

RESOLUTION NO. 2023-04

**VILLAGE OF YORKVILLE
RACINE COUNTY, WISCONSIN**

A RESOLUTION RE-APPROVING A REQUEST FOR A CONDITIONAL USE PERMIT TO CREATE A 15-PARCEL CLUSTER SUBDIVISION (PLUS ONE APPROXIMATELY 60.75-ACRE OUTLOT) ON THREE UNADDRESSED PARCELS LOCATED TO THE WEST, NORTH AND PARTIALLY TO THE EAST OF THE PARCEL LOCATED AT 14700 50TH ROAD, SEC. 01, T3N, R21E, VILLAGE OF YORKVILLE, RACINE COUNTY, WISCONSIN (PARCEL ID #'S 194-03-21-01-006-040, 194-03-21-01-006-030 AND 194-03-21-01-006-010); TNG 27, LLC, OWNER; NANCY WASHBURN/RAYMOND LEFFLER, APPLICANT/AGENT

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

WHEREAS, Applicant requested a conditional use permit to create a 15-parcel cluster subdivision (including three outlots totaling approximately 61.05 acres), on three unaddressed parcels located to the west, north and partially to the east of the parcel located at 14700 50th Road, Sec. 1, T3N, R21E, Village of Yorkville, Racine County, Wisconsin (Parcel ID #'s 194-03-21-01-006-040, 194-03-21-01-006-030 and 194-03-21-01-006-010), and,

WHEREAS, the Village of Yorkville Plan Commission, by adoption of Resolution 2021-08, recommended approval of the request, subject to the conditions attached hereto as Exhibit A, for the following reasons:

1. The proposed 15-lot cluster residential development is allowed in the C-2 zoning district through the conditional use process;
2. The proposed 15-lot cluster residential development will not adversely affect the surrounding property values and is consistent with existing adjacent land uses.

WHEREAS, on December 14, 2020 a duly noticed public hearing as to the proposed rezoning of the land identified below was held, and the Plan Commission subsequently approved Resolution 2021-01 on March 8, 2021 recommending adoption by the Village Board of a conditional zoning ordinance; and

WHEREAS, on December 14, 2020, the Village Board approved Ordinance 2021-02 approving the requested zoning amendment of the subject parcel, subject to various conditions to be satisfied by December 31, 2021; and

WHEREAS, the December 31, 2021 date was extended by the Village Board, at the request of the Applicant, to June 30, 2022; further, that because the conditions were not satisfied by that date, the ordinance by its terms became null and void and the Applicant is reapplying for approval of the required rezoning ordinance and re-approval of the accompanying conditional use permit.

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 January 9, 2023.

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

Diversified Land Developers LLC, Owner
TNG 27, LLC/Raymond Leffler/Nancy Washburn, Applicant

1. **Zoning Permit.** The applicant must obtain a zoning permit from the Racine County Development Services Office for the 15-lot cluster residential development after paying the zoning permit fee of \$250.00. Please note: This fee only authorizes the 15-lot cluster residential development permit. Any site development work within the shoreland jurisdiction area of the East Branch of the Root River requires separate permits and additional fees. The 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. **Private Onsite Wastewater Treatment System (POWTS) Approval.** The applicant must obtain Preliminary Subdivision Plat and Final Subdivision Plat POWTS review and approval from the Racine County Development Services office prior to zoning permit issuance. Contact Racine County Development Services at 262-886-8440 ext. 3 for additional requirements.
3. **Additional Permits.** Prior to any on-lot construction, a zoning permit (and shoreland contract if within the shoreland jurisdiction area of the East Branch of the Root River) must be obtained for each single-family residence after paying the appropriate fee(s) as shown in the Village of Yorkville's fee schedule at the time of application. Note: The applicant must obtain a state sanitary permit from the Racine County Development Services Office prior to issuance of a zoning permit. Zoning permits for any accessory structure can be applied for and obtained only after significant work has taken place on the single-family residence.
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 one year from the date of the Village of Yorkville's final approval 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 (15-lot cluster residential development) shall be located, constructed, and utilized in accordance with the plans and documents received by the Racine County Development Services Office on November 16, 2020, unless otherwise amended herein or amended through the subdivision platting process.
8. **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 (copy attached).
9. **Road Names and Property Addresses.** All road names must be consistent with the Racine County Uniform Street Naming and Numbering System. The road names must be reviewed and approved by Racine County and the Village of Yorkville. The Racine County Development

Services office will assign addresses consistent with the 911 emergency system for all new residential lots in the cluster residential development.

