

REVISED
Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item

SUBJECT: Ratification of the department's determination that prohibiting the nature-based outdoor activities (NBOA) of hunting on 0.22 acres is necessary to protect public safety on 0.22 acres in the City of Waterloo, Jefferson County Stewardship grant project

FOR: March 2013 Board meeting

TO BE PRESENTED BY: Lavane Hessler, Stewardship Local Governments Grant Manager

SUMMARY:

The Department is requesting that the Board ratify the Department's determination that the prohibition of one NBOAs (hunting) is necessary to protect public safety on 0.22 acres on the Maunasha River in the City of Waterloo, Jefferson County. Future development includes a trailhead with parking lot and a riverfront trail connecting Yourke and Firemen's Parks. The public will be able to enjoy hiking, biking, fishing, trapping, and cross country skiing on this parcel.

The Department has made the determination that the prohibition on hunting is necessary to protect public safety because:

- The parcel is located within the city limits, is adjacent to homes, municipal structures, and roads
- Of the size, shape, and location of the parcel
- The parcel will become part of an urban trail system
- The parcel will be visited by users who have an exception of no hunting on the property
- There is a city ordinance prohibiting discharge or carrying a weapon within city limits.

The proposed grant of \$13,500 will come from the Urban Rivers subprogram of the Stewardship Program.

REVISED on March 12, 2013:
Appendix F was added;
Chapter NR 52 is now Appendix G

RECOMMENDATION: Ratify the Department's decision that the NBOA prohibition is necessary to protect public safety in the City of Waterloo, Jefferson County Stewardship project.

LIST OF ATTACHED MATERIALS (check all that are applicable):

- | | |
|--|--|
| <input checked="" type="checkbox"/> Background memo | <input type="checkbox"/> Type name of attachment or type N/A if not applicable |
| <input type="checkbox"/> Type name of attachment or type N/A if not applicable | <input type="checkbox"/> Type name of attachment or type N/A if not applicable |

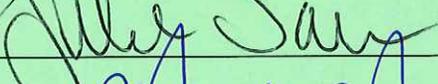
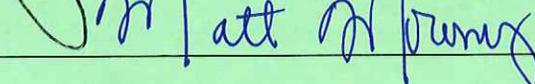
Approved by	Signature	Date
Mary Rose Teves, Bureau Director		Mar 6, 2013
Julie Sauer, Administrator		3/8/13
Kurt Thiede, Administrator		3/6/13
Cathy Stepp, Secretary		3/12/13

Table of Contents

	Page #
<ul style="list-style-type: none">• Appendix A – Compliance Memo A compliance memo is required by s. NR 52.04(2)(e), the Department must summarize the procedure followed to reach any determination to approve an NBOA prohibition and provide that summary to the Board.	4
<ul style="list-style-type: none">• Appendix B - Project Maps	
<ul style="list-style-type: none">• Appendix C – Staff Analysis of NBOA Prohibitions The staffs’ analysis of any proposed NBOA prohibitions, including a signature from the regional Public Safety Warden who reviewed prohibitions proposed as necessary to protect public safety. The format of this analysis is a standard checklist, approved by DNR Legal Services, and completed for all Stewardship grant projects with an NBOA prohibition for safety reasons. Any relevant ordinances and statutes are also included.	6 10
<ul style="list-style-type: none">• Appendix D – Public Comment Certification Memo This confirms that regional grant staff have completed the requirements for public notice set forth in s. NR 52.04 and summarizes any comment/s received.	23
<ul style="list-style-type: none">• Appendix E – News Release. The Department is required by s. NR 52.04, Wis. Adm. Code, to give notice to the public of our intentions to award grant funds to purchase property on which any NBOAs will be prohibited. The news releases also follow an approved template. Because of the timing of these news releases in our grant cycle (often before appraisals have been completed and certified) and per the department’s obligations to protect the confidentiality of incomplete real estate transactions, news releases do not identify the exact location of the property, name of the seller, or any information about project financing.	24
<ul style="list-style-type: none">• Appendix F – Driving Directions	25
<ul style="list-style-type: none">• Appendix G – NR 52 A copy of NR 52 for your reference.	28

CORRESPONDENCE/MEMORANDUM

DATE: February 14, 2013
TO: Natural Resources Board
FROM: Cathy Stepp, Secretary

SUBJECT: RATIFICATION OF THE DEPARTMENT'S DETERMINATION THAT PROHIBITION OF ONE NATURE-BASED OUTDOOR ACTIVITY (NBOA) IS NECESSARY ON NON-DEPARTMENT STEWARDSHIP LANDS

The Department requests that the Board ratify a determination that the prohibition of one nature-based outdoor activity is necessary on a 0.22 acre purchase in the City of Waterloo, Jefferson County. The Department proposes to award a grant in the amount of \$13,500 to the City of Waterloo for the purchase of land on which hunting will be prohibited to protect public safety.

I. PROJECT DETAILS

Project Sponsor: City of Waterloo
Seller: Daniel J. Knapton
Grant sub-program: Urban Rivers

Project Description: The parcel is a commercial city lot, adjacent to the Maunasha River and East Madison Street (State Highway 19), and within the city of limits of Waterloo. The lot is rectangular shaped, flat and has shoreline on one side that runs along the Maunasha River. In October 2011, the blighted commercial building was destroyed by fire and the seller has completed cleanup of the fire debris. The parcel includes a retaining wall built into the highway bridge slopes to frontage on the Maunasha River. A map is attached as Appendix B.

Project Goals: This acquisition meets the following goals:

- Provides new public land for nature-based outdoor recreation.
- Expands the urban multi-use recreational trail within the City of Waterloo and Jefferson County.
- Provides a nature-based recreational opportunity for a "Safe Route to School" route.
- Implements recommendations from City of Waterloo Comprehensive Outdoor Recreation Plan and Jefferson County Bicycling Plan.

Current/Prior Use of Property: The property was a former commercial/residential dwelling that was destroyed by fire in October 2011. After fire debris removal, the lot has been vacant.

Proposed Public Uses: The parcel will be developed into a trail head for the urban multi-use trail connecting Yourke and Firemen's Parks. The trailhead will be available to the public from 6:00 a.m. to 10:30 p.m., 7 days per week, and 365 days per year. Users will be able to bike and walk the trail along Maunasha River. The City of Waterloo anticipates a minimum of 5,000 visitors will enjoy this property annually.

Recreation opportunities on this parcel will include hiking, fishing, trapping, cross-country skiing, non-motorized boat access, biking, nature study, and bird watching. The Department's analysis of the permitted nature-based outdoor activities is attached in Appendix C. The parcel will become the East Madison Trailhead.

Hunting will be prohibited on the property by city ordinance. The Department has determined that the prohibition of this one nature-based outdoor activity is necessary to protect public safety. See Appendix A for a summary of the Department's determination. The memo attached from Mary Rose Teves, as required by s. NR 52.04(2)(e), Wis. Adm. Code, describes the procedure followed by the Department to make this determination.

Property Management: The East Madison Trailhead will be operated and maintained by the City of Waterloo, consistent with their management policy.

Timetable: The City of Waterloo plans to purchase this parcel no later than April 30, 2013.

II. PROJECT FINANCES

A. Partnerships --

- City of Waterloo – will acquire and develop the property
- Department of Natural Resources – cost-share on the purchase price

B. Appraisal -- As required by s. 23.0917(7)(e)2., Wis. Stats., one appraisal was used to determine the fair market value of the parcel.

Appraisal 1	\$25,000
Value certified by Department	\$25,000

C. Grant Calculation -- As required by s. NR 51.006(1), Wis. Adm. Code, financial assistance is limited to 50% of certified value and associated costs.

