

**TOWN OF NEW GLARUS
PLAN COMMISSION MEETING
THURSDAY, MARCH 16, 2023, 6:00 PM
AGENDA**

Join by Zoom: <https://us06web.zoom.us/j/81856123399?pwd=WHlscFpZdmlSOUdRVk9OamMwcHY3QT09>

Meeting ID: 818 5612 3399

Passcode: 971855

Dial by your location: 1 312 626 6799

New Glarus Town Hall
26 5th Avenue
New Glarus, WI 53574

DATE: Thursday, March 16, 2023
TIME: 6:00 PM

NOTICE IS HEREBY GIVEN that Town of New Glarus Plan Commission, County of Green, may act on the following matters if any required public hearing has been held:

1. Call to Order/Confirm Proper Proof of Posting
2. Approve Minutes from February 16, 2023
3. Update Regarding Natural Heritage Inventory (NHI) Determination by Wisconsin Department of Natural Resources and any Restrictions on the Development
 - a) Hustad Valley Road property owned by Collin Legler
 - b) Airport Road property owned by Carol Holmes
4. Deed Restriction Recorded for Hustad Valley Road Property
5. Private Road Maintenance Agreement for Airport Road Property
6. Discussion with Possible Action Regarding Driveway Permit Request for O 'Flanagan Property Located at W5921 Legler Valley Road
7. Discussion with Possible Action Regarding the Expiration of Chair Appointment on Plan Commission on April 18, 2023
8. Scheduled Public Hearing Date to Amend Chapter 110 on April 12, 2023
 - a) Add "municipal use" and/or "public use" to the definitions within 110-5
 - b) Open space definition: include specific public or municipal uses
9. Clarification of Town Process for Development Potential Questions
10. Updates Regarding W6599 STH 39 Property and Knowles-Nelson Stewardship Grant Application
 - a) Approval of amended CORP
 - b) Town Board decision regarding firm to perform USPAP-compliant appraisal of land restricted to passive recreational use
11. Adjourn

Pursuant to applicable law, notice is hereby given that a quorum or a majority of the New Glarus Town Board Members may attend this meeting. Information presented at this meeting may help form the rationale behind future actions that may be taken by the Town of New Glarus Board. Persons requiring additional services to participate in a public meeting may contact the Town Clerk for assistance at 527-2390.

Posted: 03/08/2023

New Glarus Town Hall
New Glarus Maintenance
New Glarus Post Office
<https://townofnewglarus.com/>

Chris Narveson, Chair
Town of New Glarus Plan Commission
Tim Schleeper, Plan Administration
John Wright, Clerk-Treasurer

TOWN OF NEW GLARUS
PLAN COMMISSION MEETING
THURSDAY, FEBRUARY 16, 2023
MINUTES

Members Attending: Chris Narveson: Chair; John Freitag (virtually), Craig Galhouse (virtually), Mark Pernitz, Robert Elkins, and Reg Reis

Absent: John Ott (excused)

Also Attending: John Wright: Clerk-Treasurer; Tim Schleeper (virtually): planner, Vierbicher Associates; Bob Talarczyk (departed at 7:24 PM): surveyor; Carol Holmes (departed at 7:24 PM): developer for Airport Road property; Rebecca Hauser and Nic Hauser (departed at 6:36 PM): Town residents; and Amanda Fields (virtually, departed at 7:15 PM)

1. **Call to Order and Proof of Posting:** Chair Narveson called the meeting to order at 6:03 PM. Clerk-Treasurer Wright attested to proper proof of posting.
2. **Approve Minutes:** Commissioner Freitag noted that the minutes indicate he was in attendance as well as an excused absence. The attendance should reflect his absence. Motion to approve the meeting minutes from January 19, 2023, as amended, was made by Commissioner Elkins; second by Commissioner Pernitz. Motion carried 6-0.
3. **Discuss Possible Sale of Deed-Restricted Land Owned by Rebecca Hauser** – Tim Schleeper, Town contract planner from Vierbicher, stated that nothing within Chapter 110 prohibits the subdivision and sale of deed-restricted open space. However, he noted, such sales should make any potential buyer fully aware of the restrictions upon building and should be stated on the face of a certified survey map (CSM). He further recommended that any such subdivisions of deed-restricted open space have a deed restriction recorded simultaneously with the recordation of the CSM. There followed a discussion of the potential problems if this practice becomes more commonplace, particularly making County Zoning and the contracted building inspector aware of these restrictions. It was noted that subdivided open space is already sold and recorded by neighbor exchange.

This proposed sale by Rebecca Hauser would involve approximately 10 acres of the western portion of parcel 23024 0236.0500 which is 46.90 acres in size to her grandson.

Motion to approve the sale of ten acres of parcel 23024 0236.0500 to be recorded by certified survey map, contingent upon filing a deed restriction and including language regarding the restriction on the face of the CSM, was made by Commissioner Freitag; second by Commissioner Galhouse. Motion carried 6-0.

4. **Concept Plan for STH 39 Property Under Consideration by Green County Highway Department** – Planner Schleeper referred to his letter included in the packet, dated February 13, 2023. He noted that Chapter 110 will need to be amended to allow for public buildings in open space for the proposed structure to not count as a large lot subdivision of land. He noted that the access, per the Concept Plan map, is labelled as a Town road. Schleeper stated that this option may not be financially viable for a future developer, based upon the remaining cluster lot potential available. If, however, the Town seeks to connect STH 39, via Ashley Lane, to Legler Valley Road, this would be a logical location to do so. Access from STH 39 is controlled by the Wisconsin Department of Transportation. Acceleration and deceleration lanes may be required if access is granted by WisDOT. Green County Highway has the option to construct a private driveway if granted access by the State. Chair Narveson stated that the drive could be built to County road specifications: 12” of base with 4” of pavement with a width of 22’. There was no objection for Green County Highway to move forward with a draft certified survey map, submit a Natural Heritage Inventory application to the Wisconsin Department of Natural Resources, and

TOWN OF NEW GLARUS

check the Wisconsin Historical Society database. Planner Schleeper noted that the owner of the cell tower may have to relocate their access to STH 39 if WisDOT grants access to Green County Highway for the location they are proposing. Without objection, item 9 on the agenda will be addressed next.

