

## PUBLIC HEARING NOTICE

The City of Stoughton Plan Commission will hold a Public Hearing on Monday June 8, 2020 at 6:00 o'clock p.m., or as soon after as the matter may be heard, in the Council Chambers, Public Safety Building, 321 S. Fourth Street, Second Floor, Stoughton, Wisconsin, 53589, to consider a proposed rezoning of the following parcel of land located at 117 Ashberry Lane, Stoughton, WI, owned by Urso Bros LLC. The property described below is requested to be rezoned from SR-4 Single Family Residential to TR-6 Two-Family Residential. The property is currently more fully described below:  
Parcel number: 281/0511-044-4744-8  
Legal Description: EASTWOOD ESTATES LOT 14

This property description is for tax purposes. It may be abbreviated. For the complete legal description please refer to the deed.

Additional information including a location map can be found at: <http://stoughtoncitydocs.com/planning-commission/>

For questions related to this notice contact Michael Stacey at 608-646-0421.

Michael Stacey  
Zoning Administrator

Published May 21 and May 28, 2020 HUB

**City of Stoughton Application for Amendment of the Official Zoning Map  
(Requirements per Section 78-903 attached)**

Applicant Name: Urso Bros, LLC / Kevin Urso  
Applicant Address: 4720 Farwell Street, McFarland, WI 53558  
Applicant Phone and Email: 608-576-5699/kevin@ursobros.com  
Property Owner Name (if different than applicant): \_\_\_\_\_  
Property Owner Phone: \_\_\_\_\_  
Subject Property Address: 117 Ashberry Lane, Stoughton, WI 53589

This form is designed to be used by the Applicant as a guide to submitting a complete application to amend the Official Zoning Map *and* by the City to process said application. Parts II and III are to be used by the Applicant to submit a complete application; Parts I - IV are to be used by the City when processing said application.

**I. Record of Administrative Procedures for City Use**

Application form filed with Zoning Administrator Date: 5.11.20  
Application fee of \$ 415 received by Zoning Administrator Date: 11

**II Application Submittal Packet Requirements for Applicant Use**

Prior to submitting the final complete application as certified by the Zoning Administrator, the Applicant shall submit an initial draft application and materials for staff review, followed by one revised application packet based upon staff review and comments.

Application form filed with Zoning Administrator Date: 5.11.20

- (a) **A copy of the Current Zoning Map of the subject property and vicinity:**
  - Showing all lands for which the zoning is proposed to be amended.
  - Map and all its parts are clearly reproducible with a photocopier.
  - Electronic map size of 11" by 17" and map scale not less than one inch equals 800 ft.
  - All lot dimensions of the subject property provided.
  - Graphic scale and north arrow provided.
- (c) **Written justification for the proposed text amendment**
  - Indicating reasons why the Applicant believes the proposed map amendment is in harmony with the recommendations of the City of Stoughton Comprehensive Plan, particularly as evidenced by compliance with the standards set out in Section 78-903(4)(c)1.-3.

**III Justification of the Proposed Zoning Map Amendment for Applicant Use**

1. How does the proposed Official Zoning Map amendment further the purposes of the Zoning Ordinance as outlined in Section 78-005 (and, for floodplains or wetlands, the applicable rules and regulations of the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA))?

The proposed amendment of the Zoning Map for the subject single parcel (15,034 square feet), from SR-4 to TR-6, is in harmony with and furthers to general purposes of ordinance

Section 78-005. The subject parcel is on a cul-de-sac (Ashberry Lane) where 11 of 13 parcels are zoned TR-6 and in actual multi-family (duplex/town house) use. There is no rational basis to require a single family parcel surrounded by multi-family. This request merely asks to treat the subject the same as all surrounding parcels. In so doing, this will not negatively impact street congestion, light and air, health and general welfare, groundwater, property values, not utilities provision. This zoning amendment for this single parcel simply has not overall impact on the neighborhood nor the City.

2. Which of the following has arisen that are not properly addressed in the current Official Zoning Map? (Please provide explanation in space below if necessary)
- a) The designations of the Official Zoning Map should be brought into conformity with the Comprehensive Plan.
  - b) A mistake was made in mapping on the Official Zoning Map. (That is, an area is developing in a manner and purpose different from that for which it is mapped.) NOTE: If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the City may intend to stop an undesirable land use pattern from spreading.
  - c) Factors have changed, (such as the availability of new data, the presence of new roads or other infrastructure, additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district.
  - d) Growth patterns or rates have changed, thereby creating the need for an Amendment to the Official Zoning Map.

**Please see attached.**

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3. How does the proposed amendment to the Official Zoning Map maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the surroundings of the subject property?

**Please see attached.**

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## **City of Stoughton Application for Amendment of the Official Zoning Map**

### **Answers from page 2**

Question 2) Which of the following has arisen that are not properly addressed in the current Official Zoning Map?

b) A mistake was made in mapping on the Official Zoning Map. (That is, an area is developing in a manner and purpose different from that for which it is mapped.) NOTE: If this reason is cited, it must be demonstrated that the discussed inconsistency between actual land use and designated zoning is not intended, as the City may intend to stop an undesirable land use pattern from spreading.

**Both the Comprehensive Plan and the Zoning Map elected to perpetuate a single family zoning for this subject parcel. Given that the parcel was vacant and that 11 of 13 surrounding parcels were zoned and planned for multi-family, and have been built accordingly, it was a mistake and/or unreasonable planning decision to single out the subject as SR-4 zoning. It is impossible to discern a legitimate reason to zone and plan for a different use for this one parcel than all surrounding parcels on Ashberry Lane. Given that the land was vacant, there was also no rationale to preserve a single family zoning to prevent a possible nonconforming use situation. Overall, the best course of action was to plan for and zone this parcel as TR-6 in the past, and this Petition affords the City an opportunity to make that correction.**

Question 3) How does the proposed amendment to the Official Zoning Map maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the surroundings of the subject property?

