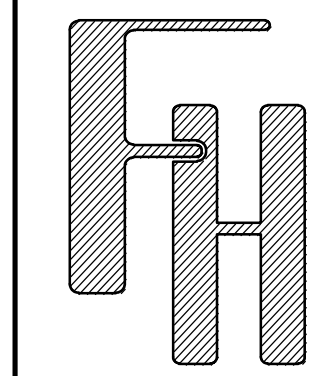
10208

DATE

01/15/2020

SHEET NO.

1 OF 2



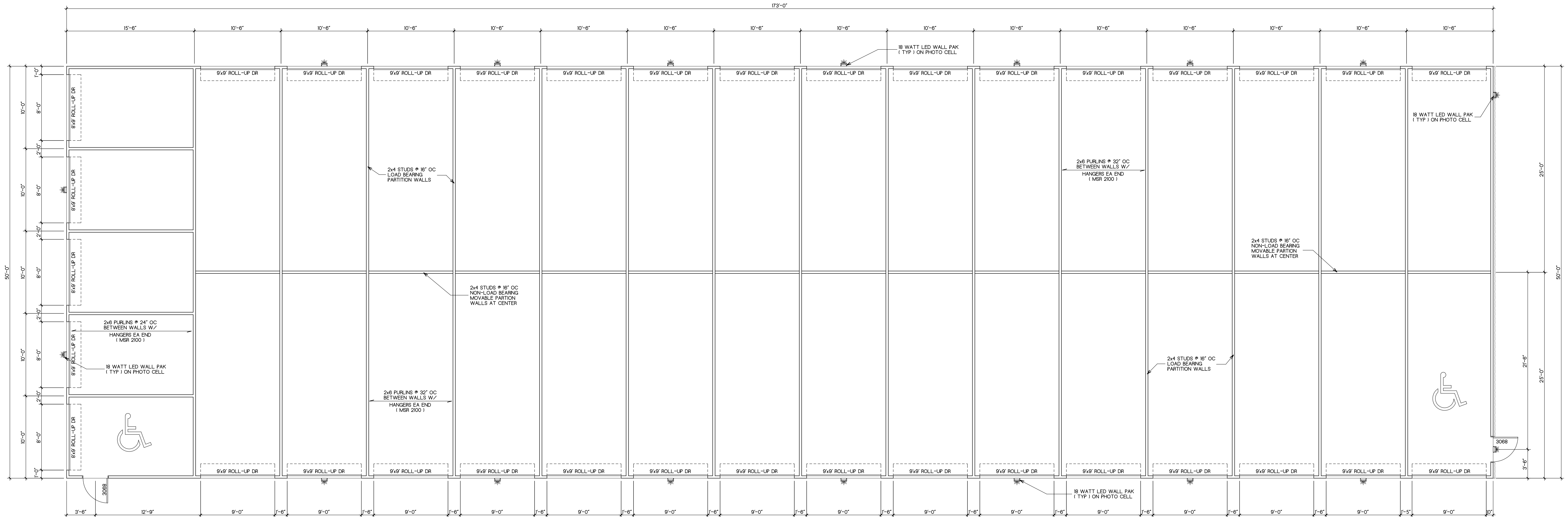
INNOVATION SELF STORAGE
S90W35710 COUNTY ROAD "NN"
TOWN of EAGLE, WAUKESHA COUNTY, WISCONSIN

FLOOR PLAN
EXTERIOR ELEVATIONS

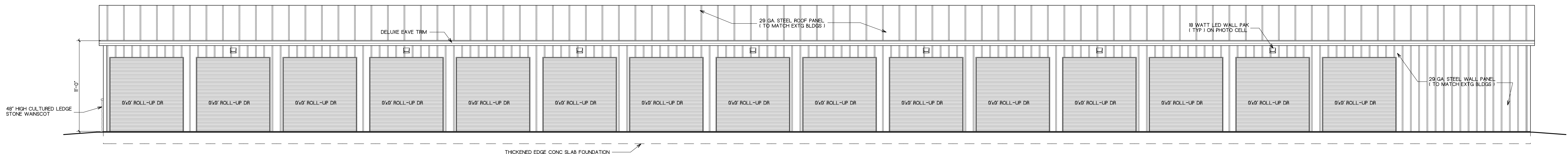
FARRIS, HANSEN & ASSOCIATES, INC.
Engineering, Architecture, Surveying
7 Ridgeway Court P.O. Box 437
ELKHORN, WISCONSIN 53121
Office: (262) 733-2098
Fax: (262) 733-5666

