

30
12

**Ripon Business Park
Multi-Use Development
Protective Covenants**

DOC# 1005052
Recorded
August 07, 2012 11:21 AM

Document No

Patricia Kraus

PATRICIA KRAUS
REGISTER OF DEEDS
FOND DU LAC COUNTY
Fee Amount: \$30.00

RETURN TO:
WURTZ LAW OFFICE
P.O. BOX 603
RIPON, WI 54971

RIPON BUSINESS PARK A MULTI-USE DEVELOPMENT PROTECTIVE COVENANTS

I. OVERALL MISSION

The Ripon Business Park (hereinafter referred to as the “Park”) is a carefully planned development owned by the City of Ripon (hereinafter referred to as the “City”). The Park offers convenient access to Green Bay, Milwaukee, and Madison via Highways 41 and 151, is close to Highways 44, 26, 49, 23, and airports in Green Bay, Appleton, Milwaukee and Madison, and is rail accessible by Wisconsin & Southern Railroad. The controls and guidelines described herein are designed to:

- A. Provide for the orderly growth and attractive grouping of business, commercial, and industrial park operations which, on the basis of physical and operational characteristics, would provide long-term value to the City;
- B. Preserve and permanently protect the overall quality of development in the Park;
- C. Maintain a consistently high quality of building and land uses including, but not limited to architectural and landscape design, integrated into a natural setting;
- D. Protect the investment made by each Park resident.

The City, as owner of the real property designated as the Park and identified in Exhibit “A” which shows a proposed division of lots as of June 2012; said Exhibit being attached and incorporated herein by reference, hereby makes the following declaration of limitations and restrictions on the Park, and further specifies that such declarations shall constitute covenants applied to the Park and subsequent development, and which shall bind all parties obtaining an interest in said Park and their successors. The Protective Covenants are in addition to the City’s Municipal Code (hereinafter referred to as the “Code”) and the City’s Landscaping Plan (hereinafter referred to as the “Landscaping Plan”) requirements.

II. ZONING AND LAND USE DESIGNATIONS

To provide for the most appropriate use of lands in the Park, the Park will be designated for industrial uses as per the Code within the Park and shall also allow for business and commercial uses along Highway 44 and North Douglas Street.

In cases where it is unclear if a proposed use is a permitted use, or where uncertainty exists as to the meaning or application of any part of the Protective Covenants, an interpretation shall be made by the City Plan Commission for referral to the City Council.

III. SUBMISSION OF PLANS

No building, improvement, or use shall be erected, placed, or altered on any lot in the Park until the site plan has been approved by the City Plan Commission. Site plans shall be prepared and reviewed in accordance with City Code, as may be amended from time to time, and with these protective covenants.

IV. GENERAL RESTRICTIONS

- A. The division of any lot, area, or tract of land within the Park for any purpose, whether immediate or future for conveyance, transfer, improvement or sale shall not result in the creation of any parcel of land less than 1.5 acres in size, unless on North Douglas Street where lot size shall not be less than 0.5 acre in size.
- B. On any lot conveyed by deed from the City, construction shall be commenced within one (1) year from the date of such deed. One 3-month extension may be granted in writing by the Plan Commission. Construction must be completed within 18 months unless petitioned to the Plan Commission for an extension.
- C. No street in the Park shall be used for on-street employee parking or any overnight parking. All parking must be accommodated on the individual lots within the Park for employee and truck parking.
- D. The building and hard surface (parking lot, etc.) shall not exceed 75% of the lot. The minimum square footage of buildings shall be 2,000 square feet per 0.5 acre on North Douglas Street, 4,000 square feet per acre on Highway 44, and 8,000 square feet per acre in the rest of the Park.
- E. Setback requirements for all structures and buildings constructed within the Park shall conform to the minimum setback regulations pursuant to current City Code.
- F. No fence, wall, hedge or shrub, plant or tree which obstructs sight lines at an elevation of two (2) feet above the roadway shall be placed or permitted to remain on any corner within the triangular area formed by street property lines and a line connecting them at points eighty (80) feet from the intersection of the street lines.
- G. Lots fronting North Douglas Street shall be a minimum of 0.5 acre, and lots fronting Highway 44 shall be a minimum of 1.5 acres.

