

Agenda Memorandum



Staff/Department: Carly Persson, Village Administrator
Subject Matter: Marchstone Development: Proposed Hillside Overlay Ordinance Amendments
Meeting Date: Village Board – June 8, 2026
Referral History: Plan Commission – May 4, 2026, June 1, 2026
Village Board – May 11, 2026

Executive Summary:

Marchstone is requesting amendments to the Village's Hillside Overlay regulations related to hilltop edges, hillside disturbance, and woodland clearing. While the request originated during review of the Marchstone development, any amendments adopted by the Village Board would apply village-wide and are not limited to the development.

The proposed ordinance amendments were reviewed by the Plan Commission and Village Board in May 2026. On June 1, 2026, the Plan Commission conducted a public hearing, considered public testimony and written comments, and recommended approval of modified ordinance language affecting Sections 83.125(r), 83.18, and 84.56(d). The specific amendments recommended by the Plan Commission are included in the attached exhibits.

The Village Board is the final decision-making body and may approve, deny, or modify the proposed amendments. Final approval would require a simple majority vote of the Village Board.

Project Background:

The proposed ordinance amendments were initiated following review of the Marchstone development, where application of the existing Hilltop Edge buffer requirements identified challenges related to lot layout, roadway design, utility placement, stormwater management, and other site improvements.

The Village's Hillside Overlay regulations are intended to guide development within hillside and hilltop areas while balancing protection of natural resources, scenic viewsheds, and private property rights. The regulations currently establish standards related to hillside disturbance, hilltop protection, woodland clearing, and development within designated hillside and hilltop areas.

The proposed amendments would modify portions of Sections 83.125(r), 83.18, and 84.56(d) of the Village Code. Proposed changes include revisions to the Hilltop Edge buffer, updates to definitions, clarification of allowable disturbance activities, and modifications to exceptions related to utilities, stormwater management facilities, access improvements, recreational amenities, and other site infrastructure. Restrictions related to slopes exceeding 20 percent and elevations above 924 feet would remain unchanged.

Agenda Memorandum

History of the Hillside/Hilltop Ordinance

The Village's Hillside and Hilltop regulations were adopted in 1988 following discussions regarding development on prominent hillsides and ridgelines throughout the community. Historical Village Board records indicate the regulations were intended to balance preservation of scenic views, natural resources, and community character with reasonable development opportunities for private property owners. Discussions at the time focused on hillside disturbance, visibility of development from lower elevations, protection of ridgelines, and the appropriate extent of development restrictions.

Meeting minutes from 1988 and 1989 indicate that multiple approaches to hilltop protection were considered during development of the ordinance, including discussion of different setback distances from hilltop edges. Historical records suggest that both 50-foot and 150-foot setbacks were discussed as part of the ordinance development process. A summary of relevant Village Board discussions and actions is included as Exhibit 1.

Why an Ordinance Amendment Instead of a Variance or Waiver?

Questions have been raised regarding whether a variance or waiver process could be used instead of an ordinance amendment. The issue was identified during review of the Marchstone development before a future Final Plat application for Phase 2 has been submitted.

Under the Village's Land Division Ordinance, waivers are considered as part of a specific development application and require a three-fourths affirmative recommendation from the Plan Commission and a three-fourths affirmative vote of the Village Board. An ordinance amendment, by contrast, considers whether the underlying regulations should be modified and would apply village-wide if adopted.

The applicant elected to pursue an ordinance amendment so the Village could determine whether changes to the Hillside Overlay regulations are appropriate before additional development approvals are requested.

Code/Policy Review:

[SECTION 83.125\(r\)](#), [SECTION 83.18](#), AND [SECTION 84.56\(d\)](#) of the Village of Cross Plains Code of Ordinances.

Following the June 1, 2026 public hearing, the Plan Commission recommended the following revisions to the proposed ordinance amendments:

- Section 83.125(r) – Reduces the Hilltop Edge buffer from 150 feet to 100 feet.
- Section 83.18 – Revises allowable disturbance activities and exceptions within hillside and hilltop areas.
- Section 84.56(d) – Revises woodland clearing standards and clarifies vegetation removal activities excluded from selective cutting calculations.