Certified appraised value	\$25,000
Associated eligible real estate costs	\$ 2,000
Total Maximum Project Costs	\$27,000

D. Funding Sources

City of Waterloo	\$13,500
Stewardship Grant Award	\$13,500 (50%)

III. RECOMMENDED:



 Mary Rose Teves, Director
 Bureau of Community Financial Assistance
 Feb 15, 2013

 Date



 Julie Sauer, Administrator
 Customer and Employee Services Division
 2/15/13

 Date



 Kurt Thiede, Administrator
 Lands Division
 2/15/13

 Date

CORRESPONDENCE/MEMORANDUM

DATE: February 14, 2013

APPENDIX A

TO: Natural Resources Board

FROM: Mary Rose Teves, Director
Bureau of Community Financial AssistanceSUBJECT: **Summary of Department's Determination to Prohibit One Nature-based Outdoor Activity on the East Madison Trailhead Land Purchase, City of Waterloo, Jefferson County**

I recommend that the NRB exercise its authority under s. 23.0916(2), Wis. Stats., and s. NR 52.05, Wis. Adm. Code, to ratify the Department's decision to award a Stewardship grant of \$13,500 to the City of Waterloo for the acquisition of 0.22 acres located within the City of Waterloo, Jefferson County, even though the prohibition of hunting will be necessary to protect public safety.

PROJECT BACKGROUND

The City of Waterloo is eligible to receive grant funds from the Urban Rivers sub-program of the Knowles-Nelson Stewardship Program and has requested a Stewardship grant for the acquisition of a parcel to create the East Madison Trailhead on the Maunasha River, for the purpose of providing outdoor recreation opportunities.

Nature-based outdoor activities (NBOAs) are defined in s. NR 52.02(7), Wis. Adm. Code, as hunting, trapping, fishing, hiking, or cross-country skiing. The City of Waterloo proposes to prohibit hunting on the East Madison trailhead property. Review under ch. NR 52 was undertaken to determine whether it is necessary to prohibit hunting to protect public safety.

A copy of the City of Waterloo's ordinance is attached to this Green Sheet as Appendix C. A copy of the prohibition team review is attached to this Green Sheet as Appendix C.

PUBLIC NOTICE AND COMMENTS

I certify that public notice requirements identified in s. NR 52.04, Wis. Adm. Code, have been followed for this Stewardship project. Public notice about this proposed project was posted on GovDelivery on January 17, 2013. One comment was received supporting the grant and no comments were received in opposition.

Attached to this Green Sheet you will also find:
Appendix D – public notice
Appendix E -- Summary of the comments received

DETERMINATION

In their application, the City of Waterloo listed the following reasons for hunting prohibition on this parcel:

- size of the parcel
- proximity of parcel to homes and roads
- expectations of visitors to access the parcel without hunting present
- City ordinance prohibiting the possession and use of firearms and other dangerous weapons within city limits.

The DNR regional Recreational Safety Warden determined that the prohibition on hunting was necessary to protect public safety. The warden reviewed the following factors:

1. The primary purpose of the project
2. An ordinance prohibiting discharging or carrying dangerous weapons
3. The expectation of visitors and user conflicts
4. The size of the parcel
5. Proximity to homes and municipal structures
6. Proximity to roads
7. The intended recreational use of the property and the adjacent properties

We believe that the hunting prohibition on this property is necessary to protect public safety because the parcel:

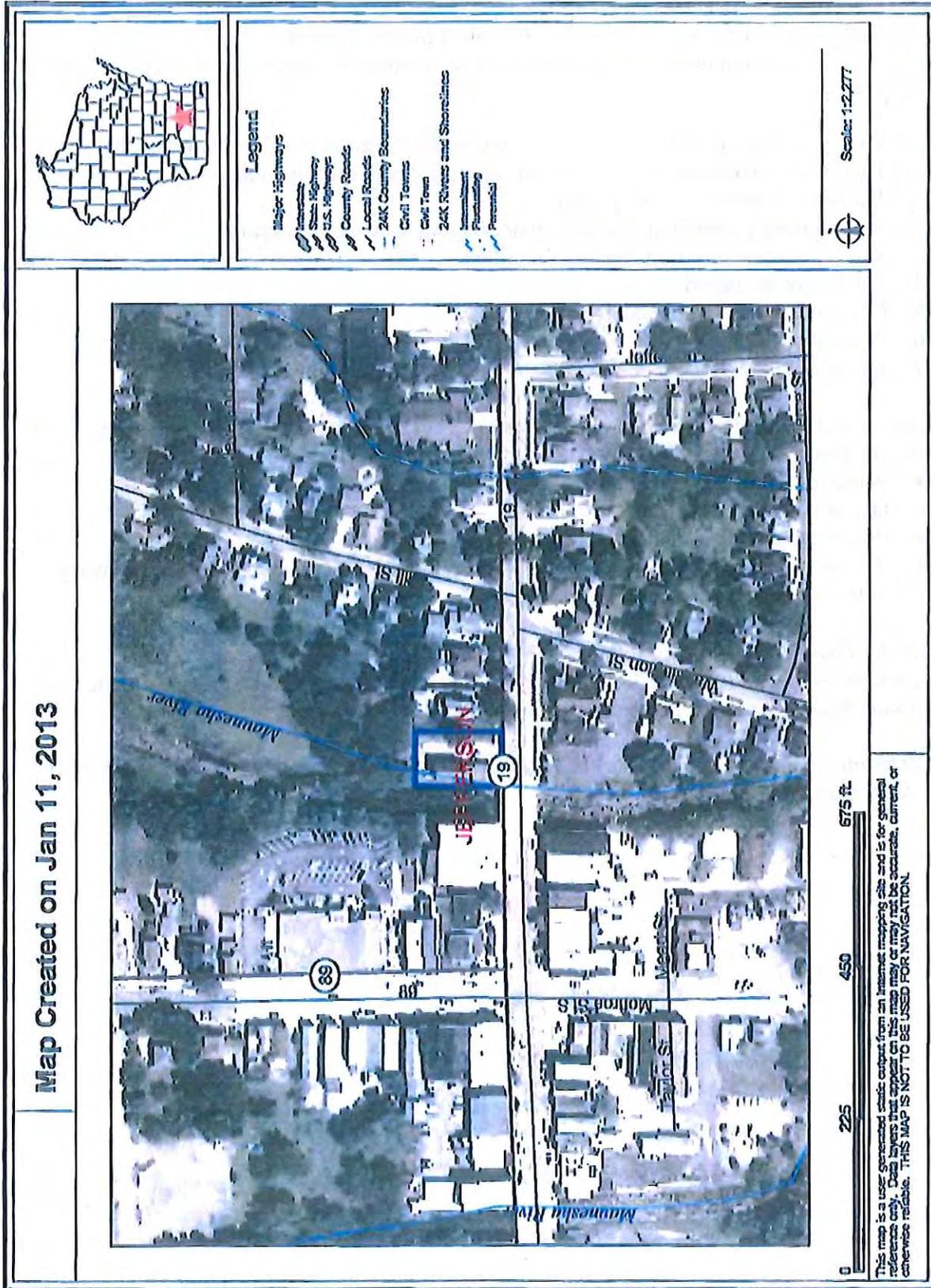
- Is located within the City limits
- Is small (0.22 acres) in size
- Proximity to homes, municipal structures, and roads
- Will be visited by users who have a reasonable expectation of no hunting on a property of this type and in this location.

FINAL ACTIONS

Per s. NR 52.04(2)(d), Wis. Adm. Code, a copy of this determination will be provided to the individuals who objected to a Stewardship grant award.

This determination is submitted to the Natural Resources Board as required in s. NR 52.04(2)(e), Wis. Adm. Code.

