



Dear Alder:

November 10, 2008

I realize how inundated you are with paperwork during this challenging budget season. The last thing I want to do is add to your workload. However, as a result of the November 3, 2008 Planning Commission recommendation, it is very important that the entire Common Council understand the ramifications of their upcoming vote. Since a part of all of our collective goals are to create and develop sound, quality, and environmentally friendly communities, it is imperative that I show you, in a few exhibits, what the consequences of yet another logic-defying Staff interpretation of our failed IZ ordinance will bring to future Madison neighborhoods.

Veridian Homes requested platting/zoning for the 1000 Oaks Neighborhood. It is important to note that this request was in response to preliminary plat expiration under state statute and **NOT** due to any changes to the plat. The plat still consists of approximately 105 acres with 304 housing units as was approved in 2006. **Exhibit I** and **Exhibit IA** show the land area as defined in the Pioneer Neighborhood Plan. It also shows the densities as forecasted in the Pioneer Neighborhood Plan. Prior to IZ, the City has supported smart growth planning which seeks to maximize density to prevent excessive land use and urban sprawl. As you can see, the Neighborhood Plan projects a maximum density for this plat of +/-500 units. (Using the award winning Grandview Commons' average densities, we would be allowed up to 477 units.) Finally, using the Density bonus calculations in the revised 2006 IZ ordinance, we would be allowed up to 377 units. **See Exhibit II- Density Bonus Pages in current IZ Ordinance.**

Although allowed 377 units under the revised 2006 IZ plan (or 401 units based on the zoning request on existing zoning as defined in the original ordinance) we platted only 304 units: nearly 200 units **LESS** than maximum per Pioneer Neighborhood Plan. **See Exhibit III: Brad Murphy's 1000 Oaks Density Chart.**

Here in lies the problem: in order to manufacture a density bonus that clearly did not exist, City Planning Staff devised a 3<sup>rd</sup> methodology, one that is not consistent with the IZ ordinance or the Comprehensive Plan. This more draconian methodology of computing base density has reduced the unit count to 272 by suggesting the mid point in the neighborhood plan be applied to the platted land not the acreage from the adopted neighborhood plan itself. While we have argued this is not derived from ordinance, Staff contends the City Attorney's office endorses this methodology over the other two. We have yet to see the written opinion even though we have requested such through our counsel: **See Exhibit IV.**

In conclusion, while the concept of utilizing the plat acreages instead of the adopted neighborhood plan acreage seems harmless, it has major platting ramifications which are easier to see in the last two exhibits. **Exhibit V** shows that if Veridian played games and simply extended the back yards of each of the lots abutting the heritage oak area and eliminated the buffers around the homes on Valley View and South Point, the platted land acreage is enlarged enough to nullify the density bonus. Please note that we would **STILL** be meeting the minimum lands required by the City's park dedication ordinance. **Exhibit VI** shows the loss of public open space and the loss of the public oak area. All this sends a strong message that all future developments need to be large lot, cookie-cutter subdivisions with the minimal park dedications, minimal environmental corridors and bare minimum storm water facilities for developers to avoid Staff's onerous interpretation of the IZ Density Bonus threshold.

We all have a responsibility to provide the current and future residents with the best neighborhoods we can create. I hope I have your complete support at the upcoming November 18 Common Council meeting. I realize that this is a very complicated issue and I would welcome your call at 226-3097 or e-mail at [rosenberg@veridianhomes.com](mailto:rosenberg@veridianhomes.com) to answer any of your questions. My special thanks are extended to Lauren Cnare, Tim Gruber, Julia Kerr and Judy Olsen, present and former council members on the plan commission, who understood the downside and voted to maintain good planning in Madison.