**As noted above, the subject parcel is on a cul de sac (Ashberry Lane) where 11 of 13 parcels are zoned TR-6 and in actual multi-family (duplex /Town house) use. The subject parcel is vacant. Permitting a similar use in the TR-6 classification will ensure consistency of land uses on this block. There is no significant additional burden in adding a living unit to this parcel (ie., residence to duplex). This amendment prevents a possible incompatible land use situation, where a single family home must otherwise be built on a multi-family block. Such situations tend to diminish the value and marketability of single family homes, or cause them to transition away from owner occupancy. Overall, there is no discernable negative impact to granting this zoning amendment.**

# Zoning Change Request

Lot 14, Eastwood Estates, lying in the SW1/4 of the SE1/4 of Section 04, T05N, R11E, City of Stoughton, Dane County, Wisconsin

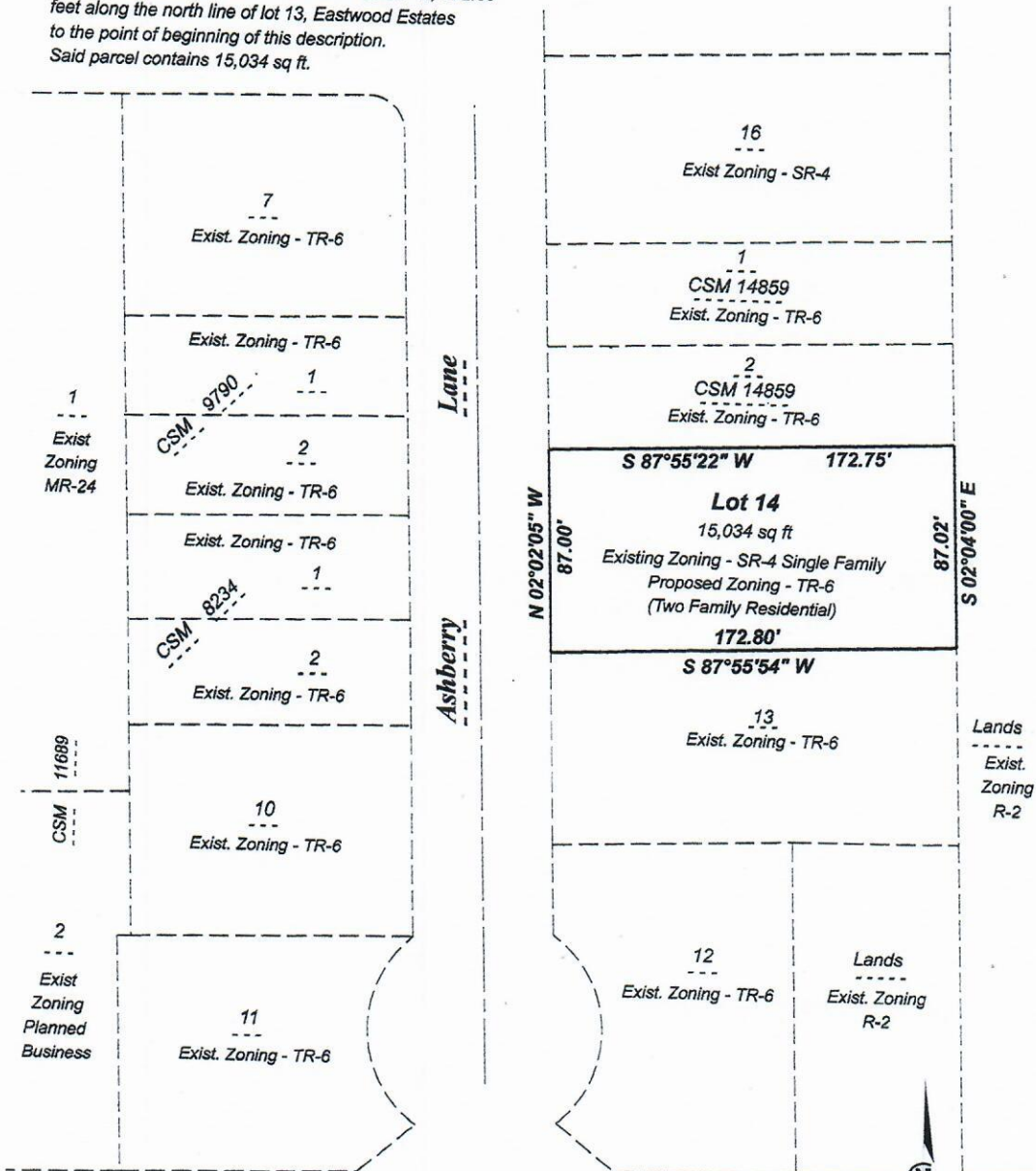
**Zoning Description**

Change zoning from SR-4 to TR-6

Lot 14, Eastwood Estates, lying in the SW1/4 of the SE1/4 of Section 04, T05N, R11E, City of Stoughton, Dane County, Wisconsin, more fully described as follows: beginning at the southwest corner of said lot 14, Thence N 02°02'05" W, 87.00 feet along the easterly right of way line of Ashberry Lane; Thence N 87°55'22" E, 172.75 feet along the south line of lot 2, CSM 14859, thence S 02°04'00" E, 87.02 feet; Thence S 87°55'54" W, 172.80 feet along the north line of lot 13, Eastwood Estates to the point of beginning of this description. Said parcel contains 15,034 sq ft.

