

EASEMENT AND OCCUPANCY PERMIT AGREEMENT REGARDING  
PUBLIC PARKING FACILITIES ALONG THE PUBLIC ALLEY  
BETWEEN MAIN AVE AND REID ST FROM 4<sup>TH</sup> STREET TO 5<sup>TH</sup> STREET



DocId:20018864

Tx:40449064

**3007442**

CHERYL BERKEN  
BROWN COUNTY  
REGISTER OF DEEDS  
GREEN BAY, WI  
RECORDED ON  
06/10/2022 11:43 AM  
REC FEE: 30,00  
TRANS FEE:  
EXEMPT #

PAGES: 9

Document Number

Document Title

Recording Area

Name and Return Address

Attorney Judith Schmidt-Lehman  
City of De Pere  
335 South Broadway Street  
De Pere, WI 54115

*Dw9*

Part of WD-889

Parcel Identification Number (PIN)

See Pages 1-2 for Legal Description

**EASEMENT AND OCCUPANCY PERMIT AGREEMENT REGARDING PUBLIC  
PARKING FACILITIES ALONG THE PUBLIC ALLEY BETWEEN MAIN  
AVENUE AND REID STREET FROM 4<sup>TH</sup> STREET TO 5<sup>TH</sup> STREET  
(WD-889)**

THIS AGREEMENT is executed this 7<sup>th</sup> day of APRIL, 2022, by and between the City of De Pere, a Wisconsin municipal corporation ("City") and James J. Kropp, an individual ("Kropp"), hereinafter together referred to as the "Parties".

WHEREAS, the City is desirous of creating new and improving existing public parking and storm water management facilities in the area of and specifically along and within the public alleyway in the block bordered by Main Avenue, 5<sup>th</sup> Street, Reid Street, and 4<sup>th</sup> Street ("the Block"), shown on the map attached and incorporated as Exhibit A; and

WHEREAS, Kropp is the owner of real property abutting said public alleyway and believes providing for public parking and providing storm water management facilities in the vicinity of said property will enhance the value of his property and other property in the area and encourage economic development within and around said Block; and

WHEREAS, in the interests of providing storm water management facilities and additional public parking areas, together with accommodating vehicular and pedestrian passage and safety along and within the Block, Kropp is willing to grant City a public right-of-way Easement (the "Easement") across and under his property upon the terms and conditions more fully set forth herein; and

WHEREAS, in recognition of such grant of Easement and in exchange therefore, City is willing to provide Kropp with an Occupancy Permit allowing for the exclusive use of one (1) parking stall in the vicinity of its property, as shown on Exhibit B, upon the terms and conditions more fully set forth herein; and

WHEREAS, City and Kropp believe this Agreement is consistent with and in promotion of the public interest.

NOW THEREFORE, upon the mutual promises and obligations contained herein, together with such other consideration, including the mutual benefits to be received by both parties attendant to the city's provision of the parking facility amenities, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**I  
EASEMENT**

**1. Grant of Easement**

Kropp hereby grants and conveys to City, its successors and assigns, the Easement, including the right, permission and authority to place, construct, reconstruct, maintain and repair municipal utility facilities and public parking facilities, together with landscaping and other amenities therefore upon the following described property:

*All that part of the Grantor's property being part of west 2/3 of Lot 3 and all of Lot 4 except the west 22 feet, Underwood's Addition to the City of De Pere, all located in*

## Easement and Occupancy Permit Agreement

(WD-889)

Page 2 of 5

*Private Claim 29, West Side of Fox River, City of De Pere, Brown County, Wisconsin more fully described as follows:*