Sincerely,

Jeff Rosenberg

VERIDIAN HOMES, LLC

6801 South Towne Drive Madison, WI 53713 Phone 608.226.3100 Fax 608.226.0600

[www.veridianhomes.com](http://www.veridianhomes.com)

# Exhibit I






## 1000 OAKS NEIGHBORHOOD

*Madison, Wisconsin*

### Pioneer Neighborhood Plan

#### Planned Land Use

	Medium Density Residential	16.88 acres
	Low-Medium Density Residential	6.31 acres
	Low Density Residential	50.75 acres
Total		73.15 acres

#### Planned Land Use: Ordinance

Land Use	Acreage	Du/Acre	Units
Low-Medium	6.31 acres	11.5	73
Low	50.75 acres	6.0	304
Total			377

#### Planned Land Use: Maximum

Land Use	Acreage	Du/Acre	Units
Low-Medium	6.31 acres	15	94
Low	50.75 acres	8	406
Total			500

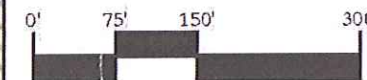
#### Planned Land Use: Grandview

Land Use	Acreage	Du/Acre	Units
Low-Medium	6.31 acres	19.7	124
Low	50.75 acres	6.97	353
Total			477

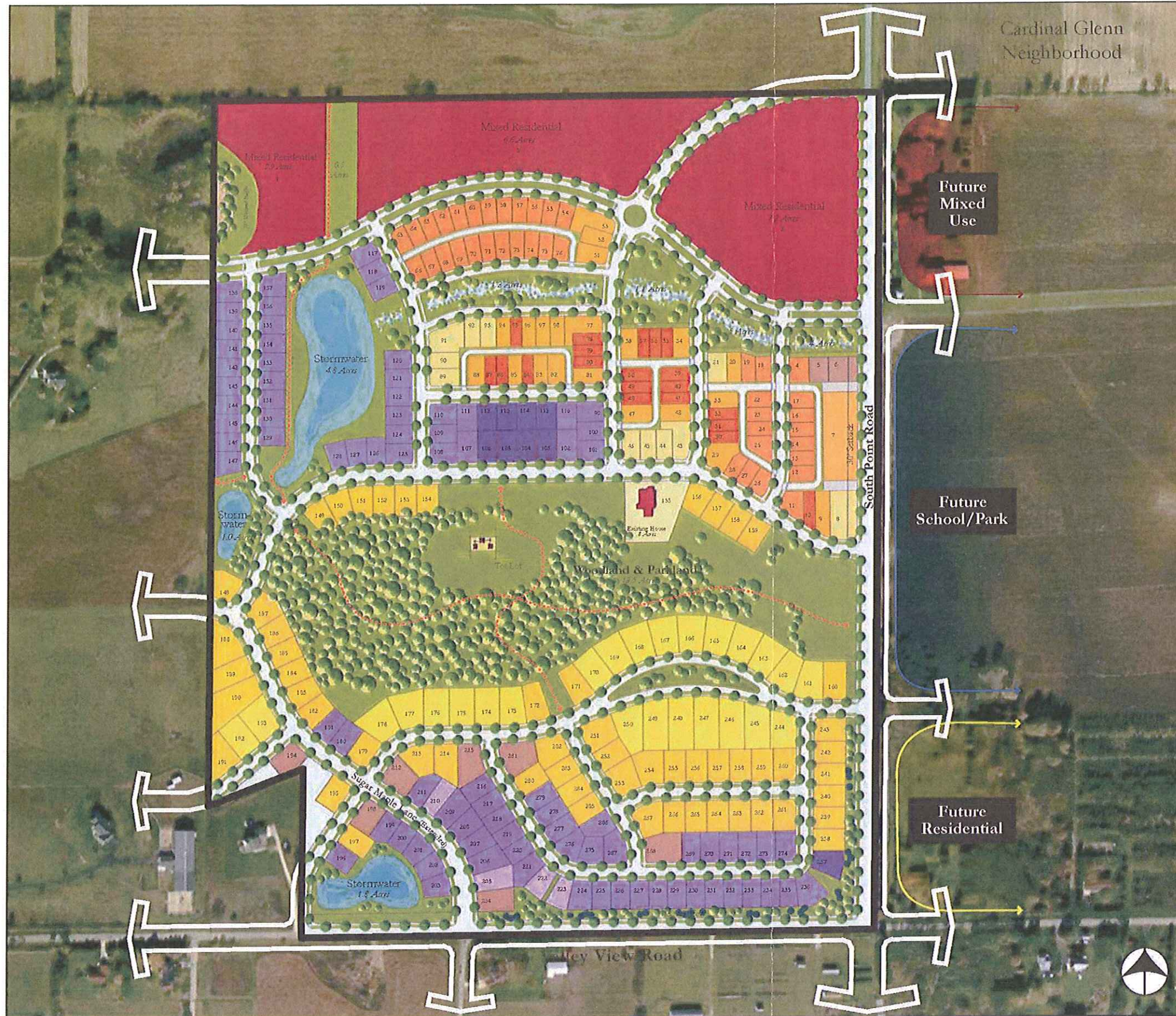


**VERIDIAN HOMES**

Planning, Grading, Rebuilding  
Madison & Milwaukee, Wisconsin  
Vandeville & Associates, Inc.



# Exhibit IA



## 1000 OAKS NEIGHBORHOOD

Madison, Wisconsin

### Master Plan

Single Family (Street Accessed) - 66% 182 Units

R2T Zoning District

51' x 100'	4 Units
59' x 85'	86 Units
65' x 100'	9 Units
69' x 100'	57 Units
80' x 120'	25 Units
Existing House	1 Unit

Single Family (Alley Loaded) - 34% 92 Units

R2Y Zoning District

45' x 95'	21 Units
51' x 95'	11 Units
R2Z Zoning District	
37' x 95'	20 Units
45' x 80'	40 Units

Subtotal 274 Units

Multi Family 420 Units

PUD, GDP District I Duplexes	18 Units
PUD, GDP District II Town Homes	12 Units
R5 Zoning District Mixed Residential	390 Units

Total Units 694 Units

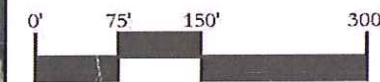
Parks & Open Space	19.6 Acres
Required Park Dedication -- 1100 Sq. Ft. @ 292 SF Units - 7.4 Acres -- 700 Sq. Ft. @ 402 MF Units - 6.5 Acres	13.8 Acres
Stormwater	11.8 Acres

NOTE: All lot numbers are preliminary plat lot numbers.



**VERIDIAN HOMES**

Building, Creating, Rebuilding  
Keller & Williams Wisconsin  
Vandewalle & Associates, Inc.  