Royal Oak & Associates, Inc.  
3678 Kinsman Blvd  
Madison, WI 53704  
Phone (608) 274-0500  
Fax (608) 274-4530  
www.royalokengineering.com

Surveyed for:  
Urso Bros.  
Kevin Urso  
4720 Farwell Street  
McFarland WI



Drawn By: TT  
Approved By: CMS  
Date: 12-17-18

U.S.H 51

Office Map No: 16475  
Sheet 1 of 1 Sheets

0 30 60 120

Scale 1" = 60'

**IV. Final Application Packet Information for City Use**

Receipt of (8.5" by 11" text and 11" by 17" graphic electronic copies of final application packet by Zoning Administrator

Date: 5.16.20

Notified Neighboring Property Owners (within 300 feet)

Date: 5.20.20

Notified Neighboring Township Clerks (within 1,000 feet)

Date: 5.20.20

Class 2 legal notice sent to official newspaper by City Clerk

Date: 5.16.20

Class 2 legal notice published on 5.21.20 and 5.28.20

Date: \_\_\_\_\_

May 8, 2020

In 2018 we purchased a vacant lot at 117 Ashberry Lane, Stoughton. In 2019 we applied to have the zoning changed from SR-4 to TR-6 and was approved by the planning commission, however our request was denied at the City Council meeting. The only objection to the zoning change was from one resident who resided at 209 Ashberry Lane, and the home is currently for sale, with an offer to purchase.

After the denial, I met with Mayor Swadley, Rodney Scheel, and Michael Stacey, they suggested if I was to get enough homeowner signatures to change the Declaration of Covenants and Restrictions for the plat of Eastwood Estates, we could come back to the city to request the zoning change.

Per our attorney's advice, we door knocked and collected signatures from the developer and neighboring homeowners to allow us to amend the the Covenants and Restrictions allowing the re-zoning of this lot. We collected the required signatures, however per the Register of Deeds the Amendment to the Covenants and Restrictions cannot be recorded without the signatures notarized. It is not possible to get signatures notarized with the current COVID-19 restrictions.

With that being said, it's been over 1-year and we would like to come back before the planning commission to request this re-zone. As you can see from the documents submitted, 70% of the homeowners we contacted prior to social distancing do not object to the re-zoning.

We are requesting the re-zone to build an owner-occupied side by side duplex style condominiums, this home style is consistent with other homes in the neighborhood.

Thank you for your consideration.

*Kevin Urso*

Kevin Urso  
Urso Bros, LLC

Lot #	Property Owner Name	Address	Signed
Lot 1	Daniel Freund (southern ½ of lot)	1800 E Main	X
Lot 2	Jerry Judd	17040 E Main	X
Lot 3	JMA Enterprises--Rosenbaums	1700 E Main	X
Lot 4	Gasner Properties LLC	1815 Cedarbrook	X
Lot 5	Gasner Properties LLC	1815 Cedarbrook	X
Lot 6	Cedarbrook Condominium	1817 Cedarbrook	
Lot 7	Ken & Sheryl Leier	1833 Cedarbrook	X
Lot 8	Kaitlyn Retallick (½)	200/202 Ashberry	
	Linda Peterson (½)	200/202 Ashberry	
Lot 9	Cheryl Erickson (½)	116/118 Ashberry	X
	Angela Jensen (½)	116/118 Ashberry	X
Lot 10	David Goeden	108 Ashberry	
Lot 11	Daniel & Catherine Napier	100 Ashberry	X
Lot 12	Rob Hostrawser	101 Ashberry	X
Lot 13	Kasparas Egidijus	109 Ashberry	
Lot 14	Urso Bros, LLC	117 Ashberry	X
Lot 15	Marilyn Scheel (½)	201/203 Ashberry	X
	Helen Sumwalt (½)	201/203 Ashberry	X
Lot 16	Steve & Vickie Erdahl - accepted offer	209 Ashberry	
Lot 17	John & Jack Olson	1816 Cedarbrook	X
Lot 18	George & Esther Glass	1808 Cedarbrook	X
Lot 19	John & Jack Olson	303 Stoney Ridge	X
Lot 20	Michael & Erin Meinholz	325 Stoney Ridge	X
Lot 21	Teresa Schoenthal	341 Stoney Ridge	X
Lot 22	Malling Trust	340 Stoney Ridge	X
Lot 23	James & Laura Moyer	332 Stoney Ridge	X
Lot 24	Roger & Cathy Rigdon	324 Stoney Ridge	X
Lot 25	Nancy Seymour	316 Stoney Ridge	X
Lot 26	Roland and Georgan M Smith Rev Trust	308 Stoney Ridge	
Lot 27	Scott & Stacey Quam	300 Stoney Ridge	

26 lots + 1 condo lot

22 signed

Cedarbrook Condominiums

Unit #	Property Owner Name	Address	Signed
Unit 1	Wendy Klitzkie	1825 Cedarbrook	
Unit 2	Richard and Ellen Hall	1825 Cedarbrook	X
Unit 3	Joel and Stephanie Erstad	1825 Cedarbrook	X
Unit 4	Kyle Kaul and Maggie Richardson	1825 Cedarbrook	X
Unit 5	Nicholas Erickson	1825 Cedarbrook	X
Unit 6	Kathy Foltz	1825 Cedarbrook	
Unit 7	Clayton Miller	1817 Cedarbrook	X
Unit 8	Karissa Frieders	1817 Cedarbrook	
Unit 9	L'Orchard and Corinne Lanoway	1817 Cedarbrook	



Unit 10	Sharon Vanderzanden	1817 Cedarbrook	
Unit 11	Matthew Houfe	1821 Cedarbrook	X
Unit 12	Allan Santos	1822 Cedarbrook	
Unit 13	Donald and Joan Samanas	1823 Cedarbrook	X
Unit 14	Ryan Cambell and Lacey Struensee	1824 Cedarbrook	X

14 condominium units 8 Signed

Total units 40 30 signed

Document Number

**AMENDMENT OF DECLARATION OF  
COVENANTS AND RESTRICTIONS FOR THE  
PLAT OF EASTWOOD ESTATES**

**WITNESSETH:**

**WHEREAS**, on October 7, 1995, JMA Enterprises Limited Partnership, Mark S. Rosenbaum, Judy A. Rosenbaum, James G. Anderson, and Jane G. Anderson, executed a Declaration of Covenants and Restrictions for the Plat of Eastwood Estates (the "Declaration"), located in the City of Stoughton, Dane County, Wisconsin; and

**WHEREAS**, the Declaration was recorded with the Dane County Register of Deeds Office as Document No. 2710158; and

**WHEREAS**, the Declaration permits a majority of the then lot owners covered by the Declaration, together with JMA Enterprises Limited Partnership, Mark S. Rosenbaum, and Judy A. Rosenbaum, to amend the Declarations in the manner provided for therein.

