

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on July 28, 2020 immediately following the City Council meeting which begins at 5:30 PM in the Ashland City Hall Council Chambers.

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Committee Updates
6. Discussion Items
 - A. Review, Discussion and Possible Action of Draft Request for Proposals for Commercial and Residential Redevelopment of the City-Owned Timeless Timber Site (*Planning*)
 - B. Presentation and Discussion of City Intended Use of CDBG-CLOSE Funds (*Planning*)
 - C. Discussion and Possible Action Regarding a Potential Ordinance Requiring Masks to Control the Community Spread of COVID-19 (*Mayor*)
 - D. Discussion and Possible Action Regarding an Ordinance Requiring Water Lateral Replacement of Properties Directly Involved with Road Reconstruction (*Mayor*)
 - E. Discussion Regarding Policing
7. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

SUBJECT: Committee Updates

RECOMMENDATION: Discussion only.

DEPARTMENT OF ORIGIN:

CLEARANCES:

EXHIBITS:

FINANCIAL IMPACT:

SUMMARY STATEMENT:

Harbor Commission: Pufall
Plan Commission: MacKenzie
Police & Fire: Lewis
Library Board: Jackson
Housing Authority: Franek
Housing Committee: Tochterman
Parks and Rec Committee: Haas
Public Works Committee: Moore
Sustainability Committee: Ullman
Historic Preservation Committee: Franek
Disabled Parking Committee: Whitebird
Source Water Protection Committee: Ortman

SUBJECT: Review, Discussion and Possible Action of Draft Request for Proposals for Commercial and Residential Redevelopment of the City-Owned Timeless Timber Site (*Planning*)

RECOMMENDATION: Provide Planning and Development staff directive to move forward with releasing the Request for Proposals for separate commercial and residential redevelopment of the City-owned former Timeless Timber site.

DEPARTMENT OF ORIGIN: Planning and Development

CLEARANCES: Housing Committee (residential redevelopment RFP)
Plan Commission (commercial redevelopment RFP)

EXHIBITS:

1. Timeless Timber Site Commercial Redevelopment RFP
2. Timeless Timber Site Residential Redevelopment RFP

FINANCIAL IMPACT: There is no associated financial obligation with releasing a Request for Proposals for these redevelopment sites. Land price, TIF incentives, intended grant applications, and other financial details will be worked out through a Development Agreement once a proposal has been selected.

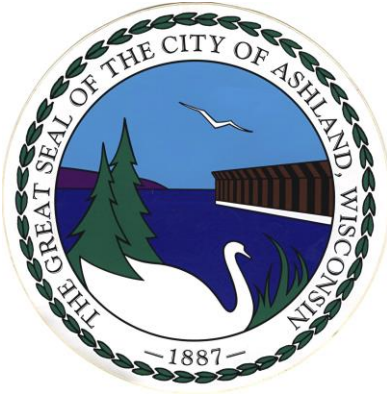
SUMMARY STATEMENT:

After Request for Proposals were released in 2018 for redevelopment of the entire site with no proposals received, wetland delineation of the site was identified as a priority prior to re-advertising the site. Wetland delineation was completed in 2019, and exemption of all wetlands identified on site was approved by the WI DNR and Army Corps of Engineers in 2020. This will bring down overall costs of development and remove the ambiguity of on-site wetlands for developers to simplify the development process. It is hoped that this, combined with the strategy of releasing two (2) separate RFP's to divide the site into commercial and residential redevelopment opportunities, will help improve the overall marketability of the sites.

The Plan Commission has reviewed the commercial redevelopment RFP at two separate meetings, and the Housing Committee has reviewed the residential RFP at two separate meetings as well. Both committees were asked to pay particular attention to the redevelopment goals identified in each proposal. Planning staff requests that Council also thoroughly review the proposed redevelopment goals in each RFP, and provide feedback for any changes.

Proposals received through these RFP's will be reviewed by the Housing Committee (residential proposals) and Plan Commission (commercial proposals), who will narrow down the proposals to 2-3 to be invited to present

to Committee of the Whole. Once proposals are selected for each, Planning staff will begin to work with each developer on site planning and a Development Agreement (in conjunction with the Finance Director, Administration, and Ehler's if TIF incentive is requested). A Development Agreement will then be brought back to Council for final approval.



City of Ashland
REQUEST FOR PROPOSALS

RFP #20-02

Timeless Timber Site
Commercial Redevelopment

Issue date: _____, 2020

Proposal due date: _____, 2020



REQUEST FOR PROPOSALS
Timeless Timber Site Commercial Redevelopment
RFP #20-02

Date of Request: _____, 2020

Project Title: Timeless Timber Site Commercial Redevelopment

Submittal Due: 4 PM Local Time, Friday, _____, 2020. There will not be a public opening for this RFP.

Late Proposals: Any proposal received by the City after the exact time and date specified will not be considered.

Submittal Format: Ten (10) Paper Copies and One (1) Electronic File (email or flash drive) of the proposal are to be submitted for evaluation by the City. *Label submittal: Timeless Timber Site Commercial Redevelopment*

Submit to: City of Ashland
Attn: Megan McBride, Planning & Development Director
601 Main Street West
Ashland, Wisconsin 54806
mmcbride@coawi.org

Withdrawal: Proposals may be withdrawn by written notice received at any time prior to the proposal closing date and time. Proposals may also be withdrawn in person by an officer or by a representative of the firm, provided that the representative signs a receipt for return of the proposal.

The City of Ashland reserves the right to reject any and all proposals not judged to be in the best interest of the City.

Additional project documents can be found on the Ashland City website at www.coawi.org under "Timeless Timber Site Redevelopment", including a link to an aerial view video of the site and surrounding area.

INTRODUCTION

PROJECT SUMMARY

The City of Ashland, Wisconsin, seeks competitive commercial development proposals from qualified developers/businesses to help the City attain the vision set forth in its Comprehensive Plan and Waterfront Development Plan for the Timeless Timber Commercial Redevelopment Site located at 2200 Lake Shore Drive East. The Timeless Timber Commercial Redevelopment area is comprised of approximately 4.75 acres of publicly-owned property located on the east side of Ashland, in the Regional Commercial (RC) zoning district. The site includes approximately 340 feet of U.S. Highway 2 frontage and is located in a primary commercial corridor. The City is seeking a developer to deliver a project that complements the surrounding neighborhood, is sensitive to its unique location near Lake Superior and helps to promote and improve water quality, and is successful in the marketplace. The property is located within Tax Increment Finance District No. 9, and the City is willing to negotiate a development agreement, in addition to assist with potential state and/or federal redevelopment tools as necessary to assist with project financing.

REDEVELOPMENT PROJECT GOALS

The redevelopment Site offers a significant opportunity to create a destination for residents and/or visitors and tourists of Ashland that will add a high-quality and tax-generating use to the community. During 2016 and 2017, the City began work to gather input from the public and the Plan Commission to understand their desires for the Site. This information was gathered via numerous public input opportunities as part of the City's comprehensive plan update process, *Authentic Ashland, 2035*, and additional public input was more recently gathered related to the site through the City's update of Ashland's Waterfront Development Plan (2019).

Based on the input received, it was concluded that the public ultimately envisions and desires commercial development in this prime regional commercial location. Commercial uses should create employment opportunities, and may include uses such as shopping, dining, lodging, recreation, and/or services. Specific uses highlighted from community input and advisory committees include recommendations for diverse restaurants and indoor recreational uses, both of which would be unique in the region, and would be of interest to visitors and residents alike. Any development should be designed to be complimentary with the surrounding uses and mindful of its location in close proximity to Lake Superior and with a stream located on the east side of the site.

The City of Ashland's goals for commercial development in this location include the following:

1. **District Integration:** Provide a project that positively interacts with and enhances the regional commercial corridor it is located on with regards to use and design, and that promotes connectivity;
2. **Economic Development:** Achieve private development of property that will add to the tax base of the City and TID #9, and stimulate economic activity;
3. **Quality Design and Density:** Development will be of high architectural quality that reflects the uniqueness of the community, and well-planned site design for maximum efficiency of the entire Site. It shall enhance the identity of the Eastern Gateway and promote views of Lake Superior;

4. **Connectivity:** Deliver a project that provides connectivity within the development site, and also with the surrounding properties;
5. **Use:** Facilitate urban infill development that creates additional commercial and economic development activity along with green space, landscaping and other amenities. The development should draw residents and/or visitors to commercial uses such as shopping, dining, lodging, recreation, and/or services. Particular community needs and desires include (but not limited to):
 - a. Recreational opportunities, particularly those which can be offered year-round
 - b. Health/fitness uses
 - c. Entertainment establishments (bowling alley, arcade, etc.), possibly combined with a restaurant/bar use
 - d. Restaurants
 - e. Retail uses that diversify offerings in Ashland and contribute to the economic vitality of the community;
6. **Sustainable:** Provide a development that integrates the principles of sustainability in the development and use of land, and incorporates stormwater management best practices;
7. **Innovation:** It is the City's desire to allow for, and promote, flexibility and creativity in the redevelopment of this Site. Therefore a developer is sought that is willing to take risks and develop real estate in innovative ways and add maximum value to the community;
8. **City Vision:** Implement the vision of the City's Comprehensive Plan and Waterfront Development Plan by redeveloping in a manner that appeals to both residents and visitors, promotes job creation and economic development, and embraces its location along U.S. Highway 2 and within 600 feet of Lake Superior; and
9. **Financial Viability:** Project must be financially viable and if needed, use minimal public investment. Requests for financial assistance will be evaluated against how the project meets the development objectives and the catalytic potential of the project. Financial assistance options are identified later in this RFP.

