



City of Fitchburg
 Planning/Zoning Department
 5520 Lacy Road
 Fitchburg, WI 53711
 (608) 270-4200

CONDITIONAL USE PERMIT APPLICATION

The undersigned owner, or owner's authorized agent, of property herein described hereby applies for a conditional use permit for the following described property:

1. Location of Property:

Street Address: Right of Way & Adjoining land within proposed easement - Murphy Road @ Murphy's Creek

Legal Description - (Metes & Bounds, or Lot No. And Plat): _____

***Also submit in electronic format (MS WORD or plain text) by email to: **PLANNING@FITCHBURGWI.GOV**

2. Current Use of Property: Road corridor, woodland and marshland

3. Proposed Use of Property: More road and less woodland/marshland

4. Proposed Development Schedule: Fall 2017

5. Zoning District: _____

6. Future Land Use Plan Classification: _____

***Pursuant to Section 22-3(b) of the Fitchburg Zoning Ordinance, all Conditional Use Permits shall be consistent with the currently adopted City of Fitchburg Comprehensive Plan.

***Attach three (3) copies of a site plan which shows any proposed land divisions, plus vehicular access points and the location and size of all existing and proposed structures and parking areas. Two (2) of the three (3) copies shall be no larger than 11" x 17". Submit one (1) pdf document of the entire submittal to planning@fitchburgwi.gov.

Additional information may be requested.

Type of Residential Development (If Applicable): _____

No. of Dwelling Units by Bedroom: 1 BR 2 BR 3 BR 4 or More

No. Of Parking Stalls: _____

Type of Non-residential Development (If Applicable): _____

Proposed Hours of Operation: _____ **No. Of Employees:** _____

Floor Area: _____ **No. Of Parking Stalls:** _____

Sewer: Municipal Private **Water:** Municipal Private

Current Owner of Property: City of Fitchburg, Charles Uphoff & Aree Watts

Address: 5520 Lacy Road **Phone No:** 270-4266

Contact Person: Gus VanderWegen

Email: gus.vanderwegen@fitchburgwi.gov

Address: City Hall

Phone No: _____

Respectfully Submitted By: _____

Owner's or Authorized Agent's Signature

**** It is highly recommended that an applicant hold at least one neighborhood meeting prior to submitting an CUP application to identify any concerns or issues of surrounding residents.**

PLEASE NOTE - Applicants shall be responsible for legal or outside consultant costs incurred by the City. Submissions shall be made at least four (4) weeks prior to desired plan commission meeting.

For City Use Only: **Date Received:** _____ **Publish:** _____

Ordinance Section No. _____ **Fee Paid:** _____

Permit Request No. _____



September 19, 2017

GP-SC-2017-13-T03161

City of Fitchburg
William Balke
5520 Lacy Road
Fitchburg, WI 53711

RE: Coverage under the wetland and waterway statewide general permit for municipalities to construct, reconstruct or maintain highways, bridges, arches and culverts, located in the City of Fitchburg, Dane County.

Dear Mr. Balke:

Thank you for submitting an application for coverage under the wetland and waterway statewide general permit for municipalities to construct, reconstruct or maintain highways, bridges, arches and culverts, 30.206. Please note, additional permitting information can be found by following the hyperlinks throughout the electronic version of this document.

Project Description

The project includes the replacement of a low single-span steel deck girder structure with an opening of 12.1 feet with a box culvert on Murphy Road over Murphy Creek. The new structure will be 12 feet by 4 feet and will be buried 0.82 feet below the stream bed. The existing structure has a cross sectional area of 31.82 feet and the proposed structure will have 38.16 feet of cross sectional area. The roadway approaches will be reconstructed to match the existing profile. Wetland disturbance will occur at the wingwalls on both sides of the structure. Wetland disturbance will total approximately 3,046 square feet.

You have certified that your project meets the eligibility criteria and conditions for this activity. Based upon your signed certification you may proceed with your project. **Please take this time to re-read the permit eligibility standards and conditions.** The eligibility standards can be found on your application checklist or in the statewide general permit, [WDNR-GP2-2012](#). The permit conditions are attached to this letter. You are responsible for meeting all general permit eligibility standards and permit conditions. This includes notifying the Department before starting the project, and submitting photographs within one week of project completion. Please note your coverage is valid for 5 years from the date of the department's determination or until the activity is completed, whichever occurs first.

