

**Whitewater CDA - Agenda**  
**Monday, February 27, 2012**  
**4:30 PM - CDA Board of Directors**  
1<sup>st</sup> Floor Community Room  
312 W Whitewater Street  
Whitewater, WI 53190

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1. **Call to order and roll call**
  2. **Approval of the Agenda**
  3. **HEARING OF CITIZEN COMMENTS.** *No formal CDA Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.*
  4. **Approval of January 30, 2012 and February 15, 2012 Minutes**
  5. **Review and Approval of January 2012 Financials**
  6. **Presentation on Analysis of Housing Supply in Whitewater and Employee Housing Survey by the UW-Whitewater Fiscal and Economic Research Center (Dr. Russ Kashian)**
  7. **Review and Approval of Consulting Services Agreement with Redevelopment Resources for CDA Director Recruitment/Selection Process**
  8. **Review and Recommendation on Potential Amendments to Development Agreements in Tax Increment District #4 (Fairhaven Corp-Prairie Village Development and Triple J Management-155 W. Main Street)**
  9. **Review Update on Technology Park and Business Park Marketing**
  10. **Discussion on Research Concerning Tax Exempt Property in City**
  11. **Discussion on Potential Janesville-Milton-Whitewater Commuter Bus Service**
  12. **Adjournment**

*It is possible that a quorum of Common Council and Technology Park Board members may attend this meeting. Even if a quorum is present, no Common Council and/or Technology Park Board business will be conducted at this meeting. Anyone requiring special arrangements is asked to call the office of the City Manager/ City Clerk at least 24 hours prior to the meeting.*



**DRAFT MINUTES**  
Monday, January 30, 2012  
4:30 PM – CDA Board of Directors  
**2<sup>nd</sup> Floor, Cravath Lakefront Room**  
Whitewater Municipal Building  
312 W. Whitewater Street  
Whitewater, WI 53190

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**1. Call to order and roll call**

The meeting was called to order by Vice President Jeff Knight at 4:30 p.m. Present: Donna Henry, Larry Kachel, Jeff Knight, Jim Allen and Jim Stewart. Absent: Patrick Singer and Tom Miller. Others present: Kevin Brunner, Doug Saubert, Robert Young, Dr. Richard Telfer, Nate Parish and David Stone.

**2. Authorization to Approve Agenda, per Whitewater Transparency Enhancement Ordinance No 1804A**

It was moved by Stewart, seconded by Henry to approve the agenda as posted per Whitewater Transparency Enhancement Ordinance Number 1804A. Ayes: Henry, Kachel, Knight, Stewart and Allen. Noes: None. Absent: Miller and Singer. Motion approved.

**3. HEARING OF CITIZEN COMMENTS.** *No formal CDA Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.*

There were no citizen comments.

**4. Approval of the December 12, 2011, January 12, 1012, January 17, 2012 and January 24, 2012 Minutes**

It was moved by Stewart, seconded by Knight to approve the minutes as presented. Ayes: Henry, Kachel, Knight, Stewart and Allen. Noes: None. Absent: Miller and Singer.

**5. Review and Approval of December 2011 Financials**

City Finance Director Doug Saubert was present to review the balance sheets for the various CDA funds as well as the investment schedules of the various CDA funds. Knight requested that Saubert prepare an explanation of the sources and uses of the various funds and limitations on the use of those funds for future review and consideration by the Board. After discussion, it was moved by Stewart, seconded by Kachel to approve the December 2011 financials as presented. Ayes: Henry, Kachel, Knight, Stewart and Allen. Noes: None. Absent: Miller and Singer.

**6. Review/Acceptance of 2012 Whitewater Innovation Center Budget**

Brunner presented the approved 2012 Innovation Center budget as adopted by the Whitewater University Technology Park Board of Directors. It was moved by Stewart, seconded by Kachel to accept the 2012 Whitewater Innovation Center budget as presented. Approved.

**7. Review/Approval of 2012 Memorandum of Understanding (MOU) with Whitewater University Technology Park Board and City of Whitewater for Operation of Whitewater Innovation Center and Whitewater University Technology Park**

Dr. Richard Telfer, President of the Whitewater University Technology Park Board, was

present along with Robert Young, Executive Director of the Whitewater University Technology Park, to discuss the proposed MOU that is being recommended to the CDA and City by the Tech Park Board of Directors. Because the MOU that was included in the CDA's packet was not the final version as adopted by the Tech Park Board, Telfer reviewed the following changes that had been made by the Tech Park Board at its January 12<sup>th</sup> meeting.

- 1) The term is twenty years, commencing on January 1, 2012 and ending on December 31, 2031.
- 2) Information technology services shall be the responsibility of the Tech Park Board to the extent allowed by State Statute and the Board will determine the level of tenant services to be provided.
- 3) The Board shall receive all income from leases as well as from any other payments for use of Whitewater Innovation Center space.
- 4) Regarding income, ten (10) percent of any Whitewater University Technology Park lot sale net proceeds shall be retained by the Board to offset park marketing costs.  
Note: These marketing costs are included in the annual budget presented to the CDA and City as required by the MOU.
- 5) The annual budget will be delivered to the City and CDA not later than October 15<sup>th</sup> rather than September 1<sup>st</sup> in order to better coincide with the City's annual budget review process.
- 6) Financial reports shall be provided quarterly, but such reports shall be subject to review and audit by an independent certified public accountant hired by the City.
- 7) Annual insurance costs shall be a credit against the City's annual contribution as defined in Section 501 of the agreement.
- 8) A sinking fund shall be established by the City to be used for major repairs, maintenance and expenses related to the Whitewater Innovation Center and the Whitewater University Technology Park.
- 9) All excess funds, after the annual payment in lieu of taxes payment required has been made from the Whitewater Innovation Center and Whitewater University Technology Park as determined by the Board, shall be paid to the CDA.
- 10) An exception clause has been included as part of Section 4, which allows that any exceptions to the above financial responsibilities shall be subject to mutual agreement between the parties.
- 11) The City's annual contribution shall be \$27,000 and this annual contribution shall be subject to an annual increase equal to the greater of three per cent or the US Bureau of Labor Statistics Consumer Price Index (CPI) – All Consumers, Midwest Region.

Telfer noted that all the other amendments were minor and were not substantive.

It was then moved by Stewart, seconded by Allen to accept the MOU as presented and amended by the Tech Park Board and to recommend approval to the City Council. During discussion Kachel asked why the 20 year term. Brunner responded that it was due to having the term better coincide with the bond repayment schedule for the Innovation Center. On this point Telfer noted that the agreement would be subject to amendment or termination by mutual agreement of the parties. Ayes: Henry, Kachel, Knight, Stewart, Allen. Noes: None. Absent: Miller and Singer.

## **8. Report on Analysis of Housing Supply in Whitewater by the UW-Whitewater Fiscal and Economic Research Center**

Brunner reported that Dr. Russ Kashian of the University of Wisconsin-Whitewater Fiscal and Economic Research Center has indicated that he has completed his report on the analysis of housing supply in Whitewater. Dr. Kashian will be sending copies of the report electronically to members of the Board in the next few days. Kashian has been scheduled for a presentation of the results of the study at the next meeting of the CDA Board which is scheduled for February 27<sup>th</sup>. Knight noted that members of the CDA Housing Sub Committee should be invited to attend this meeting.

**9. Review Economic Development Loan Fund Activity**

Brunner reported that The Black Sheep LLC loan was closed last week and he anticipates that the DR Plastics loan will be completed in the next several weeks as well. He also gave an update on the current Zingg Motor Company loan payoff request and indicated that he was hopeful that this loan closing could be scheduled in late February pending confirmation by Zingg Motor Company.

**10. Update on Business Park Marketing**

Brunner informed the Board that a breakfast meeting was held on January 25<sup>th</sup> at the Innovation Center to introduce Whitewater Business Park owners and managers to the planned multi-tenant spec building that was discussed at the December CDA meeting. NAI/MLG and Magill Construction are now starting to market this building.

Brunner also stated that he has worked with Mike Vandebosch of WCEDA on several business site selection requests. The availability of dark fiber optic broadband at the Business Park and University Technology Parks is becoming a key marketing point to sell Whitewater...other business parks in Jefferson and Walworth don't have the broadband capabilities that we have and this differentiates our parks in the market.

**11. Update on Milwaukee Street Reconstruction Project/Proposed City Truck Routes**

Brunner gave a report on the Milwaukee Street Reconstruction project. He indicated that there have been several neighborhood meetings held with business and property owners along Milwaukee Street to inform them about the design and construction schedule. The construction is scheduled to begin in spring with an approximate five to six month construction completion. He also indicated that there would be another meeting to discuss Milwaukee Street parking design before the next City Council meeting on February 7<sup>th</sup>, beginning at 5:15 p.m.

Allen also requested that the proposed city truck route ordinance that is scheduled to come before the City Council in the near future be discussed as well. Brunner distributed a copy of the truck routes as proposed by the Department of Public Works that will be discussed at the February 7<sup>th</sup> Common Council Meeting.

Knight indicated that he was concerned that proposed truck routing had not been adequately communicated with local businesses, particularly those in the Whitewater Business Park. Brunner indicated that he would have Public Works Director Fischer send copies of the letters as well as other materials that have been shared with business owners and managers over the last several months. Henry indicated that she was very concerned about the elimination of truck traffic on Janesville Street. She indicated that she lives on this street and believes that many businesses in the business park use this route. Allen indicated that he was concerned about truck deliveries to businesses in the City. Brunner indicated that this would not affect those businesses that need to receive truck deliveries as there would be an exemption for trucks on their way to delivering products to local businesses.

Henry indicated that the City should do more research and investigation into this proposal, particularly the fiscal impact on business park firms.

After discussion it was moved by Henry, seconded by Kachel to make the following recommendation to the City Council; that the Council should do more research and investigation on potential truck routes through the City, particularly by determining fiscal impact on Whitewater Business Park firms, before action is taken on eliminating Janesville Street as a designated truck route. Ayes: Henry, Kachel, Knight, Stewart, Allen. Noes: None. Absent: Miller and Singer.

**12. Review Status of CDA Director Recruitment and Selection Process**

Knight briefly reviewed the current status of the CDA Director recruitment and selection process and indicated that it was the consensus of the Board that the current recruitment process be terminated and that the CDA consider a new direction regarding this process. It was moved Allen, seconded by Kachel to terminate the current recruitment process and schedule a special meeting on February 15<sup>th</sup> to discuss future direction for the CDA Director position. Ayes: Henry, Kachel, Knight, Stewart, Allen. Noes: None. Absent: Miller and Singer.

**13. Other Matters**

Knight requested that at a future meeting of the CDA Board that a discussion on non profit owned properties in the City take place with an emphasis on recent League of Municipalities' opinions regarding such properties. Also, Henry requested that occasional closed sessions be scheduled to update the CDA Board on various development projects that might be proposed in the community.

**14. Adjourn**

It was moved by Stewart, seconded by Allen to adjourn the meeting. Meeting adjourned at 6:12 p.m.

**Kevin Brunner, City Manager**  
**Recording Secretary**



Whitewater CDA  
Draft Minutes  
Wednesday, February 15, 2012  
4:30 PM – CDA Board of Directors  
Cravath Lakefront Conference Room  
312 W Whitewater Street  
Whitewater, WI 53190

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**1. Call to order and roll call**

The meeting was called to order at 4:30 p.m. by Chair Miller. Members present: Jim Stewart, Jim Allen, Tom Miller and Jeff Knight. Larry Kachel appeared at 4:40 p.m. and Donna Henry at 5:00 p.m. Excused: Patrick Singer. Others present: Robert Young, Bud Gayhart, Mike Van den Bosch, Dennis Heling, Mitch Simon, Kevin Brunner, and Kristen Fish and Mike Morrissey of Redevelopment Resources.

**2. Approval of the Agenda**

It was then moved by Stewart, seconded by Allen to approve the agenda as posted. Approved.

**3. HEARING OF CITIZEN COMMENTS.** *No formal CDA Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.*

**4. Convene to Closed Executive Session Pursuant to Wisconsin State Statute 19.85 (1) (e) to “deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session”.**

It was moved by Stewart, seconded by Knight to convene to Closed Executive Session pursuant to Wisconsin State Statute 19.85(1)(e) to “deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session”. Roll call vote. Ayes: Stewart, Allen, Miller, Knight. Noes: None. Absent: Singer, Kachel, Henry.

During the closed executive session Attorney Mitch Simon and Bud Gayhart, as well as City Manager Kevin Brunner, were invited to attend the closed session. During the closed session an economic development loan to DR Plastics was discussed.

It was then moved by Knight, seconded by Allen to reconvene to open session. Roll call vote. Ayes: Stewart, Allen, Miller, Knight, Kachel, Singer. Noes: None. Absent: Singer. The meeting was reconvened to open session at approximately 5:04 p.m.

**5. Consideration of Approval of Economic Development Loan to DR Plastics**

It was moved by Knight, seconded by Kachel to approve an economic development loan to DR Plastics in the amount of \$150,000 to be used toward the purchase of a third converting machine for the firm’s Whitewater operations located on Enterprise Drive in the Whitewater Business Park. This loan is to assist in the creation of eight new jobs. Terms of the loan are as follows: Five year amortization at four per cent interest per annum; one point or one per cent for loan origination fees plus applicable legal costs and bank subordination sufficient to meet SBA requirements. Roll call vote. Ayes: Stewart, Allen, Miller, Knight, Kachel, Henry. Noes: None. Absent: Singer. Motion approved.

**6. Special CDA Work Session with Kristen Fish and Mike Morrissey of Redevelopment Resources to Review CDA Director Position and Future Direction for CDA Programs and Projects**

The CDA then conducted a special work session with Kristen Fish and Mike Morrissey of Redevelopment Resources of Wausau, Wisconsin to review the City CDA Director position as well as the future direction for CDA programs and projects. At the conclusion of the work session, the representatives from Redevelopment Resources were requested to produce a proposal to be reviewed at the CDA’s meeting on

February 27<sup>th</sup> to discuss possible consulting services to be provided to the CDA for the CDA Director position recruitment and selection.

**7. Adjournment**

It was then moved by Knight, seconded by Allen to adjourn. Meeting adjourned at 6:40 p.m.

Respectfully Submitted,

Kevin Brunner  
City Manager/Acting CDA Director

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City Manager/ City Clerk at least 24 hours prior to the meeting.*

**CITY OF WHITEWATER  
BALANCE SHEET  
JANUARY 31, 2012**

**CDA PROGRAMS FUND**

	BEGINNING BALANCE	ACTUAL THIS MONTH	ACTUAL THIS YEAR	ENDING BALANCE	
<u>ASSETS</u>					
910-11101	FACADE CHECKING	72,994.50	876.30	876.30	73,870.80
910-11102	ECONOMIC DEVELOPMENT CHECK	345,396.69	( 15,449.21)	( 15,449.21)	329,947.48
910-11103	BUS. DEV.-UDAG-BUS PARK-CHECKG	260,729.76	732.08	732.08	261,461.84
910-11104	PROGRAM ADMIN CKING	14,794.17	1.82	1.82	14,795.99
910-11105	HOUSING CHECKING	116,839.95	114.55	114.55	116,954.50
910-11106	MORAIN VIEW DEV CHECKING	2,694.32	.33	.33	2,694.65
910-11303	ECONOMIC DEVELOPMENT CD	619,010.05	.00	.00	619,010.05
910-11305	FACADE CD	25,000.00	.00	.00	25,000.00
910-11310	BUS.DEV.-UDAG-BUS.PARK-INVEST	575,000.00	.00	.00	575,000.00
910-14308	LOAN RECEIVE-ZINGG MOTORS	50,582.22	167.85	167.85	50,750.07
910-14310	LEARNING DEPOT	87,860.72	292.87	292.87	88,153.59
910-14320	FACADE LOAN-1117 W. MAIN	14,024.01	( 44.15)	( 44.15)	13,979.86
910-14337	LOAN REC--RR WALTON-15K-HOTEL	12,234.70	( 470.15)	( 470.15)	11,764.55
910-14339	ECON LOAN REC-TOPPERS-\$115,659	24,412.52	( 1,499.53)	( 1,499.53)	22,912.99
910-14340	ECON LOAN-TOPPERS-\$33.960	7,607.48	( 438.83)	( 438.83)	7,168.65
910-14341	FACADE LOAN-TOPPERS-15K	4,713.63	.00	.00	4,713.63
910-14342	FACADE LOAN-WALTON DIST-30K	12,795.78	( 367.41)	( 367.41)	12,428.37
910-14343	ED LOAN-DAN'S MEAT MARKET-15K	8,431.36	.00	.00	8,431.36
910-14344	FACADE LOAN-WARHAWK-45K	38,481.15	( 144.42)	( 144.42)	38,336.73
910-14345	LOAN REC-960 E. MILWAUKEE LLC	159,703.80	( 2,030.00)	( 2,030.00)	157,673.80
910-14346	LOAN A/R-BLACK SHEEP-\$21,114	.00	21,114.00	21,114.00	21,114.00
910-14350	LOAN RECEIVABLE-MO301	8,220.00	.00	.00	8,220.00
910-14351	LOAN RECEIVABLE-A8416	10,203.84	.00	.00	10,203.84
910-14353	LOAN RECEIVABLE-B935	18,420.02	.00	.00	18,420.02
910-14356	LOAN RECEIVABLE-C932	8,062.00	.00	.00	8,062.00
910-14359	LOAN RECEIVABLE-J8802	10,818.00	.00	.00	10,818.00
910-14361	LOAN RECEIVABLE-M8501	11,000.90	.00	.00	11,000.90
910-14363	LOAN RECEIVABLE-P954	11,000.00	.00	.00	11,000.00
910-14364	LOAN RECEIVABLE-R943	2,412.00	.00	.00	2,412.00
910-14366	LOAN RECEIVABLE-V902	12,504.15	.00	.00	12,504.15
910-14368	LOAN RECEIVABLE-C021	15,517.48	.00	.00	15,517.48
910-14371	LOAN REC-HOUSING-G0107	3,100.00	( 100.00)	( 100.00)	3,000.00
910-14375	LOAN REC-HOUSING-M0801	18,422.00	.00	.00	18,422.00
910-14378	LOAN REC-HOUSING-B0803-0901	34,448.00	.00	.00	34,448.00
910-14554	ADVANCE TO TID #4	750,000.00	.00	.00	750,000.00
910-15208	DUE FROM FUND 900	15,711.04	.00	.00	15,711.04
910-15500	CONSTRUCTION WORK IN PROGRESS	5,416,458.00	.00	.00	5,416,458.00
910-15521	LAND	275,171.53	.00	.00	275,171.53
TOTAL ASSETS		9,074,775.77	2,756.10	2,756.10	9,077,531.87

LIABILITIES AND EQUITY

LIABILITIES

910-21200	DEPOSITS	900.00	.00	.00	900.00
910-25920	DUE TO FD 920-INNOVATION CTR	1,491.07	.00	.00	1,491.07
TOTAL LIABILITIES		2,391.07	.00	.00	2,391.07

