

PLANNED DEVELOPMENT DISTRICT NO.37 (THE ROCK SPORTS COMPLEX)  
AMENDMENT

ADDITIONAL PUBLIC COMMENTS

## Joel Dietl

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**From:** Aaron Hertzberg  
**Sent:** Thursday, March 31, 2016 1:32 PM  
**To:** Joel Dietl  
**Subject:** FW: Ballpark Commons Questions

**From:** MAX FONSIING [mailto:mfonsing@yahoo.com]  
**Sent:** Thursday, March 31, 2016 12:51 PM  
**To:** Aaron Hertzberg  
**Subject:** Re: Ballpark Commons Questions

Hi Aaron,

I have been a land owner for 10 years in the Franklin area which is close to the potential development of the Ballpark Commons. I have bought the land with the hope of developing it but it never materialized so far due to lack of business activity in that area. Now with the new proposal, I have high hope that I will be able to participate in the new development. Franklin needs a new identity and image to grow. This might be a legacy to the future generation living in this area. There is a lot of young families in Franklin and the sport development will be very welcome. Also this is a very good proposal for jobs creation. Therefore, you have my full support for this project.

Max

On Thursday, March 31, 2016 1:04 PM, Aaron Hertzberg <AHertzberg@franklinwi.gov> wrote:

Hi Max,

Per our conversation, if you'd like to have your comments regarding the project on the public record please send an email.

Aaron

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**From:** Mfonsing [mailto:mfonsing@yahoo.com]  
**Sent:** Monday, February 29, 2016 4:22 PM  
**To:** Aaron Hertzberg  
**Subject:** Re: Ballpark Commons Questions

Hi Aaron,

Thank you very much for your time today. It was very informative. I will try to follow any news on The Franklin website and Facebook. You can reach me anytime by email or my cellphone/text at 813-2159399.

Thank you.

Max

On Feb 29, 2016, at 4:25 PM, Aaron Hertzberg <AHertzberg@franklinwi.gov> wrote:

Max,

Thank you for your interest in the Ballpark Commons project. Feel free to follow up anytime.

## Joel Dietl

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**From:** scot szalanski [seshp@aol.com]  
**Sent:** Thursday, March 31, 2016 12:29 PM  
**To:** Steve Olson; Mark Dandrea; Daniel Mayer; Kristen Wilhelm; Douglas D. Schmidt; Susanne Mayer; Alderman Steve F. Taylor; Joel Dietl  
**Cc:** 'Litynski, Ernie'; mjrydlew@hotmail.com; rgindt@wi.rr.com; justinszalanski@gmail.com  
**Subject:** Concerned Comments on Planned Development District No. 37 Amendment

Council Members,

I am firmly opposed to the rezoning for the Ballpark Commons for several reasons.

### **First environmental concerns as a result of the meeting I had on Tuesday, March 29, 2016, with Steve Keith P.E., Environmental Services Unit Leader for Milwaukee County:**

- \* Putting large amounts of new pavement and new large buildings on a current undeveloped area where methane "naturally" escapes can send additional methane unintentionally to nearby homes and other areas.
- \* Unknown issues that will have to be addressed by others regarding the second landfill, owned by the State of Wisconsin, in the proposed expansion.
- \* General concern regarding upsetting an environmental problem currently under control.
- \* Potential extra costs to resolve these new environmental problems.

### **Financial Concerns:**

- \* Projected cost is still unknown.
- \* No one has any idea what the city's financial responsibility will be.
- \* The developer has stated he will request a TIF.

### **Rezoning**

- \* There is not enough information on how the proposed project is compatible with existing adjacent single family neighborhood.
- \* The proposed rezoning is contrary to the general welfare and economic prosperity of the immediate existing single family neighborhood.

### **Conclusion**

The above information clearly shows this rezoning amendment is putting the cart before the horse. Based on emails from Alderman Steve Taylor regarding the MOU for this proposal, I am worried the city is committing to the project before all costs are known. As a taxpayer I am vehemently opposed to have any of my tax dollars allocated to this project. There are too many unknown costs associated with it.

There is data to prove that the type of minor baseball league team (more like semi-pro) often fails within four years. If this is the case Franklin will have an empty white elephant (like the 'Ice Port' in Cudahy) on 76th and Rawson.

I also take exception to Mr. O'Malley's comment at the recent Planning Commission Meeting that the City of Franklin is dead. We have lived in this city for 10 years and are proud to say we are citizens of Franklin. I do not want our city to be known as the "minor league" baseball facility. I am not against development but let's develop something we can be proud of.

I ask that you delay the vote on the rezoning until all of the environmental and financial questions are answered.

## Joel Dietl

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**From:** Aaron Hertzberg  
**Sent:** Thursday, March 31, 2016 11:59 AM  
**To:** Joel Dietl  
**Subject:** FW: THE ROCK

FYI

**Aaron Hertzberg**  
Director of Economic Development  
City of Franklin  
9229 W. Loomis Rd.  
Franklin, WI 53132  
Office: 414-425-4024  
Direct: 414-427-7566  
[www.franklinwi.gov](http://www.franklinwi.gov)



**From:** Ausloos, Adam [<mailto:Adam.Ausloos@ampf.com>]  
**Sent:** Thursday, February 04, 2016 4:28 PM  
**To:** Steve Olson  
**Cc:** Aaron Hertzberg  
**Subject:** THE ROCK

Mayor Olson & Aaron,

It was nice to meet both of you last night. As a 10+ year Franklin resident I am in full support of all the development plans THE ROCK has accomplished and is planning. I would like to see our city grow and bring in new business with developments like THE ROCK. Many of Franklin's most successful residents are my clients and several own businesses in Franklin. By working closely with them I know they feel the same way I do. We should not have to travel to another suburb for quality entertainment, food, & shopping when we live in one of the highest household income zip codes in the state of WI. We pay premium taxes and should have premium resources and developments. I look forward to your work to advance of our community. I hope to relocate my financial services practice to Franklin once we have the appropriate development(s) in place.

Thank you for the work you do, I look forward to seeing future progress.

**Adam J Ausloos** CRPC®, MBA  
Financial Advisor

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## Joel Dietl

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**From:** Jennifer Litynski [skihome1@aol.com]  
**Sent:** Wednesday, March 30, 2016 11:57 AM  
**To:** Joel Dietl  
**Subject:** Opposition to Rezoning

Dear Mr. Dietl,

I would like to thank you for your time and listening to Ernie and reviewing the area Monday afternoon. I wanted to take a moment to share with you some of my thoughts and thank you in advance for taking the time to read it through.

As a mother of 3 children whom were so excited when we first showed them the empty lot, surprised them when we told them it was ours, involved them in every part of the build and moved into our beautiful dream home with its big, safe backyard to now see and hear their sadness of knowing what they may now see in the backyard with multiple story high apartments and how much their life will change breaks my heart in more way then words can ever express. We searched for a lot specifically in Franklin for its High School reputation because our oldest would soon be entering 9th grade, we loved the location and the tranquility of this neighborhood and knew it was perfect for us after we verified the property behind us is zoned R-3 single family residential. We **never** would have bought and built here if it was zoned otherwise, as I know many of my neighbors feel the same way.

Our home is more then just a building and a backyard, it is a retreat from my husbands stressful job and an aide in the management of his PTSD, a safe & quiet place for my children to play in the backyard and build memories with their siblings and friends, a "reward" for the hardships our children have endured at a young age-to include their father being deployed multiple times and the death of a sibling. Home truly is where our family spends so much time because it was built the way we dreamed to include an area that we love and a neighborhood and community that we feel so comfortable with. It worries me that if this development is approved that sanctity will change dramatically with levels in noise, feeling of being "watched" while our children and their friends play in the pool that we invested so much hard earned money into, and the concerns of lighting that will also affect our life. Our 2nd story bedroom window view for all of the children will change dramatically from safe and suburban, to concrete, multiple balconies and lights. My 12 year old daughter wrote a poem recently for school that her bedroom was her favorite room in our house because of the view from her window of the big tree in the property behind us and watching it change through the seasons, can you imagine what she will write if this rezoning passes? I know it won't be a happy poem, but a sad one and as a mother I have to say everything I can to try to continue to protect my children's physical safety and mental well being.

I am not opposed to growth, but if the developers are truly looking to expand and grow the Community, I have to ask why not homes? Why not respect the Community and all of the current homeowners that built their homes with the knowledge that the property behind us would remain R-3 single family residential? We have worked hard to build these homes and knew that homes would be behind us one day, but not apartments, not HUNDREDS of additional neighbors, not 3 story (& who is to say not higher) buildings, not broken promises.

I understand you have to look at all the information, make a decision on what you feel is right, but I am begging you as a mother and for the sanctity of my family to ask yourself "would you want this concept in your backyard?"

Thank your for listening,  
Jennifer Litynski  
7324 S Stone Hedge Dr

**From:** [Ann Devine](#)  
**To:** [Mike Zimmerman](#)  
**Cc:** [Steve Olson](#); [Mark Dandrea](#); [Daniel Mayer](#); [Kristen Wilhelm](#); [Douglas D. Schmidt](#); [Susanne Mayer](#); [Alderman Steve F. Taylor](#); [Joel Dietl](#); [Nick Fuchs](#); [Kevin.Haley@milwaukeecountywi.gov](#); [Aaron Hertzberg](#); [gregm@marsoco.com](#); [mc@lansepublicaffairs.com](#)  
**Subject:** RE: Invite to City Officials and Developers - Walk Through of Affected Re-Zoning Properties  
**Date:** Tuesday, March 29, 2016 9:26:10 PM

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Mr. Zimmerman et al,

First of all, where were you Mr. Zimmerman when the community spoke up at the planning development meeting? Where were the other members of the Common Council? If you all care so damn much about the neighbors, why weren't you there to hear what they had to say. Only one of you took Ernie up on his offer to show you his view of property where you want to build apartments.

Also, Mr. Dandrea, do you really think we are so stupid to believe that was your mom was calling from the hospital at 10pm? Yet, you didn't leave. My guess it was either Zimmerman or Olson finding out if the meeting was still going on and what was going on. This is the same dirty politics that are being played by moving this Common Council meeting to April 4<sup>th</sup>, a week earlier. This way, it doesn't make any sense to do an Alderman write-in on April 5<sup>th</sup> because the decision was made. It seems to me it was already made when you all shook hands with Zimmerman et al.

We all know how this is going down. Zimmerman has lined the pockets of the career politician Steve Taylor, that is public record. The rest of you might as well be corrupt career politicians, because you don't represent the people in this situation, and you lack total common sense.

There are two huge points to be made. Number one is that rezoning for apartments has nothing to do with the ball park. Plain and simple. If Zimmerman needs the income from the apartments to make the ball park go, that is a bad business model. I doubt any of you know how to read a business plan, especially one that seems to change daily! Promises were made to the community homeowners that the property you want to rezone would stay residential. You all agreed to that last year, but now have done a 180 degrees. Why? Because campaign money exchanged hands? Because you are secret investors?

Second, if you have overwhelming support for this ball park, why can't you build it somewhere else. Your buddy, O'Malley, even said that the center of Franklin was near 76<sup>th</sup> and Drexel. Well, there are 26 acres for sale at 76<sup>th</sup> and Oakwood, not far from the center of town. Why not build the downtown and your ball park there? I will tell you why.

1. Zimmerman et al wants to build on County property because if the project goes bust...oh well, the county is stuck, not him. SHAME ON YOU County executives.
2. You idiots aren't even going to test the methane gas situation until you get rezoned for apartments. So, if the EPA and DNR rule that you can't build

there...oh well, Zimmerman et al will get their apartments. If this gas situation was so dire last year for the Common Council to vote it down, what changed? Money changed hands I am sure.

3. Zimmerman et al aren't true developers or investors. Those terms denote risk-taking, and he has dumped all of that onto the citizens of Franklin. The Common Council is stupid or blind or both to see what is going on. Again, maybe corrupt.

This whole project is illogical, lacking common sense, and compassion for the surrounding neighborhoods and park system. How is anyone going to golf at Whitnall on a Saturday when there is constant cheering coming from the stadium, if there is anyone truly there. You can see the attached photo to realize what you are ruining. Franklin can't even design a pathway to go west on Rawson out of the Pick n' Save parking lot! For twenty years, I have had to go east on Rawson, and then do a U-turn to head home. How the hell are you geniuses going to handle traffic patterns for 4,000 people.

Finally, you call this economic development??? Look at the Office Max and the Sentry stores still vacant. Obviously, that area is not attracting retailers, and it won't with the Rock complex. All it will attract is traffic. People will come and go. They won't stop at the strip mall. Maybe your idea is to blight the surrounding neighborhoods and then use eminent domain to take the property cheap. Or turn it over cheap to young people who may want the stadium, but can't pay the taxes. Good luck with that! If this passes, you will see for sale signs up all over the neighborhood. Ours will be first. If that is your intention, then you met your goal. That doesn't mean I won't conduct a recall or two before I leave! There have been a number of violations on how the planning committee presented its findings and in the voting process.

I am sure this email doesn't make a bit of difference, but it feels good to let you know you are a bunch of corrupt politicians. Next Monday, ask everyone in the room with an advanced degree to stand, and I think you will realize the brainpower you are throwing out of the community over your greed and true ignorance.

Ann M. Devine  
CEO  
Pi Sigma Epsilon  
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Greenfield, WI 53220  
414-328-1952  
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**From:** Mike Zimmerman [mailto:mikez@zimmventures.com]

**Sent:** Sunday, March 20, 2016 12:38 PM

**To:** Litynski, Ernie

**Cc:** solson@franklinwi.gov; mdandrea@franklinwi.gov; dmayer@franklinwi.gov; kwilhelm@franklinwi.gov; dschmidt@franklinwi.gov; smayer@franklinwi.gov; staylor@franklinwi.gov; jdietl@franklinwi.gov; nfuchs@franklinwi.gov; Kevin.Haley@milwaukeecountywi.gov; hogiehouse@live.com; scottathinnes@sbcglobal.net; AHertzberg@franklinwi.gov; gregm@marsoco.com;

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**Subject:** Re: Invite to City Officials and Developers - Walk Through of Affected Re-Zoning Properties

Ernie,

Thanks for the invite. The development team would be delighted to walk the site with you and any other neighbors wanting to review the plans "up close and personal". We've done a number of walk throughs already and have contemplated the latest design with residents' concerns in mind, especially after going door to door. Having said that, we anticipate ongoing dialogue and iterations with our neighbors and this is a great suggested next step. We remain committed to engaging all stakeholders throughout this process.

In terms of the "facts" you raise, I'd like to make a couple counter points and clarifications since you copied such a large group.

For starters, we are seeking a different approval process than what has been typical of Franklin. The approval on Thursday and an approval by the Common Council on April 4th does NOT result directly in building permits or site improvements. Rather, this submittal and the approvals we are seeking are general in nature. This is by specific intent and assures the City and the community multiple "kicks at the cat".

Just as the current Rock PDD allows for subsequent development of additional baseball fields, but requires specific approval of such fields prior to construction, this Amended PDD would establish the baseline uses and framework for the subsequent development. It is very important to know that the public will have substantial opportunities for input and reaction to any and all plans before they are approved for development. As result, we would argue that this newer approach (used by municipalities across the nation) for Franklin is both NEW and IMPROVED, not to mention allowed for in the City's bylaws.

Secondly, since approval of the MOU, the development team has been meeting weekly with City

staff. As a result, the submittal has evolved significantly and it's been an iterative process including using the significant amount of work that has been conducted by Mary Claire as a key input to forming the latest plans. We formally requested that a brief extension be granted to file the final submittal (next business day) in order to reflect some of the latest discussion and comments between the development team and the City staff last Thursday (a meeting that went past 5:30pm). This extension was granted. That being said, I believe 72 hours is more common than not. For example, Common Council packets are typically due Friday for a Tuesday meeting.

It is my experience (as I have worked with many of the folks you mention in the email on numerous projects) and personal view that it is for the above reasons alone that the Plan Commission voted 4-1, not any conspiracy or conflict of interest you suggest might be at play. It would be no different if someone were to raise a conflict of interest on you personally Ernie in your role on the economic development committee. It my understanding that those on this committee are appointed by the Mayor to aid and support developments like Ballpark Commons, and to put aside personal issues and conflicts - or, resign/abstain if they are unable to do so. My point here is to NOT create more controversy but to merely point out that perceptions are just that - perceptions (not "Facts" as you cite). There have been way too many rumors, misconceptions and personal attacks, many made as public comments, and it's my opinion that those would be best served for water coolers, gossip columns, or certain Franklin bloggers and conspiracy theorists. I think some do indeed forget the human element (which Ernie refers to, albeit one sided) so I'll remind you from our point of view as well. We are not a project. We are real people (this goes for the elected officials, those whom volunteer on committees, the developers, and the neighbors). For us, you can call us developers I suppose, but above all, Greg and I are residents of Franklin and lived in this community for over 35 years each. We both decided to also have our businesses in Franklin. We have both dedicated our time and have given back to Franklin because of what Franklin provided us growing up here and because we believe this City has a bright future. I certainly don't apologize for having huge expectations for the City and wish more people did frankly. We are extremely engaged in the community of Franklin. As a further reminder, my wife and 4 kids also live in this community (Stonehedge nonetheless) and as such are sincerely effected when people choose to not take the high road or check their facts and opt for personal or professional attacks. I'm a big boy and will take it, but just realize that it effects real people (not projects), their families, and at times their careers so at least have your facts right. Attempts to damage people's character, businesses, or reputation as a strategy to get what you want is about as low as it gets.

In terms of the point you raise suggesting the opposition is outweighing supporters - this is just simply false. We purposely have asked our supporters to step aside so the Hawthorne, Stonehedge and Greendale neighbors could be heard at this particular meeting (along with couple other meetings in the past). This was a direct request made from members of the Common Council to myself. It's inaccurate for you to suggest it serves as a bell weather for the City. Our data shows overwhelming support from residents in favor of the development, significantly outnumbering the opposition. Furthermore, data that shows support for the development beyond that of Franklin residents is off the charts. This is probably the single most important point I want to make and encourage you to think about as well. People will certainly empathize with the neighbors that could be directly impacted by this development, as do we, and it is our collective job to do our very best to

mitigate these risks and concerns, BUT, this project is bigger than any one individual, one neighborhood, or even three neighborhoods. It's about Franklin as a City and what's best for the collective group. This project is smart for Franklin at so many levels... it makes sense economically, it provides quality of life initiatives and community building opportunities, it brings civic pride, etc...but most importantly it says that the NEW Franklin is open for business and we wish to grow and be competitive - a real redefining moment and unique branding opportunity for our City. Frankly Ernie, it's the golden goose for economic development. I believe (and hope) that it's with this set of lenses our Common Council will be thinking about and acting on the project. I propose that our neighbors in opposition drop the swords and start working with us in peace and collaboration to make this project happen. A glass half full and can do attitude is what will produce the best end product for the City. We want our neighbors to use all of the great amenities that can and will be available since they will virtually be walkable or bikeable to most on this email list. It would sincerely be a shame if neighbors lost out on an opportunity to engage with us in the design phase because of a zero-sum game mentality.