9. **Update on Holmes Draft Final Plat** – Surveyor Talarczyk noted that he made changes to the Preliminary Plat that includes the strip easement for the buried gas utility, a map of slopes equal to or exceeding 20%, relocation of a possible future cul-de-sac bulb further south, and the adjustment of building envelopes. It was noted that the Plat has been submitted to the Village who has review authority of the subdivision, but not extraterritorial zoning authority. Schleeper and Talarczyk will work cooperatively to define a vision triangle across a portion of the southeast arc of Lot 6. Applicant Holmes asked whether to proceed with a perc test. Without objection, she should move forward with that. The name of the subdivision has yet to be determined.

Motion to recommend the approval of the Final Plat for applicant Carol Holmes by the Town Board, which includes the changes/additions discussed, was made by Commissioner Pernitz; second by Commissioner Elkins. Motion carried 6-0.

5. **Update from Ad-Hoc Subcommittee and Board Review of Ad-Hoc Recommendations**
 - a. Concept Plan of STH 39 property – Schleeper noted that the original split computation assumed 140 contiguous acres at date of the approval of the land division and subdivision ordinance. The remaining development has been recalculated based upon 137.9577 acres, which would preclude another large lot division. However, the original homesite, if part of a cluster division of property, would allow for the potential of four more cluster lots that are a minimum of 2.0 acres in size. Chair Narveson provided those in attendance with a brief report from the ad-hoc subcommittee. That body recommends relocating future public buildings away from STH 39 and to the west of the current driveway. After a Special Town Board meeting held on February 18, 2023, the Board members selected Joel Hedeman, First Weber, and Brian Jeglum, Century 21, to co-broker the marketing and sale of the buildings included in the farmette and 10.3 acres of land. If awarded the Knowles-Nelson Stewardship Grant, the Town could receive 50% of the appraised value of the 64-65 acres of land restricted to passive recreational use. There followed a brief discussion regarding an attempt to exchange property with or purchase property from a neighbor in order to relocate the current STH 39 access further to the west; that request was turned down. There was further discussion regarding a possible purchase or exchange of land with a property owner to the east for the Town to gain access from Legler Valley Road to the south.
 - b. Progress for Knowles-Nelson Stewardship Grant application – The public hearing to consider amendments to the 2022-2027 Comprehensive Outdoor Recreation Plan is scheduled for March 8, 2023 with the Town Board meeting to follow. Once the Concept Map has been finalized, Clerk-Treasurer Wright can provide that to appraisers who have shown interest in producing a narrative report for the Wisconsin DNR in order to establish the market value of the land restricted to passive recreational use.
6. **Update Regarding Natural Heritage Inventory (NHI) Determination by Wisconsin Department of Natural Resources and any Restrictions on the Development of the Hustad Valley Road Property Owned by Collin Legler** – Surveyor Talarczyk has not received a response from the Wisconsin DNR to date. Without objection, further discussion will be deferred until the March meeting.
7. **Municipal Buildings in Open Space Language Recommendations**
 - a. Add “municipal use” and/or “public use” to the definitions within 110-5 – Planner Schleeper introduced a draft ordinance to consider.

TOWN OF NEW GLARUS

- b. Open space definition: include specific public or municipal uses – See above.

Motion to recommend to the Town Board the approval of the ordinance to amend Chapter 110, as presented by Tim Schleeper, was made by Commissioner Freitag; second by Commissioner Pernitz. Motion carried 6-0.

There followed a discussion regarding §110-28 Partition Fences. Without objection, the proposed changes should be considered by the Board for now; the Plan Commission can revisit this Section at a later date.

8. **Clarification of Town Process for Development Potential Questions** – Without objection, discussion of this topic will be deferred until the March meeting.

9. **Adjourn**

Motion to adjourn by Commissioner Pernitz at 8:08 PM; second by Commissioner Elkins. Motion carried 6-0.

Approved:

John Wright, Clerk-Treasurer

DRAFT



State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES

Tony Evers, Governor
Adam N. Payne, Secretary
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Toll Free 1-888-936-7463
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101 S. Webster St.
Box 7921
Madison, WI 53707-7921

February 22, 2023

Robert Talarczyk
Talarczyk Land Surveys LLC
517 2nd Ave
New Glarus, WI 53574

SUBJECT: Endangered Resources Review (ERR Log # 23-073)
Proposed Collin Legler, Green County, WI (T04N R07E S06, T04N R07E S07)

Dear Robert Talarczyk,

The Bureau of Natural Heritage Conservation has reviewed the proposed project described in the Endangered Resources (ER) Review Request received January 31, 2023. The complete ER Review for this proposed project is attached and follow-up actions are summarized below:

Required Actions: 1 species

Recommended Actions: 3 species

No Follow-Up Actions: 0 species

Additional Recommendations Specified: Yes

This ER Review may contain Natural Heritage Inventory data (<http://dnr.wi.gov/topic/NHI>), including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project. **Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.**

The attached ER Review is for informational purposes and only addresses endangered resources issues. **This ER Review does not constitute DNR authorization of the proposed project and does not exempt the project from securing necessary permits and approvals from the DNR and/or other permitting authorities.** Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Please contact me at 608-264-8968 or via email at anna.rossler@wi.gov if you have any questions about this ER Review.