Created: 5.31.05  
Revised: 6.21.05, 6.30.05, 7.28.05, 8.31.05,  
9.21.05, 10.13.05, 3.29.06, 4.7.06, 4.2.08



## Exhibit II

- occupied inclusionary dwelling unit that will not be provided.
    - ii. Payment to the Inclusionary Zoning Special Revenue Fund for a waiver of rental inclusionary dwelling units is ten percent (10%) of the appraised value of the average unit times the number of units waived.
    - iii. Payment to the Inclusionary Zoning Special Revenue Fund for a waiver of other residential occupancy dwelling units is an amount equal to ten percent (10%) of the appraised value of the average rental unit multiplied by the number of required, but not provided, inclusionary dwelling units.
- 4. In the event that offsets, provision of off-site inclusionary dwelling units, assignment of the obligation, and/or payment to the Inclusionary Zoning Special Revenue Fund do not cover ninety-five percent (95%) of the revenue differential in (d)1., the applicant may request a waiver in (c)8. to reduce the number of inclusionary dwelling units required.
- 5. In the event the offsets exceed five percent (5%) of the revenue differential in (d)1., the offsets may be reduced by the Plan Commission.
- 6. Density Bonus. The density used to calculate the density bonus shall be based on the existing zoning as shown below in a. However, if the existing zoning is agricultural or for lands to be annexed to the City of Madison and a Neighborhood Plan exists for the area, the density used to calculate the density bonus shall be as shown in b. If development is located in the Downtown Districts, as shown on Maps 2-3 of Vol. 2, City of Madison Comprehensive Plan, the density used to calculate the density bonus will be determined by the Director of the Department of Planning Development, based on consideration of the existing zoning designation, Historic or Urban Design District designation, and in a manner consistent with the intent and integrity of existing Neighborhood or Special Area Plans, and the existing development neighborhood pattern.

