

Document No.

**UTILITY AND JOINT DRIVEWAY
EASEMENT AGREEMENT**

Return to:

**MOONEY & SIEGERT
P.O. BOX 297
PLYMOUTH, WI 53073**

Part of 59018256782
Parcel Number

THIS UTILITY AND JOINT DRIVEWAY EASEMENT AGREEMENT (the *Agreement*) is between LaValley Nature and Equine Sanctuary, Inc., a Wisconsin corporation (*Parcel A Owner*) and Tracy Auch and Gene K. Auch, wife and husband (*Parcel B Owner*).

RECITALS:

- A. Parcel A Owner is the owner of certain real property located in Sheboygan County, Wisconsin, as described on the attached Exhibit A and referred to on the exhibit and in this Agreement as *Parcel A*.
- B. Parcel B Owner is the owner of certain real property located in Sheboygan County, Wisconsin, as described on the attached Exhibit B and referred to on the exhibit and in this Agreement as *Parcel B*.
- C. Parcel A Owner and Parcel B Owner understand that electrical service for Parcel A is currently being provided from Parcel B.
- D. Parcel B Owner is willing to create an easement to enable Parcel A Owner to maintain its electrical service from Parcel B.
- E. Parcel A Owner and Parcel B Owner understand that a driveway (the *Driveway*) is constructed on the ACCESS EASEMENT TO BENEFIT LOT 2 as depicted on the Certified Survey Map recorded in Volume ____ of Certified Survey Maps, page ____, Document No. _____, attached Exhibit C, being a portion of Parcel B.
- F. Parcel B Owner is willing to create an easement over the ACCESS EASEMENT TO BENEFIT LOT 2 to enable Parcel A Owner to use the Driveway, under the terms of this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Section 1. Utility Easement Provisions

1.1 Grant of Utility Easement. Parcel B Owner grants to Parcel A Owner a nonexclusive easement and right-of-way to maintain, operate, and reconstruct electric service serving the structures on Parcel A, and other related fixtures, equipment, and appurtenances that may from time to time be required, with the right of ingress and egress for the purpose of this grant, over the existing electrical service line from Parcel B to Parcel A. All improvements shall be located below grade.

1.2 Metering and Contribution to Charges. Presently all electrical charges for both Parcel A and Parcel B are billed only to Parcel B Owner as there is no separate, independent electrical service or meter for Parcel B. Parcel A Owner is making arrangements to have separate, independent electrical service installed which will be billed to Parcel A Owner. Until such time that Parcel A Owner has installed such electrical service and has terminated this Utility Easement as provided below, Parcel A Owner shall pay Parcel B Owner the sum of \$100.00 per month on the first day of each month until termination.

1.3 Provisions for Unilateral Termination of the Utility Easement Agreement by Parcel A Owner. Parcel A Owner may unilaterally terminate this Utility Easement Agreement and all payments required by providing written notice to Parcel B Owner of termination.

Section 2. Joint Driveway Easement Provisions

2.1 Grant of Joint Driveway Easement. Parcel B Owner grants a nonexclusive easement and right-of-way to Parcel A Owner and Parcel A Owner's successors and assigns as the owner of Parcel A to use the Driveway and the ACCESS EASEMENT TO BENEFIT LOT 2 as a joint driveway for ingress and egress to State Highway 57 from Parcel A.

2.2 Permitted Users. The easement granted in Section 2.1, above, may be used by the Parcel A Owner and its tenants, employees, customers, and invitees in common with Parcel B Owner and its tenants, employees, customers, and invitees.

2.3 Maintenance Costs. Parcel A Owner shall bear all expense of maintaining, repairing, and removing snow and debris from that portion of the Driveway which leads directly and exclusively to Parcel A. Parcel B Owner shall bear all maintenance expenses and snow removal for all other portions of the Driveway.

2.4 Equal Rights of Use. Parcel A Owner and Parcel B Owner shall have equal rights of ingress and egress over the Driveway and ACCESS EASEMENT TO BENEFIT LOT 2 and shall take no action to prevent the other party's enjoyment of such rights.