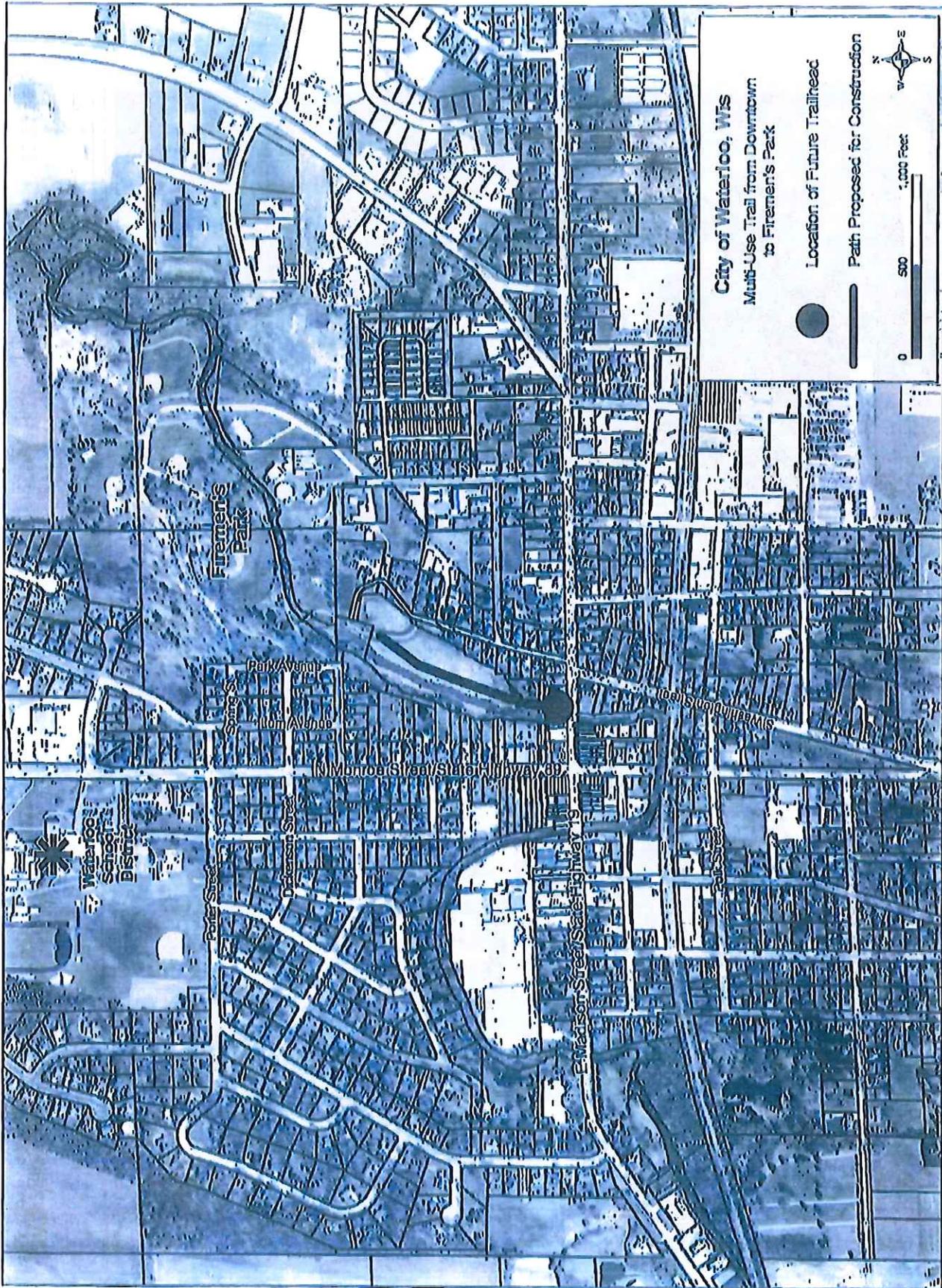
Appendix B





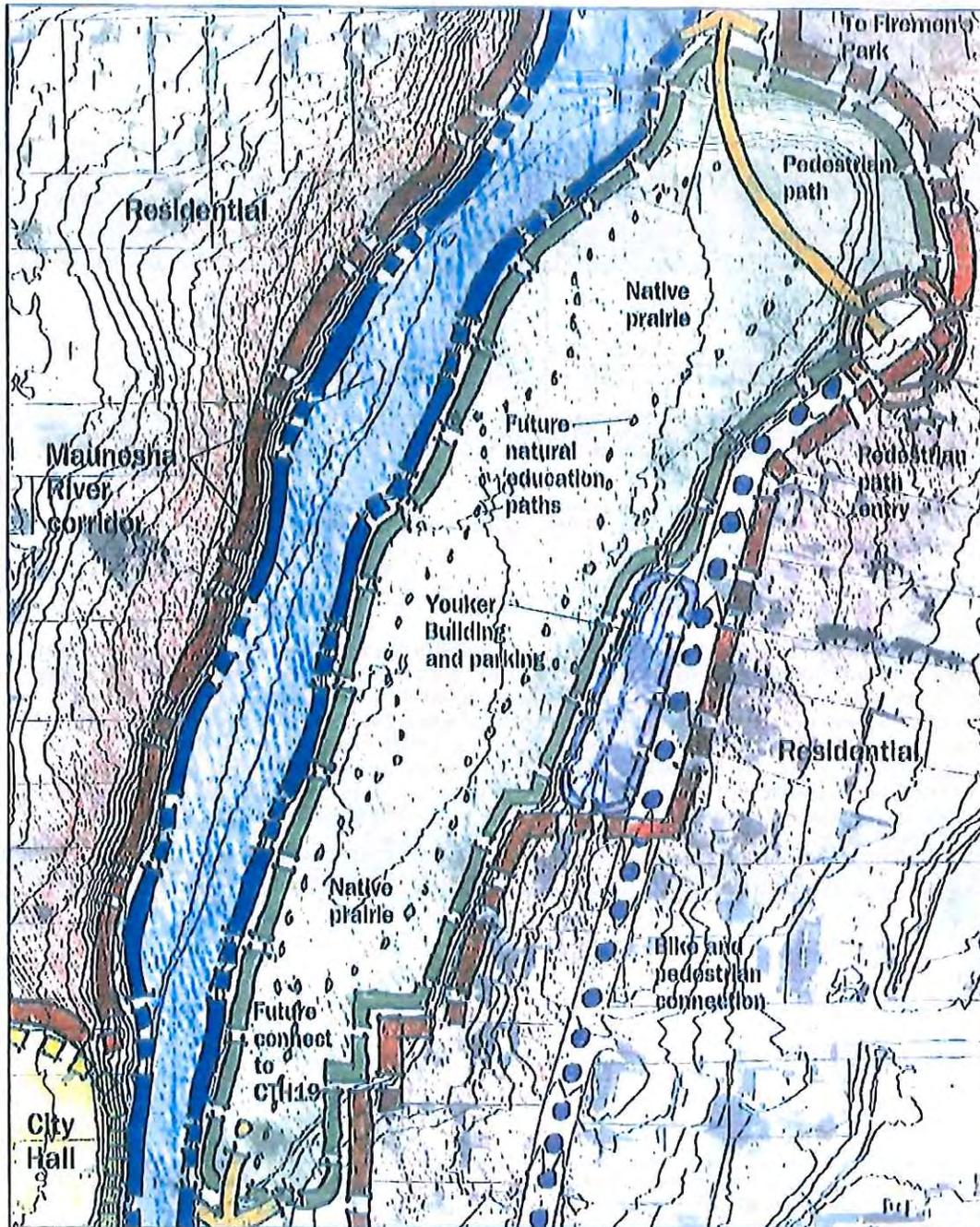
http://www.waterloowi.us/municipal/municipal_imap.php