a.	<u>Existing Zoning</u>	<u>Density to Use as Basis for Density Bonus</u>
	R1	5.44 units/acre
	R1-R	0.6 units/acre
	R2	7.26 units/acre
	R2T	8.72 units/acre
	R2S	10.89 units/acre
	RS	5.44 units/acre
	R3	10.88 units/acre
	R4/R4A/R4L	21.78 units/acre
	R5	33.50 units/acre
	R6/R6H	72.60 units/acre
	Conservancy	5.44 units/acre
	Planned Unit Development	The density specified in the zoning text.
	Planned Community Development	The density specified in the zoning text.
	Planned Community Mobile Home Park	The density specified in the zoning text.
	OR	72.60 units/acre
	O1	21.78 units/acre
	O2	21.78 units/acre
	C1, C2, C3, C4	38 units/acre
	C3L, M1, M2, PSM, SM	5.44 units/acre
b.	<u>Agricultural or Lands to be Annexed:</u>	
	a. Low Density	Seventy-five percent (75%) point of the density range in Neighborhood Development Plan

# Exhibit II

- b. Low-Medium Density
- c. Medium Density
- d. Medium-High Density
- e. High Density

Midpoint of density range in-Neighborhood Development Plan  
Midpoint of density range in-Neighborhood Development Plan  
Midpoint of density range in-Neighborhood Development Plan  
Midpoint of density range in-Neighborhood Development Plan

(e)

Price of Inclusionary Dwelling Units.

1. Rental Inclusionary Dwelling Units. The monthly rental price for rental inclusionary dwelling units or leased residential spaces shall include rent and utility costs and shall be no more than thirty percent (30%) of the monthly income for the applicable AMI.
2. Owner-Occupied Inclusionary Dwelling Units. The qualifying sale price of an owner-occupied inclusionary dwelling unit or a lot that is designated for an owner-occupied inclusionary dwelling unit shall be calculated by the City based on a monthly payment that includes property taxes, homeowner's insurance, private mortgage insurance, homeowner's or condominium association fees (if applicable), monthly ground rent, and the principal payment and interest on a mortgage based on the available fixed-rate thirty (30) year mortgage. The sales price of a lot shall be not more than twenty-five percent (25%) of the qualifying sales price of an owner-occupied inclusionary dwelling unit. The monthly payment that is used to calculate the qualifying sale price shall be no more than thirty percent (30%) of the monthly income for the applicable AMI. The applicable interest rate for establishing a sale price shall be the rate, as determined quarterly by the Department of Planning and Development, that is available as of the date on which the building permit for the inclusionary dwelling unit is issued or the date on which marketing of the unit begins. With the exception of a refrigerator and stove, major appliances in the home and landscaping shall be considered as optional amenities. If the owner-occupant of an inclusionary dwelling unit wishes to finance these optional amenities as part of the home mortgage, their cost should not be considered part of the purchase price of the unit.
3. Other Residential Occupancy Inclusionary Dwelling Units. The price of another residential occupancy residency inclusionary dwelling unit shall not exceed thirty percent (30%) of the monthly income for the applicable AMI and shall include all occupancy fees, utility costs and, if applicable, any monthly payment for the financing of the cost to enter into an agreement for such unit. The monthly payment shall be calculated in the same manner as a monthly payment under (e)2. above.
4. Dwelling Unit/Family Size. For purposes of calculating rental and sales prices, the following relationship between family size and dwelling unit size shall apply:
  - a. Leased residential space - One bed in a two-bed bedroom - .5 of a one (1) person family.
  - b. Leased residential space - One bedroom in a multi-bedroom unit - .66 of a one (1) person family.
  - c. Efficiency dwelling unit - 1 person family.
  - d. One bedroom dwelling unit - Average AMI of a 1 and 2 person family
  - e. Two bedroom dwelling unit - 3 person family.
  - f. Three bedroom dwelling unit - Average AMI of a 4 and 5 person family
  - g. Four bedroom dwelling unit - 6 person family.
  - h. Five bedroom dwelling unit - Average AMI of a 7 and 8 person family
  - i. Six bedroom dwelling unit - 9 person familyThe median income for a family of 1.5 is the average of median income for a 1 and 2 person family. The median income for a family of 4.5 is the average of the median income for a 4 and 5 person