*Commencing at the northeast corner of said Private Claim 29; thence N82°37'45"W, 888.98 feet on the north line of said Private Claim 29 to the northerly extension of the east line of the west 2/3 of said Lot 3; thence S07°29'56"W, 137.93 feet on said northerly extension and continuing on said east line to the **POINT OF BEGINNING**; thence continuing S07°29'56"W, 46.00 feet on said east line to the north right of way of the Public Alley; thence N82°36'37"W, 88.85 feet on said north right of way to a line that is 22.00 feet easterly of and parallel to the west line of said Lot 4; thence N07°32'30"E, 46.00 feet on said line that is 22.00 feet easterly of and parallel to the west line of said Lot 4 to a line that is 46.00 feet north of and parallel to said north right of way; thence S82°36'37"E, 88.81 feet on said line that is 46.00 feet north of and parallel to said north right of way to the Point of Beginning. Said described land contains 4,086 sq. ft. / 0.094 acres more or less.*

See Exhibit C, attached and incorporated by reference herein (the "Easement Area").

together with the right to enter upon the Easement Area and such lands of Kropp as are contiguous to the Easement Area as may be necessary to place, construct, reconstruct, replace, maintain and repair the same. Kropp, on behalf of himself and his successors and assigns, covenants and agrees that no building or structure shall be erected over and/or under the Easement Area and that Kropp shall not use the Easement Area in a manner which will impair the rights of the City or the public in such public parking facilities.

### **2. Maintenance of Easement Area**

City shall perform all construction, reconstruction, replacement, maintenance, repair and snow/ice removal on the Easement Area in accordance with its usual and customary practices and procedures.

### **3. Run With the Land**

All of the terms and conditions of this Agreement, including the benefits and burdens, shall run with the land and also be binding upon, and inure to the benefit of, and be enforceable by the heirs, successors and assigns of both parties.

### **4. Effective Date**

This Agreement shall be recorded in the Brown County Register of Deeds Office, which date of recording shall be the effective date of this Agreement and the effective date of the grant of Easement to City. City shall provide Kropp with 10 calendar days' written notice prior to recording the same to allow Kropp the opportunity to remove any items of personal property from the Easement Area.

### **5. Termination**

This grant of Easement shall become null and void and shall cease and all rights granted hereby, except those public utility rights surviving pursuant to Wis. Stats. §66.1005(2), shall revert back to the servient tenement (Parcel WD-889) upon the discontinuance of said easement by City and the contemporaneous revocation of the Occupancy Permit as provided in paragraph II.3. below, which revocation shall be recorded with the Register of Deeds for Brown County. City shall restore the Easement Area to like condition as existed

prior to the recording of the Easement Document under paragraph I.4. at its sole cost and expense at such termination of the Easement.

## II OCCUPANCY PERMIT

### 1. Occupancy Permit

For the consideration described above, the City hereby grants Kropp an Occupancy Permit for that area as shown and identified as "Occupancy Permit A" in Exhibit B, upon the Terms and Conditions set forth below. Such Occupancy Permit shall be effective upon the recording of this Agreement as provided in Paragraph I.4.

### 2. Terms and Conditions

Use of Occupancy Permit A is subject to the following terms and conditions:

- A. Occupancy Permit A is given to Kropp for its exclusive use of one (1) parking space identified on Exhibit B solely for private parking purposes associated with residential use by Kropp or his tenants of Parcel WD-889 and for no other purpose. City shall erect signs indicating reserved parking for the parking spaces occupying Occupancy Permit A.
- B. City shall keep the area encompassing Occupancy Permit A, together with the Easement Area, maintained as required under paragraph I.2. above.
- C. Kropp shall save and hold the City harmless from any and all injury occurring to persons or property of Kropp, its agents or employees, third parties, the City or its agents, employees or officials which are alleged to have occurred as a result of the use of the Occupancy Permit A described hereunder. Such hold harmless is intended to be to the fullest extent permitted by law and is to include reasonable attorney's fees occasioned in the defense of any claim or civil action addressed by this provision.