01/11/2013



Youker Park - Inventory/Analysis

Waterloo Comprehensive Outdoor and Recreation Plan



design studio

SCALE

0 30 60 120

Feet - 50 2010
Project No. 10-000-01

Appendix C

Knowles-Nelson Stewardship Grant Program



Public Safety Team Analysis of Nature Based Outdoor Activities on Projects Purchased with Stewardship Grant Funds

Rev. August 2012

<p>NOTE TO DNR STAFF: This completed form will be attached to the NBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller's name because WI courts have held that this information is confidential until land ownership has changed hands. CF Staff completes the project proposal section prior to submitting to public safety team for review.</p>	
<p>PUBLIC SAFETY REVIEW TEAM</p>	
<p><i>Catherine Noonan</i> 10-27-12 Regional Recreational Safety Warden Date</p>	<p><i>Cossey Krueger</i> 12-27-12 Regional Warden Supervisor Date</p>
<p>PROJECT DESCRIPTION</p>	
<p>Applicant/ Sponsor: City of Waterloo</p>	<p>Year of Application: 2012</p>
<p>Project Name: Fireman's Park Trailhead Connection</p>	<p>Primary Purpose: <input type="checkbox"/> Habitat Areas <input checked="" type="checkbox"/> Local Parks <input type="checkbox"/> Natural Areas <input type="checkbox"/> Urban Rivers <input type="checkbox"/> State Trails <input type="checkbox"/> Urban Greenspace <input type="checkbox"/> Streambank Protection</p>
<p>Project Description: The project proposal is for funding for the acquisition of a .22 acre parcel in downtown Waterloo at the junction of the Mauneshia River and East Madison Street (State Highway 19) for the creation of a trailhead. Two donated easements necessary for connection to existing park land to the north will also be acquired at this time. The project involves the creation of an approximately 1200 square foot multi-use trail connection from this location to Fireman's Park. The trail connection cannot be developed without the property being acquired to establish the trailhead, which will be accessed directly from East Madison Street. The trail will be accessible to both pedestrians and bicycles and a guard rail will be installed to buffer the trailhead with the river. The trailhead will eventually be a paved parking lot with trail signage. In addition to serving as a trailhead, it will also provide occasional overflow parking for downtown businesses. The trailhead and trail connection will be owned and maintained by the City of Waterloo.</p>	
<p>FINDINGS OF FACT:</p>	
<p>Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity on this site. The parcel to be purchased is a .22 acre downtown city lot, which is at the junction of the Mauneshia River and East Madison Street (State Highway 19). The lot is rectangular shaped, flat, and has shoreline on one side that runs along the Mauneshia River. Entire project is approximately 2.39 acres, including two donated easements.</p>	

Proposed NBOA Prohibition or Restrictions

HUNTING			
	Gun	Archery	List Dates/Seasons (opening and closing)
	Prohibition/Restriction	Prohibition/Restriction	
Waterfowl	Prohibited	Prohibited	
Small Game	Prohibited	Prohibited	
Turkey	Prohibited	Prohibited	
Large Game	Prohibited	Prohibited	

Public Safety Team Narrative: The parcel to be purchased is very small, totaling .22 acres, and is located in the downtown area within the municipal boundaries of the City of Waterloo. The parcel is bordered by the Maunasha River to the west, East Madison Street to the south, and residential lots to the east and north. Planned development of the parcel is as a trailhead and eventual paved parking lot area. Since the property is within the city limits, a city ordinance restricts the possession of firearms on public land within the city, except for law enforcement officers and persons duly licensed to carry a concealed weapon. There also is a city ordinance that restricts the discharge of firearms within the city limits and an ordinance that prohibits the shooting of an arrow by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, PARK, playground, or other public place within the City.

Allowance of hunting would create a user conflict and public safety issue due to the physical characteristics and small size of the property, the high activity and planned future use of the property by the population as a trailhead and overflow parking area for downtown businesses, and the parcel's proximity to a public road, vehicles, and dwellings occupied by humans.

Additionally, the southern edge of the property is bordered by a roadway and would prevent hunting or the discharge of a firearm, arrow from a bow, or bolt from a crossbow, within 50 feet of the roadway's center per State regulations. The entire property is also within 100 yards of a building devoted to human occupancy, which due to State regulations, prevents the discharge of a firearm within 100 yards of a building devoted to human occupancy while on lands you do not own (including public lands and public waters) without the permission of the owner or occupant of that building.

Public Safety Factors Considered: Check all that apply.

- The sponsor is within its own municipality boundary
- Parcel is within 100 yards of building devoted to human occupancy
- Parcel is within 50 feet of the center line of highways & roads
- Parcel is within 1700 feet of school grounds, hospital, or sanatorium
- Ordinance exists –
 - Discharge or carrying a weapon
 - Hunting within a park
 - Throwing or shooting missiles, arrows, spears, etc.
- Parcel is subjected to a non-sponsor ordinance
- Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.
- Parcel is adjacent to a public waterway.
- Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

TRAPPING		
Location	Prohibition/Restriction	Start Dates/Seasons (Opening and Closing)
Upland	No prohibition/restriction	
Water	No prohibition/restriction	
<p>Public Safety Team Narrative: The parcel to be purchased is very small, totaling .22 acres, and is located in the downtown area within the municipal boundaries of the City of Waterloo. The parcel is bordered by the Mauneha River to the west, East Madison Street to the south, and residential lots to the east and north. Planned development of the parcel is as a trailhead and eventual paved parking lot area. A guard rail will also be installed to buffer the trailhead with the river.</p> <p>Even though the property is within the city limits, there appears to be no city ordinance restricting the placement of traps on the property, but the entire property is within 100 yards of a building devoted to human occupancy, which per State regulations, restricts the setting, placing, or operating of any body-grip trap greater than 60 square inches or any snare or cable restraint, regardless of the size of the noose, within 100 yards of any building devoted to human occupancy without the owner's consent.</p> <p>Other than the above mentioned restriction, legal trapping should remain open as there is no public safety concern. Due to the layout and topography of the property, the suitable area to trap appears to be the shoreline on the west side of the property that borders the Mauneha River. According to the property plans, a guard rail will be installed to buffer the trailhead with the river. Even without the guard rail, there does not appear to be any type of public safety concern.</p>		
<p><input type="checkbox"/> No Water On Site</p> <p>Public Safety Factors Considered: Check all that apply.</p> <p>X The sponsor is within its own municipality boundary.</p> <p>X Parcel is within 100 yards of building devoted to human occupancy and per s. NR 13.(1)(b)(12), the following traps are prohibited: conibear body gripping traps (with jaws wider than 60 sq. inches) and cable restraints.</p> <p><input type="checkbox"/> Ordinance exists that prohibits trapping or some type of trapping.</p> <p><input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance</p> <p><input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.</p> <p>X Parcel is adjacent to a public waterway.</p> <p><input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:</p> <p><input type="checkbox"/> Other _____</p>		
Prohibition or Restriction Necessary to Protect Public Safety:		Yes X No

FISHING		
Location	Prohibition/Restriction	List Date/Seasons (opening and closing)
Shore	No prohibition/restriction	
Boat	No prohibition/restriction	
Public Safety Team Narrative:		
<input type="checkbox"/> No Water on Site <input type="checkbox"/> Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Ordinance exists - <input type="checkbox"/> _____ <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

HIKING		
Location	Prohibition/Restriction	List Date/Seasons (opening and closing)
On-Trail	No prohibition/restriction	
Off-Trail	No prohibition/restriction	
Public Safety Team Narrative:		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

