

RESOLUTION NO. 2022-12

**VILLAGE OF YORKVILLE
RACINE COUNTY, WISCONSIN**

A RESOLUTION APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A ±399,900-SQUARE FOOT INDUSTRIAL BUILDING ON THIS PARCEL AT 2200 SOUTH SYLVANIA AVENUE (WEST FRONTAGE ROAD), SEC. 24, T3N, R21E, VILLAGE OF YORKVILLE, RACINE COUNTY, WISCONSIN (PARCEL ID # 194-03-21-24-002-000); DAVID BORZYNSKI AND JOSEPH BORZYNSKI, OWNER; WANGARD PARTNERS, INC./MARK LAKE, APPLICANT

THE VILLAGE BOARD OF THE VILLAGE OF YORKVILLE, RACINE COUNTY, WISCONSIN, RESOLVES AS FOLLOWS:

WHEREAS, Applicant/Agent requested a conditional use permit to construct a ±399,900-square foot industrial building on this parcel at 2200 South Sylvania Avenue (West Frontage Road), Sec. 24, T3N, R21E, Village of Yorkville, Racine County, Wisconsin (Parcel ID # 194-03-21-24-002-000), and,

WHEREAS, the Village of Yorkville Plan Commission recommended approval of the request, subject to the conditions attached hereto as Exhibit A and the performance standards attached hereto as Exhibit B, for the following reasons:

1. The proposed use is allowed by underlying zoning through the conditional use process;
2. Based on other things going on in the area, the proposed use appears to fit with the uses in the zoning district.

NOW, THEREFORE, BE IT RESOLVED, by the Village Board of the Village of Yorkville, that the requested conditional use set forth above is hereby approved for the same reasons set forth above and subject to the same conditions and contingency imposed by the Village of Yorkville Plan Commission.

This Resolution was adopted by the Yorkville Village Board on April 25, 2022.

VILLAGE OF YORKVILLE

Ayes: 4

By: /s/ Douglas Nelson
Douglas Nelson, President

Nays: 0

Attest: /s/ Michael McKinney
Michael McKinney, Administrator/Clerk

Abstentions: 0

Absences: 1

EXHIBIT A - CONDITIONS

David Borzynski and Joseph Borzynski, Owner
Wangard Partners, Inc./Mark Lake, Applicant

1. **Zoning Permit.** The applicant must obtain a zoning permit from the Racine County Development Services Office after paying a zoning permit fee of \$2000.00. This card must be displayed in a prominent location at the project site, and a copy of these conditions must be kept at the project site at all times until the project has been completed.
2. **Traffic Impact Analysis.** Prior to issuance of the zoning permit, a traffic study deemed adequate by the Wisconsin Department of Transportation must be completed.
3. **Tenants.** Each tenant must at a minimum obtain site plan review approval from the Village of Yorkville Board prior to occupying the site. Each tenant must contact the Racine County Development Services Department at (262)-886-8440 to inquire about occupancy requirements.
4. **Compliance.** Failure to comply with the terms and conditions stated herein could result in the issuance of citation(s) and/or revocation of this permit.
5. **Binding Effect.** These conditions bind and are applicable to the Property Owner, Applicant, and agents of the Property Owner (collectively referred to herein as "Applicant" or "Property Owner") with respect to the uses on the Property.
6. **Expiration.** This approval will expire on December 31, 2023, unless substantial work has commenced following such grant. If this office determines that no substantial work has commenced, the project may not occur unless the Village of Yorkville grants a written extension. Written extension requests must be submitted to the Racine County Development Services Office thirty (30) days before permit/approval expiration.
7. **Plans.** The proposed project shall be located, constructed, and utilized in accordance with the plans and documents received by the Racine County Development Services Office on March 14, 2022, unless otherwise amended herein.
8. **Stormwater/Grading Plan.** The property owner or designated agent must contact the Village of Yorkville regarding stormwater/grading regulations in relation to any site work for the parking areas. Compliance with all regulations and requirements, as determined by the Village of Yorkville is required.
9. **Permits Required for Future Buildings.** Any future buildings or additions will require prior approval and permits from the Village of Yorkville and Racine County, as agent for the Village of Yorkville.
10. **Construction.** During construction, this site must have graveled roads, access drives, and/or parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road must be removed by street cleaning (not flushing) before the end of each work day or as determined by the jurisdictional highway authority.
11. **Drain Tiles.** Do not break or damage any underground tile. If encountered, any underground agricultural tile line must be rerouted or fixed. If any underground tile is encountered that has anything but clean water flowing through it, contact Racine County Development Services at (262) 886-8440 to investigate.