V. ARCHITECTURAL AND DESIGN CONTROLS

A. Buildings

1. **Exterior design policies and principles**

- a. Building façade elevations shall be designed to be visually pleasing and aesthetically compatible in architectural design with one another. Each building shall exhibit a coordinated design image, with façades, windows, roofs and structure expressing a clear relationship to the function they serve and the harmony and scale of the building as a whole.
- b. All buildings shall incorporate design principles of composition, detail, proportion, rhythm, scale and unity within the architectural design of exterior façades to achieve the desired design integrity and coherence within the Park.

2. **Exterior materials, finishes and design considerations**

All exterior materials, finishes, design and proposed buildings are subject to Plan Commission approval. The following is a list of approved exterior materials, finishes and suggested design considerations recommended to be incorporated into the design of each respective project, whenever possible.

For all lots abutting Highway 44, the front and two sides of the exterior of the building shall be 100 percent faced with concrete, brick, masonry, or stone.

For all lots abutting North Douglas Street, the front of the exterior of the building shall have a minimum of 50 percent faced with concrete, brick, masonry, or stone.

At least 25 percent of the front of all buildings—that is, the side facing the street on which the building is deemed to front—shall be faced with concrete, brick, masonry, or stone. Said facing shall extend across the full front of the building, however it need not be continuous across the entire face. All other sides of any building shall be finished in an attractive manner in keeping with the state of the art for industrial buildings, but need not be finished in a like manner as that portion of the building referred to as the front. On corner lots, both sides of the building facing the streets shall be faced as described above. It is the intent of these provisions that all structures shall be designed and constructed in such a manner as to provide an aesthetically pleasing appearance and be harmonious with the overall development of the Park.

Permitted Exterior Materials:

- a. Masonry
 - 1. Brick
 - 2. Stone (natural or manufactured)
 - 3. Tile

4. Architectural masonry units
5. Exposed plain (smooth) concrete block will only be permitted as an accent material and not as a predominate material on any elevation.

The use of masonry provides the designer an opportunity to use the modular nature of the material to an advantage through the use of varied coursing, textures, pattern and detail to create an individual expression of architectural character.

b. Concrete

1. Cast-in-place concrete with architectural finish
2. Pre-cast concrete with architectural finish
3. Architectural finish can include one or more of the following: Scored or reveal accent bands, painted or stained surfaces, integrated coloring system

The use of concrete as a predominate exterior material requires the designer to be innovative in the detailing of architectural finishes in terms of detail, pattern and texture to create visual interest and avoid a monotonous monolithic appearance.

3. Glass

- a. Aluminum framed glass storefront and curtain wall systems
- b. Aluminum framed doors, windows and skylights
- c. Aluminum framing to have either of the following finishes
 - Anodized
 - Baked painted (e.g. "Kynar") finish
- d. Glass can be clear, tinted or reflective

Aluminum framed glass may be used to not only bring light into and allow views from the building, but also as a means to introduce color, detail, pattern and texture into the exterior design.

4. Exterior Insulation Finishing Systems (EIFS)

Exterior insulation finishing systems are permitted. The use of EIFS should incorporate the use of color, detail, pattern and texture to take advantage of the design flexibility this affords.

5. Metal

- a. Metal copings, fascia, soffits, column enclosures and trim with corrosion resistant painted finish.
- b. Exposed structural elements with corrosion resistant painted finish.

c. Architectural metal canopies and roofing with corrosion resistant painted finish.

The use of standard corrugated metal panels as a primary wall finish is strongly discouraged. Alternative metal wall panels will be reviewed by the Plan Commission on a case by case basis for conformance with section V.A.1.