Wetlands

According to the project information submitted, 3,046 square feet of wetland fill will occur. This permit coverage constitutes the state of Wisconsin's wetland water quality certification under USCS s. 1341 (Clean Water Act s. 401).

Endangered Resources

Based upon a review of the Natural Heritage Inventory (NHI) and other DNR records dated September 19, 2017, no Endangered Resources or suitable habitat that could be impacted by this project are known or likely to occur in the project area or its vicinity.

Inspections

The Department conducts routine inspections and may follow up to inspect your project to verify compliance with state statutes and codes. If you decide to modify your project, please contact your local Department Transportation Liaison to discuss any proposed modifications.

Federal & Local Permitting

The municipality is responsible for obtaining any local, state or federal permits that may be required before starting your project.

If you have any questions regarding the contents of this letter, please call me at (608) 228-7927 or email Eric.Heggelund@Wisconsin.gov.

Sincerely,

Eric Heggelund

Eric Heggelund
WDNR Transportation Liaison

cc: Kerrie Hauser, U.S. Army Corps of Engineers
Dane County Zoning Administrator
David Koser, Strand, Inc.

Attachments:

WDNR-GP2-2012 Permit Conditions – Local Roads, Bridges, Arches, Culverts

WDNR-GP2-2012 Permit Conditions – Local Roads, Bridges, Arches, Culverts

You agree to comply with the following conditions:

- 1. Application.** You shall submit a complete application package to the Department as outlined in Section 2 of this permit. If requested, you shall furnish the Department, within a reasonable timeframe, any information the department needs to verify compliance with the terms and conditions of this permit.
- 2. Certification.** Acceptance of general permit WDNR-GP2-2012 and efforts to begin work on the activities authorized by this general permit signifies that you have certified the project meets all eligibility standards outlined in Section 1 of this permit and that you have read, understood and have agreed to follow all terms and conditions of this general permit.
- 3. Reliance on Applicant's Data.** The determination by this office that a confirmation of authorization is not contrary to wetland water quality standards will be based upon the information provided by the applicant and any other information required by the DNR.
- 4. Project Plans.** This permit does not authorize any work other than what is specifically described in the notification package and plans submitted to the Department and you certified is in compliance with the terms and conditions of WDNR-GP2-2012.
- 5. Expiration.** This WDNR-GP2-2012 expires on November 1, 2017. The time limit for completing work authorized by the provisions of WDNR-GP2-2012 ends 5 years after the date on which the discharge is considered to be authorized under WDNR-GP2-2012 or until the discharge is completed, whichever occurs first.
- 6. Other Permit Requirements.** You are responsible for obtaining any other permit or approval that may be required for your project by local zoning ordinances, other local authority, other state permits and by the U.S. Army Corps of Engineers before starting your project.
- 7. Project Start.** You shall notify the Department before starting construction.
- 8. Permit Posting.** A copy of the permit coverage letter and approved plan must be maintained and available on the project site prior to construction, and remaining at least five days after construction.
- 9. Permit Compliance.** The department may modify or revoke coverage of this permit if it is not constructed in compliance with the terms and conditions of this permit, or if the Department determines the project will be detrimental to the public interest or wetland water quality standards. Any act of noncompliance with this permit constitutes a permit violation and is grounds for enforcement action. Additionally, if any conditions of this permit are found to be invalid or unenforceable, authorization for all activities to which that condition applies is denied.