TENTATIVE PROJECT SCHEDULE

RFP Release Date	____, 2020
Proposals Due	____, 2020
Evaluation Period by Plan Commission	____, 2020
Interviews	____, 2020
Presentation by Developer and Selection by Plan Commission	____, 2020 Plan Commission meeting
City of Ashland Common Council Meeting for Approval of Recommended Proposal	____, 2020
City staff & Developer Negotiate Sales Contract and Development Agreement	Anticipated completion by ____
Zoning items/site planning approvals	Fall 2020-Winter 2021

Construction begins	Anticipated spring 2021
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BACKGROUND

THE COMMUNITY

The City of Ashland, population 8,200, is located on the south shore of Chequamegon Bay on majestic Lake Superior. Approximately 60 miles east of the Duluth/Superior metropolitan area, Ashland is the county seat of Ashland County and serves as the regional economic hub driven by a diverse mix of health care, higher education, professional services, government services, manufacturing, retail and a growing tourism base. Ashland also boasts an outstanding collection of natural, cultural and historical assets for a city of its size. Lake Superior, the largest freshwater lake in the world, offers countless year-round recreational opportunities for residents and visitors who also explore acres of surrounding national forests with world-class bike and ski trails, our many City parks, trails and beaches, and nearby Apostle Islands National Lakeshore. These assets, coupled with the varied economic base, give Ashland a foundation for a vibrant future that draws, retains, and nurtures people from diverse backgrounds because of the lifestyle and economic activities it offers.

SITE BACKGROUND AND DESCRIPTION

PROPERTY SUMMARY

The Site is a highly valuable and visible property within the City of Ashland, having significant development potential. The property is located along USH 2/Lake Shore Drive and across the street from the breathtaking Chequamegon Bay of Lake Superior. In addition, it is located in close proximity to the new state-of-the-art St. Luke's Clinic medical facility, Wal-Mart, Kwik Trip convenience store and fueling station, and other shopping facilities that serve the region. Therefore, the site holds significant economic value for development. It also provides quick access to the City's waterfront trail system and connected 5th Street corridor trail.

The property has endured a diverse history relative to its use. In the late 1800's and early 1900's, the site served as a location for an educational institution and residential housing during the boom of the coal and iron ore docks along the City's waterfront. In the mid-1960's it transitioned to a heavy machinery manufacturing site, then a decade later became the site of a forest product processor, including rail access and remained operational in that capacity until the mid-1990's. In 1996 the site was purchased by the Superior Water-Logged Lumber Company/Timeless Timber. That use existed into the 2000's when it was abandoned, and ultimately closed. After several years of inactivity, the City acquired the property at the end of 2015.

In 2016, the City initiated efforts to prepare the site for redevelopment. Kwik Trip, Inc. approached the City and requested to purchase approximately 4.5 acres of the 34-acre site, located in the northeast corner of the property, and including approximately ½ of the site's USH 2 frontage. The property sale was completed and a new Kwik Trip convenience store and fueling facility was constructed, opening in late 2017. This initial development included installation of 600' of new roadway (and associated infrastructure) that can be extended south as part of the overall redevelopment site if desired. During 2017, the City commenced and completed demolition of the structures on the property and removal of

associated footings/foundations and expanses of concrete/asphalt. In addition, Phase I and Phase II Environmental Assessments were completed on the remainder of the site, and site investigations were conducted in the areas where the buildings/hard surfaces existed. The summary findings from the Environmental Assessments are attached for review.

The City retained services in 2019 for a qualified firm to complete wetland delineation of the entire 29 acre site. Wetlands were identified within the commercial redevelopment parcel identified in this Request for Proposals, which were created through the 2017 demolition activities that occurred on site. Exemptions for identified wetlands by the Wisconsin Department of Natural Resources and Army Corps of Engineers have been obtained and are included as attachments to this request.

The intended future use of the remaining approximately 22.5 acres of City-owned land directly south of the commercial redevelopment site identified in this RFP is for housing or mixed commercial/residential use. A separate RFP will be issued for redevelopment of that site for housing or mixed use in 2020.

This aerial map illustrates the Redevelopment Site in Duluth, Minnesota, which is approximately 4.75 acres in size. The site is highlighted by a red rectangle and is situated along the shoreline of Lake Superior. Key landmarks and infrastructure shown include US Highway 2, the St. Luke's Clinic, Kwik Trip, Walmart, and the Industrial Park. Surrounding streets such as Lake Shore Dr E, Toll Rd, Rail Dr, Knight Rd, and Sum Rd are also visible. The map provides a clear view of the site's location within the local commercial and industrial landscape.

Timeless Timber Commercial Redevelopment Site
Ashland, WI



SITE SPECIFICATIONS

- **Location:** East side of Ashland, WI along the south side of USH 2, immediately across the street from the new St. Luke's Chequamegon Clinic and Lake Superior. The site is located approximately 650' southeast of the Lake Superior
- **Ownership:** The property is owned by the City of Ashland. *The City will work with the selected developer to achieve any proposed subdivision of the property and/or dedication of desired right-of-way that may be necessary to carry out the proposed development.*
- **Parcel Address & ID:** 2200 Lake Shore Drive East; #201-03611-0200
- **Legal Description:** Lot 2 of CSM #670 (attached)
- **Size:** Approx. 4.75 Acres; 340' of frontage along USH 2.
- **Existing Improvements:** Vacant property
- **Comprehensive Plan Future Land Use Designation:** Regional Commercial zoning and intended land use compatible with existing uses along this commercial corridor.
- **Current Zoning:** Regional Commercial (RC) District with a Gateway Overlay (GTWY-O) along the USH 2 frontage.
- **Topography:** The property is generally flat along the highway frontage, and the overall site gently slopes to the northwest.
- **Flood Plain Status:** No portion of the designated commercial redevelopment site is located within a floodplain.
- **Wetland Status:** The City of Ashland completed wetland delineation of the site in 2019. Exemption of identified wetlands by the Wisconsin Department of Natural Resources and Army Corps of Engineers has been obtained, and approval letters can be found as attachments to this request.
- **Utilities:** Water, Sanitary, Storm and electric services are available to the site from the adjacent north and west streets; water is also available from the newly-constructed segment of 23rd Avenue East adjacent to the site.
- **Transportation:** The Site is bound by 4 roadways. USH 2/Lake Shore Drive abuts the property to the north, which is a principal arterial road that carries average daily traffic volumes of approximately 13,000 vehicles per day. 22nd Avenue East is a collector street, which bounds the property along the west side. Along the south boundary is 6th Street East, a neighborhood street. In the north portion of the site there is a new 600' long road, 23rd Avenue East, which was constructed in 2017 and has the ability to be extended through the development site.

- **Site Access:** Direct access to the site from USH 2 is restricted, and access to the site will be from 22nd Avenue East and 23rd Avenue East, and access would be permitted off of 6th Street West. As part of this redevelopment project, the developer will be financially responsible for the cost of extending the existing center turn lane on USH 2 to the existing 23rd Avenue East, as is required by DOT in order to accommodate the increased commercial traffic this development will attract. The City retained right-of-way to accommodate the associated widening needed to extend the center turn lane, and will work with the developer and DOT on this process.
- **Environmental Conditions:** The site has had several environmental assessments completed over the past 20 years, with the most recent having been completed in December, 2017 after removal of the buildings and concrete/asphalt from the site. Executive summaries of the most recent environmental assessments are included in the Appendices (full reports available upon request). The City and WDNR are great partners and will work together to address any environmental conditions that may need further work, which is dependent upon the proposed final use(s) for the property and locations of such uses on the site.

There is indication that some soil on the site has been identified to contain compounds above the RCL, and will need to be managed appropriately. However, exceedance levels are not substantial, and in working with the WDNR there is indication that if such soils are encountered as part of the redevelopment, they may be able to be reused on-site such as moved to a different location and capped to serve as open space(s), or they may be covered by a building/and or pavement. None of the detected contamination is anticipated to cause a vapor intrusion issue in proposed buildings at the site. One controlled REC (CREC) exists on the site and has already been remediated, capped, and is documented on the WDNR Registry. This approx. 50' x 120' area must remain capped or be remediated with approval of the WDNR.

- **Appraised Value:** The property has been appraised by Balsam Cottage Appraisals in 2019, and was valued at \$331,000 (see attached).

CITY OF ASHLAND DEVELOPMENT ASSISTANCE

The City of Ashland has invested resources in preparing the site for redevelopment. The City is interested in partnering with developers to achieve outcomes which promote an accelerated development plan (at least for Phase I) and a high-quality building design environment. In order to help facilitate this, and because the Site is located within a Tax Increment District (TID), the City will consider possible incentives/assistance as follows:

- Land as incentive, or land write-downs.
- Applying for a Brownfield Redevelopment Grant through Wisconsin Economic Development Corporation (WEDC) to assist with build-out of utilities
- TID Development Agreement – City will consider upfront, pay-as-you-go, and/or a hybrid of the two, subject to further analysis.

Existing Utility Locations



Water
Storm
Sanitary

PROPOSAL FORMAT AND REQUIREMENTS

Proposals that do not address the items listed in this Request for Proposals may be considered incomplete and may be deemed non-responsive by the City of Ashland at its sole discretion. It is the responsibility of the consultants submitting proposals to determine the actual efforts required to complete the project. Interested entities should submit a proposal that includes the following:

- 1) A cover letter indicating your interest in the project and identifying why the firm is uniquely qualified for this project.
- 2) A brief description of the firm including its structure, capabilities, length of time in business, and experience with similar projects. Provide the name, address, phone number and email address of the key contact person. Also identify any proposed subcontractors.
- 3) Provide information about relevant projects and/or existing business model with concentration on those comparable in scale, nature, process and function to this project. Provide the name, email address, and phone number of at least two community references.
- 4) Project Description: Provide a brief narrative describing what is proposed for construction, including as applicable:
 - a. Description of proposed use or business
 - b. Size and design of proposed building, location and size of parking area, incorporation of any principles of sustainability and best stormwater management practices.
- 5) Identify the proposed purchase price for the land.
- 6) Concept plan: Submit a ***conceptual*** site plan showing initial ideas for site layout, uses, streets, access drives, parking, utilities/infrastructure, stormwater, landscaping and other features. Also provide conceptual elevations and floor plans.
- 7) Identify the anticipated financial investment required for the development (broken down by phases if applicable). Also provide a statement of Developer's financial ability.