### 3. Termination

- A. Occupancy Permit A shall be valid and accrue to the successors and assigns of Kropp until such time as City deems the public parking facilities component of the Easement provided under paragraph I. is no longer needed for public purposes. Should City so determine, it shall notify Kropp that Occupancy Permit will terminate and Kropp, shall within 90 days after such written notice, discontinue such use.
- B. Upon the expiration of the time period specified above, the Easement granted by this Agreement shall be terminated and discontinued by City in accordance with Wis. Stats. §66.1003 and all rights except those utility rights surviving pursuant to Wis. Stats. §66.1005(2) shall terminate as provided in paragraph I.4.
- C. During the time period between delivery of the written notice terminating Occupancy

Permit A and discontinuance of the Easement under Wis. Stats. §66.1003, the City shall take all Steps necessary to remove the public parking facilities installed within the Easement Area and restore the Easement Area to a like condition as existed prior to the grant of Easement.

### III DEFAULT

1. **Breach and Cure**

Any provision of this Agreement which does not contain a specific remedy shall be resolved as provided hereunder. If either party believes a breach has occurred, it shall provide the other party with written notice thereof, informing the other party that it has fifteen (15) days to cure such breach. If there is no cure of that breach, the party may bring any action available for any remedy provided in law or equity.

2. **Specific Performance**

In the event either party fails to perform in compliance with this Agreement or unreasonably delays in such performance, nothing in this Agreement shall prevent the other party from maintaining an action in specific performance to compel the performance, demanding damages for any injury caused by the failure of the other party to act in compliance with such performance within a reasonable time or any other remedy or collection of any other costs available in law or equity.

### IV MISCELLANEOUS

1. **Obligations Run With the Land**

The obligations contained herein shall run with the land and are binding on City's and Kropp's successors and assigns. This Agreement and any amendment thereto shall be recorded with the office of the Brown County Register of Deeds.

2. **Assignment**

Neither party shall assign this Agreement without the written consent of the other party.

3. **Notices**

Unless otherwise specifically addressed in this Agreement, all notices required by this Agreement must be in writing. All notices of breach or termination as required in this Agreement shall be mailed by certified mail to the addresses below and shall be deemed received on the date of mailing. All other notices required under this contract may be sent by regular mail. All notices and communications shall be addressed to the parties hereto at their respective addresses set forth and shall be deemed received on the date of postmark.

A. James J. Kropp  
883 Richborough Road  
Green Bay, WI 54313

B. City of De Pere  
Attn: City Clerk  
335 South Broadway Street  
De Pere, WI 54115

4. **Law Governing**

This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

5. **Entire Agreement**

This Agreement contains all agreements, terms, covenants, conditions and representations made or entered into by and between the parties and supersedes all prior discussions and agreements, whether written or oral, between the parties and constitutes the sole and entire agreement between the parties with respect thereto. This Agreement may not be modified or amended unless such modification or amendment is set forth in writing and executed by all parties hereto.

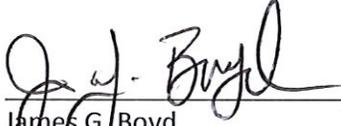
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first written above.

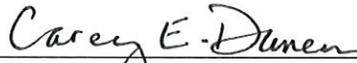
James J. Kropp

City of De Pere

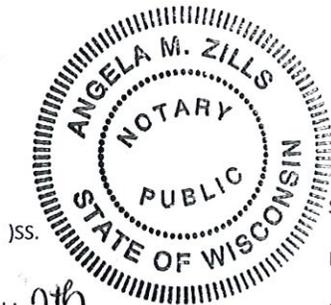
By:

  
\_\_\_\_\_  
Signature  
Print name: James J. Kropp  
Title: JAMES J. KROPP

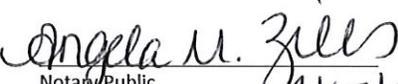
  
\_\_\_\_\_  
James G. Boyd  
Mayor

  
\_\_\_\_\_  
Carey E. Danen  
City Clerk

STATE OF WISCONSIN )  
BROWN COUNTY )



Personally came before me this 7<sup>th</sup>  
day of April, 2022, the above  
named James J. Kropp known as the  
person(s) who executed the foregoing  
instrument and acknowledge the same.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 4/15/2022