- 10. Construction Timing.** Once waterway work below the OHWM commences, all construction activities in those waterways must be continuous until the work is completed and the site is stabilized. Once wetland work commences, all construction activities in those wetlands must be continuous to the extent practicable. During periods of inactivity in wetlands, the site must be made stable until the work is resumed and completed.
- 11. Construction.** No other portion of the wetland may be disturbed beyond the area designated in the submitted plans.
- 12. Project Completion.** Within one week of project completion you shall submit to the WDNR Transportation Liaison a statement certifying project is in compliance with all the terms and conditions of this permit and photographs of the activities authorized by this permit.
- 13. Proper Maintenance.** You must maintain the activity authorized by WDNR-GP2-2012 in good condition and in conformance with the terms and conditions of this permit, and must avoid additional impacts to waterways and wetlands. Remove accumulated brush, debris or other obstructions that are trapped in or underneath the structure regularly.
- 14. Site Access.** Upon reasonable notice, you shall allow access to privately owned area of the site to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance the terms and conditions of WDNR-GP2-2012 and applicable laws.
- 15. Erosion and Sediment Control Practices.** The project site shall implement erosion and sediment control measures that adequately control or prevent erosion, and prevent damage to waterways and wetlands as outlined in [NR 151](#), Wis. Adm. Code.

Note: If the project includes any grading, excavation or land-disturbance activity in excess of one acre, you may also need to receive coverage under a [Construction Site Stormwater Permit](#) in addition to this permit. Contact the [WDNR Transportation Liaison](#) to determine the need for additional review.

- Pump intakes and discharges shall prevent impacts to fisheries, wildlife, and their habitat, and must be placed to prevent the disturbance, removal and scour of bed material.
- You shall remove all coffer dams in such a way that minimizes the release of sediment and other downstream impacts.
- Consistent with stream flows reasonably predictable during the time period of use, temporary structures shall have sufficient waterway opening, either inherent in the structure or combined with an overflow area, to prevent damage from back-up of water and downstream siltation due to washout or scouring of temporary facilities.
- All grading, excavation and land-disturbance activity will be confined to the minimum area necessary for the placement of the structure and will not exceed one (1) acre.

- Construction and dewatering activities shall be accomplished in such a manner as to minimize erosion and siltation into surface waters and wetlands. All erosion control measures must meet or exceed the [WDNR Technical Standards](#).
- Construction of the bridge, culvert, or arch shall be completed as quickly as possible in order to minimize disruption. Construction shall minimize the removal of trees, shrubs and other shoreline vegetation above the ordinary high water mark (OHWM), unless otherwise directed by the WDNR Transportation Liaison. Construction equipment should not operate on the bed of the stream, below the OHWM, except for that which is necessary for the placement of the structure.
- You are not allowed to do construction during periods of high water levels to avoid overwhelming the construction site.

16. Bats. As a result of the recent listing of 4 species of bats as Threatened in Wisconsin, bridges should be inspected for bat use prior to demolition or repair. Specific guidance is in development and will be available upon request.

17. Swallows. Swallows may nest under bridges. Nesting swallows are protected under the Migratory Bird Treaty Act. The nesting season for swallows has been established as May 1 through August 30. The need for a US Fish and Wildlife Service depredation permit may be avoided by removing the existing bridge superstructure prior to nest occupation by swallows, and clearing the nests from and installing a suitable netting device on the remaining existing superstructure prior to nesting activity to prevent the swallows from nesting.

18. Contaminated Sites. The Department provides an on-line database of contaminated sites, called the [Redevelopment and Remediation \(RR\) Site Maps](#). You must check the site to see if a hazardous substance release has been reported in your project area, and if there has been a release, contact WDNR before submitting your application for WDNR-GP2-2012.

19. Asbestos. Any bridge or culvert that is not wood, metal, glass or fiberglass may contain asbestos. WDNR needs to be notified by the [Asbestos removal and notification forms](#) 10 days before the demolition of any existing structure, which may contain asbestos.

20. Hazardous Sites. You must determine if there are any Environmental Repair and Solid Waste disposal sites may be within the project boundaries by checking the [Historic Registry of Waste Disposal Sites](#). You must check the site to see if a hazardous substance release has been reported in your project area, and if there has been a release, contact WDNR before submitting your application for WDNR-GP2-2012.

21. Invasive Species. All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing [best management practices to avoid the spread of invasive species](#).

22. Wetland protection. You shall not store any vegetation, material, or equipment in wetlands. The project will be constructed in a manner that will maintain wetland hydrology in the remaining wetland complex.