12. **Performance Standards.** The applicant must comply with the provisions of Article VII, Division 4, Performance Standards of Chapter 20, Zoning, Racine County Code of Ordinances, as applicable to the Village of Yorkville (copy attached).
13. **Loading Requirements.** Adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way. Reference Section 20-1087, Chapter 20, Zoning, Racine County Code of Ordinances, as applicable to the Village of Yorkville.
14. **Operation Requirements.** The operation shall not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash or be harmful to human, animal, plant or aquatic life. Any oil or other hazardous fluids must be stored in a designated containment area that complies with all Wisconsin Department of Natural Resources (WI-DNR) regulations.
15. **Outside Storage.** Except for the vehicle parking area as shown on the submitted plans, outside storage is prohibited, and this property must be kept free of any accumulation of refuse or debris. Refuse bins and/or scrap material (recycle) bins must be screened from public view. This includes the Village of Yorkville's prohibition on the outside storage of aged vehicles, wrecked vehicles, or parts vehicles.
16. **Exterior Lighting.** All exterior lighting must be arranged, oriented, or shielded in such a manner that direct radiation or glare from such source does not penetrate adjacent or nearby parcels or the public right-of-way. The source of such illumination must be arranged, oriented, or shielded in a manner that will not endanger the safety of pedestrian or vehicular traffic.
17. **Property Requirements.** This site must be kept neat and orderly at all times, with all refuse dumpsters out of view of passersby. All disposed items must be done in an environmentally safe manner. The continued positive appearance of buildings and property is dependent upon proper maintenance attitudes and procedures. Maintenance programs must be established that include watering, maintaining, and pruning all landscape planting areas; cleaning up litter and emptying trash containers in a timely fashion; sweeping, cleaning, and repairing paved surfaces; replacing broken and vandalized parts; replacing burned out light bulbs; and cleaning, painting, and repairing windows and building facade.
18. **Signs.** Any advertising sign on this property must conform to the Racine County Ordinance standards, as applicable to the Village of Yorkville, and will require a separate zoning permit(s) prior to installation.
19. **Fire Alarm and/or Sprinkler Plan Review.** If this approval is for an activity that requires fire alarm and/or sprinkler system plan review, written confirmation shall be provided to the Village Administrator/Clerk by Fire Safety Consultants, Inc. stating that the applicant and/or agent has submitted acceptable fire alarm and/or sprinkler system plans to Fire Safety Consultants, Inc. for review pursuant to Chapter 26 of the Village of Yorkville Municipal Code. No building or zoning permit shall be issued for this activity until such time as said confirmation is provided. For the purposes of this condition, the term "building permit" shall mean any permit including, but not limited to, site preparation, building, electrical, plumbing, HVAC, and erosion permits. The applicant must first obtain Fire Safety Consultants, Inc. fire alarm and/or sprinkler system plan approval prior to submitting those plans to the State of Wisconsin for state review. Failure to abide by any part of this condition shall not constitute a basis for an appeal to the Village Board of any sprinkler system and/or fire alarm requirements contained within Chapter 26 of the Village of Yorkville Municipal

Code. The building inspector may issue a stop work order if, in his/her opinion, construction cannot proceed any further without impeding the installation of the required fire alarm and/or sprinkler systems.