SUBMITTAL REQUIREMENTS

Proposals must be received by 4 PM Local Time, Friday, _____, 2020. The submittal must include one (1) paper copy and one (1) Electronic File (email/pdf or flash drive). ***Label submittal: Timeless Timber Site Commercial Redevelopment.***

Submit to: City of Ashland
Attn: Megan McBride, Planning & Development Director
601 Main Street West
Ashland, Wisconsin 54806
mmcbride@coawi.org

EVALUATION AND SELECTION PROCESS

The City of Ashland Plan Commission will evaluate proposals and make a recommendation to the City Council for award based on a variety of factors, including:

- Overall Concept Plan proposed and satisfaction of goals for the project area
- Extent to which proposed development maximizes the use of the site and provides for taxable value
- Qualifications and Experience of the firm/business involved
- Demonstrated relevant experience in similar development projects and positive references
- Estimated level of investment and financial capability of developer

- Anticipated project timeframe for completion/phasing

The City's Plan Commission will evaluate the proposals received and conduct any desired interviews. The Plan Commission will then make a final recommendation to the Common Council. If interviews are desired by the Plan Commission, firms will be given ample time to prepare.

RIGHTS RESERVED by the CITY OF ASHLAND

This Request for Proposals does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals in anticipation of a contract.

The City of Ashland reserves the right to:

- Make the selection based on its sole discretion
- Reject any and all proposals without prejudice
- Issue subsequent Requests for Proposal
- Postpone opening for its own convenience
- Remedy technical errors in the Request of Proposal process
- Approve or disapprove the use of particular sub-consultants
- Negotiate with any, all, or none of the Proposers
- Solicit best and final offers from all or some of the Proposers
- Accept other than the lowest offer
- Waive informalities and irregularities in the proposal
- Request clarification of the information submitted
- Request additional information

INQUIRIES

Questions regarding this RFP must be in writing and sent via the U.S. Mail or e-mail to Megan McBride (mmcbride@coawi.org) up to ten (10) days before the proposal is due. After this date questions involving the content or intent of the proposal will not be answered. All questions will be responded to in writing, provided to all parties requesting an RFP for which the City has contact information, and treated as an addendum to the proposal packet.

PROPOSER RESPONSIBILITY

Interested proposers have the responsibility of understanding what is required by this solicitation. The City shall not be held responsible for any firm's lack of understanding. This solicitation contains a brief description of the project site. The City makes no representations as to the conditions of the project site and no employee or any other representative of the City of Ashland has authority to make any oral or written representations as to the conditions of the project site. Proposers are responsible to assure delivery prior to the deadline. Do not assume that a guarantee by a mailing service will ensure that the proposal is received by the deadline.

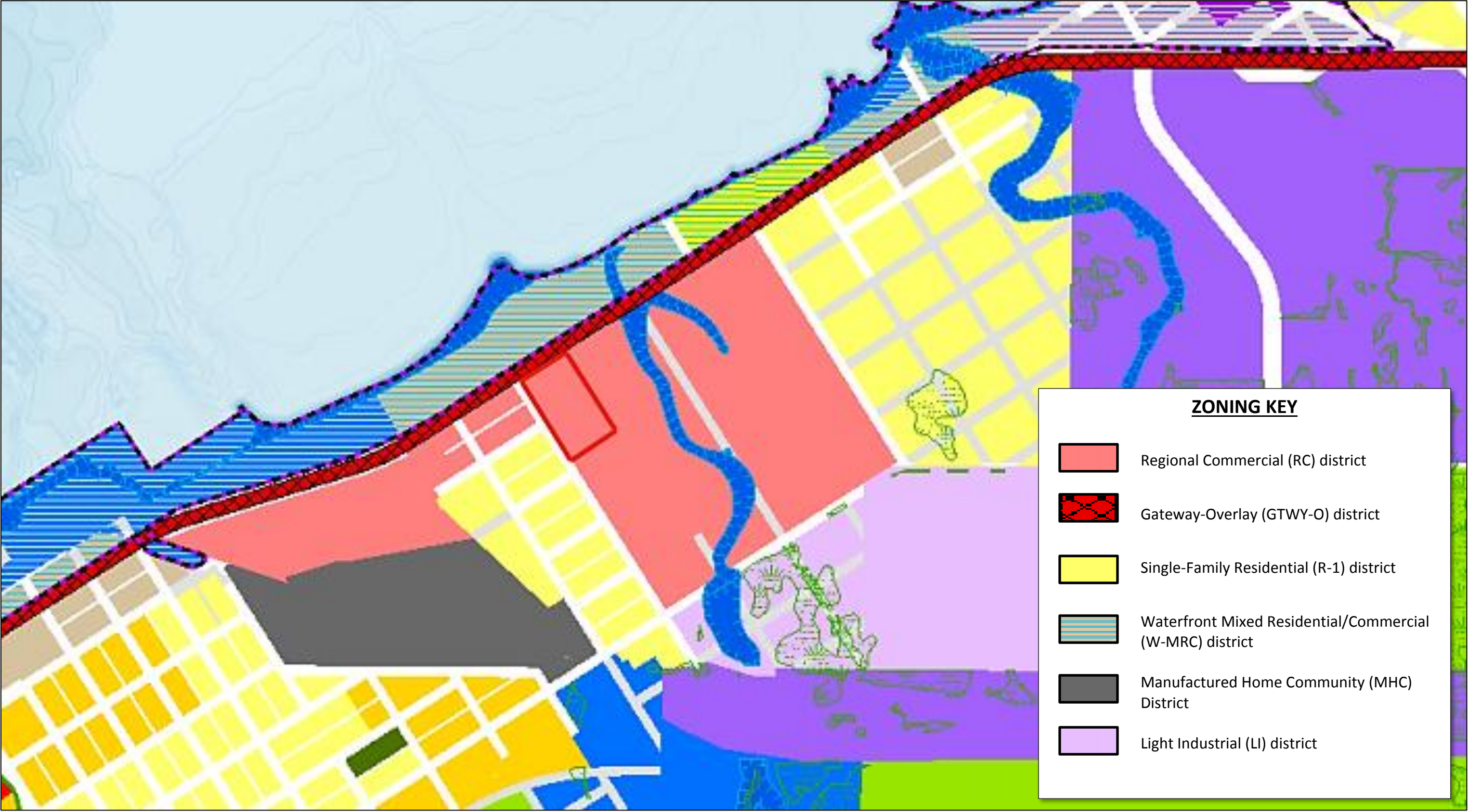
CONTRACT

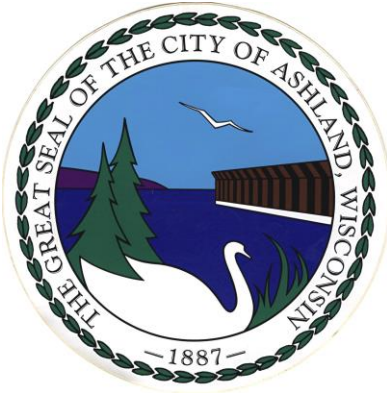
No contract shall be in effect until the City executes a signed contract agreement.

Additional Information

1. Site/Parcel Map
2. CSM #660
3. Site Planning Map – Utilities & Topography
4. Post-Demo Subsurface Assessment, 12-19-17, Summary Report (full study available by request)
5. Limited Site Investigation, 12-30-16, Executive Summary (full study available by request)
6. Deed Restriction for Closed, Capped 120' x 50' Area On Site with Site Location Map
7. 2019 Ashland Inspired, A Waterfront Development Plan Strategic Action Plan for Waterfront Edges (full plan available by request)
8. 2019 Wetland Delineation Map
9. 2020 Wetland Exemption Approval letters from WDNR and Army Corps of Engineers
10. City of Ashland Principles of Sustainability

Existing Zoning
Timeless Timber Redevelopment Site & Surrounding Area





City of Ashland
REQUEST FOR PROPOSALS

RFP #20-__

**Timeless Timber
Residential Redevelopment**

Issue Date

The City of Ashland, Wisconsin will be receiving proposals for the above noted project until _____. Proposals must be submitted in electronic format (email or flash drive preferred) with one (1) printed hard copy mailed or delivered to:

City of Ashland
Attn: Megan McBride, Planning & Development Director
601 Main Street West
Ashland, Wisconsin 54806
Email: mmcbride@coawi.org

The City of Ashland reserves the right to reject any and all proposals not judged to be in the best interest of the City.



REQUEST FOR PROPOSALS
Timeless Timber Residential Redevelopment
RFP #20-??

Date of Request: TBD

Project Title: Timeless Timber Residential Redevelopment

Submittal Due: TBD. There will not be a public opening for this RFP.

Late Proposals: Any proposal received by the City after the exact time and date specified will not be considered.

Submittal Format: One (1) Paper Copy and One (1) Electronic File (email or flash drive) of the proposal are to be submitted for evaluation by the City. *Label submittal: Timeless Timber Residential Redevelopment*

Submit to: City of Ashland
Attn: Megan McBride, Planning & Development Director
601 Main Street West
Ashland, Wisconsin 54806
mmcbride@coawi.org

Withdrawal: Proposals may be withdrawn by written notice received at any time prior to the proposal closing date and time. Proposals may also be withdrawn in person by an officer or by a representative of the firm, provided that the representative signs a receipt for return of the proposal.