- 23. Temporary fills.** Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation and vegetated.
- 24. Federal and State Threatened and Endangered Species.** WDNR-GP2-2012 does not affect the DNR's responsibility to insure that all authorizations comply with Section 7 of the Federal Endangered Species Act, s. 29.604, Wis. Stats and applicable State Laws. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act and/or State law or which is likely to destroy or adversely modify the critical habitat of a species as identified under the Federal Endangered Species Act.
- 25. Special Concern Species.** If the Wisconsin National Heritage Inventory lists a known special concern species to be present in the project area you will take reasonable activities to prevent significant adverse impacts or to enhance the habitat for the species of concern.
- 26. Historic Properties and Cultural Resources.** WDNR-GP2-2012 does not affect the DNR's responsibility to insure that all authorizations comply with Section 106 of the National Historic Preservation Act and s. 44.40, Wis. Stats. No DNR authorization under this permit will be granted for projects found not to comply with these Acts/laws. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately until the State Historic Preservation Officer is contacted for further instruction.
- 27. Preventive Measures.** Measures must be adopted to prevent potential pollutants from entering a wetland or waterbody. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter a wetland or waterbody as a result of spillage, natural runoff, or flooding. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at **1-800-943-0003**.
- 28. Reporting a violation.** You shall report any violations of this permit that you become aware of to the Department within 24 hours of the incident occurrence.
- 29. Suitable fill material.** All fill authorized under this permit must consist of clean suitable soil material, as defined by s. NR 500.03(214), Wis. Admin. Code, free from hazardous substances as defined by s. 289.01(11), Wis. Stats., and free from solid waste as defined by ss. 289.01(11) and (33), Wis. Stats.
- 30. Standard for Coverage.** Wetland impacts from the project will cause only minimal adverse environmental impacts as determined by the Department.
- 31. Property Rights.** This permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.

32. Transfers. Coverage under this permit is not transferable to any person.

33. Limits of State Liability. In authorizing work, the State Government does not assume any liability, including for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the State in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this WDNR-GP2-2012.

34. Reevaluation of Decision. The Department may suspend, modify or revoke authorization of any previously authorized activity and may take enforcement action if the following occur:

- a. The applicant fails to comply with the terms and conditions of WDNR-GP2-2012.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate.
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Yes

3. Are all road activities carried out within the immediate area of the roadbed only?

Yes

4. What is the purpose of grading and restoring the yellow area shown on the attached exhibit?

Relocate the ditches to maintain sideslope of 3:1 maximum.

5. Legal Description:

Uphoff Permanent Limited Easement

Part of the Southeast Quarter of the Northeast Quarter of Section 24, Township 6 North, Range 9 East, in the City of Fitchburg, Dane County, Wisconsin.

Commencing at the East Quarter Corner of said Section 24; thence N89°31'47"W, 741.42 feet, along the south line of the Southeast Quarter of the Northeast Quarter; thence N00°28'13"E 49.50 feet to the north Right-of-Way line of Murphy Road and the Point of Beginning; thence continuing N00°28'13"E, 10.00 feet; thence N89°31'47"W, 168.00 feet; thence S00°28'13"W 10.00 feet, to the north Right-of-Way line of Murphy Road; thence S89°31'47"E, 168.00 feet, along said Right-of-Way line to the Point of Beginning. Parcel containing 1,680 square feet more or less.

Watts Permanent Limited Easement

Part of the Northeast Quarter of the Southeast Quarter of Section 24, Township 6 North, Range 9 East, in the City of Fitchburg, Dane County, Wisconsin:

Commencing at the East Quarter Corner of said Section 24, also being the Northeast corner of parcel 0609-244-8000-0; thence N89°31'47"W, 741.42 feet, along the North line of said Parcel and the North line of the Northeast Quarter of the Southeast Quarter and the South Right-of-Way line of Murphy Road, to the Point of Beginning; thence continuing along said Parcel, Right-of-Way and Section line N89°31'47"W, 168.00 feet; thence S00°28'13"W 15.00 feet; thence S89°31'47"E, 168.00 feet; thence N00°28'13"E 15.00 feet, to the Point of Beginning. Parcel containing 2,520 square feet more or less.