Sincerely,

Anna Rossler
Endangered Resources Review Program

cc:

Endangered Resources Review for the Proposed Collin Legler, Green County
(ER Log # 23-073)

Section A. Location and brief description of the proposed project

Based on information provided by the ER Review Request form and attached materials, the proposed project consists of the following:

Location	Green County - T04N R07E S06, T04N R07E S07
Project Description	Mr. Legler is proposing 3 residential lots. Lot 3 contains an existing set of farm buildings, including an existing farm house that will remain. Lot 1 will be built on immediately within the designated 2-acre cluster envelope. There is no plan to build within the 2-acre cluster envelop of Lot 2 at this time. The access to Lots 1 ad 2 will be by a residential driveway via an access easement to Hustad Valley Road.
Project Timing	3/1/23- 9/1/23
Current Habitat	Total areas of Lots 1, 2, and 3 combined: roughly 10% is in active agriculture, roughly 70% is within a 100-year floodplain (this area will not be disturbed), roughly 10% is currently being used as existing farmstead buildings, and roughly 10% in hardwood forest.
Impacts to Wetlands or Waterbodies	Hustad Valley Creek is within Lots 1 and 3 but is outside of any 2-acre cluster envelope on which owner's can build
Property Type	Private
Federal Nexus	No

It is best to request ER Reviews early in the project planning process. However, some important project details may not be known at that time. Details related to project location, design, and timing of disturbance are important for determining both the endangered resources that may be impacted by the project and any necessary follow-up actions. Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Section B. Endangered resources recorded from within the project area and surrounding area

	Group	State Status	Federal Status
Henslow's Sparrow (<i>Centronyx henslowii</i>)	Bird	THR	SOC
Western Meadowlark (<i>Sturnella neglecta</i>)	Bird	SC/M	
Prairie Turnip (<i>Pediomelum esculentum</i>)	Plant	SC	
Woolly Milkweed (<i>Asclepias lanuginosa</i>)	Plant	THR	

For additional information on the rare species, high-quality natural communities, and other endangered resources listed above, please visit our Biodiversity (<http://dnr.wi.gov/topic/EndangeredResources/biodiversity.html>) page. For further definitions of state and federal statuses (END=Endangered, THR=Threatened, SC=Special Concern), please refer to the Natural Heritage Inventory (NHI) Working List (<http://dnr.wi.gov/topic/nhi/wlist.html>).

Section C. Follow-up actions

Actions that need to be taken to comply with state and/or federal endangered species laws:

• Henslow's Sparrow (*Centronyx henslowii*) - Bird

State Status: THRFederal Status: SOC

Impact Type	Impact possible
Required Measures	Time of year restriction, Surveys, Other
Description of Required Measures	<p>Suitable habitat appears to be present in Lots 1 and 2 and immediately adjacent to Lot 3. This project is scheduled to begin prior to nesting season (May 5 - August 10). If the project site is cleared prior to nesting, disturbance to the site remains consistent throughout the nesting period to discourage nesting in adjacent habitat, and no new disturbance to areas within or adjacent to suitable habitat begin within nesting season, it is unlikely that nesting birds will be disturbed and no actions are required.</p> <p>However, if the project cannot begin prior to and remain active throughout the nesting season, the project shall follow one of the two options below:</p> <p>(i) Assume the birds are present on the site, and avoid all disturbances to the project site from May 5 - August 10. If the project cannot completely avoid all areas of suitable habitat during this time frame, please contact me regarding the possibility of applying for an Incidental Take Permit/Authorization.</p> <p>(ii) Not assume the birds are present on the site and have a qualified biologist conduct surveys to determine if they are present (see list of pre-qualified surveyors, https://wiatri.net/er/nhitraining/docs/BirdSurveyors.pdf). If the Henslow's Sparrow is not found on the site as a result of the surveys, you will not have any project restrictions related to these species. If surveys are conducted and the Henslow's Sparrow is recorded, option (i) must be followed above. Survey results should be submitted to the Endangered Resources Review Program.</p> <p>Henslow's Sparrow (<i>Centronyx henslowii</i>), listed as Threatened in Wisconsin, prefers old fields, open grasslands, wet meadows, unmowed highway rights-of-way, undisturbed pastures, Timothy hay fields, and fallow land grown up to tall weeds. The required avoidance period is May 5 - August 10.</p>

Actions recommended to help conserve Wisconsin's Endangered Resources:

• Western Meadowlark (*Sturnella neglecta*) - Bird

State Status: SC/M

Impact Type	Impact possible
Recommended Measures	Time of year restriction, Surveys, Other
Description of Recommended Measures	<p>Suitable habitat appears to be present at the project site. It is recommended to avoid impacts to suitable habitat during the nesting period April 25 - July 30 or begin work prior to nesting and keep disturbance continuous throughout the nesting period to discourage nesting. Alternatively, surveys can be conducted for presence/absence and avoid disturbance if the birds are present.</p> <p>Western Meadowlark (<i>Sturnella neglecta</i>), a Special Concern species, is medium-sized bird that is a chunkier equivalent to a robin. It is distinguishable by its bright yellow throat and breast marked by a black "V". The species is typically found in open landscapes like pastures and hay fields, grasslands, prairies and meadows where there is a mix of short to medium-high grasses. The Western Meadowlark has suffered from significant population decline over the past three decades, likely due to loss of habitat caused by fragmentation, land use conversion and succession from grasslands to brush or forests. The recommended avoidance period is April 25 - July 30.</p>

• Prairie Turnip (*Pediomelum esculentum*) - Plant

State Status: SC

Impact Type	Impact possible
Recommended Measures	Surveys
Description of Recommended Measures	<p>Suitable habitat for the Prairie Turnip may be impacted by this project. Although not required because Special Concern species are not legally protected, we recommend that you avoid or minimize take of the Prairie Turnip. Avoidance and minimization efforts may include site surveys to confirm presence/absence of species and fencing off areas of occupied habitat. Survey results should be submitted to the Endangered Resources Review Program.</p> <p>Prairie Turnip (<i>Pediomelum esculentum</i>), a Wisconsin Special Concern plant, is found in dry prairies, especially on dolomitic hillsides near oak woodland margins. Blooming occurs late May through late July; fruiting occurs early July through late August. The optimal identification period for this species is early June through late August.</p>

Impact Type	Impact possible
Recommended Measures	Surveys
Description of Recommended Measures	<p>Suitable habitat for the Woolly Milkweed may be impacted by this project. Although not required because plants are not legally protected on private property, we recommend that you avoid or minimize take of the Woolly Milkweed. Avoidance and minimization efforts may include site surveys to confirm presence/absence of species and fencing off areas of occupied habitat. Survey results should be submitted to the Endangered Resources Review Program.</p> <p>Woolly Milkweed (<i>Asclepias lanuginosa</i>), a Wisconsin Threatened plant, is found in dry, sandy or gravelly hillside prairies. Blooming occurs late May through late June; fruiting occurs late June through late July. The optimal identification period for this species is late May through late June.</p>

Remember that although these actions are not required by state or federal endangered species laws, they may be required by other laws, permits, granting programs, or policies of this or another agency. Examples include the federal Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, State Natural Areas law, DNR Chapter 30 Wetland and Waterway permits, DNR Stormwater permits, and Forest Certification.