INTRODUCTION

PROJECT SUMMARY

The City of Ashland, Wisconsin, seeks competitive development proposals from qualified developers to help the City attain the sustainable vision set forth in its Comprehensive Plan for the Timeless Timber Redevelopment Site. The existing parcel #201-03611-0200 will be subdivided into 2 parcels, with the northern ~4.5 acres abutting US Hwy 2 designated for commercial development and the southern ~22.5 acres for residential uses. Of those 22.5 acres intended for residential redevelopment, approximately 16.5 acres are developable as an existing stream runs diagonally along the east and southeast corner of the property (see aerial maps for reference). The site is located adjacent to the 24th Avenue pedestrian corridor which connects to the Lake Superior Waterfront Trail, and is also located near a Regional Commercial corridor and adjacent to an existing residential neighborhood. Existing nearby commercial uses include near existing uses including Kwik Trip, Walmart, and St. Luke's Clinic. The City is seeking a developer to deliver a project that complements the surrounding neighborhood and meets existing community housing needs as identified in the City's 2018 Housing Report (attached).

REDEVELOPMENT PROJECT GOALS

The City of Ashland's goals for this urban infill development site include the following:

1. Facilitate an appropriate density of urban infill development;
2. To provide housing that meets the diverse needs of the City, offering options for a mix of ages and incomes with priority given to developments that incorporate affordable housing;
3. Strives to further diversify Ashland's existing housing stock in terms of density, accessibility, affordability and populations served;
4. Can include a variety of ownership opportunities including rental housing, rent-to-own, community land trust, or other creative housing types which help expand affordable access to property rental and ownership;
5. Creates additional housing to support identified community needs (see attached 2018 Housing Study), including housing that is attractive and accessible to seniors and supports aging in place, rental and ownership options for young families, and/or supportive housing or housing that includes some level of services;
6. Design approach that integrates the development with the surrounding neighborhood area and anticipated commercial development, enhances community character, and provides connectivity;
7. To provide a development that is sustainable, including environmentally sensitive, energy efficient, and with appropriate stormwater management to protect water quality of the existing floodway on site which leads to Lake Superior; and
8. To generate additional tax base that positively contributes to Tax Incremental District No. 9 in which the property is located.

TENTATIVE PROJECT SCHEDULE

RFP Release Date	TBD
Proposals Due	TBD

Evaluation Period by Housing Committee	TBD
Interviews	TBD
Selection by Housing Committee	TBD
City of Ashland Plan Commission Meeting	TBD
City of Ashland Common Council Meeting	TBD
City staff & Developer Negotiate Sales Contract and Development Agreement	TBD
Zoning items/site planning approvals	TBD
Construction begins	TBD

BACKGROUND

THE CITY

Ashland is a small city with an outstanding collection of natural, cultural and historical assets. The economy of this regional economic hub is driven by a diverse mix of manufacturing, educational, medical, professional services, locally-owned retail, and tourism-related services. The area's medical field in particular has rapidly expanded in recent years, with a \$20 million+ addition currently underway at Ashland's Memorial Medical Center hospital. These assets, coupled with the varied economic base, give the city a foundation for a vibrant future that draws, retains, and nurtures people from diverse backgrounds because of the lifestyle and economic activities it offers. Ashland's location on the shores of Chequamegon Bay, in the heart of an outdoor recreational paradise centering on Lake Superior, defines the community of 8,200. Ashland utilizes the waterfront with a marina, walking/biking trails, parks, three beaches, boat launches, a pier and a vision for development of a nearly 2,000 foot ore dock base into a unique civic space. Historical influences shaping the present include educational institutions that reflect a commitment to ecology and place, including Northland College and Wisconsin Indianhead Technical College (WITC); a downtown filled with history and creativity, with numerous historical architectural landmarks, a historic district on the National Register, and a growing tradition of local public art; and a grid street network that provides the building blocks for a walkable, neighborly and well-connected community.

The City of Ashland recently completed a Housing Market Study of the City in March, 2018 (copy of study attached). The report identifies various housing deficiencies in the City which need to be met, including: affordable housing, new market rate rentals (2-3 bedrooms), and housing to serve Ashland's aging population (senior, assisted).

PROPERTY DESCRIPTION

Property Summary

The Timeless Timber Residential Redevelopment area consists of a ~22.5 acre parcel (see attached map) located directly south of the City's Regional Commercial corridor, with approximately 16.5 acres being developable outside of the existing floodplain. This site is a remediated brownfield which has remained

unused for 5+ years, and therefore qualifies for WEDC Idle Sites Grant funding to assist with development costs. Located in close proximity to the pedestrian corridor, commercial uses and restaurants, St. Luke's Clinic, and City-owned waterfront Bayview Park, this site offers a unique blend of access to both commercial uses and natural amenities of the beautiful Chequamegon Bay. Public transportation and pedestrian trail access from the site are also amenable to a wide range of housing uses that serve diverse income and age ranges.

DEVELOPMENT INCENTIVES

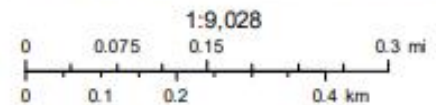
Available development incentives to support new residential development on the site, in addition to any state or federal tax credits or other available resources available to developers, include:

- Land provided at reduced or no cost to developer;
- WEDC Idle Sites Grant funding to assist with build out of utilities; and
- WHEDA Housing Grant funding if housing serves identified vulnerable populations.

Timeless Timber Residential Redevelopment Site
Ashland, Wisconsin



6/5/2020, 2:41:10 PM



City of Ashland Public Works Department, GIS Division
PICTOMETRY INTL

Department of Public Works Engineering
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SITE SPECIFICATIONS

- **Location:** East side of Ashland, WI along 6th Street East spanning to approximately 3rd Street East. Located just south of Kwik Trip and anticipated commercial development (TBD based on RFP), and north of an existing residential neighborhood. The site is located approximately 1,200' south of Lake Superior.
- **Parcel ID:** #201-03611-0200
- **Legal Description:** Lot 2 of CSM #670 (attached)
- **Size:** The site for which residential proposals are being sought is approximately 22.5 acres in size, with ~16.5 acres being developable and not located in the floodplain from the existing stream on site.
- **Existing Improvements:** Vacant property
- **Comprehensive Plan Future Land Use Designation:** Commercial/Mixed-Use/Traditional Neighborhood Districts, allowing flexibility in future use of the site within those parameters.
- **Current Zoning** Currently zoned Regional Commercial (RC) with Floodplain Overlay (F-O) along the ravine corridor. The site can be rezoned to best accommodate proposed development, or a Planned Development District could be approved, and would be consistent with the City's future land use plan.
- **Topography:** A stream that drains to Lake Superior (Chequamegon Bay) is present along the eastern boundary of the property.
- **Flood Plain Status:** A portion of the eastern boundary of the property is within a floodway, associated with the stream.
- **Wetland Status:** Wetland delineation of the site was completed in 2019, and exemption of all identified wetlands has been granted by both the Wisconsin DNR and Army Corps of Engineers.
- **Utilities:** Water, Sanitary, Storm and electric services are available to the site from the adjacent 23rd Avenue East, 22nd Avenue East and/or 6th Street East.
- **Site Access:** Dependent upon site design, access can be obtained from 23rd Avenue East which connects to center of the site on the north side, 22nd Avenue East to the west, and/or 6th Street East from the south. The existing USH 2 center turn lane will be extended by the commercial developer whose proposal is selected for the site directly north of this residential redevelopment site.
- **Environmental Conditions:** The site has had several environmental assessments completed over the past 20 years, with the most recent having been completed in December, 2017 after removal of the buildings and concrete/asphalt from the site just north of the residential redevelopment area. Executive summaries of the most recent environmental assessments are

included in the Appendices (full reports available upon request). The City and WDNR are great partners and will work together to address any environmental conditions that may need further work, which is dependent upon the proposed final use(s) for the property and locations of such uses on the site.

There is indication that some soil on the site has been identified to contain compounds above the RCL, and will need to be managed appropriately. However, exceedance levels are not substantial, and in working with the WDNR there is indication that if such soils are encountered as part of the redevelopment, they may be able to be reused on-site such as moved to a different location and capped to serve as open space(s), or they may be covered by a building/and or pavement. None of the detected contamination is anticipated to cause a vapor intrusion issue in proposed buildings at the site. One controlled REC (CREC) exists on the site and has already been remediated, capped, and is documented on the WDNR Registry. This approx. 50' x 120' area must remain capped or be remediated with approval of the WDNR.

- **Appraised Value:** The property has not been appraised, but will be prior to Development Agreement negotiations.

Existing Utility Locations



6/5/2020, 12:41:25 PM



1:9,028
0 0.075 0.15 0.3 mi
0 0.1 0.2 0.4 km
City of Ashland Public Works Department, GIS Division
City of Ashland Public Works Department
Department of Public Works Engineering
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PROPOSAL FORMAT AND REQUIREMENTS

Proposals that do not address the items listed in this Request for Proposals may be considered incomplete and may be deemed non-responsive by the City of Ashland at its sole discretion. It is the responsibility of the consultants submitting proposals to determine the actual efforts required to complete the project. Interested entities should submit a proposal that includes the following:

- 1) A cover letter indicating your interest in the project and identifying why the firm is uniquely qualified for this project.
- 2) A brief description of the firm including its structure, capabilities, length of time in business, and experience with similar projects. Provide the name, address, phone number and email address of the key contact person. Also identify any proposed subcontractors.
- 3) Provide information about relevant completed development projects undertaken with concentration on those comparable in scale, nature, process and function to this project. Provide the name, email address, and phone number of at least two community references.
- 4) Project Description: Provide a brief narrative describing what is proposed for construction, including as applicable: number of housing units, unit sizes, bedroom mix, for sale/rent, approximately sale/lease rates, incomes served, ages served. Include estimated timetable for construction and phasing plan. Also identify any commercial/institutional uses proposed and explain. Explain how the proposed project will achieve the desired project goals. Include approximate development costs anticipated to complete the project.
- 5) Identify the proposed purchase price for the land.
- 6) Concept plan: Submit a ***conceptual*** site plan showing initial ideas for site layout, uses, streets, access drives, parking, utilities/infrastructure, stormwater, landscaping and other features. Also provide conceptual elevations and floor plans.
- 7) Identify the anticipated financial investment required for the development (broken down by phases if applicable). Also provide a statement of Developer's financial ability.
- 8) If any responding firm wishes to subcontract any portion of this project, the information contained in item 3 should also be provided for the subcontractor.