Section 3. Provisions Applicable to Utility Easement Agreement and Joint Driveway Easement Agreement

3.1 Covenants Run with Land. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by Parcel A Owner and Parcel B Owner and their respective successors and assigns. The easements granted under Sections 1.1 and 2.1 of this Agreement are easements appurtenant to Parcel A and may not be transferred separately from, or severed from, title to Parcel A. Furthermore, the benefits of the

easements granted under this Agreement shall not be extended to any properties other than Parcel A without the consent of Parcel B Owner. The specific parties named as Parcel A Owner and Parcel B Owner in this Agreement, and each of their respective successors and assigns as fee simple owners of Parcel A and Parcel B, respectively, or any portion of Parcel A or Parcel B, shall cease to have further liability under this Agreement with respect to facts or circumstances first arising after the party has transferred its fee simple interest in Parcel A or Parcel B, respectively, except, however, for obligations that accrued during the party's period of ownership of title.

3.2 Indemnity. Parcel A Owner shall indemnify and defend Parcel B Owner and its officers, agents, and employees from all liability, suits, actions, claims, costs, damages, and expenses of every kind and description, including court costs and legal fees, for claims of any character, including liability and expenses in connection with the loss of life, personal injury, or damage to property, brought because of any injuries or damages received or sustained by any person, persons, or property on account of or arising out of the use of Parcel B by Parcel A Owner or its agents, contractors, subcontractors, invitees, or employees.

3.3 Non-Use. Non-use or limited use of the easement rights granted in this Agreement shall not prevent Parcel A Owner from later use of the easement rights to the fullest extent authorized in this Agreement.

3.4 Governing Law. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.

3.5 Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds of Sheboygan County, Wisconsin.

3.6 Notices. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the other party at that party's last known address. If the other party's address is not known to the party desiring to send a notice, the party sending the notice may use the address to which the other party's property tax bills are sent. Either party may change its address for notice by providing written notice to the other party.

3.7 Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

3.8 Waiver. No delay or omission by any party in exercising any right or power arising out of any default under any of the terms or conditions of this Agreement shall be construed to be a waiver of the right or power. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms or conditions of this Agreement.

3.9 Enforcement. Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this Agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the nonprevailing party.

3.10 No Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the easements granted under this Agreement to the general public or for any public purpose whatsoever. Parcel A Owner and Parcel B Owner agree to cooperate with each other and to take

such measures as may be necessary to prevent the dedication to the public of the Driveway and ACCESS EASEMENT TO BENEFIT LOT 2, whether by express grant, implication, or prescription, including, without limitation, the posting of "Private Drive" or "No Trespassing" signs. Such measures shall not, however, unreasonably interfere with the easement rights granted under this Agreement.

Dated: _____

LaValley Nature and Equine Sanctuary, Inc.

Tracy Auch

By: _____
Name: _____
Title: _____

Gene K. Auch

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF SHEBOYGAN

This instrument was acknowledged before me on _____ by
Tracy Auch and Gene K. Auch.

Name: _____
Notary Public, State of Wisconsin
My commission expires: _____

ACKNOWLEDGMENT

STATE OF WISCONSIN
COUNTY OF SHEBOYGAN

This instrument was acknowledged before me on _____ by
_____.

Name: _____
Notary Public, State of Wisconsin
My commission expires _____

EXHIBIT A

(Legal description of Parcel A)

Lot 2 of Certified Survey Map recorded in Volume ____ of Certified Survey Maps, page ____, Document No. _____, being part of Tract 1, Volume 6 of Certified Survey Maps, page 52, and the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 16 N., R. 21 E., Sheboygan County, Wisconsin.

Tax Parcel #: Part of 59018256782.