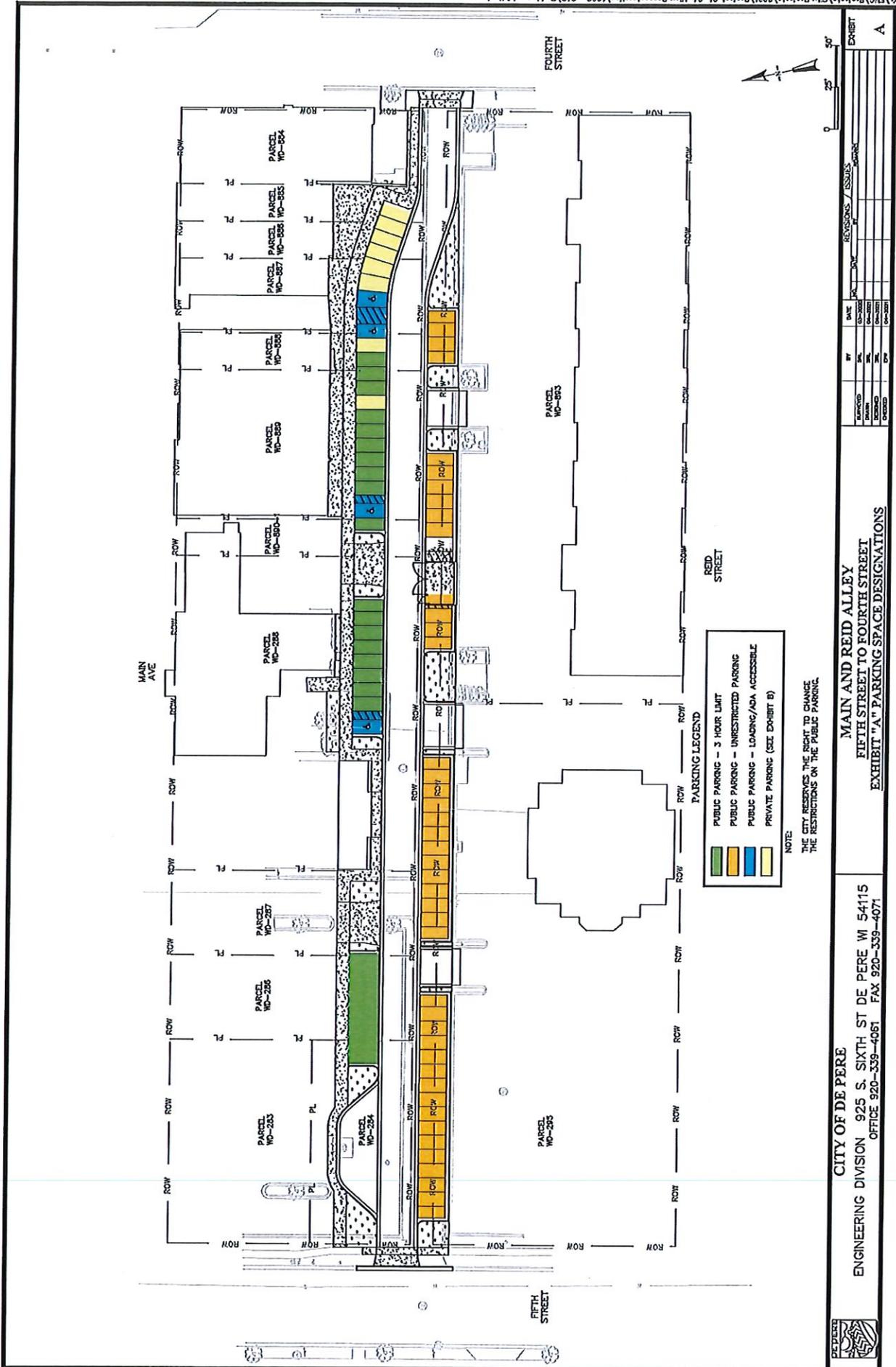
STATE OF WISCONSIN )  
BROWN COUNTY )