Recording Area

Name and Return Address  
Attorney Micheal D. Hahn  
Axley Brynerson, LLP  
Post Office Box 1767  
Madison, WI 53701-1767

Parcel Identification Number(s)  
281/0511-044-4744-8

**NOW, THEREFORE**, the undersigned parties hereby agree and declare as follows:

1. The Plat of Eastwood Estates is described in Exhibit A, attached hereto and incorporated herein.
2. Pursuant to the Declaration, the undersigned constitute a majority of the lot owners, as well as JMA Enterprises Limited Partnership, Mark S. Rosenbaum, and Judy A. Rosenbaum.
3. Pursuant to the Declaration, and effective as of the date this Agreement is recorded with the Dane County Register of Deeds, the use of Lot 14 of the Plat of Eastwood Estates shall be changed from Single Family to Duplex.
4. The above change in use of Lot 14 shall run with the land for the same term(s) as the Declaration.
5. This Agreement shall be recorded and shall be binding on all parties and all persons owning land covered by the Declaration.

**IN WITNESS WHEREOF**, the undersigned have executed this Agreement as of this 22nd day of April, 2020.

***SIGNATURE PAGES FOLLOW***

**JMA ENTERPRISES LIMITED PARTNERSHIP**

By: owners  
Name: Mark & Judy Rosenbaum  
Title: owner 1700 E Main St

**MARK S. ROSENBAUM**

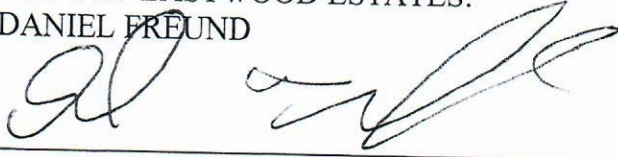


**JUDY A. ROSENBAUM**

Judy A. Rosenbaum

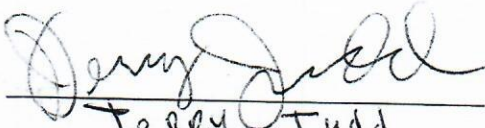
**OWNERS:**

LOT 1 OF EASTWOOD ESTATES:  
DANIEL FREUND


A handwritten signature in black ink, appearing to read 'Daniel Freund', written over a horizontal line.

Daniel Freund

LOT 2 OF EASTWOOD ESTATES:  
JERRY JUDD

By:   
Name: Jerry Judd  
Title: Owner of 1740 E Main

LOT 3 OF EASTWOOD ESTATES:  
JMA ENTERPRISES LIMITED PARTNERSHIP

By:   
Name: Mark Rosenbaum  
Title: Partner

Lot 5 of Eastwood Estates +  
LOT 4 OF EASTWOOD ESTATES:  
GASNER PROPERTIES LLC

By: Margaret A. Gasner  
Name: Margaret A. Gasner  
Title: owner

LOT 5 OF EASTWOOD ESTATES:  
GASNER PROPERTIES LLC

By: Margaret Gasner  
Name: Margaret A. Gasner  
Title: owner



LOT 7 OF EASTWOOD ESTATES:  
KEN & SHERYL LEIER

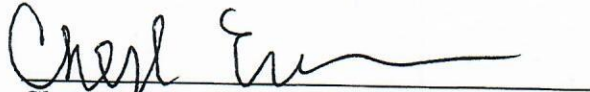
*Ken Leier*

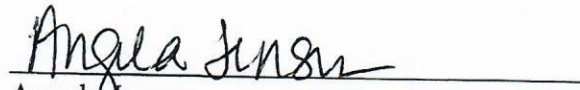
Ken Leier

*Sheryl R. Leier*

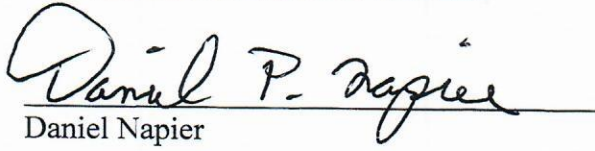
Sheryl Leier

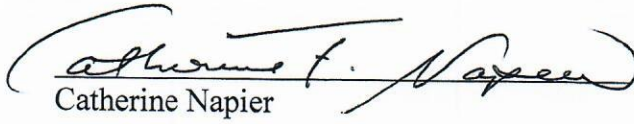
LOT 9 OF EASTWOOD ESTATES:  
CHERYL ERICKSON  
ANGELA JENSEN

  
Cheryl Erickson

  
Angela Jensen

LOT 11 OF EASTWOOD ESTATES:  
DANIEL & CATHERINE NAPIER

  
Daniel Napier

  
Catherine Napier

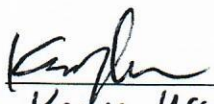
LOT 12 OF EASTWOOD ESTATES:  
ROB HOSTRAWSER



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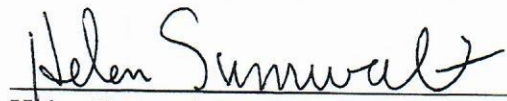
Rob Hostrawser

LOT 14 OF EASTWOOD ESTATES:  
URSO BROS., LLC

By:   
Name: Kevin Urso  
Title: PARTNER

LOT 15 OF EASTWOOD ESTATES:  
MARILYN SCHEEL  
HELEN SUMWALT

  
Marilyn Scheel

  
Helen Sumwalt

LOT 17 OF EASTWOOD ESTATES:  
JOHN & JACK OLSON



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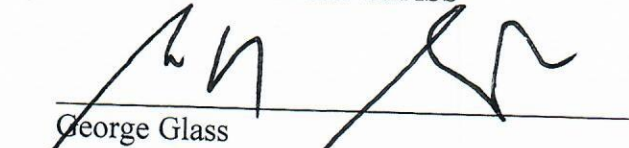
John Olson