REVISIONS

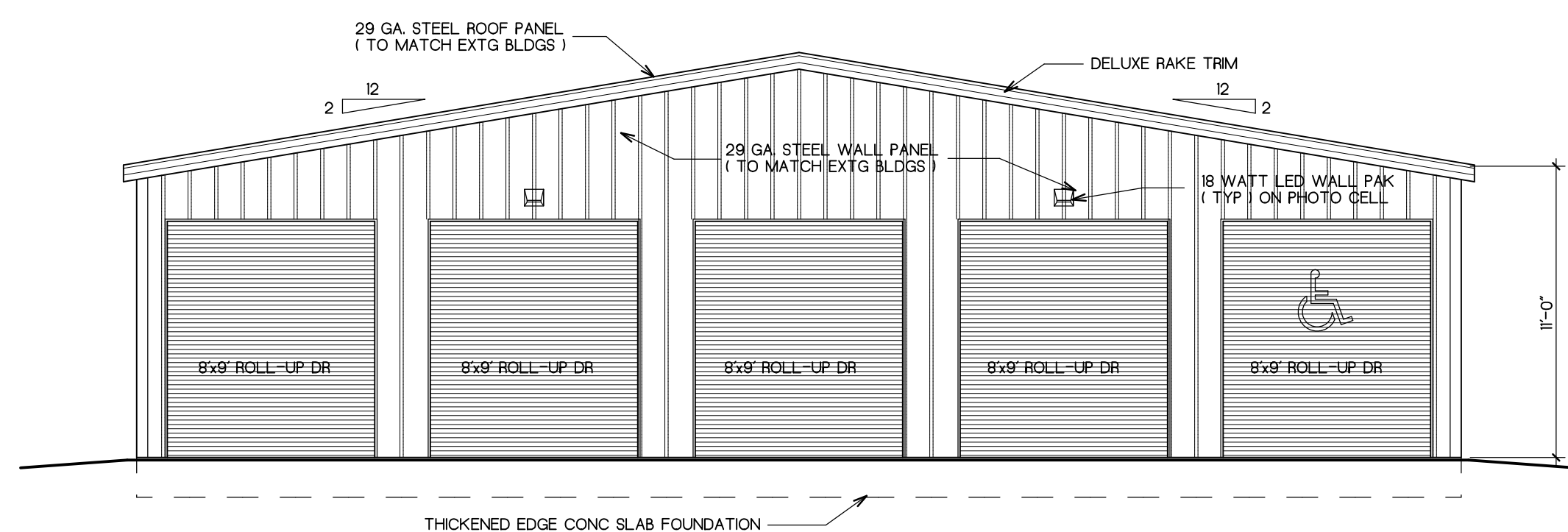
PROJECT NO:
10208
DATE:
01/06/2020
SHEET NO:
2 of 2



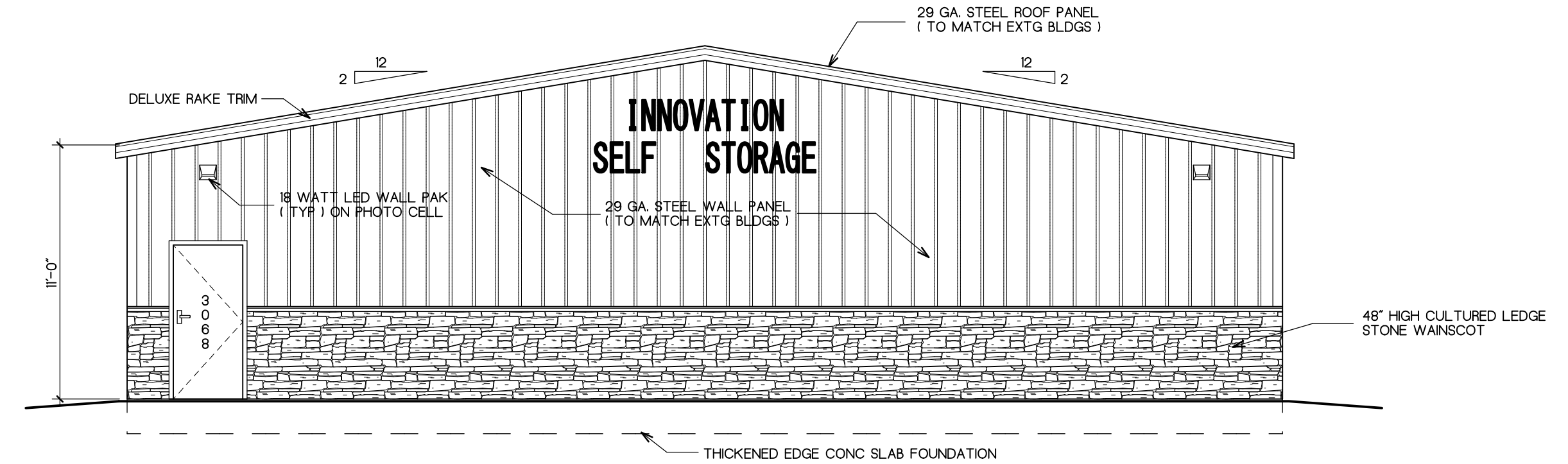
FLOOR PLAN
SCALE: 3/16"=1'-0"