SUBMITTAL REQUIREMENTS

Proposals must be received by _____. The submittal must include one (1) paper copy and one (1) Electronic File (email/pdf or flash drive). ***Label submittal: Timeless Timber Residential Redevelopment***

Submit to: City of Ashland
Attn: Megan McBride, Planning & Development Director
601 Main Street West
Ashland, Wisconsin 54806
mmcbride@coawi.org

EVALUATION AND SELECTION PROCESS

The City of Ashland Housing Committee will evaluate proposals and make a recommendation to the City Plan Commission and Council for award based on a variety of factors, such as:

- Overall Concept Plan proposed and satisfaction of goals for the project area
- Extent to which proposed development maximizes the use of the site and provides for taxable value
- Qualifications and Experience of the firm and key personnel
- Demonstrated relevant experience in similar development projects and positive references

- Estimated level of investment and financial capability of developer
- Anticipated project timeframe for completion/phasing

The City's Housing Committee will evaluate the proposals received. The Housing Committee will then recommend two (2) to three (3) proposals to the Common Council. Common Council will then conduct interviews related to these proposals, and be responsible for selecting the desired proposal.

RIGHTS RESERVED by the CITY OF ASHLAND

This Request for Proposals does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals in anticipation of a contract.

The City of Ashland reserves the right to:

- Make the selection based on its sole discretion
- Reject any and all proposals without prejudice
- Issue subsequent Requests for Proposal
- Postpone opening for its own convenience
- Remedy technical errors in the Request of Proposal process
- Approve or disapprove the use of particular sub-consultants
- Negotiate with any, all, or none of the Proposers
- Solicit best and final offers from all or some of the Proposers
- Accept other than the lowest offer
- Waive informalities and irregularities in the proposal
- Request clarification of the information submitted
- Request additional information

INQUIRIES

Questions regarding this RFP must be in writing and sent via the U.S. Mail or e-mail to Megan McBride (mmcbride@coawi.org) up to ten (10) days before the proposal is due. After this date questions involving the content or intent of the proposal will not be answered. All questions will be responded to in writing, provided to all parties requesting an RFP for which the City has contact information, and treated as an addendum to the proposal packet.

PROPOSER RESPONSIBILITY

Interested proposers have the responsibility of understanding what is required by this solicitation. The City shall not be held responsible for any firm's lack of understanding. This solicitation contains a brief description of the project site. The City makes no representations as to the conditions of the project site and no employee or any other representative of the City of Ashland has authority to make any oral or written representations as to the conditions of the project site. Proposers are responsible to assure delivery prior to the deadline. Do not assume that a guarantee by a mailing service will ensure that the proposal is received by the deadline.

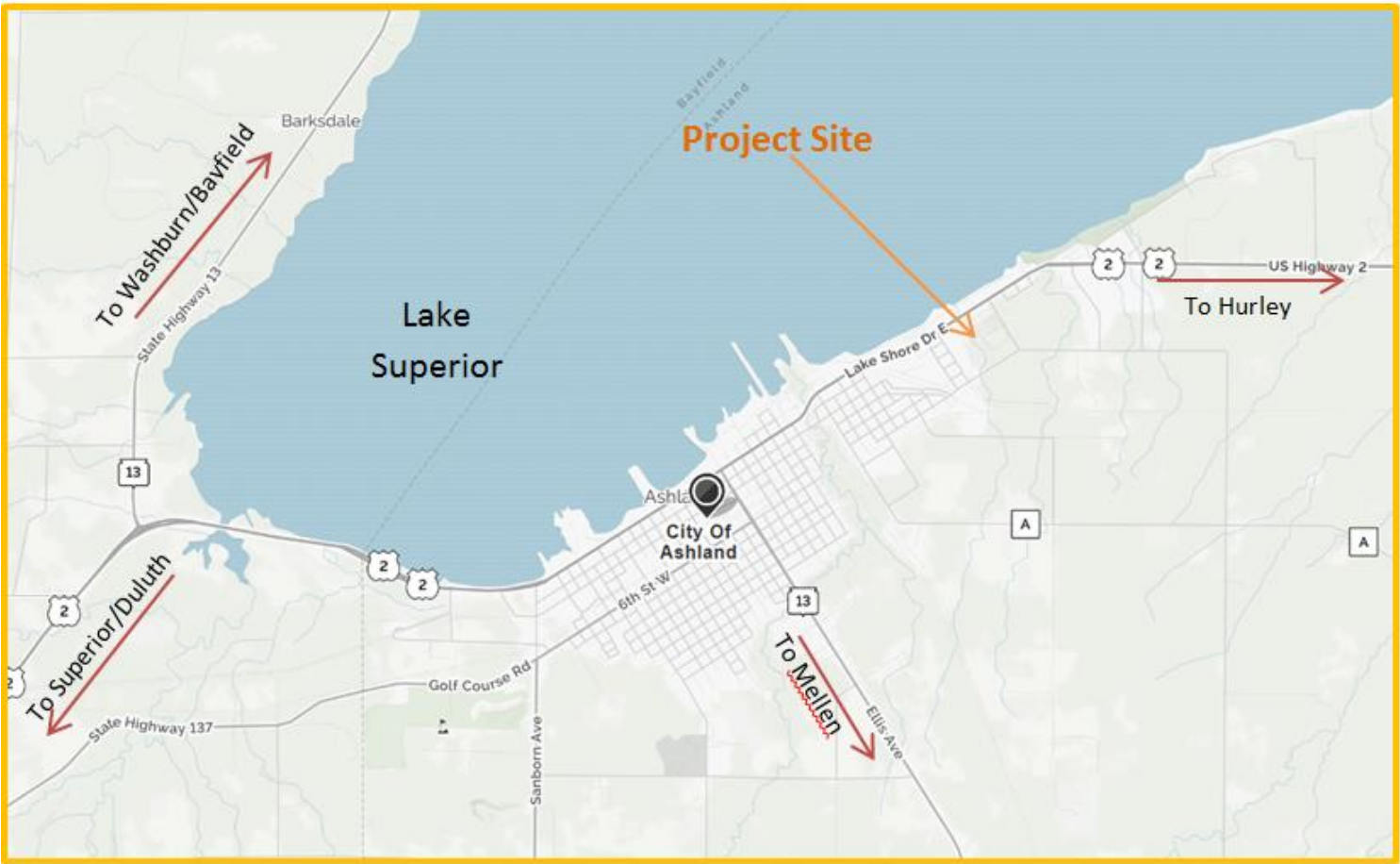
CONTRACT

No contract shall be in effect until the City executes a signed contract agreement.

Additional Information

1. City of Ashland Housing Market Study, March 2018
2. Wetland exemption approvals from WDNR and Army Corps
3. Final Case Closure Letter and Map of Residual Soil Contamination
4. Existing Zoning Map of Surrounding Area
5. Excerpts from Authentic Ashland 2035 Comprehensive Plan Regarding Site Disposition
6. Vicinity Map

VICINITY MAP



SUBJECT: Presentation and Discussion of City Intended Use of CDBG-CLOSE Funds (*Planning*)

RECOMMENDATION: Provide staff with feedback and directive related to proposed uses of CDBG-CLOSE funds, direct Planning staff to release a Request for Proposals to solicit projects for a downtown facade improvement program, and to provide feedback on desired second project focus.

DEPARTMENT OF ORIGIN: Planning and Development

CLEARANCES: Administration

EXHIBITS: 1. Eligible CDBG-CLOSE Activities

FINANCIAL IMPACT: The City's remaining Community Development Block Grant-Economic Development Revolving Loan Fund (CDBG-ED RLF) balance is available to the City to request up to two (2) grants to carry out activities that meet CDBG National objectives. There is no match required on the part of the City, and the only ongoing financial impact for the City will be the staff costs associated with collecting outstanding CDBG-ED RLF payments (which are then remitted to the state).

SUMMARY STATEMENT:

Through a directive from HUD, all Community Development Block Grant- Economic Development Revolving Loan Funds (CDBG-ED RLFs) were ordered to be closed by January 31, 2021, with funds liquidated to be used as non-competitive grants for communities to use on projects which meet CDBG National objectives and conform to all CDBG regulations. The City currently has \$632,671.34 in its RLF bank account to be utilized for up to two (2) grant projects.

Several important considerations for use of CDBG-CLOSE funds include:

1) Funds cannot be used on any projects that provide a community-wide benefit. The reason for this is that the City of Ashland's population who meets HUD income limits to be considered Low to Moderate Income (LMI) persons is currently 50.1%. The City must have an overall LMI percentage above 51% to allow funds to be spent for any projects which would be determined to have a community-wide benefit without a community-wide income survey.

2) For any projects involving slum and blight elimination, any property or building acquired with CDBG money *cannot* be used for a period of five (5) years (with the exception of property acquired for reconstruction

of LMI housing). This again stems from the fact that the City cannot undertake any projects which would be deemed community-wide benefit, and is also not permitted to sell a property acquired using CDBG funds for the five (5) year period. Therefore, as an example, if the City were to acquire the former Baror Radiator site adjacent to the Library, the City could demolish the existing building but would be required to maintain that as a vacant lot for at least five (5) years.

3) The only use that is allowed within the five (5) year time period would be projects which benefit at least 51% LMI persons, including granting lots or selling for \$1 for a developer who will build and administer LMI housing for a minimum of five (5) years.

Projects recommended by Planning and Development staff are based on eligible CDBG-CLOSE activities, community needs and goals identified in various planning documents (Comp Plan, Housing Strategic Plan, 2018 Housing Report), and the City's recent acceptance as a Main Street community.