Additional Recommendations

The project site is located near Hustad Valley Creek and we recommend implementing erosion and runoff prevention measures during the course of the project.

Please note that erosion control netting (also known as erosion control blankets, erosion mats or erosion mesh netting) used to prevent erosion during the establishment of vegetation can have detrimental effects on local snake and other wildlife populations. Plastic netting without independent movement of strands can easily entrap snakes moving through the area, leading to dehydration, desiccation, and eventually mortality. Netting that contains biodegradable thread with the "leno" or "gauze" weave (contains strands that are able to move independently) appears to have the least impact on snakes and should be used in areas adjacent to or near any waterbody.

If erosion matting will be used for this project, use the following matting (or something similar): American Excelsior "FibreNet" or "NetFree" products; East Coast Erosion biodegradable jute products; Erosion Tech biodegradable jute products; ErosionControlBlanket.com biodegradable leno weave products; North American Green S75BN, S150BN, SC150BN or C125BN; or Western Excelsior "All Natural" products.

No actions are required or recommended for the following endangered resources: None

Section D. Next Steps

1. Evaluate whether the **'Location and brief description of the proposed project'** is still accurate. All recommendations in this ER Review are based on the information supplied in the ER Review Request. If the proposed project has changed or more than a year has passed and you would like your letter renewed, please contact the ER Review Program to determine if the information in this ER Review is still valid.
2. Determine whether the project can incorporate and implement the **'Follow-up actions'** identified above:
 - o 'Actions that need to be taken to comply with state and/or federal endangered species laws' represent the Department's best available guidance for complying with state and federal endangered species laws based on the project information that you provided and the endangered resources information and data available to us. If the proposed project has not changed from the description that you provided us and you are able to implement all of the 'Actions that need to be taken to comply with state and/or federal endangered species laws', your project should comply with state and federal endangered species laws. Please remember that if a violation occurs, the person responsible for the taking is the liable party. Generally this is the landowner or project proponent. For questions or concerns about individual responsibilities related to Wisconsin's Endangered Species Law, please contact the ER Review Program.
 - o If the project is unable to incorporate and implement one or more of the 'Actions that need to be taken to comply with state and/or federal endangered species laws' identified above, the project may potentially violate one or more of these laws. Please contact the ER Review Program immediately to assist in identifying potential options that may allow the project to proceed in compliance with state and federal endangered species laws.
 - o 'Actions recommended to help conserve Wisconsin's Endangered Resources' may be required by another law, a policy of this or another Department, agency or program; or as part of another permitting, approval or granting process. Please make sure to carefully read all permits and approvals for the project to determine whether these or other measures may be required. Even if these actions are not required by another program or entity for the

proposed project to proceed, the Department strongly encourages the implementation of these conservation measures on a voluntary basis to help prevent future listings and protect Wisconsin's biodiversity for future generations.

3. If federally-protected species or habitats are involved and the project involves federal funds, technical assistance or authorization (e.g., permit) and there are likely to be any impacts (positive or negative) to them, consultation with USFWS will need to occur prior to the project being able to proceed. If no federal funding, assistance or authorization is involved with the project and there are likely to be adverse impacts to the species, contact the USFWS Twin Cities Ecological Services Field Office at 612-725-3548 (x2201) for further information and guidance.

Section E. Standard Information to help you better understand this ER Review

Endangered Resources (ER) Reviews are conducted according to the protocols in the guidance document Conducting Proposed Endangered Resources Reviews: A Step-by-Step Guide for Wisconsin DNR Staff.

How endangered resources searches are conducted for the proposed project area: An endangered resources search is performed as part of all ER Reviews. A search consists of querying the Wisconsin Natural Heritage Inventory (NHI) database for endangered resources records for the proposed project area. The project area evaluated consists of both the specific project site and a buffer area surrounding the site. A 1 mile buffer is considered for terrestrial and wetland species, and a 2 mile buffer for aquatic species. Endangered resources records from the buffer area are considered because most lands and waters in the state, especially private lands, have not been surveyed. Considering records from the entire project area (also sometimes referred to as the search area) provides the best picture of species and communities that may be present on your specific site if suitable habitat for those species or communities is present.

Categories of endangered resources considered in ER Reviews and protections for each: Endangered resources records from the NHI database fall into one of the following categories:

- Federally-protected species include those federally listed as Endangered or Threatened and Designated Critical Habitats. Federally-protected animals are protected on all lands; federally-protected plants are protected only on federal lands and in the course of projects that include federal funding (see Federal Endangered Species Act of 1973 as amended).
- Animals (vertebrate and invertebrate) listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on all lands and waters of the state (s. 29.604, Wis. Stats.).
- Plants listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on public lands and on land that the person does not own or lease, except in the course of forestry, agriculture, utility, or bulk sampling actions (s. 29.604, Wis. Stats.).
- Special Concern species, high-quality examples of natural communities (sometimes called High Conservation Value areas), and natural features (e.g., caves and animal aggregation sites) are also included in the NHI database. These endangered resources are not legally protected by state or federal endangered species laws. However, other laws, policies (e.g., related to Forest Certification), or granting/permitting processes may require or strongly encourage protection of these resources. The main purpose of the Special Concern classification is to focus attention on species about which some problem of abundance or distribution is suspected before they become endangered or threatened.
- State Natural Areas (SNAs) are also included in the NHI database. SNAs protect outstanding examples of Wisconsin's native landscape of natural communities, significant geological formations, and archeological sites. Endangered species are often found within SNAs. SNAs are protected by law from any use that is inconsistent with or injurious to their natural values (s. 23.28, Wis. Stats.).