NORTH ELEVATION
SCALE: 3/16"=1'-0"

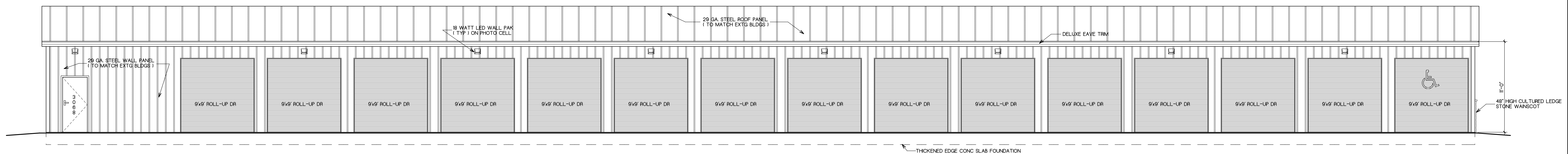


WEST ELEVATION
SCALE: 3/16"=1'-0"



EAST ELEVATION
SCALE: 3/16"=1'-0"

NOTE: OPTION TO GO TO 10' EAVE HEIGHT AND 1 FOOT SHORTER ROLL-UP DOORS.



SOUTH ELEVATION
SCALE: 3/16"=1'-0"

Wednesday, January 15, 2020 2:51 PM

X:\Project\10208\10208-CD\AD-PRELIMINARY PLAN.dwg

Conditional Use Application

Town of Eagle (Waukesha County), Wisconsin

Version: January 17, 2020

Town of Eagle
820 E. Main Street
Eagle, WI 53119

Overview: The Town's zoning regulations identify land uses that may be allowed in each of the zoning districts either by right or as a conditional use. By definition, a conditional use is a land use that may or may not be appropriate on a given parcel depending on a wide range of factors that relate to the proposed use and the particular circumstances relating to the parcel and surrounding properties. Conditional uses are therefore considered on a case-by-case basis. As part of the review process, the Plan Commission and Town Board conduct a joint public hearing to solicit input from the general public and other interested parties. When reviewing conditional use applications, the Plan Commission serves in an advisory capacity to the Town Board, which makes the final decision. The recommendation of the Plan Commission and the decision of the Town Board are based on the evidence and testimony received as part of the application and through the public hearing process.

If you submit an application, do not contact any member on the Plan Commission or the Town Board until after a final decision has been made.

Governing regulations: The procedures and standards governing the review of this application are found in Article 6 of the Town's zoning code.

General instructions: Complete this application and submit one copy to the Town Clerk along with the application fee noted below. Alternatively, you can submit your application online at <https://townofeagle.zoninghub.com>.

Before you formally submit your application, you may meet with the Town Planner who can answer any questions you may have. The Town Planner can also review your application before it is formally submitted to determine if it is complete and provides enough information to describe the circumstances related to this application. If you have any questions, do not hesitate to contact the Town Planner at (920) 728-2814 or via email at tim.schwecke@civitekconsulting.com.

Application fee: \$495, plus charges for professional services consistent with the Town's chargeback policy

Application submittal deadline: The Plan Commission and Town Board meet jointly, generally the first Monday of the month, to review certain types of development applications. This application must be submitted and determined to be complete by the Town Planner, no later than 4 weeks prior to the date established for the Plan Commission-Town Board meeting. Please contact the Town Planner to verify the deadline for a specific month.

1. **Applicant and agent information** Include the names of the agent, if any, that helped prepare this application including the supplemental information. Examples include surveyors, engineers, landscape architects, architects, planners, and attorneys.