We look forward to our ongoing conversation.

Best,

Mike Zimmerman

Sent from my iPhone

On Mar 19, 2016, at 10:43 AM, Litynski, Ernie <[elitynski@rbpchemical.net](mailto:elitynski@rbpchemical.net)> wrote:

Dear Honorable Mayor, City Council Members, City Planners and Officials, and Development Leaders associated with the Baseball Commons Development –

First of all, I would like to thank those in attendance at the Planning Commission Meeting on 17 March 2016 regarding the Planned Development District No. 37 Proposed Baseball Commons. Secondly, I would like to offer a few pertinent facts from last night's Meeting and propose a walk-through of areas affected by this proposed re-zoning.

**Facts:**

- (1) A truly bothersome fact is that a number of our elected officials and Planning Commissioners received the 105-page "*Planned Development District No.37 Amendment and Comprehensive Master Plan*" only 72 hours in advance of the meeting, and, self-admittedly, did not have time to review the document and conduct due diligence.

- (2) Secondly, there was a great amount of objective evidence and citizen input AGAINST the re-zoning designation of both areas to the North and South of Rawson associated with this matter. Clearly, the citizens of Franklin did their best to review the aforementioned document as they raised many questions and concerns regarding the project that could not be answered. Of the nearly three-dozen citizen comments, only two citizens (5%) were in support of the project. The rest were in TOTAL opposition, particularly with respect to the hastiness of a Planning Commission recommendation based on (A) the lack of context in the Generalized Plan and (B) the self-admitted inability of Elected and Commissioned Planning Board members to fully digest this document in the time frame provided. As citizens and two Commission members repeatedly mentioned, the time-frame AND scope of this proposed recommendation seems very unprecedented.
- (3) Third, the admittance of the following verbatim email text as public record by one of the citizens of our Community spoke volumes in support of Point (2) above. I am not sure why Alderman Taylor sent this email to City employees, Commissioners, and elected officials, but this action was perceived by numerous citizens as bias and an attempt to skew the Planning Commissioners' recommendation. Never in my lifetime would I imagine a public official sending such an email to other City volunteers and elected officials. As a tax paying and law-abiding citizen, I would ask Mr. Taylor, Mayor Olsen, and the Common Council for an explanation regarding the intent of this email to numerous City individuals. Alderman Taylor's verbatim script of this soon-to-be public record follows:

**To All,**

**PLEASE DO NOT REPLY TO ALL**

***There have been rumors circulating that at tonight's plan commission meeting there will be an attempt to delay tonight's Rezoning of the Ball Park Commons Development by certain members of the Commission. The Mayor is unfortunately has been absent for all meetings this week as well as another member will be absent from this meeting. The reason for the delay is to prevent the Common Council from being able to act on this item prior to the April 5th election. This is because there is belief that future of this development hangs in the balance of the results of the 5th Aldermanic District race and is an attempt to kill the project.***

***If this is indeed the case it completely flies in the face of the good faith agreement (MOU) between the City and the Developer. There are timelines and huge financial investments being made. There are numerous approvals necessary to make this project a reality. Rezoning is just one approval and is necessary to continue to move this project forward. I urge the Commission to move this project forward so that the Common Council, who is elected by the residents, is able to do the peoples business.***

(4) And finally, none of the citizens in the audience are still quite sure as to why Commission Kevin Haley, who is employed by one of the applicants in this matter (the Milwaukee County Parks Department) and has actually spoken as a member of the developer's team at past public meeting for this very project, was able to cast a key vote of approval in this matter. Mr. Haley has a clear conflict of interest in this matter and should not have been able to vote on what is essentially his own project. Without Mr. Haley's vote, the Commission would not have been able to take action. This, combined with Alderman Taylor's email above, creates serious doubts in my mind regarding the transparency of this process.

**Invite to Walk-the-Affected Community**

While the Planning Commission recommended this application via split-vote, it is truly disheartening to see such a quick recommendation. As such, I've found in my professional engineering, overseas community development, and military experiences that "walking the ground" provides a unique perspective from that of plans on paper.

Subsequently, at the Meeting I had the opportunity to invite **Alderman Schmidt** and **Alderman Dandrea** (both present at the Meeting) to "walk the terrain" of the affected existing homeowners and common areas South of Rawson (Stone Hedge Subdivision). Aldermen, I sincerely appreciate you both accepting my offer and I look forward to scheduling these visits.

While I acknowledge that the Common Council cannot conduct a cohort visit due to quorum rules and legal protocols, I also invite **Alderman Taylor and Alderwoman Wilhelm** for visits. We truly appreciate the support that both of you exhibited when you vehemently and passionately via public words (December 2, 2014, and January 6, 2015) opposed the Hickory Grove Apartment re-zoning proposal, which also required a single family to multifamily change in the Master Plan, and I am sure that the walk-through with our affected neighbors will demonstrate the same support and strong stance against re-zoning the current R-3 residential zoning in question as well! **Alderwoman S. Mayer** – we appreciate your abstention in the Hickory Grove Apartment vote, and we welcome you for a walk through as well.

**Alderman D. Mayer and Mayor Olsen**, as the affected District's Alderman and Mayor, respectively, you are certainly welcomed to my residence and we look forward to your support against the re-zoning to apartments. I am sure that your constituents made this quite clear yesterday, and, as always, we appreciate your support.

To the **Planning Commissioners and other Franklin civil servants**, I apologize for not extending an invite to you face-to-face last night at the Meeting, but you are surely invited for a walk-through of the affected area as well (Mr. Dietl, I had the pleasure of talking to you and thank you for accepting my invite).

To the Proposed Re-Zoning Property Owners, Applicants, and Partners of **Mr. Michael Zimmerman, Mr. Greg Marso, and Mr. Blair Williams**, I graciously invite you onto my property and look forward to providing you a reflective, insightful, up-close view of the proposed set-back(s), berm(s), parking lots, and 3-story apartments that will encapsulate our backyard(s). I mean this with fullest sincerity and truly hope the human element of "community" and "neighborhood" can be discussed as we walk-through.

And to all, please feel free to bring your spouses, families, children, and grandchildren! I've found throughout my professional and personal life, as well as my Army tours of duty overseas in Iraq and Afghanistan, that many times our "better-halves" and younger children provide a perspective, view, or insight that we often miss!

I plan to offer refreshments and snacks, so if you have a special request, please let us know! If not bound by City of Franklin legalities, we'd be happy to have you over for dinner.

Finally, to my fellow Stone Hedge, Hawthorne, and Greendale Friends and Residents, feel free – based on our conversations – to offer the same invite to the elected officials, Commissioners, and civil servants mentioned above. My family is truly blessed to have met you all and I am grateful for the friendships, bonds, and cooperative spirit (i.e.: "community") we have developed as neighbors.

Thank you for your time! Please drop me a direct email at [ernest.litynski.mil@mail.mil](mailto:ernest.litynski.mil@mail.mil) or [elitynski@rbpchemical.net](mailto:elitynski@rbpchemical.net) or call me at cell (414) 426-4919 so that we can find a day suitable for you to drop by!

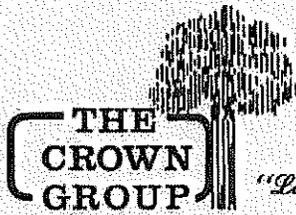
Respectfully,

Ernie and Jennifer Litynski (and children Amelia, Olivia, and George)  
7324 S. Stone Hedge Drive  
Franklin, WI 53132

Ernest Litynski  
RBP Chemical Technology, Inc.

Phone: 414-831-4074 Ext.127  
Cell: 414-426-4919

ISO 9001:2008 Certified  
website: <http://www.rbpchemical.com>



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March 22, 2016

Via U.S. Mail

Mr. Aaron Hertzberg  
City of Franklin  
9229 W. Loomis Rd.  
Franklin, WI 53132

RE: Rock Complex / Ballpark Commons – Franklin, Wisconsin

Dear Mr. Hertzberg:

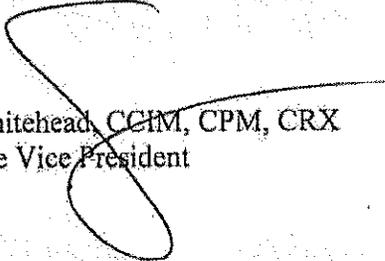
We are the owner of a Franklin Centre Shopping Complex just south and east of the subject proposed development.

We are in strong support of having this approved by the City of Franklin. This is a very exciting project and something this part of Franklin could benefit from.

Good luck on getting all of the necessary approvals.

Most cordially,

Mark Lambert, CCIM, SIOR, CPM, CRX  
President



Craig Whitehead, CCIM, CPM, CRX  
Executive Vice President

1564 W. ALGONQUIN ROAD  
HOFFMAN ESTATES, ILLINOIS 60192  
TEL: 847-358-4455  
FAX: 847-358-4591

## Joel Dietl

---

**From:** rgindt@wi.rr.com  
**Sent:** Tuesday, March 22, 2016 8:32 AM  
**To:** Joel Dietl  
**Cc:** Kristen Wilhelm; Daniel Mayer  
**Subject:** Ball Park Commons Follow-up

Joel,

I wanted to follow-up on several issues related to Ball Park Commons. Please note that I am including Alderwoman Wilhelm and Alderman Dan Mayer on this communication.

I had the opportunity to have a conversation with Alderwoman Wilhelm concerning the proposed development. That conversation included a discussion of the multi-family density proposed here. She did ask one question that I could not respond to. Her question was in essence, "what is the densest residential development currently entitled in Franklin on a per acre basis". I speculated that it would likely be a senior housing project but would find out the answer.

Therefore, I would like to make a formal request to you for the following:

Please provide a summary of that project, or those projects that represent the highest density of dwellings per acre in the City of Franklin. In your response I would like to know the nature of the development, the average unit size and the number of parking spaces provided per dwelling unit. If this is not a market based general housing development please provide a similar response for the most densely developed such general population project. Finally could you note both gross square foot and net rentable square foot in your calculation.

In our informal meeting after the conclusion of the plan commission meeting we discussed several matters that directly affect the Hawthorne neighborhood. The first was the ill fated design of terminating a west bound lane of Rawson Avenue into Hawthorne. The second was the issue and availability of municipal water. The planning approval recommended to the Common Council only brings the supply up to the subdivision but does not provide water supply to individual homes. You indicated that these matters are now in the hands of the Common Council. You certainly know my contention is that any serious development proposal of the landfill would have made provisions for bringing municipal water to the Hawthorne neighborhood. In fact, this service should have been in place well before any development was allowed on the landfill included what is currently in place. I scanned you the test results from the 1980s showing the environmental contamination that is a matter of public record for this site. You can certainly get a complete history from the WDNR. I will not force you to go through another discussion of the potential consequences of allowing a developer to load even "lightweight" fill on the site to develop a stadium; but the City should be very, very careful that this exercise does not force leachate into the groundwater aquifer. This building up exercise alone is a demonstration of the poor selection of this landfill as a development site.

As a consequence of these facts, I would also make a formal request that you prepare an engineering report showing the exact location of residential drinking wells in relation to the landfill contents. The aerial map that you and City elected officials have in their possession show wells that are certainly less than 100 feet from landfill contents. My understanding is that all current residential well development is prohibited within 1200 feet of a landfill; but you would understand these requirements much better than I do. Further, if this development now triggers the necessity that all residents be on municipal water I would request that such a requirement for the Hawthorne neighbor be funded by the developer.

We discussed the "economic taking" from residential real estate owners that occurs here from the harsh conflicts of this proposal. You indicated that you believed that a "taking" as a matter of law would be difficult to prove in court because of the substantial hurdle facing complainants. My training is in economics and public finance not law; but I would point out that you are putting several of my Hawthorne neighbor and personal friends in a precarious economic circumstance with your proposal. I have personal experience in matters where landowners did have a course of action where government miscalculated impacts. For all these reasons and more you know that I believe the dream for 2017 baseball is dead. I would request that this information be made available in sufficient time to allow for discussion at the next meeting of the Common Council.

I apologize for the added work from my request. It is clear that you had a difficult week or weeks leading up to the most recent plan commission meeting. Anyone ever working in this arena understood that the submission to plan commission required substantial effort and commitment probably to the detriment of personal life. So I want to acknowledge your dedication. Hopefully, you can understand how important these issues are for the families living near this proposed development. These families represent a very well connected and closely aligned community. We have certainly done our part to power the economic engine of Franklin and have demonstrated our commitment to the community, and its schools and other institutions. Respectfully,

Ron Gindt  
9011 W. Hawthorne Ln

**From:** [Ron Gindt](#)  
**To:** [Demers, Gerald L - DNR](#)  
**Cc:** [Keith, Stevan](#); [anthony.staskunas@milwaukeecountywi.gov](mailto:anthony.staskunas@milwaukeecountywi.gov); [Joel Dietl](#)  
**Subject:** Re: Water safety  
**Date:** Monday, March 21, 2016 11:59:39 AM

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Gerry,

I appreciate the follow through. As you may be indicating it may simply be a bacterial rust bloom. But if so, it may be becoming pervasive. I tried to determine the depth of the other wells but most users did not know. Also, I should have mentioned that Dr. Cervenansky also mentioned that he upgraded his iron curtain. He is at the east end of Hawthorne across the road from the Eldridge's.

You know my concerns that water quality has declined noticeably since our system was installed and upgraded in 2011 but of course these issues are complex.

I plan to try to shock my well again but am working on other matters. Please note that I added Franklin City Planner Joel Dietl to this email.

*Sent from my Verizon Wireless 4G LTE DROID*

"Demers, Gerald L - DNR" <[Gerald.Demers@wisconsin.gov](mailto:Gerald.Demers@wisconsin.gov)> wrote:

Ron-

Was there an iron-like smell?

I have not heard of any other complaints in the area. I did pass along your email to Mike Zillmer, who is the DNR Hydrogeologist for the waste program for Milwaukee County, and may have further insight based on his 30+ years working for the DNR.

**We are committed to service excellence.**

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Gerald DeMers, P.E.  
Environmental Engineer, Waste and Materials Management Program  
Wisconsin Department of Natural Resources  
2300 North Martin Luther King Drive  
Phone: 414-263-8594  
Cell Phone: 262-366-6900  
Fax: 414-2638716  
[Gerald.DeMers@Wisconsin.gov](mailto:Gerald.DeMers@Wisconsin.gov)



**From:** Ron Gindt [mailto:rgindt@wi.rr.com]  
**Sent:** Friday, March 18, 2016 10:29 PM  
**To:** Demers, Gerald L - DNR; Keith, Stevan; anthony.staskunas@milwaukeecountywi.gov  
**Subject:** Fwd: Water safety

Gerry,

Here is an email from one of my neighbors complaining about recent changes in water quality. I am passing this on because another neighbor mentioned in the last week or so that he is having major changes in water smell. His name is Dale Kirner, 8630 W. Hawthorne. We had the same recent problem. We called Soft Water of Waukesha this week for a service call on a 1 year old iron curtain system. They found no issues but chlorinated the system.

Probably all a coincidence but let me know if you have heard or seen anything else of note. Or if this issue should be passed on to another individual. We appreciate your help. Just let me know if you require additional contact info for these neighbors.

Ron Gindt

9011 W. Hawthorne Ln

414-405-3549

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----  
Subject: Water safety  
From: Suzanne <[suzeld@wi.rr.com](mailto:suzeld@wi.rr.com)>  
To: [rgindt@wi.rr.com](mailto:rgindt@wi.rr.com)  
CC:

Ron,  
Lately the water in my shower has been burning my eyes. I'm concerned that the

water is changing drastically. Should I have the DNR do some testing to make sure that I'm not showering with something very dangerous.

Suzanne Eldridge  
8525 W. Hawthorne Ln.  
Franklin Wisconsin  
414-425-6025

Sent from my iPhone

**From:** [rgindt@wi.rr.com](mailto:rgindt@wi.rr.com)  
**To:** [Joel Dietl](#)  
**Subject:** Ball Park Commons -- WDNR Correspondence  
**Date:** Sunday, March 20, 2016 9:31:17 PM  
**Attachments:** [WDNR Letters.pdf](#)

---

Joel,

As promised, here is a sample of the correspondence between the County and the WDNR. There is much more and you should conduct your own diligence. If I were the City I would be very hesitant to get entangled in this project.

You already know the fundamental problem from our discussion. Because the landfill has no liner -- construction has to go up and cannot go down. So unless the engineers come up with some groundbreaking ideas, the site will be elevated to accommodate the lighting structure footings. This in turn expands the sound contours and light spillage. You now have the contour study from Columbia, South Carolina. Franklin will almost certainly have worse contours because of site characteristics that I have already discussed and because Columbia benefits from a significant array of commercial buildings that dampen the contours before affecting residential neighborhoods. The MMSD pipeline locations complicates that approach here.

The "lightweight" berms the developer is proposing will do little to control sound and creates the risk of forcing leachate into groundwater. They also may simply be the straw that cause an industrial container to rupture. The WDNR has objected to my discussion of 1980s and 1990s test results but there can be no dispute that no one knows what is yet to be discovered. What went in has and is now coming out.

My advice to you is simple and the same as given to elected officials. Find another location for the stadium. Neither the developer, County or WDNR are looking out for the City's interests. As an example please review the inadequate insurance requirements contained in the Rock operating agreement.

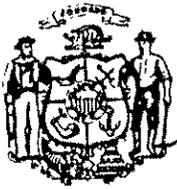
There is more to be revealed on this issue. You should be starting the discussions now to push this development to another location if the City believes that it has merit.

Privately, I have reached out to several firms with locational analysis capabilities to evaluate alternate locations in Franklin; but candidly, I would guess that this project would be adamantly opposed in any Franklin neighborhood. What the developer's reps like to do is to talk about minor league stadiums adjacent to residential areas in other cities. What they fail to discuss is that these facilities are typically in the metro airport sound contour.

Please call if you want to discuss further. I have added detail that you should consider before the City proceeds further. There are others in the development business in this community that have significant private concerns about this entire venture and some of the information presented by this development group. But I am concerned that City leaders have simply stopped listening and are not interested in this fact based discussion. Respectfully,

Ron Gindt  
414-405-3549

Ron



State of Wisconsin

P.O. Box 12436  
Milwaukee, WI 53212

DEPARTMENT OF NATURAL RESOURCES

RECEIVED  
MILWAUKEE COUNTY

Carroll D. Besadny  
Secretary

October 9, 1985

File Ref: 4400

DEPT. OF PUBLIC WORKS  
ENVIRONMENTAL SERVICES

Mr. Leonard Engelhardt  
Acting Assistant Landscape Architect  
Milwaukee County Parks Commission  
Courthouse, Room 301  
901 N. 9th St.  
Milwaukee, WI 54233

Mr. James Sprang  
Highway Engineer  
Milwaukee County  
10190 W. Watertown Plank  
Wauwatosa, WI 53226

Dear Messrs. Sprang and Engelhardt:

RE: Milwaukee County Highway Landfill, License No. 881

The Bureau of Solid Waste, Wisconsin Department of Natural Resources, Southeast District, has completed the preliminary district assessment of environmental conditions at the Milwaukee County Highway Landfill. This letter will serve to modify the monitoring program of the March 3, 1979 Groundwater Monitoring Approval, and August 8, 1980 Abandonment Plan, Groundwater Monitoring Approval. In addition, other site evaluatory and construction work is required as described.