20. **Access.** The applicant must allow any Racine County or Village employee full and unlimited access to the project site at a reasonable time to investigate the project's construction, operation, or maintenance.
21. **Compliance with Law.** The applicant is responsible for obtaining all necessary federal, state, and local permits, approvals, and licenses. The applicant is required to comply with all applicable local, state and federal regulations.
22. **Amendments to Conditional Use Permit.** No additions, deletions, or changes may be made to the project, site plan, or these conditions without the Village of Yorkville's prior approval. All addition, deletion, and/or change requests must be submitted to the Village of Yorkville or the Racine County Development Services office in writing. A minor change to the conditions of this permit, as deemed by the Zoning Administrator, may be made at a staff level, if authorized by the Zoning Administrator.
23. **Reimburse Village Costs.** Applicant shall reimbursement to the Village all costs incurred by the Village for review of this conditional use including but not limited to engineering, legal and planning review that occurred prior to permit issuance and during the implementation of the plans and construction of the improvements.
24. **Agreement.** Your accepting the conditional use approval/zoning permit and beginning the project means that you have read, understand, and agree to follow all conditions of this approval. Therefore, David and Joseph Borzynski, Mark Lake, Wangard Partners, Inc., their heirs, successors, and assigns are responsible for full compliance with the above conditions.
25. **Subsequent Owners.** It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.
26. **Recording.** The Village shall have this Resolution recorded with the Racine County Register of Deeds at the applicant's expense.
27. **Grandview Parkway Extension.** Applicant shall construct at its expense the extension of Grandview Parkway as a public street along the property's western boundary, terminating in a cul-de-sac at the property's southern boundary. The public street shall be built to Village specifications and shall include the extension of the specified public water main to the property's southern boundary, as well as required storm water facilities. The land for the street shall be dedicated to the Village. Formal acceptance of the street via resolution of the Village Board is required, based upon the recommendation of its engineer. The Village will seek to levy a deferred special assessment for ½ the cost of the public street and public infrastructure to benefited property. When/if collected, those funds would be paid over to Applicant.
28. **Public Sanitary Sewer and Water Service.** The property shall receive public sanitary sewer service by connecting via private lateral to a new public sanitary sewer lift station to be constructed by the Village on a portion of the property to be dedicated by Applicant. The timing of the sanitary sewer lift station shall be coordinated with Applicant's building construction as specified further in the development agreement. Applicant shall be responsible, at its sole cost, for installing the 4" sanitary sewer force main that will convey the property's wastewater to the north along South Sylvania Avenue from the lift station, as well as the parallel water main that shall be extended south

down South Sylvania Avenue adjacent to the property. The property's private water looping system will be able to tap into both water mains on either side of its parcel.

29. **Storm Water Facilities.** The property's storm water detention pond shall be constructed, owned, and maintained by Applicant in accordance with a recorded storm water maintenance agreement, with the Village receiving necessary easement rights.

30. **Facility.** The Development is located within Village Tax Incremental District No. 1 created on September 9, 2019 (the "District"). The parties anticipate that, when substantially complete and fully assessed, the assessed value of the Development shall be approximately \$25 million (the "Anticipated Value"). Developer acknowledges that the Village is relying on tax increment from the Development at the Anticipated Value to reimburse the Village, over a two-year period, its expenses to design, construct and install the Lift Station, which expenses the Village Engineer has estimated to be a total of \$400,000 - \$450,000. In the event that the Development has been commenced but is not substantially completed as of January 1, 2025, subject to force majeure, Developer shall make payments in lieu of taxes to the Village to the extent necessary to ensure that the Village's actual expenses incurred to design, construct and install the Lift Station, not to exceed \$450,000, will be fully repaid in the years 2026 and 2027 from (a) tax increment generated by the Development and/or (b) payments in lieu of taxes calculated by multiplying the Village's then-current mill rate by the differential between the Anticipated Value and the actual equalized value of the Development. If Developer makes any payment in lieu of taxes to the Village under this Section, the Village shall reimburse to Developer the amount of any such payment from future tax increment from the Development, but only from increment received during the life of the District.