B. Loading

Loading areas shall be entirely contained within the site, and no loading function shall be allowed within the right-of-way or pavement setbacks. Loading areas shall not be allowed facing the residential area on North Douglas Street or along the principal façade of a structure, and they shall be screened from adjacent uses and public rights-of-way. Loading areas shall contain sufficient on-site space for maneuvering, and shall be physically separated from adjacent parking areas. Stacking or staging of loading and unloading activities on the public right-of-way is prohibited.

Surface, finish, separation, landscaping and access shall conform to parking area standards. Lighting shall be similar, except for loading dock areas, where higher intensity illumination is allowed, provided the lighting is shielded and/or directed in such a manner that it illuminates only the user's premises and does not spill over into neighboring areas so as to interfere with the peaceful enjoyment of neighboring properties.

In order to avoid stacking or staging of loading activities on public rights-of-way, there shall be minimum on-site loading areas, such that trucks waiting for loading and unloading cannot be parked or stored on adjacent roadways. Loading areas shall not be used for exterior storage of materials, vehicle storage or long-term parking.

C. Exterior lighting

For all lots in the Park, exterior lighting shall follow the current lighting requirements according to the City's I-1 Industrial zoning code.

Site lighting fixtures shall complement those used for overall business park lighting. Materials and colors should complement the natural site environment and facility design. Intensity shall be at least 0.5 foot candles for parking areas.

Security lighting may be used in loading or service areas, and must conform to the general standards for site lighting (cut-off, glare, hidden source, materials).

Applicant shall submit a lighting plan showing locations of all exterior lights, lighting specifications and associated lighting levels as applicable to these standards.

D. Signage

A primary monument sign, identifying the Park to customers and visitors, has been installed by the City of Ripon at the intersection of Highway 44 and Seelig Way. Two smaller (but similar) signs will be placed at the entrances off North Douglas Street. With respect to

business signage, all signs allowed in the Park must be approved by the Plan Commission, and they shall conform to the current City sign ordinance.

E. Dumpster enclosures

All refuse generated on the site shall be stored within proper dumpster enclosures located in areas that do not have a negative impact on the parking lot or use of the facility. Each dumpster enclosure shall be constructed with materials similar to the main building, fencing, or other screening material, and shall be 4-sided with a secured gate that conceals the contents of the enclosure. Such enclosure must be kept in good condition. If shrubs are used as the sight screen, they shall form an immediate, solid, opaque and continuous sight screen. The height of the dumpster enclosure must extend to at least 2 feet above that of the dumpster itself, so as to properly screen all refuse, even if temporary overflow occurs. No refuse may be incinerated on-site, except with the written approval of the Plan Commission, and in full compliance with appropriate provisions of Wisconsin Statutes and the Wisconsin Administrative Code.

F. Utilities

All utilities shall be located underground. Utility appurtenances shall be located in the rear or least predominant side of the building. Screening shall be by a 100% opaque screen of similar materials as the façade of the main structure, or dense landscaping, or a combination, and it must be approved by the Plan Commission.

G. Exterior storage

Exterior storage of materials and equipment is allowed in the rear of the building, shall be maintained in a neat and orderly manner, and shall be screened from sight. Such screening shall be opaque and extend to at least 10 feet in height and must be kept in good condition.

H. Fencing

- a. Fences shall not be permitted to be located in or across any utility easement or drainage ways.
- b. Fences must be kept in good repair and condition.
- c. Fences used for screening purposes shall be opaque.
- d. Barbed wire in any form is specifically prohibited in the Park unless a demonstrated need for security is evident, upon which written approval shall be obtained from the Plan Commission.

VI. EASEMENTS

All owners of said lands shall cooperate with the City in the planning and granting, at no cost to the City, of all necessary and reasonable utility, drainage, signage and all other types and kinds of

easements, and shall grant such easements provided they do not unduly restrict future development. No building or structure will be constructed over a utility/drainage easement.

Each owner shall be responsible for required maintenance within identified easements on their properties. The City may create additional easements for utilities and other public purposes over lots owned by the City, if the City deems the same necessary and useful.