This review was conducted to evaluate the status of groundwater quality and the adequacy of the environmental monitoring systems at the site. A consideration in this review was the recently published groundwater monitoring code NR 140. This administrative code establishes numerical groundwater enforcement and preventative action standards at all solid waste and other monitored facilities and mandatory compliance procedures. A copy of NR 140 is enclosed.

As a part of the site assessment, the Department visited the site, reviewed the facility's file, and assessed groundwater chemistry data. A number of problems exist in the groundwater quality, the monitoring systems on-site, and the facility operations. Essentially there are three broad areas of concern:

- I. Evidence of groundwater contamination;
- II. Maintenance of environmentally sound monitoring systems; and
- III. Site operational problems.

These three areas intermesh in terms of actions. The steps required to be undertaken by Milwaukee County are organized to minimize duplicative effort where possible.

#### I. EVIDENCE OF GROUNDWATER CONTAMINATION

##### A. Groundwater Impacts

Indication of groundwater impacts are evident in four areas: Priority pollutant scan data from testing conducted by Ecology and Environment, an EPA subcontracting firm on August 22, 1984; regular quarterly groundwater monitoring at the site; recent volatile organic compounds (VOCs) found in the 3 underdrains; partial private well testing; and the development of leachate seeps on-site.

##### Priority Pollutant Data

The priority pollutant scans conducted on the underdrain outfall, Well OW #9A and Well OW #11 showed many exceedances of Primary or Secondary Drinking Water Standards (PDWS OR SDWS). In Well OW #11, an off-site downgradient well, the drinking water standards were exceeded for arsenic, chromium, lead, mercury, copper, barium, and manganese. In Well #9A, an on-site well located between the Dore and Anderson fill areas, both lead and manganese were detected above or close to drinking water standards. The volatile organic compounds (VOC), 1,1-dichloroethane, Trans-1,2 Dichloroethane, 2-butanone, and 4-methylphenol were detected in the underdrain sample. Generally, high concentrations of heavy metals were not found in the underdrain sample.

##### Regular Groundwater Monitoring Data

The quarterly groundwater monitoring data for the site indicates the groundwater quality has generally declined since approximately 1975. At the underdrains, specific conductivity and chlorides have slowly risen (up to 3,000 umhos/sec. and 650 mg/l respectively).

The Department records indicate that the underdrains were constructed by emplacing at least 3 feet to 10 feet of clay over the springs and constructing pipe underdrains to direct the spring water outside the area of fill. The purpose was to isolate the groundwater from the overlying fill. However, some statements in the record indicate that in the Dore Pit possibly only the immediate area of the spring and the underdrain system itself were covered by the clay material.

The groundwater quality exiting the site at the underdrains indicates the underdrain system, either through improper design or construction, is not functioning as designed and the area groundwater is being impacted. As this site is underlain by a complex of variable permeable gravel, sand, silt, or clay layers, the Department is concerned about more widespread groundwater impacts.

Well #11A, the deeper well (29.9 feet) in a two well nest, is located approximate 200 feet down gradient of the landfill to the north. Since the late 1970's the conductivity in this well has risen from approximately 600 to 1,500 umhos. Chlorides in this well have risen from approximately 35 to 550 mg/l. Both parameters in this well exhibited a temporary higher concentration peak in 1982/83.

Downgradient well #12, located approximately 500 feet north of the landfill, has been considered as an unimpacted well displaying background groundwater quality. This well is showing early signs of possible plume interception. Chlorides have increased from the late 1970's, from approximately 25 to 193 mg/l in the April 1985 monitoring quarter. Specific conductivity has also risen from approximately 500 to 775 umhos/sec. The increase in conductivity, while low, exhibits an upward trend.

#### Underdrains - Recent VOC Results

As a result of the very poor water quality at the outfalls, the Department of Natural Resources (DNR), in a letter dated May 6, 1985, required extended parameter sampling for 3 consecutive months at the 3 individual underdrains on-site.

The VOC scan data from the State Lab of Hygiene for the 3 underdrains indicated that NR 140 Enforcement Standards are exceeded in the Dore Pit and Anderson Pit #1 underdrains for 1,1-dichloroethylene, respectively 1.1 ppb and 2.1 ppb vs. the enforcement standard of .24 ppb. In the Dore Pit and Anderson Pit #1 trichloroethylene was found in concentrations of 9.6 ppb and 1.5 ppb vs. the enforcement standard of 1.8 ppb and the preventative action limit of .18 ppb. Other VOC compounds found were 1,1,1-trichloroethene, 1,1-dichloroethane, and 1,2-dichloroethylene. The concentrations for these compounds were either below the enforcement standards or no enforcement standards have been set for these compounds.

#### Private Well Testing

On July 30, 1985, the private water supply well located at 7610 W. Rawson was tested by the Department Water Supply Program. This well is located south of the landfill and is potentially downgradient of flow from the landfill. The VOC compound 1,2-dichloroethylene was found at a concentration

of 1.7 ppb. This well was resampled on September 9, 1985, to confirm the detect. Again, 1,2-dichloroethylene was found at a concentration of 1.6 ppb. At this time there is no standard for this compound. No other VOC was detected. Other parameters were tested in the water sample, but the results are not yet available.

Other private wells in the area are scheduled for sampling.

#### Leachate Seeps

Early hydrological engineering reports discuss a possible groundwater flow component towards the east, southeast and south, especially if a groundwater mound developed on-site. Recently, two leachate seeps were found on-site. One area was located about 100 feet southwest of Well OW 14. The other seep was located along the top and side slopes near the northeast corner of the site. The liquid seeping out was discolored and the vegetation showed signs of both negative nutritional stress and increased nutritional inputs. These leachate seeps indicate at least localized high levels of liquid within the landfill.

These seeps may indicate development of a groundwater mound condition on the site. As such, this may result in an alteration of shallow groundwater flow that includes a component of flow east, southeast, and southward. The Department is concerned because private water supply wells are located south, southeast and too westward of the site.

In error, groundwater elevations in the monitoring wells have not been required to be regularly measured, so existing groundwater flow direction at the site is not accurately known at this time. In addition, none of the site monitoring wells located east (across 76th Street), southeast and south of the site were included in the regular quarterly groundwater monitoring. Consequently, groundwater quality and groundwater flow towards these areas is unavailable.

Because of the known negative groundwater quality exiting the site towards the north, more stringent and complete groundwater monitoring requirements and development of additional monitoring wells will be required. To our knowledge, monitoring well OW8 is gone. A new well will need to be developed in this area.

The Department records indicate that in the late 1960's refuse, similar to that emplaced in the Dore and Anderson Pits, was landfilled in the Ace Scavenger and O'Malley landfill areas by the Milwaukee County Highway Department. Milwaukee County will need to ascertain possible groundwater impacts from deposition of waste in these sites to assure the Department that private well owners in the vicinity of the site are protected and area groundwater integrity is

maintained. It is the responsibility of Milwaukee County to obtain any necessary permission for access to this area from the current owners of the Ace Scavenger and O'Malley landfill sites.

The Department would like the new wells to be available for monitoring in November 1985. As the status of some of the existing wells is unclear, some of the wells are known to need at least partial rejuvenation and some wells are new, Milwaukee County will need to meet the requirements outlined in Part II, B. 1, 2 and 3, prior to fulfilling the following groundwater sampling requirements.

B. Requirements

1. As a part of the regular quarterly groundwater monitoring program, all facility groundwater monitoring wells, including those sampled for water quality and other existing monitoring wells, shall be measured for groundwater elevations. This data should be reported to the Department along with the groundwater chemistry data on the TAD. In wells sampled for groundwater, the elevation shall be measured prior to removing the water sample. At this time the remainder of the regular quarterly groundwater monitoring requirements shall remain unchanged. The Department may require modifications to the quarterly parameter testing requirements and development of new monitoring points after analysis of the 3 month extended sampling data. (See point 2 below.)
2. The Department is requiring an extended list of parameter sampling for the following monitoring wells. This sampling shall be done for 3 sequential months starting in November 1985: monitoring wells OW1, OW2, OW3, OW4, OW5, OW6B, OW7, OW7A, OW9, OW10, OW10A, OW11, OW11A, OW12, OW13, OW15, OW16, OW18, OW19, OW22, OW23, OW29, and the Reider well and all new or replacement wells for the following parameters.

water elevations  
field pH  
field conductivity  
chloride  
COD  
sodium  
alkalinity  
total hardness  
SO4  
dissolved iron  
arsenic  
lead  
manganese  
chromium  
mercury  
copper

nitrate-nitrite  
nickel  
cadmium  
zinc  
vanadium  
thallium  
cobalt

3. A GC/MS scan shall be conducted on OW1, OW2, OW3, OW4, OW5, OW6B, OW7, OW7A, OW9A, OW11, OW11A, OW12, OW13, OW15, OW18, OW19, OW20, the Reider Well, and the new wells for the first two sampling months. Milwaukee County shall ensure a laboratory testing firm capable of analyzing VOC's at detection limits comparable to the State Lab of Hygiene.
4. New monitoring wells shall be developed in the area of missing well OW8 and around the Ace Scavenger and O'Malley landfills, between the private residences to the south and southwest and towards the Root River to the north.
5. A map shall be submitted to the Department identifying and locating all private or public water supply wells located within 1/4 mile of the landfill.
6. Milwaukee County shall sample 3 points on the Root River for the November sampling date only: Sample 100 feet upstream and also sample 100 feet downstream of the underdrain outfall into the river. In addition, sample the river approximately 250 feet upstream beyond the groundwater inflow to the Root River from the Ace Scavenger and O'Malley disposal sites. A map shall be submitted to the Department indicating the location of the sampling points. The river water samples shall be analyzed for the parameters listed in Part 1.B.2.
7. The county shall inspect the entire facility site for leachate seeps and indicate on a plan map the size and location of all seeps.
8. Leachate head wells shall be located in the vicinity of Well Nest 6, the leachate seep near Well 14, and in other areas necessary to determine if the leachate seeps are a localized problem or indicate a general groundwater mound development.
9. All seeps shall be remedied by backhoe excavation of the seep area. The hole shall be backfilled with an impermeable clay to reseal the landfill. All excavated material shall be disposed of at an authorized solid waste facility.

## II. MAINTENANCE OF ENVIRONMENTALLY SOUND MONITORING SYSTEMS

### A. Groundwater Monitoring System

During the site visit, most existing wells were found in an environmentally unprotected condition, no positive concrete seals, no interior PVC caps, lack of identification, open slotted exterior steel casing, elevated well pipes, etc. As the Department requires all monitoring wells to be maintained in an environmentally protected manner, monitoring wells must be reconstructed as needed. However, for the following reasons, at this time the Department recommends delaying rejuvenating in entirety the site wells except for those wells with elevated well pipes. These wells must be rejuvenated to permit sampling of the groundwater.

First, the Department's intention is to obtain as much groundwater quality data as possible utilizing the existing monitoring well system and minimizing the amount of well reconstruction work necessary to do so.

Second, due to the high potential for introducing groundwater contamination into underlying strata, the Department no longer installs monitoring wells that penetrate fill and enter underlying strata. Most existing in-fill wells at the Milwaukee County landfill will be required to be properly abandoned (except for wells located entirely within fill) and replaced with wells located outside fill areas.

Third, the priority pollutant scan and on-going groundwater data indicates unacceptable groundwater impacts are occurring in the area. Additional wells will be needed to define the extent of the groundwater impacts. It is expected that the data from the existing well network will aid in delineating other areas in need of monitoring.

### B. Requirements

Therefore, the Milwaukee County landfill is required to:

1. Submit a map indicating the location, identification and physical condition of all facility wells, and their current status, (monitored, lost, properly abandoned, etc.). Include whether the outer steel casing is slotted or not.
2. Wells with PVC well pipes elevated above the steel casing must be reconditioned.
3. Due to differential settlement of the refuse, ground and casing elevations shall be resurveyed on all existing monitoring wells. USGS datum shall be used as the reference point.

4. Some wells were found rusted shut. These wells must be made available for groundwater monitoring.
5. Well #5 on the access road to the ski hill, must be more securely protected from vehicular traffic. Concrete standpipe type pillars shall be located around the well.
6. The three blocked wells, W6, W6A, and W9 shall be evaluated as to their functional ability (sampling or water elevation).

### III. SITE OPERATIONAL PROBLEMS

1. The passive gas venting trench system located in the Dore/Anderson Pit vicinity must be revamped. The exposed gravel filled channels permit infiltration of precipitation into the landfill and contributes to generation of leachate. The upper one foot of gravel must be removed and replaced with an impermeable material. Filter fabric must be placed along the length of the trenches between the gravel and impermeable soil. To maintain gas ventilation, vertical standpipes must be located at 100 foot intervals in the trenches. The standpipes must completely penetrate the gravel and impermeable soil. The bottom portion of the standpipe adjacent to the gravel shall be slotted. The portion of the standpipe above the surface shall be curved so that no precipitation enters the standpipe.
2. Due to settlement, the Ace Scavenger site must be regraded to develop positive off-site drainage of surface water. Currently, the slopes are pitched to an interior depression. Area precipitation is funneled downthrough the waste necessarily increasing the quantity and negative quality of waste contaminated water exiting the site (see point 3 below).
3. Some gas venting pipes in the Ace Scavenger site are severely corroded. This system can be remediated in conjunction with developing proper surface drainage slopes.
4. A number of erosion gullies exist in the northern area of the site. All gullies must be regraded, revegetated and rock check dams repaired as needed. It is the Department's understanding that Mr. John Kasihian, Midwest Development Corporation, under the terms of developing the ski hill, agreed to remediate these erosion problems. However, Milwaukee County as site operator, is responsible for ensuring the site's environmental integrity.
5. A pile of presumably empty formerly acid containing plastic barrels were found in the vicinity of Well #14. The source of these barrels shall be described, their empty status at time of disposal certified. These barrels must be properly disposed of at an approved facility.

6. Due to the negative quality of the water exiting the site at the underdrains, the Department finds the present outfall system environmentally unacceptable. Milwaukee County shall cease discharge of the underdrain system to the Root River by December 31, 1985. The engineering design for collection of the outfall discharge shall be submitted to the Department for review within the next few weeks.

This letter constitutes a modification to the groundwater monitoring approvals dated March 3, 1979 and August 8, 1980, and as such, should be attached to the August 8, 1980 approval and the changes made incorporated therein.

If you believe you have a right to challenge this decision, you should know that Wisconsin Statutes and Administrative Codes establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to ss. 227.15 and 227.16, stats., you have 30 days after service of the decision to file your petition for review. The respondent in an action for judicial review is the Department of Natural Resources. You may wish to seek legal counsel to determine your specific legal rights to challenge a decision. This notice is provided pursuant to s. 227.11(2), Stats.

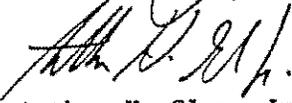
The Department suggests that a meeting be arranged within the near future to discuss the site's environmental condition and the requirements outlined to begin evaluation of the site problems.

If you have any further questions regarding this letter, please contact Jim Schmidt, Solid Waste Investigator, in Milwaukee at (414) 562-9648 or Ruth Johnson, District Hydrogeologist (414) 562-9641.

Sincerely,



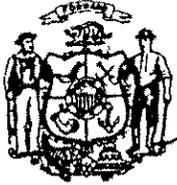
Ruth C. Johnson  
SED District Hydrogeologist



Arthur H. Glor, Jr.  
Chief Solidwaste Management

jc

- c: Mr. Will Wawrzyn - SED  
Mr. Ken Wiesner - WW/2  
Systems Management - SW/3  
Supervisor Daniel F. Casey  
Mr. John Kasihian, Midwest Development Corp.  
Mr. Richard Keyes, Environmental Engineer - Milwaukee County  
Mr. Gerald Schwern, Milwaukee County Transportation Division



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

P.O. Box 12436  
Milwaukee, WI 53212

Carroll D. Besadny  
Secretary

January 15, 1986

RECEIVED  
1986 JAN 21 PM 2:42  
THOMAS E. ZABLOCKI  
MILWAUKEE CO. CLERK

Mr. Thomas E. Zablocki  
County Clerk  
Milwaukee Court House, Room 101  
901 North 9th Street  
Milwaukee, WI 53233

Supervisor F. Thomas Ament  
Chairperson, Milwaukee County Board of Supervisors  
Milwaukee Court House, Room 201  
901 North 9th Street  
Milwaukee, WI 53233

Dear Messrs. Zablocki and Supervisor Ament:

RE: Milwaukee County Highway Landfill, License #881

The SED Section of Solid Waste has completed its assessment of the environmental conditions at the Milwaukee County Highway landfill. The Department has determined that a significant degree of environmental contamination exists in the vicinity of the Milwaukee County Highway landfill and appears to be a direct result of landfilling operations at the site.

The Department has previously discussed in detail via letters to Milwaukee County dated October 9, 1985 and November 8, 1985 our concern with the groundwater quality and site conditions and made recommendations to address these problems. After discussions with Milwaukee County personnel, the Department agreed to do additional groundwater data collection and analysis to define the time frames necessary for evaluation and remediation operations.

Private water supply wells located east of the landfill were to be sampled to evaluate the extent to which, if any, deeper groundwater was being impacted in this area. The Department also would review updated water quality information from the on-going monitoring at the underdrains. Of particular interest to the Department would be the review of more recent Volatile Organic Compound (VOC) analysis of groundwater from the underdrains. Recently Milwaukee County was asked to have all laboratory analyses of VOC's performed at lower detection levels comparable to the State Lab of Hygiene.

Very serious concerns have arisen over the results of the September 1985 VOC scan conducted at the lower detection limits. Chapter NR 140 Wisconsin Administrative Code Enforcement standards (Enf. Std.) were

exceeded for a number of VOC compounds known to be potentially carcinogenic.

Benzene concentrations of 2.3 ppb were determined in the Anderson #2 outfall (Enf. Std. = .67 ppb). Vinyl chloride concentrations ranged from 2.3 to 3.3 ppb (Enf. Std. = .015 ppb). Trichloroethene was found in concentrations of 1.3 to 6.6 ppb (Enf. Std. = 1.8 ppb). Other VOC compounds were detected and quantified at levels exceeding Preventative Action Limit (PAL) standards. Some VOC compounds were found for which no water quality standard presently exists.

Regularly monitored inorganic data from the underdrains verifies the previously described high degree of groundwater contamination. In September, 1985 the specific conductivity in the 3 underdrains ranged from 2350 to 3590 umhos/sec; chlorides ranged from 370 to 698 mg/l; chemical oxygen demand (COD) from 26 to 73 mg/l.