Personally came before me this 8<sup>th</sup>  
day of April, 2022, the above  
named James G. Boyd, Mayor and  
Carey E. Danen, City Clerk, known as  
the persons who executed the  
foregoing instrument acknowledge  
the same.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 4/15/2022

Drafted by: Judith Schmidt-Lehman



**PARKING LEGEND**

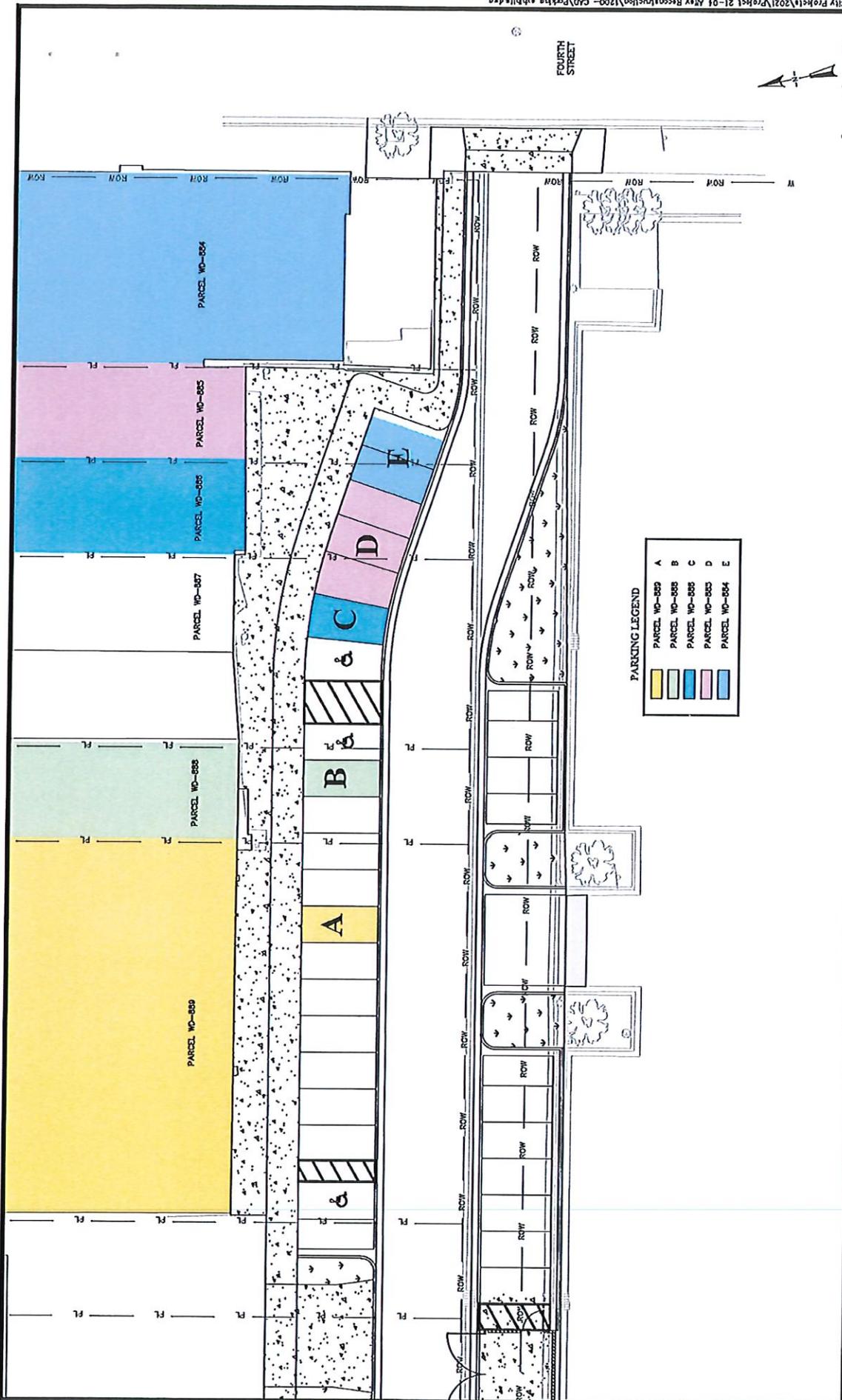
- PUBLIC PARKING - 3 HOUR LIMIT
- PUBLIC PARKING - UNRESTRICTED PARKING
- PUBLIC PARKING - LOADING/ADA ACCESSIBLE
- PRIVATE PARKING (SEE EXHIBIT B)