# Exhibit III

## Proposed 1000 Oaks Plat Densities

<u>Land Use</u>	<u>Plat Acreage</u>	<u>Density Units/AC</u>	<u>Unit Count</u>
Low-Medium	3.11	9.32	29
Low	39.36	6.99	275
<b>Total</b>			<b>304</b>

## Base Density Using the Neighborhood Plan Acreage

<u>Land Use</u>	<u>Plan Acreage</u>	<u>Density Units/AC</u>	<u>Unit Count</u>
Low-Medium	6.31	11.5	73
Low	50.75	6.0	304
<b>Total</b>			<b>377</b>

## Base Density Using the Plat Acreage

<u>Land Use</u>	<u>Plat Acreage</u>	<u>Density Units/AC</u>	<u>Unit Count</u>
Low-Medium	3.11	11.5	36
Low	39.36	6.0	236
<b>Total</b>			<b>272</b>

## Base Density Using 2005 Zoning Categories\*

<u>Zoning</u>	<u>Plat Acreage</u>	<u>Density Units/AC</u>	<u>Unit Count</u>
R2T	30.51	8.72	266
R2Y	4.78	10.89*	52
R2Z	4.91	10.89*	53
PUD	2.27	13.2	30
<b>Total</b>			<b>401</b>

\* Source: Veridian, R2Y & R2Z use densities associated with R2S as they are not listed in the Ordinance.

# Exhibit IV

## MOHS, MACDONALD, WIDDER & PARADISE

ATTORNEYS AT LAW

20 N. CARROLL STREET

MADISON, WISCONSIN 53703

FREDERIC E. MOHS  
DANIEL A. MACDONALD  
THEODORE C. WIDDER III  
GREGORY J. PARADISE  
JOHN W. VAN NOTE  
TIMOTHY F. UMLAND

608-256-1978  
FAX 608-257-1106

November 4, 2008

### VIA HAND DELIVERY

Kitty Noonan  
Assistant City Attorney  
Madison City Attorney's Office  
210 Martin Luther King, Jr., Blvd.  
Room 401  
Madison, WI 53703

RE: Interpretation of IZ Waiver and Density Bonus

Dear Kitty:

I represent Veridian Homes and am writing this letter in connection with their 1000 Oaks project.

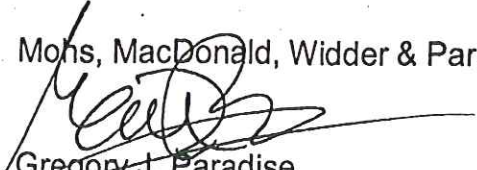
My client and the City Planning Department have been discussing the method for calculating the Density Bonus used in the IZ Waiver process. At the November 3, 2008 Plan Commission meeting, with respect to the discussion of Item No. 3, the 1000 Oaks IZ Waiver and Density Bonus, the Planning Unit staff represented that you issued an opinion in support of their methodology for calculating the Density Bonus used in the IZ Waiver process. My client anticipates further discussions with the City Council at the meeting of November 18<sup>th</sup> and it would be very useful if we had your opinion in hand so we can determine whether or not our interpretation of how this should work is in fact correct and the points at which we may disagree with the City's interpretation of how this should work.

