

NEW HOME CONSTRUCTION 101



Wetlands and Floodplain Maps

Abby Maslanka, P.E.

Bubolz Nature Preserve

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Martenson & Eisele, Inc.

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DISCLAIMER

The following information is for your personal use and understanding only. *This is not a substitute for professional advice.* Be very careful about providing environmental conditions to or answering questions for potential buyers.

Always direct *your client* to local municipal, County and/or WDNR staff if they have questions!

WHAT IS A WETLAND?

- Wis. State Legislature defines a wetland as, “An area where water is at, near or above the land surface long enough to be capable of **supporting aquatic or hydrophytic (water-loving) vegetation** and which has **soils indicative of wet conditions**” (1978).
- Some types include:
 - Wet meadow (marsh)
 - Shrub-carr (dogwood)
 - Wooded swamp



Steve Eggers

WHY ARE WETLANDS IMPORTANT?

➤ Environmental Functions

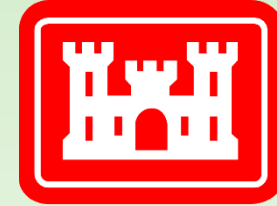
- Water quality protection
- Shoreland protection
- Fish & wildlife habitat
- Floral diversity
- Flood control
- Groundwater recharge

➤ Human Benefits

- Water supply
- Flood protection
- Recreational opportunities
 - Waterfowl hunting
 - Birdwatching
 - Fishing
 - Canoeing / Kayaking

WHO REGULATES WETLANDS?

- **Federal:** U.S. Army Corps of Engineers (USACE)
 - Waters of the U.S. (**WOTUS**) under the Clean Water Act
- **State:** Wisconsin Department of Natural Resources (WDNR)
 - State wetlands
- **Local:** Counties and Municipalities
 - Shoreland zoning
 - Setbacks & conservation easements