The underdrain waters also had concentrations of a number of heavy metals that exceed the Primary Drinking Water Standards (PDWS), and the NR 140 Enforcement and Preventative Action Levels. In September 1985, mercury concentrations ranged from 4.3 to 27 ppb compared to the PDWS and ENF Standards of 2 ppb. Total chromium ranged in values from 20 to 33 ppb (PAL Standard = 5 ppb). Various other metals, including arsenic, barium, iron, and manganese, differentially exceeded the PDWS/ENF, or PAL Standards.

Two private water supply wells located in the vicinity of 75th Street and Old Loomis Road were sampled for VOC's and a number of inorganic compounds. In addition, the private water supply well (site subsequently served by Municipal Water) located at the corner of 76th Street and Rawson Avenue was also sampled. The well depth and construction details are not fully known for these wells. However, adjacent wells in the area are finished in bedrock. Typically, closely located wells, especially those more recently constructed, are finished in comparable formations and depths.

The water quality in these private wells was compared to the Reider well as the Reider well has been regularly monitored for background bedrock water quality by Milwaukee County. This private water supply well is located adjacent to and north of the landfill. The Reider well is finished in the limestone bedrock.

The data, while not definitive, indicates that the bedrock groundwater towards the east may be exhibiting the early impact of groundwater contamination from the Milwaukee County Highway landfill. Comparing groundwater quality in private wells, we find the following: in July 1985, the Reider well had a chloride concentration of 2.4 mg/l. The 3 recently sampled private wells had chloride concentrations from 55 to 190 mg/l. Comparing values of other compounds from the same sampling dates: Reider well, dissolved iron 0.03 mg/l, private wells 1.1 to 1.3 mg/l; Reider well, specific conductivity, 470 umhos/cm, private wells, 790 to 1300 umhos/cm. The conductivity measurements are not strictly comparable as some measurements were made in the field and some in the lab. However, the variation is sufficient, when viewed in

conjunction with the other parameters, to indicate possible groundwater impacts are occurring.

The 2 private wells along Old Loomis Road did not have any detect of VOC's. The well located at 76th Street and Rawson Avenue had a detect of 1,2 dichloroethylene at 1.6 ppb. There is no current water quality standard for this compound. The indication that groundwater, towards the east, at depth, may be being impacted heightens the Department's concern about the quality of groundwater above the bedrock in upper permeable strata located northeast, east and south, southeast of the landfill.

Contamination of the shallow groundwater north of the landfill is documented by the data from shallow monitoring well OW II. This well is located north of the landfill, between the landfill and the Root River. A Priority Pollutant Scan conducted on the waters in this well in August 1984 showed exceedances of the PDWS and Enf Std in: arsenic (236 ppb vs Enf std - 50 ppb); chromium (430 ppb vs Enf std - 50 ppb); copper (1870 ppb vs Enf std - 1000 ppb); barium (1610 ppb vs Enf std - 1000 ppb); and manganese (23,300 ppb vs 50 ppb). The PDWS/Enf standards were also exceeded for zinc and dissolved iron. Cadmium was found at 9.5 ppb (ENF std - 10 ppb, PAL std - 1 ppb).

The concentration of metals in well OW II were significantly higher than found in the 3 outfall underdrains. However, conversely, the waters in this well had both lower concentrations of VOC's and fewer and dissimilar VOC compounds than found in the underdrains. This data indicates either very complex contamination flow paths and/or differential sources in the site acreage.

In summation, the data indicates that serious and unacceptable environmental impacts exist at the site and that immediate steps are necessary to remediate the environment.

Therefore, the Department will be requiring that Milwaukee County:

1. Submit to the Department by March 15, 1986 a proposal for elimination of the outfall underdrain discharge to the Root River.
2. Complete the proposed underdrain collection system and eliminate discharge to the Root River by October 31, 1986.
3. Submit an In-Field Conditions Report to the Department evaluating the overall environmental status of Milwaukee County Highway landfill by October 31, 1986. The report shall address the following issues:
  - a. All relevant points described in the Department's letters of October 9, 1985 and, where relevant, issues raised in the November 8, 1985 letter.
  - b. Hydrogeological evaluation of the environmental impacts of the Ace and O'Malley landfills, in addition to the Dore/Anderson pits and adjacent landfilled areas east of the Dore and Anderson

acreage. The evaluation shall review the environmental impacts on all shallow and deep ground water systems including bedrock, and surface water in the area. In addition the report shall evaluate surface water drainage problems on the O'Malley site due to the development of the ski hill. The report shall also evaluate the effect of the ski hill development, and associated intermittent standing surface water, on surface and groundwater systems and landfill gas migration.

The report shall indicate the soil types, thickness and depth of bedrock, direction (both horizontal and vertical) of ground water flow, areas from which surface water originates. In addition, a description of the surficial shallow and deeper ground water and bedrock aquifers and surface water flow systems shall be included along with other details of the geologic and hydrogeologic setting that would affect the existing and pollution potential of the surface and ground waters.

This report should specifically address the nature of the waste materials and the groundwater flow system in terms of ascertaining the source(s) of contamination within the site acreage. This is especially important as the Department's records show some hazardous wastes, including heavy metals, organics and solvents, were deposited at the landfill.

The report shall include the following information: a description of the site in terms of site characteristics, topography and site setting; evaluation of the nature and depth of the landfill(s) cap material; location of the site and the municipality, industry or facility that has been served by it; a detailed description of the materials disposed of at the site, a detailed history of the filling operations that have taken place at the site in terms of when the site was established, the waste loading over past years, the nature of wastes accepted, past operational problems and alterations that may have taken place during the site life. Fill volumes of the site in terms of total air space, materials for berms and dikes, periodic cover materials, the total amount of refuse or solid waste materials in-place, etc., should be indicated.

It is noted that where insufficient data is available for the above-mentioned reports, estimates shall be made. The basis for the estimates shall be included in the report.

A series of geologic and engineering cross-sections indicating soil types, water table, piezometric surfaces, depth to bedrock, in-place refuse, previously existing ground surfaces, and existing ground surfaces shall be included. Also submit a detailed plot map indicating the areas of the site that have been utilized for waste disposal. This map should specifically indicate the fill depths of waste disposal; the nature of the wastes in the various areas; and the present status of the covering of these waste materials.

Information for this report should be gathered by examination of existing information, use of existing monitoring points where appropriate and by a sufficient number of borings to a sufficient depth to address the above items.

This report should address the possible cross-contamination of ground water aquifers that have occurred through the use and installation of piezometers and ground water monitoring wells through waste.

Finally, the report shall include a proposal for remediation of the environmental impacts at the landfill.

The In-Field Condition Report shall be submitted to the Department by October 31, 1986.

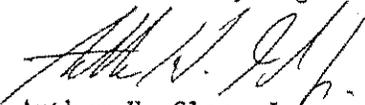
The purpose of this letter is to document the Department's findings in order that Milwaukee County can begin immediate restoration of the environment at the landfill. The Department will follow up this letter with a formal plan modification order.

If you have any further questions regarding this letter please call Jim Schmidt, Solid Waste Investigator in Milwaukee at (414) 562-9648 or Ruth Johnson, District Hydrogeologist (414) 562-9641 or Celia Van Der Loop, Solid Waste Engineer in Madison at (608) 266-3308.

Sincerely,



Ruth C. Johnson  
SED District Hydrogeologist



Arthur H. Glor, Jr.  
Chief Solid Waste Management

jdc

c: Mr. Will Warzyn - SED  
Mr. Ken Wiesner - WW/2  
Systems Management - SW/3  
Supervisor Daniel F. Casey  
John Kaishian, Midwest Development Corp.  
Richard Keys, Environmental Engineer - Milwaukee County  
Gerald Schwerm, Milwaukee County Transportation  
Paul Hathaway, Milwaukee County Parks System  
Carl Birks, Milwaukee County Engineer  
Donald Koegel, Milwaukee County Parks  
Celia Van Der Loop DNR - Madison  
James R. Sprang Milw. Co. Hwy.  
Daniel E. Mack Milw. Co. Hwy.  
Carl W. Birks Milw. Co. - Engr.  
Greg Hill DNR - Madison

**From:** [rgindt@wi.rr.com](mailto:rgindt@wi.rr.com)  
**To:** [Joel Dietl](#)  
**Subject:** Ball Park Commons -- 1976 News  
**Date:** Sunday, March 20, 2016 8:36:57 PM  
**Attachments:** [1976news.pdf](#)

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Joel,

Here is one of the scans I promised from 1976. One interesting quote is that by a City official pledging that the problem was "taken care of". That was pretty ironic given what happened in the following years. The County originally had trouble locating this case but eventually found the case file. It is reserved at the Courthouse waiting my review.

Separately, I will send correspondence between Milwaukee County and the WDNR where the County was found in non-compliance for WDNR directives. The site was referred to the EPA and resided on the National Priority Listing until the waste gas and groundwater mitigation was installed. I have never made the FOIA request for all documents and discovery during that area. You certainly would want to do so.

Also available for City review are a series of County RFPs concerning the waste gas system. This review is well worth your time. Respectfully,

Ron Gindt

# Franklin Area Fears Dump Poses Danger

By Fran Bauer  
of The Journal Staff

Franklin — Homeowners along one of Franklin's most prestigious streets fear they are living beside a methane gas powder keg.

The methane is seeping from a field that was once a five-acre garbage dump behind four houses on the 8000 block of W. Hawthorne La.

For weeks, Leo Phillips, of 8640 W. Hawthorne La., has unsuccessfully fought to keep the city from issuing a building permit for a vacant lot next door to his home and adjacent to the field.

The methane, an odorless and explosive gas, has already seeped into one neighbor's home, exploded and caused a fire.

Despite new protection devices ordered by the state, Phillips believes that construction shovels digging on the lot next door could cause another explosion.

## Permit Issued

The city, however, claims that it has no right to halt construction of the \$100,000 home soon to be built there. The permit was issued last week.

The first time Phillips' neighbors realized the danger was in February of 1974

when the gas exploded in the home of Donald A. Mantz.

Mantz has since sued Milwaukee County and United Waste Systems, which owns the dump, for \$150,000, and Casey Realty, which sold him the land, for an additional \$100,000. Pretrial hearings are scheduled before Circuit Judge Ralph Podell in September.

Phillips had hoped that the city would deny the building permit until the completion of the trial. He expects the court case to force some permanent solution to the gas menace.

But the city is satisfied that steps taken by the county have controlled any seepage into adjacent homes. The county made the corrections, under state orders, because it

had leased the dump site from United Waste Systems.

The county has dug trenches around the dump's perimeter and refilled the boundary with stone. Ventilating pipes also rim the field at 40 foot intervals. Since the gas is lighter than air, it rises through the pipes, apparently eliminating gas seepage below ground.

Franklin Fire Chief Elmer W. Schreiber said meters showed no presence of the methane in either the neighbors' homes or yards.

"As far as we're concerned, the problem has been taken care of," he added.

## Septic Tank Fears

But Phillips fears that the construction of his new neighbor's septic system may disturb the rock and clay shield holding back the explosive gases. He cannot believe that the city would gamble on the possibly serious consequences.

It is a messy situation for which Phillips believes no one will take the responsibility.

"Unless, of course, the courts decide they have to," he added.

Accent  
West

Thursday, July 15, 1976

Page 6

**From:** [DANA KERR](#)  
**To:** [Steve Olson](#); [Mark Dandrea](#); [Joel Dietl](#); [Daniel Mayer](#); [gmarrow@franklinwi.gov](mailto:gmarrow@franklinwi.gov); [Jesse Wesolowski](#)  
**Subject:** Ball Park Commons  
**Date:** Thursday, March 17, 2016 2:43:06 PM

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Dear Public Officials, based on the magnitude of the Ball Park Commons project and the complexity of information that needs to be reviewed, I think it would be premature to vote in approval of the proposed zoning changes recommended on tonight's agenda. There is much opposition to this project and clearly there are serious concerns by your own staff in the review of this project. The site plans that were made available on Tuesday should be allowed proper time to thoroughly review. Careful consideration should be made of all aspects of this proposed development, including the impact on public schools. This topic should be deferred, allowing for more time to consider these dramatic changes to the Master Plan.

Dana Gindt

**From:** Amy Moschell  
**To:** Daniel Mayer; Mark Dandrea; Steve Olson; Joel Dietl  
**Subject:** Proposed "Ballpark Commons"  
**Date:** Thursday, March 17, 2016 2:36:30 PM

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Dear Sirs,

While I am currently a resident of 8746 West Mallard Court in Franklin, I am moving to 8785 West Callaway Court in the Stone Hedge subdivision April 4.

I am very concerned about the proposal of "Ballpark Commons" developments south of Rawson Ave.

I'm sure nothing I have to say is new to you, but I hope to have my voice counted as another opponent to the re-zoning of this area. When Stone Hedge subdivision was developed, it was with the assumption that the entire area would remain as an area for single-family homes. I'm sure the people spending millions of dollars on their homes (not to mention a lot in taxes) ever expected to be looking into three-story apartment buildings from their back yards.

No matter how luxurious the apartments may be furnished, they are still apartments. This type of housing does not instill a sense of ownership in the buildings themselves or in the neighborhood. Even worse is a hotel where the residents are completely transient. Additionally, anyone who can afford a \$2000-\$2500 per month luxury apartment is likely to buy a condo or house, or rent in a more pedestrian-friendly area like Bay View or downtown Milwaukee.

My husband and I do not believe what Mr. Zimmerman, et al. is hoping for is realistic, nor would meet the City Master Plan criteria, in that:

1. the proposed project is **not** compatible with existing adjacent land uses - *adjacent land has high-end single-family homes,*
2. would **not** contribute to the general welfare and economic prosperity of the immediate neighborhoods - *would lower property values, add noise pollution, add traffic, and detract from the general serenity of the area*
3. would **not** produce a unified composite which is compatible with the surrounding neighborhoods - *this neighborhood has large houses with large yards as opposed to the cramped multi-family and commercial-use buildings being proposed.*

We think it would be extremely pre-mature to even consider re-zoning based on Mr. Zimmerman's ambitious, but fairly vague plans. Also, from what I understand, this development would require a large contribution from the city that would ultimately be funded by Franklin tax payers.

Thank you for your consideration of our opinions, and please do not hesitate to call if you would like to discuss this further.

Amy Moschell and Brian Aschenbrenner

Hello, My name is Melody Skusek and since I could not attend any of the listening Meetings for the proposed BallPark Commons I wanted to pass along my opinion. My husband and I moved into Franklin 25 years ago. As the years have passed by Franklin has experienced growth both in housing and business. But the community surrounding our "supposed downtown area" around 76th and Rawson has stood at a standstill. And that is putting it mildly. Stores have left, we have very few restaurants and absolutely no entertainment value at all.

Thank goodness Mr. Zimmerman has thought out of the box and established the existing Rock Complex.

Community members have seen the rise of our neighbors to the east. Their government leadership again has thought outside the box to build quite a array of government buildings, hotels, apartments and countless new stores and restaurants. I'm sure the city of Oak Creek had gone through countless battles with their community leaders and the general public revolting the fact that they did not want to tax the people of Oak Creek, etc. Well, everything went through, the people of Oak Creek are paying higher taxes but in the end they will reap the benefits of tax benefits from the Town Square.

People from our community travel into Oak Creek to take advantage of the Meijer store and many of the new restaurants. Wouldn't it be nice to offer our people the same situation so they do not have to travel to Oak Creek and north to Greendale and Greenfield to eat and play.

The City of Greendale recently went through a similar situation when the proposal for Marcus Theaters were suggested. The battle continued and now approved the city will benefit by taxes being received with a proposed value of 9 Million by 2018.

We have already turned down the Meijer project in Franklin as I'm sure other proposed projects with the capability of generating taxable income to the City have also been turned down.

Now is the time for the people and the City of Franklin leaders to jump on this proposal. The Hampton Inn will reap the benefits this coming summer when they will sell out every weekend with travel baseball teams coming from around the state and country. Wouldn't it be nice to be able to offer the families additional venues for restaurants and entertainment so they would not have to travel to surrounding communities to spend their money?

Our new motto in Franklin should be "Let's put Franklin on the map" By adding a minor league baseball park to the area will bring countless people to our city and revenue to the city. It will be prestigious. People from around the state and around the country will google "things to do in the Metro Milwaukee area and see what Franklin has to offer and will travel to our City. They will purchase tickets to the games and then hopefully sleep over and eat. We will be a destination. We have

been involved with travel baseball with our Grandson's baseball teams for the last 10 years. We have traveled around the state and the country and spent lots of money while traveling in the cities where the tournaments have been played. Baseball is a family thing, we will have good people coming to our city. Baseball is America's pastime and why not take advantage of that.

And then to host the UW Milwaukee team will add even more as a destination for people to come and stay. Thousands and thousands of people from Metro Milwaukee and our state travel to Grafton to watch the Chinooks, Appleton to watch the Timber Rattlers, Kenosha, the Kingfish and spend money. They stay and play.

It's time, let's not let this opportunity pass us by again. We need to move into 2016. Let's work together as a team to make this happen. Let's not make this a republican/democrat situation. We may have to pay to gain but in the end it will be worth it. Franklin will be on the map, we will be a destination and will benefit monetary wise for a very long time to come.

Thank you very much, Melody Skusek

*Melody Skusek*

414-510-7671

PLANNED DEVELOPMENT DISTRICT NO.37 (THE ROCK SPORTS COMPLEX)  
AMENDMENT

PROTEST PETITION CORRESPONDENCE

33 East Main Street  
Suite 500  
Madison, WI 53703-3095

**Mailing Address:**  
P.O. Box 2038  
Madison, WI 53701-2038

**Phone:**  
608.257.7181

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www.murphydesmond.com

**Matthew J. Fleming**  
Direct Line 608.268.5606  
Facsimile 608.257.4333  
mfleming@murphydesmond.com



18 March 2016

**VIA EMAIL [jweslaw@aol.com](mailto:jweslaw@aol.com)**

Attorney Jesse Wesolowski  
Wesolowski, Reidenbach & Sajdak, S.C.  
11402 W. Church Street  
Franklin, WI 53132

Re: Ballpark Commons Rezoning

Dear Jesse:

As we have discussed, I am representing the Stone Hedge Homeowners Association and Hawthorne Neighbors regarding the Ballpark Commons Development. An issue has arisen regarding the proper definition of the area being rezoned for purposes of analyzing a protest petition. Justin Szalanski has informed me that you have taken the position that the relevant parcel to be rezoned is the entire Ballpark Commons development area. Thus, the ownership of lands to be considered for evaluating any protest petitions filed includes all property surrounding the entire development area. I am writing to urge you to recognize that rather than the entire development, the property within the separate zoning districts should be considered separately.

It is my understanding that there are really only two areas being rezoned. There is an area currently zoned B-1 that is north of Rawson Ave and southeast of Crystal Ridge Rd and Loomis Rd being rezoned to PDD No.37. Separately, an area south of Rawson Ave and west of Old Loomis Rd is being rezoned from R-3E is also being rezoned to PDD No. 37. In my opinion, the area south of Rawson Ave must be considered separately from the area north of Rawson Ave.