	Applicant	Agent
Name	Innovations Custom Doors; Kevin Kinney	Farris Hansen; Warren E. Hansen, P.E.
Street address	S90 W35710 County Road NN	7 Ridgway Court, PO Box 437
City, state, zip code	Eagle, WI 53119	Elkhorn, WI 53121
Daytime telephone	414-587-1313	262-723-2098
Email address	kkenney@innovationscustomdoors.com	office@farrishansen.com

2. **Type of application (select one)**

☐ New conditional use

☐ Yes ☒ No Are there any other current conditional use approvals for the property?

If yes, provide the year of issuance and a short description.

☐ An amendment of a previously approved conditional use

3. **Subject property information**

Physical address S90 W35710 County Road NN, Eagle, WI 53119

Tax key number(s) EGLT-1818999002 EGLT - EGLT - EGLT -

Note: The tax key number can be found on the tax bill for the property or it may be obtained from the Town Clerk.

Is the subject property currently in violation of the Town's zoning code as determined by the Zoning Administrator?

- ☒ No
☐ Yes

If yes, please explain.

Comment: Pursuant to Section 500.106 of the Town's zoning code, the Town may not issue a permit or other approval that would benefit a parcel of land that is in violation of the zoning code, except to correct the violation or as may be required by state law.

Are there any unpaid taxes, assessments, or other required payment that are specifically related to the subject property?

- ☒ No
☐ Yes

If yes, please explain.

Comment: Pursuant to Section 500.107 of the Town's zoning code, the Town may not issue a permit or other approval that would benefit a parcel of land where taxes, assessments, or other required payments are delinquent and due.

4. Zoning information. The subject property is located in the following zoning district(s). (check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> P-1 Public | <input type="checkbox"/> AP Agricultural land preservation | <input type="checkbox"/> B-2 Local business |
| <input type="checkbox"/> Q-1 Quarry | <input type="checkbox"/> RR Rural residential | <input checked="" type="checkbox"/> B-4 Mixed business |
| <input type="checkbox"/> C-1 Conservancy | <input type="checkbox"/> R-1 Residential | <input type="checkbox"/> M-1 Limited industrial |
| <input type="checkbox"/> UC Upland conservancy | <input type="checkbox"/> B-1 Neighborhood business | <input type="checkbox"/> M-2 General industrial |

5. Current use Describe the current use of the subject property.

Three buildings on 3.00 acre site used for business and industrial purposes (one open side storage shed). Business use now is for Innovations Custom Doors.

6. Proposed use Describe the proposed conditional use or the proposed amendment.

One rental self storage building is proposed in an open yard area that was used for the yard storage on impervious surface. (Building to be 50' x 73').

7. Evaluation criteria The factors listed below will be used in evaluating this application. Your responses are important.

1. The size of the parcel on which the proposed use will occur.

Uses will be on a 40,170 square foot part of the larger 3.00 acre parcel. There is a planned future 18'x154' storage building to replace most of the present 18'x168' open storage shed.

2. The presence of and compatibility with other uses on the subject property if any.

Neighboring property to the north now has self storage buildings in use and the current business of Innovations Custom Doors does not use or need yard storage.

3. The location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses).

see plans

4. Effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site.

Two existing drives serve the property. The self storage facilities will have only a low volume of traffic in and out at any one time.

5. The suitability of the subject property for the proposed use.

The site is in an area with self storage existing and on an existing impervious graded property having grades and drainage in place that can be readily used.

6. Effects of the proposed use on the natural environment.

No impact

7. Effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances.

No impact; screened from the west.

8. Effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts.

The proposed use fits with the present use.

9. Any other factor that relates to the purposes of this chapter set forth in s. 500.05 or as allowed by state law.

None that we know of.

9. Supplemental materials Attach the following to this application form.

1. A project map with the information listed in Appendix A of the zoning code.
2. Proposed construction plans (if applicable)

10. Attachments List any attachments included with your application.

See plans attached, last revised February 17, 2020.

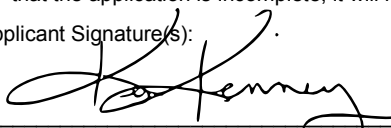
11. Other information. You may provide any other information you feel is relevant to the review of your application.