**US Army Corps
of Engineers®**

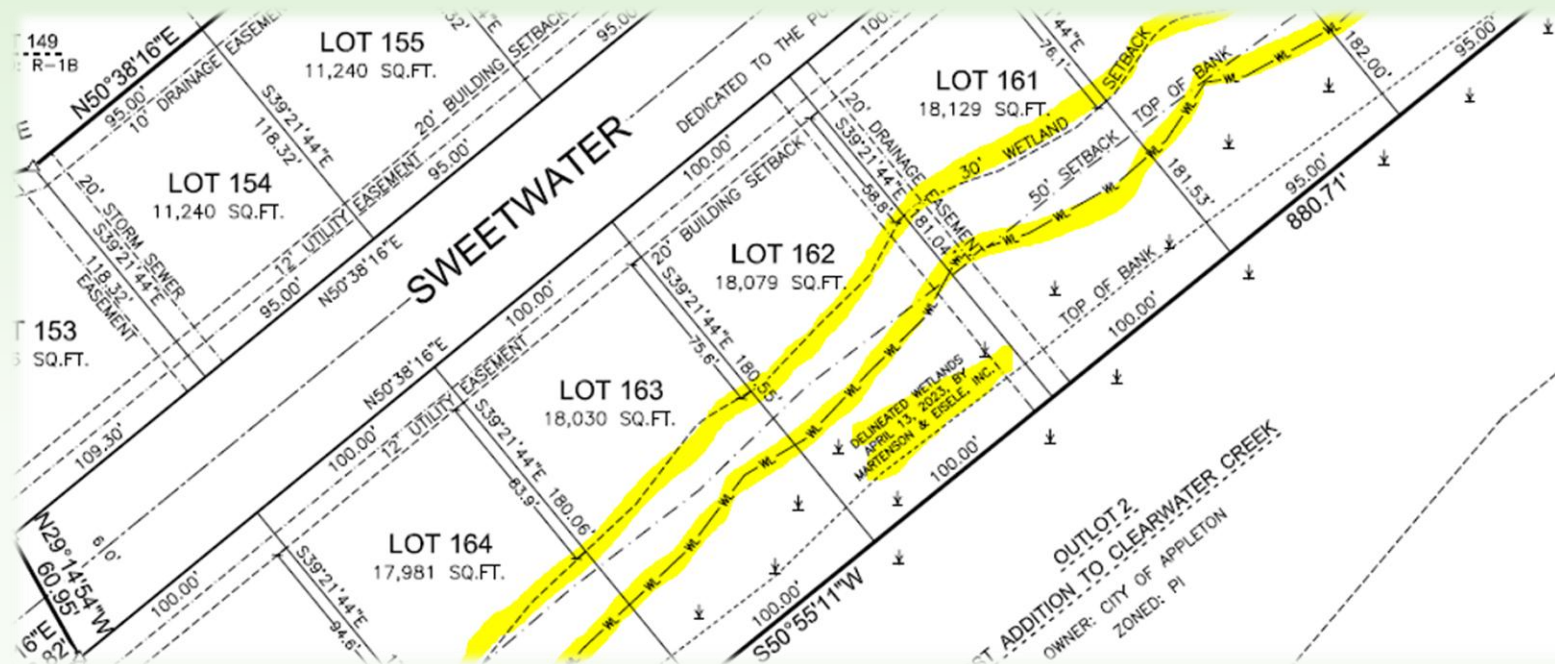


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WHY IS KNOWING WETLANDS' LOCATIONS IMPORTANT FOR NEW HOME CONSTRUCTION?

- You cannot disturb a wetland area or build within a setback even if you did not know a wetland was present.



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HOW CAN I CHECK IF I HAVE A POTENTIAL WETLAND AREA ONSITE?

➤ WDNR Surface Water Data Viewer (SWDV)

- <https://dnr.wisconsin.gov/topic/SurfaceWater/swdv>
- Layers: ✓ Mapped Wetlands (Orange), ✓ Wetland Indicators & Soils (Purple)
- Mapped wetland onsite (must be delineated in the last 5 years)
- Planned disturbance within 75 ft of indicator soils

➤ Aerial wetness signatures

- Visible standing water
- Areas of dead (inundated) crops in farm fields
- Nearby navigable waterway (WOTUS) or tributary
 - Shown as dashed blue lines in SWDV

County and Municipal GIS websites may have mapped wetland layers, but **do not always include indicator soils.**

Check the **WDNR SWDV** for the most up-to-date wetland data.