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Jack Olson

LOT 18 OF EASTWOOD ESTATES:  
GEORGE & ESTHER GLASS



George Glass



Esther Glass



LOT 19 OF EASTWOOD ESTATES:  
JOHN & JACK OLSON



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John Olson



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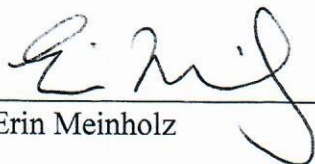
Jack Olson

LOT 20 OF EASTWOOD ESTATES:  
MICHAEL & ERIN MEINHOLZ



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Michael Meinholz



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Erin Meinholz

LOT 21 OF EASTWOOD ESTATES:  
TODD & TERESA SCHOENTHAL

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Todd Schoenthal

*Teresa Schoenthal*  
Teresa Schoenthal

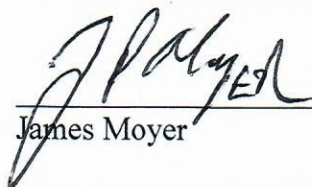
(divorced)

Todd no longer  
owns the property

LOT 22 OF EASTWOOD ESTATES:  
MALLING TRUST

By: Vik C Malling  
Name: Vik Malling  
Title: Home Owner

LOT 23 OF EASTWOOD ESTATES:  
JAMES & LAURA MOYER

A handwritten signature in cursive script, appearing to read "J Moyer", written over a horizontal line.

James Moyer

A handwritten signature in cursive script, appearing to read "Laura Moyer", written over a horizontal line.

Laura Moyer

LOT 24 OF EASTWOOD ESTATES:  
ROGER & CATHY RIGDON



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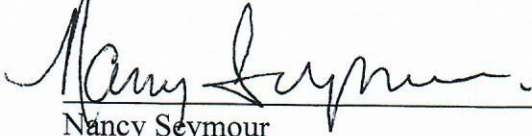
Roger Rigdon Thorson



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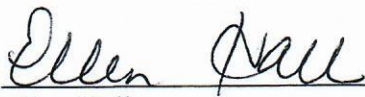
Cathy Rigdon

LOT 25 OF EASTWOOD ESTATES:  
NANCY SEYMOUR

  
\_\_\_\_\_  
Nancy Seymour

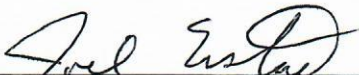
LOT 6 OF EASTWOOD ESTATES:  
CEDARBROOK CONDOMINIUM, UNIT 2

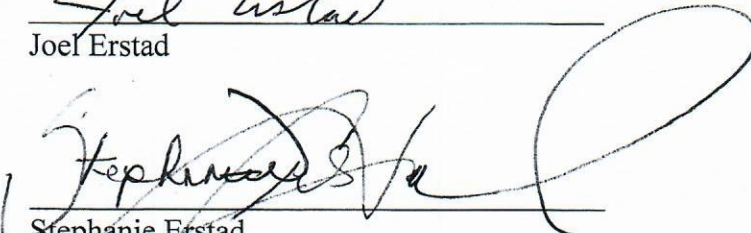
  
Richard Hall

  
Ellen Hall




LOT 6 OF EASTWOOD ESTATES:  
CEDARBROOK CONDOMINIUM, UNIT 3

  
\_\_\_\_\_  
Joel Erstad

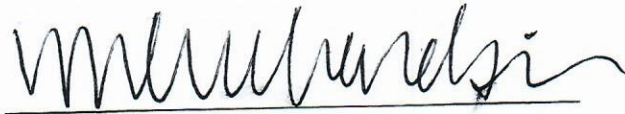
  
\_\_\_\_\_  
Stephanie Erstad

LOT 6 OF EASTWOOD ESTATES:  
CEDARBROOK CONDOMINIUM, UNIT 4



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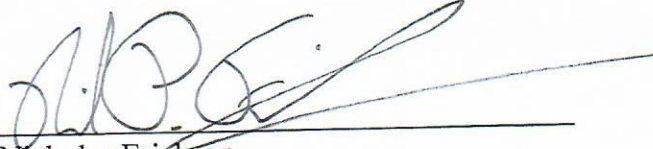
Kyle Kaul



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Maggie Richardson

LOT 6 OF EASTWOOD ESTATES:  
CEDARBROOK CONDOMINIUM, UNIT 5

A handwritten signature in black ink, appearing to read 'N. Erickson', written over a horizontal line.

Nicholas Erickson

# Zoning Change Request

Lot 14, Eastwood Estates, lying in the SW1/4 of the SE1/4 of Section 04, T05N, R11E, City of Stoughton, Dane County, Wisconsin