12. Applicant certification

- I certify that all of the information in this application, along with any attachments, are true and correct to the best of my knowledge and belief.
- I understand that I may be charged additional fees (above and beyond the initial application fee) consistent with the Town's chargeback policy. The signed chargeback form is attached.
- I understand that submission of this application authorizes town officials, Plan Commission members, Town Board members, employees, and other designated agents to enter the property to conduct whatever site investigations are necessary to review this application. This does not authorize any such individual to enter any building on the subject property, unless such inspection is specifically related to the review of this application and the property owner gives his or her permission to do so.
- I understand that this application and any written materials relating to this application will become a permanent public record and that by submitting this application I acknowledge that I have no right to confidentiality. Any person has the right to obtain copies of such written materials or view it online.
- I understand that the Town Planner will review this application to determine if it contains all of the required information. If he or she determines that the application is incomplete, it will not be scheduled for review until it is deemed to be complete.

Applicant Signature(s):

Date:



Kevin Kenney, Innovations Custom Doors

**Town of Eagle Order Granting a Conditional Use and
Prescribing Conditions for a Personal Storage Facility
located at S90W35710 CTH NN**

WHEREAS, Innovations Real Estate Holdings LLC (“property owner”) owns the property located at S90W35710 CTH NN (“subject property”) commonly referenced as Tax Key EGLT1818999002, more particularly described as follows:

LOT 1 CERT SURV 7138 VOL 69/164 REC AS DOC#
1868667 PT NW1/4 SEC 23 T5N R17E :: DOC#
4275409; and

WHEREAS, the property owner has submitted a conditional use application to the Town Clerk pursuant to the Town's zoning code for the establishment of a personal storage facility; and

WHEREAS, Innovations Real Estate Holdings LLC is registered with the Wisconsin Department of Financial Institutions as a domestic limited liability corporation (ID #I032031); and

WHEREAS, upon receipt of the petition, the Town Clerk referred such petition to the Plan Commission for determination; and

WHEREAS, the Plan Commission scheduled a joint public hearing with the Town of Eagle Town Board to consider such petition as soon as practical; and

WHEREAS, upon publication of the required public hearing notice and mailing of said notice to all property owners within 300 feet of the subject property, as required by the zoning code of the Town of Eagle, the Plan Commission and the Town Board held a joint public hearing on March 2, 2020 and May 4, 2020; and

WHEREAS, members of the public at the public hearing were given ample opportunity to provide comment; and

WHEREAS, the subject property is designated B-4 (Mixed Business district) on the Town's official zoning map; and

WHEREAS, the Plan Commission passed a motion recommending that the Town Board approve the conditional use based on the following findings of fact:

1. The size of the subject property is appropriate for the proposed use.
2. The proposed use is compatible with other uses on the subject property.
3. The location of the proposed use on the subject property is appropriate and will not affect existing or potential land uses.
4. The proposed use will not negatively affect traffic safety and efficiency and pedestrian circulation, both on-site and off-site.
5. The subject property is appropriate for the proposed use.

- Draft-

Return to:

Tim Schwecke, Town Planner
Civi Tek Consulting
610 S Ferry Drive
Lake Mills, WI 53551

Parcel Number: EGLT1818999002

6. The proposed use will not negatively affect the natural environment.
7. The proposed use will not negatively affect surrounding properties.
8. The proposed use will not negatively affect the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts.

Furthermore, the applicant has shown by substantial evidence compliance with these factors and compliance with the standards required for a personal storage facility as set forth in the Town's zoning regulations; and

WHEREAS, the Town Board having carefully reviewed the recommendation of the Plan Commission and having considered the effects of the conditional use on the health, general welfare, safety, and economic prosperity of the Town and specifically of the immediate neighborhood in which said use will be located hereby determines that the conditional use will not be contrary to the health, general welfare, safety, or economic prosperity of the Town and specifically of the immediate neighborhood so long as such conditional use is operated pursuant to the terms of this decision.

NOW THEREFORE, IT IS HEREBY DETERMINED AND ORDERED AS FOLLOWS:

1. **Authorization.** Subject to strict compliance with each and every term and condition of this order, the property owner is authorized to establish a personal storage facility pursuant to the Town's zoning code along with other uses authorized by the zoning regulations applicable to the zoning district in which the subject property is located.

2. **Issuance of permit required.** Establishment of a personal storage facility shall only commence after the town planner issues the property owner a conditional use permit which verifies that all initial conditions of approval enumerated in Section 3 have been have been satisfied. Such permit must be issued before the building inspector issues any required building permits.