Staff identified two prior approvals involving development within the 150-foot Hilltop Edge buffer:

- **3037 Hillside Trail (1993)** – A variance was approved allowing construction within the Hilltop Edge buffer.
- **2708 Birchwood Pass (2014)** – A Conditional Use Permit was approved allowing development within the Hilltop Edge buffer.

Agenda Memorandum

Fiscal Impact:

N/A

Recommendation:

Following review of the proposed ordinance amendments, Plan Commission recommendation, and public comments received, Staff recommends the Village Board take action as deemed appropriate.

Exhibits:

- 1) Summary of Village Board Minutes from July 11, 1988 to November 27, 1989 Relating to Hillside Overlay Ordinance
- 2) Proposed Plan Commission Ordinance Amendments TO AMEND SECTION 83.125(r), SECTION 83.18, AND SECTION 84.56(d)
- 3) Historical Ordinance Amendments TO AMEND SECTION 83.125(r), SECTION 83.18, AND SECTION 84.56(d)
- 4) Marchstone – 150' Hilltop Layout
- 5) Marchstone – 100' Hilltop Layout
- 6) Video Rendering and Marchstone Development Board Presentation

Agenda Memorandum

Summary of Cross Plains Village Board Minutes from July 11, 1988 to November 27, 1989 Relating to Hillside Overlay Ordinance **EXHIBIT 1**

Full excerpts can be accessed here: <https://www.cross-plains.wi.us/1527/HillsideHilltop-Protection>

July 11, 1988

- Reference to a referendum task force discussing definitions related to slopes, hilltops, hilltop edges, bases of hillsides, and hillside areas.

July 25, 1988

- Discussion on creating hillside development standards that reflected the referendum while avoiding regulations so restrictive they would deprive property owners of reasonable use of their land
- Discussion on preserving viewsheds and limiting visible development impacts from lower elevations.
- Draft definitions related to hilltops, hillsides, and hilltop edges were incorporated into proposed ordinance language.

August 22, 1988

- Discussion on revisions to hillside and hilltop development regulations, including hilltop edge standards.
- Discussion included reducing the hilltop elevation threshold from 960 feet to 900 feet and clarifying the distinction between “hilltops” and “gradually rising hills.”
- Discussion also included a possible compromise reducing the hilltop edge setback from 150 feet to 50 feet to balance preservation with reasonable development opportunities.
- Village Board appears to have approved revisions to ordinance language related to hillside and hilltop development regulations.

September 1988

- Discussion regarding a “Hillside Preservation Line,” including development restrictions near slopes and concerns related to mapping accuracy following adoption of the ordinance framework.

October 24, 1988

- Further discussion focused on implementation of hillside preservation policies and preservation line mapping.

November 27, 1989

- Hillside Preservation Sub-Committee report discussing preservation priorities, bluff areas, greenbelts, preservation easements, and potential land acquisition strategies.

**VILLAGE OF CROSS PLAINS
ORDINANCE NO. _____**

**AN ORDINANCE TO AMEND SECTION 83.125(r), SECTION 83.18, AND
SECTION 84.56(d)**

The Village Board of the Village of Cross Plains, Dane County, Wisconsin does hereby ordain as follows:

1. SECTION 83.125(r) is amended so that it now reads:

- (r) **Hilltop Edge.** An area, measured upslope from the top of hillside and perpendicular to the slope, being ~~150-50~~ 100 horizontal feet in depth.

2. SECTION 83.18 is amended so that it now reads:

- (a) No subdivision or land division within the Village corporate limits, and no subdivision within the Village of Cross Plains extraterritorial jurisdiction area, may be approved which would result in a disturbance of land on areas defined herein as hillsides or hilltop edges. Development on hilltops, if allowed, shall be restricted so as to minimize the disturbance of land and vegetation and preserve the viewshed year-round for areas of lower elevation.