Could you please forward to me a copy of your opinion as soon as possible, but in any case no later than Friday, November 14<sup>th</sup>. It would be very helpful for us to review the City's position on this matter as far in advance of the Council meeting on the 18<sup>th</sup> as possible.

If there are any questions or problems regarding this request, could you please contact me as soon as possible. Thanks

Sincerely,

Mohs, MacDonald, Widder & Paradise

  
Gregory J. Paradise

cc: Don Esposito  
Brad Murphy

# Exhibit IV

## MOHS, MACDONALD, WIDDER & PARADISE

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TIMOTHY F. UMLAND

608-256-1978  
FAX 608-257-1106

November 7, 2008

### VIA E-MAIL AND REGULAR MAIL

Katherine Noonan  
Assistant City Attorney  
Madison City Attorney's Office  
210 Martin Luther King, Jr., Blvd.  
Room 401  
Madison, WI 53703

RE: IZ Waiver and Density Bonus

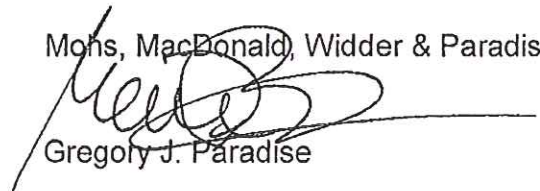
Dear Kitty:

This letter follows up my letter of November 4, 2008. I have not yet received a copy of your opinion regarding the IZ waiver and density bonus issues that was mentioned at the recent Plan Commission meeting in connection with discussion of the 1000 Oaks IZ waiver and density bonus. My client, Veridian Homes, LLC, would like to have this opinion sooner than the date I mentioned in my previous letter, November 14<sup>th</sup>, so that we can analyze the opinion as well as include the opinion with any materials that we are submitting to the City Counsel for the meeting on the 18<sup>th</sup>. Accordingly, would it be possible to have this information the early part of next week, but in no event later than noon on Thursday, November 13, 2008.

I look forward to hearing from you. If there are problems with this request, please contact me.