Please remember the following:

1. This ER Review is provided as information to comply with state and federal endangered species laws. By following the protocols and methodologies described above, the best information currently available about endangered resources that may be present in the proposed project area has been provided. However, the NHI database is not all inclusive; systematic surveys of most public lands have not been conducted, and the majority of private lands have not been surveyed. As a result, NHI data for the project area may be incomplete. Occurrences of endangered resources are only in the NHI database if the site has been previously surveyed for that species or group during the appropriate season, and an observation was reported to and entered into the NHI database. As such, absence of a record in the NHI database for a specific area should not be used to infer that no endangered resources are present in that area. Similarly, the presence of one species does not imply that surveys have been conducted for other species. Evaluations of the possible presence of rare species on the project site should always be based on whether suitable habitat exists on site for that species.
2. This ER Review provides an assessment of endangered resources that may be impacted by the project and measures that can be taken to avoid negatively impacting those resources based on the information that has been provided to ER Review Program at this time. Incomplete information, changes in the project, or subsequent survey results may affect our assessment and indicate the need for additional or different measures to avoid impacts to endangered resources.
3. This ER Review does not exempt the project from actions that may be required by Department permits or approvals for the project. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project.



State of Wisconsin / DEPARTMENT OF NATURAL RESOURCES

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Box 7921
Madison, WI 53707-7921

February 27, 2023

Robert A Talarczyk
Talarczyk Land Surveys LLC
517 2nd Ave
New Glarus, WI 53574

SUBJECT: Endangered Resources Review (ERR Log # 23-115)
Proposed Holmes Development, Green County, WI (T04N R07E S24, T04N R08E S19)

Dear Robert A Talarczyk,

The Bureau of Natural Heritage Conservation has reviewed the proposed project described in the Endangered Resources (ER) Review Request received February 22, 2023. The complete ER Review for this proposed project is attached and follow-up actions are summarized below:

Required Actions: 0 species

Recommended Actions: 3 species

No Follow-Up Actions: 2 species

Additional Recommendations Specified: Yes

This ER Review may contain Natural Heritage Inventory data (<http://dnr.wi.gov/topic/NHI>), including specific locations of endangered resources, which are considered sensitive and are not subject to Wisconsin's Open Records Law. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project. **Specific locations of endangered resources may not be released or reproduced in any publicly disseminated documents.**

The attached ER Review is for informational purposes and only addresses endangered resources issues. **This ER Review does not constitute DNR authorization of the proposed project and does not exempt the project from securing necessary permits and approvals from the DNR and/or other permitting authorities.** Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Please contact me at 608-264-8968 or via email at anna.rossler@wi.gov if you have any questions about this ER Review.

Sincerely,

Anna Rossler
Endangered Resources Review Program

cc:

**Endangered Resources Review for the Proposed Holmes Development, Green County
(ER Log # 23-115)**

Section A. Location and brief description of the proposed project

Based on information provided by the ER Review Request form and attached materials, the proposed project consists of the following:

Location	Green County - T04N R07E S24, T04N R08E S19
Project Description	This plat is being prepared for estate planning purposes. Carol Holmes is in her 80s, lives in the farmhouse on Lot 4 and wishes to plan out her development rights for her estate. There is no plan to develop any part of this plat at this time other than Lot 5 on which Carol wishes to build a new home and live with one of her two daughters. Lots 1-6 can be built on and Lot 7 has to remain in cultivation and greenspace.
Project Timing	3/1/23-10/1/23
Current Habitat	Approximately 65% in active agriculture- currently corn and alfalfa and 35% in woodland.
Impacts to Wetlands or Waterbodies	There is a small wetland area near the SW corner of Lot 7 at the culvert that delivers water under Airport Road. This area will remain undisturbed. Ward Creek is not on the property but is near the NE corner of Lot 7.
Property Type	Private
Federal Nexus	No

It is best to request ER Reviews early in the project planning process. However, some important project details may not be known at that time. Details related to project location, design, and timing of disturbance are important for determining both the endangered resources that may be impacted by the project and any necessary follow-up actions. Please contact the ER Review Program whenever the project plans change, new details become available, or more than a year has passed to confirm if results of this ER Review are still valid.

Section B. Endangered resources recorded from within the project area and surrounding area

	Group	State Status	Federal Status
Rusty Patched Bumble Bee Federal High Potential Zone	Bee	NA	HPZ
Pickereel Frog (<i>Lithobates palustris</i>)	Frog~	SC/H	
Prairie Parsley (<i>Polytaenia nuttallii</i>)	Plant	THR	
Glade Mallow (<i>Napaea dioica</i>)	Plant~	SC	
Whip Nutrush (<i>Scleria triglomerata</i>)	Plant~	SC	

For additional information on the rare species, high-quality natural communities, and other endangered resources listed above, please visit our Biodiversity (<http://dnr.wi.gov/topic/EndangeredResources/biodiversity.html>) page. For further definitions of state and federal statuses (END=Endangered, THR=Threatened, SC=Special Concern), please refer to the Natural Heritage Inventory (NHI) Working List (<http://dnr.wi.gov/topic/nhi/wlist.html>).

Section C. Follow-up actions

Actions that need to be taken to comply with state and/or federal endangered species laws: None

Actions recommended to help conserve Wisconsin's Endangered Resources:

• Rusty Patched Bumble Bee Federal High Potential Zone - Bee

State Status: NAFederal Status: HPZ

Impact Type	Impact possible
Recommended Measures	Other
Description of Recommended Measures	<p>This project occurs within the Rusty Patched Bumble Bee Federal High Potential Zone. While active agriculture is not considered suitable habitat, habitat may be present in the wooded and unmaintained areas. Take of the bee is prohibited per the federal Endangered Species Act. However, because this project has no federal nexus, follow-up actions are recommended and not required.</p> <p>Recommended follow-up actions for the Rusty patched bumble bee include following the conservation measures outlined in the USFWS Conservation Management Guidelines for the Rusty Patched Bumble Bee (<i>Bombus affinis</i>) document. (https://www.fws.gov/midwest/endangered/insects/rpbb/pdf/ConservationGuidanceRPBBv1_27Feb2018.pdf).):</p> <p>For tree clearing/thinning conservation measures include but are not limited to:</p> <ul style="list-style-type: none"> • Implement best management practices (BMPs), especially those that serve to minimize the spread of invasive species and to avoid or minimize soil compaction. Visit (https://www.stateforesters.org/newsroom/state-forestry-bmps/) for up to date information about BMP recommendations by state. • Avoid or minimize soil disturbance and heavy equipment operation during overwintering (mid October- mid March) • Avoid or minimize forest management that may destroy spring blooming flowers during their bloom periods. • Consider thinning or single tree selection and dense invasive shrub removal that may improve overwintering and spring foraging habitat. <p>For all other activities conservation measures include but are not limited to:</p> <ul style="list-style-type: none"> • use native trees, shrubs and flowering plants in landscaping, • provide plants that bloom from spring through fall (refer to the USFWS RPBB Midwest Plant Guide), • remove and control invasive plants in any habitat used for foraging, nesting, or overwintering • Avoid impacts to existing suitable habitat