The following exceptions shall be allowed:

- (1) Installation of public utilities as needed to provide public services to serve larger areas.
- (2) Habitat maintenance as approved by the ~~Village Forester~~ Village Director of Public Facilities.
- (3) Fencing as approved by the Village Director of Public Facilities.
- (4) Construction of public stormwater management facilities and erosion control ~~measurements~~ measures.
- (5) Grading and land disturbance necessary for construction of public or private recreational amenities including trails, overlooks, parks, and open space improvements as approved by the Village Director of Parks and Recreation.
- (6) Construction of private roads, driveways, and pedestrian, bicycle, or cart paths.
- (7) Development of golf course uses, including fairways, greens, tee boxes, bunkers, drainage features, driving ranges, ~~on-course bathrooms~~, and cart paths.

(b) The subdivider shall identify the base of hillside (and top of hillside, if applicable) with a one-inch iron pipe located on the property line; in wooded areas a steel fence post shall also be placed to identify the base of hillside and top of hillside.

(c) See Section 83.125(n)-(r) and Exhibit A-1 for definitions related to hill development, and Section 84.95 for hill development regulations.

Blue = Suggested Plan Commission Changes from 6/1/2026

3. **SECTION 84.56(d)** is amended so that it now reads:

(d) Selective Cutting. The one-time, continuing, or cumulative clearing, cutting, harvesting, or other destruction of trees (including by fire) where the extent of such activity is limited to an area (or combined areas) of less than or equal to 30 percent of the woodlands on the property (or up to 100 percent for developments approved prior to the effective date of this Chapter). Selective Cutting shall be limited to areas designated for such on-site plans, general development plans, specific implementation plans, plats or certified survey maps. The destruction of trees beyond those designated by this section shall be considered Clear Cutting (see (e), below).

For purposes of calculating the thirty percent (30%) limitation, the following activities shall be excluded:

1. Removal of trees rated “poor” or “fair” by a Village-approved ecologist, **with a 40% cap on current woodlands**, as determined by the ecologist.
2. Removal of invasive or undesirable species, including but not limited to buckthorn, honeysuckle, box elder, mulberry, **and similar low-value** or nuisance species, as determined by a Village-approved ecologist.
- ~~3. Removal of trees with a trunk diameter of less than six (6) inches, measured at breast height (DBH).~~
3. Removal of diseased, dying, damaged, or hazardous trees, as determined by a Village-approved ecologist or **Village-approved** certified arborist.
4. Removal of **trees vegetation** within areas necessary for grading, utilities, **or infrastructure**, ~~or approved development activity~~, including **but not limited to:**
 - ~~• public or private road rights-of-way~~
 - utility corridors and easements
 - **driveways and** access routes and walking trails
 - **public sidewalks and walking trails**

4. **Severability.** If any portion of this Ordinance or its application on any person or circumstances is held invalid, the validity of this Ordinance as a whole or any other provision herein or its application shall not be affected.

5. **Effective Date.** This Ordinance shall take effect immediately upon its passage and publication.

Blue = Suggested Plan Commission Changes from 6/1/2026

Adopted this ____ day of _____, 2026.

VILLAGE OF CROSS PLAINS

By: _____

Village President

By: _____

Village Clerk

Marchstone Development

Village Board Presentation · June 8, 2026

Proposed change: Hilltop Edge buffer reduced from 150 ft to 100 ft

Opportunities

\$5,100,000

Developer contribution toward water reservoir

~\$500,000

Developer contribution toward village parks

\$300M – \$400M tax base increase

Expansion of village tax base (projected)

Increased tourism

Growth in local tourism and broader economic activity

Merchant growth

Increased business opportunity for current and future merchants

School enrollment

Additional children in schools, supporting enrollment growth

Building sites

Addresses Dane County need for new building sites

Considerations

Hilltop Edge setback reduced by 50 ft

Buffer distance decreased from 150 ft to 100 ft — a 33% reduction in protected setback

Direct developer contributions

\$5.6M+

Projected tax base addition

\$300M – \$400M

Hilltop Edge setback reduction

50 ft

Video: <https://youtu.be/MoWVHODiaFc>