CROSS COUNTRY SKIING		
Type of Trail	Prohibition/Restriction	Notes (Optional)
Off-Trail (un-groomed)	No prohibition/restriction	
On-Trail (un-groomed)	No prohibition/restriction	
On-Trail (groomed)	No prohibition/restriction	
Public Safety Team Narrative:		
<p>Public Safety Factors Considered: Check all that apply.</p> <p><input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance</p> <p><input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.</p> <p><input checked="" type="checkbox"/> Parcel is adjacent to a public waterway.</p> <p><input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:</p> <p><input type="checkbox"/> Other _____</p>		
Prohibition or Restriction Necessary to Protect Public Safety:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Chapter 278. PEACE AND GOOD ORDER

[HISTORY: Adopted by the Common Council of the City of Waterloo 10-19-1987 by Ord. No. 87-6 as §§ 9.01 to 9.04, 9.06 to 9.09, 9.12, 9.15, 9.16, 9.18, 9.19 and 9.30 of the 1987 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Police Department — See Ch. 91.
Alarm systems — See Ch. 120.
Animals — See Ch. 126.
Dances and entertainment — See Ch. 172.
Fireworks — See Ch. 204.
Intoxicating liquor and fermented malt beverages — See Ch. 223.
Minors — See Ch. 247.
Nuisances — See Ch. 261.
Snowmobiles — See Ch. 309.

§ 278-1. Offenses against state laws subject to forfeiture.

[Amended by Ord. No. 88-4; Ord. No. 95-4; 9-20-2007 by Ord. No. 2007-18]

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the City, provided that the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under Chapter 1, § 1-4, of this Code:

173.10	Investigation of Cruelty Complaints
346.935	Drinking in Motor Vehicles on Highway
940.19(1)	Battery
940.32	Stalking
940.34	Duty to Aid Endangered Crime Victim
941.01	Negligent Operation of Vehicle
941.10	Negligent Handling of Burning Materials
941.12	Interfering With or Failing to Assist in Fire Fighting
941.13	False Alarms and Interference With Fire Fighting
941.20	Reckless Use of Weapon
941.20(3)	Discharge of Firearm From Vehicle
941.21	Disarming a Police Officer Prohibited

944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.34	Keeping Place of Prostitution
945.02	Gambling
945.04	Permitting Premises to be Used For Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42	Escape
946.44	Assisting or Permitting Escape
946.65	Obstructing Justice
946.69	Falsely Acting as Public Officer or Utility Employee
946.70	Personating Peace Officer
946.72	Tampering With Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment Prohibited
947.06	Unlawful Assemblies
948.015 to 948.62	Crimes Against Children
948.40	Contributing to the Delinquency of a Child
951.01 to 951.15	Crimes Against Animals

§ 278-2. Possession and use of firearms and other dangerous weapons.
 Δ. Definitions. For the purpose of this section, the following definitions shall apply:

[Amended 9-20-2007 by Ord. No. 2007-18]

- A.** Definition. "Marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "Drug paraphernalia" has the meaning given in § 961.572, Wis. Stats.
- B.** Possession, delivery and use of marijuana prohibited. It shall be unlawful for any person to possess 25 grams or less of marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.
- C.** Exception. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner, as defined in § 961.01, Wis. Stats., while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.
- D.** Possession and delivery of drug paraphernalia prohibited.
- (1)** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of Ch. 961, Wis. Stats.
- (2)** No person may deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of Ch. 961, Wis. Stats.
- E.** Penalty. Any person who shall violate any provision of this section shall, upon conviction, be subject to a forfeiture of not less than \$200 nor more than \$2,000 and, on default, imprisonment for not more than 60 days.

§ 278-5. Loud and unnecessary noise.

- A.** General. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.
- B.** Sound-amplifying equipment. The following regulations shall apply to the use of sound-amplifying equipment within the City:
- (1)** Sound-amplifying equipment shall be permitted only to publicize events of community-wide interest and importance which are of a noncommercial nature.
- (2)** The only sounds permitted shall be music and human speech.
- (3)** Sound-amplifying equipment shall be used only between 9:00 a.m. and 5:00 p.m.

A. Presence regulated. It shall be unlawful for any person other than an authorized person, as hereinafter defined, to be present within any school building or upon any school grounds under the jurisdiction of the Board of Education of Joint School District No. 1, City of Waterloo, et al., without having first secured authorization therefor from the principal or other person in charge of said premises, except while in direct route to secure said authorization.

B. Definition. Authorized persons shall include:

(1) Students presently enrolled to attend school under the jurisdiction of the Board of Education of said School District, but excluding any student under suspension, expulsion, exemption or other discipline prohibiting such student from attending school under the jurisdiction of said School Board unless the terms of such prohibition expressly permit such presence.

(2) Employees of said School District.

(3) Any parent or guardian of any student or employee.

(4) Any person present at any school building or school grounds for any purpose previously authorized by the Board of Education of said District or its designee.

C. Posting notice. All entrances to school premises referred to in Subsection A above shall be posted with notice that "Entry by Unauthorized Persons is Prohibited; § 278-7, Municipal Code of Waterloo, Wisconsin." Any person who knowingly obliterates or otherwise defaces any such notice shall be subject to a penalty.

D. Authorization display required. Any person shall, upon request of any police officer or the Superintendent of Schools or the principal or other person in charge of any school building or school grounds under the jurisdiction of said School Board, display any written authorization to be present therein or thereon which may be in his possession or otherwise explain such facts as constitute "authorized person" status, defined in Subsection B above.

§ 278-8. Consumption of alcohol beverages on public property and parking lots.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

LICENSED PREMISES

The area within a building or structure which is licensed pursuant to Chapter 223 of this Code, but not including parking lots, sidewalks, roadways or land which is adjacent to the building or structure and within the property boundary lines.

PUBLIC PARKING LOT

Any area held out to the public for the parking of motor vehicles, whether such area is publicly or privately owned.

PUBLIC PROPERTY

Any property, including buildings or structures thereon, which is owned, leased or operated by the City, or public, private or parochial schools; public sidewalks; roadways and streets; playgrounds; parks; and alleys.

B. Conduct prohibited. No person shall consume any alcohol beverage in or upon any public property or public parking lot.

B. Destroy or remove any tree or shrub planted in any downtown sidewalk, tree lawn or City park without consent of the proper City department.

[Amended 9-20-2007 by Ord. No. 2007-18]

C. No person shall remove or destroy any flowers planted on any City property, including the Wildflower Sanctuary at Firemen's Park, without the consent of the proper City department.

§ 278-13. Theft or damage of library materials.

A. Return required. No person shall fail, on demand, to return any book, periodical, pamphlet or other article of property belonging to or in charge of the Waterloo Public Library, according to the rules and regulations duly made and adopted by the Library Board.

B. Unlawful taking prohibited.

(1) No person shall take or remove from the library any of the aforesaid materials or property without first having it charged out to him, as provided by said rules and regulations.

(2) Whoever intentionally takes and carries away, transfers, conceals or retains possession of the aforesaid materials and property without the consent of the library staff and with intent to deprive the library permanently of the possession thereof may be penalized hereunder. The intentional concealment thereof which continues beyond the checkpoint of the library is evidence to deprive the library permanently of possession of such materials and property. The discovery thereof upon the person or among the belongings of such person or of another is evidence of intentional concealment.

(3) A library staff member who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a police officer, or to his parent or guardian in the case of a minor. The detained person must promptly be informed of the purpose of his detention and shall be permitted to make telephone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Library staff members complying with this section shall be entitled to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

C. Removal of charge card pocket prohibited. No person shall remove the charge card pocket or charge card affixed to the inside cover of a library book.