FUND EQUITY

**CITY OF WHITEWATER  
BALANCE SHEET  
JANUARY 31, 2012**

**CDA PROGRAMS FUND**

	BEGINNING BALANCE	ACTUAL THIS MONTH	ACTUAL THIS YEAR	ENDING BALANCE
910-30110 CONTRIBUTED CAPITAL	456,815.37	.00	.00	456,815.37
910-34300 PROPRIETARY CAPITAL	7,978,604.40	.00	.00	7,978,604.40
910-35000 HOUSING LOANS RESERVE	174,316.71	.00	.00	174,316.71
910-35100 ECONOMIC DEV LOANS RESERVE	433,615.17	.00	.00	433,615.17
910-35160 FACADE LOANS RESERVE	29,033.05	.00	.00	29,033.05
UNAPPROPRIATED FUND BALANCE:				
REVENUE OVER EXPENDITURES - YTD	.00	2,756.10	2,756.10	2,756.10
BALANCE - CURRENT DATE	.00	2,756.10	2,756.10	2,756.10
TOTAL FUND EQUITY	9,072,384.70	2,756.10	2,756.10	9,075,140.80
TOTAL LIABILITIES AND EQUITY	9,074,775.77	2,756.10	2,756.10	9,077,531.87

**CITY OF WHITEWATER**  
**REVENUES WITH COMPARISON TO BUDGET**  
**FOR THE 1 MONTHS ENDING JANUARY 31, 2012**

**CDA PROGRAMS FUND**

	PERIOD ACTUAL	YTD ACTUAL	BUDGET AMOUNT	VARIANCE	% OF BUDGET	
<u>MISCELLANEOUS REVENUE</u>						
910-48101-00	INTEREST INCOME-BUSINESS DEV	32.08	32.08	3,800.00	3,767.92	.8
910-48102-00	INTEREST INCOME-ECONOMIC DEV	42.17	42.17	6,000.00	5,957.83	.7
910-48103-00	INTEREST INCOME-FACADE	102.65	102.65	300.00	197.35	34.2
910-48104-00	INTEREST INCOME-HOUSING	14.55	14.55	100.00	85.45	14.6
910-48105-00	INTEREST INCOME-ED DEV	1.82	1.82	20.00	18.18	9.1
910-48106-00	INTEREST INCOME-MORAINIE VIEW	.33	.33	3.00	2.67	11.0
910-48602-00	MISC INCOME	.00	.00	100.00	100.00	.0
910-48603-00	LAND PAYMENT-WALTON-BLUFF RD	.00	.00	1,909.00	1,909.00	.0
910-48604-00	RENTAL INCOME-HOWARD ROAD	700.00	700.00	8,400.00	7,700.00	8.3
910-48605-00	RENTAL INCOME-CROP LEASES	.00	.00	5,890.00	5,890.00	.0
910-48613-00	LOAN INTEREST-ZINGG MOTORS	167.85	167.85	1,933.00	1,765.15	8.7
910-48645-00	LOAN INTEREST-LEARNING DEPOT	292.87	292.87	2,671.00	2,378.13	11.0
910-48647-00	LOAN INT-TOPPERS--\$115,659	81.39	81.39	1,059.00	977.61	7.7
910-48648-00	LOAN INT-TOPPERS--\$33,960	25.36	25.36	294.00	268.64	8.6
910-48649-00	FACADE LOAN-INT-TOPPERS-15K	.00	.00	515.00	515.00	.0
910-48651-00	FACADE-INT-WALTON DIST-30K	42.65	42.65	377.00	334.35	11.3
910-48653-00	LOAN INT-RR WALTON-15K-HOTEL	82.34	82.34	488.00	405.66	16.9
910-48657-00	FACADE-INT-WARHAWK-45K	128.27	128.27	1,444.00	1,315.73	8.9
910-48658-00	LOAN INT.-960 E. MILWAUKEE LLC	796.02	796.02	4,869.00	4,072.98	16.4
910-48660-00	FACADE-1117 W. MAIN(SWD/TDW)	46.75	46.75	575.00	528.25	8.1
910-48663-00	LOAN INT-BLACK SHEEP-1/20/12	.00	.00	733.00	733.00	.0
910-48680-00	ADMINISTRATION FEE--LOANS	1,214.00	1,214.00	1,500.00	286.00	80.9
	<b>TOTAL MISCELLANEOUS REVENUE</b>	<b>3,771.10</b>	<b>3,771.10</b>	<b>42,980.00</b>	<b>39,208.90</b>	<b>8.8</b>
<u>OTHER FINANCING SOURCES</u>						
910-49300-56	FUND BALANCE APPLIED	.00	.00	( 24,480.00)	( 24,480.00)	.0
	<b>TOTAL OTHER FINANCING SOURCES</b>	<b>.00</b>	<b>.00</b>	<b>( 24,480.00)</b>	<b>( 24,480.00)</b>	<b>.0</b>
	<b>TOTAL FUND REVENUE</b>	<b>3,771.10</b>	<b>3,771.10</b>	<b>18,500.00</b>	<b>14,728.90</b>	<b>20.4</b>

**CITY OF WHITEWATER**  
**EXPENDITURES WITH COMPARISON TO BUDGET**  
**FOR THE 1 MONTHS ENDING JANUARY 31, 2012**

**CDA PROGRAMS FUND**

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET AMOUNT</u>	<u>VARIANCE</u>	<u>% OF BUDGET</u>
<u>CDA PROGRAMS</u>					
910-56500-212 LEGAL/PROFESSIONAL/MARKETING	1,015.00	1,015.00	15,000.00	13,985.00	6.8
910-56500-295 ADMINISTRATIVE EXPENSE	.00	.00	1,000.00	1,000.00	.0
910-56500-404 HOUSING LOANS	.00	.00	1,000.00	1,000.00	.0
910-56500-408 RENTAL EXPENSES	.00	.00	1,500.00	1,500.00	.0
<b>TOTAL CDA PROGRAMS</b>	<u>1,015.00</u>	<u>1,015.00</u>	<u>18,500.00</u>	<u>17,485.00</u>	<u>5.5</u>
<b>TOTAL FUND EXPENDITURES</b>	<u>1,015.00</u>	<u>1,015.00</u>	<u>18,500.00</u>	<u>17,485.00</u>	<u>5.5</u>
<b>NET REVENUE OVER EXPENDITURES</b>	<u>2,756.10</u>	<u>2,756.10</u>	<u>.00</u>	<u>( 2,756.10)</u>	<u>.0</u>

**CITY OF WHITEWATER  
BALANCE SHEET  
JANUARY 31, 2012**

**CDA FUND**

	BEGINNING BALANCE	ACTUAL THIS MONTH	ACTUAL THIS YEAR	ENDING BALANCE
<u>ASSETS</u>				
900-11100 CASH	37,034.06	( 2,140.21)	( 2,140.21)	34,893.85
900-11200 GENERAL CHECKING ACCOUNT	20,598.38	2.53	2.53	20,600.91
900-15100 DUE FROM GENERAL FUND	129.25	.00	.00	129.25
900-18400 OFFICE EQUIPMENT	14,101.41	.00	.00	14,101.41
<b>TOTAL ASSETS</b>	<b>71,863.10</b>	<b>( 2,137.68)</b>	<b>( 2,137.68)</b>	<b>69,725.42</b>
<u>LIABILITIES AND EQUITY</u>				
<u>LIABILITIES</u>				
900-21100 VOUCHERS PAYABLE	.56	( .56)	( .56)	.00
900-22000 ACCUM DEPR - EQUIPMENT	12,704.22	.00	.00	12,704.22
900-25100 DUE TO GENERAL FUND	375.77	15.08	15.08	390.85
900-25101 DUE TO 910	15,711.04	.00	.00	15,711.04
900-25920 DUE TO INNOVATION CTR-FD 920	75.00	.00	.00	75.00
<b>TOTAL LIABILITIES</b>	<b>28,866.59</b>	<b>14.52</b>	<b>14.52</b>	<b>28,881.11</b>
<u>FUND EQUITY</u>				
900-34300 PROPRIETARY CAPITAL	42,996.51	.00	.00	42,996.51
UNAPPROPRIATED FUND BALANCE: REVENUE OVER EXPENDITURES - YTD	.00	( 2,152.20)	( 2,152.20)	( 2,152.20)
<b>BALANCE - CURRENT DATE</b>	<b>.00</b>	<b>( 2,152.20)</b>	<b>( 2,152.20)</b>	<b>( 2,152.20)</b>
<b>TOTAL FUND EQUITY</b>	<b>42,996.51</b>	<b>( 2,152.20)</b>	<b>( 2,152.20)</b>	<b>40,844.31</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>71,863.10</b>	<b>( 2,137.68)</b>	<b>( 2,137.68)</b>	<b>69,725.42</b>

**CITY OF WHITEWATER**  
**REVENUES WITH COMPARISON TO BUDGET**  
**FOR THE 1 MONTHS ENDING JANUARY 31, 2012**

**CDA FUND**

		PERIOD ACTUAL	YTD ACTUAL	BUDGET AMOUNT	VARIANCE	% OF BUDGET
<u>MISCELLANEOUS REVENUE</u>						
900-48100-56	INTEREST INCOME	2.53	2.53	.00	( 2.53)	.0
	TOTAL MISCELLANEOUS REVENUE	2.53	2.53	.00	( 2.53)	.0
<u>OTHER FINANCING SOURCES</u>						
900-49262-56	TRANSFER-TID #4-ADMINISTRATION	.00	.00	45,000.00	45,000.00	.0
900-49263-56	TRANSFER-TID #6-ADMINISTRATION	.00	.00	5,000.00	5,000.00	.0
900-49290-56	CITY TRANSFER INCOME	.00	.00	61,803.00	61,803.00	.0
900-49300-56	FUND BALANCE APPLIED	.00	.00	14,690.00	14,690.00	.0
	TOTAL OTHER FINANCING SOURCES	.00	.00	126,493.00	126,493.00	.0
	TOTAL FUND REVENUE	2.53	2.53	126,493.00	126,490.47	.0

**CITY OF WHITEWATER**  
**EXPENDITURES WITH COMPARISON TO BUDGET**  
**FOR THE 1 MONTHS ENDING JANUARY 31, 2012**

**CDA FUND**

	<u>PERIOD ACTUAL</u>	<u>YTD ACTUAL</u>	<u>BUDGET AMOUNT</u>	<u>VARIANCE</u>	<u>% OF BUDGET</u>
<u>CDA</u>					
900-56500-111 SALARIES	1,883.07	1,883.07	77,610.00	75,726.93	2.4
900-56500-115 INTERNSHIP PROGRAM--UWW	.00	.00	2,000.00	2,000.00	.0
900-56500-151 FRINGE BENEFITS	256.58	256.58	17,078.00	16,821.42	1.5
900-56500-154 PROFESSIONAL DEVELOPMENT	.00	.00	2,000.00	2,000.00	.0
900-56500-212 LEGAL SERVICES	.00	.00	1,500.00	1,500.00	.0
900-56500-223 MARKETING	.00	.00	15,000.00	15,000.00	.0
900-56500-224 COUNTY/REGIONAL ECON DEV	.00	.00	5,755.00	5,755.00	.0
900-56500-225 MOBILE COMMUNICATIONS	.00	.00	850.00	850.00	.0
900-56500-310 OFFICE SUPPLIES	.00	.00	900.00	900.00	.0
900-56500-311 POSTAGE	15.08	15.08	500.00	484.92	3.0
900-56500-320 DUES	.00	.00	800.00	800.00	.0
900-56500-321 SUBSCRIPTIONS & BOOKS	.00	.00	300.00	300.00	.0
900-56500-330 TRAVEL EXPENSE	.00	.00	1,200.00	1,200.00	.0
900-56500-341 MISC EXPENSE	.00	.00	1,000.00	1,000.00	.0
<b>TOTAL CDA</b>	<u>2,154.73</u>	<u>2,154.73</u>	<u>126,493.00</u>	<u>124,338.27</u>	<u>1.7</u>
<b>TOTAL FUND EXPENDITURES</b>	<u>2,154.73</u>	<u>2,154.73</u>	<u>126,493.00</u>	<u>124,338.27</u>	<u>1.7</u>
<b>NET REVENUE OVER EXPENDITURES</b>	<u>( 2,152.20)</u>	<u>( 2,152.20)</u>	<u>.00</u>	<u>2,152.20</u>	<u>.0</u>

**Business Development**

CLIENT	Original					01/31/2011		Current
	Loan	12/31/2011	PRINCIPAL	INTEREST	TOTAL	BALANCE		
	AMOUNT	BALANCE						
Toppers	\$115,659.00	\$24,412.52	\$1,499.53	\$81.39	\$1,580.92	\$22,912.99	Y	
Toppers	\$33,960.00	\$7,607.44	\$438.83	\$25.36	\$464.19	\$7,168.61	Y	
Walenton/Learning Depot	\$101,925.00	\$87,860.72	(\$292.87)	\$292.87	\$0.00	\$88,153.59	Past Due	
Walton-Hotel	\$15,000.00	12,234.69	\$470.15	\$82.34	\$552.49	11,764.54	Y	
Zingg Motor	\$105,437.50	\$50,582.22	(\$167.85)	\$167.85	\$0.00	\$50,750.07	Past Due	
960 East Milwaukee	\$204,611.00	\$159,703.80	\$2,030.00	\$796.02	\$2,826.02	\$157,673.80	Y	
Black Sheep-1/20/2012	\$21,114.00	\$0.00	\$0.00	\$0.00	\$0.00	\$21,114.00	closed 1/20/12	
<b>TOTALS</b>	<b>\$597,706.50</b>	<b>\$342,401.39</b>	<b>\$3,977.79</b>	<b>\$1,445.83</b>	<b>\$5,423.62</b>	<b>\$359,537.60</b>		

**Façade**

CLIENT	Original					01/31/2011		Current
	Loan	12/31/2011	PRINCIPAL	INTEREST	TOTAL	BALANCE		
	AMOUNT	BALANCE						
SWD Whitewater LLC and TDW Whitewater LLC	\$15,000.00	\$14,023.99	\$44.15	\$46.75	\$90.90	\$13,979.84	Y	
Warhawk Country	\$45,000.00	\$38,481.14	\$144.42	\$128.27	\$272.69	\$38,336.72	Y	
Walton Distributing	\$30,000.00	\$12,795.77	\$367.41	\$42.65	\$410.06	\$12,428.36	Y	
Toppers (Nov 1 Annual)	\$15,000.00	\$4,713.62	\$0.00	\$0.00	\$0.00	\$4,713.62	Y	
<b>TOTALS</b>	<b>\$105,000.00</b>	<b>\$70,014.52</b>	<b>\$555.98</b>	<b>\$217.67</b>	<b>\$773.65</b>	<b>\$69,458.54</b>		

**Housing**

CLIENT	Original					01/31/2011		Current	Loan Type
	Loan	12/31/2011	PRINCIPAL	INTEREST	TOTAL	BALANCE			
	AMOUNT	BALANCE							
A8416	\$10,203.84	\$10,203.84			\$0.00	\$10,203.84		0-deferred	
B935	\$18,420.02	\$18,420.02			\$0.00	\$18,420.02		0-deferred	
B0803-0901----mortgage dated 6/6/09	\$34,448.00	\$34,448.00			\$0.00	\$34,448.00		0-deferred	
C021	\$15,517.48	\$15,517.48			\$0.00	\$15,517.48		0-deferred	
C932	\$8,062.00	\$8,062.00			\$0.00	\$8,062.00		0-deferred	
G0107	\$8,000.00	\$3,100.00	\$100.00	\$0.00	\$100.00	\$3,000.00	Y	0%-Monthly	
J8802	\$10,818.00	\$10,818.00			\$0.00	\$10,818.00		0-deferred	
M8501	\$10,621.42	\$11,000.90			\$0.00	\$11,000.90		0-deferred	
M0301	\$8,220.00	\$8,220.00			\$0.00	\$8,220.00		0-deferred	
M0801	\$18,542.00	\$18,542.00			\$0.00	\$18,542.00		0-deferred	
P954	\$11,000.00	\$11,000.00			\$0.00	\$11,000.00		0-deferred	
R943	\$2,412.00	\$2,412.00			\$0.00	\$2,412.00		0-deferred	
V902	\$12,504.15	\$12,504.15			\$0.00	\$12,504.15		0-deferred	
<b>TOTALS</b>	<b>\$168,768.91</b>	<b>\$164,248.39</b>	<b>\$100.00</b>	<b>\$0.00</b>	<b>\$100.00</b>	<b>\$164,148.39</b>			

**CITY OF WHITEWATER  
COMMUNITY DEVELOPMENT AUTHORITY  
INVESTMENT SCHEDULE**

FUND	BANK	ORIG DATE	DUE DATE	TERM	AMOUNT	INT RATE	NUMBER	NOTES
Façade Loan	First Citizens	07/26/2011	01/24/2012	182 days	\$0.00	0.75%	3306791	Replaces 3306277
Façade Loan	First Citizens	01/24/2012	07/24/2012	182 days	\$25,000.00	60.00%	3307054	Replaces 3306791

TOTAL **\$25,000.00**

TIF Development					\$0.00			
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TOTAL **\$0.00**

Business Development	Commercial	12/22/2011	06/21/2012	182 days	\$175,000.00	59.00%	209584	replaces 209167
Business Development	Commercial	05/03/2011	02/02/2012	275 days	\$200,000.00	0.92%	208938	NEW
Business Development	First Citizens	08/25/2011	02/23/2012	182	\$200,000.00	0.65%	3306829	replaces 3306326

TOTAL **\$575,000.00**

Economic Development Loan	First Citizens	08/10/2011	02/08/2012	182 days	\$50,000.00	0.60%	3306783	replaces 208651
Economic Development Loan	First Citizens	05/25/2011	05/25/2012	12 months	\$152,100.00	1.00%	3305666	RENEWED
Economic Development Loan	Commercial	03/30/2011	03/29/2012	365 days	\$81,910.05	1.08%	208862	replaces 207723
Economic Development Loan	First Citizens	06/23/2011	06/19/2012	362 days	\$60,000.00	1.05%	3306522	replaces 3305671
Economic Development Loan	Commercial	05/03/2011	02/02/2012	275 days	\$200,000.00	0.96%	208937	NEW
Economic Development Loan	First Citizens	10/12/2011	10/09/2012	12 months	\$75,000.00	0.85%	3306838	replaces 3306112

TOTAL **\$619,010.05**

**TOTALS BY FUND**

FUND 900            \$0.00  
FUND 910    \$1,219,010.05  
Total:        \$1,219,010.05

University of Wisconsin-Whitewater, Department of Economics

AND



## **FISCAL AND ECONOMIC RESEARCH CENTER**

# **CITY OF WHITEWATER**

## **HOUSING ANALYSIS**

by

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February 2012

Staff Paper 12.1

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# CITY OF WHITEWATER HOUSING ANALYSIS

## EXECUTIVE SUMMARY

The City of Whitewater Housing Analysis was designed to gather information on housing patterns in Whitewater, Wisconsin to help the City plan for future growth and development. The survey questionnaire was designed by the City of Whitewater, interested members of the Whitewater community, and the University of Wisconsin-Whitewater's Center for Fiscal and Economic Research. The survey was conducted by mail between October, 2011 and December, 2011. Surveys were mailed to City employees, University faculty, and employees of participating local businesses. In addition, data on single family home sales between 2000 and 2010 were collected and analyzed from Whitewater, Fort Atkinson, and Milton. The major findings of the analysis include:

- a. Houses sold in Milton experienced discounts of 8.0 percentage points for an additional bedroom compared to an additional bedroom in Whitewater prior to 2007 and discounts of 11.0 percentage points after 2007, while homes sold in Fort Atkinson experienced a discount of 2.7 percentage points prior to 2007 and no difference for an additional bedroom after 2007.
- b. Fort Atkinson experienced a premium for an additional bathroom over an additional bathroom in Whitewater of 4.1 percentage points prior to 2007 and this premium did not remain after 2007, while Milton experienced no difference in valuation prior to 2007 and a premium of 6.2 percentage points after 2007.
- c. Fort Atkinson experienced a premium over Whitewater for increasing the size of an attached garage of 2.8 percentage points prior to 2007 and a premium of 0.5 percentage points after 2007, while Milton experienced no difference in valuation prior to 2007 and a premium of 8.9 percentage points after 2007.
- d. There was no significant change in valuation of additional bedrooms or bathrooms in Whitewater between before 2007 and after 2007, however there was a significant increase in valuation of increasing the size of an attached garage of after 2007.
- e. There exist Southwest and East sub-markets within Whitewater that are affected differently by the presence of campus.
- f. The Southwest sub-market experiences no impact from the presence of campus while the East sub-market experiences a negative impact from campus.
- g. This negative impact grows in magnitude as distance from campus increases up to 1.17 miles, after which the negative impact decreases in magnitude and disappears at 2.35 miles from campus. a perceived decline in employment opportunities, the downtown business district, and the condition of streets/traffic
- h. The four most important factors when choosing a place of residence include crime rate/safety, proximity to work, cost of the house, and quality of the schools.
- i. The large student population did not negatively impact the decision to move to Whitewater. strong support for the retention, attraction and encouragement of businesses
- j. Preferences in residential location are consistent despite varying income and education levels.