• Glade Mallow (*Napaea dioica*) - Plant~

State Status: SC

Impact Type	Impact possible
Recommended Measures	Surveys
Description of Recommended Measures	<p>Suitable habitat for the Glade Mallow may be present in portions of the project site. Although not required because Special Concern species are not legally protected, we recommend that you avoid or minimize take of the Glade Mallow. Avoidance and minimization efforts may include site surveys to confirm presence/absence of species and fencing off areas of occupied habitat. Survey results should be submitted to the Endangered Resources Review Program.</p> <p>Glade Mallow (<i>Napaea dioica</i>), a Wisconsin Special Concern plant, is found in alluvial meadows, ditches, and forest margins near large rivers. Blooming occurs early June through early August; fruiting occurs early August through late September. The optimal identification period for this species is early July through late August.</p>

• Whip Nutrush (*Scleria triglomerata*) - Plant~

State Status: SC

Impact Type	Impact possible
Recommended Measures	Surveys
Description of Recommended Measures	<p>Suitable habitat for the Whip Nutrush may be present in portions of the project site. Although not required because Special Concern species are not legally protected, we recommend that you avoid or minimize take of the Whip Nutrush. Avoidance and minimization efforts may include site surveys to confirm presence/absence of species and fencing off areas of occupied habitat. Survey results should be submitted to the Endangered Resources Review Program.</p> <p>Whip Nutrush (<i>Scleria triglomerata</i>), a Wisconsin Special Concern plant, is found on the sunny margins between jack pine/Hill's oak barrens and wet, acid ditches. Blooming occurs late June through late July; fruiting occurs early July through late August. The optimal identification period for this species is early July through late August.</p>

Remember that although these actions are not required by state or federal endangered species laws, they may be required by other laws, permits, granting programs, or policies of this or another agency. Examples include the federal Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, State Natural Areas law, DNR Chapter 30 Wetland and Waterway permits, DNR Stormwater permits, and Forest Certification.

Additional Recommendations

Please note that plastic or polypropylene netting associated with erosion matting (also known as an erosion control blankets or erosion mesh netting) without independent movement of strands can easily entrap snakes and other wildlife moving through the area, and cause dehydration, desiccation, and eventually mortality. Biodegradable jute/twine netting with the “leno” or “gauze” weave (contains strands that are able to move independently) has the least impact on snakes.

If erosion matting will be used for this project, use the following matting (or something similar): American Excelsior “FibreNet” or “NetFree” products; East Coast Erosion biodegradable jute products; Erosion Tech biodegradable jute products; ErosionControlBlanket.com biodegradable leno weave products; North American Green S75BN, S150BN, SC150BN or C125BN; or Western Excelsior “All Natural” products.

No actions are required or recommended for the following endangered resources:

• **Pickerel Frog (*Lithobates palustris*) - Frog~**

State Status: SC/H

Impact Type	No impact or no/low broad ITP/A
Reason	Lack of Suitable Habitat within Project Boundary
Justification	It is unlikely that suitable habitat is present at the project site. No impacts are anticipated. Pickerel Frog (<i>Lithobates palustris</i>), a species of Special Concern in Wisconsin, has a rather complex habitat range as it prefers to overwinter in cold water streams, seepage pools or spring holes, often taking advantage of water cress for cover. It moves to warmer water ponds to breed and lay eggs from April through mid-June. Adults spend most of the active season foraging on land in riparian habitats along streams and rivers.

• **Prairie Parsley (*Polytaenia nuttallii*) - Plant**

State Status: THR

Impact Type	No impact or no/low broad ITP/A
Reason	Lack of Suitable Habitat within Project Boundary
Justification	The project site is wooded and agricultural land. It is unlikely that suitable habitat is present at the project site. No impacts are anticipated. Prairie Parsley (<i>Polytaenia nuttallii</i>), a Wisconsin Threatened plant, is found in prairies and persisting in open areas that were once savannas.

Section D. Next Steps

1. Evaluate whether the '**Location and brief description of the proposed project**' is still accurate. All recommendations in this ER Review are based on the information supplied in the ER Review Request. If the proposed project has changed or more than a year has passed and you would like your letter renewed, please contact the ER Review Program to determine if the information in this ER Review is still valid.
2. Determine whether the project can incorporate and implement the '**Follow-up actions**' identified above:
 - o 'Actions that need to be taken to comply with state and/or federal endangered species laws' represent the Department's best available guidance for complying with state and federal endangered species laws based on the project information that you provided and the endangered resources information and data available to us. If the proposed project has not changed from the description that you provided us and you are able to implement all of the 'Actions that need to be taken to comply with state and/or federal endangered species laws', your project should comply with state and federal endangered species laws. Please remember that if a violation occurs, the person responsible for the taking is the liable party. Generally this is the landowner or project proponent. For questions or concerns about individual responsibilities related to Wisconsin's Endangered Species Law, please contact the ER Review Program.
 - o If the project is unable to incorporate and implement one or more of the 'Actions that need to be taken to comply with state and/or federal endangered species laws' identified above, the project may potentially violate one or more of these laws. Please contact the ER Review Program immediately to assist in identifying potential options that may allow the project to proceed in compliance with state and federal endangered species laws.
 - o 'Actions recommended to help conserve Wisconsin's Endangered Resources' may be required by another law, a policy of this or another Department, agency or program; or as part of another permitting, approval or granting process. Please make sure to carefully read all permits and approvals for the project to determine whether these or other measures may be required. Even if these actions are not required by another program or entity for the proposed project to proceed, the Department strongly encourages the implementation of these conservation measures on a voluntary basis to help prevent future listings and protect Wisconsin's biodiversity for future generations.