Surface Water Data Viewer

Wisconsin Department of Natural Resources

Home

Layers

Legend

Basic Tools

Locate & Identify

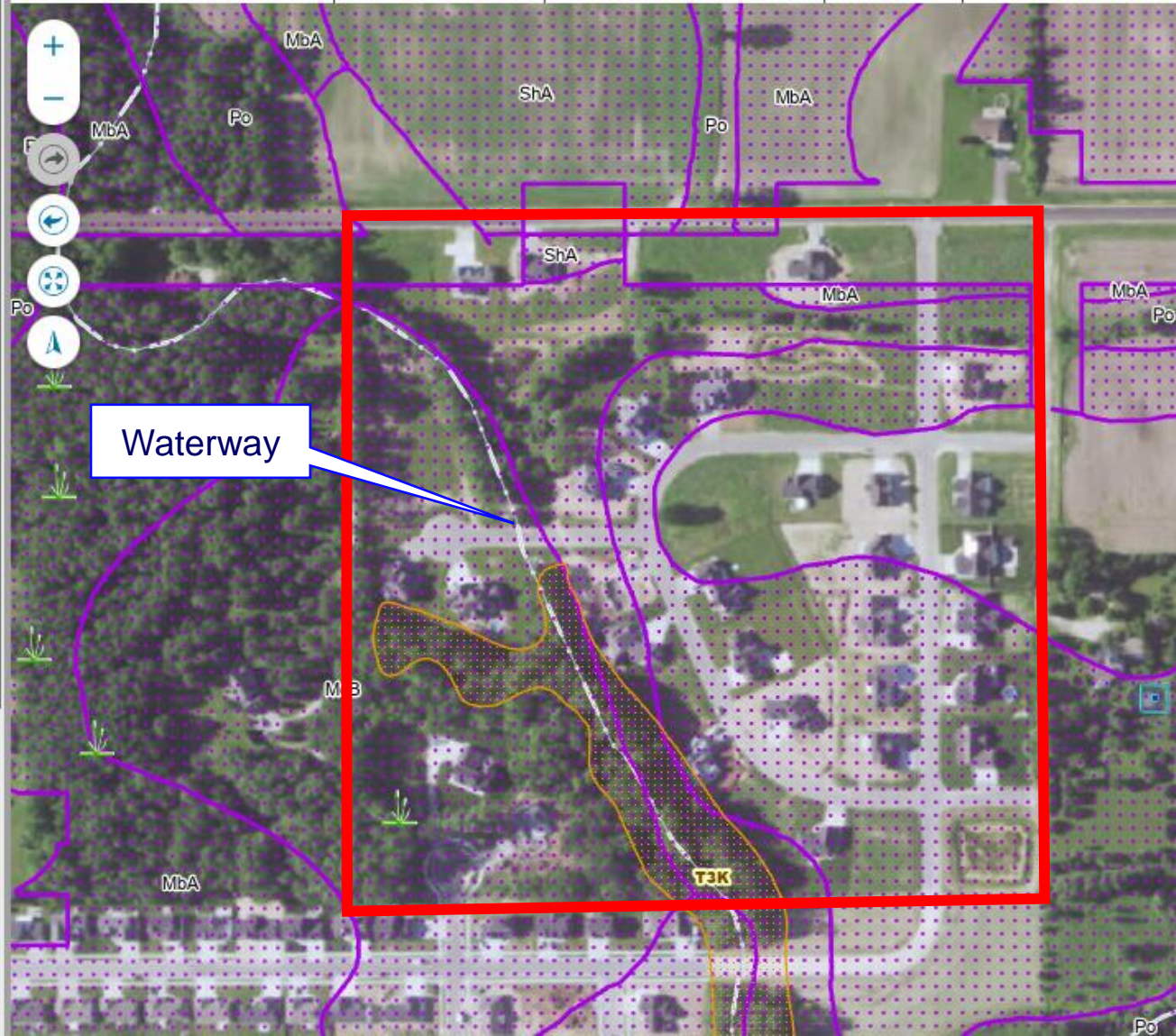
Draw & Measure

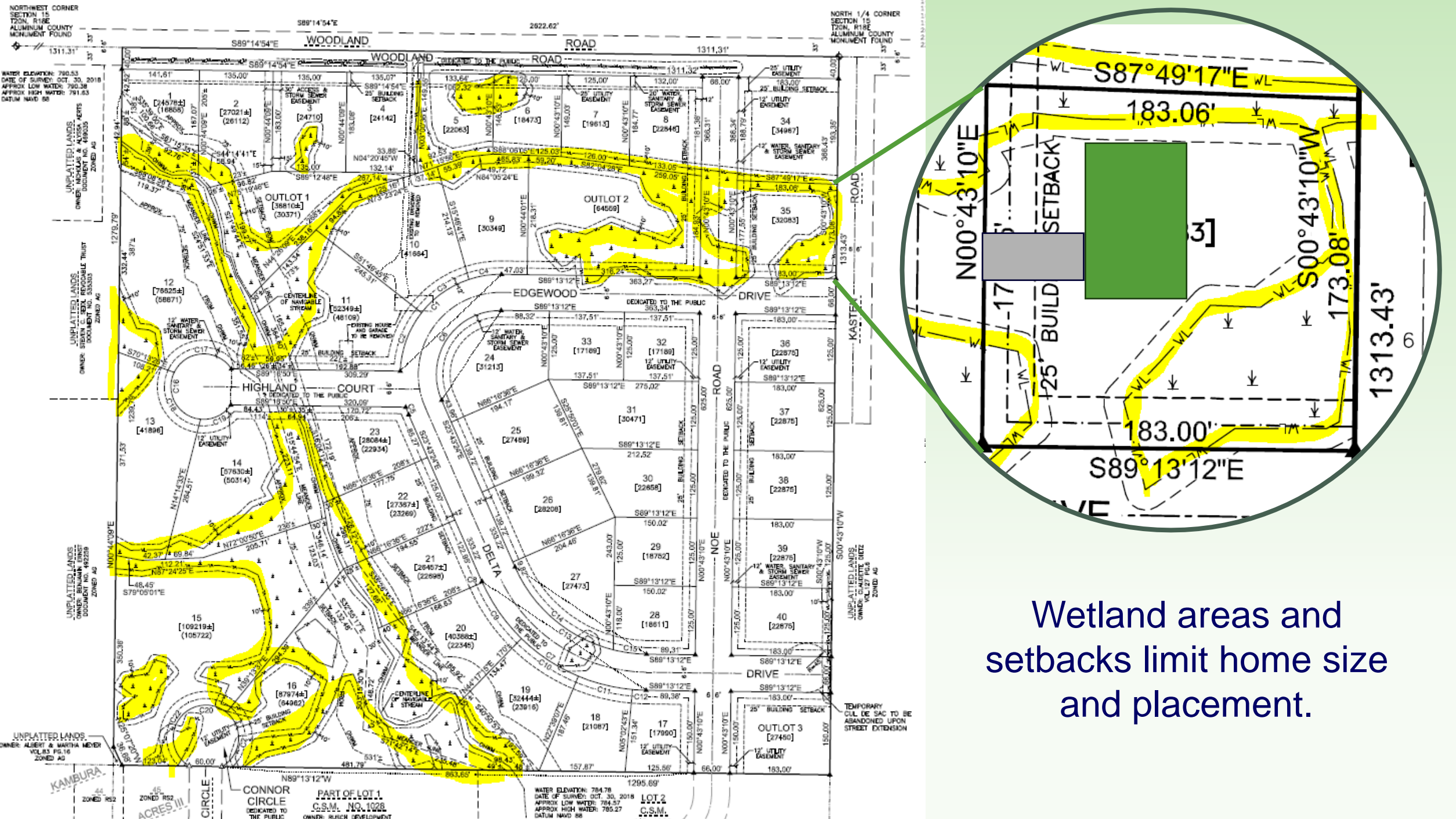
Help & Resources

Filter layers by title ...

- Monitoring Sites & Data
- Watershed Boundaries
- Boat Access & Shore Fishing
- Dams & Floodplains
- Clean Water Act Standards & Uses
- Assessments & Impairments
- Priority Navigable Waterways
- Fisheries Management
- Fish Consumption Advice
- Grant Locations
- Permits & Determinations
- Sediment Inventory
- 2** Mapped Wetlands
- 3** Wetland Indicators & Soils

- Home
- Show Layers
- Legend
- Identify
- Clear All
- Upload Data
- Add Layers
- Share Link
- Print Map





Wetland areas and setbacks limit home size and placement.

REAL ESTATE TRANSACTIONS INVOLVING WETLANDS

➤ **Addendum W – Wetlands** is a legal document that can be filed as an addendum to an offer to purchase

○ WDNR host link:

<https://dnr.wisconsin.gov/topic/Wetlands/addendum.html>

➤ Allows buyers an opportunity to verify that wetlands are present on a property and to negotiate a mutual remedy with the seller if wetlands are confirmed

ADDENDUM W - WETLANDS

USE FOR SALE OR LEASE OF PROPERTY THAT CONTAINS OR MAY CONTAIN WETLANDS.

1 This Addendum is attached to and made part of the Offer to Purchase/Lease dated _____, made by the Buyer,
2 _____ with respect to the property at
3 _____, Wisconsin (Property).