It is crucial to keep in mind that these results reflect a static response given at one point in time. These views may vary with changing circumstances.

## **Introduction**

With the recent housing market changes and amount of foreclosures there is a further need for housing market research. Recent housing research has extended into spatial analysis with the combination of using hedonic analysis to examine the determinants of housing prices. Within this spectrum of analysis this study applies both new and previous research to study the housing values in the City of Whitewater with two specific focuses; the differences in valuation of particular housing characteristics between Whitewater and neighboring towns, the effect of the University of Wisconsin Whitewater campus on local housing values. The analysis also examines patterns in important aspects of residential location decision for employees in the Whitewater area.

The hedonic analysis focuses on the examination of the differences in value attributed to bedrooms and bathrooms in different locations as well as how those differences have changed between before the financial crisis and after. It is anticipated that the change in value from an additional bedroom or bathroom is evaluated differently when comparing Whitewater to Fort Atkinson and Milton. With this determination it may also be expected that residents choose their residential location with this acknowledgement. This analysis also expands into the willingness to pay for an additional bedroom or bathroom in each housing market and furthermore housing stock preferences between towns.

The second focus of this study is determining the effects of proximity to campus on housing prices. This is shown through the housing values as to how far the residents of Whitewater perceive campus to be. If someone lives next to campus the valuation of the housing is going to be higher, this effect diminishes as the space between increases. This is anticipated to be from the convenience of living right next to campus. There is also the potential to rent out the

housing and ask for a premium for the convenience in the form of a higher rent. As the distance from campus increases the value of the convenience of living near campus decreases, while still living near college students and rental units up until the location goes past the point where college students will choose to reside. The valuation of housing in the between area where the value of the convenience of being near campus is lower than the value of the other inconveniences of living in a college town will experience lower housing value until the distance of the housing is out of the inconvenience.

Within the field of study for most rental housing markets the valuation of a house may typically be found through a function of rent. Within the study of the City of Whitewater it's anticipated that there may be a segmented housing market. A segmented part of the market may form the price of a house, or rent for this matter on the perceived distance from campus. Rather than the number of units as studied in much apartment market research. The remainder of this paper will continue as follows; related literature reviewed for this analysis with titled sub-sections, explanation of the models and methodologies, summary of the data used for the analysis, interpretation of the empirical results, and final conclusions.

## **Literature Review**

This section of the paper reviews literature relevant to this research. In particular there is a focus on hedonic analysis, spatiality and residential location determinants. Sub-section a. covers traditional hedonic analysis. Sub-section b. is apartments and universities. Sub-section c. is spatial literature.

### **a. Traditional Hedonic**

Hedonic analysis has roots in the early 1900's in non housing studies; however, it is traditionally used in real estate studies, the consumer price index (CPI), and in housing analysis.

The concept for the empirical hedonic analysis was developed around the idea that homogenous things are actually comprised of a multitude of differentiated components. Through this concept, hedonic analysis is often used to estimate the contribution derived from the individual components of a unit, and the value offered by the components to the overall value of the unit (Rosen, 1974). Importantly hedonic analysis can capture the contribution implicitly and explicitly from the analysis of the sub components that comprise the unit. To do so a majority of hedonic models follow either a semi-log or linear format for use in a hedonic analysis.

Within the demographic of home buyers the perceived value of housing characteristics varies based on the value attributed from individual components. This is from the unique utility derived from the components by different buyers. Any home then provides a total utility based upon the utility yielded by the characteristics of these differentiated characteristics which may then be considered goods (Harding et al., 2003). The market for single-family housing units is not only determined by a supply of homogeneous homes. More over it is determined rather by differentiated components and meeting between supply and demand of homes determined on the purchasing side of the market (Epple, 1987; Rugg et al, 2002).

Within the tradeoff between selling price and time on the market for homes a seller may decrease the time on the market by lowering the price or increase the time on market by raising the price. Increased selling time was noticed to have a negative effect on the final sale price of a house. This may be due to over estimation of the house value or over valuing the house by the seller. Initial asking price can impact the time on market, which can in turn affect the house's value under a variety of circumstances and with varying severity over time (Asabre and Huffman, 1993; Knight, 2002; Anglin et al., 2003).

The valuing of these individual housing characteristics is intrinsically important in order to determine the overall value of these properties (Rosen, 1974). Thus the importance of using hedonic analysis and utilizing observations of housing values and specific real estate characteristics to obtain implicit prices for individual elements (i.e. bedrooms, square footage, bathrooms, etc.). According to Sirmans et al. (2005) in their analysis of roughly 125 studies they found commonly that age had a negative coefficient, square foot had a positive coefficient, and none had a negative coefficient for lot size or presence of a garage. In conducting a hedonic analysis there are multiple ways for incorporating measures of quantity of housing attributes. These measurement methods include binary dummy variables, or complex dummy variables, or on the other hand utilizing a count to indicate quantity of more than a unit. The variation of measures in hedonic models throughout the spectrum of hedonic literature can create complications for comparing hedonic literature results.

Location can be a beneficial or detrimental role for the value of a house. Determining what causes the impact on the value of a house based on location can prove difficult. In turning location into a variable the variable for location can become influenced by different variables other than location its self (Malpezzi, 2003). The potential for omitted variable bias within hedonic analysis can show issues. The extrinsic framework with hedonic analysis can aid in determining how the value of the location is accumulated. Li and Brown (1980) utilized relatively linear models that incorporated structural and site characteristics, neighborhood population characteristics, neighborhood environmental characteristics, affects of central business districts, and local public services and costs. Upon comparing models that included and excluded different variables the affects were able to be analyzed and quantified in some instances. Gibbons (2004) used a hedonic regression model to analyze how crime affects the

value of homes on the basis of location. School quality was shown to affect the value of location by Bogart and Cromwell (2000), which also shows it to have an impact on the value attributed from location. Furthermore within an urban environment employment opportunities are an attribute for the value of a house on an individual basis (Ottensman et al., 2008). Many characteristics of location can influence the value of the location of a house including the implicit implications of air quality (Nelson, 1978).

Changes in conditions and differences of environmental characteristics can impact the value of property. The extent of the impact can be studied through utilizing a difference and indifference analysis. By comparing value changes for lake front property to non lake front property, with the primary difference between the two consisting of the degradation of water level and the quality of the lake water the anticipated appreciation can be determined. With the property in the Town of Dover and the lake front property of Eagle Lake Kashian (2009) showed the significance of the environmental effects of the decline in water level and water quality on the anticipated appreciation of the properties. In addition there are further affects proposed from the degradation for implications towards the city and county. With a hedonic analysis Eiswerth et al. (2005) found that \$177,000 of the total appreciation for lake shore property on Delevan Lake from 1987 to 2003 was from improving the water quality during the Delevan Lake Rehabilitation project of 1989-1993. Therefore, the impact of environmental characteristics can have significant impact on the property values and further on the local community and region.

#### **b. Apartments and Universities**

Gunterman and Norrbin (1987) bring light to important differences in hedonic studies between housing valuation and rent valuation. Renting offers a different variety of housing

stocks that the inclusion or exclusion of amenities which may impact the rent. Utilities may be included or excluded with rent; in modeling this may be handled with dummy variables. Within the university submarket students they propose students may place less weight on condition while still significant, more on amenities, while also placing even more weight on the proximity to the university.

Waddell et al. (1993) found that certain amenities including Universities and Colleges have significance on the valuation of property over distance with a varying extent. Interestingly Rosiers and Thériault (1995) suggest within a low price-elasticity of demand market land lords may maintain higher rents for university students that lack mobility. Depending on the market and housing opportunities students may combine their resources to pay higher rents and this also may occur with housing that offers fewer accommodations; an explanation is the consideration of housing as temporary housing for college (Christie et al., 2002; Rugg et al., 2002).

With assessing rent values in Portland, Oregon, Frew and Wilson (2002) were able to find multi-centric rent value gradients. The gradients consisted of high valued locations inside the center of a city and outside of the considered city zone. Including separate economic centers such as suburbs with freeways going through the down town also had higher land appraisal. It was also proposed that locations away from the prime rent locations had lower valued rents based on the distance of the inconvenience. From a local investment stand point Wheaton and Nechayev (2005) found that location lacks importance when there is rising vacancy and slow growing rents are high; although, with rents in submarkets location is important with the notion of variation in rental growth over time.

### c. **Spatiality**

The concept of spatiality is that the distance between locations matters. Within this concept quantifying the space and utilizing it for analysis enables the impact to be measured. Spatiality research has been used in many forms of analysis to determine the effects that the space induces. Housing values in general are affected by the distance the house is from vital locations. The concept that closeness to a University affects housing values is similar to the spatial hedonic analysis of open space. The distance from open space depending on the type can be diminishing or beneficial to housing value with a hedonic analysis. Hedonic value studies of farmland show evidence that preserved farmland provide value to residents within proximity and that busy parks can have a negative impact on the valuation of nearby housing (Irwin, 2002; McConnell and Walls, 2005).

Geoghegan et al. (1997) in studying open space showed that diversity of land usage places a positive externality for the housing value within the immediate area of a central business district and outside the central business district, while the space in-between the immediate and outside has detrimental externalities. Cho et al. (2007) used a spatial configuration to analyze the proximity effects of a variety of open spaces on housing prices in addition to proposing that a local model is more effective than a global model with the adjusted  $R^2$  for local (0.82) and the global (0.78).

With sheriff sales, the sale of foreclosed single family condominiums as researched by Kashian and Carroll (2011) found a significant negative impact on the value of condominiums within the local area of the sheriff sale. The impact is largest on the condominiums within the same building, and is stronger if sold soon after rather than long after; however, the impact diminishes marginally over time and distance. The log-linear model utilized spatially geocoded

property sales by address for distance and a time frame of 0-12 months with the addition of control variables to identify the implicit price elasticity of a condominium near the sheriff sale.

## **Model and Methodology**

### **a. Hedonic Models**

$$\mathbf{V}_i = \alpha + \sum \beta_j(\mathbf{City}_i) + \sum \delta_j(\mathbf{X}_i) + \sum \phi_j(\mathbf{Year}_i) + \varepsilon_i \quad (\mathbf{H1})$$

$V_i$  is the natural log of selling price of home  $i$ .  $\alpha$  is a constant term.  $City_i$  is a vector of dummy variables including Fort Atkinson and Milton (Whitewater is omitted to avoid perfect multi-collinearity) equal to one if the home is located within that city.  $X_i$  is a vector of physical home characteristics including age of house in years, number of stories, number of bathrooms, number of bedrooms, square feet, a squared term of square feet, size of detached garage in number of cars, size of attached garage in number of cars, and a dummy variable equal to one if the home is located next to a body of water.  $Year_i$  is a vector of dummy variable time indicators from 2001 through 2010 (2000 is omitted to avoid perfect multi-collinearity) equal to one if the sale occurred in that year.  $\varepsilon_i$  is a stochastic error term with expected mean of zero.  $\beta_j$ ,  $\delta_j$ , and  $\phi_j$  are vectors of estimated coefficients corresponding to the City, X, and Year vectors respectively.

$$\mathbf{V}_i = \alpha + \sum \beta_j(\mathbf{City}_i * \mathbf{Epoch}_i) + \sum \delta_j(\mathbf{X}_i) + \varepsilon_i \quad (\mathbf{H2})$$

$V_i$  is the natural log of selling price of home  $i$ .  $\alpha$  is a constant term.  $City_i * Epoch_i$  is a vector of interaction terms between City dummy variables mentioned in (H1) and a pair of dummy variables including pre-2007 and post-2007 equal to one if the sale occurred in that time

period (WW\*Pre-2007 is omitted to avoid perfect multicollinearity.  $X_i$  is a vector of physical home characteristics including Age of house in years, number of stories, number of bathrooms, number of bedrooms, square feet, a squared term of square feet, size of detached garage in number of cars, size of attached garage in number of cars, and a dummy variable equal to one if the home is located next to a body of water.  $\varepsilon_i$  is a stochastic error term with expected mean of zero.  $B_j$  and  $\delta_j$  are vectors of estimated coefficients corresponding to the City\*Epoch and X vectors respectively.

$$V_i = \alpha + \sum \beta_j(\text{City}_i * \text{Characteristic}_i) + \sum \delta_j(X_i) + \sum \phi_j(\text{Year}_i) + \varepsilon_i \quad (\text{H3})$$

$V_i$  is the natural log of selling price of home  $i$ .  $\alpha$  is a constant term.  $\text{City}_i * \text{Characteristic}_i$  is a vector of interaction terms between City dummy variables mentioned in (H1) and physical characteristics of interest including number of bedrooms, number of bathrooms, and size of attached garage in number of cars. (WW\*Bedroom, WW\*bathroom, and WW\*Attached Garage are omitted to avoid perfect multi-collinearity).  $X_i$  is a vector of physical home characteristics including Age of house in years, number of stories, number of bathrooms, number of bedrooms, square feet, a squared term of square feet, size of detached garage in number of cars, size of attached garage in number of cars, and a dummy variable equal to one if the home is located next to a body of water.  $\text{Year}_i$  is a vector of dummy variable time indicators from 2001 through 2010 (2000 is omitted to avoid perfect multi-collinearity) equal to one if the sale occurred in that year.  $\varepsilon_i$  is a stochastic error term with expected mean of zero.  $B_j$ ,  $\delta_j$ , and  $\phi_j$  are vectors of estimated coefficients corresponding to the City\*Characteristic, X, and Year vectors respectively.

$$V_i = \alpha + \sum \beta_j(\text{City}_i * \text{Characteristic}_i * \text{Epoch}_i) + \sum \delta_j(X_i) + \varepsilon_i \quad (\text{H4})$$

$V_i$  is the natural log of selling price of home  $i$ .  $\alpha$  is a constant term.  $\text{City}_i * \text{Characteristic}_i * \text{Epoch}_i$  is a vector of interaction terms between City dummy variables mentioned in (H1), physical characteristics of interest mentioned in (H3), and Epoch dummy variables mentioned in (H2) (WW\*Bedroom\*Pre-2007, WW\*bathroom\*Pre-2007, and WW\*Attached Garage\*Pre-2007 are omitted to avoid perfect multi-collinearity).  $X_i$  is a vector of physical home characteristics including Age of house in years, number of stories, number of bathrooms, number of bedrooms, square feet, a squared term of square feet, size of detached garage in number of cars, size of attached garage in number of cars, and a dummy variable equal to one if the home is located next to a body of water.  $\beta_j$ ,  $\delta_j$ , and  $\phi_j$  are vectors of estimated coefficients corresponding to the City\*Characteristic\*Epoch and X vectors respectively.

Equation (H1) estimates the differences in value between a house sold in Whitewater and an identical house sold in Fort Atkinson or Milton. Equation (H2) estimates the change in these differences between pre-2007 and post-2007 time periods. Equation (H3) estimates the difference in valuation of number of bedrooms, number of bathrooms, and size of attached garage in number of cars between Whitewater, Fort Atkinson, and Milton. Equation (H4) estimates the change in these differences between pre-2007 and post-2007 time periods.

## **b. Spatial Model**

$$V_i = \alpha + \beta_1(\text{Distance}_i) + \beta_2(\text{Distance}_i^2) + \sum \delta_j(X_i) + \sum \phi_j(\text{Time}_i) + \varepsilon_i \quad (\text{S1})$$

$V_i$  is the natural log of selling price of home  $i$ .  $\alpha$  is a constant term.  $\text{Distance}_i$  is the distance from the home to campus measured in feet and  $\text{Distance}_i^2$  is the squared value of the distance term.  $X_i$  is a vector of physical home characteristics including Age of house in years,

number of stories, number of bathrooms, number of bedrooms, square feet, a squared term of square feet, size of detached and attached garages in number of cars, and a dummy variable equal to one if the home is located next to a body of water.  $\beta_1$  and  $\beta_2$  are estimated coefficients corresponding to distance and squared distance terms respectively.  $\delta_j$ , and  $\phi_j$  are vectors of estimated coefficients corresponding to distance, squared distance,  $X$ , and time indicator vectors respectively.

This equation is used to analyze three sample sets. The first analysis uses the full sample of house sales in the City of Whitewater from 2000 through 2010. The second and third analyses use sub-samples of home sales in the southwest area of Whitewater and eastern area of Whitewater respectively. This equation estimates the effect of the University of Wisconsin-Whitewater campus on home prices in the City of Whitewater as distance from campus increases. The analysis of sub-samples estimates this effect in two different sub-markets of Whitewater.

## **Data Collection**

### **a. Hedonic Data**

The data for the Hedonic Analysis consists of single-family home sales in Whitewater, Fort Atkinson, and Milton from 2000 through 2010. Summary statistics are shown in Table 1.1. The data consists of 2606 observations with 566 in Whitewater, 1395 in Fort Atkinson, and 645 in Milton. The analysis also separates the data by epoch; pre-2007 and post-2007. The pre-2007 data consists of 370 observations for Whitewater, 927 observations for Fort Atkinson, and 220 observations for Milton, for a total of 1517 observations. The data for post-2007 consists of 196 observations for Whitewater, 468 observations for Fort Atkinson, and 425 observations for Milton, for a total of 1089 observations. Data was also collected for age of house, number of

stories, number of bathrooms, number of bedrooms, square feet, size of detached and attached garages in number of cars, and whether or not the home was located next to a body of water.

A series of Welch's T-tests data indicated that average home price in Whitewater was higher than average home price in Fort Atkinson. The analysis did not find sufficient evidence, however, to suggest any difference in average home price between Whitewater and Milton. The analysis also found that homes sold in Whitewater had a significantly higher average number of bedrooms compared to Fort Atkinson but did not find sufficient evidence to suggest any difference in average number of bedrooms between Whitewater and Milton.