D. Mutilation of library materials prohibited. A person shall not mutilate or damage a library book or library materials by tearing or cutting out pages, portions or excerpts, or in any other manner, but shall return the book or material in the same condition it was received.

E. Library book fine to be paid. No person shall fail to pay, on demand, any library book fine.

§ 278-14. Violations and penalties.

[Amended 9-20-2007 by Ord. No. 2007-18]

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Chapter I, § 1-4, of this Code. In addition to any penalty imposed for violation of § 943.01(1), Wis. Stats., any person who shall cause physical damage to or destroy any public property shall be liable for the costs of



AXLEY BRYNRLSON, LLP

TIMOTHY D. FONNER
(608) 283-6733
tfonner@axley.com

December 3, 2012

VIA E-MAIL

Mr. Mo Hansen, Clerk-Treasurer
City of Waterloo
135 North Monroe Street
Waterloo, WI 53594-1198

Re: City of Waterloo
DNR - Matching Grant Program
Our File No. 1111052281-1

Dear Mr. Hansen:

This is in response to our e-mail exchanges and telephone conversations over the last several days. You indicate that the City of Waterloo ("City") is attempting to obtain a grant from the DNR to fund certain improvements to a trail head project. The DNR has raised a question.

The question is: What are the restrictions, if any, on hunting and trapping activities within the City of Waterloo? In answering this question, I reviewed the City Code that is available through the State Law Library. Here is what I find:

1. Sec 375-11 of the Code sets forth certain "permitted uses" within the Floodway Zoning District located within the City. Specifically, "... trap and skeet activities, hunting and fishing..." activities are permitted, "... if they are not prohibited by any other ordinance." The question therefore becomes whether or not there are other Code provisions prohibiting these activities.
2. I cannot find any restrictions whatsoever that prohibits "trapping," and I cannot find any Code definition of that term. Therefore, we must use a dictionary definition. The dictionary defines trapping as an activity using "... a device for taking game or other animals; BSP: one that holds by springing shut suddenly." City ordinances do regulate certain "weapons"; and the question is whether or not a trapping device would constitute a weapon.
3. Section 278-2 of the Code defines a firearm as: "Any weapon from which a shot may be fired by the force of an explosive or propellant, including but not limited to rifles, pistols, shotguns, air guns and BB guns." This section goes on to define "other dangerous weapons" as including "... bow and arrow, crossbow, slingshot, blow gun and other similar weapons." It is evident from the foregoing, that the definition of weapon is to include a device that involves the use of a "projectile," be it a BB, bullet,

AXLBY BRYNOLSON, LLP

December 3, 2012

Page 2

dart, arrow etc. It is doubtful that the term would include a traditional "trapping" device that uses a spring and no type of projectile. This is not to suggest that the City cannot regulate the use of trapping devices on public lands. Indeed, I think the City can prohibit these devices pursuant to the discussion set forth in Item 5 below.

4. Hunting obviously involves the use of a firearm. The City does regulate the use of firearms. Section 278-2 of the Code prohibits the possession of firearms within the City, except for law enforcement officers and persons duly licensed "... to carry a concealed weapon pursuant to section 175.60 Stats...." There is a further regulation: "No person can discharge any firearm within the City" except for law enforcement officers.
5. Finally, section 278-2 B regulates "dangerous weapons" on municipal property. That term is defined as "... any firearm, rifle, or handgun, whether loaded or unloaded, or any device designed as a weapon capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner in which it is used or intended to be used, is calculated or likely to produce death or great bodily harm." This definition is sufficiently broad to include a trapping device, which obviously is intended to cause death and bodily harm. This section indicates that no person may "carry or be in possession of a dangerous weapon in any building, structure or vehicle owned or leased by the City of Waterloo, including but not limited to its city hall, wastewater treatment facility and municipal garage." Unfortunately, this prohibition does not seem to be sufficiently broad so as to include other municipally owned property such as parks. There is a reference to "municipal property" in the title to this section, but titles do not control the substance of the ordinance. I doubt that this section could be read as preventing or prohibiting the use of trapping devices on public lands (i.e., the millpond lands acquired by the City a few years ago), which lands have not been enumerated in this section.

In summary, I think that City ordinances do prohibit hunting within the City because the ordinances prohibit the discharge of firearms, except by law enforcement officers. With respect to trapping activities, I think that a trap constitutes a dangerous weapon but the ordinance as written does not seem to prohibit traps on public lands, other than those City lands specifically identified above. If the City wants to expand the ordinance to include all municipally owned land, it can do so.

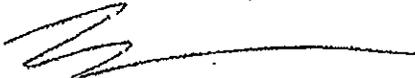
AXLEY BRYNELSON, LLP

December 3, 2012
Page 3

If you need anything further, please let me know.

Sincerely,

AXLEY BRYNELSON, LLP



Timothy D. Fenner
TDF:avr

PARAPDATA\111052281-101146047.DOC

Appendix D

State of Wisconsin

CORRESPONDENCE/MEMORANDUM

DATE: February 11, 2013
TO: Mary Rose Teves - CI/2
FROM: Mary Rothenmaier - SCR Fitchburg
SUBJECT: NBOA News Release/Announcement Comment Period Closure and Approval
PROJECT NAME: City of Waterloo, East Madison Trailhead Project

The East Madison Trailhead project land acquisition Stewardship grant proposal was required to meet the public notice requirements in ch. NR 52.04. The public notice was posted on GovDelivery on January 17, 2013 and the fifteen day public review period ended on February 17, 2013.

The Department received one comment concerning this proposal which is summarized below:

Summary of comments: one comment in support with NBOA mentioned

In conclusion, the Department has met the public notice requirements for Stewardship land acquisition grant proposals.

Mary Rothenmaier
Signature of Contact Person

2-14-13
Date

NBOA Public Notice Certification:

Lavane Hessler
Lavane Hessler, Stewardship LUG Grant Manager

2-14-13
Date



Appendix E

WDNR News Release - City of Waterloo seeks grant to buy land; Grant requested for Ste... Page 1 of 1

Wisconsin Department of Natural Resources

City of Waterloo seeks grant to buy land; Grant requested for Stewardship trailhead project in Waterloo

News Release Published: January 17, 2013 by the Central Office

Contact(s): Mary Rothenmaier, DNR community services specialist, (608) 275-3322

WATERLOO, Wis. – The City of Waterloo has applied for a 50 percent matching grant from the Knowles-Nelson Stewardship Program to help buy 0.22 acres of land in the City of Waterloo in Jefferson County. The city will provide match to the grant award.

The property is being acquired to develop a trailhead with a trail connection to Fireman's Park and will include the activities of fishing, trapping, hiking, cross-county skiing, non-motorized boat access, biking and nature appreciation. The property includes 125 feet of frontage along the Maunasha River. The Department of Natural Resources is proposing to make the determination that the prohibition of hunting is necessary to protect public safety based on the parcel's proximity to residential buildings and roads, the size of the parcel, the expectations of visitors, and a city ordinance prohibiting the discharge of weapons within the park.

DNR's initial assessment of the allowed Nature Base Outdoor Activities (pdf) may be downloaded from the Stewardship Public Notice website or you may request a hard copy by contacting the project contact listed below. Public written comments on the proposed acquisition can be mailed to Julie Sauer, Administrator, Division of Customer and Employee Services, care of Mary Rothenmaier, Community Services Specialist, 3911 Fish Hatchery Road, Fitchburg, WI 53711 or sent by email to Mary.Rothenmaier@Wisconsin.gov.

If you have questions about this project, Mary Rothenmaier can be reached by phone at (608) 275-3322. Written comments will be accepted through Feb. 7, 2013. In accordance with s. NR 52.04 (2) (b), Wis. Adm. Code, objections about the prohibited activities on this property must show the proposed prohibition to be inconsistent with s. 23.0916 (2) (b), Stats., and s. NR 52.05, Wis. Adm. Code.