No Wisconsin cases of which I am aware address this particular question. The Supreme Court in *Prescher v. City of Wauwatosa*, 34 Wis. 2d 421, 431, 149 N.W.2d 541 (1967) has recognized that "[t]he purpose of sec. 62.23(7)(c), Stats., was to permit protest by landowners directly affected by zoning changes" and that "[p]eople on the periphery of areas to be rezoned are not so directly affected." Thus, the area to be included in "such proposed" change is not the entire zoning district, but only the lands subject to zoning change. *Id.* at 431. The court's conclusion was further bolstered by the observation that "if the concept of 'adjacent to the zoning district' were adopted, it would be harder to meet protest

requirements because the area of land would be greater and the interest of the landowners in protesting would be less." *Id.* at 431.

Other jurisdictions have applied this same rationale, however, to hold that discrete sites subject to rezoning should be considered separately for purposes of analyzing the sufficiency of a protest petition to force a majority vote. For instance, in *208 E. 30<sup>th</sup> St. Corp. v. Town of North Salem*, 88 A.D.2d 281, 286-87, 452 N.Y.S.2d 902, 905-06 (N.Y. Sup.Ct. App. Div. 2<sup>nd</sup> Dept. 1982) the court held that in the rezoning of 8 separate discrete sites, each site should be considered separately rather than all sites as a whole even though the amendments "were part of one comprehensive scheme and [the adopting ordinance] contained no severability clause." The court further held:

There is no one rule as to how to delineate the boundaries of the respective sections with respect to which a multi-section zoning change must be deemed separately enacted. But the boundaries between sections must be reflected in the original or amended zoning ordinance itself. *Id.* at 287.

As to the argument that the owners of 20% of all the lands affected by all 8 amendments should be necessary for a protest to force a super-majority vote the court reasoned:

Such a holding would enable a municipal agency to insure passage of a highly objectionable zoning amendment by simply combining it with another large, unobjectionable amendment. A statute must not be construed in a manner that would permit its purpose to be defeated.

Similarly, the Supreme Court of Connecticut relied upon the same reasoning to hold that the area of land to be considered for purposes of filing a zoning protest petition "should not be determined by how many separate zoning changes are combined into one application." *Stamford Ridgeway Associates v. Board of Representatives of City of Stamford*, 241 Conn. 407, 429, 572 A.2d 951, 964 (Conn. 1990). The court cited the following language from Special Counsel to the Board with approval:

The rights of a group of dissatisfied property owners to appeal their zone change to the Board of Representatives should not be determined by the extent to which owners of property in other areas are satisfied by their own zone changes, particularly since these other zone changes may involve different zone classifications or may be located a considerable distance away. Stated another way, the ability to petition the Board of Representatives should not be determined by how many separate zone changes are combined into one application...It also could not have been the intent of the legislature to allow objectors to one zone change to be able to affect property owners in another distant area, by filing a protest petition including twenty percent of the land involved in both zone changes. If all of the amendments were considered together in determining the twenty percent requirement, the board of

Attorney Jesse Wesolowski  
18 March 2016  
Page 3

representatives could be burdened with reviewing zone changes in areas where both the Zoning Board and the property owners in the zone were completely satisfied with that zoning amendment.

While the rezonings relating to the Ballpark Commons development do not exhibit the same degree of noncontiguity or cover nearly as much total territory as those considered in *208 E. 30<sup>th</sup> St. Corp.* and *Stamford Ridgeway Associates*, the principles of those cases apply with equal force.

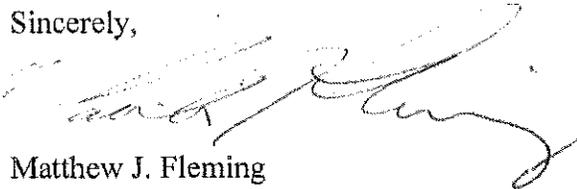
The rezoning of the current B-1 area, proposed for rezoning to PDD No. 37, does not involve nearly as significant change in the allowable uses in this area as does the rezoning affecting the area currently zoned R-3E. North of Rawson Rd., that which zoned for commercial uses will continue to be open for commercial uses as well as some residential uses. The R-3E area, in contrast, will go from large-lot "estate" single-family residential development to multi-family and commercial uses. These very different impacts necessarily suggest a different analysis would and should be applied to each of these areas.

Further, the rezoning of these two areas will impact neighbors of these lands very differently. The folks living in the Stone Hedge neighborhood are much more directly impacted by changes to the R-3E zoned lands than by changes to the lands zoned B-1. Those concerned only with changes to the R-3E zoned lands should not have their protests bound to or controlled by the feelings and opinions of those more directly impacted by the changes to the B-1 zoned lands. Presumably the owners of land in the B-1 and B-2 areas across 76<sup>th</sup> Street largely have no objection to the proposed changes to the B-1 zoned lands. Why should their satisfaction or lack of concern impact the ability of the Stone Hedge neighbors to protest changes to lands in their immediate neighborhood undergoing a very different zoning change?

For these reasons, I believe that the rezoning of the R-3E lands must be considered as a separate rezoning from the rezoning of the B-1 or any other lands. Please let me know if you'd like to discuss this issue further. Once you have had the opportunity to consider these points, I would appreciate it if you would let me know if your position is changed.

Thanks for your consideration.

Sincerely,



Matthew J. Fleming

MJF:daz  
32883.160548

cc: Attorney Matthew J. Frank  
Attorney Lawrence E. Bechler

WESOLOWSKI, REIDENBACH & SAJDAK, S.C.  
ATTORNEYS AT LAW  
11402 WEST CHURCH STREET  
FRANKLIN, WISCONSIN 53132

JESSE A. WESOLOWSKI  
FREDERICK E. REIDENBACH 1919-2002  
BRIAN C. SAJDAK  
CHRISTOPHER R. SMITH

TELEPHONE (414) 529-8900  
FACSIMILE (414) 529-2121

JANE C. KASSIS,  
LEGAL SECRETARY

March 31, 2016

Via Email MFleming@murphydesmond.com

Attorney Matthew J. Fleming  
Murphy Desmond S.C.  
P.O. Box 2038  
Madison, Wisconsin 53701-2038

re: Ballpark Commons Rezoning

Dear Attorney Fleming:

This letter is in response to your March 18, 2016 correspondence and our subsequent telephone discussions regarding our respective research and thoughts as to the proper method of calculating the areas of potential protest petitions. Wis. Stat. § 62.23(7)(d)2m.a. provides:

In case of a protest against an amendment proposed under subd. 2., duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the council voting on the proposed change. [emphasis ours]

§15-9.0209 of the City of Franklin Unified Development Ordinance, entitled "Protest", provides:

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% of more of the land directly opposite thereto extending 100 feet from the street

frontage of such opposite land, such change or amendment shall not become effective except by the *favorable vote of three-fourths (3/4) of the full Common Council membership*. No application for a zoning amendment pertaining to specific lands which describes the property to be subject to such proposed zoning amendment so as to create a "buffer zone", which buffer zone is found by the Common Council to have been created to avoid the effect of a protest petition and which buffer zone proposal is not supported by a substantial land use reason or a reasonable zoning practice purpose, shall be approved. The burden of proof with regard to the findings to be made by the Common Council hereunder shall be upon the applicant. [emphasis ours]

Pursuant to Wis. Stat. § 62.23(7)(am), providing in part that "[t]his subsection and any ordinance, resolution or regulation enacted or adopted under this section, shall be liberally construed in favor of the city and as minimum requirements adopted for the purposes stated", the local ordinance provision requiring a "favorable vote of three-fourths (3/4) of the full Common Council membership" standard applies.

"It is true that sec. 62.23(7)(d), Stats., is designed to protect adjacent landowners from zoning changes, and the statutes have extended a great deal of protection to such persons." *Prescher v. City of Wauwatosa*, 34 Wis. 2d 421, 429, 149 N.W.2d 541, 545 (1967).

Thus, it becomes crucial whether or not the plaintiffs' protest was valid. Plaintiffs argue that their property borders on the whole zoning district, in which district the *zoning of an area of land is being changed*. They contend that the area of land around the entire district, rather than around the *area located within the district which is directly affected by the rezoning*, should be determinative for purposes of calculating the 20 percent protest. They conclude that under this reasoning their protest should be valid.

The plain language of the statute negatives the plaintiffs' contention. Sec. 62.23(7)(d), Stats., provides for *three categories of protesters* sufficient to invoke the three-fourths majority.

'\* \* \* In case of a protest against such change, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the council.' (Emphasis added.)

The reference of owners of land immediately adjacent is to the *area of land 'included in such proposed change.'* In other words, only landowners adjacent to the *land where the proposed change is to be made* are to be considered in determining whether the 20 percent requirement is met. The concept of protest advanced by plaintiffs is not sanctioned by the language of the statute.

Furthermore, from a policy standpoint, the protest statute should not embrace this district concept. The purpose of sec. 62.23(7)(c), Stats., was to permit protest by

landowners directly affected by zoning changes. Landowners whose property borders on land to be rezoned are directly affected because their land value and enjoyment of their property decreases. People on the periphery of areas to be rezoned are not so directly affected. Further, if the concept of 'adjacent to the zoning district' were adopted, it would be harder to meet protest requirements because the area of land would be greater and the interest of the landowners in protesting would be less.

Protest statutes similar to sec. 62.23(7)(d) of the Wisconsin statutes are common to several states and the district theory of plaintiffs has always been rejected. In *Hoelzer v. Incorp. Village of New Hyde Park* a general change affecting the entire town was involved. The court stated that if the zoning change was specific, i.e., affecting a particular area of land, then the eligibility for protest would apply only to landowners adjacent to land directly affected. Similarly, in *Parsons v. Town of Wethersfield*, the court construed the term 'immediately adjacent' to mean directly abutting the land proposed to be rezoned. The trial court's conclusion that the plaintiffs were not eligible protesters is well warranted and the plaintiffs' protest is invalid. *Id.* at 430-32. [footnotes omitted] [emphasis ours]

During our telephone discussion last week when I indicated my research review status and that with regard to your reference to my previously stated position that the entire area subject to the proposed planned development district amendment was the proper area to be considered in the determination of the "three categories" of potential protest petitions, my thoughts had not changed, I mentioned the *Ballenger v. Door County* case with regard to one of your stated points during our discussion. I reviewed your discussion of same provided later that day. My point was that the *Ballenger* Court decided that even where you had physically separated by distance lands with their zoning being amended to allow for a ferry terminal use, the Court did not support the protest petition of abutting property owners of only one of the areas subject to the amendment, even though that area apparently was the singular area where it was known that the proposed ferry terminal use would occur.

*Ballenger* also argues that the ordinance is invalid because it required three-fourths of the board to vote for passage. *Ballenger* bases this argument on sec. 59.97(5)(e) 5, Stats., which provides that a three-fourths vote by the board is required for passage when a protest petition is submitted. A protest petition requires the signatures of fifty percent of the owners of the *area affected by the amendment* or by fifty percent of property owners abutting the area. It is undisputed that the *Ballenger* petitions were signed only by owners abutting the C-2 zone of the proposed Northport facility.

We conclude that the protest petitions were invalid because they were signed by less than fifty percent of the property owners abutting the C-2 zones affected by the ordinance. There are several C-2 zones in Door County. The statute states that the signatures of fifty percent of the property owners of *all abutting land* is required.<sup>8</sup> *Ballenger v. Door County*, 131 Wis. 2d 422, 432, 388 N.W.2d 624, 629-30 (Ct. App. 1986). [emphasis ours]

<sup>8</sup>The parties also raise the issue whether § 59.97(5)(e) 5 requires 50% of the abutting property owners' signatures of all C-2 zones or only the C-2 zones

bordering the lake. Because of the facts of this case, however, we decline to address this issue. *See* note 3. *Id.* at 432.

<sup>3</sup>The record indicates that there are more than 30 C-2 zones in Door County. At least six of those zones abut the Lake Michigan shoreline. *Id.* at 426.

While the Wisconsin Courts have recognized the legislated protest petition rights afforded to “protect adjacent landowners from zoning changes”, the Courts have also recognized the “use of ‘buffer zones’” by an “applicant for a zoning change”.

*Statutory Area of Permissible Protest.*

Appellants argue that the 100-foot boundary line prescribed by sec. 62.23(7) (d), Stats., should be construed as extending 100 feet from the outermost limits of the land owned by the party seeking a zoning change, rather than from the land for which the zoning is sought. Realizing the need for extra diligence in the amending of zoning regulations, the legislature has set forth in sec. 62.23(7)(d), Stats., a procedure whereby certain specified landowners may protest the enactment of zoning changes. In part it provides:

‘ . . . In case, however, of a protest against such change, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the council.’

The above provision was construed in the case of *Prescher v. Wauwatosa* (1967), 34 Wis.2d 421, 149 N.W.2d 541, where this court held that only landowners adjacent to the land where the proposed change is to be made, and not those adjacent to the borders of a whole zoning district in which a specific area is being rezoned, are to be considered as valid protesters under the statute. The court set forth the policy considerations which precluded the statute from embracing the ‘district concept’ there argued for:

‘ . . . The purpose of sec. 62.23(7)(d), Stats., was to permit protest by landowners directly affected by zoning changes. Landowners whose property borders on land to be rezoned are directly affected because their land value and enjoyment of their property decreases. People on the periphery of areas to be rezoned are not so directly affected . . .’ *Prescher v. Wauwatosa*, supra, at page 431, 149 N.W.2d at page 546. (Emphasis supplied.)

Here, CAM had on the south and west left a strip 150-foot wide zoned completely consistent with the areas bordering it, namely, single family residential housing. Protest statutes similar to sec. 62.23(7)(d) of the Wisconsin statutes are common to several states and the ‘district concept’ has always been rejected. In North Carolina the ‘district concept’ was rejected in the following cases: *Penny v. Durham* (1959), 249 N.C. 596, 107 S.E.2d 72; *Armstrong v. McInnis* (1965), 264 N.C. 616, 142 S.E.2d 670; and *Heaton v. Charlotte* (1971), 277 N.C. 506, 178 S.E.2d 352. In each case the developer sought rezoning of a large tract of land from single family residential to commercial and/or multi-family residential. In

each case the developer insulated his request for change by leaving a 'buffer area' of from 100 to 150 feet between the area to be rezoned and the surrounding community. In each case the North Carolina court in construing their statute rejected the protesters' contentions. The court in *Heaton v. Charlotte*, supra, at page 527, 178 S.E.2d at page 365, quoted from 1 Rathkopf, *The Law of Zoning and Planning* (3d ed. 1969), ch. 28, sec. 28-(11), where it stated that:

' . . . (W)here an applicant for a zoning change seeks to avoid the necessity of a larger than majority vote by creating a buffer zone of 100 feet between that portion of his property sought to be rezoned and the lands of adjacent property owners, such action is valid and avoids the requirement of such larger vote.'

The use of 'buffer zones' has also been sustained by the New York courts. In *Miner v. Yonkers* (1959), 19 Wisc.2d 321, 189 N.Y.S.2d 762, aff'd. 9 A.D.2d 907, 195 N.Y.S.2d 242, a 200-foot space was left between an area rezoned for department store purposes, and the remainder of the district was devoted to multi-family residential uses.

The trial court's conclusion that the 150-foot strip on the west and south sides of the tract, which remained zoned RS-2, does legally eliminate the right of property owners adjacent to the outside boundaries of the whole property from being legal protesters under sec. 62.23(7)(d), Stats., is correct. *Rodgers v. Village of Menomonee Falls*, 55 Wis. 2d 563, 568-70, 201 N.W.2d 29, 32-33 (1972).

As set forth above in Franklin Unified Development Ordinance §15-9.0209, no "buffer zone" within a zoning amendment application "created to avoid the effect of a protest petition and which buffer zone proposal is not supported by a substantial land use reason or a reasonable zoning practice purpose, shall be approved." The Franklin Department of City Development Planning Manager has reviewed the foregoing 'issues'. He has concluded that the proposed mixed-use planned development district amendment is a singular proposal under all of the questions and circumstances existing and raised. He has also concluded that the proposed mixed-use planned development district amendment is "supported by a substantial land use reason[s] or [and] a reasonable zoning practice purpose".

We have considered the application of your proposed potentially essentially every existing zoning district subject to change within an amendment area is in effect a separate protest petition area. I understand that the Wisconsin Courts have not exactly on point addressed the question before us and that the question ultimately is or would be perhaps one of first impression. Upon a read of the State Statutes and case law, I read "against an amendment", "the areas of the land included in such proposed amendment", "therefrom", "opposite thereto", "such amendment", the "zoning of an area of land is being changed", the "area located within the district which is directly affected by the rezoning", the "area affected by the amendment", and, including but not limited to the "three categories". The terms are all singulars except for the "three categories" to be applied to the singular amendment area. We have considered hypotheticals, and absent the rezoning of parcels of the same zoning district, there would be multiple categories of potential protest areas instead of "three categories" based upon one "amendment" or "change". One may imagine, especially in mixed-use planned development district application areas, where a necessary for the development 'doughnut hole' area rezoning protest could essentially deny the

application for and where the application supports a substantial land use reason and reasonable zoning practice purpose interwoven land use area in its entirety.

I note your comment that “[w]hile the rezonings related to the Ballpark Commons do not exhibit the same degree of noncontiguity or cover as much total territory as those considered in *208 E. 30th St. Corp.* and *Stamford Ridgeway Associates*,” and question that if that application of the protest petition areas regulations were to be applied, where do you draw the line? What about residential zoning and commercial zoning existing in an area proposed to be rezoned to institutional? Two categories of the three categories? What about an existing mixed-use planned development district area in part being rezoned to a different type of mixed-use planned development district? Under the Unified Development Ordinance, what if single-family residential districts R-1, R-2, R-4 and R-6 properties are all proposed to be rezoned to a singular new district? Are these all separate protest petition “categories” multiplied times “three”? The concern with regard to the proposed general rule is that ambiguity and subjectivity and potential arbitrary results would follow, contrary to equal treatment and administration of the law.

A statute may provide a standard for measuring the percentage of protests against a zoning change, and if a statute provides a *single standard* for such a purpose, courts *cannot create varying standards of measurements* even to meet conditions not foreseen by the legislature. 8A McQuillin Mun. Corp. § 25:268 (3d ed.) [footnotes omitted] [emphasis ours]

Where the statute specifies that a protest petition must be signed by property owners adjacent to or within 100 feet of the property for which rezoning is sought, distance is measured from the boundary of the *area to be reclassified*, not from the boundary of the person seeking the zone change. 1 Am. Law. Zoning § 8:32 (5th ed.) [footnote omitted] [emphasis ours]

Both types of provisions, but especially consent provisions, have been criticized for producing rather extreme results. The exclusionary implications of permitting a small group of local owners to block a zoning amendment are obvious. The use of such provisions may be more appropriate in regard to special permit and variance requests, since a proposed use would be permitted at any rate only under certain conditions. However, consent provisions are increasingly of dubious validity, particularly where such provisions are used beyond the context of allowing the waiver of an already established and specific development standard. 3 Rathkopf's *The Law of Zoning and Planning* § 43:1 (4th ed.) [footnote omitted] [emphasis ours]

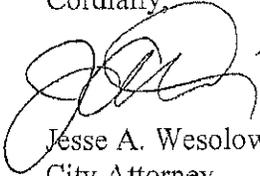
Many state enabling acts permit the filing of protest petitions by property owners living within a prescribed distance *of the tract to be rezoned* by a proposed amendment. 3 Rathkopf's *The Law of Zoning and Planning* § 43:2 (4th ed.)