Additional analysis of home sales indicated that the average age of homes in Whitewater was significantly higher than both Fort Atkinson and Milton. When comparing Whitewater and Fort Atkinson, the analysis did not find sufficient evidence to suggest any difference in average square feet, number of bathrooms, or size of attached garage. When comparing Whitewater and Milton, however, the analysis found that average square feet, number of bathrooms, and size of attached garage were all significantly higher in Milton than the averages in Whitewater.

## **b. Spatial Data**

The data for the Spatial Analysis consists of single-family home sales in the City of Whitewater from 2000 through 2010. Summary statistics are shown in Spatial Tables 1.1, 1.2, and 1.3. The full sample consists of 544 observations, the southwest sub-sample consists of 188 observations, and the eastern sub-sample consists of 356 observations. Distance away from campus was defined as the distance from the home to the nearest major academic building. Four buildings were selected for distance analysis; Greenhill Center of the Arts, Hyland Hall, Upham Hall, and Anderson Library. Home addresses and academic building locations were matched to

decimal degree latitude and longitude coordinates using ArcGIS software. Distances to each of the four buildings were then estimated using the Haversine formula (see below) and the shortest distance was selected as distance from campus.

$$a = \sin^2\left(\frac{\Delta latitude}{2}\right) + \cos(latitude_1) \times \cos(latitude_2) \times \sin^2\left(\frac{\Delta longitude}{2}\right)$$

$$c = 2 \times \text{atan2}(\sqrt{a}, \sqrt{1-a})$$

$$distance = Radius \times c$$

Where latitude and longitude are measured in decimal degrees and the Radius is the average radius of the Earth (6,371 km).

### **c. Survey**

The survey data consists of 209 returned surveys from City of Whitewater employees, University of Wisconsin-Whitewater Faculty, and employees of participating local businesses. A copy of the survey can be found in Appendix C. Of the 209 respondents, 83 currently lived in Whitewater. 27 respondents were City employees, 181 were University Faculty, and 1 was an employee of a local business. The most common choice for most important home characteristic, neighborhood characteristic, city characteristic, and city service were cost of the house, crime rate/safety, proximity to work, and Quality of schools, respectively. 40 respondents indicated that the student population affected their choice of location, and 129 respondents indicated student population did not affect their location choice.

## Results

### a. Hedonic Analysis

Results of the Hedonic Analysis are shown in Hedonic Analysis Tables 1.2 contained in Appendix A. Over the full time period, the analysis estimated discounts of 4.3% for a home sold in Fort Atkinson and 17.7% for a home sold in Milton as compared to an identical home sold in Whitewater. When divided between pre-2007 and post-2007 time periods, however, the analysis did not find sufficient evidence to suggest any difference in sale price between Fort Atkinson and Whitewater in either period, while Milton experienced a 7.9% discount prior to 2007 and a 13.8% discount after 2007. The analysis did not find sufficient evidence to suggest that prices in Whitewater changed between the pre-2007 and post-2007 time periods.

The analysis of the full time period found that both Fort Atkinson and Milton homes sold experienced discounts for an additional bedroom of 3.3 percentage points and 11.2 percentage points, respectively, compared to the value attributed to an additional bedroom in Whitewater. Prior to 2007, the analysis found these discounts to be 2.7 percentage points and 8.0 percentage points respectively. The analysis did not find sufficient evidence to suggest that the value attributed to an additional bedroom in Whitewater, holding all else equal, changed after 2007. The analysis did not find sufficient evidence to suggest the discount for an additional bedroom in Fort Atkinson remained after 2007. In Milton, the discount for an additional bedroom increased after 2007 to 11.0 percentage points.

The analysis of the full time period found that homes sold in Fort Atkinson experienced a premium for an additional bathroom of 2.5 percentage points, compared to the value attributed to an additional bathroom in Whitewater. The analysis did not find sufficient evidence to suggest that, over the full time period, there was any difference in the value attributed to an additional

bathroom between homes sold in Milton and homes sold in Whitewater. Prior to 2007, the analysis found the premium for an additional bathroom in Fort Atkinson to be 4.1 percentage points. The analysis did not find sufficient evidence to suggest that the premium for adding an additional bathroom between Fort Atkinson and Whitewater remained after 2007. The analysis did not find sufficient evidence to suggest that that the value attributed to an additional bathroom increased in Whitewater after 2007. The analysis did not find sufficient evidence to suggest that homes sold in Milton before 2007 experienced any difference in value attributed to additional bathrooms compared to an additional bathroom in Whitewater prior to 2007, however the analysis did find a significant premium of 6.2 percentage points premium for adding an additional bathroom in Milton after 2007.

The analysis of the full time period found that homes sold in both Fort Atkinson and Milton experienced premiums for increasing the size of an attached garage of 2.9 percentage points and 10.5 percentage points respectively, compared to the value of increasing the size of an attached garage in Whitewater. Prior to 2007, the analysis found the premium in Fort Atkinson to be 2.8 percentage points. The analysis did not find sufficient evidence to suggest any difference in value of increasing the size of an attached garage between Milton and Whitewater prior to 2007. The analysis found that the value of increasing the size of an attached garage in Whitewater after 2007 increased by 4.3 percentage points compared to before 2007. After 2007, the premium for an additional bedroom in Fort Atkinson remained but decreased to 0.5 percentage points. After 2007, Milton experienced a premium over Whitewater for increasing the size of an attached garage of 8.9 percentage points.

## **b. Spatial Analysis**

Results of the spatial analysis are shown in Spatial Analysis Tables 2.1-2.3. The analysis of the city as a whole estimated that campus had a negative impact on prices for homes within 2.2 miles of campus. The impact of campus on home prices reached its most negative point, a \$14,131.65 discount, at 1.1 miles from campus. Also, the analysis did not find sufficient evidence to suggest that there was any difference in a home sold in 2010 and an identical home sold in 2000, indicating that, on average, home values in Whitewater returned to 2000 levels by 2010.

Analysis of homes sold in the Southwest sub-market of Whitewater did not find sufficient evidence to suggest that campus had any impact on selling price. Homes sold in the East sub-market of Whitewater, however, experienced a negative impact from campus that reached 2.35 miles and reached its most negative point, a discount of \$21,799.08, at 1.17 miles. The analysis did not find sufficient evidence to suggest that there was any difference in selling price between a home sold in the East sub-market during 2000 and an identical home in 2010. The analysis did, however, find a significant increase in selling price of \$30,096.70 for homes sold in the Southwest sub-market between 2000 and an identical home sold in 2010.

The analysis also produced an interesting story of average home price appreciation during the time period. Note that all values of appreciation are the average difference in price between a home sold in the year stated and an identical home sold in 2000. The southwest region first showed significant average appreciation of \$21,011.60 in 2002 and fell in value, on average, to \$16,949.29 and \$14,923.60 during the years 2003 and 2004 respectively. The eastern submarket did not show significant appreciation in value until 2004 at a value of \$28,128.80, indicating a premium associated with the southwestern submarket up to that time. The analysis indicated a

premium associated for the eastern submarket beginning in 2004 through 2008. The eastern submarket reached its peak of \$43,818.30 in 2006, earlier and larger than the southwestern submarkets peak of \$37,231.70 in 2007. In 2009, the premium returned to the southwestern submarket as its appreciation reached a value of \$29,843.30 compared to the eastern submarkets value of \$25,140.80. While the southwestern submarket retained much of its value in 2010, with an appreciation of \$30,096.70, the eastern submarket fell drastically, showing no significant appreciation, on average, from 2000.

### **c. Survey**

The results of the survey were analyzed in SPSS statistical analysis software using cross tabulation and chi-square tests. Each respondent was asked to rank the most important factors in four different categories. Home Characteristics, and City Services. The three most commonly selected as most important for each category; Neighborhood Characteristics, City Characteristics, Home Characteristics, and City Services were as follows: crime rate/safety, natural environment/open space, streets/traffic; Proximity to work, Employment Opportunities, Population/City Size; Cost of the house, Number of bedrooms, size of yard; Quality of schools, water quality, Emergency Services, and Medical Care. The majority of respondents claim that the large student population did not impact their choice of homes. This stays consistent despite varying income and education levels. A cross tabulation and chi-squared test was run on price of residence and annual household income. The results had an impressive P-Value of 0.001. This demonstrates that people of different incomes spend varying amounts on homes. Even more specifically, people with a higher income, spend a larger amount on their place of residence.

## **Conclusion**

According to the survey, the four most important factors when choosing a place of residence include crime rate/safety, proximity to work, cost of the house, and quality of the schools. In addition, the large student population did not negatively impact the decision to move to Whitewater. Additionally, the average worker is someone who values family, safety and education; wants to be close to work while making sure his or her children are in a good environment; and has no negative feelings towards the student population as long as students do not negatively impact the other important factors.

In particular, patterns found in home sales within Whitewater and the surrounding areas of Fort Atkinson and Milton illustrate the dynamic tradeoffs between particular housing characteristics and price. The survey results represent a snapshot of the preferences of Whitewater employees taken at the time of their decision and are limited in the ability to quantify these preferences. Hedonic analysis of home sales, however, is able to examine the change in home price attributed to changes in home characteristics, painting a more detailed picture of personal preferences and their change over time. The analysis indicated a complex series of differences in valuations of particular home characteristics between Whitewater, Fort Atkinson, and Milton, as well as indicating that some of these valuations have changed over time.

Though the survey results indicated that the majority of Whitewater employees were not affected by student population in their location decision, further spatial analysis of home sales in Whitewater indicated that the University of Wisconsin-Whitewater campus did indeed have a significant, negative, non-linear affect on home sale prices. The analysis determined, however, that the effect of campus on home prices was not evenly distributed through the city. When divided between Eastern and Southwestern sub-markets, the analysis found that while the eastern

sub-market still experienced the negative impact of campus, the southwestern sub-market experienced no significant effect of campus on home sale prices. Overall, Whitewater has a complex, dynamic housing market that has and continues to adapt over time to the changing preferences of those purchasing homes.

## Appendix A

**Table 1.1: Summary Statistics – Hedonic Analysis**

	Mean	Std. Dev.	Count
<b>Sold Price (\$)</b>	146992	77542.8	-
<b>Age of House</b>	53.6721	40.1990	-
<b># of Stories</b>	1.39740	0.440040	-
<b># of Bathrooms</b>	1.52957	0.643154	-
<b># of Bedrooms</b>	3.08177	0.718310	-
<b>Square Feet</b>	1614.23	654.375	-
<b>Detached Garage (# of cars)</b>	0.693269	0.946863	-
<b>Attached Garage (# of cars)</b>	1.02135	1.05961	-
<b>On Water (1 if yes)</b>	0.0663853	0.249002	-
<b>Pre 2007</b>	0.582118	0.493305	1517
<b>Post 2007</b>	0.417882	0.493305	1089
<b>Whitewater</b>	0.217191	0.412413	566
<b>Fort Atkinson</b>	0.535303	0.498848	1395
<b>Milton</b>	0.247506	0.431646	645
<b>WW*Pre</b>	0.141980	0.349097	370
<b>FA*Pre</b>	0.355718	0.478822	927
<b>MN*Pre</b>	0.0844206	0.278071	220
<b>WW*Post</b>	0.0752111	0.263782	196
<b>FA*Post</b>	0.179586	0.383916	468
<b>MN*Post</b>	0.163085	0.369514	425
<b>WW*Bedrooms</b>	0.684190	1.34365	-
<b>WW*Bathrooms</b>	0.328473	0.689050	-
<b>FA*bedrooms</b>	1.63378	1.60244	-
<b>FA*bathrooms</b>	0.779570	0.853789	-
<b>MN*Bedrooms</b>	0.763239	1.38582	-
<b>MN*Bathrooms</b>	0.420952	0.810018	-
<b>WW*Attached</b>	0.200499	0.620504	-
<b>WW*Bedrooms</b>	0.684190	1.34365	-

Table 1.2: Regression Results – Hedonic Analysis

	Simple City Comparison		City Comparison Between Time Periods		Characteristic Comparison		Characteristic Comparison between Time Periods	
	Coefficient	t-ratio	Coefficient	t-ratio	Coefficient	t-ratio	Coefficient	t-ratio
constant	11.06***	216.2109	11.2092***	226.7329	11.1434***	256.484	11.3022***	297.3752
Fort Atkinson	-0.0443641***	-3.6464	-	-	-	-	-	-
Milton	-0.195358***	-10.0267	-	-	-	-	-	-
FA*Pre2007	-	-	-0.0174807	-1.1915	-	-	-	-
MN*Pre2007	-	-	-0.0821153***	-3.2328	-	-	-	-
WW*Post2007	-	-	0.0277082	1.1972	-	-	-	-
FA*Post2007	-	-	0.0106567	0.6024	-	-	-	-
MN*Post2007	-	-	-0.148106***	-6.1710	-	-	-	-
FA*Bedroom	-	-	-	-	-0.0336811***	-5.1276	-	-
MN*Bedroom	-	-	-	-	-0.118845***	-6.1630	-	-
FA*bathroom	-	-	-	-	0.0245602**	2.0831	-	-
MN*Bathroom	-	-	-	-	0.0476805	1.6154	-	-
FA*attached	-	-	-	-	0.0288505***	3.0033	-	-
MN*Attached	-	-	-	-	0.0995821***	5.6407	-	-
FA*bed*pre	-	-	-	-	-	-	-0.027189***	-3.6415
MN*bed*pre	-	-	-	-	-	-	-0.0838206**	-2.4319
WW*bed*post	-	-	-	-	-	-	-0.00983631	-0.5675
FA*bed*post	-	-	-	-	-	-	-0.0224048	-1.6377
MN*bed*post	-	-	-	-	-	-	-0.116132***	-4.8977
FA*bath*pre	-	-	-	-	-	-	0.0397822***	3.0418
MN*bath*pre	-	-	-	-	-	-	0.0913811	1.3846
WW*bath*post	-	-	-	-	-	-	0.0400143	1.1877
FA*bath*post	-	-	-	-	-	-	0.0348706	1.4361
MN*bath*post	-	-	-	-	-	-	0.0604712*	1.8582
FA*Pre*Attach	-	-	-	-	-	-	0.0275715**	2.4902
MN*Pre*attach	-	-	-	-	-	-	0.052915788	2.1253
WW*Post*Attach	-	-	-	-	-	-	0.0422804**	2.0088
FA*Post*Attach	-	-	-	-	-	-	0.0466913***	2.8275
MN*Post*Attach	-	-	-	-	-	-	0.124213***	5.5236
Age of House	-0.00341029***	-13.4347	-0.00324332***	-12.1822	-0.00410717***	17.7203	-0.00386327***	-15.5173
# of Stories	0.0511269***	3.1331	0.0445889***	2.6021	0.0514139***	3.3225	0.043648***	2.6495
# of Bathrooms	0.068938***	6.4635	0.0824462***	7.3573	0.00047905***	14.6308	0.000482726***	14.5916
# of Bedrooms	-0.00466295	-0.3362	-0.00603095	-0.4183	-3.77844e-08***	-5.8935	-4.07264e-08***	-6.4687
Square Feet	0.000361215***	11.7217	0.000378109***	12.3274	0.0401893***	4.0056	0.0395654***	3.6870
Square Feet <sup>2</sup>	-2.68275e-08***	-4.6552	-3.04616e-08***	-5.5192	0.107542***	2.7158	0.121343***	3.0513
Detached Garage (# of cars)	0.0721356***	5.3490	0.0656021***	4.8455	0.0596135	1.5218	-0.00386327***	-15.5173
Attached Garage (# of cars)	0.094814***	7.5983	0.0925596***	7.2207	0.126216***	4.4008	0.043648***	2.6495
On Water (1 if yes)	0.132507***	3.4968	0.13984***	3.6648	0.128208***	4.5180	0.000482726***	14.5916

\*, \*\*, and \*\*\* represent probabilities of type 1 error of .10, .05, and .01 respectively

**Appendix B**  
**Table 2.1: Summary Statistics – Spatial Analysis**

	All		Southwest		East	
	Mean	Std. Dev.	Mean	Std. Dev.	Mean	Std. Dev.
Sold Price	185117.00	129036.00	164572.	54108.5	194160.0	149798.00
Distance (feet)	7287.26	6777.87	3494.91	3659.00	8956.47	7154.48
Age of House	61.1283	42.8620	44.9755	31.3608	69.0503	45.8299
# of Stories	1.40954	0.450877	1.28199	0.425226	1.46436	0.450909
# of Bathrooms	1.60322	0.672122	1.65351	0.628358	1.58108	0.689931
# of Bedrooms	3.15550	0.768475	3.22368	0.731880	3.12548	0.782848
Square Feet	1625.64	631.269	1659.72	580.625	1607.34	656.850
Detached Garage (# of cars)	0.729223	1.02276	0.500000	0.910052	0.830116	1.05373
Attached Garage (# of cars)	1.01810	1.07753	1.37281	0.955650	0.861969	1.09189
On Water (1 if yes)	0.132530	0.339293	0.0789474	0.270250	0.191120	0.393563
2000	0.0790885	0.270058	0.0745614	0.263260	0.0791506	0.270235
2001	0.0656836	0.247894	0.105263	0.307567	0.0617761	0.240981
2002	0.108579	0.311319	0.0964912	0.295913	0.110039	0.313240
2003	0.101877	0.302689	0.0877193	0.283509	0.104247	0.305876
2004	0.112601	0.316316	0.127193	0.333922	0.123552	0.329388
2005	0.109920	0.312999	0.0921053	0.289811	0.102317	0.303357
2006	0.0991957	0.299125	0.0877193	0.283509	0.102317	0.303357
2007	0.0898123	0.286105	0.0833333	0.276994	0.0907336	0.287508
2008	0.0737265	0.261501	0.0833333	0.276994	0.0694981	0.254545
2009	0.0737265	0.261501	0.0833333	0.276994	0.0694981	0.254545
2010	0.0857909	0.280243	164572.	54108.5	0.0868726	0.281921

**Spatial Analysis Table 2.2: Regression Results**  
(Heteroskedasticity-robust standard errors)

	All		Southwest		East	
	Coefficient	t-ratio	Coefficient	t-ratio	Coefficient	t-ratio
Constant	59709.9***	4.7780	92091.8***	4.4041	57466.4***	3.7483
Distance (feet)	-4.86934***	-3.2627	0.109138	0.0352	-7.04174***	-3.7174
Distance squared	0.000419457***	3.9964	0.000301744	0.6794	0.000568672***	4.4927
Age of House	-346.968***	-5.9330	-660.6***	-4.8284	-244.318***	-3.6405
# of Stories	4772.15	0.6578	6974.45	1.0259	9757.25	0.9320
# of Bathrooms	14792.7***	3.8579	18143.6***	3.5936	9852.41**	2.0242
# of Bedrooms	-1137.32	-0.2459	-11956**	-2.5266	283.018	0.0485
Square Feet	25.9387*	1.8928	32.2776	1.3450	14.3658	0.9269
Square Feet squared	0.00350963	1.1480	0.00375632	0.6879	0.00541677	1.5944
Detached Garage (# of cars)	7908.15*	1.8355	5449.33	1.2429	8644.35*	1.6552
Attached Garage (# of cars)	12955.8***	3.1370	5527.07	1.1450	10703.3**	2.1282
On Water (1 if yes)	59249.8***	3.9975	-	-	66786.8***	4.3363
2001	11855.9	0.7786	-4964.64	-0.6947	26076.1	1.1312
2002	12940.7**	2.2521	21011.6***	2.6682	11848.4	1.6479
2003	8637.17	1.5142	16949.288**	2.3896	6634.04	0.9179
2004	23302.78***	3.3729	14923.6*	1.8724	28128.8***	3.0312
2005	32666.68**	5.1039	28022.5***	3.0332	36268.4***	4.5337
2006	38356.7***	5.0175	30678.2***	4.0587	43818.3***	4.0552
2007	31516.2***	4.9187	37231.7***	3.8369	38361.1***	4.4484
2008	29149.9***	3.6748	30955.6***	3.5581	34682.2***	2.9670
2009	21104.6***	3.4786	29843.3***	4.4806	25140.8***	3.0076
2010	6048.03	0.7557	30096.7***	2.9562	4155.74	0.4007

\*, \*\*, and \*\*\* represent probabilities of type 1 error of .10, .05, and .01 respectively

## Appendix C

### Fiscal and Economic Research Center

# Residential Location Survey

The following survey intends to ascertain the housing needs of employees in the city of Whitewater. Your participation will assist in developing a better understanding of the homebuyer's decision-making process that will be shared with the Whitewater Community Development Authority as well as the University of Wisconsin-Whitewater.