VII. RIGHT OF FIRST REFUSAL POLICY

The City shall have first right-of-refusal for resale of vacant or undeveloped lots/land. Such option shall be exercisable upon delivery in writing of a notice to the buyer within 6 months after the expiration of such one (1) year period. Closing shall take place within 60 days following the exercise of such option on such date as shall be designated by the City specified in such notice. The purchase price to be paid by the City upon the exercise of such option shall be the sum of the following:

- (1) The purchase price paid for the land by the buyer.
- (2) The current market value of all improvements, if any, thereon made by the buyer.
- (3) All special assessments which have been paid by the buyer or levied against the premises during the period of such buyer's ownership.

Less the sum of the following:

- (4) Unpaid real estate taxes.
- (5) Proration of current year's real estate taxes to date of closing.
- (6) Title insurance policy premium.
- (7) Liens and encumbrances on the property of a definite or ascertainable amount.
- (8) The cost of any environmental audit and/or clean-up deemed necessary by the City to have performed on the parcel.

Conveyance shall be by warranty deed, free and clear of all liens and encumbrances except those in existence prior to the buyer's ownership of the property, and subject to municipal and zoning and land division ordinances, recorded easements for public utilities, and recorded Declaration of Restrictions and Covenants and amendments thereto. Seller shall furnish title insurance policy at seller's expense for full amount of purchase price.

VIII. TAX EXEMPT USES ON LAND NOT OWNED BY THE CITY

An owner hereby covenants and agrees that as a condition of acquiring title to land in the Park from the City, said owner shall not enter into any agreement to sell, lease, sub-lease or in any manner transfer all or any portion of owner's land in the Park to a third party entity that would result in all or any portion of the land use or underlying land in the Park becoming tax exempt or exempt from local taxation (hereinafter referred to as "Tax Exempt Entity" or "TEE"). An owner

shall prior to, and as a contingency of the sale, lease, sublease or transfer, provide notice to the City and shall require such TEE to enter into a payment in lieu of taxes agreement with the City, whereby such TEE shall contractually agree with the City to make an annual payment in lieu of property taxes to the City equivalent to the gross tax rate that would be imposed by the City if the use of the land was not tax exempt. In connection therewith, the City covenants and agrees to enter into the payment in lieu of taxes agreement with a TEE, and to fairly and accurately assess the value of the TEE's interest in the land in the Park.

An owner shall provide the City's Clerk with written notification of any sale, lease, sub-lease or transfer of all or any portion of land in the Park to a TEE not less than thirty (30) calendar days prior to the effective date of the sale, lease, sub-lease or transfer. The thirty (30) day period shall commence the date that the City is in receipt of said notice. If an owner fails to provide notice to the City and sells, leases, sub-leases or transfers all or any portion of land in the Park to a TEE, then the owner or grantor shall be the party responsible to make payment to the City in the amount that would be required had a payment in lieu of taxes agreement been executed between the City and the TEE as required in the Protective Covenants. The payment payable by an owner shall be a pro-rata portion of the amount due under a payment in lieu of taxes agreement, and shall commence from the date an owner transfers land in the park through and including the date a payment in lieu of taxes agreement is executed by and between the City and the TEE. Any payments made by an owner shall be on terms and conditions determined by the City.

If an owner or a TEE fails to issue any payment to the City as required under these Protective Covenants, the City shall have the right to institute any other actions or proceedings as it may have available at law or equity it deems desirable for effectuating the purposes of this section.

If an owner of land in the Park sells all, or any portion of the land in the Park, said owner shall require the grantee, as a condition pre-requisite to the completion of the transfer, to assume the owner's responsibilities under these Protective Covenants, and to execute any documents as may be required by the City to complete the assignment.

IX. AMENDMENT AND OWNERSHIP

These Protective Covenants may be changed, modified or amended at any time, in whole or in part, by a majority of owners in the Park, together with the approval of the Plan Commission and the City Council. For the purposes of determining the vote of the owners in the Park, each owner of land in the Park, other than the Plan Commission or City, shall be entitled to one (1) vote regardless of the amount of land owned.