Procedural requirements imposed by statute or ordinance on protest petitions generally are considered mandatory and must be followed by municipalities.

3 Rathkopf's *The Law of Zoning and Planning* § 43:3 (4th ed.)

I sent your letter regarding the above matter to Daniel M. Olson, Assistant Legal Counsel, League of Wisconsin Municipalities, without input from me as to my thoughts on the subject. I also later sent your email discussing the *Ballenger* case. Attorney Olson opined that the entire proposed mixed-use planned development district area is the singular area upon which any potential protest petitions filings should be calculated and considered.

Cordially,



Jesse A. Wesolowski  
City Attorney  
City of Franklin

cc: Daniel M. Olson  
Joel Dietl  
Brian C. Sajdak

**Applicant Responses to:  
Recommended  
Conditions for Ballpark  
Commons**

March 30, 2016

Summary and Tracking of the Recommended Conditions for the PSD No. 37 Amendment/Balpark Commons Project

| Item # from the Draft PSD Ord. | Conditions of Approval                                    | Deadline                          | Staff Rec. | PC Rec. | Appl Rec. | Applicable Responses  | CC Rec. | Citizen Suggestions | Staff Suggestions | Changes  |
|--------------------------------|---|-----------------------------------|------------|---------|-----------|---|---------|---------------------|-------------------|--|
| 1                              | All detailed approvals to be made by Council              | n/a                               | X          | X       | NO        |   |         |                     |                   |  |
| 2                              | Add a value of project breakdown by area                  | prior to CC                       | X          | X       | X         | Exhibit "A"   |         |                     |                   |  |
| 3                              | Add architectural sketches by building type               | prior to CC                       | X          | X       | X         | Exhibit "B"   |         |                     |                   |  |
| 4                              | Add info about sewer and water service lines              | prior to CC                       | X          | X       | X         | Exhibit "C"   |         |                     |                   |  |
| 5                              | Add compatibility with adjacent land uses info.           | prior to CC                       | X          | X       | X         | Exhibit "D"   |         |                     |                   |  |
| 6                              | Prepare a spatial study for The Rock                      | prior to dev in The Rock          | X          | X       | X         | Consultant chosen by Dev, approved by CC. Paid by Dev.                                    |         |                     |                   | apply to existing dev. with PC also recommended this   |
| 7                              | Prepare a lighting study for The Rock                     | prior to dev in The Rock          | X          | X       | X         | Consultant chosen by Dev, approved by CC. Paid by Dev.                                    |         |                     |                   | apply to existing dev. with PC also recommended this   |
| 8a                             | Obtain landfill area approvals                            | prior to landfill disturbance     | X          | X       | X         |   |         |                     |                   |  |
| 8b                             | Obtain prelim. landfill area approvals and map            | prior to submittal of plans       | X          | X       | X         |   |         |                     |                   |  |
| 9                              | Remove 1 multi-purpose field at NW corner of The Rock     | prior to submittal of plans       | X          | X       | NO        | Re-use to Staff Comfort level   |         |                     |                   | obtain an engineering report showing the location of private wells, in relation to the building    |
| 10                             | Add apartment standards to Sports Village                 | n/a                               | X          | X       | X         | Change staff suggestion to address buffer, not fields                                     |         |                     |                   | Remove 2 existing ballfields at Sports Village, combine 10 parcels by CSM                          |
| 11a                            | Obtain MNED gas pipeline approval                         | prior to pipeline disturbance     | X          | X       | X         | Revise to Staff Comfort level   |         |                     |                   |  |
| 11b                            | Obtain prelim. MNED gas pipeline approval                 | prior to submittal of plans       | X          | X       | X         |   |         |                     |                   |  |
| 12a                            | Add multi-family res. details for Sports Village          | prior to submittal of plans       | X          | X       | NO        | Exhibit "B"   |         |                     |                   |  |
| 12b                            | Auto engine, multi-family res. details for Sports Village | prior to submittal of plans       | X          | X       | X         |   |         |                     |                   |  |
| 13                             | Add apartment standards to Commercial area                | n/a                               | X          | X       | X         |   |         |                     |                   |  |
| 14                             | Add multi-family res. details for Commercial area         | prior to CC                       | X          | X       | NO        | Exhibit "B"   |         |                     |                   |  |
| 15                             | Add note to Dev, Plan Map re. other approvals             | prior to CC                       | X          | X       | NO        | We will prepare in Civil Design Documents   |         |                     |                   | move parking lots to east of apartment buildings   |
| 16a                            | Prepare TIA for all of Balpark Commons                    | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 16b                            | Prepare prelim. TIA                                       | prior to CC                       | X          | X       | X         | Exhibit "C"   |         |                     |                   |  |
| 17                             | Provide 20-year bond for any public roads on landfill     | prior to dev in the landfill area | X          | X       | NO        | Pending legal council, meeting with County, and TIF Discussions                           |         |                     |                   | public portion of Crystal Ridge to be south of stadium   |
| 18                             | Redesign proposed road intersections with right angles    | prior to submittal of plans       | X          | X       | X         | We will work with all Government agencies to design.                                      |         |                     |                   |  |
| 19a                            | Prepare Street Design Plan                                | prior to submittal of plans       | X          | X       | X         |   |         |                     |                   |  |
| 19b                            | Revisit Ave 4 lanes to be extended further westward       | prior to submittal of plans       | X          | X       | NO        | Exhibit "E", based on future TIA, as described in 16a                                     |         |                     |                   | Extend Lawson Ave 4 lanes west to at least Woodliff Road   |
| 20a                            | Prepare Bike & Ped Plan for all of Balpark Commons        | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   | add sidewalk to west side of 76th St, widen Lawson Ave sidewalks                                   |
| 20b                            | Prepare prelim. Bike & Ped Plan, with a public space      | prior to CC                       | X          | X       | NO        | We will prepare in Civil Design Documents   |         |                     |                   | extend Lawson Ave sidewalks west to at least Haystacks, add ped connection to Storm Heigle         |
| 21a                            | Prepare Streetscaping Plan for all of Balpark Commons     | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 21b                            | Prepare prelim. Streetscaping Plan                        | prior to CC                       | X          | X       | NO        | We will prepare in Civil Design Documents   |         |                     |                   |  |
| 22                             | Prepare prelim. Land. Plan for all of Balpark Commons     | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 23                             | Prepare prelim. Land. Plan for all of Balpark Commons     | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 24                             | Prepare prelim. Land. Plan w/ 60' Berms & 40' setback     | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 25                             | Prepare Snow Storage Plan                                 | along with plans                  | X          | X       | X         | We plan on complying with DMR and City standards, open to outside mitigation discussions. |         |                     |                   |  |
| 26                             | Add HPPP mitigation general info.                         | prior to CC                       | X          | X       | NO        |   |         |                     |                   |  |
| 27                             | Prepare Lighting Plan                                     | along with plans                  | X          | X       | X         |   |         |                     |                   |  |
| 28a                            | Prepare Arch. Plan for all of Balpark Commons             | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   |  |
| 28b                            | Prepare prelim. Architectural Plan                        | prior to CC                       | X          | X       | NO        | Exhibit "B"   |         |                     |                   |  |
| 29                             | Prepare Storm. Manage. Plan for all of Balpark Commons    | prior to any dev                  | X          | X       | X         |   |         |                     |                   | Staff suggests change deadline to prior to submittal of any plans                                  |
| 30                             | Prepare Master Sign Program for all of Balpark Commons    | prior to any dev                  | X          | X       | X         |   |         |                     |                   | Staff suggests change deadline to prior to submittal of any plans                                  |
| 31                             | Prepare Market Analysis for all of Balpark Commons        | prior to submittal of any plans   | X          | X       | X         |   |         |                     |                   | CCONE condition has been addressed   |
| n/a                            | n/a   | n/a                               | n/a        | n/a     | n/a       |   |         |                     |                   | City to hire consultants to assist staff with implementation and site inspection of all conditions |

## **Exhibits**

### **Exhibit "A"**

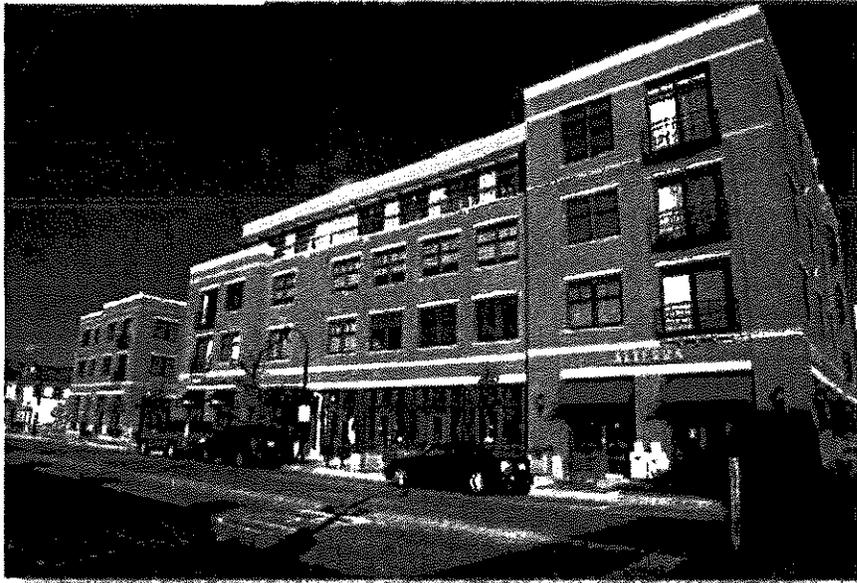
Break-out of anticipated total project taxable value, it isn't meant to represent a total construction cost and does not include infrastructure costs or the stadium.

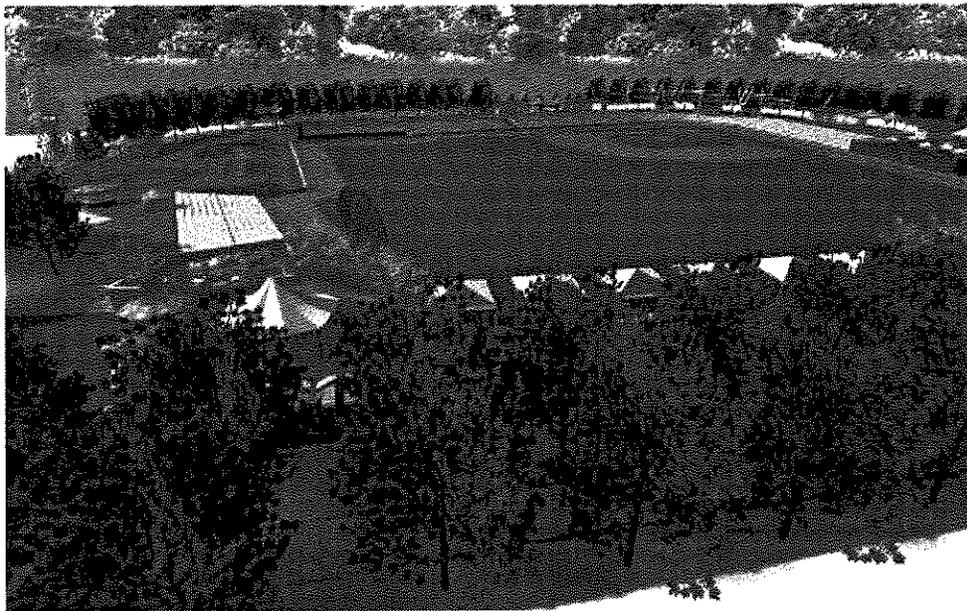
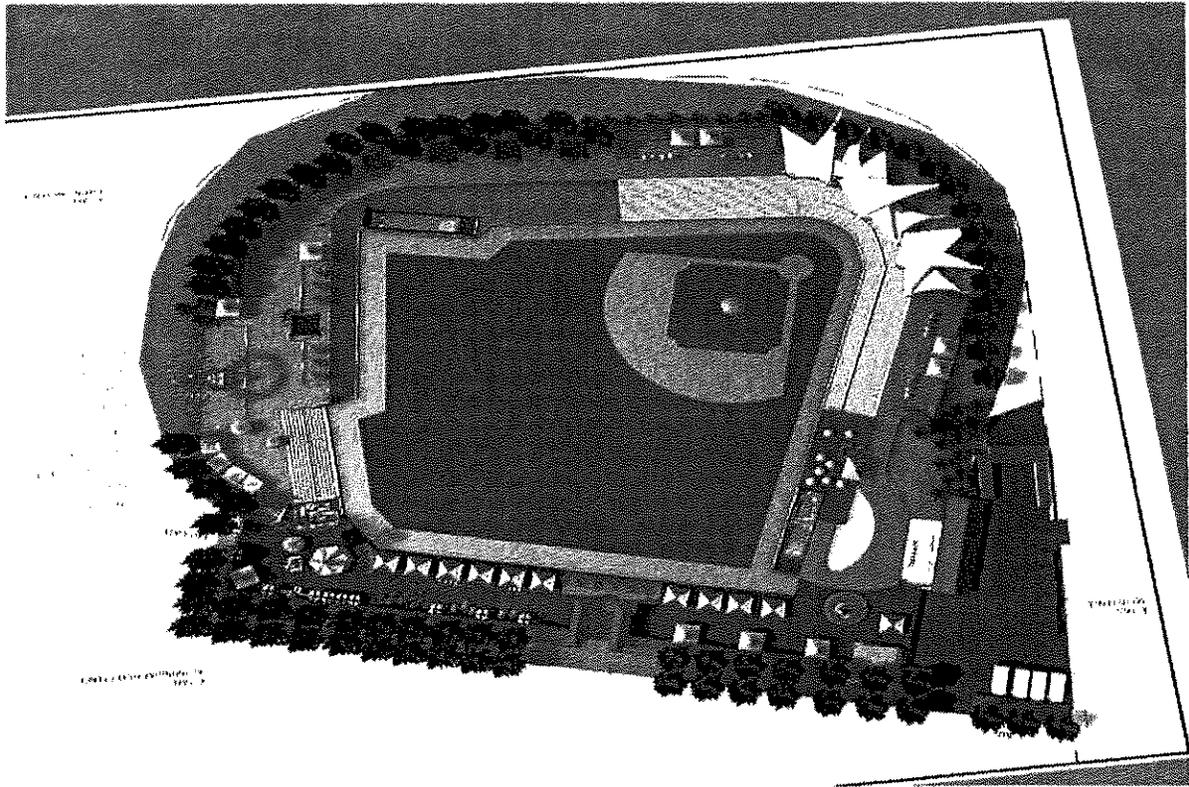
- \* Indoor Venue -- \$6MM to \$8MM
- \* Sports Village -- \$25MM to \$35MM
- \* Commercial South of Rawson -- \$15MM to \$20MM
- \* Multifamily South of Rawson -- \$40MM to \$50MM
- \* Total Project -- \$86MM to \$113MM

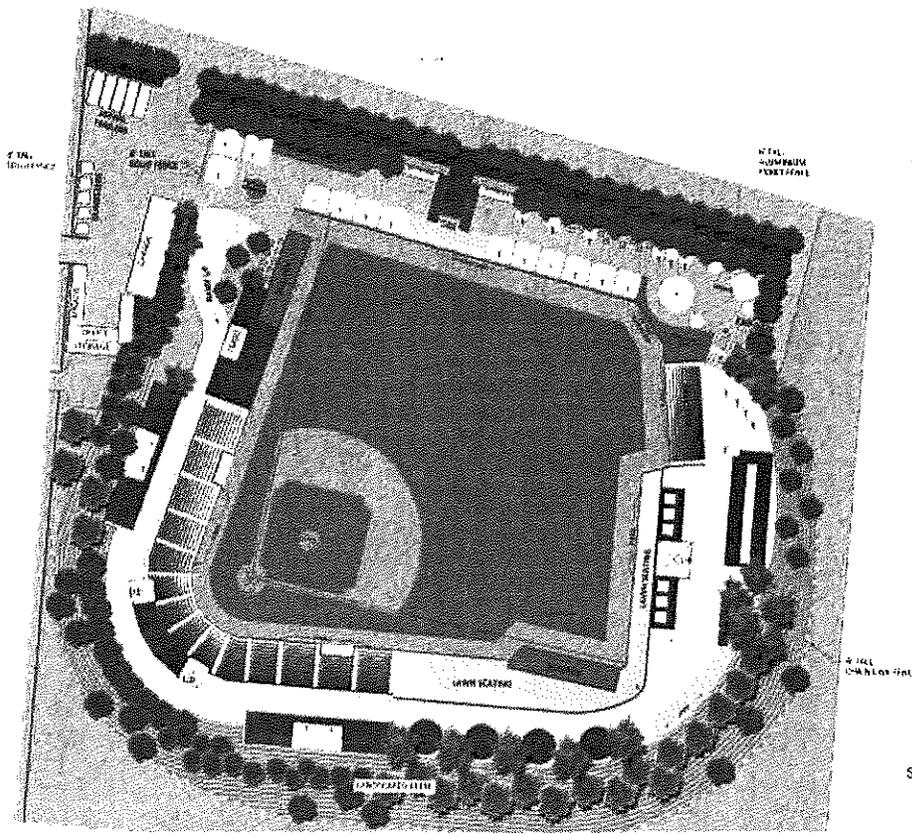
### **Exhibit "B"**

We desire to match the design elements for all Residential & Commercial buildings with that of the City and its residents. We propose to design a format that will allow local input, in an effort to meet or surpass the expectations of our surrounding neighbors and the community. The intent is to have a cohesive design that runs thought out the development.

Below are some possible examples.....







## The Rock Phase II Baseball Stadium Site Plan

7900 Crystal Ridge Rd, Franklin, WI 53132

DURHAM HILL  
599 W12707 Loomis Dr  
Muskego, WI 53150  
414-529-5262  
www.durhamhill.com



### Exhibit "C"

We intend to serve the proposed Ballpark Commons development with public sewer and water, which is presently available north of the site along South 76th Street and opposite the site on West Rawson Avenue, respectively. We also expect that the public utilities extended to our site will be made available to surrounding lands, should those connections be desired by the residents in those areas. We understand that there will be significant survey, investigative work, design and approval processes necessary in order to extend those existing facilities, and we intend to begin work in earnest on those items upon approval of the General Planned Development District.