Please complete this survey as completely and as accurately as possible. Please check one box or circle one answer per question or characteristic. The survey should take you about 10-15 minutes to complete. Thank you for participating.

**1. What is your Age?** \_\_\_\_\_

**2. What is your gender?**

- Male
- Female

**3. What is the highest level of education you have completed?**

- Less than high school degree
- High school degree
- 2-year college degree
- Bachelor's degree
- Graduate or professional degree

**4. Where is your main residence located? (City, State)** \_\_\_\_\_

**5. Where did you move from?** \_\_\_\_\_

**6. In the tables below, please rank the issues in each category with the numbers 1 (most important) through 3 (third most important).**

Neighborhood Characteristics	
Crime rate / safety	
Natural environment / open space	
Parks facilities	
Streets / traffic	
Recreational programs	
Shopping opportunities	

City Characteristics	
Population (City Size)	
Cost of living	
Employment opportunities	
Land use planning	
Property taxes	
Proximity to work	
Commuting Cost	

Home Characteristics	
Cost of the House	
Age of the House	
Square Footage	
Number of Bedrooms	
Number of Bathrooms	
Size of Yard	
Quality of Landscaping	
Ease of Maintenance	
Energy Efficiency	
Size of Garage	

City Services	
Emergency services (police, fire, ambulance)	
Medical care (doctors, hospitals, clinics)	
Quality of schools	
Library services	
Snow removal	
Recycling and trash collection	
Water Supply	
Water quality (lakes and rivers)	
Water quality (drinking water)	

What was the most important factor regarding choosing a school district when you made your move?

---

7. What was the population of the city you moved from? \_\_\_\_\_

8. What is the population of the city you moved to? \_\_\_\_\_

9. What is your first choice regarding city population? \_\_\_\_\_

10. Why did you choose to locate in Whitewater?

---

---

11. If you did not pick Whitewater, why did you choose the city you located to?

---

---

12. How much were you influenced by friends or colleagues about the quality of living in Whitewater?

---

---

13. Did the large UW-Whitewater student base population bother you when selecting a home?

Yes

No

14. Did the proximity of college rentals cause you to look at areas to live outside of Whitewater?

Yes

No

15. For how much did you purchase your residence?

Less than \$99,999

\$175,000 – \$249,999

\$350,000 or More

\$100,000 – \$174,999

\$250,000 – \$349,999

16. Which of the following ranges includes your annual household income?

Less than \$40,000

\$60,000 - \$79,999

\$100,000 - \$119,999

\$40,000 - \$59,999

\$80,000 - \$99,999

\$120,000 or More

**Thank you for your cooperation!**

I understand that when I return the completed survey in the enclosed envelope I am providing voluntary consent to participate in this research, and I may refuse to participate or discontinue participation at anytime without penalty.

Every effort will be made to safeguard your identity and any information you provide from unauthorized access.



REDEVELOPMENT RESOURCES

February 17, 2012

To: Members of the Community Development Authority, City of Whitewater, WI  
Attn: Kevin Brunner, City Administrator, City of Whitewater, WI

From: Kristen Fish, CEcD, Redevelopment Resources

Re: Scope of Services: Job Search Process for Executive Director of Community Development Authority, City of Whitewater, WI

The scope of service to lead the search process for a new Executive Director of the Whitewater Community Development Authority includes the following tasks:

- |  |          |
|--|----------|
| 1. Draft job posting and post to relevant sites, direct contact with known potential candidates. | 4        |
| 2. Review applications, rank candidates and host conference call to narrow field                 | 6        |
| 3. Draft and send essay interview questionnaire  | 2        |
| 4. Review responses and rank candidates, host conference call to narrow field                    | 4        |
| 5. Set up and conduct phone/Skype interviews   | 8        |
| 6. Set up and oversee/participate in on-site interviews  | 8        |
| 7. Facilitate decision/offer   | <u>4</u> |

Total hours 36

Total hours of 36 @ \$95/ hour = **\$3,420.**

Mileage charged at IRS rate of \$.55/mile for on-site meetings. Any charges related to posting the announcement are not included in this proposal. This proposal relates directly to work done by RR only. Payment to RR in two installments, one at 50% completion of project and one at 100% completion of project.

\_\_\_\_\_  
Signed, Whitewater CDA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Redevelopment Resources, LLC

\_\_\_\_\_  
Date

## MEMORANDUM

**TO:** Community Development Authority

**FROM:** Kevin Brunner, City Manager

**DATE:** February 23, 2012

**Re: Potential Amendments to Developer Agreements with Fairhaven Corporation and Triple J Property Management (Whitewater TIF District #4)**

Over the last year or so, I have had discussions with Paul Kuenning, Executive Director of Fairhaven Corporation as well as Peter D'Acquisto, Owner of Triple J Property Management regarding potential amendments to the development agreements that they have with the City for the Prairie Senior Village project and the redevelopment of 155 W. Main Street respectively. Both of these involve the payments in lieu of tax (PILOT) that each entity must pay the City and TID #4 for the public funding that was provided to them to assist with their developments. While Fairhaven's request for an amendment is based on the slower than projected construction of Prairie Senior Village, the Triple J request is predicated on a lower property value or owner investment than that guaranteed in the development agreement.

I have attached copies of the development agreements for projects as well as the proposed Fairhaven amendment and a letter from Triple J explaining its request; however, I want to briefly explain each proposal to you.

While Fairhaven has made all required PILOT's to date, because they have failed to construct the number of housing units specified in the development agreement (79 units were to be constructed by 1/1/12 per the agreement while only 36 units have been constructed as of that date), they would like to modify the PILOT language by averaging the remaining PILOT payments over ten years (this would add one year to the term of the agreement which would end in 2020 instead of 2019). Please see Paul Kuenning's May 11, 2011 letter to me for further explanation.

I have discussed this request several times with our municipal financial advisors at Robert W. Baird and, because Fairhaven is not requesting forgiveness of its financial obligations under the agreement but rather just wants the flexibility of extending and flattening out its PILOT payments due to their inability to construct enough units to create sufficient cash flow, our advisors see no problem with the Fairhaven request (please see Brad Viegut's August 22, 2011 letter to me). The only issue that they pointed out (and we had already discussed with Fairhaven) was the need to include the time value of money and the additional cost incurred by the City of making a debt service payment from an alternative source. This issue has been addressed in the proposed amendment by applying an interest rate of 3.84% per annum for PILOT payments beginning on 1/1/12. The interest charge would only apply to the differential between the PILOT amount scheduled in the development agreement and the recalculated PILOT amount based on the proposed ten year average amount of \$124,732. After 1/1/15, the interest charge would apply to the remaining annual PILOT balance to be paid by Fairhaven.

An interest rate per annum of 3.84% has been applied. This interest rate is based upon the City's net interest rate on the TID #4 related debt refinanced in October 2010 (which also extended the debt payment four years in order to better reflect the changed TID #4 cash flow that occurred due to the lack of development originally forecast in 2006 for the District). This debt was originally issued for the Fairhaven public improvements in 2006 plus 1% which the City typically adds to the interest rate it borrows at for all levied special assessments.

The Triple J request is based upon Peter D'Acquisto's assertion that he overestimated the guaranteed value of his planned improvements to the Stewart Building located at 155 W. Main Street when he signed the development agreement. He believes that this building's value for the agreement's PILOT calculation should be \$738,000 instead of the \$988,500 that he agreed to. If this change were to be made then the PILOT payments that he has been making to TID #4 would be reduced by approximately \$5,100 annually.

While I would not dispute that his actual cost to improve this building may have been \$500,000, the developer fully agreed to guarantee the \$988,500 value at the time of the negotiation of the agreement. He also received \$65,000 in façade improvement and redevelopment incentive grants for such guarantee and if the guarantee would have been lower, the public funding would have been commensurately reduced. While at least the proposed Fairhaven amendment would keep the City and TID #4 whole as to total PILOT payments to be paid under the agreement, modifying the Triple J PILOT payments would actually reduce the TID #4 cash flow.

Robert W. Baird also prepared a letter on this proposal which is also included in your agenda materials. Baird recommends against modifying the PILOT guarantee property value for the Triple J property.

While the CDA was not party to these original development agreements, your review and recommendation on these requested amendments is requested due to their impact on TID #4. Ultimately, the Common Council will need to make a final decision whether any amendments will be approved.

I anticipate that representatives from both Fairhaven and Triple J will be in attendance at next Monday's meeting.

If any of you have questions prior to the CDA meeting, please feel free to contact me.

Cc-City Attorney Wally McDonell  
Finance Director Doug Saubert

May 11, 2011

Mr. Kevin Brunner, City Manager  
City of Whitewater  
312 W. Whitewater St.  
Whitewater, WI 53190

Dear Mr. Brunner:

This letter is to request an amendment to the Development Agreement between the City of Whitewater and Fairhaven Corporation (Prairie Village Development) dated April 5<sup>th</sup> 2006.

Currently, Prairie Village has grown to 32 units and expects to grow to 34 units by the end of 2011 with a total assessed value of \$5,155,200 on 12/31/10. There remain 10 sites for 22 units open for development in the areas where infrastructure is in place. Due to economic changes within the housing market, our community and country, Prairie Village Development has not kept pace with the original expectations of the Developer Obligation, Section 1, Project Description which projected building 72 units, an RCAC and a Club House would have been built by 2011 and would have been valued at \$19,154,805.

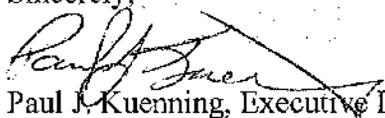
Fairhaven did have a market analysis completed in the fall of 2010 by Health Planning and Management Resources, Inc. which confirms there is still a population need but due to economic changes at a much slower pace.

Growth is now projected to be at two to four units a year with the RCAC and the Club House on hold until a larger density is achieved and the market projects greater, stronger demand. Minimum expected growth from 2012 to 2020 would be two units a year or 18 units with a value of \$3,500,000.

We would ask that Section 4, Payment in Lieu of Taxes schedule (found on page 8 of the agreement) be modified beginning with 1/1/2011 to 1/1/2015 by averaging the remaining PILOT of \$1,247,320 over ten years, thus adding one year to the Term of the agreement, from 1/1/2019 to 1/1/2020. This would create an even PILOT of \$124,732 for the ten years.

Fairhaven certainly appreciates being considered for this modification which will certainly strengthen our continued growth position now and into the future. Please, as you need additional information or have any questions, do let me know.

Sincerely,



Paul J. Kuenning, Executive Director  
Fairhaven Corporation

August 22, 2011

Mr. Kevin Brunner, City Manager  
City of Whitewater  
312 West Whitewater Street  
Whitewater, WI 53190-0178

Dear Mr. Brunner:

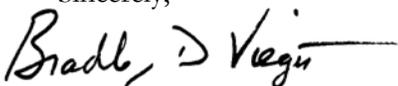
You asked me to comment on the request from Fairhaven Senior Services to modify the payment in lieu of taxes ("PILOT") under the Development Agreement ("Agreement") between the City and Fairhaven.

While it is understandable that Fairhaven's development has slowed compared to that anticipated under the terms of the Agreement, the very purpose of the Agreement is to protect the City of Whitewater ("City") from tax revenue shortfalls from either foreseen or unforeseen events. The City incurred debt as a direct result of the development. The debt was structured such that the annual debt expense matches the agreed upon PILOT revenue. Absent all or a portion of the PILOT payments, the City must fund its debt payments from an alternative source. Ultimately, the City taxpayers are responsible for supporting this revenue shortfall. If the City is willing to modify the timing of the payments, recognize that revenues anticipated for the payment of City debt related to the project will be delayed; however, the expenses (debt payments) would remain unchanged.

Nonetheless, the Developer is not requesting forgiveness of its obligations under the agreement, only a modification of the timing of the payments. The developer proposes extending the PILOT payments through 2020 while making the same total payments to the City. The Developer's request ignores the time value of money and the additional cost incurred by the City of making the debt service payment from an alternative source. Should the City elect to modify the Agreement, a payment stream which includes the time value of money is more appropriate than simply averaging the remaining payments and extending the payment schedule.

The Developer's request for modification to the terms of the Agreement may be understandable given the economic environment, but modifying PILOT payments does nothing to modify the debt incurred by the City. Additionally, a modification of this nature contradicts one of the primary reasons the City entered into the Agreement: to insure a timely source of revenue to cover city expenses incurred for the benefit of Fairhaven Senior Services.

Sincerely,



Bradley D. Viegut  
Director

cc: Doug Saubert, Finance Director

Robert W. Baird & Co.  
777 East Wisconsin Avenue  
Milwaukee WI 53202-5391  
Main 414 765-3500  
Toll Free 800 RW BAIRD

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

**REVISED 02/10/2012----Fairhaven TIF EXTENSION**

2015 remaining balance 3.84%

YEAR	TIF				TIF BALANCE		TIF EXTENSION					
	12	13	14	15	16	17	18	19	20			
TIF SCHEDULE	\$ 171,000.00	\$ 251,140.00	\$ 308,220.00	\$ 377,960.00	\$ 1,108,320.00							
PAYMENTS	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ (498,928.00)							
BALANCE	\$ 46,268.00	\$ 126,408.00	\$ 183,488.00	\$ 253,228.00	\$ 609,392.00							
TIF Schedule Carryover		\$ 46,268.00	\$ 172,676.00	\$ 356,164.00	\$ 609,392.00	\$ 484,660.00	\$ 359,928.00	\$ 235,196.00	\$ 110,464.00			
INT. 3.84 on carryover	\$ -	\$ 1,776.69	\$ 6,630.76	\$ 13,676.70	\$ 23,400.65	\$ 18,610.94	\$ 13,821.24	\$ 9,031.49	\$ 4,241.82	\$ 91,190.29		
PRINCIPAL	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 124,732.00	\$ 110,464.00	\$ 1,108,320.00	
PAYMENT + INTEREST	\$ 124,732.00	\$ 126,508.69	\$ 131,362.76	\$ 138,408.70	\$ 148,132.65	\$ 143,342.94	\$ 138,553.24	\$ 133,763.49	\$ 114,705.82	\$ 678,498.14		

TIF info

01/01/09	39,600	PAID
01/01/10	39,600	PAID
01/01/11	139,600	PAID
01/01/12	171,000	
01/01/13	251,140	
01/01/14	308,220	
01/01/15	377,960	

The City will charge an interest amount in addition to the payment in lieu of taxes (“PILOT”) for the payments beginning on 1/1/2012. The interest charge would apply only to the differential between the PILOT amount scheduled in the development agreement and the recalculated PILOT amount based on the proposed ten year average amount of \$124,732. After the 1/1/2015 date, the interest charge would apply to the remaining annual PILOT balance to be paid by Fairhaven.

An interest rate per annum of 3.84% is applied. This interest rate is based upon the City’s net interest rate on the debt it refinanced in October of 2010 (this was debt originally issued for the Fairhaven public improvements back in 2006 plus 1% which the City typically adds to the interest rate it borrows at for all

AMENDMENT TO DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF WHITEWATER AND  
FAIRHAVEN CORPORATION (PRAIRIE VILLAGE DEVELOPMENT)

This Agreement is entered into this \_\_\_\_\_ day of February, 2012 by and between the City of Whitewater, hereinafter at times referred to as City, a Wisconsin municipal corporation, and Fairhaven Corporation hereinafter at times referred to as Fairhaven.

**WITNESSETH THAT:**

**WHEREAS**, the City and Fairhaven entered into a Development Agreement dated April 5, 2006, and

**WHEREAS**, due to adverse economic conditions, Fairhaven has been unable to complete its planned development as anticipated at the time of the signing of the Agreement on April 5, 2006, and

**WHEREAS**, Fairhaven will continue to attempt to make timely payments under the April 5, 2006, Development Agreement; but seeks, for planning purposes, the option to extend the payments (with interest) should the need arise in the future.

**WHEREAS**, the parties believe it is reasonable to extend the payment due date terms of the Agreement, if necessary, and provide an interest payment provision as part of said extension,

**NOW, THEREFORE**, the parties agree as follows:

1. Fairhaven shall make good faith attempts to adhere to the payment schedule as set forth in the Development Agreement dated April 5, 2006.
2. Fairhaven shall have the option (to be exercised in writing) for one year from the date of this agreement to amend the pilot payment provisions set forth in 4.B. of the Development Agreement dated April 5, 2006, to provide that:
  - a. The term of the pilot payment guaranteed tax amount shall be extended to 2020 as set forth on the attached Exhibit 1.
  - b. The annual guaranteed tax amount pilot payments shall be paid as set forth in the attached Exhibit 1.
  - c. Fairhaven shall pay interest in the amount of 3.84% per annum on outstanding principal amounts created by this amendment as set forth in the attached Exhibit 1. The 3.84% interest rate is calculated by charging Fairhaven 2.84% (the rate the City is paying on the debt it incurred to build the improvements), plus 1%.

d. Fairhaven shall have the right to prepay the outstanding principal amounts in part or in full at any time.

2. All other terms and provisions of the Development Agreement dated April 5, 2006, not in conflict with the terms of this amendment agreement, shall remain in full force and effect.

Dated this \_\_\_\_\_ day of February, 2012.

**FAIRHAVEN CORPORATION**

**By:** \_\_\_\_\_  
**Paul Kuening, Executive Director**                      **Date**

**CITY OF WHITEWATER**

**By:** \_\_\_\_\_  
**Kevin Brunner, City Manager**                      **Date**

**By:** \_\_\_\_\_  
**Michele R. Smith, City Clerk**                      **Date**

April 4, 2006

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF WHITEWATER,  
AND FAIRHAVEN, CORPORATION (PRAIRIE VILLAGE DEVELOPMENT)**

THIS AGREEMENT entered into this 5<sup>th</sup> day of April, 2006, by and between the City of Whitewater, hereinafter at times referred to as "City", a Wisconsin municipal corporation, and Fairhaven Corporation hereinafter at times referred to as "Fairhaven" or "Developer."