EXHIBIT B

(Legal description of Parcel B)

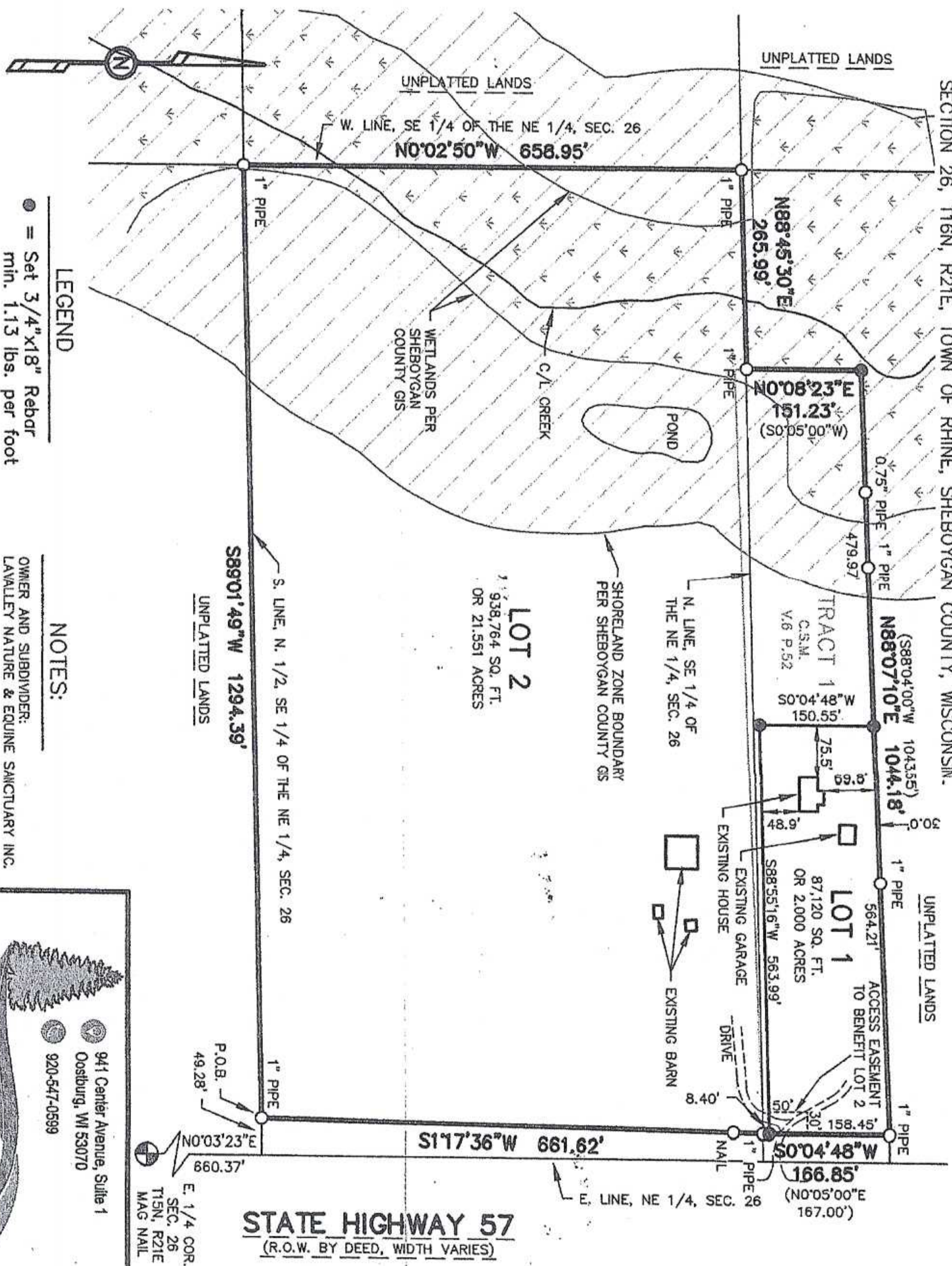
Lot 1 of Certified Survey Map recorded in Volume ____ of Certified Survey Maps, page ____, Document No. _____, being part of Tract 1, Volume 6 of Certified Survey Maps, page 52, and the N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 26, T. 16 N., R. 21 E., Sheboygan County, Wisconsin.

Tax Parcel #: Part of 59018256782.

