

## ARTICLE VIII DEFINITIONS

**10.64 Definitions.** For the purpose of this ordinance, certain words used therein are defined as follows:

- **Adjusted Tract Area** - The area of the total parcel without any primary conservation areas.
- **Alley** – A public or private right-of-way which provides secondary access to abutting properties.
- **Agricultural Use** (as provided in s. 91.01 (1), Wis. Stats) - Means beekeeping; commercial feed lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming' placing land in federal programs in return for payments in kind' owning land, at least thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk conservation reserve program under 7 USC 1446(d); and vegetable raising.
- **Applicant** – The Subdivider or Subdivider's Developer's agent
- **Arterial Street** – A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways, and parkways.
- **Block** – A group of parcels existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.
- **Bufferyard** – An area of land within the boundaries of a parcel or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms, designed to limit continuously the view and/or sound from the parcel or site to adjacent parcels or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the fact of the Certified Survey Map or Subdivision Plat.
- **Building** – A structure having a roof supported by columns or wall. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.
- **Certified Survey or Certified Survey Map** - A map of a minor land division of less than 35 acres prepared in accordance with sec. 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Ordinance.
- **Collector Street** – A street used, or intended to be used, to carry traffic from minor streets to the major system or arterial streets, including principal entrance streets to residential developments.
- **Common Element** - The common facilities in a condominium.
- **Common Facilities** - All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas,

walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.

- **Common Open Space** - Undeveloped land within a conservation design subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common Open Space shall not be part of individual residential parcels, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.
- **Condominium** - A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.
- **Condominium Agreement** - A legal agreement outlining the management of the common open space.
- **Condominium Association** - An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.
- **Conservation Areas, primary** – The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions. The following are areas of primary conservation: all lands located within existing street Right-of-Ways, all lands located within existing Utility and Railway Right-of-Ways, all lands located within floodplain, all lands located within wetlands, all slopes of 20% or greater.
- **Conservation Easement** - The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.
- **Conservation Subdivision** – A subdivision where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of forty percent (40%) of the gross tract area, including secondary conservation areas, as protected open space.
- **County** – Reference to County shall mean Outagamie County and shall include any agency, department or committee thereof.
- **Cul-de-sac Street** – A minor street with only one outlet and having a turn around for the safe and convenient reversal of traffic movement.
- **Deed restriction** - A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.

- **Detention Basin** – A man-made or natural depression below the surrounding grade level designed to collect surface and/or subsurface water so that it might impede its flow and to gradually release the same at a rate not greater than that prior to the development of the property, into natural or man-made outlets (i.e. storm sewer, culvert or stream).
- **Development** – Any man-made changes to improved or unimproved real estate including, but not limited to, construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- **Developer’s Agreement** - An agreement by which the Town and the sub-divider agree in reasonable detail to all of those matters which the provisions of these regulations permit to be covered by the developers agreement and which shall not take effect unless and until an irrevocable Letter of Credit or other appropriate surety has been issued to the Town.
- **Developmental Yield** -The amount of permitted structures in the development of a subdivision.
- **Drainageway** – The land on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on : a topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet or the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.
- **Easement** – Authorization by a property owner for another to use the owner’s property for a specified purpose.
- **Final Plat** - A map prepared in accordance with requirements of Chapter 236 of the Wisconsin State Statutes and this Ordinance for the purpose of precisely dividing larger parcels into smaller parcels and used in conveying these new parcels.
- **Floodlands** – Those lands, including the channels, floodways and floodplain fringe of any given reach, which are subject to inundation by the flood within a given recurrence frequency. The 100-year recurrence interval flood (or that flood having a 1 percent probability of occurring in any given year) is generally used for regulation.
- **Frontage** – the length of the front property line of the parcel, or tract of land abutting the right-of-way of a public street road or highway.
- **Grade** – the slope of a road, street or other public way, specified in percent.
- **High Water Elevation** – The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an establish datum plane or, where such elevation is not available, the elevation of the line up to which the presence of water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristics.
- **Highway, Limited Access** – a freeway or expressway providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same,

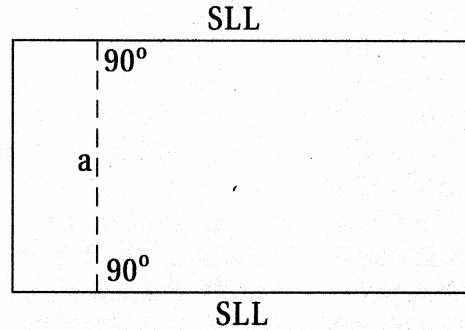
except at such points and in such manner as may be determined by the public authority having jurisdiction over the trafficway.