WITNESSETH THAT:

WHEREAS, §66.1105, Wisconsin Statutes, provides the authority and establishes procedures by which the City of Whitewater may undertake development projects within areas of the City of Whitewater and finance such projects through the use of tax incremental financing; and

WHEREAS, on May 17, 2005 the City adopted a Project Plan for Tax Incremental District No. 4 as amended, for the benefit of development within the City of Whitewater; and

WHEREAS, the resolution amending Tax Incremental District No. 4, City of Whitewater, found that not less than 50% of the area of the real property within TID No. 4 is suitable for industrial sites and zoned for industrial use within the meaning of §66.1101 of the Wisconsin Statutes and at least 50% of the real property within said district will remain zoned for industrial use for the life of the district; and

WHEREAS, the project described in this Agreement would serve to rehabilitate the area; and

WHEREAS, §66.1337 and §66.1331, Wis. Stats., empower cities to assist development projects by lending or contributing funds and performing other actions of a character which the City is authorized to perform; and

WHEREAS, the City has determined that the development of a senior residential community at the location set forth herein would be desirable for the City and that the development more fully described in this Agreement will promote the revitalization and economic stability of Tax Increment District No. 4, and

WHEREAS, the Developer has indicated to the City that it is interested in investing in the development of this area, and the City has determined that the Developer is qualified to conduct this development project.

NOW, THEREFORE, the parties agree as follows:

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EXHIBITS

- Exhibit A - Real Estate Description
- Exhibit B - General Development Plan
- Exhibit C - Cash Flow Performance Analysis
- Exhibit D - Phase 1 Probable Construction Costs

ARTICLE I

DEFINITIONS

Section 1. A. The following terms as used herein shall have the following meanings:

- 1) "Assessed value" has the meaning set forth in §70.32 Wis. Stats.
- 2) "City" means City of Whitewater.
- 3) "Developer" means Fairhaven Corporation, and its successors and assigns.
- 4) Deleted.

- 5) "Project", "Development", or "Development Project" means the proposed Fairhaven Corporation "Prairie Village" development and building project as set forth in Article II and Exhibits A and B attached hereto.
- 6) "Property" means the real estate owned by Fairhaven Corporation upon which the Development will occur.
- 7) "Payment in lieu of tax", or "PILOT", means a payment to the City calculated yearly which is the difference between the taxes paid upon the assessed value of the development and the guaranteed tax amounts set forth in Article II, Section 4.B.
- 8) "Project Area" refers to the real estate depicted on the map attached hereto and incorporated by reference as Exhibit B (labeled General Development Plan).
- 9) "Public Facilities and Improvements", or "Public Improvements", means those infrastructure improvements and other improvements which will be dedicated to the City after construction in accordance with the terms of this Agreement.
- 10) "Term of this Agreement" means that period of time from the date this agreement is entered into until January 1, 2019.
- 11) "Substantial Completion" shall mean that Developer has sufficiently completed the project so that a Certificate of Occupancy has been issued by the City of Whitewater Building Inspector.

ARTICLE II

DEVELOPER OBLIGATIONS

Section 1. Project Description. Developer has plans to finance and construct the following development. The values and completion dates set forth below are estimates only and shall not be binding on the Developer.

<b>Year 2006</b>	<b>Building Market Value</b>	<b>Land Value</b>	<b>End of Year Total</b>
Two (2) Duplexes	\$350,000	\$590,000	\$ 940,000
<b>TOTAL COMPLETION YEAR 2006:</b>			<b>\$940,000</b>
<b>Year 2007</b>			
Ten (10) Duplexes	\$1,802,500		1,802,500
Club House	250,000		250,000
<b>TOTAL COMPLETION YEAR 2007:</b>			<b>\$2,992,500</b>
<b>Year 2008</b>			
Fourteen(14)Duplexes	\$2,599,205		\$2,599,205
RCAC	\$4,500,000		\$4,500,000
<b>TOTAL COMPLETION YEAR 2008:</b>			<b>\$10,001,705</b>
<b>Year 2009</b>			
Sixteen(16)Duplexes	\$3,059,636		\$3,059,636
<b>TOTAL COMPLETION YEAR 2009:</b>			<b>\$13,151,341</b>
<b>Year 2010</b>			
Fourteen(14)Duplexes	\$2,757,497		\$2,757,497
<b>TOTAL COMPLETION YEAR 2010:</b>			<b>\$15,908,038</b>
<b>Year 2011</b>			
Sixteen(16)Duplexes	\$3,245,967		\$3,245,967

<b>TOTAL COMPLETION YEAR 2011:</b>		<b>\$19,154,805</b>
<b>Year 2012</b>		
Ten(10) Duplexes	\$2,089,592	\$2,089,592
<b>TOTAL COMPLETION YEAR 2012:</b>		<b>\$21,244,397</b>
<b>Year 2013</b>		
Ten(10) Duplexes	\$2,152,279	\$2,152,279
<b>TOTAL COMPLETION YEAR 2013:</b>		<b>\$23,396,676</b>
<b>TOTAL</b>		<b>\$23,396,676</b>

It is acknowledged by the parties that Fairhaven hereby commits to construct and pay for all of the improvements set forth in Exhibit B except for the buildings and except for the improvements the City has agreed to pay for and construct. Fairhaven will make its best efforts to construct the buildings set forth on Exhibit B but Fairhaven shall have the right to make decisions concerning whether or not to construct the buildings and the timing of the construction. Fairhaven will complete the improvements it has committed to herein (excluding the buildings) by 11/01/08.

Section 2. Plan Approval.

A. Developer shall, prior to commencing construction of any phase of the Project, obtain approval of the City Plan Commission of the design, site, and landscape plans for the Project, which shall be in compliance with all codes and requirements of the City.

Section 3. Financing.

A. Developer warrants that the City will not, in any way, be obligated in any manner to arrange, guarantee, or otherwise participate in obtaining financing for the Project. Developer plans to utilize bank financing for the construction loan and permanent financing.

Section 4. Payment in Lieu of Taxes.

A. Beginning with the year 2006 (01/01/06 assessment with first PILOT payment, if any, due 02/15/07), the Developer shall make a payment to the City in lieu of taxes in the amount of the difference between any shortfall in the amount of taxes owed as shown on the tax bill, as compared to the Guaranteed Tax amount for each year as set forth in Article II, Section 4.B. below. For example, if the tax on the development for the year 01/01/08 is \$38,000, the Developer would be required to make a PILOT to the City in the amount of \$1,600 by 02/15/09. Said PILOT payment shall be due by February 15 of the subsequent year.

B. The Guaranteed tax amount, which is based on the attached Exhibit C, for each year to calculate the PILOT payment amount, if any, will be as follows:

01/01/06	\$ 34,760
01/01/07	\$ 39,600
01/01/08	\$ 39,600

01/01/09	\$ 39,600
01/01/10	\$ 39,600
01/01/11	\$ 139,600
01/01/12	\$ 171,000
01/01/13	\$ 251,140
01/01/14	\$ 308,220
01/01/15	\$ 377,960

C. The guarantee tax amount requirement shall expire after the January 1, 2015 assessment and February 15, 2016 PILOT payment, if any.

Section 5. Miscellaneous Construction Provisions

- A. Engineering Plans and Specifications. The Developer shall prepare (or cause to be prepared) and submit to the City the Engineering Plans and Specifications for the public facilities and improvements it is constructing, which shall be subject to the approval of the Director of Public Works.
- B. Contractors. The Developer shall engage qualified contractors for the installation of all Public Facilities and Improvements for which the Developer is responsible. Before hiring contractors, the Developer shall provide their names, addresses, and phone numbers to the Director of Public Works for approval or shall assure that such contractors are considered qualified by the Director of Public Works. The Developer shall be solely

responsible for all work performed under the Developer's contract(s) with contractors.

- C. Construction of Project. Upon City approval of the Engineering Plans and Specifications and after satisfaction of appropriate conditions of Final Plat approval, Developer shall be solely responsible for the construction of all Developer's required Public Facilities and Improvements on and adjacent to the Project Area, which shall be in substantial compliance with the approved Engineering Plans and Specifications, prior to the acceptance of the Public Facilities and Improvements by the City. Developer shall reimburse the City for all processing and professional review costs and fees for land use approvals, building permits, and other similar permits and entitlements in force and effect on a City-wide basis at the time an application is submitted for one of those permits for all aspects of the project other than Phase 1 which the City is building. Developer shall also reimburse the City for all engineering, inspection, planning, administrative, fiscal and legal costs attributed to review and inspection of the Project, in accordance with Section 18.04.090 of the City Code of Ordinances for all aspects of the project other than Phase 1 which the City is building. The City typically will contract with a qualified third party to complete inspections; inspection costs shall be billed at a rate equal to actual City contract costs. In the event City staff

instead completes inspections, inspection costs associated with this Project shall be billed at a rate commensurate with the City's actual personnel costs.

- D. **Lands for Public Dedication.** Developer shall be responsible for completing all required Public Facilities and Improvements on lands proposed to be dedicated to the public before the City shall accept such lands. Developer shall grade, topsoil, and seed all lands to be dedicated to the public in accordance with the Engineering Plans and Specifications, except for those hard-surfaced areas within public road rights-of-way. Hard-surfaced areas shall be finished with road and sidewalk improvements in accordance with the Engineering Plans and Specifications.
- E. **Street Lights.** Developer shall, in locations approved by the Director of Public Works, install public street lights.
- F. **Utility Extension to and within Property.** Developer shall be responsible for all required public and private utility extensions to service the Property, except for Phase 1 which the City is building; all planned sanitary sewer, water main, storm sewer lines, gas lines, electric lines, and telecommunications facilities within the Property; and shall provide all required easements for such utilities. All utilities must be underground. All sewer and water laterals and private utility mains and lines in public road rights-of-way shall be installed before street surfacing, curbing, and

sidewalk installation. No opening of new pavement shall be allowed for a period of five years from initial placement, unless approved by the Director of Public Works in an emergency situation. Developer shall extend all planned public sewer, water, and storm sewer mains within the Property up to the edges of the Property, in accordance with the approved Engineering Plans and Specifications.

- G. Adherence to Grading Plan. Grading of the Property and individual lots shall adhere to the City-approved Grading, Utility, and Erosion Control Plan, including grading of stormwater basins and stormwater conveyance routes. No window or door opening on any lot which includes a stormwater conveyance route or basin, or which is adjacent to a lot or outlot including a stormwater conveyance route or basin, shall be less than two feet above the projected high water elevation in the basin or conveyance route.
- H. Approval of Public Facilities and Improvements. Upon completion of the Public Facilities and Improvements in accordance with the Engineering Plans and Specifications, Developer shall furnish the City with reproducible mylar and digital "as built" sets of plans showing all public improvements for the Project, including stormwater management improvements. Digital copies shall be in Microstation format or AutoCAD format, and shall be referenced horizontally to SEWRPC coordinates and vertically to USGS

datum. The Director of Public Works shall approve and accept the Public Facilities and Improvements in writing. Upon such approval, Developer shall dedicate all improvements located within dedicated public rights-of-way through a "Request for Dedication of Facilities to the City of Whitewater", unless otherwise instructed by the Director of Public Works. For purposes of dedication of improvements, stormwater management improvements located within storm sewer easements and the storm sewer/drainage easements established in favor of the City of Whitewater as set forth on the Final Plat shall be considered as being located within a dedicated right-of-way.

- I. Street Sign Fee. The City shall install at the intersection of all public streets a street name sign of a design specified by the Director of Public Works. The City shall also install regulatory signs along all streets as necessary. Developer shall be responsible for reimbursing the City for all costs associated with the purchase and installation of required street signs within 60 days of being provided with written notice of the cost from the Director of Public Works.
- J. Water and Sewer Charges. Developer shall pay all water and sewer connection fees as required by City ordinance.
- K. Other Governmental Permits. Developer may apply from time to time for other permits and approvals as may be required by other

governmental or quasi-governmental agencies having jurisdiction over the Project in connection with the development of, or provision of services to, the Project. The City shall cooperate with Developer in its efforts to obtain such permits and approvals, and provide any documents or certificates reasonably required.

Section 6. Multi-Use Trail System Improvements

A. As part of this project, Developer would have an obligation to pay \$36,328 for parkland acquisition (based upon a total of 152 dwelling units times \$239 per dwelling unit) and \$85,424 for parkland development (based upon a total of 152 units times \$562 per dwelling unit). In lieu of payment of these required parkland acquisition and development fees to the City, the Developer agrees to construct a 10' multi-use asphalt trail system (approximately 4250 lineal feet in length) from the entrance to the Development Project on Fremont Street to the other entrance to the Development Project on County Highway 'U' as depicted in the General Development Plan (Exhibit B). This multi-use trail (including the two public trail stubs that connect to the main trail) shall be constructed according to City specifications and AASHTO standards and will be completed by the Developer no later than October 1, 2008. The Developer shall provide the route and detailed plans and specification for the trail and its structures, and said plans and

specifications and route shall be approved by the City of Whitewater Public Works Director prior to construction. The estimated 4,250 foot length of the trail shall not limit the Developer's obligation to construct the trail as set forth above even if the trail is longer than 4,250 feet.

- B. The public gazebo, the river observation deck, and the boardwalk over the wetland areas depicted in the General Development Plan (Exhibit B) will also be constructed by the Developer and will be completed by October 1, 2008 unless the completion date is changed by mutual agreement of the two parties.
- C. Upon completion of the multi-use trail system, Developer will dedicate these improvements to the City. The City will be responsible thereafter for maintenance and upkeep of the multi-use trail system. The City will not be responsible for snow, ice or plant or tree debris (leaves, etc.) removal on the trail. Fairhaven may at its option perform this type of maintenance on the trail systems. In areas where the public trail parallels Burr Oak Trail, Fairhaven shall be responsible for the removal of snow and ice and other debris.
- D. Fairhaven will be responsible to obtain any necessary state and federal approvals for all aspects of the trail system, including the gazebo, the observation deck and the boardwalk.

Section 7. Failure to Comply with Completion Schedule of Multi-Use Trail System Improvements.

Developer agrees that time is of the essence as to substantial completion of the multi-use trail and its structures and subject to the default and remedy provisions contained herein in Article IV.

Section 8. Equal Opportunity.

Developer hereby agrees, on behalf of itself and its successors and assigns, that it will not intentionally permit the sale, lease, or use of the Property or facilities within the Project Area by any party who would act or permit unlawful discrimination or restriction in contradiction of §111.321, Wis. Stats.

Section 9. Restriction on Use.

Developer agrees that it shall not, cause or permit the Project Area or any portion thereto (except the assisted living care center as provided below) to be or become tax exempt unless condemned by the United States or some other governmental entity. The only exception shall be that the Developer may attempt to cause the assisted living care center to become tax exempt after 2019. This obligation, as well as the other obligations of this Agreement, shall be binding upon all of the Developer's successors and assigns. Developer further agrees it will place a restriction on any deed conveying the Property prohibiting any use of the Property which would cause the Project Area or any portion thereof to become tax

exempt, except as provided for herein. Developer also agrees that the project, other than the assisted living care center, shall be restricted to individual lifetime lease occupancy of each duplex, or cooperative ownership and lease, or condominium ownership, by senior citizens or for limited others as may be allowed for senior housing projects under associated state and federal rules.

Section 10. Obligation to Maintain and Repair.

Maintenance of Property. Developer shall, during the term of this Agreement, keep and maintain the Property in good repair and working order and will make or cause to be made from time to time all repairs necessary thereto (including external and structural repairs) and renewals and replacements thereof so as to maintain in the City an operational, habitable, and marketable residential development, ordinary wear and tear and obsolescence excepted, and shall keep and maintain such casualty insurance upon the property as is customarily held in developments of like sizes and characters. All insurance policies required under this Section shall be taken out and maintained with insurance companies authorized to do business in the State of Wisconsin.

Section 11. Damage.

- A. If the Project, or any portion of it shall be damaged or partially or totally destroyed while the Developer owns all or any part thereof, Developer shall promptly repair, rebuild, or

restore that property which it owns and which has been damaged or destroyed in a manner consistent with the Project Plan. In the happening of such an event, Developer shall promptly give written notice thereof to the City. If said net proceeds of the property insurance are insufficient to restore the property in a manner consistent with the Project Plan, it shall be the responsibility of Developer to complete the restoration.

B. Subordination. The City agrees that, upon presentment of a written request from Developer's lender, it will subordinate its interests in the covenants provided for herein to those of the lender. However, such subordination shall not affect Developer's obligations hereunder irrespective of any action of its lender.

Section 12. Liquidated Damages/Penalty Clause.

Developer agrees to provide, at the time this Development Agreement is entered into, a refundable deposit to the City in the form of a performance bond or irrevocable letter of credit in the amount of \$25,000.00. The deposit shall be forfeited to the City in the event of a default by Developer from any of the terms of this Agreement, which shall constitute compensation to City for expenses incurred as a result of Developer's breach. Developer's obligations for a deposit shall be released by the City upon

completion of the Development Project by Developer by formal acceptance of same by City, which shall take place within thirty (30) days of the substantial completion of the project.

Section 13. Assignment. Developer shall have the right to assign or transfer all or any portion of its interests, rights, or obligations under this agreement or in the property or any portion thereof, subject to the approval of the City, which approval shall not be unreasonably withheld. The express assumption of Fairhaven's obligations under this Agreement by its transferee or assignee shall thereby relieve Fairhaven of any responsibility for the expressly assumed obligation. The transferee shall assume all of Fairhaven's rights and obligations hereunder which relate to the transferred Property.

### ARTICLE III CITY OBLIGATIONS AND MISCELLANEOUS PROVISIONS.

#### Section 1. City Obligations:

A. As part of this project, the City will cause to be designed, and will construct in 2006 the following Public Improvements, which at times will be referred to as Phase 1: 1) A Sanitary Sewer/Forcemain along Fremont Street to serve the Development Project and surrounding area; 2) A Sanitary Sewer Lift Station to serve the Development Project and surrounding area; 3) A 15" Sanitary Sewer Main from the lift station located on the Development Project to its terminus with County Highway "U"; 4) A 12" Water Main from the

entrance to the Development Project on Fremont Street (to be located within the new 60' public street right-of-way) to its terminus with County Highway "U"; and 5) Approximately 850 feet of approximately 29' wide (back of curb to back of curb) Street (with curb/gutter, sidewalk, street lighting and asphalt surface) from the entrance to the Development Project on County Highway "U" to the storm sewer crossing as shown in the General Development Plan (Exhibit B). The City will further construct a street intersection at Burr Oak Trail and County Highway "U" according to the specifications required by Jefferson County.

B. The City's maximum payment obligation concerning the above improvements to be constructed by it under Article III, Section 1.A. 3), 4), 5) shall be One Million One Hundred Four Thousand Seven Hundred Fifty and 00/100 (\$1,104,750.00).

This contribution is based on the estimates set forth in Exhibit

D. If the construction costs are less than the One Million One Hundred Four Thousand Seven Hundred Fifty and 00/100 (\$1,104,750.00), the City shall pay the difference as an additional contribution to Developer's project costs. The difference shall be determined after the completion of the above improvements and upon a final determination of the costs thereof. If required by the City, Developer shall agree to

have the City let the contracts by its public bidding process for the portion of the construction done in whole or part with City funds. The City shall have the right to determine the appropriate and legal method of contributing the difference to the project. Developer shall be responsible for all costs over and above One Million One Hundred Four Thousand Seven Hundred Fifty and 00/100 (\$1,104,750.00) for the construction of the improvements to be constructed by the City (excluding the Fremont Street Sanitary Sewer/Forcemain and sanitary sewer lift station.)