3. **Initial conditions of approval.** The following conditions shall be satisfied prior to the issuance of the conditional use permit:

- a. The property owner shall submit a site plan the Town Plan Commission for review and obtain approval of the same within 9 months of the date of this decision. The site plan is intended to depict all existing and proposed improvements to the subject property as authorized by this conditional use order.
- b. The property owner is required to accept the terms and conditions of this conditional use order in its entirety in writing. If the aforementioned does not sign this instrument and return it to the Town Clerk within 4 months of approval, this order is null and void. Prior to such expiration, the property owner may request an extension to this time period and the Town Board may approve an extension with good cause.
- c. This order shall be recorded against the subject property in the Waukesha County Register of Deeds office (only if the above conditions have been satisfied).

4. **Ongoing conditions of approval.** The following conditions shall constitute an ongoing obligation:

- a. The use of the subject property shall be used consistent with this order, the approved site plan, the approved plan of operation, and any other required plan.
- b. The property owner must at all times be in compliance with all applicable laws, rules, regulations or orders, and ordinances of the federal government, State of Wisconsin, Waukesha County, and Town of Eagle.

- c. No property boundary line of the subject property shall be modified by any means without the approval of the Town Board. If the Town Board determines that a proposed boundary line relocation is a substantial change, with regard to the overall size of the parcel and/or configuration, the property owner shall submit a new conditional use application to the town and obtain approval of same under the requirements in effect at the time of application.
- d. The property owner shall maintain registration with the Wisconsin Department of Financial Institutions.

5. **Expansion or changes.** The conditional use hereby authorized shall be confined to the subject property without extension or expansion. Any expansion or change in use shall require issuance of a new conditional use permit pursuant to the requirements in effect at the time of application.

6. **Plans and related matters.** Unless otherwise expressly stated herein, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the amendment to be minor and consistent with the conditional use order and permit. Any change in any plan that the Plan Commission feels, in its sole discretion to be substantial, shall require a new approval and all procedures in place at the time must be followed.

7. **Termination of this approval.** The Town Board may terminate this conditional use order and any permit issued under such order following referral to the Plan Commission for recommendation and public hearing when (i) the use does not comply with each and every requirement of this approval; (ii) there is a change in the character of the surrounding area or of the use itself causing the use to be no longer compatible with the surrounding area, or for similar cause based upon considerations of public health, safety or welfare; or (iii) the use is abandoned in any manner for more than 24 months. The property owner may submit a written petition to the Town requesting termination of this approval without the need for a public hearing.

8. **Inspection.** The property owner shall allow Town of Eagle staff, officials, and other authorized agents to inspect the premises indoors and outside, at any reasonable time and for any proper purpose related to the use as authorized herein.

9. **Private rights.** This approval is given under the Town of Eagle's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.

10. **Interpretation.** If any aspect of this conditional use order is in conflict with any other aspect of the conditional use order, the more restrictive provisions shall be controlling, as determined by the Plan Commission.

11. **Other permits.** This order shall not be deemed to constitute a building permit, nor shall this permit constitute any other license or permit required by Town Ordinance or other local, state, or federal law.

12. **Establishment of use required.** This order is null and void if the property owner does not commence the establishment of the authorized use within 9 months of approval and continue in good faith to completion. Prior to such expiration, the property owner may request an extension and the Town Board may approve an extension with good cause.

13. **Severability.** Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, illegal, or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use permit and the remainder shall continue in full force and effect.

14. **Terms.** The conditional use approval shall run with the land.

15. **Violation.** Any violation of this conditional use order or any conditional use permit issued under this order may be treated as a violation of the zoning code and each day of each violation of each condition herein shall be treated as a separate violation. In addition to the other remedies available the Town of Eagle retains the

right to correct the violation and the expense to correct a violation will be paid by the property owner as set forth in the ordinances from the Town.

16. **Fees and Expenses.** The property owner is required to reimburse the Town for any and all fees paid by the Town for technical assistance in reviewing and enforcing this conditional approval. Said payments shall be paid upon request of the Town. The Town Clerk's office shall provide the property owner with itemized invoices.

Approved May 4, 2020

Dan Malek, Town Chairman

ATTEST:

Lynn Pepper, Town Clerk

The remainder of this page left intentionally blank

Acceptance by Property Owner

I, Kevin Kenney, verify that I am an authorized agent for Innovations Real Estate Holdings LLC, and that Innovations Real Estate Holdings LLC accepts the terms of this conditional use order and the terms of any permit issued under this order.

Kevin Kenny

Date

STATE OF WISCONSIN)
) SS
COUNTY OF WAUKESHA)

Personally came before me this ____ day of _____ 2020, the above-named person, Kevin Kenney, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC

My Commission Expires

This document was prepared by Tim Schwecke, Town Planner, at the direction of the Town of Eagle Town Board.