- **Homeowners' Association** – A Wisconsin membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.
- **Improvement, Public** – Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.
- **Land divider** - Any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that is being divided, or proposed to be divided, resulting in a land division.
- **Land division** - The division of an outlot, parcel, or tract of land by the owner of the land, or the owner's agent, for the purpose of sale or for development when the act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is 35 acres or less in area, by a division or by successive divisions of any part of the original property within a period of 5 years, including any land division by or for a Conservation Subdivision, a Cluster Development, a Statutory Subdivision, a Minor Land Division, Replat, and Certified Survey Map, and any other land division. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 35 acres in size.
- **Landscaping** – Living material, such as grass, groundcover, flowers, shrubs, vines, hedges and trees and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences, but not including paving.
- **Lot** - A parcel of land resulting in a division of a parcel pursuant to this ordinance.
- **Lot, Corner** – A parcel abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the parcel line.
- **Lot Lines (or Parcel Lines)** – The peripheral boundaries of a parcel of land.
- **Lot, Through** – A parcel which has a pair of opposite parcel lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front parcel lines.
- **Lot, Width (or Parcel Width)**– The mean horizontal distance between the side lot lines of a parcel measured at right angles to the depth. On irregularly (non-perpendicular) shaped parcels, the width shall be the average width of the parcel (see below). Lot width shall be measured at the building line (e.g. location at which the principal structure is located). Width shall also be measured at the shoreyard setback line. At least 50% of the parcel shall be greater than or equal to the required lot width.

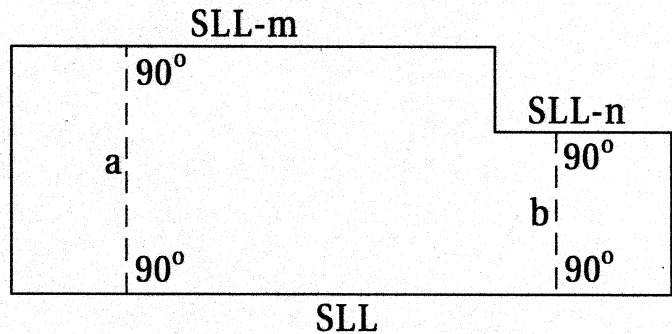
The following illustrations and formulas are provided to explain the methods of average parcel width determination.

**(a) Parallel Parcel Lines**

Average Parcel Width is the perpendicular distance between Side Parcel Lines (SLL)



**(b) Parallel Side Parcel Lines, Alternate.**



Average Parcel Width is

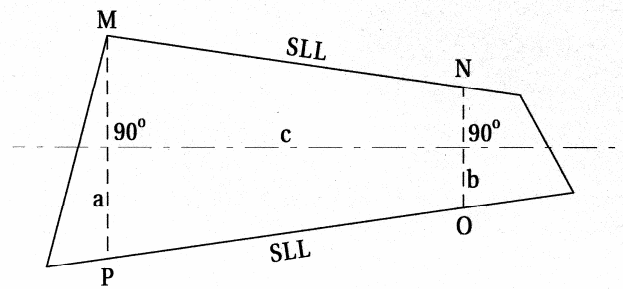
$$a \times \frac{m}{m+n} + b \times \frac{n}{m+n}$$

Use only that part of length n that, when added to area of m portion of parcel, satisfies minimum area requirements.

**(c) Nonparallel Parcel Lines**

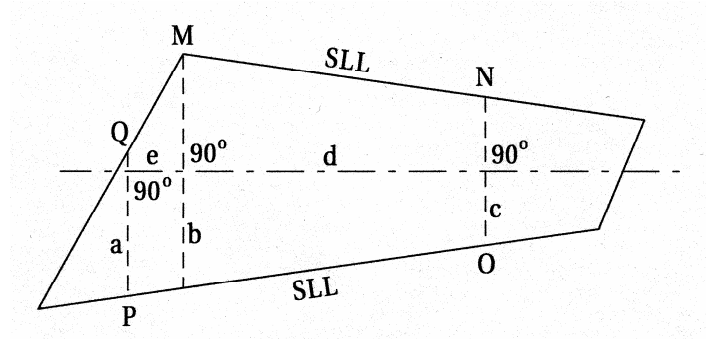
Average Parcel Width is

$$\frac{a + b}{2}$$



Area of MNOP equals Minimum Parcel Area, and line c bisects angle formed by lines MN and OP extended.