## **Exhibit "D"**

As a part of the subject approval process, we are requesting amendment to the current Comprehensive Master Plan (CMP). The type of map change requested varies by location within the proposed development, but can generally be described as follows:

- North of W. Rawson Avenue: Amend the CMP map to reclassify the existing Crystal Ridge Drive and West Loomis Road lands from "transportation" to "mixed use".
- South of W. Rawson Avenue: Amend the CMP map to reclassify existing "R3-E" and "transportation" lands to "mixed use". Mixed use in this area would potentially consist of retail, office, transportation and multi-family residential development.

In the area north of W. Rawson Avenue, the proposed Indoor Sports Facility will be located adjacent to the residential lands and will provide a physical buffer / transition from those residences to the more active commercial area to the east. Furthermore, a berm with significant landscaping will be provided along that common property line in order to block headlights from the parking areas within the development. The proposed Stadium and associated Plaza Area will be partially placed behind the Indoor Sports Facility so that the Stadium is somewhat shielded from the residences.

South of W. Rawson Avenue, we are proposing a layout that follows good planning practices of transition from single-family areas to more intense commercial areas. Specifically, we have situated a berm and landscape buffer immediately adjacent to the single-family properties, and located lower-density townhome-style buildings along the bufferyard. We have then incorporated into the plan higher-density multi-family buildings east of the townhomes, with the two buildings closest to the single-family angled to reduce the visual impact. The highest density and largest number of multi-family buildings is then located immediately adjacent to West Loomis Road, immediately opposite the commercial lands lying on the opposite side of Loomis and farthest away from the less dense single-family properties.

## **Exhibit "E"**

The TIA prepared for the city of Franklin by Graef dated 2-10-16 and submitted to the DOT on 2-10-16, is a close representation to what this development is proposing. We give the city permission to use this TIA as our preliminary TIA.



REPORT TO THE PLAN COMMISSION

Meeting of March 17, 2016

Planned Development District No. 37 Amendment and Comprehensive Master Plan Amendment

RECOMMENDATION: City Development staff recommends approval of the Planned Development District No. 37 (The Rock Sports Complex) amendment and the Comprehensive Master Plan amendment subject to the conditions of approval in attached draft ordinances.

Table with 2 columns: Label (Project Name, Project Address, Applicants, Property Owners, Current Zoning, 2025 Comprehensive Plan, Use of Surrounding Properties, Applicant's Action Requested) and Description.

Please note:

- Staff recommendations are underlined, in italics, and are included in the draft PDD amendment ordinance.
Staff suggestions are only underlined and are not included in the draft PDD amendment ordinance.
Applicant requested changes submitted after preparation of the draft PDD amendment ordinance which staff does not recommend approval of are grey shaded and are not included in the draft ordinance.
The applicants have only provided preliminary plans and information, and as such have requested City approval of the proposed PDD amendment under Section 15-9.0208E.7.b.(1) General Approval.

## **INTRODUCTION:**

On January 11, 2016, the Common Council held a Concept Review for a proposed sports anchored mixed-use development to be located at and near The Rock Sports Complex and southwest of the intersection of W. Rawson Avenue and Old Loomis Road upon application by Zim-Mar Properties LLC and The Rock Sports Complex LLC.

On February 1, 2016, Mr. Zimmerman, Mr. Marso, Zim-Mar Properties LLC, and Mr. John Dargle, Jr., Director of the Milwaukee County Department of Parks submitted a Planned Development District (PDD) amendment application to amend PDD No. 37 (The Rock Sports Complex), and a Comprehensive Master Plan (CMP) amendment application, in support of the proposed Ballpark Commons project.

On related matters, it can also be noted that the Common Council:

- approved a Memorandum of Understanding regarding the Ballpark Commons development on February 2, 2016;
- authorized staff to engage Ehlers & Associates, Inc. for Tax Incremental District services related to the Ballpark Commons development on February 16, 2016; and
- authorized staff to execute an agreement with Melaniphy & Associates, Inc. for independent market analysis services related to the Ballpark Commons development on March 1, 2016.

On March 12, 2016, and March 14, 2016, the applicants provided updated plans and additional information to staff for inclusion in the packet for the March 17, 2016 Plan Commission meeting.

## **BACKGROUND/HISTORY:**

On August 30, 2012, the Common Council adopted Ordinance No. 2012-2089 establishing Planned Development District No. 37 (The Rock Sports Complex) and to rezone property from A-1 Agricultural District, R-2 Estate Single-Family Residence District and FW Floodway District to Planned Development District No. 37 and FW Floodway District.

On March 19, 2013, the Common Council adopted the Standards, Findings and Decision of the City of Franklin Common Council for a Special Exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance. Specifically, for the filling of four wetlands with 0.76 total affected acres, four wetland buffers with 1.8 total affected acres, four wetland setbacks with 1.46 total affected acres, and exemption from the City's mitigation requirements to allow re-grading of the Milwaukee County Landfill cap to prevent ponding and improve drainage.

On March 5, 2013, the Common Council adopted Ordinance No. 2013-2101, to amend Planned Development District No. 37 (The Rock Sports Complex) to provide for the "Umbrella Bar/restaurant" in lieu of the "Restaurant" and "restaurant/bar" previously approved.

On March 31, 2014, the Common Council adopted Resolution No. 2014-6976 approving a Special Use for an outdoor minor league professional baseball stadium at The Rock Sports Complex. However, the Common Council did not approve a separate request by Mr. Zimmerman for financial assistance from the City of Franklin for the proposed stadium, and the stadium was not built. Pursuant to Resolution No. 2014-6976, the Special Use approval has since expired, as the subject development was not constructed within one year.

### **PROJECT DESCRIPTION:**

As indicated in the attached materials, the applicants have requested that the existing PDD No. 37 (encompassing 10 separate parcels and 128 acres of land) be expanded (to include five additional parcels and excess DOT right-of-way along Loomis Road, encompassing about 77 additional acres). The applicants are also requesting that the amended PDD be revised to facilitate development of a sports anchored mixed-use development referred to as Ballpark Commons.

**General Project Description.** As proposed by the applicants, the amended PDD No. 37 is to consist of four different areas, each focusing on a different mix of uses, as noted below.

- The Rock Sports Complex area.
  - This area consists of the existing Rock Sports Complex and its existing multi-use sports and entertainment facilities bounded by the Root River Parkway on the north, S. 76<sup>th</sup> Street on the east, Crystal Ridge Drive on the southeast, W. Rawson Avenue on the south, and the Whitnall View subdivision on the west.
  - A proposed outdoor baseball stadium, with a total capacity for approximately 4,000 spectators with approximately 2,500 seats, is proposed to be located in the central portion of The Rock Sports Complex. The stadium is intended to serve as the home for a minor league professional baseball team affiliated with the American Association of Professional Baseball and as the home field for the University of Wisconsin – Milwaukee Panthers baseball team. The stadium would also be used to host various baseball tournaments and other events, and may include some associated retail uses including a restaurant.
  - A proposed year-round multi-purpose indoor sports venue is proposed to be located in the western portion of The Rock Sports Complex. It is intended to feature a regional family fun center, a premier entertainment, recreation and event venue.
  - The existing Rock Sports Complex is also envisioned to be revised to allow a golf driving range, concerts/live music, sand volleyball, an extension of the Oak Leaf Trail, etc. Please note that the existing BMX track is proposed to be removed.
- Ballpark Commons Sports Village Commercial/Mixed Use area.
  - A mixed-use/commercial area is proposed to be located along a relocated Crystal Ridge Drive between The Rock Sports Complex and Loomis Road on excess DOT right-of-way lands associated with Loomis Road but recently acquired by Zim-Mar Properties LLC.

- The area is envisioned to include an unknown number of mixed-use (possibly with residential apartments on the upper floors), restaurant, and commercial buildings, such buildings are not envisioned to exceed four stories.
- A five-story hotel building is proposed within this area or within the Ballpark Commons Commercial area.
- The area is also envisioned to include sidewalks, a future extension of the Oak Leaf Trail, an entrance feature at the intersection of S. 76<sup>th</sup> Street and Crystal Ridge Drive, and a plaza near the intersection of Crystal Ridge Drive and Rawson Avenue.
- Ballpark Commons Commercial area.
  - A mixed-use/commercial area to be located along the south side of W. Rawson Avenue extending from Loomis Road to about halfway between Loomis Road and the Stone Hedge subdivision.
  - The area is envisioned to include two mixed-use buildings with office, retail, and/or commercial uses on the ground floors and possibly up to 70 luxury residential apartments per building on the upper floors (not to exceed four stories).
  - A five-story hotel is proposed within this area or within the Ballpark Commons Sports Village Commercial/Mixed Use area.
  - The area is also envisioned to include sidewalks, and a future extension of the Oak Leaf Trail.
- Ballpark Commons Multi-Family Residential area.
  - A multi-family residential luxury apartment development located immediately south and west of the mixed-use/commercial area between Loomis Road and the Stone Hedge subdivision.
  - The area is envisioned to include approximately 300 dwelling units within 13 apartment buildings consisting of up to six five-unit two-story buildings adjacent to the Stone Hedge subdivision and Rawson Avenue, and up to seven 39-unit three-story buildings elsewhere. A mix of unit types is envisioned of primarily one- and two-bedrooms with some den units. The three story buildings will have underground parking, while the two-story buildings will have attached garages.
  - The area is also envisioned to include a clubhouse, pool, passive recreational uses such as a skating pond, shelter, greenspace/openspace, sidewalks, a future extension of the Oak Leaf Trail.
  - A 100' wide buffer space (comprised of a 60' wide and 8' high vegetated berm and a 100' building setback from the Stone Hedge subdivision).

**General Transportation Elements.** The applicants envision numerous changes to the existing transportation system within the proposed PDD No. 37 (The Rock Sports Complex/Ballpark Commons) area including:

- Crystal Ridge Drive. The existing road would be relocated. The relocated road (proposed to be owned and maintained by the City of Franklin) would extend from its current intersection with 76<sup>th</sup> Street southwestward through the Ballpark Commons Commercial area, around the northern side of the proposed baseball stadium, and would extend southward to Rawson Avenue approximately 200 feet east of its current location.
- Old Loomis Road. The existing road would be relocated. The relocated road (proposed to be owned and maintained by the City of Franklin) would extend southward and westward from its intersection with Rawson Avenue (about 200' east of its current location) back to Rawson Avenue at a location about 400 feet east of Hawthorne Lane, and would also extend further southward from a possible round-about to Loomis Road at a location about 700 feet north of Warwick Way. The existing portion of Old Loomis Road from this point to the existing Warwick Way would remain.
- Rawson Avenue Intersection with Relocated Crystal Ridge Drive/Old Loomis Road. A stop light is envisioned at this new intersection.
- Loomis Road Intersection with Relocated Old Loomis Road. A stop light is envisioned at this new intersection.
- New public roads. The new public roads are envisioned to be 40' wide from curb to curb, with a 5' terrace and 5' sidewalk on both sides. The applicants further suggest that bike lanes and parking be allowed on one or both sides of these roads.
- Loomis Road Ramps. The applicants envision that their current Development Concept could be revised to accommodate any changes to the Loomis Road ramps that the City and the Wisconsin Department of Transportation agree upon. But in the meantime, that: the southwestward bound ramp from 76<sup>th</sup> Street to Loomis Road would merge with Loomis Road at some point north of Rawson Avenue and would not connect to Rawson Avenue; and that the southward bound ramp from Rawson Avenue to Loomis Road would merge with Loomis Road at some distance north of its current location so that the relocated Old Loomis Road could intersect with Loomis Road near the south end of the Ballpark Commons Multi-Family Residential area.
- Loomis Road Intersection with Warwick Way. The applicants envision that Warwick Way will be extended to Loomis Road and a stop light placed at this intersection.

**General Public Sewer and Water Systems.** The applicants further indicate that public sanitary sewer and water service would be extended throughout the entire PDD and provided to all new development. The applicants also indicate that such systems could be extended further west along Rawson Avenue to serve the adjacent Whitnall View subdivision if necessary.

## **PROJECT ANALYSIS:**

### **Comprehensive Master Plan Amendment:**

#### **Comprehensive Master Plan Consistency**

*Consistent with, as defined by Wisconsin State Statute; means “furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan.”*

The City of Franklin 2025 Comprehensive Master Plan (CMP) Future Land Use Map identifies the subject area as Mixed Use, Areas of Natural Resource Features, Transportation, and Residential. However, only the current Transportation and Residential portions of this area are envisioned to change, to Mixed Use, to reflect their proposed addition to PDD No. 37. The existing Mixed Use area (reflecting the existing PDD No. 37) is envisioned to remain unchanged. To establish consistency between the Comprehensive Master Plan and the proposed uses and proposed zoning, an amendment of the Comprehensive Master Plan is necessary.

Staff would note that the proposed PDD No. 37 amendment/proposed CMP amendment is consistent with the following principles and goals set forth within the Comprehensive Master Plan, including but not limited to:

- High Quality Development Principle, “The priority will be to allow for various types of development, as long as the proposed development does not increase the local tax burden.”
- Economic Development Principle, “...to promote a high quality community for residents and businesses alike; create jobs for a growing population; and stabilize and expand a diverse tax base.”
- Land Use Principle, “...to enhance the quality of life for present and future generations by providing economic growth through the highest quality of residential, recreational, and business development in Southeastern Wisconsin; encourage quality development that includes smaller and mixed-use commercial centers and corridors...; allow for various types of development, while giving appropriate consideration to the impact of new development on the local property tax burden...”.
- Housing Principle, “...to provide a wide range of housing opportunities to support the needs of working professionals, seniors, and families...”.
- Utility and Community Facilities Principle, “Provide City residents access to parks, open space, and a wide range of recreational programs and facilities that help to promote an active and healthy lifestyle.”
- Land Use Goal, “Accommodate (where appropriate) mixed use development within identified districts and commercial areas.” And its associated objective, “Include public open space within, and adjacent to, mixed use developments.”
- Land Use Goal, “Build community identity by revitalizing ... important areas of the City, enforcing appropriate design standards, and by creating and preserving varied and unique development and land uses.”

Based upon the information provided by the applicants, and the information noted in this report, it is staff’s professional opinion that the proposed PDD No. 37 amendment would be consistent

with a preponderance of the principles, goals, objectives, and policies set forth in the Comprehensive Master Plan. Therefore, staff recommends approval of the Comprehensive Master Plan amendment, to change the Future Land Use for this area from Residential and Transportation to Mixed Use.

**Planned Development District No. 37 Amendment:**

*It is important to note that the information and plans provided by the applicants are very preliminary in nature. As such, the applicants have requested City approval of the proposed PDD amendment under Section 15-9.0208E.7.b.(1) which states:*

General Approval. Plans submitted with the application for a rezoning to the PDD Planned Development District need not necessarily be completely detailed at the time of rezoning provided they are of sufficient detail as to satisfy the Plan Commission and the Common Council as to the general character, scope, and appearance of the proposed development. Such preliminary plans designate the pattern of the proposed streets, and the size and arrangement of individual building sites. The approval of such preliminary plans shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as each stage of development progresses.

It is also important to note that with the applicant's concurrence, staff had prepared a draft ordinance setting forth standards for the proposed PDD No. 37 amendment prior to receipt of the information for the March 17<sup>th</sup> Plan Commission meeting. *Due to the short time-frame available for the applicant's review of the draft ordinance and for staff's consideration of the applicants comments, and staff's concerns with certain changes proposed by the applicants, those changes to the draft ordinance that staff does not concur with are highlighted in grey shading, and are not included within the draft ordinance. Should the Plan Commission or the Common Council concur with the applicants requests in these instances, a separate motion for such changes would be needed.*

It can also be noted that Section 15-9.0208E.7.b. states that after a General Approval, plans submitted for detailed approval shall be sufficiently precise as identified by the Plan Commission and that any approvals given are all that would be necessary prior to occupancy. In addition, the applicants also request that major alterations be subject solely to approval by the Plan Commission. However, due to the lack of details provided in the attached plans, the potential for significant changes to the Development Concept Plan, changes in response to potential financial assistance considerations between the applicants and the City which have yet to be determined, and the number and importance of potential impacts upon adjacent properties, staff recommends that the submittal of plans for detailed approval of the various components of Planned Development District No. 37 shall be forwarded to the Common Council for approval, after review and recommendation by the Plan Commission, unless otherwise specifically set forth in PDD No. 37, such as for those uses/structures identified as permitted uses. Staff would note that generally, those plans and approvals which would not require Common Council approval would be those associated with permitted uses, as set forth in the amended PDD No. 37 ordinance, such

as zoning compliances, Minor Site Plan Amendments, and Site Plans, as such processes are currently set forth in the UDO.

General PDD Standards:

Although the applicants have requested General Approval of the PDD amendment, which is an option allowed by the Unified Development Ordinance, the UDO also requires certain information and certain details at the time of all PDD submittals, as set forth most particularly in Sections 15-3.0401 Intent of the Planned Development Districts, 15-3.0402 Conformance of the Planned Development District with the Adopted Comprehensive Master Plan and Adopted Detailed Neighborhood and Planning District Plans, and 15-3.0403 Minimum Area and Use Requirements and Other Standards.

As proposed, the Planned Development District No. 37 amendment, as a mixed compatible uses PDD, complies with the general intent, land use intensity, and the minimum land area requirements of planned development districts as set forth in Division 15-3.0400 of the Unified Development Ordinance.

While the applicants have provided an estimated value for the overall project of between \$110 to \$130 million dollars, such estimate has not been broken down into estimated values for structures, site improvement, landscaping, special features, etc. as required by Section 15-9.0208B.1.b. of the UDO. Therefore, staff recommends that the applicants provide a general summary of the value of the overall project broken down into the four general use areas of the proposed PDD as set forth herein, and as further specified by Section 15-9.0208 of the UDO, for Planning Department review, prior to submittal of the proposed PDD amendment to the Common Council.

While the applicants have provided artist renderings of some of the proposed buildings within the subject PDD, they have not provided architectural drawings or sketches of all proposed structures as required by Section 15-9.0208B. of the UDO. Therefore, staff recommends that the applicants provide architectural drawings or sketches of, at a minimum, all building types proposed within the PDD illustrating a design and character that derives benefit from coordinated and compatible planning and design, for Planning Department staff review, prior to submittal of the proposed PDD amendment to the Common Council.

While public sanitary sewer and water service is required for all Planned Development Districts, and the applicants have indicated that they will provide such services to all new development within the PDD, sewer and water plans have not been prepared, and as such, it is not yet known in any detail how such services will be provided. Therefore, pursuant to Section 15-9.0208B. of the UDO, staff recommends that the applicants revise the Project Narrative to indicate whether any unusual situations will be encountered in the provision of public sanitary and water services and how such situations will be addressed, for Planning and Engineering Department staff review, prior to submittal of the proposed PDD amendment to the Common Council.

The information provided by the applicants does not identify if/how the proposed project is compatible with existing adjacent land uses and consistent with the City's plans and ordinances. Therefore, pursuant to Sections 15-9.0208B. and 15-9.0208E. of the UDO, staff recommends that

the applicants revise the Project Narrative to identify how the proposed project is compatible with existing adjacent land uses, is not contrary to the general welfare and economic prosperity of the immediate neighborhoods, and its proposed mixture of uses produces a unified composite which is compatible with the surrounding neighborhoods, for Planning Department staff review, prior to submittal of the proposed PDD amendment to the Common Council.