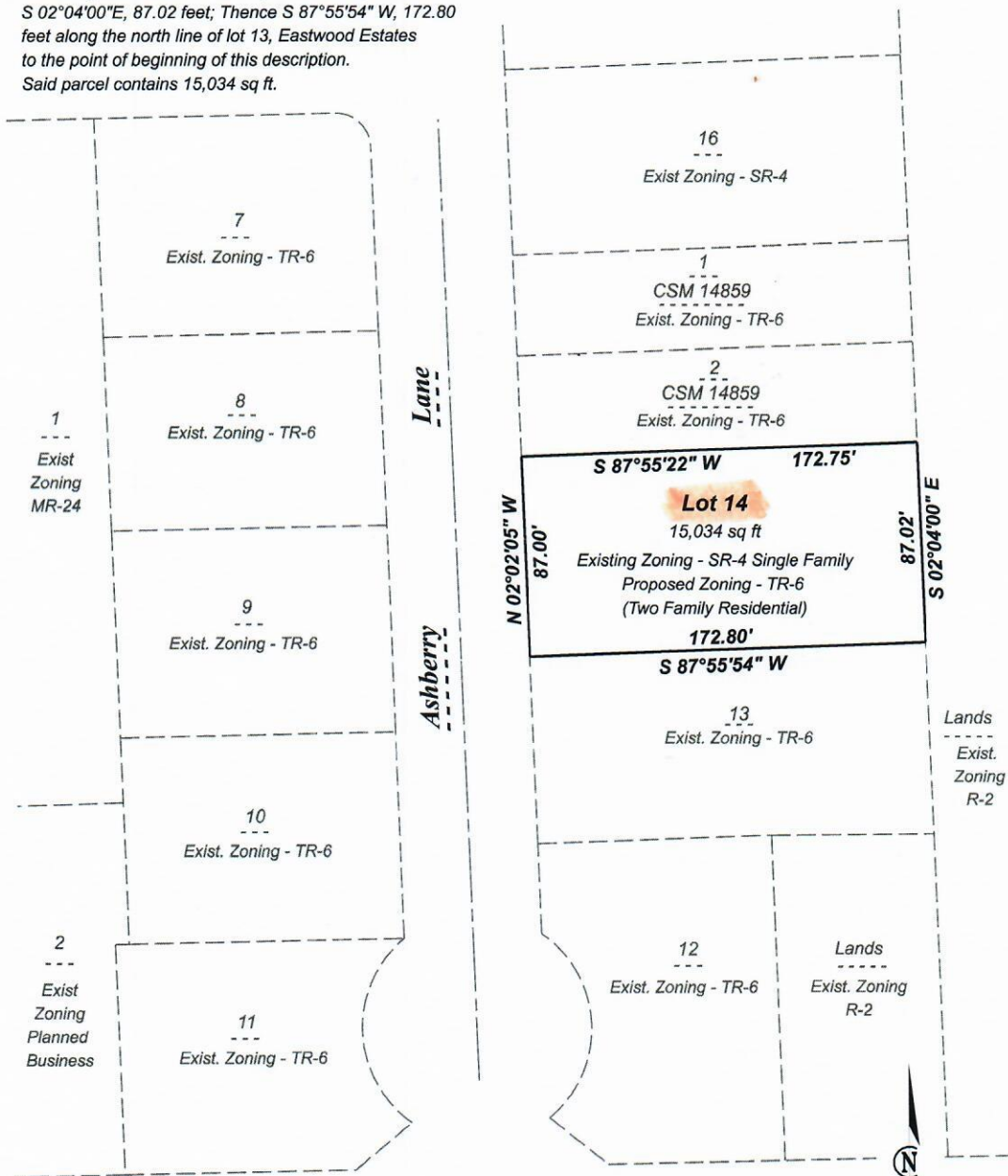
**Zoning Description**

Change zoning from SR-4 to TR-6

Lot 14, Eastwood Estates, lying in the SW1/4 of the SE1/4 of Section 04, T05N, R11E, City of Stoughton, Dane County, Wisconsin, more fully described as follows: beginning at the southwest corner of said lot 14, Thence N 02°02'05" W, 87.00 feet along the easterly right of way line of Ashberry Lane; Thence N 87°55'22" E, 172.75 feet along the south line of lot 2, CSM 14859, thence S 02°04'00"E, 87.02 feet; Thence S 87°55'54" W, 172.80 feet along the north line of lot 13, Eastwood Estates to the point of beginning of this description. Said parcel contains 15,034 sq ft.

Royal Oak & Associates, Inc.  
3678 Kinsman Blvd  
Madison, WI 53704  
Phone (608) 274-0500  
Fax (608) 274-4530  
www.royaloakengineering.com

Surveyed for:  
Urso Bros.  
Kevin Urso  
4720 Farwell Street  
McFarland WI



Drawn By: TT  
Approved By: CMS  
Date: 12-17-18

Office Map No: 16475  
Sheet 1 of 1 Sheets

**U.S.H 51**

0 30 60 120  
Scale 1" = 60'



D - existing duplex zoning  
\* 117 Ashberg



DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR THE PLAT OF EASTWOOD ESTATES

DANE COUNTY  
REGISTER OF DEEDS

Doc No 2710158

1995-10-09 04:06 PM  
Trans. Fee 0.00  
Rec. Fee 20.00  
Pages 6

**V31034P 21**

*Title of Document*

13-0511 - 044 - 9040 - 9  
13-0511 - 044 - 9050 - 7  
13-0511 - 044 - 9060 - 5  
13-0511 - 044 - 9070 - 3  
13-0511 - 044 9081 - 1

Name and return address

Parcel Identification Number

LICENSED TO DANE COUNTY AND NOT FOR RELICENSE, SUBLICENSE, OR BY OTHER TRANSFER.

6/20

DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR THE PLAT OF EASTWOOD ESTATES

V31034P 22

**KNOWN BY ALL MEN BY THESE PRESENTS**, that JMA Enterprises Limited Partnership, a Wisconsin Limited Partnership, the owner of the following real estate described as follows:

Lots two(2) through and including five(5) and lots seventeen(17) through twenty seven(27), Eastwood Estates, in the City of Stoughton, Dane County, Wisconsin, according to the recorded plat thereof,

And that Mark S. Rosenbaum and Judy A. Rosenbaum are owners of real estate described as follows:

Lots one(1), six(6), seven(7), eight(8), nine(9), ten(10) and eleven(11), Eastwood Estates, in the City of Stoughton, Dane County, Wisconsin, according to the recorded plat thereof,

And that James G. Anderson and Jane G. Anderson are the owners of real estate described as follows:

Lots twelve(12) through and including sixteen(16), Eastwood Estates, in the City of Stoughton, Dane County, Wisconsin, according to the recorded plat thereof,

for the purpose of preserving the value of the lots aforesaid, do hereby declare and provide that all of said lots shall be used only for the purposes and in the manner set forth hereinafter and shall be subject to the following Restrictions and Covenants for the term and time hereinafter specified.