**(d) Nonparallel Parcel Lines, Alternate 1.**

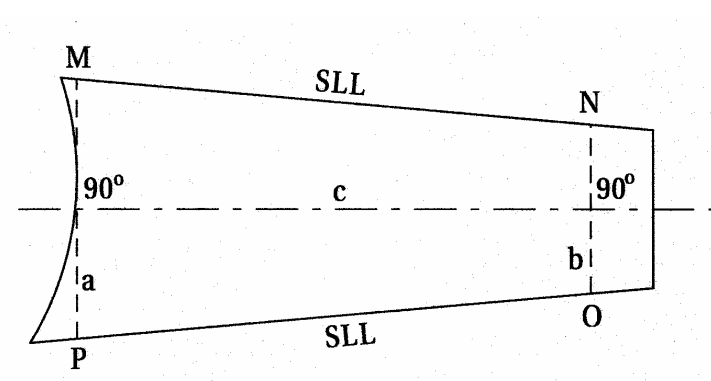


Average Parcel Width is

$$\frac{a + b \times \frac{e}{e + d} + b + c \times \frac{d}{e + d}}{2}$$

Area of MNOPQ equals Minimum Parcel Area and line d bisects angle formed by lines MN and OP extended. d is the perpendicular distance between lines b and c. e is the perpendicular distance between lines a and b.

**(e) Nonparallel Parcel Lines, Alternate 2.**

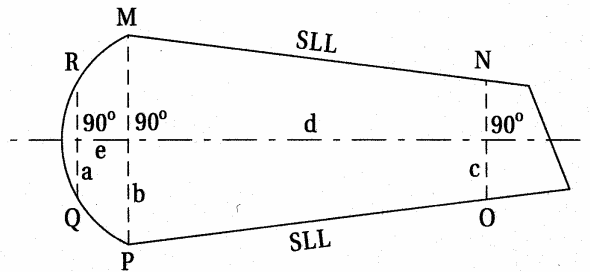


Average Parcel Width is

$$\frac{a + b}{2}$$

Area of MNOP equals Minimum Parcel Area and line c bisects angle formed by lines MN and OP extended. c is the perpendicular distance between lines a and b.

**(f) Nonparallel Parcel Lines, Alternate 3.**

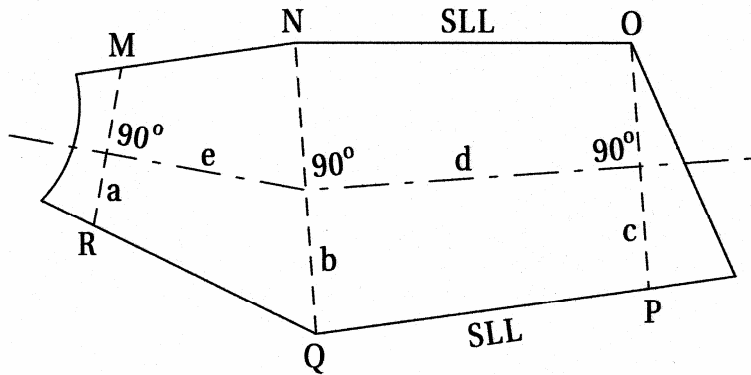


Average Parcel Width is

$$\frac{a + b}{2} \times \frac{e}{e + d} + \frac{b + c}{2} \times \frac{d}{e + d}$$

Area of MNPQR equals Minimum Parcel Area and line d bisects angle formed by lines MN and OP extended. d is the perpendicular distance between lines b and c. e is the perpendicular distance between lines a and b.