NOTE:  
THE CITY RESERVES THE RIGHT TO CHANGE THE RESTRICTIONS ON THE PUBLIC PARKING.

DATE	BY	REVISIONS / ISSUES
04-15-2021	DM	ISSUES

**CITY OF DE PERE**  
ENGINEERING DIVISION 925 S. SIXTH ST DE PERE WI 54115  
OFFICE 920-339-4061 FAX 920-339-4071

**MAIN AND REID ALLEY**  
FIFTH STREET TO FOURTH STREET  
EXHIBIT "A" PARKING SPACE DESIGNATIONS



**PARKING LEGEND**

Yellow	PARCEL WD-889	A
Light Green	PARCEL WD-888	B
Light Blue	PARCEL WD-885	C
Pink	PARCEL WD-883	D
Blue	PARCEL WD-884	E

<p><b>CITY OF DE PERE</b>                  ENGINEERING DIVISION 925 S. SIXTH ST DE PERE WI 54115                  OFFICE 920-338-4061 FAX 920-339-4071</p>		<p><b>MAIN AND REID ALLEY</b>                  FIFTH STREET TO FOURTH STREET                  EXHIBIT "B" PRIVATE PARKING SPACE DESIGNATION</p>		<p>DATE: 10-20-21                  DRAWN: [Name]                  CHECKED: [Name]                  DESIGNED: [Name]</p>	<p>BY: [Name]                  FOR: [Name]                  DATE: 10-20-21</p>	<p>REVISIONS / ISSUES</p>	<p>EXHIBIT                  B</p>
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# EXHIBIT 'C'

DE PERE COMPANY'S ADDITION TO WEST DE PERE

MAIN AVENUE

STH '32'

GRANTOR =  
JAMES J. KROPP

PIN = WD-889

GRANTEE =  
CITY OF DE PERE

WEST 22' OF LOT 4

CARABIN'S ADDITION  
TO WEST DE PERE

WEST 2/3 OF LOT 3

UNDERWOOD'S ADDITION TO WEST DE PERE

19

20

PUBLIC ALLEY

22

21

CARABIN'S ADDITION  
TO WEST DE PERE

UNDERWOOD'S ADDITION TO WEST DE PERE

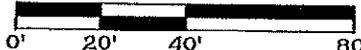
6

7

LEGEND

-  PIN
-  PARCEL IDENTIFICATION NUMBER
-  EASEMENT AREA

SCALE: 1" = 40'



PREPARED BY:



**ROBERT E. LEE & ASSOCIATES, INC.**  
ENGINEERING, SURVEYING, ENVIRONMENTAL SERVICES  
1250 CENTENNIAL CENTRE BOULEVARD  
HOBART, WI 54155  
PHONE: (920) 662-9841  
INTERNET: WWW.RELEEINC.COM FAX: (920) 662-9141  
R:\0400\0404\0404447\DWG\WD889\_EXHIBIT.DWG

PREPARED FOR:



**CITY OF DE PERE**  
ENGINEERING DIVISION  
925 S. SIXTH STREET  
De Pere, Wisconsin 54155  
Office: (920) 339-4051  
FAX: (920) 339-4071

DATE: 10/19/2020

REL JOB # 0404447

EXHIBIT  
SHEET 1 OF 1