Sincerely,

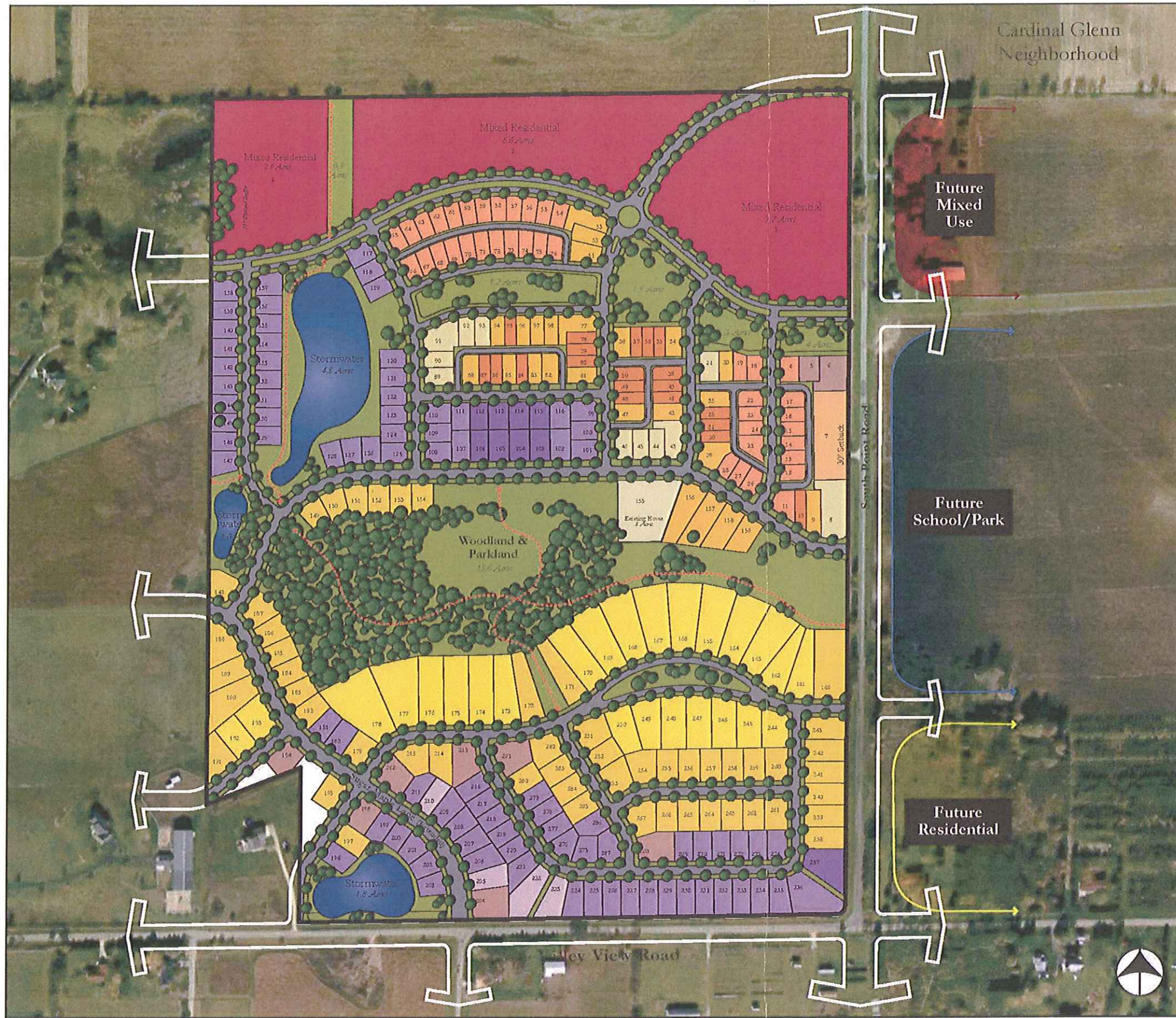
Mohs, MacDonald, Widder & Paradise

  
Gregory J. Paradise

cc: Don Esposito



# Exhibit V



## 1000 OAKS NEIGHBORHOOD

Madison, Wisconsin

### REVISED Master Plan

#### Density Bonus

##### Adopted Final Plat Calculation

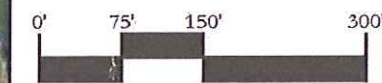
Total Unit Count 304

Land Use	Acreage	Density	Unit Count
Low Density	39.36	6 du/acre	236
Low Medium	3.11	11.5 du/acre	36
<b>Total</b>			<b>272</b>

