

## MEMORANDUM

### **Public Hearing C & Business Item D**

From: Administrator/Staff  
To: Plan Commission  
Re: Plan Commission Public Hearing on a Conditional Use Application submitted by Leif Bergstrom for a proposed pond residential accessory use located at 3130 Rose Moon Way, specifically described as Tax ID #006-0670-01-06.

AND

Plan Commission review & recommendation on a Conditional Use Application submitted by Leif Bergstrom for a proposed pond residential accessory use located at 3130 Rose Moon Way, specifically described as Tax ID #006-0670-01-06.

Please find the below comments from Code Administrator Kussow:

### **Property Information Specific to Tax ID # 006-0670-01-06:**

1. Specific Site Location: The subject site is addressed 3130 Rose Moon Way, located at the western end of Rose Moon Way.
2. Additional applicable property information not included in the Parcel Profile Report is described below:
  - a. The subject property is located in the Town's Suburban Residential (R-2) District.
  - b. There are no wetland or floodplain concerns.
  - c. No portion of the subject property is located within shoreland and therefore, the subject property is not subject to Winnebago County zoning jurisdiction.
  - d. The subject property is not subject to Outagamie County Airport Zoning.
  - e. The subject property is not located in any sanitary district or sewer service area.
3. Zoning of Surrounding Properties:
  - a. North: A-2 (General Agriculture District)
  - b. South: A-2 (General Agriculture District)
  - c. East: R-2 (Suburban Residential District)
  - d. West: A-2 (General Agriculture District)

### **Application Details:**

The applicant is proposing an 11,230 sq. ft. (37,711 cu. ft.) private pond on the subject property. The subject property is a residential lot containing a single-family residence. The proposed pond is located north of the residence, in the northeast corner of the subject property. The parcels adjacent to the north, south, and west are vacant and agricultural cropland. The parcel adjacent to the east is a residential lot containing a single-family residence.

Per email correspondence from the applicant, the pond is not intended to be used for swimming and is intended for aesthetic purposes only. Ponds which are not used for swimming are not required to comply with the Town Swimming Pool Ordinance requirements (i.e., perimeter fence is not required).

### **Special Standards for Principal Land Uses:**

Special standards for the "pond" accessory use are found in Sec. 9.08-472, which states: "Ponds shall comply with the Town of Clayton's ordinance for artificial ponds."

The proposed pond plans were reviewed by Matt Stephan, P.E, Cedar Corporation, for compliance with the Town's Pond Ordinance (Town Ordinance 2022-002). Per Matt Stephan's review, **the proposed pond plans comply with the Town's Pond Ordinance and are approvable as proposed.**

**Staff Comments, Basis of Decision, and Staff Recommendation, & Suggested Conditions:**

**Staff Comments:**

The proposed pond complies with all Town Zoning Ordinance and Town Pond Ordinance requirements.

**Basis of Decision:**

**Conditional Use:**

The Town, in making its decision, shall consider the following factors:

1. the size of the parcel on which the proposed use will occur;
2. the presence of and compatibility with other uses on the subject property;
3. the location of the proposed use on the subject property (e.g., proximity of the proposed use to other existing or potential land uses);
4. effects of the proposed use on traffic safety and efficiency and pedestrian circulation, both on-site and off-site;
5. the suitability of the subject property for the proposed use;
6. effects of the proposed use on the natural environment;
7. effects of the proposed use on surrounding properties, including operational considerations relating to hours of operation and creation of potential nuisances;
8. effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts; and
9. any other factor that relates to the purposes of this chapter as set forth in s. 9.01-5 and other sections as may apply.

**Staff Recommendation & Suggested Conditions:**

Staff recommends approval of the conditional use permit.

The following are possible conditions of approval that may be relevant:

1. The project shall comply with all applicable local, state, and federal codes/ordinances. Applicant should be aware that a Winnebago County stormwater management/erosion control permit may be required for this project. It is the applicant's responsibility to comply with any applicable Winnebago County permit/approval requirements and obtain any required Winnebago County permits/approvals prior to commencing construction.
2. Any substantial changes, additions, and/or expansions to the pond shall be reviewed and approved by the Plan Commission and Town Board in accordance with the Town of Clayton Zoning Ordinance and the Town of Clayton Pond Ordinance (Town of Clayton Ordinance 2022-002). Determination of whether a change or addition is substantial shall be at the discretion of the Town Administrator.

**SUGGESTED MOTION**

*Motion to recommend approval of the Conditional Use Application submitted by Leif Bergstrom with the two (2) Staff Recommendations & Conditions outlined in the Staff Memo.*

Respectfully Submitted,  
Kelsey