Recommended projects include (see details on each below):

1) Downtown building improvement grant program;

2) Acquisition and historic preservation of 208 3rd Ave W (Opera House building); OR

3) Strategic residential acquisition and demolition, with required future use as LMI housing.

In order to support the City's recent acceptance into the State Main Street Program, and to further critical community goals of historic preservation and downtown revitalization, Planning & Development staff recommends that one (1) of the applications go towards slum and blight elimination through a matching downtown building improvement grant program. The preliminary plan for this has already been discussed with WI Department of Administration staff to ensure it could be eligible. While this is certainly not a common use of CDBG funds for slum and blight elimination (which typically center around acquisition and demolition), as long as CDBG funding goes towards projects related to public safety (roofing, unstable exterior brickwork, electrical or plumbing defects, etc.) then this would be an eligible use of a portion of the City's CDBG-CLOSE funding. To maximize the impacts on Ashland's downtown and simultaneously further several other community goals, staff recommends that a 50/50 match requirement be put in place with some portion of matching funds going towards facade improvements and/or historic preservation. Through the Comprehensive Plan update process, and based on larger trends in downtowns, it is clear that preservation and celebration of historic resources is important to residents, business and property owners, as well as visitors. This provides a unique opportunity for the City to partner with downtown property owners to make investments that improve the City's downtown building stock to ensure these historic resources are preserved for years to come.

Since all projects must be identified in the City's CDBG application, including cost estimates, the City would like to release a Request for Proposals (RFP) from downtown property owners on their project needs. Eligible properties would include both East and West Main Street, including commercial side avenues that are connected to Main Street. The anticipated maximum grant amount with a 50/50 match requirement would be \$15,000, though this could be subject to change based on the number of eligible proposals the City receives. Priority will be given to projects which both address a health and safety hazard (required), and incorporates facade improvements that promote historic preservation. Eligible facade improvements could include (but is not limited to) removing non-historic materials and restoring original features underneath, replacement of existing signage with more historically appropriate signage, or repair of exterior brickwork. The facade portion does not need to account for the entire 50% match, but there must be some aspect of the project where matching funds will go towards making a visible impact on Main Street. Use of a portion of CDBG-CLOSE

funds for a downtown building improvement program would also generate economic development and potential job creation, as any contractors who do construction through CDBG funds would need to be paid at Davis Bacon federal wage rates. This would also help business owners struggling to recover from economic impacts of the COVID-19 pandemic to address both necessary and aesthetic improvements to their buildings, which provides a wide range of benefits to grant recipients and the community as a whole.

The second project that staff recommends be considered for CDBG-CLOSE funding is acquisition and initial repair of the former Opera House located at 208 3rd Ave W. This historic building has significant structural defects that have resulted from accumulated deferred maintenance, and pose public health and safety hazards and threaten the overall integrity of the building. In order to ensure this unique historic resource is preserved for future residents and visitors, staff recommends that CDBG-CLOSE funding be utilized to purchase the property (assessed value is \$53,200) and utilize a portion of the funding that will go towards the facade/building improvement program to make initial, critical repairs to the opera house building as well. While the City would not be allowed to sell or offer the space for public use for a minimum of five (5) years, given the state of the building the City anticipates needing to leverage grants, donations and possibly budget towards this as we get closer to the five-year mark to either renovate it into a community space (future use guided by ample community input as the time gets closer) or sell for private redevelopment.

If the Opera House restoration project is not pursued, the alternative project option recommended by staff would be strategic demolition of unsafe residential structures, with the vacant lots given away for development of LMI housing. This would also fall under the category of slum and blight elimination, and would require restrictions be placed on the property at the time of transfer to legally require the developer to meet HUD income limits for LMI housing. The developer would be responsible for necessary reporting to demonstrate compliance with the LMI rent limits for a period of five (5) years. The Planning Department currently has \$3,500 budgeted to pay for the cost of dumpsters, but this funding would allow the City to pay fair market value for properties rather than having them donated or demolishing the home for the property owner to then market the vacant property. This would directly further the goal of strategic demolition for infill housing identified in both the Comprehensive Plan and Housing Strategic Plan.

Eligible CDBG-CLOSE Activities

Eligible Activities

Eligible recipients may utilize their CDBG ED RLF Closeout grant award for the currently authorized programs as outlined in the State of Wisconsin 2015-2019 Consolidated Plan without the matching funds requirement:

1. Public Facilities;
2. Housing Rehabilitation Conversion;
3. Economic Development projects;
4. Public Facilities for Economic Development projects;
5. Planning projects

In addition to the programs identified above, the CDBG ED RLF Closeout Account can be used for the following special purposes:

6. Broadband/high speed internet access for low and moderate income (LMI) residents. Grant funds can be used by the Unit of General Local Government (UGLG) for public infrastructure projects to expand broadband internet access. Examples of eligible expenses include the purchase of materials and installation.
7. Mitigation measures specifically those that address natural hazard risks; must connect the mitigation development or action to address impacts on LMI residents.
8. Public services.

CDBG Housing

Could be used for strategic demo IF lots are then used for LMI housing:

Eligible Activities

- Rehabilitation of dwelling units.
- Removal of architectural barriers.
- Homeownership opportunities for renters.
- Payment of relocation costs and benefits.
- Small public facilities projects.
- Demolition or removal of buildings so site can be used for LMI housing.
- Conversion of buildings into LMI dwelling units.
- Acquisition of real property for the construction of LMI housing with other sources of funds.
- Site improvements for the construction of LMI housing with other sources of funds.

Housing proposals will be funded in order to upgrade the quality and expand the supply of decent, safe, and sanitary housing for LMI households. Successful programs have included residential rehabilitation (including accessibility improvements for persons with disabilities), conversion of commercial property to residential units, assistance to LMI renters to become homeowners, and small public facilities projects.

SUBJECT: Discussion and Possible Action Regarding a Potential Ordinance Requiring Masks to Control the Community Spread of COVID-19 (*Mayor*)

RECOMMENDATION: As Council Desires

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: City Attorney
City Administrator
Council President

EXHIBITS:

1. Legal Opinion on a Potential Mask Ordinance
2. Draft of Proposed Ordinance "Face Covering Requirements During the COVID-19 Pandemic"
3. Draft of Proposed Ordinance - "Enforcement of Orders Made by Local Health Officers"

FINANCIAL IMPACT: NA

SUMMARY STATEMENT:

This item is a continuation of previous discussions held by the Committee of the Whole on 5/26/20, 6/30/20, and 7/14/20 regarding possible Council action in the form of an Ordinance to prevent the community spread of COVID-19.

Attached are three documents prepared by the City Attorney's office for discussion purposes.

ANICH, WICKMAN & LINDSEY, S.C.

ATTORNEYS AT LAW
220 SIXTH AVENUE WEST
POST OFFICE BOX 677
ASHLAND, WISCONSIN 54806-0677
TELEPHONE (715) 682-9114
FAX NO. (715) 682-9504

MATTHEW F. ANICH
TYLER W. WICKMAN
MAX T. LINDSEY
ROBERT E. EATON

July 21, 2020

RE: Legal Opinion on a Potential Mask Ordinance

Dear Hon. Mayor and Council Members:

This letter is sent in a response to a recent request for my legal opinion as to the City's options regarding a mandatory mask ordinance in light of the Covid-19 pandemic.

Our local municipalities are in a difficult position with enforcing any mask requirements or other Covid-19 related restrictions. Chapter 252, Wis. Stats. provides pretty vast authority for regulating activities in light of a public health crisis, but those authorities are only provided to municipalities/counties that have a local health department. The City of Washburn does not have a local health department, only the County does. Thus, the City does not have any authority to act or impose restrictions under Chapter 252, which is the underlying basis of nearly all Covid-19 related orders throughout the state.

Municipalities do have the authority to implement certain ordinances pursuant to their police power. I have to advise that there is no direct authority or example of a model mask ordinance from a municipality that lacks a local health department that has held up to legal challenges. Notwithstanding that, I am sure you are aware that the City of Bayfield recently enacted an ordinance requiring masks in public while in the City. It is uncertain whether the City of Bayfield ordinance will stand up to any legal challenge as there have not been any local ordinances that have been upheld by any higher courts in Wisconsin.

Given that there is no definite legal authority for the City to implement a mask ordinance, there are other options the City can take to keep citizens safe. The Ashland County health department has broad statutory authority to issue public health orders pursuant to Wisconsin Statutes, Chapter 252. The Council could pass a resolution urging the County Health Department to issue a mandatory mask order and request to include any other restrictions that would be beneficial to the health of the City.

I have discussed this issue with law enforcement and have been advised that there are ways to keep people and businesses safe even without a mask ordinance. Private business can, and many have, require customers to wear a mask upon entry. If any customer refuses to wear a mask, the business generally has the right to refuse service to that customer and ask them to leave. If the customer refuses to leave, law enforcement would be able to issue trespassing citations and, if any arguments ensued, it would be possible to issue disorderly conduct citations.

I am happy to discuss this matter further and answer any questions that may come up. I am closely monitoring advice and opinions on this issue from around the State as we are not the only municipality trying to figure out how to proceed. I will keep Council informed of any new developments on the legality of mask ordinances.