In cases where a parcel of land is under the ownership of more than one (1) party, the record owner(s) shall be entitled to only one (1) vote. The vote of any owner shall be evidenced by the signature of an authorized representative of that owner, which need not be acknowledged or notarized.

These Protective Covenants may be modified and amended only upon the recording of an instrument in the office of the Fond du Lac County Register of Deeds.

If any potential buyer does not meet the minimum requirements set forth in these covenants, then the City Council and Plan Commission shall review potential projects on a case by case basis. At the discretion of the City Council and Plan Commission special exceptions and modifications to these covenants can be permitted. Special exceptions and modifications to the covenants will take into consideration the economic impact of each project.

X. OTHER APPLICABLE LAWS

Nothing contained herein shall nullify any of the requirements of federal, state or city laws, regulations or ordinances. In instances where applicable laws, regulations or ordinances, and these protective covenants conflict, the more restrictive shall apply.

For questions regarding these covenants please contact the City Administrator.

Dated this 27th day of July, 2012

Lori Rich
Lori Rich, City Administrator

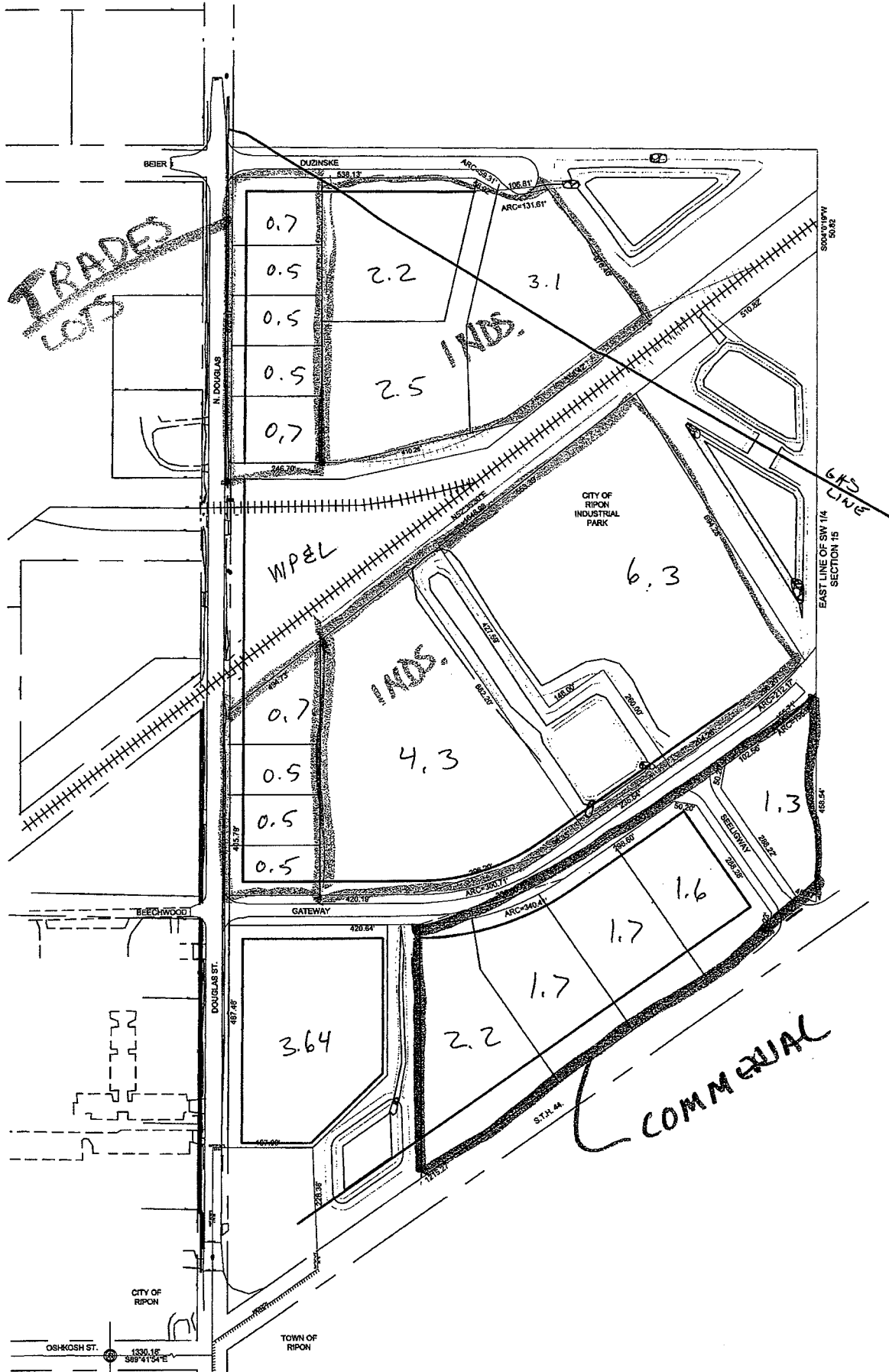
Gary A. Will
Gary Will, Mayor

Subscribed and sworn to before
me this 27 day of July, 2012

[Signature]
Notary Public - State of Wisconsin
My Commission: 15 years

Drafted by:
Wurtz Law Office, LLC
P.O. Box 603
Ripon, WI 54971

EXHIBIT A



ADDENDUM

PARCEL "A":

Situated along Douglas Street in that part of the East 1/2 of the S.W. 1/4 of Section 15, T16N, R14E, City of Ripon, Fond du Lac County, Wisconsin bounded and described as follows:

Commencing at the S. 1/4 corner of said Section 15, thence South 89°52'12" West along the South line of said Section 1330.08 ft. to the S.W. Corner of the E. 1/2 of said 1/4 section, thence North 00°12'14" East along the West line of said E. 1/2 aforesaid 1938.97 ft., thence North 89°49'37" East 31.11 ft. to a point on the East right-of-way