4 ■ **WETLANDS NOTICE:** It is in the Buyer's best interest to determine if the Property contains wetlands **prior** to the purchase
5 or lease of the Property because wetlands are not suitable for development and not easily identifiable. Professional
6 assistance is often needed to verify the presence or absence of wetlands.

7 **Wisconsin Wetlands.** Wetlands may be perceived as an amenity or a liability depending upon the desired use of the
8 property, however all wetlands provide important ecological functions. Wisconsin has many types of wetlands including
9 marshes, meadows, wooded swamps, bogs, fens and others. Descriptions and photographs can be found at
10 <https://www.wisconsinwetlands.org/learn/about-wetlands/>.

11 Wetland Confirmation, Wetland Identification, Assured Delineation Report Submittal, and Wetland Exemption Service are all
12 Wisconsin Department of Natural Resources (DNR) services relating to wetlands, property purchases and permitting, go to
13 <https://dnr.wisconsin.gov/topic/Wetlands/identification.html> to learn more.

14 **Wetlands Confirmation.** Buyer can review maps and other resources for locating Wetlands at
15 <https://dnr.wisconsin.gov/topic/Wetlands/locating.html>.

16 **Wetlands Identification Program.** The DNR Wetland Identification Program is a service that identifies approximate wetland
17 boundaries but does not provide a quantifiable extent of wetlands on the property and is not suitable for permit applications
18 or crediting per lines 44-45 of the Wetland Evaluation Contingency. See
19 <https://dnr.wisconsin.gov/topic/Wetlands/identification.html>.

20 **Permitting.** State and federal laws generally require permits before wetlands can be built upon or impacted.
21 • State wetland permit requirements and exemption information from the Wisconsin DNR can be found at
22 <https://dnr.wisconsin.gov/topic/Wetlands/permits>.

23 • Federal wetland permit information from the U.S. Army Corps of Engineers can be found at
24 <https://www.mvp.usace.army.mil/Missions/Regulatory/Permitting-Process-Procedures/>.

25 • Also, check for local permits.

26 **NOTE: Not all projects will be eligible for permits.**

27 Construction in wetlands without permits will result in enforcement action, which may include removal of structures, wetland
28 restoration, and potential fines.

29 ■ **PROPERTY INFORMATION** **COMPLETE AS APPLICABLE**

30 1. Seller (has)(has not) **STRIKE ONE** disclosed that the Property or any portion of the Property contains wetlands.
31 2. The Property (does)(does not) **STRIKE ONE** include lakes, ponds, streams, or drainage ditches.
32 3. The Property (does)(does not) **STRIKE ONE** include standing water or areas where water collects at or near the soil
33 surface between March-November in most years.

34 **NOTE: Seller's lack of knowledge does not confirm the absence of wetlands.**

35 **INCLUSION OF THE WETLAND EVALUATION CONTINGENCY** The Wetland Evaluation Contingency is part of this
36 Addendum ONLY if the box is marked such as with an "X." It is not part of this Addendum if marked "N/A" or left blank.

37 **NOTE: Consider whether the deadline on line 40 provides adequate time if the Buyer is obtaining a wetland
38 delineation report, since generally wetland delineations cannot be confirmed by the DNR in winter months.**

39 **WETLAND EVALUATION CONTINGENCY:** This Offer is contingent upon Buyer obtaining a written report that
40 determines if there are wetlands at the Property within _____ days ("60" if left blank) of acceptance of this Offer. Buyer shall
41 arrange for a wetland professional to conduct an on-site evaluation of the Property and prepare a written report, at Buyer's
42 cost, unless otherwise agreed in writing. This contingency shall be deemed satisfied unless Buyer delivers a copy of a wetland
43 confirmation or delineation report to Seller that shows the presence of wetlands on the property, within _____ days ("10"
44 if left blank) of the deadline for Buyer obtaining said report. If the report shows wetlands on the Property (Seller shall provide
45 Buyer with a credit of \$ _____ /wetland acre at closing) (Buyer may rescind
46 this Offer) (_____) **STRIKE AND COMPLETE AS APPLICABLE**.