3. If federally-protected species or habitats are involved and the project involves federal funds, technical assistance or authorization (e.g., permit) and there are likely to be any impacts (positive or negative) to them, consultation with USFWS will need to occur prior to the project being able to proceed. If no federal funding, assistance or authorization is involved with the project and there are likely to be adverse impacts to the species, contact the USFWS Twin Cities Ecological Services Field Office at 612-725-3548 (x2201) for further information and guidance.

Section E. Standard Information to help you better understand this ER Review

Endangered Resources (ER) Reviews are conducted according to the protocols in the guidance document Conducting Proposed Endangered Resources Reviews: A Step-by-Step Guide for Wisconsin DNR Staff.

How endangered resources searches are conducted for the proposed project area: An endangered resources search is performed as part of all ER Reviews. A search consists of querying the Wisconsin Natural Heritage Inventory (NHI) database for endangered resources records for the proposed project area. The project area evaluated consists of both the specific project site and a buffer area surrounding the site. A 1 mile buffer is considered for terrestrial and wetland species, and a 2 mile buffer for aquatic species. Endangered resources records from the buffer area are considered because most lands and waters in the state, especially private lands, have not been surveyed. Considering records from the entire project area (also sometimes referred to as the search area) provides the best picture of species and communities that may be present on your specific site if suitable habitat for those species or communities is present.

Categories of endangered resources considered in ER Reviews and protections for each: Endangered resources records from the NHI database fall into one of the following categories:

- Federally-protected species include those federally listed as Endangered or Threatened and Designated Critical Habitats. Federally-protected animals are protected on all lands; federally-protected plants are protected only on federal lands and in the course of projects that include federal funding (see Federal Endangered Species Act of 1973 as amended).
- Animals (vertebrate and invertebrate) listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on all lands and waters of the state (s. 29.604, Wis. Stats.).
- Plants listed as Endangered or Threatened in Wisconsin are protected by Wisconsin's Endangered Species Law on public lands and on land that the person does not own or lease, except in the course of forestry, agriculture, utility, or bulk sampling actions (s. 29.604, Wis. Stats.).
- Special Concern species, high-quality examples of natural communities (sometimes called High Conservation Value areas), and natural features (e.g., caves and animal aggregation sites) are also included in the NHI database. These endangered resources are not legally protected by state or federal endangered species laws. However, other laws, policies (e.g., related to Forest Certification), or granting/permitting processes may require or strongly encourage protection of these resources. The main purpose of the Special Concern classification is to focus attention on species about which some problem of abundance or distribution is suspected before they become endangered or threatened.
- State Natural Areas (SNAs) are also included in the NHI database. SNAs protect outstanding examples of Wisconsin's native landscape of natural communities, significant geological formations, and archeological sites. Endangered species are often found within SNAs. SNAs are protected by law from any use that is inconsistent with or injurious to their natural values (s. 23.28, Wis. Stats.).

Please remember the following:

1. This ER Review is provided as information to comply with state and federal endangered species laws. By following the protocols and methodologies described above, the best information currently available about endangered resources that may be present in the proposed project area has been provided. However, the NHI database is not all inclusive; systematic surveys of most public lands have not been conducted, and the majority of private lands have not been surveyed. As a result, NHI data for the project area may be incomplete. Occurrences of endangered resources are only in the NHI database if the site has been previously surveyed for that species or group during the appropriate season, and an observation was reported to and entered into the NHI database. As such, absence of a record in the NHI database for a specific area should not be used to infer that no endangered resources are present in that area. Similarly, the presence of one species does not imply that surveys have been conducted for other species. Evaluations of the possible presence of rare species on the project site should always be based on whether suitable habitat exists on site for that species.
2. This ER Review provides an assessment of endangered resources that may be impacted by the project and measures that can be taken to avoid negatively impacting those resources based on the information that has been provided to ER Review Program at this time. Incomplete information, changes in the project, or subsequent survey results may affect our assessment and indicate the need for additional or different measures to avoid impacts to endangered resources.
3. This ER Review does not exempt the project from actions that may be required by Department permits or approvals for the project. Information contained in this ER Review may be shared with individuals who need this information in order to carry out specific roles in the planning, permitting, and implementation of the proposed project.

DECLARATION OF DEED RESTRICTION



DocId:8234039

Tx:4202847

Document Number

Document Title

622365

Recorded

02/17/2023 03:29 PM

CYNTHIA A MEUDT

REGISTER OF DEEDS

GREEN COUNTY, WISCONSIN

RECORDING FEE: 30.00

TRANSFER FEE:

FEE EXEMPT #:

The undersigned, Collin A. Legler (the "Declarant"), is the owner of certain real property (the "Property") located in the Town of New Glarus, Wisconsin, and more particularly described as follows:

The Southwest Quarter of the Southeast Quarter of Section 6, Town 4 North, Range 7 East, Township of New Glarus, Green County, Wisconsin;

The North Half of the Southeast Quarter of Section 6, Town 4 North, Range 7 East, Township of New Glarus, Green County, Wisconsin;

The Southwest Quarter of Section 6, Town 4 North, Range 7 East, Township of New Glarus, Green County, Wisconsin, excepting the following: Commencing at the West 1/4 corner of Section 6, Town 4 North, Range 7 East, thence South along the Section line to the Southwest corner of said Section 6, thence East along the Section line 12.70 chains, thence due North 20.48 chains to a point (said point may be further located as follows: Commencing at the Southwest corner of Section 6, running thence North on the Section line 24.62 chains, thence South 72° East 13.35 chains), thence North 15°30' West 20.20 chains to a point on the quarter line, 7.20 chains East of the West quarter corner of Section 6, thence West to the place of beginning.

Recording Area

Name and Return Address

Town of New Glarus

PO Box 448

New Glarus, WI 53574

2302400420000

Parcel Number(s)

EXCEPT: Three Fourths (3/4) of an acre off the North end of the Southeast Quarter (SE1/4) of Section Six (6) and extending from the public highway West to the center line of said Section Six (6), all in Township Four (4) North, Range Seven (7) East, Green County, Wisconsin.