- C. In addition to the City's commitment to pay One Million One Hundred Four Thousand Seven Hundred Fifty and 00/100 (\$1,104,750.00) in this Agreement, the City will pay for one-half of the total cost of the Fremont Street Sanitary Sewer/Forcemain and Sanitary Sewer Lift Station described above in Article III 1. A-D (2) and will specially assess the remaining one-half of the total cost to the benefiting property owners, including the Developer. This assessment will be calculated on an area-wide basis. It is estimated that the Developer's assessment will be \$33,895 (actual cost will be determined by reasonable and customary methods) based upon a cost of \$630 per acre (based upon a developable Project Area of 53.8 acres). The term of the special assessment repayment

by the benefiting property owners will be five years at an interest rate 1% above the State of Wisconsin Trust Fund rate as set on the date of the completion of the construction of these public improvements.

- D. The City shall have the right to include as part of its One Million One Hundred Four Thousand Seven Hundred Fifty and 00/100 (\$1,104,750.00) contribution charges for engineering, inspection, planning, administrative, fiscal, and legal costs attributable to the project. The City may contract with qualified third parties to complete work. In the event City staff completes any work associated with the project, such costs shall be billed at a rate commensurate with the City's actual personnel costs.

Section 2. Miscellaneous Obligations:

- A. The cost of all site grading, which is not part of the City's construction commitment herein, including grading that is required for the public improvements whether on or off the development property, shall be the responsibility of the Developer.
- B. It is agreed that the City of Whitewater will plant street trees in accordance with its general policies on planting street trees. Developer shall be responsible for the cost of the purchase and

planting of said street trees not included in Phase 1. No street trees will be required along County Highway "U" at this time.

- C. Developer shall be responsible for the cost of the entrance monument signs and will be responsible for any and all maintenance and repair of said signs.
- D. The two roundabout areas in the Burr Oak Trail right-of-way shall be constructed so that said area rises to a greater elevation than the surrounding street. The roundabout shall be landscaped. Landscaping in the roundabout area shall be subject to the approval of the city forester. Developer shall be responsible for the maintenance and replacement of the landscaping within the roundabout areas.
- E. Any responsibilities related to any future road extending from the Property to the property to the west of the Project Area will be addressed in the future depending on the nature of the development to the west of the Property. The parties to this Agreement are not committing to any financial or other responsibilities relating to said roadway. The City will erect barricades at the end of platted road segments that terminate but are expected to be constructed in the future. Said barricades shall be considered part of the cost of construction of the roadway.

- F. Notwithstanding the dedication of storm water improvements, including detention basin areas, Developer shall be responsible for the routine maintenance of these areas. Routine maintenance shall include mowing, maintenance and replacing of landscaping as required, keeping the surface area of the storm water facilities free of trash and other debris, and any dredging necessary to keep said areas functional. The City may take further actions to maintain the functionality of stormwater facilities serving the development beyond such work defined as "routine maintenance" and charge the cost of said maintenance to Developer at its discretion.
- G. The Developer shall make a "request for dedication of facilities" to the City of Whitewater for all Public Improvements which are to be made pursuant to this Agreement, whether they are built by the City of Whitewater or Developer when the construction of said improvements are complete.
- H. Developer will cooperate with the City in applying for any grant such as a stewardship grant which may include use for credit purposes or otherwise the multi-use trail system, the gazebo and lookout area as a contribution to the overall grant project. This may include providing the documentation of the

cost and design documents for said trail system as well as a letter of support for the project.

- I. It is acknowledged that while the multi-use trail system, gazebo and observation deck are being constructed and dedicated to the City in lieu of park land fees, it is understood that if the cost of installation of said improvements exceeds what would have been Developer's park land dedication and park land improvement fees, Developer will not receive a refund or credit for said excess costs.
- J. The City agrees to construct the sanitary sewer main which will serve the development project on a route that passes through the Brotoloc property and then proceeds to the Property.
- K. The City of Whitewater shall substantially complete the 2006 public improvements by 12/31/06, however, if the lift station is not completed by 10/01/06, the parties shall cooperate in developing a system whereby sewage can be pumped from a manhole until said lift station is completed.
- L. Developer shall pay all of the cost of the public and private improvements except as set forth in this agreement. Developer shall pay its share of the costs of the improvements within 15 days of receiving a written request for payment from the City for any of the work completed.

- M. The City will install street lights on Burr Oak Trail and Developer shall be responsible for the purchase and installation cost of the street lights except for those provided for in Phase 1.
- N. Utility Extension to and within Property. Developer shall be responsible for all required private utility extensions to service the property; and shall provide all required easements for such utilities. All sewer and water laterals and private utility mains and lines in public road rights-of-ways shall be installed before street surfacing, curbing, and sidewalk installation. No opening of new pavement shall be allowed for a period of five years from initial placement unless approved by the Director of Public Works.

#### ARTICLE IV

#### DEFAULT AND REMEDIES

Section 1. Notice and Right to Cure. A party shall be in default under this Agreement if such party shall fail to carry out or fulfill one or more of its obligations hereunder and such failure shall continue for a period of thirty (30) days following receipt of written notice from the other party specifying such failure; provided, however, that if the nature of the default is such that it cannot be cured within thirty (30) days, a party shall not be in default if it immediately undertakes steps to cure the default after receipt of notice and then

diligently and in good faith prosecutes the curing of such default to its conclusion.

Section 2. General Remedies. If a party does not cure or undertake to cure a default within the time period set forth in Section 1 above, the non-defaulting party may pursue the remedies provided for in this Agreement or otherwise available at law or in equity.

Section 3. Enforced Delay in Performance for Causes Beyond the Control of Parties.

For the purposes of any provisions of this Agreement, neither the City, the Developer nor any successor in interest shall be considered in breach or default of its obligations with respect to the beginning and completion of any phase of construction or progress in respect thereto in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault, or negligence including, but not restricted to, acts of God, forces majeure, acts of the public enemy, acts of adjoining property owners, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, unavailable materials, breach of contracts by contractors or subcontractors, and unusually severe weather or delays of subcontractors due to such causes, it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times of performance of any of the obligations of the City or the Developer

with respect to construction of the improvements shall be extended for the period of the enforced delay as determined in good faith; provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof of the cause or causes thereof and requested an extension for the period of the enforced delay. In the event a delay is caused by unavailable materials or breach of contracts by contractors or subcontractors, the party shall make a reasonable effort to procure performance and the other party agrees to grant a sufficient extension to permit such procurement. It is expressly understood that this provision does not require Developer to construct the buildings set forth in Article II, Section 1.

Section 4. Rights and Remedies Cumulative. The rights and remedies of the parties, whether provided by law or provided by this Agreement, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise at the same time or different times of any such other remedies for the same event of default or breach or of any remedies for any other event of default or breach by Developer. No waiver made by City with respect to the performance or manner or time of any obligation of Developer under this Agreement shall be considered a waiver of any rights of City to enforce any other obligations of Developer.

ARTICLE V.

ADDITIONAL PROVISIONS

Section 1. Changes. Parties to this Agreement may, from time to time, require changes in the scope of the Agreement. Such changes, which are mutually agreed upon by and between the Developer and the City shall be incorporated in written amendments to this Agreement.

Section 2. Approvals in Writing. Whenever under this Agreement approvals, authorizations, determinations, satisfactions, or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, signed by the duly authorized representative of the party, and delivered to the party to whom it is directed at the address specified in Section 3 hereunder. Whenever under this Agreement the consent, approval or waiver of the City is required or the discretion of City may be exercised, the City Manager shall have the authority to act, as the case may be. Whenever any approval is required by the terms of this Agreement and request or application for such approval is duly made, such approval shall not be unreasonably withheld.

Section 3. Notices and Demands. A notice, demand, or other communication under this Agreement by any party to any other party shall be sufficiently given or delivered if it is dispatched by registered or

certified mail, postage prepaid, return receipt requested, or delivered personally to:

(a) In the case of Fairhaven Corporation:  
Fairhaven Corporation  
c/o David G. Yochum, Exec. Director  
P. O. Box 29  
Whitewater, WI 53190

With copy to:  
Mark T. Olm, Esq.  
Olm & Associates  
522 West Main Street  
P.O. Box 37  
Whitewater, WI 53190-0037

(b) In the case of the City:  
City of Whitewater  
Attn: Kevin Brunner, City Manager  
P. O. Box 178  
Whitewater, WI 53190

With copy to:  
Wallace K. McDonell, Esq.  
454 W. Main Street  
Whitewater, WI 53190

Section 4. No Liability of City. City shall have no obligation or liability to the lending institution, architect, contractor, or subcontractor, or any other party retained by Developer in the performance of its obligations and responsibilities under the terms and conditions of this Agreement. Developer specifically agrees that no representations, statements, assurances, or guarantees will be made by Developer to any third party or by any third party which are contrary to this provision.

Section 5. Completeness of Agreement. This Agreement and any addition or Supplementary documents or documentation incorporated herein by specific reference contains all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part hereof shall have any validity or bind any of the parties hereto.

Section 6. Matters to be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 7. Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, and such remainder shall then continue to conform to the requirements of applicable laws and the Project Plan.

Section 8. Recording of Agreement. The Agreement and any and all subsequent modifications thereof or additions thereto may, upon being duly executed, be recorded by either party with the Register of Deeds for Jefferson County, Wisconsin.

Section 9. Successors and Assigns. The terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto as well as their respective successors, transferees, and assigns. Any transfer of any party's interest under this Agreement or real

property described in Exhibit A shall not release the transferor from its obligations hereunder.

Section 10. Covenant Running with the Land. This Agreement, which may be recorded, shall be deemed to be, and interpreted as, a covenant running with the land as described in Exhibit A.

Section 11. Ambiguities Not Construed. The Developer has had substantial input concerning the terms of this agreement, and therefore, any ambiguities will not be construed against the City on the basis that its attorney drafted this Agreement.

Dated this 5<sup>th</sup> day of April, 2006.

**FAIRHAVEN CORPORATION**

By: James K. Caldwell 4/4/06  
James K. Caldwell, President Date

**CITY OF WHITEWATER**

By: Kevin Brunner 4/5/06  
Kevin Brunner, City Manager Date

By: Michele R. Smith 4/5/06  
Michele R. Smith, City Clerk Date



543 A.J. Allen Circle, Ste. E2  
Wales, WI 53183  
(414) 881-0883  
[triplejpropertymgmt@yahoo.com](mailto:triplejpropertymgmt@yahoo.com)

***T*** RIPLE  
***J*** PROPERTY MGMT., LLC

December 20, 2011

Mr. Kevin Brunner  
City of Whitewater  
312 W. Whitewater St.  
P.O. Box 178  
Whitewater, WI 53190

Re: Tax Key /OT 00083  
157-159 W. Main Street

Dear Mr. Brunner:

The purpose of this communication is to request an adjustment of the pilot agreement to reflect the actual cost of the aforementioned Stewart Building, Tax Key # /OT 00083, in the City of Whitewater, WI.

The cost of said building was overestimated by the architect on this renovation project. The actual cost of improvements in this building is \$500,000.00 – added to the purchase price of \$238,000.00. This gives the building an actual cost of \$738,000.00. I hereby ask that the building's special assessment reflect same.

Thank you very much for your consideration in this matter and please feel free to call me with any questions.

Sincerely,

*Peter J. D'Acquista*

TRIPLE J PROPERTY MGMT  
Owner

August 22, 2011

Mr. Kevin Brunner, City Manager  
City of Whitewater  
312 West Whitewater Street  
Whitewater, WI 53190-0178

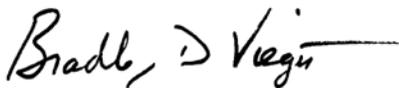
Dear Mr. Brunner:

You have asked me to comment on an informal request from the developer of "Triple J Properties LLC" regarding the development agreement related to 155-159 W Main Street.

I understand the developer has asked the City to renegotiate the terms of the agreement. The completion value under the existing agreement is \$988,500, and the current value is \$472,200. The City provided grants to the developer of \$65,000 in return for the completion value of \$988,500, and the primary goal of providing these types of grants is to foster the redevelopment of impacted properties. The city met its commitments, and the development agreement is in place (among other reasons) to assure that a minimum level of tax revenue or payment in lieu of taxes is received in return for the grant. Had the developer agreed to a completion value of \$472,200, it is unlikely the city would have granted \$65,000.

The City certainly has the prerogative to reopen the negotiations of the development agreement, however, recognize that modifications to the agreement would most likely extend the life of the payments. The City may also open itself to criticism that this development received a grant not commensurate with the level of redevelopment. For these reasons, renegotiating the development agreement in this case seems inconsistent with the motivation for entering into the agreement in the first place.

Sincerely,



Bradley D. Viegut  
Director

cc: Doug Saubert, Finance Director

**REDEVELOPMENT AGREEMENT BETWEEN  
PETE D'ACQUISTO AND  
THE CITY OF WHITEWATER, WISCONSIN**

This Redevelopment Agreement is between the City of Whitewater, at times hereinafter referred to as City, and Pete D'Acquisto at times hereinafter referred to as Developer.

**RECITALS**

A. The City of Whitewater seeks to, among other things, foster high quality commercial and residential development in the City of Whitewater downtown area.

B. Pete D'Acquisto d/b/a Triple "J" Management is the owner of real estate located at 155 West Main Street in the City of Whitewater, Wisconsin, Walworth County, State of Wisconsin more particularly described as follows:

Lot 7 of Block 9 of the Original Town, now City of Whitewater, Walworth County, Wisconsin (Property Parcels number OT-00083).

C. The City of Whitewater seeks to promote the high quality redevelopment of 155 West Main Street, Whitewater, Wisconsin.

D. Table of Contents of Provision Numbers.

1. City Approval
2. Financing Contingency
3. Loan Commitment
4. Dates and Deadlines
5. Time is of the Essence
6. Developer's Obligation to Renovate Property
7. Additional Provisions

**1. City Approval.**

This agreement is contingent upon approval by the City of Whitewater Common Council within 30 days of the Developer's signing of this agreement.

## **2. Financing Contingency. (Detail to be provided by Developer)**

This Agreement is contingent upon Developer being able to obtain:

A fixed rate first mortgage loan commitment as further described herein, within 30 days of Developer's signing of this agreement or the approval of the City of Whitewater Common Council, whichever date is later. The financing selected shall be in an amount of not less than \$                    for a term of not less than        months at a rate of %.

## **3. Loan Commitment.**

Developer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and to provide evidence of application promptly upon request by City. If Developer qualifies for the financing described in this Agreement or other financing acceptable to Developer, Developer agrees to deliver to City a copy of the written loan commitment no later than the deadline for loan commitment herein. Developer's delivery of a copy of any written loan commitment (even if subject to conditions) shall satisfy the Developer's financing contingency unless accompanied by a notice of unacceptability. *CAUTION: DEVELOPER, DEVELOPER'S LENDER AND AGENTS OF DEVELOPER OR CITY SHOULD NOT DELIVER A LOAN COMMITMENT TO CITY WITHOUT DEVELOPER'S PRIOR APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.*

## **4. Dates and Deadlines.**

Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

City and Developer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Agreement. A material failure to perform any obligation under this Agreement is a default which may subject the defaulting party to liability for damages or other legal remedies.

## **5. Time is of the Essence.**

"Time is of the essence" as to completion of all planned improvements to the property located at 155 West Main Street and all other dates and deadlines in

this Agreement. If "Time is the Essence" applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

## **6. Developer's Obligation to Renovate Property.**

a. Developer shall renovate the building and said real estate generally in accordance with the developer's concept proposal and plan dated June 12, 2007, and scheduled for review by the Whitewater Plan and Architectural Review Commission on June 25, 2007 and attached hereto and marked as Exhibit A. The Developer shall, as much as is practical, preserve and restore the historical features of the exterior of the building. The renovation shall include redeveloping the property so that it will have four restored storefronts on the first floor. The second and third floors will include twelve apartments. The commercial spaces that will be created shall be designed to be attractive and eye-catching. The estimated cost of the project will be approximately \$785,000.

The anticipated timeline shall include interior gutting, interior framing, drywall, new mechanical systems, painting, trim work beginning in summer, 2007 with completion by December 31, 2007. All exterior work shall also be completed by December 31, 2007. Additional details concerning the project are described in Exhibit A.

b. Plan Approval. Developer, prior to commencing construction, shall obtain the approval of the City of Whitewater Plan and Architectural Review Commission of the design, site, and landscape plans for the project. Such plans are to be in compliance with all codes and requirements of the City of Whitewater.

c. Financing. Developer warrants that City will not, in any way, be obligated in any manner to arrange, guarantee, or otherwise participate in obtaining financing for the Project.

d. Property Valuation. Developer represents that, at the completion of the project, the total value of the property shall be at least \$988,500 (current assessed value of \$238,500 plus \$750,000). In the event that the City Assessor values the property for property tax purposes at less than the above amount, the Developer will be liable to make a payment in lieu of property taxes to the City of Whitewater in an amount to be calculated as follows: \$988,500- City Property Assessed Value times annual net property tax rate. This payment in lieu of taxes provision will be in force until the earlier of 2019 or the City of Whitewater's termination of its Tax Increment District #4. Such payment shall be payable on or before July 1 of each year of shortfall. If not paid before July 1, said payment in lieu of taxes shall be collected as a special charge against the property.

e. Certificate of Occupancy. Developer is required to obtain a Certificate of Occupancy from the City of Whitewater Building Inspector.

f. Restrictions of Use. Developer agrees that it shall not, for 12 years from

receiving an occupancy permit, cause or permit the project area or any portion thereof to be or become tax exempt unless condemned by the United States or some other governmental entity. This obligation, as well as the other obligations of this agreement, shall be binding upon all of the Developer's successors and assigns. Developer further agrees it will place a restriction in any deed conveying the property during the duration of this agreement prohibiting any use of the property during the term of said 12 years which would cause the project area or any portion thereof to become tax exempt. The provisions of this agreement shall become a restrictive covenant on the transfer of ownership of any interest in the development. Said covenant shall be in effect for 12 years from the date of sale.

g. Performance Guarantee. Developer agrees to provide, at the closing, a refundable deposit to City in the form of a performance bond or an irrevocable letter of credit in the amount of Twenty Thousand Dollars (\$20,000). The deposit shall be forfeited to City in the event of a default by Developer from any of the terms of this agreement, which shall constitute compensation to City for expenses incurred as a result of Developer's breach. Developer's obligations for such deposit shall be released by City upon completion of the project by Developer by formal acceptance of same by City, which shall take place within thirty (30) days of substantial completion of the project. This guarantee clause shall in no way limit City's other remedies for any default or breach of the agreement by Developer.

h. Not for Speculation. Developer represents and agrees that its acquisition of the parcel in the project area and its undertakings pursuant to this agreement will be for the sole and express purpose of the redevelopment of the property consistent with the project plan and the terms and conditions of this agreement and are not for the speculation in land holdings. Accordingly, Developer agrees, for itself, its successors and assigns, that, except only by way of security for and only for the purpose of obtaining the financing necessary to perform its obligations with respect to making the improvements on the property under this agreement Developer has not made and will not make or suffer, cause or permit to be made prior to the substantial completion of the improvements described in the plan, any total or partial sale, assignment, conveyance or lease, or any trust or power or transfer in any other mode or form of or with respect to this agreement, the parcel, the redevelopment, or any interest of Developer therein or in this agreement or any other agreement related to the redevelopment without the prior written approval of the City.

i. City Grants. City shall provide a \$15,000 façade grant (two separate facades) to assist in the purchase of exterior architectural windows and doors in order to bring back the original historic character of these buildings. Grant is to be provided upon completion of the exterior improvements phase of the project and receipt of invoice(s) verifying costs by Developer.