47 By initialing and dating below, the Parties acknowledge that they have received and read a copy of this Addendum.

48 _____

49 Buyer(s) Initials ▲ _____ Date ▲ _____ Seller(s) Initials ▲ _____ Date ▲ _____

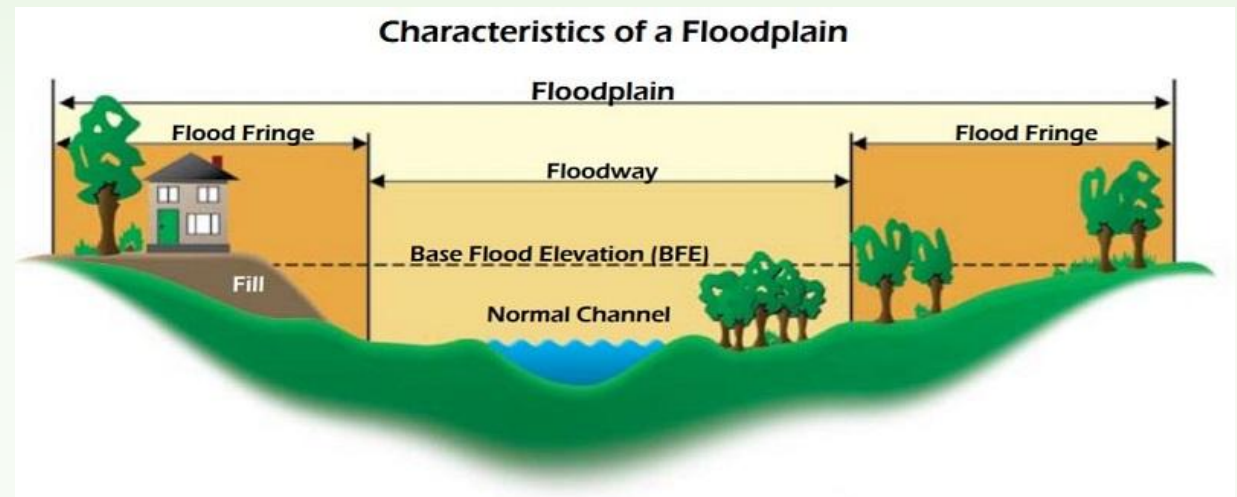
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WHAT IS A FLOODPLAIN?

- Wis. State Legislature defines a **floodplain** as, “land which has been or **may be covered by flood water** during the regional flood.”
- **Regional flood** is defined as, “a flood determined to be representative of large floods known to have occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream **once in every 100 years.**”

Just because regional floods have a 1 in 100 chance of happening any given year, does not mean they won't occur back-to-back!