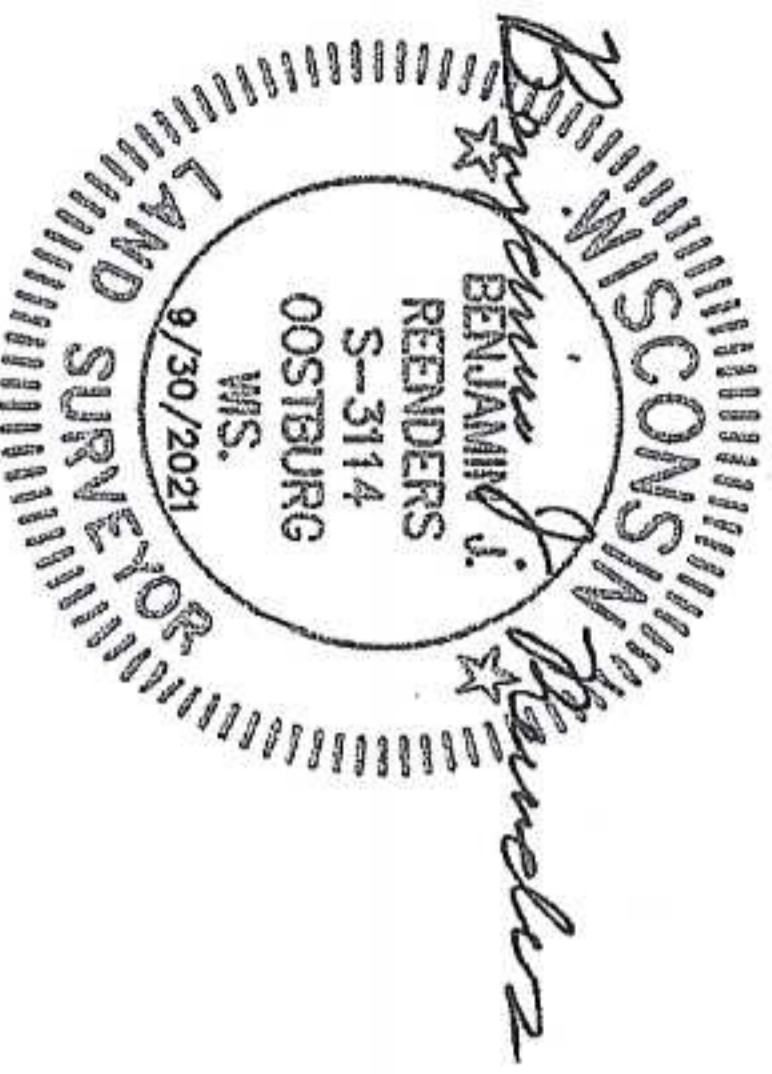
EXHIBIT C
Certified Survey Map

CERTIFIED SURVEY MAP

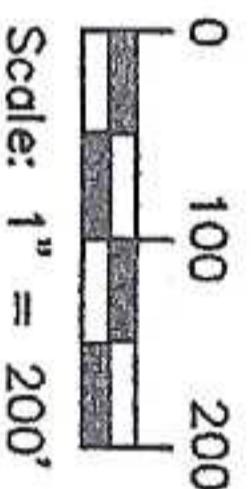
TRACT 1, C.S.M. V.6 P.52 AND THE N 1/2 OF THE SE 1/4 OF THE NE 1/4 OF SECTION 26, T16N, R21E, TOWN OF RHINE, SHEBOYGAN COUNTY, WISCONSIN.



NOTE:
 No soil tests have been conducted on Lot 2. Pursuant to Section 71.16(1)(b)(2) of the Sheboygan County Subdivision Ordinance, this lot creation is for conveyance purposes only. No on-site sewage disposal system shall be installed on said Lot without the express consent of the Sheboygan County Planning & Conservation Department.



This instrument was drafted by Benjamin J. Reenders.