ALSO EXCEPT: Lot One (1) of Certified Survey Map No. 1469 as recorded in Volume 4 of Certified Survey Maps of Green County on Page 446 as Document No. 343080.

ALSO EXCEPT: Lot One (1) of Certified Survey Map No. 2040 as recorded in Volume 6 of Certified Survey Maps of Green County on Page 375 as Document No. 365458.

ALSO EXCEPT: All that part of the Southeast Quarter of the Southwest Quarter, the Southwest Quarter of the Southeast Quarter, the Northwest Quarter of the Southeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 6, Town 4 North, Range 7 East, Township of New Glarus, Green County, Wisconsin, lying South and East of the centerline of Hustad Valley Road.

ALSO EXCEPT: Lot One (1), Lot Two (2), and Lot Three (3) of Certified Survey Map No. 5572 as recorded in Volume 28 of Certified Survey Maps of Green County on Pages 79-86 as Document No. 622364.

RECEIVED FEB 25 REC'D

Declarant hereby declares and provides the Property shall be subject to the following Deed Restrictions:

1. A minimum of 12.4 acres of the Property shall be maintained as Open Space pursuant to the Land Division and Subdivision Ordinance of the Town of New Glarus, Green County, Wisconsin.
2. Further subdivision of this property by CSM or Plat shall require declaration of all remaining building sites, open space, and lands to be dedicated for public purposes.
3. This restriction is for the benefit of and is enforceable by the Town of New Glarus, Green County, Wisconsin. These restrictions may only be amended or repealed with written consent of the Town Board of the Town of New Glarus.
4. This restriction shall run with the land and be binding on the Declarant, his heirs, successors, agents and assigns.

Dated this 15 day of February, 2023.

By: Collin A. Legler (SEAL)
Collin A. Legler

ACKNOWLEDGMENT

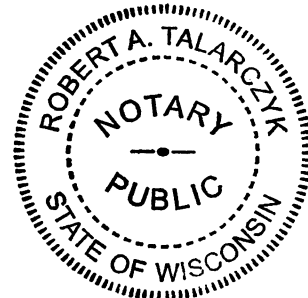
RECEIVED FEB 25 REC'D

STATE OF WISCONSIN)
) ss.
COUNTY OF Green)

Personally came before me this 15 day of February, 2023, who signed the above instrument and acknowledged the same.

Robert A. Talarczyk
Name: Robert A. Talarczyk
Notary Public, State of Wisconsin
My Commission: 02/11/26

This instrument drafted by:
Robert A. Talarczyk
517 2nd Avenue, New Glarus, WI 53574



PRIVATE ROAD MAINTENANCE AGREEMENT

THIS AGREEMENT is made and entered into by and between the Owners of Lots 1, 2, and 3 of (PLAT) (hereinafter referred to as "Owners") for the purposes of outlining the rights and responsibilities of Owners regarding the Private Road providing access to their Lot(s).

PRIVATE ROAD PURPOSES

The Private Road as depicted in (PLAT) is for non-exclusive ingress and egress for residential and commercial vehicular use. No heavy farm machinery or implements of husbandry shall be allowed access unless by mutual written agreement of the parties. Recreational vehicles may be allowed.

MAINTENANCE

The Owners shall be responsible for maintaining the Private Road pursuant to Wisconsin Statute § 710.20. "Maintaining" shall be defined as routine road repairs and resurfacing to keep the roadway in as nearly as possible to its original condition as when constructed as possible. Road repairs shall include but not be limited to the filling and patching of potholes, grading, backfill. The Owners shall additionally be responsible for removal of snow and ice from the Road. All costs related to maintenance of the Road shall be borne equally between the Owners.

NO OBSTRUCTION

Owners shall not cause or allow the parking of vehicles or placement of objects within the Road that might obstruct the other Owner's use and enjoyment of the Road. Neither party shall cause or do anything that may obstruct or interfere with the other Owner's right to have full vehicular access of the Road.

RESTRICTIONS

All Owners shall adhere to the provisions of the Town of New Glarus Ordinances, Chapter 36, Driveways.

INDEMNITY

Owners shall indemnify, defend and hold the other Lot Owners harmless from and against any and all costs, damages, expenses, liabilities, and losses, including, without limitation, reasonable attorneys' fees incurred by such other Owner, their guests, agents, licensees, customers, invitees, or tenants as a result of that Owner's negligence.

REMEDIES

In the event of legal action to construe or enforce the provisions of this Agreement, the prevailing Owner shall be entitled to collect their reasonable attorney's fees, court costs, and related expenses from the non-prevailing Owner and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs, and expenses and enter judgment therefore. The venue for any disputes shall be in the Circuit Court for Green County, Wisconsin.

AGREEMENT TO RUN WITH LAND

All the terms of this Private Road Maintenance Agreement shall run with the land and shall be binding upon and inure to the benefit of the Owners and their heirs, legal representatives, successors, and assigns.

LOT OWNERS:

This instrument drafted by:
Attorney Amanda M. Fields
Schluesche Fields S.C.
250 N. 18th Avenue, Suite 106
Monroe, WI 53566-0710

Name	Position	Start date	End date
Chris Narveson	Chair	April 13, 2021	April 11, 2023
Robert Elkins	Commissioner	April 13, 2021	April 9, 2024
John Ott	Commissioner	April 13, 2021	April 9, 2024
Reg Reis	Commissioner	April 13, 2021	April 9, 2024
Jim Hoesly	Commissioner	April 13, 2021	April 9, 2024
Craig Galhouse	Commissioner	April 13, 2021	April 9, 2024
Mark Pernitz	Commissioner	April 13, 2021	April 9, 2024

Official Oath

STATE OF WISCONSIN

Town of New Glarus
Green County

I, the undersigned, who has been appointed to the office of **Plan Commission Chair** swear that I will support the constitution of the United States and the constitution of the State of Wisconsin, and will faithfully discharge the duties of said office to the best of my ability.

 Chris Narveson

Subscribed and sworn to before me this 15th day of April, 2021.

 Jesse Wahl, Clerk-Treasurer