In addition, City shall provide Developer with a \$50,000 TID incentive grant to be used for site improvements and exterior improvements to the buildings, including but not limited to the building façade and signage of the 155 West Main Street buildings. Said

TID incentive grant shall be payable upon substantial completion by the Developer of all improvements described in Exhibit A.

A condition of the above façade and incentive grants is that the Developer will fully comply with the Downtown Whitewater Design Guidelines included and attached hereto as Exhibit 2. The Developer has met with the Downtown Whitewater Design Committee and the Committee has approved the façade improvement plans as shown in Exhibit 2.

j. Community Development Authority Loan. City may also, through its Community Development Authority, extend a low-interest (4% interest per annum, 7 year repayment period) loan of up to \$15,000 for the purpose of building façade improvements. Loan to be negotiated at above guaranteed terms with the Whitewater Community Development Authority. Said loan shall be secured by a mortgage on the above described property. Developer shall execute the customary mortgage, note and other documents necessary to complete the loan. City agrees that upon presentation of a written request from Developer's lender, it will subordinate its interest in the property to that of the lender.

## **7. Additional Provisions.**

a. Notice and Right to Cure. A party shall be in default under this agreement if such party shall fail to carry out or fulfill one or more of its obligations hereunder and such failure shall continue for a period of thirty (30) days following receipt of written notice from the other party specifying such failure; provided, however, that if the nature of the default is such that it cannot be cured within thirty (30) days, a party shall not be in default if it immediately undertakes steps to cure the default after receipt of notice and then diligently and in good faith prosecutes the curing of such default to its conclusion.

b. Delay in Performance for Causes Beyond the Control of Parties. For the purposes of any provisions of this agreement, neither party, nor any successor in interest, shall be considered in breach or default of its obligations with respect to the beginning and completion of any phase of construction or progress in respect thereto in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, forces majeure, acts of the public enemy, acts of adjoining property owners, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, unavailable materials, breach of contracts by contractors or subcontractors, and unusually severe weather or delays of subcontractors due to such causes, it being the purpose and intent of this provisions that in the event of the occurrence of any such enforced delay, the time or times of performance of any of the obligations of Developer with respect to construction of the improvements shall be extended for the period of the enforced delay as determined in good faith by City; provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof and of the cause or causes thereof and requested an extension for the period of the enforced delay. In the event a delay is caused by

unavailable materials or breach of contracts by contractors or subcontractors, Developer shall make a reasonable effort to procure performance and City agrees to grant a sufficient extension to permit such procurement by Developer.

c. Changes. The parties to this agreement may, from time to time, require changes in the scope of the agreement. Such changes, which are mutually agreed upon by and between Developer and City shall be incorporated in written amendments to this agreement.

d. Approvals in Writing. Whenever under this agreement approvals, authorizations, determinations, satisfactions, or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, signed by the duly authorized officer of City, and delivered to the party to whom it is directed at the address specified in Section 27. f. hereunder.

e. Inspection of Records. Developer shall have until 60 days after a Certificate of Occupancy is issued for the project, the right to inspect any and all records, contracts, financial statements, ledgers or written documents which relate to, and are generated by, the responsibilities and obligations of Developer under the terms of this agreement. This right of inspection shall apply to not only those records and documents that are within the physical control and custody of Developer, but also any records, statements, and documents that may be within the custody and control of third parties or generated by third parties in the performance of the obligations and responsibilities hereunder, including, but not necessary limited to, the architect, contractor, and all subcontractors.

f. Notices and Demands. A notice, demand, or other communication under this agreement by any party to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally and:

In the case of Buyer:

Pete D'Acquisto  
Triple "J" Management  
543 A.J. Allen Circle  
Wales, WI 53183

with a copy to:  
Attorney

In the case of the City:  
City of Whitewater  
Attention: City Manager

event giving rise to the dispute, claim, or other matter in question. The award rendered by the arbitrator shall be final, subject only to vacation, modification, and appeal provisions for the Wisconsin Arbitration Act.

n. Amendment. No amendment, modification, termination, or waiver of any provision of this agreement, nor consent to any departure from this agreement, shall in any event be effective unless the same shall be in writing and signed by both parties and their successors of interest. Such waiver or consent shall be effective only in the specific instance and for the specific purpose given.

o. Recording of Agreement. Either party may record this agreement.

p. Construction of Agreement. This document has been drafted by the attorney for City. However it is agreed between the parties that both parties had substantial input into the provisions contained herein, and therefore, the contract provisions and any ambiguities will not be construed against the City because the document was drafted by the attorney for the City.

Dated: September 11, 2007.

Dated: Sept 7/07, 2007.

CITY OF WHITEWATER,

Kevin M. Brunner  
By: Kevin M. Brunner  
City Manager

Pete D. Acquisto  
By: Pete D. Acquisto

Michele Smith  
By: Michele Smith  
City Clerk



# Memo

**CONFIDENTIAL**

**To:** Community Development Authority Members  
**From:** Kevin Brunner  
**Date:** 02/23/2012  
**Re:** Tax Exempt Property in City of Whitewater

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Jeff Knight requested at the January CDA meeting that a future agenda include a discussion of tax exempt properties in the City.

I have had subsequent discussions with Jeff and I would estimate that when including the UW-Whitewater campus, we have between 40% and 45% of the property in the City that is tax exempt. While we have some tax exempt properties that make payments in lieu of property taxes and the State of Wisconsin makes an annual payment to the City towards some municipal services, the implication is that we have a significant amount of property in Whitewater that we provide services to that do not pay property taxes.

I'm including a recent legal opinion proffered by the League of Wisconsin Municipalities that municipalities can, in fact, limit or restrict the location of non-profit, tax-exempt land use activities through local zoning. There are obviously many factors that need to be taken into account when considering such but the League's opinion is a good read.

## MUNICIPALITIES MAY RESTRICT NON-PROFIT, TAX-EXEMPT PROPERTIES' LOCATIONS THROUGH ZONING

Your City Council recently requested a formal legal opinion from the League of Wisconsin Municipalities. The specific question asked is whether Wisconsin municipalities have the authority to restrict the location of non-profit, tax-exempt properties in the community through the use of their zoning authority. Your municipal attorney recently advised that there is no clear answer to this question. I also agree that there is no clear answer but think that there probably is such authority. Therefore, it is my opinion that the answer to your question is probably yes.

Like other states, Wisconsin has a zoning enabling law that specifically vests cities and villages with zoning power. The statute, Wis. Stat. sec. 62.23(7)(a), made applicable to villages by Wis. Stat. sec. 61.35, provides in relevant part:

For the purpose of promoting health, safety, morals or the

general welfare of the community, the council may regulate and restrict by ordinance, subject to par. (hm), the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, mining, residence or other purposes if there is no discrimination against temporary structures.

Therefore, a valid exercise of zoning power must relate to a public health, safety, morals or general welfare concern.

Your opinion request letter establishes that the City is concerned about non-profit, tax-exempt land uses being located in its central business area. Briefly stated, the City wishes to limit the use of land in its central commercial area to businesses that will, or are at least likely to, generate property tax revenue for the community. Thus, the City's purpose for restricting the location of non-profit, tax-exempt land use activities is economic or fiscal, not public health, safety or morals.

Given that the City's economic or fiscal zoning purpose is not linked to public health, safety or morals concerns, the proposed zoning regulation must then be justified under the remaining "general welfare" zoning standard. The City's inquiry then is more precisely stated as whether the City's authority to promote general

welfare through zoning includes the power to restrict the location of non-profit, tax-exempt land uses for economic or fiscal reasons.

Judicial guidance from Wisconsin courts on the City's inquiry is limited. Accordingly, both Wisconsin and non-Wisconsin sources should be considered to determine whether the City has authority to use its general welfare zoning power to restrict the location of tax-exempt land uses.

While some jurisdictions appear to have followed a fairly restrictive view of the general welfare zoning standard and resisted zoning regulations resting solely on such grounds, this does not appear to be the case for Wisconsin. In a very early zoning decision considering the general validity of zoning regulations, the Wisconsin Supreme Court articulated an expansive view of general welfare zoning authority when it noted:

In this day none will dispute that government in the exercise of its police power may impose restrictions upon the use of property in the interest of public health, morals, and safety. That the same restrictions may be imposed upon the use of property in promotion of the public welfare, convenience, and general prosperity is perhaps not so well understood, but, nevertheless, is firmly established by the decisions of this and the federal Supreme Court.

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## LEGAL OPINION

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*State ex rel Carter v. Harper*, 182 Wis. 148, 154-155, 196 N.W. 451 (1923). Therefore, Wisconsin courts set themselves apart from many other jurisdictions when they approved the use of general welfare zoning power for “general prosperity” purposes in the very early stages of zoning law development and provided important support for municipal fiscal zoning policies.

Later decisions in Wisconsin again utilized an expansive general welfare view to uphold fiscally-motivated zoning regulations linked exclusively to the general welfare zoning standard. In *State ex rel. Saveland Park Holding Corp. v. Wieland*, 269 Wis. 262, 69 N.W.2d 217 (1955), the Wisconsin Supreme Court considered the validity

of a zoning ordinance with a singularly stated purpose of preserving “property values.” Upholding the ordinance and citing dictum from the U.S. Supreme Court decision in *Berman v. Parker*, 348 U.S. 26 (1954), the court concluded that “the protection of property values is an objective which falls within the exercise of the police power to promote the ‘general welfare,’ and that it is immaterial whether the zoning ordinance is grounded solely upon such objective or that such purpose is but one of several legitimate objectives.” *Id.* at 270. Thus, Wisconsin case law strongly supports fiscal zoning authority under the general welfare zoning standard and possibly location restrictions on tax-exempt land uses.

The relationship between general welfare zoning and tax revenues has also been noted and approved in Wisconsin courts. In *Barbian v. City of Milwau-*

*kee*, 91 Wis.2d 851, 284 N.W.2d 122 (Ct. App. 1979) (unpublished), the court addressed a challenge to a rezoning. In its decision the court stated:

Another point to be considered when weighing the validity of the rezoning at issue is the value of the improved property to the city in terms of an increased tax base. This was noted by the trial court in its findings of fact and conclusions of law. The general prosperity of the area is a factor to be considered, and was recognized early in the history of zoning in *State ex rel. Carter, supra*. We hold that the increased tax revenue attributed to improved land affects the general prosperity of the area. Thus, the public welfare is benefited by the rezoning.

## Engineering Change

Crafting a blueprint for change in a community is a tall order. It must see the future, but not overlook the needs of those who will use its initiatives today.

It must be developed in a manner that justifies short-term inconvenience for long-term results.

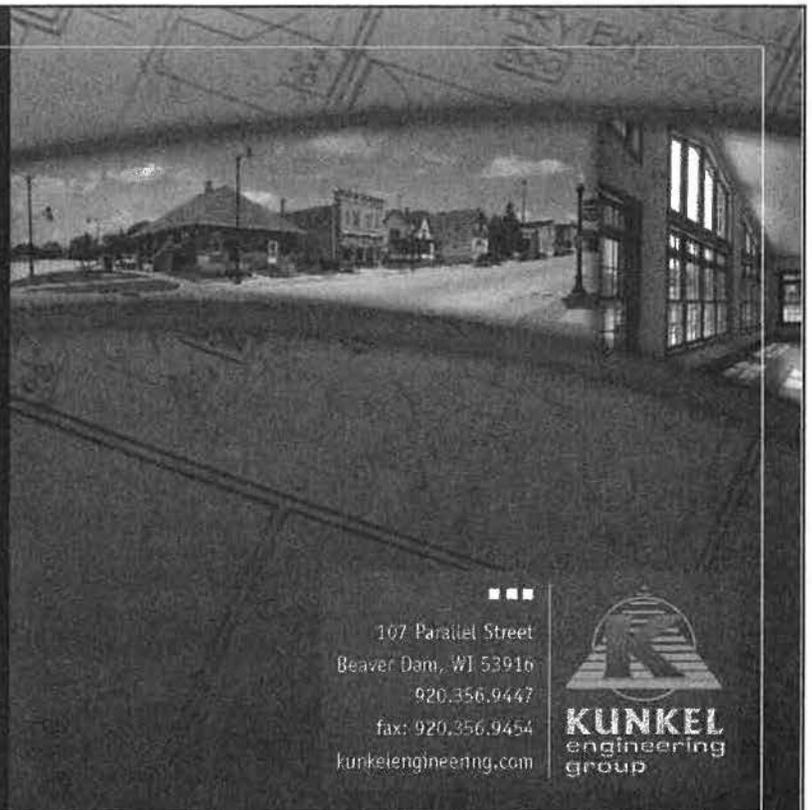
And it must happen because a community believes it should.

In building for the future we work to preserve timeless character and simultaneously reinvent that which has fallen behind. We expand horizons and we nurture the heart of the community.

We engineer change in communities. Building blocks and stepping stones; we bring the pieces together.

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Accordingly, although an unpublished decision and not binding, *Barbian's* reliance on *State ex rel. Carter* for the quoted proposition suggests support for exercising general welfare zoning authority specifically for tax revenue purposes.

Recently, the Seventh Circuit Court of Appeals, whose decisions provide controlling precedent for Wisconsin courts, indicated its approval of general welfare zoning power to enact regulations restricting the location of tax-exempt land uses. In *River of Life Kingdom Ministries v. Village of Hazel Crest*, 611 F.3d 367 (2010), the court addressed the validity of a local zoning ordinance that excluded churches and other noncommercial uses from a commercial zoning district because they do not generate significant taxable revenue or provide commercial shopping opportunities. Notably, the court ex-

pressly declared that "generating municipal revenue and providing ample and convenient shopping for residents" are legitimate public welfare zoning concerns which "can be promoted by setting aside some land for commercial uses only, which generate tax revenues." Accordingly, the court upheld the ordinance and rejected arguments that it violated the federal Religious Land Use and Institutionalized Person Act (RLUIPA).

Lastly, it is also important to note that the Wisconsin legislature specifically directed that fiscal policies be part of municipal land use regulation systems. In 1999, they adopted the comprehensive planning law, sometimes referred to as the Smart Growth Law, in Wis. Stat. sec. 66.1001. Under the law, enactment or amendment of city and village zoning regulations must be consistent with the city/village

comprehensive plan. Wis. Stat. sec. 66.1001(2)(f).

Significantly, the legislature specifically directed in this planning law that a comprehensive plan must have an economic element that includes "[a] compilation of objectives, policies, goals, maps and programs to promote the stabilization, retention or expansion of the economic base and quality employment opportunities in the local government unit." True compliance with this requirement would seem to demand at least some consideration of the impact of tax-exempt land uses in a community on its economic base. While we cannot read this directive to specifically authorize zoning regulations that control the location of tax-exempt properties, it does seem to

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impose some obligation on cities and villages to at least consider such status when developing their land use ordinances, which in turn lends support to the proposition that tax-exempt status is a proper zoning criterion for Wisconsin cities and villages.

Taken together, existing case law from Wisconsin courts, including the Wisconsin Supreme Court's very recent reaffirmation of general welfare zoning for "general prosperity" purposes, (See *Town of Rhine v. Bizzell*, 2008 WI 76, para. 18, 311 Wis.2d 1, 751 N.W.2d 780) and the Seventh Circuit Court of Appeals, as well as statutory law in the form of Wisconsin's Smart Growth Law, provide strong support for the proposition that the City does have authority to adopt a zoning ordinance regulating the location of tax-exempt properties as a means to promote tax revenue generation. The case law recognizes that municipal revenue generation is a legitimate stand-alone zoning concern under the general welfare zoning standard and the Smart Growth Law strongly echoes similar themes. And, the case law clearly acknowledges, consistent with the Smart Growth Law requirement that zoning regulations reflect an appropriate consideration of the economic base, that such a concern might be validly addressed by zoning regulations that restrict the location of land uses that do not generate tax revenues.

That being said, it should be noted that there is case law from other jurisdictions that contradicts the proposition that general welfare zoning authority may be used to regulate the location of tax-exempt land uses for economic reasons. However, the persuasive weight this case law might have in Wisconsin appears minimal.

In *Diocese of Rochester v. Planning Board*, 1 N.Y.2d 508, 154 N.Y.S.2d 849, 136 N.E.2d 827 (1956), the New York Court of Appeals concluded that churches and similar tax-exempt institutions are specially protected from zoning restrictions on the ground that regulation of such uses bears no substantial relation to the general welfare of the community because these uses are themselves in furtherance of the general welfare. This reasoning has been questioned and rejected elsewhere. See e.g., *Congregation Kol Ami v. Abington Township*, 309 F.3d 120 (3d Cir. 2002). More importantly, the Wisconsin Supreme Court has specifically concluded that tax-exempt land uses such as churches are subject to municipal zoning power in Wisconsin. See e.g., *State ex rel. Lake Drive Baptist Church v. Village of Bay-side Bd. Of Trustees*, 12 Wis.2d 585, 108 N.W.2d 288 (1961). Therefore, *Diocese of Rochester* reasoning is not good law in Wisconsin and should not provide any persuasive authority in Wisconsin courts.

Another important source of case law that does not support using zoning authority to regulate tax-exempt land uses for economic purposes is *Roman Catholic Diocese of Newark v. Borough of Ho-Ho-Kus*, 42 N.J. 556, 566, 202 A.2d 161 (1964). In that case, the New Jersey Supreme Court declared that a municipality "may not zone against a private school, place it in one district rather than another, or refuse it a variance on the ground that it is exempt from taxation." *Id.* at 566. To support this statement, the court cited the *Diocese of Rochester* case that conflicts with current Wisconsin precedent. The court also cited a New Jersey constitution provision that grants tax-exempt properties in that state constitutionally protected status in support

of its statement. Importantly, the Wisconsin constitution does not have such a provision, which further undermines the persuasive value of the New Jersey case and its progeny. Finally, it is also notable that in the nearly 50 years since the decision was issued, it has not been cited with approval by any appellate court outside of New Jersey.

The reasoning deficiencies in the New York and New Jersey cases and incorporated into others that have relied on them or similar reasoning instruct that they have very little persuasive value in Wisconsin. In contrast, existing Wisconsin and Seventh Circuit precedent provide strong support for the proposition that the "general welfare" zoning power delegated to Wisconsin cities and villages by the legislature in 62.23(7)(a) includes authority to adopt zoning regulations that restrict the location of tax exempt properties primarily for fiscal purposes. Thus, it is my opinion that Wisconsin cities and villages probably have general welfare zoning authority to restrict the location of tax exempt land uses for fiscal reasons.

It is, however, important to remember that any zoning authority the City might have in relation to tax-exempt land uses must be exercised in a manner consistent with Wisconsin law. Assuming that an ordinance restricting the location of tax-exempt properties is deemed to fall within the scope of general welfare zoning authority of the City, such an ordinance would also need to satisfy the requirement that it not be arbitrary and unreasonable. See *Town of Rhine v. Bizzell*, 2008 WI 76, para. 37, 311 Wis.2d 1, 751 N.W.2d 780.

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