Yours truly,
ANICH, WICKMAN & LINDSEY, S.C.
/s/
Max T. Lindsey

CITY OF ASHALND, ASHLAND COUNTY, WISCONSIN
ORDINANCE NO. 2020-01

AN ORDINANCE CREATING "FACE COVERING REQUIREMENTS DURING THE COVID-19 PANDEMIC"

Whereas, as of July 7, 2020, COVID-19 cases have been on the rise in Wisconsin, Ashland County, and the South Shore in recent weeks; and

Whereas, public spaces and businesses are open for in-person operations in the City of Ashland, increasing the potential for community spread of COVID-19; and

Whereas, COVID-19 is primarily spread via respiratory droplets when people are in close proximity with each other and people that are infected speak, sneeze, or cough. People can be infected and have no symptoms (asymptomatic) and they are still able to transmit the virus; and

Whereas, according to the Centers for Disease Control (CDC), there is emerging evidence from clinical and laboratory studies that demonstrates cloth face masks reduce the spray of respiratory droplets; and

Whereas, wearing a face mask is one of the most effective ways to reduce person to person transmission of COVID-19. Face masks serve as a protection to prevent droplets from entering the air, which is known as source control. When combined with other preventive measures, including physical distancing and proper hygiene practices, wearing face masks is a simple and effective way to reduce the risk of COVID-19 transmission; and

Whereas, the risk of COVID-19 transmission remains high, particularly in indoor settings with an increased likelihood of close contact and the sharing of air that may contain coronavirus contaminated respiratory droplets and/or aerosols; and

Whereas, evidence cited by the Centers for Disease Control and Prevention (CDC) indicates that a significant portion of individuals with the coronavirus are asymptomatic, and that pre-symptomatic persons can transmit the virus to others before showing symptoms; and

Whereas, the City of Ashland is a destination for travelers and visitors from all over Wisconsin and the United States, including from states with higher per capita rates of COVID-19 infection than the State of Wisconsin or Ashland County; and

Whereas, in open meeting on July _____, 2020, the City of Ashland Common Council found and declared that the restrictions and prohibitions imposed pursuant to this Ordinance are appropriate and necessary in order to slow and prevent the transmission of COVID-19 and more effectively protect the lives and property of people within the City of Ashland; and

NOW THEREFORE, at a regular meeting of the City of Ashland, Ashland County, Wisconsin, held on July _____, 2020, by a favorable vote of the members being present and therefore, said Council does ordain as follows:

SECTION 1

Face covering requirements during the Covid-19 pandemic.

A. As used in this Ordinance, the following terms shall have the meaning indicated:

“Commercial business” means any for-profit business open to the general public for the purchase of goods, entertainment or services, including by way of example but not limited to retail stores (such as grocery stores, convenience stores), restaurants, and service businesses.

“City and public buildings” means any buildings owned by local government or not for profit organizations, including public restrooms.

“Face covering” means a material covering the nose and mouth for the purpose of ensuring the physical health or safety of the wearer or others. A face covering can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels. Acceptable, reusable face covering options for the general public include bandanas, neck gaiters, homemade face coverings, scarves, or tightly woven fabric such as cotton t-shirts and some types of towels.

“Outdoor Spaces” means any outdoor location where people are unable to distance themselves a minimum of six feet.

B. MASK REQUIRED.

While indoors in any commercial business or City office, and in an Outdoor Space that is open to the general public, all customers, employees, and any other occupants or users of such area shall wear a face covering. While wearing a face covering, social distancing (6') shall still be maintained so far as possible as described by the Center for Disease Control and Prevention.

C. EXCEPTIONS.

Exceptions for face coverings will be made under the following circumstances:

- i. A person who cannot wear a face covering due to a medical or behavioral health condition, including but not limited to anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance;
- ii. Children who are under (5) years of age;
- iii. A customer dining in a restaurant, while that customer is sitting at his or her table;
- iv. A law enforcement officer or any emergency responder who reasonably deems it necessary to remove a face covering in the course of his or her duties;
- v. A person who reasonably deems it necessary to remove his or her face covering for safety reasons or in order to carry out his or her job duties.
- vi. Persons in settings where it is not practical or feasible to wear face coverings, including when obtaining

or rendering goods or services, such as the receipt of dental services or medical treatments.

D. PENALTY.

Any violation of this Ordinance will be subject to the issuance of a citation as provided in City of Ashland Ordinances, Chapter 279, and penalties imposed shall be as described in Section 201.91 of the City's ordinances.

E. EXPIRATION

Unless abolished at an earlier date by the City of Ashland Common Council, this Ordinance shall be effective for so long as any national, state, or local health official and/or health department continues to declare the Covid-19 Pandemic a public health emergency.

SECTION 2

This ordinance is effective on publication or posting.

The Office of the City Clerk shall properly post or publish this ordinance, as required under Wisconsin Statutes
Adopted this _____ day of _____, 20__.

**ORDINANCE FOR ENFORCEMENT OF ORDERS MADE
BY LOCAL HEALTH OFFICERS**

WHEREAS, Wisconsin Statutes Chapter 252 authorizes and requires Local Health Officers to perform certain duties and take certain action; and

WHEREAS, pursuant to Wis. Stat. §252.25, orders rendered by a Local Health Officer are enforceable by adoption of municipal ordinances; and

NOW, THEREFORE, IT IS ORDAINED AS FOLLOWS, the City of Ashland Common Council hereby amends Chapter 201 of its ordinances to add the following Section 201.35:

Section 1. Add Section 201.35 as follows:

§ 201.35. **Enforcement of Public Health Order**

A. AUTHORITY

Pursuant to the authority of Chapters 252, Wisconsin Statutes, the City of Ashland Common Council does hereby establish rules regarding enforcement of orders issued by Local Health Officers. The provisions and definitions of §§ 252.01 to 252.25, Wis. Stats., and DHS Ch. 145, Wis. Adm. Code, as they may be from time-to-time amended, are adopted by reference and incorporated into this section as if fully set forth herein.

B. VIOLATIONS

Any person who willfully violates or obstructs the execution of any Local Health Officer Order issued under Ch. 252, Wis. Stats., and/or DHS Ch. 145, Wis. Adm. Code, relating to the public health, for which no other penalty prescribed, shall, in addition to being subject to all other legal and equitable actions and relief available to the City of Ashland, be subject to a forfeiture of not less than \$200 and not more than \$500 for each violation.

Section 2, Adoption and Effective Date

A.. EFFECTIVE DATE

Following passage and publication by the City of Ashland Common Council this ordinance shall be in full force and effect.

B. ADOPTION

Passed and approved by the City of Ashland Common Council this ____ day of _____, 2020.

SUBJECT: Discussion and Possible Action Regarding an Ordinance Requiring Water Lateral Replacement of Properties Directly Involved with Road Reconstruction (*Mayor*)

RECOMMENDATION: As Council Desires

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: City Administrator
Council President

EXHIBITS: 1. Draft Ordinance Creating Lead Lateral Replacement

FINANCIAL IMPACT: NA

SUMMARY STATEMENT:

The purpose of this item is to continue a discussion about the feasibility of enacting an ordinance to require the replacement of lead water laterals while a street is completely reconstructed, and that lead water mains are replaced with non-lead. Currently there is no requirement that lead laterals (responsibility of the homeowner) be replaced at the same time and there are instances where a homeowner has elected to re-hook a lead lateral to a non-lead main. The City has received grant dollars from the state of Wisconsin to pay the cost to homeowners at no expense and expects that the grant funding will continue for the foreseeable future.

The Council has expressed an interest in enacting an Ordinance to put a requirement into place.

DRAFT ORDINANCE CREATING SECTION **ENTITLED “LEAD**
SERVICE LINE REPLACEMENT” OF THE CITY OF ASHLAND CODE OF
ORDINANCES

**THE CITY COUNCIL OF THE CITY OF ASHLAND, WISCONSIN DO ORDAIN AS
FOLLOWS:**

Lead Service Line Replacement. A. Purpose. The city council finds it in the public interest and for the protection of public health, safety and welfare to establish a comprehensive program for removing and replacing all lead service lines within and connected to the city’s water service. Lead service lines have the potential to leach lead into drinking water; in particular, the disturbance or reconnection to an existing lead service line may increase lead levels in drinking water. The city’s water service is an interconnected system and lead in any service line is a potential contaminant throughout the system. There is no safe level of exposure to lead and lead in drinking water has been determined to cause health problems in young children, pregnant women and their unborn children, and is also potentially harmful to adults.

B. Definitions. The following definitions shall apply to this section, in addition to those terms defined elsewhere in this Chapter:

1. Customer-side service line. The property owner’s water service line, from the outlet of the curb stop to the inlet of the customer’s water meter.

2. Eligible lead service line. A customer-side water service line that contains lead, for which the service lateral or main has already been replaced, or is in the process of being replaced.

3. Lead service line. A water service line constructed of lead. This term includes the customer-side service line, mains, and service laterals.

4. Property. Real property as defined in Wis. Stats. s.70.03.

5. Property owner. A person or legal entity having a possessory interest, legal, or equitable, in property which shall include and estate, trust or lien.

6. Plumbing contractor. A person, firm, corporation or other entity licensed by the state of Wisconsin to perform plumbing work in the city.

C. Connection prohibited. No person shall connect a customer-side lead service line to a non-lead service lateral.

D. Lead service line replacement requirement. All eligible lead service lines connected to city water service shall be replaced with water service laterals made of material approved by the city, through available financial assistance for customer-side lead service line replacements, in accordance with the requirements of this section.

E. Identification of lead service lines. For city projects involving water mains or replacement of lead service laterals, property owners affected by the city project shall be notified in writing at least 30 days prior to commencement of construction. The Director of Public Works or her or his designee shall inspect all connections to the mains for the presence of lead prior to, if possible, or at the time that the mains are to be reconstructed and if unable to gain access for inspection, may pursue an inspection warrant or any other steps necessary to conduct the inspection, and shall collect the charge therefor from the property owner, including by imposition of a special charge.

E. Customer-side lead service line replacements.

1. In the event that a customer-side service line is found to contain lead, the Public Works Director or her or his designee shall immediately notify the property owner, in writing, of that fact, whether it is an eligible lead service line, and available funding options. The Public Works Director or his or her designee shall further provide information to the affected property owner regarding an effective flush of all water lines within the affected property. The affected property owner shall provide proof of arrangements for replacement of the eligible lead service line to the Director of Public Works or her or his designee within 30 days of the date of the notification letter.