To receive e-mail notices of Stewardship Grant project news releases, please subscribe by putting a check mark by DNR Stewardship News under the News & Announcements heading.

The Official Internet site for the Wisconsin Department of Natural Resources

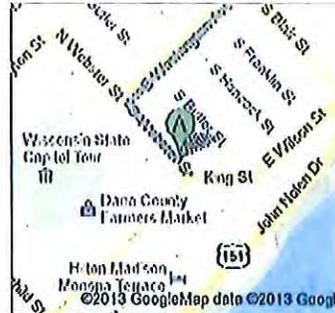
101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608.266.2621



Directions to 203 E Madison St, Waterloo, WI 53594
24.9 mi – about 33 mins

Appendix F

101 S Webster St, Madison, WI 53703

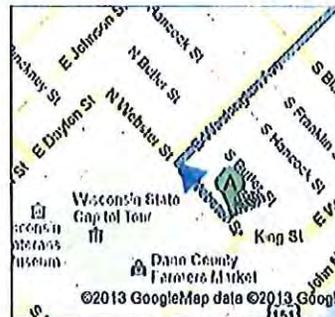


1. Head northwest on S Webster St toward E Main St



go 0.1 mi
total 0.1 mi

2. Take the 2nd right onto E Washington Ave
About 7 mins



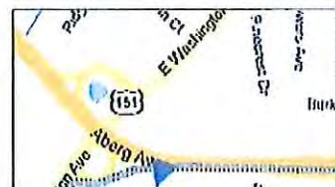
go 2.9 mi
total 3.0 mi

3. Take the Wisconsin 30 E ramp to Interstate 94/
Interstate 90



go 0.2 mi
total 3.3 mi

4. Merge onto WI-30 E
About 3 mins



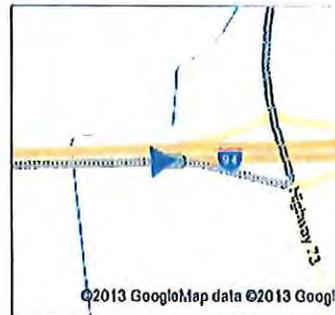
go 3.2 mi
total 6.4 mi

 5. Merge onto I-94 E
About 9 mins



go 9.6 mi
total 16.0 mi

 6. Take exit 260 for WI-73 N



go 0.2 mi
total 16.2 mi

 7. Slight left onto Wisconsin 73 N/Highway 73 N
About 6 mins



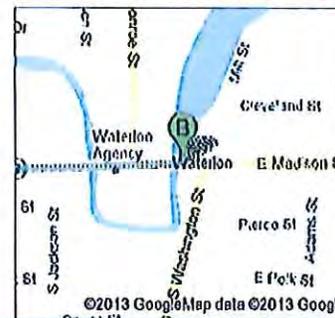
go 4.3 mi
total 20.5 mi

 8. Turn right onto WI-19 E/E Main St
Continue to follow WI-19 E
Destination will be on the left
About 6 mins



go 4.4 mi
total 24.9 mi

 203 E Madison St, Waterloo, WI 53594



These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2013 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.

Appendix G

Chapter NR 52

STEWARDSHIP LAND ACCESS

NR 52.01 Purpose and applicability.
NR 52.02 Definitions.
NR 52.03 General provisions.

NR 52.04 Public notice.
NR 52.05 Natural resources board determinations.

NR 52.01 Purpose and applicability. (1) Pursuant to s. 23.0916, Stats., lands acquired in whole or in part with funding from the stewardship program are open for public hunting, trapping, hiking, fishing and cross country skiing unless public access is prohibited pursuant to this chapter. Decisions to prohibit public access for these activities will be reviewed by the department using professional judgment and will be based on sound science, legitimate safety issues, factual data and relevant information. A restriction of a nature based outdoor activity may be considered a prohibition if the restriction prevents a major or a significant amount of the nature based activity from occurring.

(2) The purpose of this chapter is to implement s. 23.0916, Stats., which directs the department to establish standards and criteria for prohibiting public access for hunting, fishing, trapping, hiking and cross-country skiing, defined as nature based outdoor activities under s. 23.0916 (1) (b), Stats. This chapter applies to land acquired in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats. The rules in this chapter are intended to maximize the number of compatible users and uses, to the extent practical, on lands subject to s. 23.0916, Stats.

(3) Pursuant to s. 23.0916 (5) (a), Stats., the natural resources board has determined that ss. NR 1.61 and 51.07 (3) (e) govern public access on all other lands funded in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., that are not referred to in sub. (1) or (2).

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.02 Definitions. In this chapter

(1) "Accommodate usership patterns" means to consider the factors found in s. NR 52.05 (1) (c) when making a determination to prohibit an NBOA.

(2) "Department" means the Wisconsin department of natural resources

(3) "Department land" means land acquired by the department in fee title, or with an easement on former managed forest land on or after October 27, 2007, with stewardship program funds under s. 23.0917, Stats.

(4) "Former managed forest land" has the meaning given in s. 23.0916 (1) (a), Stats.

(5) "Hunting" means shooting, shooting at, taking, catching or killing any wild animal, other than by trapping, or pursuing for the purpose of shooting, shooting at, taking, catching or killing any wild animal.

(6) "Natural values" has the meaning given in s. 23.27 (1) (f), Stats.

(7) "NBOA" means the nature based public outdoor activity of hunting, fishing, trapping, hiking or cross-country skiing as described in s. 23.0916 (1) (b), Stats.

(8) "Non-department land" means land acquired in fee title, or with an easement on former managed forest land on or after October 27, 2007, by a non-profit conservation organization or local unit of government with the assistance of a stewardship program grant under s. 23.0917, Stats.

(9) "Primary purpose" means the recreational or conservation purpose for which the property is being acquired as guided by ss. 23.09 (2), (20) (am), 23.0915, and 23.0917, Stats., by s. NR 51.05, and by state, regional or local plans that support the project.

(10) "Prohibit access for an NBOA" means not to allow the activity in its entirety, or to restrict the activity so that a major or significant amount of the activity is not allowed.

Note: A temporary restriction of an NBOA for department approved land management practices is not considered a prohibition of an NBOA.

(11) "Stewardship program" means the Knowles-Nelson Stewardship Program authorized under ss. 23.0915 and 23.0917, Stats.

(12) "Unique animal or plant community" means a natural community composed of different plant and animal species, along with their associated geological and archaeological features, that exist together in a specific area, time and habitat. A unique animal or plant community is one identified as endangered, threatened, rare or ecologically sensitive. A unique plant or animal community may also be critical species habitat or an ecological reference area. The sources for identifying unique animal and plant communities include reports or databases, such as the natural heritage inventory, wildlife action plan, regional planning commission reports or other publications routinely referenced by conservation biologists. Individual game species shall not be considered as unique animal species for purposes of this chapter.

Note: References for, or copies of such databases, publications and reports may be viewed or obtained at the Department of Natural Resources, Bureau of Endangered Resources, 101 S. Webster Street, PO Box 7921, Madison, WI 53707-7921.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.03 General provisions. (1) DEPARTMENT LAND.

(a) All department land transactions are subject to s. NR 1.41.

(b) The department shall incorporate an evaluation of the requirements of s. 23.0916 (3), Stats., in master plans under ch. NR 44, feasibility studies and other planning documents that include land acquisition as an implementation strategy. This paragraph applies to new plans as well as any plan updates that may be undertaken for existing department projects that are subject to s. 23.0916 (3), Stats.