- LEGEND**
- = Set 3/4"x18" Rebar min. 1.13 lbs. per foot
 - = Found Iron Pipe
 - ⊕ = Section Corner Monument

NOTES:

OWNER AND SUBDIVIDER:
 LAVALLEY NATURE & EQUINE SANCTUARY INC.
 BEARINGS ARE BASED ON THE NORTH LINE OF THE NE 1/4 OF SECTION 26, T16N, R21E, AS BEING N0°03'23"E PER THE SHEBOYGAN COUNTY COORDINATE SYSTEM.

CEDAR CREEK SURVEYING, LLC
www.cedarcreeksurveying.com

941 Center Avenue, Suite 1
 Oostburg, WI 53070
 920-547-0599

FILE No.: 2021104 DATE: 9/30/2021 SHEET: 1 OF 3

STATE HIGHWAY 57
 (R.O.W. BY DEED, WIDTH VARIES)

CERTIFIED SURVEY MAP

TRACT 1, C.S.M. V.6 P.52 AND THE N 1/2 OF THE SE 1/4
OF THE NE 1/4 OF SECTION 26, T16N, R21E, TOWN OF
RHINE, SHEBOYGAN COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

I, Benjamin J. Reenders, Professional Land Surveyor, hereby certify:

That I have surveyed, divided and mapped a Part of the Northeast 1/4 of the Northeast 1/4, and the Southeast 1/4 of the Northeast 1/4 of Section 26, T16N, R21E, Town of Rhine, Sheboygan County, Wisconsin described as follows:

Commencing at the East 1/4 Corner of said Section 26; thence N00°03'23"E 660.37 feet along the East line of the Northeast 1/4 of said Section 26; thence S89°01'49"W 49.28 feet along the South line of the North 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 26 to the POINT OF BEGINNING of this description; thence S89°01'49"W 1,294.39 feet along said South line of the North 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 26; thence N00°02'50"W 658.95 feet along the West line of the Southeast 1/4 of the Northeast 1/4 of said Section 26; thence N88°45'30"E 265.99 feet along the North line of the Southeast 1/4 of the Northeast 1/4 of said Section 26; thence N00°08'23"E 151.23 feet along the West line of Tract 1 of C.S.M. V.6, P.52; thence N88°07'10"E 1,044.18 feet along the North line of said Tract 1; thence S00°04'48"W 166.85 feet along the West right-of-way line of State Highway "57"; thence S01°17'36"W 661.62 feet along said West right-of-way line to the point of beginning of this description.

This parcel contains 1,025,884 square feet or 23.551 acres and is subject to Shore-land zoning as depicted on this map.

That such map is a correct representation of the exterior boundaries of the land surveyed and the division thereof.

That I have fully complied with provisions of Section 236.34 of the Wisconsin Statutes and the subdivision regulation of the Town of Rhine in surveying, dividing and mapping the same.

Benjamin J. Reenders Dated this 30th day of September, 2021
Benjamin J. Reenders PLS S-3114



This Instrument was drafted by Benjamin J. Reenders.



CERTIFIED SURVEY MAP

TRACT 1, C.S.M. V.6 P.52 AND THE N 1/2 OF THE SE 1/4
OF THE NE 1/4 OF SECTION 26, T16N, R21E, TOWN OF
RHINE, SHEBOYGAN COUNTY, WISCONSIN.

CORPORATE OWNERS CERTIFICATES

La Valley Nature and Equine Sanctuary Inc. does hereby certify that we have caused the lands described herein to be surveyed, divided, mapped, and dedicated as represented on this map. We also certify that this map is required to be submitted to the Town of Rhine, and the Sheboygan County Planning Department for approval.

_____ Dated _____, 2021
Member

_____ Dated _____, 2021
Member

TOWN OF RHINE APPROVAL CERTIFICATE

Resolved that the Certified Survey Map in the Town of Rhine is hereby approved by the town board of the Town of Rhine.

on this _____ day of _____, 2021.

Town Chairman

Town Clerk

COUNTY OF SHEBOYGAN PLANNING DEPARTMENT CERTIFICATE

Resolved that the Certified Survey Map in the Town of Rhine is hereby approved by the Sheboygan County Planning Department.

on this _____ day of _____, 2021.

Title



This instrument was drafted by Benjamin J. Reenders.