##### Revised Concept

Total Unit Count 304

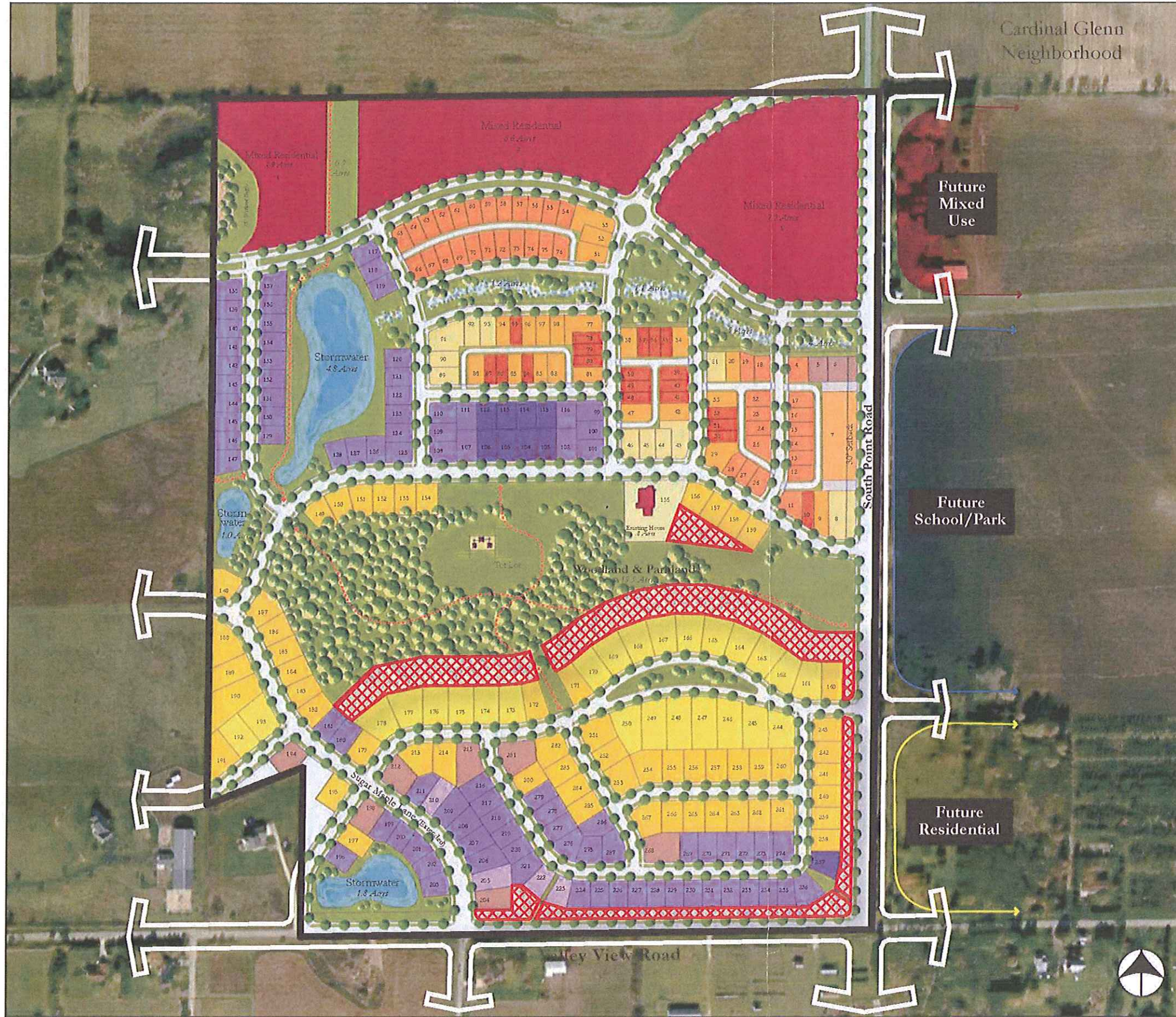
Land Use	Acreage	Density	Unit Count
Low Density	44.69	6 du/acre	268
Low Medium	3.11	11.5 du/acre	36
<b>Total</b>			<b>304</b>



**VERIDIAN HOMES**

Planning, Creative, Rebuilding,  
 Wilson & Wilson  
 Vandewalle & Associates, Inc.  
 Created: 5.31.05  
 Revised: 6.21.05, 6.30.05, 7.28.05, 8.31.05,  
 9.21.05, 10.13.05, 3.29.06, 4.7.06, 4.2.08, 11.4.08


# Exhibit VI



## 1000 OAKS NEIGHBORHOOD

*Madison, Wisconsin*

### Master Plan Comparison

 The red hatched areas represent 5.3 acres of parkland and open space potentially converted and added to the depth of 46 single-family lots. The result of this acreage conversion is a change in the calculated density bonus threshold from 272 units to 304 units. Under this scenario, the parkland is still over dedicated by 1.8 acres.



**VERIDIAN HOMES**

Planning, Creating, Rebuilding, Madison & Milwaukee, Wisconsin Vandewalle & Associates, Inc.

Created: 5.31.05  
 Revised: 6.21.05, 6.30.05, 7.28.05, 8.31.05, 9.21.05, 10.13.05, 3.29.06, 4.7.06, 4.2.08, 11.5.08