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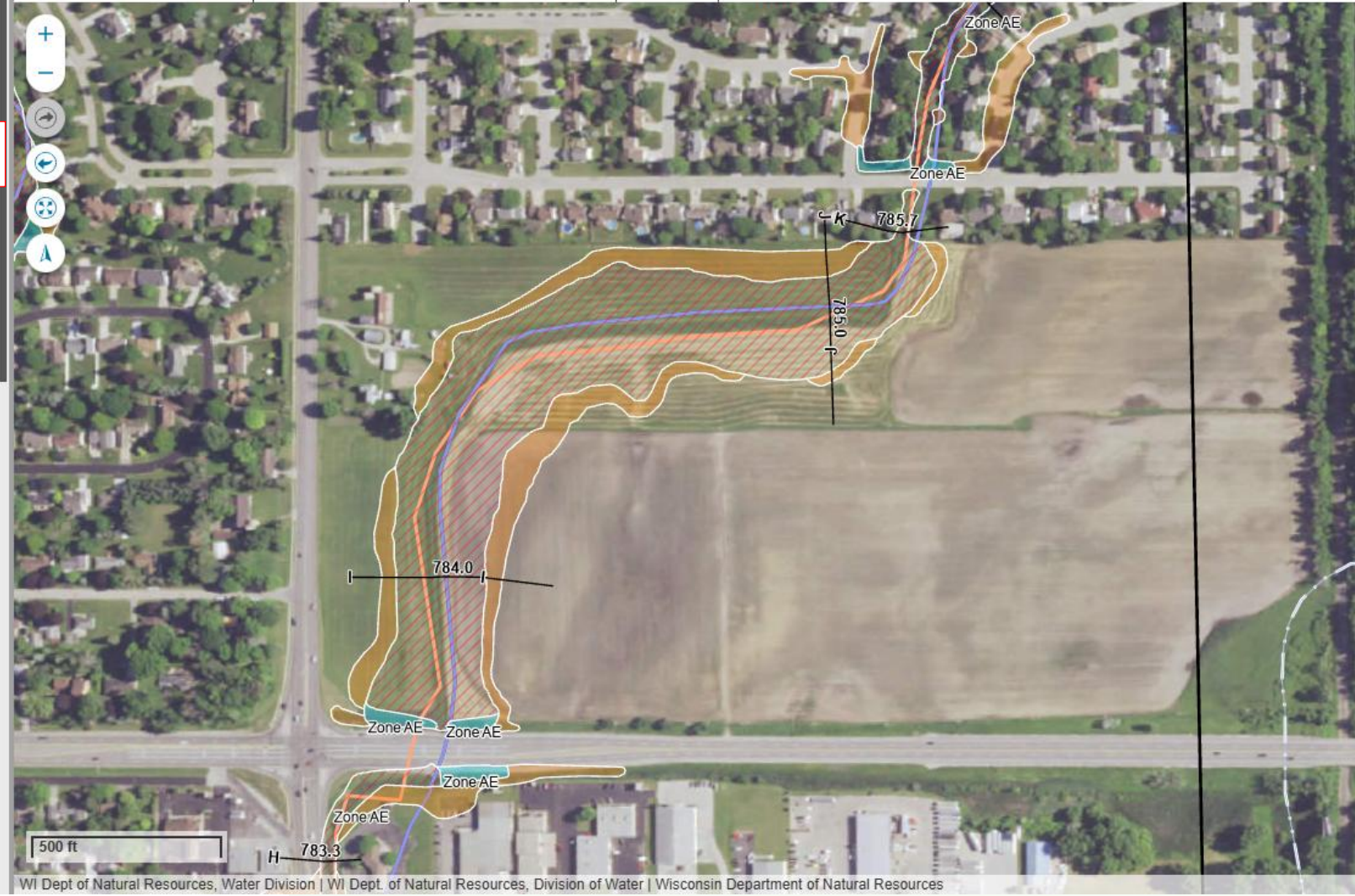
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FEMA, National Flood Insurance Program Guidebook, 2009



Filter layers by title ...

- Monitoring Sites & Data
- Watershed Boundaries
- 2** Boat Access & Shore Fishing **3**
- Dams & Floodplains
- 4** Dams
- Floodplains
- Digital FEMA Floodplains (National Flood Hazard Layer)
- Paper FEMA Floodplains
- Floodplain Analysis Data (Floodplain Studies)
- Digital State Floodplains (Additional Non-FEMA)
- Record Flood Levels
- 2D Water Surface Elevation
- 2D Water Surface Elevation DEM
- Clean Water Act Standards & Uses
- Assessments & Impairments
- Priority Navigable Waterways



IN SUMMARY. . .

If questions arise, always have the Buyer reach out to the lot's local Shoreland Zoning staff and environmental professionals!

ANY QUESTIONS?

Contact Us:

1377 Midway Road, P.O. Box 449

Menasha, WI 54952

(920) 731-0381

Abby Maslanka, P.E.

Project Engineer III

abbym@martenson-eisele.com



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