**LAND USE - Single Family Lots.** Lots fourteen(14), sixteen(16), eighteen(18), twenty(20), twenty-one(21), twenty-two(22), twenty-three(23), twenty-four(24), twenty-five(25), twenty-six(26) and twenty-seven(27) are zoned R-1, Single Family (the "Single Family Lots"). The Single Family Lots shall be used only for single family residential purposes. No structure shall be erected, altered, placed or permitted to remain on a Single Family Lot or part thereof other than one single family residence together with an attached garage. The Single Family Lots shall also be subject to the other restrictions set forth herein.

**LAND USE - DUPLEX LOTS.** Lots seven(7), eight(8), nine(9), ten(10), eleven(11), twelve(12), thirteen(13), fifteen(15), seventeen(17) and nineteen(19) are zoned R-2, Duplex (the "Duplex Lots"). The Duplex Lots shall be used only for duplex structures. No structure shall be erected, altered, placed or permitted to remain on any Duplex Lot or part thereof other than a duplex structure used for residential purposes together with an attached garage or garages. The Duplex Lots shall also be subject to the other restrictions set forth herein.

**LAND USE - BUSINESS LOTS.** Lots one (1), two(2), three(3), four(4), five(5) and six(6) are zoned for business use (the "Business Lots"). The Business Lots shall be used for such business purposes as the Architectural Review Committee shall approve from time to time. The Business Lots shall also be subject to the other restrictions set forth herein except as otherwise expressly provided herein.

**TEMPORARY RESIDENCES.** No trailer, basement, tent, shack, garage, barn or outbuilding, or any part thereof, shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

**PARKING.** Parking shall be prohibited on any portion of a lot except upon a paved driveway or within a garage. The parking upon a Single Family Lot or Duplex Lot of service vehicles (including, but not limited to trucks), semi-trailers, trailers, buses, boats, travel trailers, mobile homes, campers, and other recreational vehicles is prohibited unless kept inside a garage. This provision shall not prohibit the temporary parking of said vehicles for the purpose of loading and unloading. Any other motor vehicles owned or operated by residents of homes on the Single Family Lots or Duplex Lots shall be kept inside a garage, except that residents may park in driveways other types of motor vehicles which are licensed as passenger vehicles and which are in regular, daily use.

**DRIVEWAY.** All driveways shall be poured concrete or bituminous pavement and shall be completed within eight(8) months from date of issuance of a building permit.

**FENCES.** No fence shall be erected on any part of any lot without the written approval of the Architectural Review Committee. However, approval shall not be unreasonably withheld for fences surrounding swimming pools which are constructed consistent with the requirements of the City of Stoughton building ordinances. All fences approved pursuant to this paragraph, including fences surrounding swimming pools, shall be constructed primarily of wood materials and shall, at the discretion of the Architectural Review Committee, be screened from view by landscaping.

**GARBAGE AND REFUSE DISPOSAL.** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept upon a lot except in covered sanitary containers. All equipment for storage or disposal of such waste material shall be kept in a clean and sanitary condition and suitably screened from view from the street.

**DRAINAGE SWALE.** No owner of any lot shall grade or obstruct any storm water drainage swale which is in existence at the time of original development or is so designated on the recorded map for this plat so as to impede the flow of storm water from other lots across or through such swale.

**DOMESTIC ANIMALS.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that of dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose, or allowed to annoy neighbors.

**ANTENNA/WIND POWERED GENERATOR.** No wind-powered electric generators, exterior television or radio receiving or transmission antenna or satellite signal receiving station or dish shall be placed or maintained upon any portion of a lot without the written approval of the Architectural Review Committee which may, in its absolute discretion, require the same to be screened from view.

**NUISANCES.** No noxious or offensive trade or activity shall be carried on nor shall anything be done which may be or will become an annoyance or nuisance to the neighborhood.

**ACCESSORY BUILDINGS.** No outbuilding, shed, or storage or accessory building of any nature shall be erected on any lot without the prior written approval of the Architectural Review Committee.

**COMPLETION OF CONSTRUCTION.** All construction must be substantially completed to City of Stoughton certificate of occupancy status within six(6) months from the date of issuance of a building permit.

**FIREWOOD STORAGE.** No firewood or wood pile shall be kept outside a structure unless it is placed in a non-street side yard and screened from the street view.

**SUBJECT TO LAWS, CODES AND ORDINANCES.** All lots are further subject to applicable State, County and Municipal zoning laws, ordinances, and building codes.

**LAWN COVER.** All minimum landscaping, consisting of seeding and/or sodding of the entire yard, for any dwelling on any lot in the plat shall be completed within eight(8) months from the date of issuance of a building permit. All lot area not paved or used as a building site shall be free of noxious weeds and maintained in a neat appearance. No front yard may be cultivated for use as a fruit or vegetable garden.

**RENTERS.** Any owner who shall rent his property shall be responsible for making the tenants aware of these covenants and restrictions and further make all leases include the applicable restrictions.

**ARCHITECTURAL REVIEW COMMITTEE.** The Architectural Review Committee will consist of JMA Enterprises Limited Partnership, Mark S. Rosenbaum and Judy A. Rosenbaum, their heirs or successors, or their designated agents, as long as any one or more of them have ownership of at least one(1) lot. JMA Enterprises Limited Partnership, Mark S. Rosenbaum and Judy A. Rosenbaum may at any time appoint three(3) lot owners to serve as the Architectural Review Committee; with decisions rendered by a majority to be binding. The member of the Committee shall select their successors, providing however, that the successors are lot owners.

**ARCHITECTURAL REVIEW.** No structure shall be erected, placed or altered on any lot until the construction plans and specifications and a plot plan have been approved by the Architectural Review Committee as to conformity with these Covenants and Restrictions and harmony with the exterior design of existing structures, including



exterior colors and materials, and as to location of any structure with respect to topography and finish grade elevation. Said plot plan must indicate the top of the foundation structure in relation to the nearest street or curb elevation and the proposed water drainage patterns on the lot. Approval shall not be granted in the event that the proposed finish grade elevation and drainage patterns are not compatible with adjacent lots and the overall drainage plan for the subdivision known as Eastwood Estates.