(2) NON-DEPARTMENT LAND. In addition to the requirements of ch. NR 51, stewardship program grant applications to acquire non-department lands subject to s. 23.0916 (2), Stats., shall include all of the following:

(a) A description of the public uses proposed for the property being acquired and a checklist indicating which of the specific NBOAs shall be permitted on the property. The checklist shall be in a format determined by the department and shall include at a minimum:

1. An indication as to whether a specific NBOA shall be allowed on the property.

2. For hunting, the checklist shall include information for allowing waterfowl, small game, turkey and big game hunting and shall include gun and archery hunting.

3. For trapping, the checklist shall include information for allowing water trapping and upland trapping.

4. For fishing, the checklist shall include information for permitting shore fishing and boat fishing.

5. For hiking, the checklist shall include information for allowing trail hiking and hiking off-trail.

6. For cross-country skiing, the checklist shall include information for allowing groomed trail skiing and off-trail skiing.

(b) An explanation of the primary purpose for the acquisition. The primary purpose for the acquisition shall be based on s. 23.09 (2), (20) (am), 23.0915, or 23.0917, Stats., and s. NR 51.05 and on state, regional or local plans that support the acquisition. The application shall include the name of the plan being used and a description of the formal or informal public input received.

(c) A description of the NBOAs to be prohibited on the property and the reason for the prohibition. The reason for the prohibition shall be consistent with s. NR 52.05 and the applicant shall address in the application the specific factors in s. NR 52.05 that apply.

(3) DETERMINATIONS MADE IN ACCORDANCE WITH S. 23.0916, STATS., AND S. NR 52.05. (a) When a determination has been made in accordance with s. 23.0916, Stats., and s. NR 52.05 to prohibit one or more NBOAs on department land the feasibility study and master plan for the project where the NBOA will be prohibited shall be amended to describe the prohibited activity and a rule change may be initiated to enforce it.

(b) The stewardship grant contracts executed between the department and sponsor under s. NR 51.07 that are subject to s. 23.0916, Stats., and this chapter, shall describe any determination to prohibit one or more NBOAs and require the sponsor to contact the department if any of the factors identified in s. NR 52.05 changes such that a prohibition may be necessary, or is no longer necessary. The department shall evaluate those changes to determine the applicability to this chapter.

(4) Public use of lands purchased in whole or in part with funding from the stewardship program under s. 23.0917, Stats., shall be subject to all applicable federal, state and local laws; including but not limited to the public trust doctrine.

(5) Contributions of separate property used as sponsor match under subch. I of ch. NR 51, are not subject to this chapter.

(6) An organization with an identified policy prohibiting or restricting one or more NBOAs must comply with the provisions of this chapter regardless of the organization's policies.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.04 Public notice. (1) In addition to the public notice requirements of ch. NR 150, the department shall provide individual notification over the internet to any person requesting to receive a notice of any proposal to prohibit an NBOA on department or non-department land subject to s. 23.0916 (2) or (3), Stats. Any public notice regarding a proposal to prohibit an NBOA shall include all of the following:

(a) The name, address and phone number of the department's contact person for the project.

(b) The checklist described in s. NR 52.03 (2) (a).

(c) A summary of the NBOAs to be prohibited and the factors that were considered under s. NR 52.05.

(d) The department's initial assessment of the proposal to prohibit the NBOA pursuant to s. 23.0916 (2) (b) or (3) (b), Stats. The department's assessment shall include an evaluation of s. NR 52.05 (1) (a) to (c) and shall involve the department's resource management professionals at the local, regional and statewide level.

(2) (a) Public comments concerning the proposal to prohibit an NBOA shall be submitted in writing to the department. The comment period shall be 15 business days beginning on the day immediately following the day the department sends out the notice electronically.

(b) Objections must show the proposed prohibition of an NBOA to be inconsistent with s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05.

(c) If an objection is received during the 15 business day comment period the department shall have up to 15 additional business days following the close of the comment period to evaluate the public comment, including any objections. The department shall contact anyone that submitted an objection under par. (a) and the person that requested the stewardship program funding to notify them that the objection was received and to gain more information about the proposal to prohibit an NBOA.

(d) The department shall create a written summary of its determination on the proposal to prohibit one or more NBOAs at the conclusion of the public comment and evaluation periods in pars. (c) and (d). The department's written determination shall be based on s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05 and the department shall provide the written summary to anyone that submitted an objection in accordance with par. (a), and to the person that requested the stewardship program funding.

(e) The department shall submit to the natural resources board for each regularly scheduled meeting a report that summarizes determinations made under par. (d). The report shall contain the information made available to the public under s. NR 52.04 (1), public comments, including any objections, gathered under s. NR 52.04 (2), and the department's written determination made under par. (d). The department shall deliver the report to the natural resource board and make the information available to the public over the internet at least five working days preceding the next regularly scheduled meeting of the board. The natural resources board shall allow public participation to receive public testimony regarding the department's determinations and vote whether to ratify prohibitions on non-department land that appear on the monthly report.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

NR 52.05 Natural resources board determinations.

(1) In accordance with s. 23.0916, Stats., the natural resources board has determined that it is necessary to prohibit one or more NBOAs on department or non-department land for one or more of the following reasons listed below. In accordance with s. 15.05 (1) (b), Stats., the department shall make administrative determinations for each individual proposal to prohibit an NBOA, under the direction of the board, utilizing the process established in ss. NR 52.03 and 52.04, and based on the following reasons and factors.

(a) To protect public safety. One or more of the factors to consider when evaluating a proposal to prohibit an NBOA to protect public safety include:

1. The primary purpose for the project.

2. Laws and ordinances that may impact one or more NBOAs on the property.

Note: NBOAs may be affected by local laws or ordinances and may change as local laws or ordinances change.

3. User conflicts that may create public safety issues and impact one or more NBOAs on the property.

4. The physical characteristics of the property including size, shape, groundcover, topography or proximity to inhabited buildings that create public safety issues and influence NBOAs on the property.

5. A proposal to prohibit one or more NBOAs on a parcel 5 acres or smaller, located within the boundaries of cities and villages, shall be determined to be necessary in order to protect public safety and shall not be subject to s. NR 52.04 unless:

a. The parcel is adjacent to a parcel where the NBOAs to be prohibited already exist or;

b. The parcel is adjacent to a public waterway.

(b) To protect a unique animal or plant community. One or more of the factors to consider when evaluating a proposal to pro-

hibit an NBOA to protect a unique animal or plant community include:

1. The primary purpose for the project.
 2. The necessity to prohibit an NBOA to protect and enhance the biological diversity, composition and ecological functions of natural communities exhibiting relatively little human disturbance or that have the capacity to be easily restored to such conditions.
 3. The potential for an NBOA to impact the natural values of the site, according to s. 23.28 (3), Stats.
 4. The potential for an NBOA to accelerate or increase over time and cause damage to the natural values of a site.
 5. The potential for an NBOA to increase the risk of poaching rare plant or animal species, or the removal or destruction of rare geological or archeological features.
- (c) To accommodate usership patterns. One or more of the factors to consider when evaluating the necessity to prohibit an NBOA to accommodate usership patterns include:

1. The primary purpose for the project.
2. User incompatibility and how this incompatibility may lead to the primary purpose of the project being significantly altered or curtailed.
3. The complexity, feasibility, practicality and cost effectiveness of separating activities by time and space or any other manner that might mitigate user incompatibility and or reduce the need for enforcement.
4. The size, shape and location of the property as well as surrounding land uses, including the use of public lands immediately adjacent to the property which may or may not have been funded with stewardship funds. The use of adjacent lands shall not be used as the sole factor in making a determination to prohibit an NBOA to accommodate usership patterns.
5. The mix of NBOAs at the location of the property that, to the extent practicable, will provide a quality experience for all compatible users and uses.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.