**(g) Nonparallel Parcel Lines, Alternate 4.**



Average Parcel Width is

$$\frac{a + b}{2} \times \frac{e}{e + d} + \frac{b + c}{2} \times \frac{d}{e + d}$$

Area of MNOPQR equals Minimum Parcel Area, line e bisects angle formed by lines MN and QR extended, and line d bisects angle formed by lines NO and PQ extended. d is the perpendicular distance between lines b and c. e is the perpendicular distance between lines a and b.

- **Major Street** – Arterial and collector roads primarily intended for through traffic with a secondary function of direct access.
- **Minor Land Division** - Any division of land other than a statutory subdivision as defined herein of less than 35 acres in size including any residual parcel or parcels resulting from any division of land if said parcel is less than 35 acres in size.
- **Minor Street** – A street used or intended to be used primarily for access to abutting properties.
- **Navigable Waters** - Any body of water defined as navigable under the laws of the State.
- **Net Developable Area** - The area of the tract in a conservation design subdivision that can be divided into parcels.
- **Nonprofit Conservation Organization** - A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501 (c)(3) of the Internal Revenue Code, which includes the “acquisition of property or rights in property for conservation purposes” as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.
- **Open Space** - The area of lands within a conservation design subdivision that can not be developed. This area includes 40% of the adjusted tract and primary conservation areas that is held in common ownership. This area is for passive/ active recreational use by the residents of the development and, where specified, the larger community.
- **Outlot** - A parcel of land other than a residential lot or block so designated on a land division plat or Certified Survey Map.
- **Owner** - For purposes of this Ordinance the word "owner" if used herein shall be deemed to mean the person holding the fee title to the lands involved, except that where lands have been divided on a land contract the land contract vendee shall be deemed the owner.
- **Parcel** - Contiguous lands under the control of a sub-divider(s) not separated by streets, highways, or railroad rights-of-way.
- **Plan Commission** - The Town of Black Creek Plan Commission is the Plan Commission for the purposes of this ordinance.
- **Plat** - A map of a subdivision.
- **Preliminary Plat** - A map showing the salient features of a proposed subdivision as described in subsection 10.39, submitted to the Town Plan Commission for the purposes of preliminary consideration by the Town Plan Commission prior to any land division.
- **Public Way** – any public road, street highway, walkway, drainageway or part thereof.
- **Recreation Land, Active** – Areas that are altered from their natural state to accommodate organized athletic activities (e.g. soccer, football, baseball, golf). Active recreation lands may also require the installation of equipment (e.g. playground apparatus, riding stables, shooting ranges, golf ranges, etc.).

- **Recreation Land, Passive** – Areas that are left in a natural state with minimal alteration for scenic enjoyment (e.g. walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g. birding, hunting).
- **Replat** - The process of changing the map or plat which changes the boundaries of a recorded Statutory Subdivision Plat, Minor Land Division, Certified Survey Map, or other land division or part thereof; the division of a large block, parcel, or outlot within a recorded subdivision plat or certified survey which changes the exterior boundaries of said parcel, block, or outlot is a replat.
- **Restrictive Covenant** - A deed restriction on the use of the land usually set forth in the deed that is binding upon subsequent owners of the property.
- **Retention Basin** – A man-made or natural body of water of a depth of not less than three (3) feet, designed to contain water at all times, the levels of which will be increased as a result of the flow into it from surface and subsurface water collected therein and released gradually into natural and man-made outlets.
- **Setback** – Those minimum street, front, rear and/or side yards required between a building and a parcel line.
- **Shoreland Jurisdiction** – The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
- **Slope** – The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- **Stream** – A course of running water, either perennial or intermittent, flowing in a channel (e.g. water body that forms a link between two bodies of water)
- **Street** - A public way for vehicular and/or pedestrian traffic.
- **Subdivider** - Person or persons requesting review or action on a subdivision.
- **Subdivision** - The division of a parcel or parcel of land by the owner thereof or his agent where the act of division creates one or more parcels of land.
- **Town** – Reference to town shall mean the Town of Black Creek including the Town Board, Town Clerk or any other designated Town Commission.
- **Tract** – A contiguous area of land that exists or has existed in single ownership.
- **Utility Easement** - An easement to place, replace, maintain or move utility facilities.
- **Wetland** - An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and that has soils indicative of wet conditions.
- **Yield Plan** – A conventional subdivision plat in which all developable land is platted-off with house parcels and streets covering the entire parcel excluding wetlands, streams, floodplains, steep slopes, and/or other state and federally-protected areas.