Please note that the language of Condition #30 was modified to read as set forth above at the request of the Applicant/Agent, and with the approval of the Village Board, on April 25, 2022. The language of this condition as originally approved on April 11, 2022, read as follows: "**Facility.** Applicant shall construct an industrial building of at least 399,900-square feet with an approximate assessed value of \$25 Million as further set forth in the development agreement."

31. **Development Agreement.** The Village anticipates that a development agreement will be needed prior to the start of development of the property. That agreement will address in more detail the timeline for completion of the various tasks, the construction of the street and public infrastructure, as well as necessary private improvements such as on-site storm water facilities. The Village shall not be obligated to begin construction of the public sanitary sewer lift station until construction of the industrial building as provided for in these conditions is commenced. The agreement will require reimbursement to the Village for all fees, expenses, costs, and disbursements relative to the construction, installation, dedication, and acceptance of the infrastructure improvements, including engineering review, supervision, inspection, as well as legal and financial consultant costs.

EXHIBIT B - PERFORMANCE STANDARDS
David Borzynski and Joseph Borzynski, Owner
Wangard Partners, Inc./Mark Lake, Applicant

DIVISION 4. - PERFORMANCE STANDARDS [15]

Footnotes:

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Cross reference - Schedule of deposits for violation of the provisions in this division, § 5-3.

Sec. 20-1061. - Compliance.

This chapter permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air and waters shall hereafter, in addition to their use, site and sanitary, floodland and shoreland regulations, comply with the following performance standards.

(Code 1975, § 7.091)

Sec. 20-1062. - Water quality protection.

No residential, commercial, industrial, institutional or recreational use shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash or be harmful to human, animal, plant or aquatic life. This section shall not apply to uses other than those enumerated in it.

(Code 1975, § 7.092)

Sec. 20-1063. - Noise.

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

(Code 1975, § 7.093)

Sec. 20-1064. - Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances so as to endanger the use of neighboring premises.

(Code 1975, § 7.094)

Sec. 20-1065. - Exterior lighting.

Any lighting source on any use, lot or parcel which is for the purpose of illuminating any structure exterior, sign, parking lot or outdoor area shall be established in a manner which satisfies the following conditions:

- (1) Such lighting shall be arranged, oriented or shielded in such a manner that direct radiation or glare from such source does not penetrate adjacent or nearby parcels or the public right-of-way.
- (2) The source of such illumination shall be arranged, oriented or shielded in a manner which will not endanger the safety of pedestrian or vehicular traffic.

(Ord. No. 86-86, § 7.095, 8-26-86)

Sec. 20-1066. - Maintenance.

Any fence, wall, hedge, yard space or landscaped area required by this chapter or grant of variance or conditional use shall be kept free of an accumulation of refuse or debris. Plant materials must be well kept in a healthy, growing condition; and structures, such as walls and fences, shall be maintained in sound conditions, good repair and appearance at all times. (Ord. No. 86-86, § 7.096, 8-26-86)

Sec. 20-1067. - Odors.

No residential, commercial, industrial, institutional or recreational use shall emit an odor of such nature or quantity as to be offensive or unhealthful which is detectable at the lot line. The guide for determining odor measurement and control shall be Chapter NR 429 of the Wisconsin Administrative Code and amendments thereto.

(Ord. No. 93-3, 5-11-93)

Cross reference - Outdoor burning, § 13-51 et seq.

Sec. 20-1068. - Reserved.

Editor's note - Ord. No. 2011-131S, adopted April 10, 2012, repealed § 20-1068 which pertained to floodproofing and derived from Ord. No. 94-155, § 11, adopted Nov. 10, 1994.

Secs. 20-1069 - 20-1085. - Reserved.