10. **Street and Exterior Lighting.** Any proposed street and yard lights must be equipped with full cut-off luminaries following the lighting practices as found in IESNA RP-8-00. All exterior lighting must be energy efficient and must be located, oriented and of an intensity to illuminate only the building sites or lots without detrimentally affecting activity on adjacent sites or lots or traffic on streets and highways. The proposed overall heights of all light standards and the candle foot power of the lights must be residential in scale.
11. **Platting Requirements.** A Chapter 236 subdivision plat must be prepared for approval according to the Village of Yorkville regulations and Racine County Code of Ordinances, Chapter 18, Subdivisions.
12. **Signage.** Any subdivision name sign must be located according to Racine County Code of Ordinances, Chapter 20, Zoning, as applicable to the Village of Yorkville. The sign must be a ground-mounted, landscaped monument sign. If the sign is lighted, it must be illuminated either internally or by shielded, top mounted, down-directed white lighting. A separate zoning permit is required for any subdivision sign.
13. **Roads.** The proposed roads in this development will be public. The site owner is responsible for constructing the roads according to the Village of Yorkville's road construction rules and standards. The developer's agreement with the Village will detail how the roads will be paid for and constructed.
14. **Wetlands and Floodplain.** The wetland and floodplain areas may not be disturbed in any way unless proper approval is obtained. A 25-foot no-mow zone must be maintained around each wetland. Some of the lots are affected by "Artificial Wetlands Delineated Heartland Ecological 05/14/2019" Proper approval must be submitted to the Racine County Development Services office prior to zoning permits being issued for residences to be constructed on the subject lots.
15. **Stormwater Requirements.** The property owner or designated agent must contact the Village of Yorkville regarding stormwater regulations for the site. Compliance with all regulations and requirements, as determined by the Village of Yorkville is required.
16. **Lot Width Requirements.** All of the lots must have a minimum of 150 feet of lot width at the building setback line (50 feet from the street right of way). Lots 8, 9 and 10 appear not to meet this requirement. The submitted preliminary plat must reflect the lot width for all lots at the building setback line. Modifications to the submitted preliminary plat may have to be made to some lots to meet the 150 feet of minimum lot width.
17. **Shoreland Jurisdictional Boundary Line.** The submitted preliminary plat must have the 300-foot shoreland jurisdictional boundary line added. This line must clearly illustrate all areas of the proposed development that are within 300 feet of the ordinary high-water mark of the East Branch of the Root River.
18. **Building Setbacks.** The submitted preliminary plat must reflect in writing the minimum building setbacks for the principal structure on each lot which are 50 feet from street right-of way, 15 feet on each side and 50 feet from the rear lot line.
19. **Shoreland Contract Requirement.** A shoreland contract must be obtained from the Racine County Development Services office for the excavating and grading associated with the

proposed development that is within 300 feet of the ordinary high-water mark of the East Branch of the Root River. The shoreland contract for this work must be issued prior to or in conjunction with the zoning permit for the proposed 15-lot cluster residential development. Any individual residence construction on any of the proposed lots that is within 300 feet of the ordinary high water mark of the East Branch of the Root River will also require a separate shoreland contract be issued prior to or in conjunction with the residence on the impacted lots.

20. **Designated Open Space.** Gazebos, pavilions or other minor structures that might be located within the designated open space in this subdivision for use by the homeowner's association will require separate zoning permits. Fees will be based upon the Village of Yorkville fee schedule in effect at the time of permit application.
21. **Declaration of Covenants.** The declaration of covenants, conditions and restrictions for this development must be submitted to Racine County Development Services and the Village of Yorkville for review and approval within 120 days of this approval.
22. **Utilities.** All utilities associated with this development must be constructed underground.
23. **Erosion Control.** To help prevent sediment from entering onto an abutting property, drainage way, or road ditch, prior to any earth disturbance activities, temporary diversions must be installed as directed by the Village Engineer.
24. **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.
25. **Land Conservation Department Observations and Recommendations.**
 - The western border of the proposal is the East Branch of the Root River. The river abuts the entire length of the outlot in the proposal. The recommendation is to plant a native vegetative buffer in the outlot to act as a buffer between the proposed lots and the river. Only remove dead, diseased, or invasive trees from the outlot, especially along the river.
 - An "artificial wetland" is present in the middle of Lot 11. This may be discretionary with DNR's recommendation to fill or alter the "artificial wetland".
 - An earthen berm with trees is on Lot 12. Properly dispose of any non-native materials that are excavated during construction.
 - Two culvert locations are recommended to maintain drainage along the proposed road. One culvert between Lots 9 and 10, and one culvert between Lot 6 and 7 (see attached plat). A drainage swale may continue to proposed stormwater structures or to existing wetlands. A drainage easement may be considered between Lot 9 and 10.
 - The proposed road should maintain shallow ditches with seed and erosion control within 24 hours of final grading.
 - Erosion control for the individual lots will vary and be addressed as shoreland contracts are issued.

26. **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.
27. **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.
28. **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.
29. **Liability.** Racine County and the Village of Yorkville does not warrant that the plans for this project are functionally and/or structurally adequate. Racine County and the Village of Yorkville does not certify that the design is adequate for this site and Racine County and the Village of Yorkville accepts no liability through this approval.
30. **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.
31. **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, Diversified Land Developers LLC, TNG27 LLC, their heirs, successors, and assigns are responsible for full compliance with the above conditions.
32. **Subsequent Owners.** It is the property owner's responsibility to inform any subsequent owner or operator of these conditions.