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**SIZE REQUIREMENTS.**

(a) Single Family Lots. Residential construction plans and specifications for any structure on the Single Family Lots shall comply with the following minimum requirements for finished living space:

Single story houses shall have not less than 1250 square feet.

Two story houses shall have not less than 1450 square feet.

Raised ranch or bi-level houses shall have not less than 1200 square feet on the upper level and a combined total on all levels of not less than 1600 square feet.

Tri-level houses shall have not less than 1200 square feet on the upper two levels and a combined total of not less than 1600 square feet on all levels.

(b) Duplex Lots. Residential construction plans and specifications for any structure on the Duplex Lots shall comply with the following minimum requirements for finished living space.

Single story duplex units shall have not less than 900 square feet per side.

Two story duplex units shall have not less than a combined total of 1300 square feet per side.

(c) General Requirements.

For the purpose of determining finish living space, stair openings shall be included, but open or screened porches, attached garages, and non-exposed basements, even if the basement is finished for recreational use, shall be excluded.

Each single family residence shall have not less than two nor more than three automobile stalls located within an attached or basement garage.

Each duplex unit shall have not less than one nor more than two automobile stalls located within an attached garage.

The finished living space minimum requirements may be adjusted by the Architectural Review Committee in its absolute discretion.

**ARCHITECTURAL REVIEW PROCESS.** Architectural Review Committee actions as required in these Covenants and Restrictions shall be in writing. In the event that the Committee fails to act within thirty(30) days after written plans and specifications or any other matters requiring approval have been delivered to it and a written receipt thereof issued, approval shall not be required and the related Covenants and Restrictions shall be deemed to have been complied with fully.

**ARCHITECTURAL REVIEW COMMITTEE LIABILITY.** Neither the Architectural Review Committee nor any member thereof shall be liable for damages to any person submitting a request for approval or to any owner of any lot by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests.

**ARCHITECTURAL REVIEW VARIANCE.** The Architectural Review Committee shall have the power and absolute discretion to authorize a variance from any of the requirements of these Covenants and Restrictions if it finds that the strict application thereof would, in the Committee's opinion, result in peculiar or exceptional

practical difficulties or undue hardship to the lot owner without commensurate benefit to the owners of other lots in the neighborhood.

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**TERMS OF COVENANTS AND RESTRICTIONS.** These Covenants and Restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five(25) years from the date of recording with the Dane County Register of Deeds, after which time said Covenants and Restrictions shall be extended automatically for successive periods of five(5) years until terminated as provided herein.

However, except as otherwise provided below, at any time an instrument may be recorded which changes these Covenants and Restrictions, in whole or in part or which terminates the same, provided said instrument is signed by a majority of the then lot owners covered by said Covenants and Restrictions, with each lot having one vote regardless of how many parties own a lot, along with the approval of all of the following parties who are, at that time, also owners of lots in said plat: (1)JMA Enterprises Limited Partnership, (2) Mark S. Rosenbaum and (3)Judy A. Rosenbaum.

The foregoing notwithstanding, a majority of the owners of the Business Lots, with each Business Lot having one(1) vote, together with the approval of JMA enterprises Limited Partnership, Mark S. Rosenbaum and Judy A. Rosenbaum as long as any one or more of them own at least one(1) Business Lot, may impose such additional restrictions and covenants on the Business Lots or modify the provisions of this agreement applicable to the Business Lots, as they shall determine from time to time, without the consent of the owners of the Single Family Lots or Duplex Lots, provided that any use of the Business Lots must comply with all applicable state, county and municipal zoning laws, ordinances and building codes.

**ENFORCEMENT OF COVENANTS AND RESTRICTIONS.** Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any of the Covenants and Restrictions, either to restrain violation or to recover damages, or both, plus reasonable attorneys fees.

**SEVERABILITY OF COVENANTS AND RESTRICTIONS.** Invalidation of any one of these Covenants and Restrictions by judgement or court order shall in no way affect any of the other Covenants and Restrictions which shall remain in full force and effect.

Dated this 7<sup>th</sup> day of October, 1995.

JMA Enterprises Limited Partnership,  
A Wisconsin Limited Partnership

By: Mark S. Rosenbaum  
Mark S. Rosenbaum, General Partner

By: Judy A. Rosenbaum  
Judy A. Rosenbaum, General Partner

Mark S. Rosenbaum  
Mark S. Rosenbaum

Judy A. Rosenbaum  
Judy A. Rosenbaum

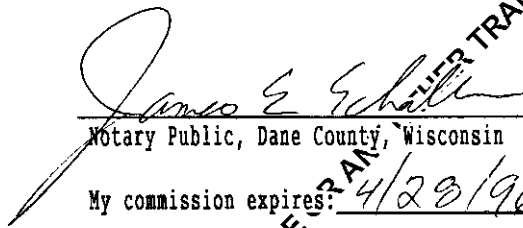
James G. Anderson  
James G. Anderson

Jane G. Anderson  
Jane G. Anderson

STATE OF WISCONSIN )  
                          ) SS.  
COUNTY OF DANE      )

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Personally came before me this 7th day of October, 1995, the above-named Mark S. Rosenbaum, Judy A. Rosenbaum, James G. Anderson and Jane G. Anderson to me known to be the persons who executed the foregoing instrument and acknowledged the same.

  
\_\_\_\_\_  
Notary Public, Dane County, Wisconsin  
My commission expires: 4/23/96

LICENSED TO DANE COUNTY AND NOT FOR RELICENSE, SUBLICENSE OR ANY OTHER TRANSFER

This instrument was drafted by and should be returned to:

JMA Enterprises  
972 State Road 138  
Stoughton, Wisconsin 53589  
(608) 873-5068