2. Replacement of eligible lead service lines shall be completed either in conjunction with the replacement of the city's side of the water service during a utility replacement project, or if the city's side has already been replaced, shall be replaced within 90 days of notice to the property owner of the presence of lead.

G. Financial assistance for customer-side lead service line replacements.

1. Customers may apply for financial assistance for lead service line replacement through any available grant source, including those funds provided through the State of Wisconsin's Safe Drinking Water Loan Program.

2. The city may provide financial assistance for customer-side lead service line replacements in the form of grants, loans, or other funding sources. Funds shall be paid directly to the plumbing contractor on behalf of the property owner. The total amount of the funds provided shall not exceed the actual cost of replacement of the customer-side lead service line.

H. Penalty. Failure to commence work on the replacement of the customer-side lead service line when required pursuant to this ordinance, or for such work to be completed within a reasonable time after commencement of the work, may result in a citation to the property owner of at least sixty dollars and no more than five hundred dollars for each day of the violation, together with the costs of prosecution.

SUBJECT: Discussion Regarding Policing

RECOMMENDATION: Discussion only

DEPARTMENT OF ORIGIN: Councilor Ullman

CLEARANCES: Council President

EXHIBITS: 1. Council Questions

FINANCIAL IMPACT:

SUMMARY STATEMENT:

This agenda item is a continuation of the brief discussion held at the Committee of the Whole on July 14, 2020. July 14, 2020, Council members submitted questions that they would like answered in regard to understanding the existing policing model used in the City of Ashland.

Counselors were asked by Councilor Ullman to consider and respond to the following questions:

What is the purpose of policing in our community? What role should the police play?

What values do you think are foundational to policing in our community?

Do you have personal experiences that shape your perspective on these issues?

Are there roles and responsibilities that are currently in the hands of our police department which could be better served in a different way?

(Councilor George is the only Councilor who submitted answers to the above questions)

In addition, the following questions were submitted by Councilors to staff. Responses to these questions by staff are stated underneath:

Q: What ratio is the Police Dept. Budget as a share of the City General Fund Budget? How does this compare to other communities?

A: City Administrator:

1. In the 2020 Budget the total operating expense for the General Fund is budgeted for \$10,063,095 and the Police share of it (including animal control) is \$2,172,480. Proportionally this would be 21.6% of total operating costs.

2. According to the latest Municipal Facts book (2018) published by the Wisconsin Policy Forum the median per capita spending for Police in municipalities from 7,500 – 10,000 in population is \$241. There are 30 municipalities with this population that have police forces. Per capita costs for municipalities this size ranged from \$111 - \$434. The City of Ashland's per capita cost is exactly in the middle or \$241.

What is Qualified Immunity in Regard to Police Actions?

A: Mayor Lewis:

Qualified immunity is a legal defense established in common law and case law and designed to protect all but the plainly incompetent or those who knowingly violate the law. Law enforcement officers are entitled to qualified immunity when their actions do not violate a clearly established statutory or constitutional right.

Current Chief of Police Bill Hagstrom has prepared answers to other questions of Councilors. Please see attachment.



**ASHLAND POLICE
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What is the current Use of Force Policy for the City of Ashland Police Department?

Use of force in Wisconsin is all set by the Wisconsin Department of Justice, Training and Standards Bureau. All Officers have to go through the same curriculum and the training is standardized. Our policy is written to adopt the standards they have set. Many have heard of the “8 Can’t Wait” policies in the media about Police reform. Many of those policies were already in place in Wisconsin prior to this movement. Chokeholds already weren’t allowed in Wisconsin prior to this reform movement. Our policy is attached.

What is the Disciplinary Process for the Police Department and how is it administered?

This all depends on the alleged offense. Disciplinary matters are investigated internally by the Department if it is a violation of policy, procedure, or internal in nature. If the alleged conduct reaches the threshold of criminality, it’s investigated by an outside agency. The same incident can have both a criminal investigation and an internal investigation.

If the complaint is sustained, progressive discipline is used where disciplinary measures are used that increase in severity designed to give the employee the chance to correct the unacceptable behavior. Past disciplinary actions may be incorporated into the current disciplinary proceedings. Progressive discipline does not have to be followed if the incident rises to a standard where even a first offense may warrant harsh discipline or termination.

In order to suspend without pay, reduce rank, or terminate a non-probationary officer, a charge must be brought against the officer with the Police and Fire Commission who must hold a due process hearing before disciplining an officer and find just cause to do so.

What Bias Training and Sensitivity Training is Available and what has been done to date?

Training is a complex issue due to tight budgets and scheduling concerns. Every Officer has to receive at least 24 hours per year of training to maintain certification. There are also some trainings that are required annually or semiannually for each officer and we have to maintain instructors within the Department for those. So a lot of Officers have specialized training that is time consuming and strains the training budget limiting what others can attend so choices have to be made from year to year on what to send people to.

In the past few years, we have been concentrating on putting Officers through crisis intervention training to help them in their responses to mental health calls. This training is five days long so it’s challenging to get people scheduled for it. We got six Officers through it in the past two years and would’ve had all of our 14 patrol Officers through it by the end of this fall but the trainings were all cancelled because of Covid.

I haven’t seen law enforcement trainings in Wisconsin specifically devoted to this bias or sensitivity training in the recent past. The last sensitivity training I can remember was when it was brought to Ashland in the early 2000’s and we all went but most Officers on our Department haven’t been working that long. With the recent

nationwide discussions on this topic, I would assume we will see trainings like this being offered more frequently in the future. The same day that these questions were sent to me, I got an email with training being offered later this summer for de-escalation and implicit bias. I'm looking to see if these trainings can fit into our schedules.

Use of body cameras: Do we have them now? Why or why not?

We do not currently have body cameras but we do have squad car cameras which have been our compromise until now. We've had squad car cameras for decades and upgraded the system in 2016 when I became Captain. The upgrade we made featured long range microphones and wireless automatic uploads when the squads pull up to the Police Department. Whenever the camera in the squad is active, the microphone worn on the Officer picks up the audio even though the video is only what's in front of the squad car. These have alleviated a lot of potential complaints against Officers and have been priceless in prosecutions because most self-initiated Police contacts happen close to the squad car.

The biggest hurdle to adding body cameras is price. Even just adding body cameras to our current squad video system is around \$15,000. The other factors to consider are storage prices and video redaction for open records. A lot of our incidents end up in the hospital setting where patients have privacy concerns.

Use of body cameras also raises privacy concerns in people's homes, especially for victims of crimes. Victims have a constitutional right to privacy under Wisconsin's Constitution. This also creates public records concerns as the videos are public records.

I'm waiting for two more quotes from other vendors. The City Administrator had asked about body cameras and wanted to know about implementation of them in the past so I will report the quotes once they're obtained.

Can we do community policing in Ashland?

We do currently do community policing in Ashland. The fact that the answer isn't known, shows me that I need to move forward with marketing and getting the information out on our website which isn't current.

Community policing is basically partnering with the community and solving ongoing problems rather than just responding to past reports. Many would argue that it's impossible not to do community policing in a City this size. In large cities, community policing involved dividing the City into smaller areas and assigning Officers to those areas so they're familiar with the people and geography of that area. Huge cities are divided into community policing districts which are probably about the size of our whole city. Our Officers know the community, raise their families here, and are invested in this community. I would bet the owner or manager of most businesses in the City probably has at least one or more of the Officer's cell phone numbers and reports incidents through an Officer they know rather than calling dispatch. Officers routinely get calls from community members about ongoing issues even if they aren't working. We have Officers volunteering in organizations, coaching sports, and being involved in groups.

That has been the way things were here when I started in 1996. Then in the late 90's when community policing became popular, the Police Department assigned 11 officers to the 11 city council wards. The officer was tasked with handling ongoing problems in that ward that didn't require an immediate police response. If a citizen called in a neighborhood problem, it was assigned to that Officer and he would help solve that issue. It was worthwhile because you had one Officer with prior knowledge to that issue and those citizens rather than different random Officers showing up and the citizens having to explain it all over again. They also would

proactively solve problems they saw in their own district. When people wanted to start a neighborhood watch, their district Officer would help them get the information for it.

That system worked well but the one flaw was that there was no continuity. Nobody knew who their district Officer was at any given time because someone would retire or get promoted to a different position.

When I was promoted to Captain, I made one change to the program. Instead of having 11 districts, I divided up the city into four districts. The districts are divided by Ellis Avenue and 6th Street. We have four shifts on the Police Department and now we have four districts. In my opinion it's an advantage because it provides continuity of a shift being responsible for a whole area and not just one person. It also allows for the whole shift to team up and solve problems in their district rather than one person handling each district alone. Currently when we get complaints of ongoing issues in a neighborhood, we forward them to that shift.

What are thoughts about using an on-call social worker to diffuse certain situations?

Currently social workers don't respond to calls in progress unless it involves a juvenile that's in custody and needs placement. They also often request law enforcement to accompany social workers in the field for protection when they're investigating past action reports.

In mental health situations, social workers don't currently have authority to take people under emergency detentions. They also wouldn't stay on scene with someone who is volatile without protection so even if they are available, it wouldn't eliminate the need for Police presence.

I reached out to DHHS and was told that in theory it could be a good idea but they also don't know it would be accomplished logistically. They currently couldn't provide that service because of the number of unfunded mandates they are already required to provide and would have to hire more staff. The position would also require someone with specific de-escalation skills and training.

Do we have any form of training/recruitment program to encourage local youth to consider being an Ashland police officer. This could be a great way to support young people with a desire to improve our community.

We currently do not have this but it is planned on being discussed soon in our meetings with the School District where we are choosing the School Resource Officer. Once the Officer is selected, we are looking into implementing a drug prevention program for students and also get thoughts on a recruiting platform. Currently we are waiting to find out how the school reopening is going to play out.