line of Douglas Street and the point of beginning of the parcel to be described, thence North 00°16'48" East along said line 727.83 ft. to a point on the North line of the S.W. 1/4 of said Section, thence South 89°58'16" East along said North line 1299.69 ft., thence South 00°14'25" West along the East line of said 1/4 Section 87.91 ft. to a point on the Northerly right-of-way line of State of Wisconsin Department of Transportation, thence South 52°09'36" West along said right of way line 928.35 ft. to the Northeast most corner of Lot 1 of Certified Survey Map No. 5224, thence South 77°41'53" West along the North line of said lot 323.79 ft., thence South 89°49'37" West along said line 253.38 ft. to the point of beginning. Subject to all existing easements and restrictions of record.

PARCEL "B":

Situated along Douglas Street and S.T.H. "44" in that part of the East 1/2 of the S.W. 1/4 of Section 15, T16N, R14E, City of Ripon, Fond du Lac County, Wisconsin bounded and described as follows:

Commencing at the S. 1/4 corner of said Section 15, thence South 89°52'12" West along the South line of said Section 1330.08 ft. to the S.W. Corner of the E. 1/2 of said 1/4 section, thence North 00°12'14" East along the West line of said E. 1/2 aforesaid 472.75 ft., thence North 89°52'12" East 33.00 ft. to a point on the East right-of-way line of Douglas Street and the point of beginning of the parcel to be described, thence North 00°12'14" East along said right of way line 1010.05 ft. to a point on the Southerly right-of-way line of State of Wisconsin Department of Transportation, thence North 52°09'36" East along said line 1648.98 ft. to a point on the East line of said 1/4 Section, thence South 00°14'25" West along said line 1478.40 ft. to a point on the Northerly right-of-way line of S.T.H. "44", thence South 55°03'00" West along said line 1345.86 ft., thence North 02°23'08" West 228.36 ft., thence South 89°52'12" West 187.00 ft. to the point of beginning. Said parcel is subject to all existing easements and restrictions of record.

Per Tax Roll: Tax Key Nos:

T17-16-14-15-09-001-00 and T17-16-14-15-12-001-00

Douglas Street, Ripon, WI 54971