The Rock Sports Complex portion of PDD No. 37:

The existing Rock Sports Complex standards are those as set forth in the P-1 Park District, the design standards found in Part 5 of the City of Franklin Unified Development Ordinance, and as may otherwise be set forth within the current PDD No. 37 ordinance. It is envisioned that these standards will continue to apply to The Rock Sports Complex.

The applicants do request that this area be revised to allow a golf driving range and sand volleyball as permitted uses, which staff has no objection to, and which have been reflected in the draft ordinance.

However, the applicants have also requested that concerts and live music also be allowed as permitted uses. Staff recommends that these uses remain special uses as currently set forth in the draft ordinance, due to their potential impacts upon adjacent properties, and as the City has previously and continues to receive numerous complaints from neighbors about excessive noise from various events and activities at The Rock Sports Complex.

Staff recommends that prior to any new or revised concerts, live music venues, or outdoor events utilizing speakers, including but not limited to the proposed baseball stadium, that a comprehensive outdoor sound study of The Rock Sports Complex (incorporating both existing and proposed events and facilities) be undertaken by the applicants, that such study shall identify and recommend such practices, equipment and systems to not only fully comply with all pertinent City noise regulations and standards, but which also reasonably addresses neighbors concerns, that such study be reviewed by an independent party of the City's choosing and at the applicants reasonable expense, for review and acceptance by the Common Council, prior to any further development within The Rock Sports Complex. It should be noted that this requirement is not intended to apply to any existing live music venues or events with outdoor speakers which are fully compliant with its permit and approval conditions, and which do not materially change. However, staff suggests that any recommendations from the Comprehensive Outdoor Sound Study that apply to existing facilities or events be implemented within one year from the date of acceptance of the Study by the Common Council.

Similarly, the City has previously and continues to receive numerous complaints from neighbors about excessive light pollution from the existing ballfields at The Rock Sports Complex. While some measures have been undertaken by the applicants to reduce light pollution, such complaints have continued. It can be further noted that the proposed baseball stadium could potentially add to such concerns. Therefore, staff recommends that prior to any new or revised ballfields, parking lots, or outdoor events utilizing lighting systems, including but not limited to the proposed baseball stadium, that a comprehensive outdoor lighting study of The Rock Sports Complex (incorporating both existing and proposed events and facilities) be undertaken by the

applicants, that such study shall identify and recommend such practices, equipment and systems to not only fully comply with all pertinent City lighting regulations and standards, but which also reasonably addresses neighbors concerns, that such study be reviewed by an independent party of the City's choosing and at the applicants reasonable expense, for review and acceptance by the Common Council, prior to any further development within The Rock Sports Complex. It should be noted that this requirement is not intended to apply to any existing ballfields or parking lots with outdoor lights which are fully compliant with its permit and approval conditions, and which do not materially change. However, staff suggests that any recommendations from the Comprehensive Outdoor Lighting Study that apply to existing facilities or events be implemented within one year from the date of acceptance of the Study by the Common Council.

As significant development and land disturbing activities are envisioned on and immediately adjacent to the existing landfill, staff recommends that the applicants obtain all required approvals and permits from the Wisconsin Department of Natural Resources and Milwaukee County prior to any disturbance or development of the landfill area. Staff further recommends that the applicants obtain preliminary or conditional approvals from the Wisconsin Department of Natural Resources and Milwaukee County, and that the applicants submit a detailed map of the extent of the landfill area, such map to be approved by the Wisconsin Department of Natural Resources and Milwaukee County, to City staff, prior to the submittal of any detailed plans for the landfill area.

In order to provide a vegetated buffer between the multi-purpose fields and the adjacent subdivision, and adequate space for maintenance and use of the fields, staff recommends that the applicants revise the Development Concept Plan to remove one of the two multi-purpose fields located immediately northeast of the Whitnall View subdivision, for staff review and approval, prior to the submittal of any detailed plans for The Rock Sports Complex area.

In order to provide more land for the Ballpark Commons Commercial area, and parking for that area as well as for the entire Sports Village, staff suggests that the applicants revise the Development Concept Plan to remove the two existing softball/baseball fields immediately adjacent to Crystal Ridge Drive Please note that should the results of a Comprehensive Parking Study of the Planned Development District indicate that there is a significant parking shortage in this area, that this suggestion may become a recommendation.

Staff suggests Milwaukee County combine all ten (10) parcels located within The Rock Sports Complex through the City's Certified Survey Map process.

It can be noted that the applicants have not requested changes to the current hours of operation of The Rock Sports Complex and its associated activities at this time. Any such changes would require separate City approvals.

#### Ballpark Commons Sports Village Commercial/Mixed Use Area:

The Ballpark Commons Sports Village Commercial/Mixed Use Area is to be located in that area bounded by Crystal Ridge Drive, S. 76<sup>th</sup> Street, Loomis Road, and W. Rawson Avenue and includes the excess right-of-way along Loomis Road that was recently acquired by Zim-Mar

Properties LLC. The standards for this area are those as generally set forth in the OL-2 General Business Overlay District, the design standards found in Part 5 of the City of Franklin Unified Development Ordinance, and as may otherwise be set forth within the proposed PDD No. 37 ordinance.

The applicants have requested that the standards for this area be revised to allow residential apartments in the upper floors of multi-story buildings. Staff recommends that the commercial apartment standards proposed in the Ballpark Commons Mixed Use Area in Table 15-3.0442C.1. of the draft ordinance also be incorporated into Table 15-3.0442B.1. Ballpark Commons Commercial Area Development Standards.

The applicants have requested that the multi-purpose indoor sports venue be designated as a permitted use. However, due to the proposed buildings prominent size and location, its relationship to the landfill and the adjacent Whitnall View subdivision, and the lack of details about the potential tenants, site design and architecture, staff recommends that this facility remain as a special use as identified in the draft PDD amendment ordinance.

The applicants have requested that this area allow up to four story buildings as a permitted use. Staff recommends that the permitted building height remain at 3 stories and 45 feet, with taller buildings to be considered as part of a Special Use, as currently set forth in the draft ordinance, due to staff's concerns about a potential significant shortage of parking within the PDD and potential impacts upon adjacent properties.

The applicants have requested that this area allow 0' side yard setbacks. Staff recommends that the side yard setback remain at 10', with smaller setbacks to be considered by the Plan Commission as part of a Site Plan, etc., as currently set forth in the draft ordinance, due to staff's concerns about density and compatibility with the adjacent neighborhoods.

As significant development and land disturbing activities are envisioned on and/or immediately adjacent to the existing Emerald Park Landfill gas pipeline, staff recommends that the applicants obtain all required approvals and permits from the Milwaukee Metropolitan Sewerage District prior to any disturbance or development of the gas pipeline area. Staff further recommends that the applicants obtain preliminary or conditional approval from the Milwaukee Metropolitan Sewerage District, and that the applicants submit a detailed map of the location of the gas pipeline and associated easement, to City staff, prior to the submittal of any detailed plans for the landfill area.

To ensure that adequate parking, appropriate resident and visitor amenities, and compatibility with adjacent uses is provided, and that a high quality development can and will be maintained, staff recommends that the applicants provide additional details about the multi-family residential component of the Ballpark Commons Sports Village Commercial/Mixed Use area, (including but not limited to: location, number and size of units and bedrooms; types, locations and amounts of on-site and off-site parking; envisioned rental rates; amenities to be provided; etc.) for staff review, prior to the submittal of any detailed plans for this area. Staff further recommends that the applicants prepare preliminary information about the multi-family residential component of

the Ballpark Commons Sports Village Commercial/Mixed Use area, for staff review, prior to submittal of the proposed PDD amendment to the Common Council.

Ballpark Commons Commercial Area:

The Ballpark Commons Mixed Use Area is to be located in that area bounded by W. Rawson Avenue, Loomis Road, and the Stone Hedge subdivision and includes potential excess right-of-way along Loomis Road. The standards for this area are those as generally set forth in the B-4 South 27<sup>th</sup> Street Mixed Use Commercial District, the design standards found in Part 5 of the City of Franklin Unified Development Ordinance, and as may otherwise be set forth within the proposed PDD No. 37 ordinance.

The applicants have requested that the standards for this area be revised to allow residential apartments in the upper floors of multi-story buildings. Staff recommends that the commercial apartment standards proposed in the Ballpark Commons Mixed Use Area in Table 15-3.0442C.1. of the draft ordinance also be incorporated into Table 15-3.0442B.1. Ballpark Commons Commercial Area Development Standards.

The applicants have requested that this area allow up to a five-story hotel building and up to four story mixed-use buildings as a permitted use. Staff recommends that the permitted building height remain at 3 stories and 45 feet, with taller buildings to be considered as part of a Special Use, as currently set forth in the draft ordinance, due to staff's concerns about a potential significant shortage of parking within the PDD and potential impacts upon adjacent properties.

The applicants have requested that this area allow 0' side yard setbacks. Staff recommends that the side yard setback remain at 10', with smaller setbacks to be considered by the Plan Commission as part of a Site Plan, etc., as currently set forth in the draft ordinance, due to staff's concerns about density and compatibility with the adjacent neighborhoods.

To ensure that adequate parking, appropriate resident and visitor amenities, and compatibility with adjacent uses is provided, and that a high quality development can and will be maintained, staff recommends that the applicants provide additional details about the multi-family residential component of the Ballpark Commons Mixed Use area, (including but not limited to: location, number and size of units and bedrooms; types, locations and amounts of on-site and off-site parking; envisioned rental rates; amenities to be provided; etc.) for staff review, prior to submittal of the PDD amendment to the Common Council.

Ballpark Commons Multi-Family Residential Area:

The Ballpark Commons Multi-Family Residential Area is to be located in that area bounded by the Ballpark Commons Mixed Use area, Loomis Road, and the Stone Hedge subdivision and includes potential excess right-of-way along Loomis Road. The standards for this area are those as generally set forth in the R-8 General Residence District, the design standards found in Part 5 of the City of Franklin Unified Development Ordinance, and as may otherwise be set forth within the proposed PDD No. 37 ordinance.

The applicants have requested that this area allow smaller minimum open space standard of 0.2, and higher maximum density standard of 9.5. Staff recommends that the open space standard remain at 0.25 and the maximum density standard remain at 8.0, with greater densities to be considered as part of a Special Use, as currently set forth in the draft ordinance, due to staff's concerns about density and compatibility with the adjacent neighborhood.

The applicants have requested that this area allow lot dimensional requirements and setbacks to be determined on a case-by-case basis during the review of detailed plans. Staff recommends that the lot dimensional requirements and setbacks remain unchanged, with smaller setbacks to be considered by the Plan Commission as part of a Site Plan, etc., as currently set forth in the draft ordinance, due to staff's concerns about density and compatibility with the adjacent neighborhood.

The applicants have requested that this area allow balconies to count as Open Space. Staff recommends that the open space continue to be calculated as set forth within the Unified Development Ordinance, due to staff's concerns about density and compatibility with the adjacent neighborhood.

The applicants have requested that this area allow parking to be provided at a ratio of 1.4 spaces per dwelling unit. Staff recommends that the parking ratio continue to be calculated as set forth within the Unified Development Ordinance as 1 space per bedroom for one and two bedroom apartments and 2.5 spaces per three or more bedroom apartments, due to staff's concerns about a potential significant shortage of parking within the PDD and potential impacts upon adjacent properties.

The applicants have requested that this area allow off-street loading with no minimum standards. Staff recommends that the off-street loading standards as set forth within the Unified Development Ordinance continue to be utilized, due to staff's concerns about density, compatibility with the adjacent neighborhood, and a potential significant shortage of parking within the PDD and potential impacts upon adjacent properties.

To ensure that appropriate resident and visitor amenities, compatibility with adjacent uses is provided, and that a high quality development can and will be maintained, *staff recommends that the applicants provide additional details about the multi-family residential component of the Ballpark Commons Multi-Family Residential area, (including but not limited to envisioned rental rates, amenities to be provided, etc.) for staff review, prior to submittal of the proposed PDD amendment to the Common Council.*

Staff suggests that for those apartment buildings adjacent to the Stone Hedge subdivision, that the parking lots be moved to the front of the buildings and the buildings moved closer to the subdivision.

#### Transportation:

The applicants have indicated in their project narrative, but have not identified on the General Development Concept Map, that certain changes are envisioned to the Loomis Road ramps, as

well as the addition of new signalized intersections to Loomis Road and Rawson Avenue. Staff recommends that a note be added to the Development Concept Map indicating that alterations to existing state, county, and local roads are envisioned, including but not limited to removal of certain ramps and the addition of certain signalized intersections, and that such changes will be subject to Wisconsin Department of Transportation, Milwaukee County, and City of Franklin review and approval, prior to submittal of the proposed PDD amendment to the Common Council.

The applicants also provide little information about coordination of these and other transportation system changes with the applicable regulatory agencies, including the Traffic Impact Analysis recently prepared by the City and submitted to the DOT. Therefore, staff recommends that the applicants prepare a Traffic Impact Analysis for the entire subject PDD, incorporating travel impacts from the Ballpark Commons project into future alternatives giving priority to collector roads to future intersections with Loomis Road, such being compatible with that TIA prepared by the City and recently submitted to the DOT pertaining to the Loomis Road ramps, for review and approval by the Wisconsin Department of Transportation, Milwaukee County, and the City of Franklin as applicable, prior to the submittal of any detailed plans for PDD No. 37. Staff further recommends that the applicants complete a preliminary TIA, and obtain preliminary approval of the TIA from the affected agencies, for staff review, prior to the submittal of the proposed PDD amendment to the Common Council.

Staff recommends that any portion of a public road to be owned by the City of Franklin that is located on any portion of the historic landfill be the subject of a 20-year bond by the applicants in an amount and terms to be approved by the City to insure adequate funds for any repair and reconstruction of such roads due to landfill conditions, for Engineering Department staff review, prior to any development within such applicable portion(s) of PDD No. 37. Staff suggests that the portion of Crystal Ridge Drive north of the proposed baseball stadium envisioned to be publicly owned instead be privately owned, and that the portion of Crystal Ridge Drive south of the stadium be publicly owned.

Staff recommends that the applicants revise the Development Concept Map to redesign the relocated Crystal Ridge Road such that all intersections with other roads, public or private, occur at right angles, except for those intersections designed as a roundabout, for Engineering Department staff review and approval, prior to the submittal of any detailed plans within The Rock Sports Complex and the Ballpark Commons Sports Village Commercial/Mixed Use areas of PDD No. 37.

Staff recommends that the applicants prepare a Street Design Plan for all new and reconstructed streets within PDD No. 37, to be designed with appropriate Complete Streets and traffic calming practices, including consideration of such elements as bike lanes, sidewalks, on-street parking, roundabouts, etc., for Engineering and Planning Department staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the Street Design Plan as may be determined by the City). Staff further recommends that the Street Design Plan incorporate consideration of extension of four lanes for Rawson Avenue further westward to at least Hawthorne Lane.

Staff recommends that the applicants prepare a Bike and Pedestrian Plan for the entire PDD, identifying design and location details for such facilities as sidewalks, trails, crosswalks, signage, pedestrian scale lighting, bike rest/rental/repair stations, etc., for staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the Bike and Pedestrian Plan as may be determined by the City). Staff further recommends that the applicants prepare a Preliminary Bike and Pedestrian Plan for staff review prior to the submittal of the proposed PDD No. 37 amendment to the Common Council. Staff also recommends that the Bike and Pedestrian Plan include a public space located between the proposed baseball stadium and the proposed multi-purpose indoor sports venue that includes outdoor seating areas, a bike rest/rental/repair facility, public art/exhibit areas, etc.

Staff recommends that the applicants prepare a Streetscaping Plan for all new and reconstructed streets within PDD No. 37, incorporating such features as decorative lighting, special signage, pedestrian rest areas, etc., for staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the Streetscaping Plan as may be determined by the City). Staff further recommends that the applicants prepare a preliminary Streetscaping Plan for staff review prior to submittal of the proposed PDD No. 37 amendment to the Common Council.

Staff suggests that a sidewalk be added to the west side of 76<sup>th</sup> Street from Crystal Ridge Drive to Rawson Avenue.

Staff suggests that the Rawson Avenue sidewalks be widened, and that new sidewalks be added to Rawson Avenue from Crystal Ridge Drive/Old Loomis Road west to at least Hawthorne Lane.

Staff suggests that a pedestrian pathway/emergency access drive be extended from the end of Karrington Drive into the Ballpark Commons Multi-Family Residential area.

#### Parking:

As parking information for the southern portion of the Ballpark Commons proposal was not provided until March 12<sup>th</sup>, and similar information for the northern portions on March 14<sup>th</sup>, staff has not had an opportunity to review that information. Staff may have serious concerns about the amount of parking needed for PDD No. 37 and the amount of parking envisioned to be provided by the applicants. For instance, just the baseball stadium and the multi-purpose indoor sports venue alone would require approximately 2,700 parking spaces according to UDO parking standards. Furthermore, the applicants proposed parking standards of 4 parking spaces per 1,000 sq. ft. of commercial space, 1.5 parking spaces per residential apartment, etc. are less than the standards set forth in the UDO.

Therefore, and as noted in its Staff Comments to the applicants dated February 16<sup>th</sup>, staff recommends that the applicants submit a detailed and comprehensive Parking Study for the entire proposed PDD, which includes consideration of a parking structure, underground parking for all multi-story buildings, formal shared parking arrangements, and on-street parking, for staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such

plans to incorporate the findings and recommendations of the Parking Study as may be determined by the City).

It should be noted that detailed parking plans, consistent with the Comprehensive Parking Plan, would be required at the time of a Site Plan, Special Use, etc. as is typically required by the UDO.

Landscaping:

The applicants have provided limited information about the landscaping envisioned within PDD No. 37, but do indicate that landscaping is envisioned to be appropriate to each area within PDD No. 37, generally reflective of an urban setting, and shall be as provided on recorded plans. Therefore, staff recommends that the applicants provide a General Landscape Plan for each of the four areas comprising PDD No. 37, for staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the General Landscape Plan as may be determined by the City).

The vegetative buffer proposed by the applicants indicates a 60' wide landscaped area with a 8' high berm, and an additional 40' building setback. As such, staff recommends that the requested General Landscape Plan, and the pertinent zoning district standards, be revised to reflect a minimum 60' wide landscape buffer, including a minimum 8' high berm, to be located along the entire western boundary of PDD No. 37, for staff review, prior to the submittal of any detailed plans within PDD No. 37. Staff further recommends that the applicable zoning district standards be revised to reflect a 40' building setback from the western boundary of PDD No. 37.

It should be noted that detailed landscape plans, consistent with the overall General Landscape Plan, would be required at the time of a Site Plan, Special Use, etc. as is typically required by the UDO.

Snow Storage:

The applicant has not submitted a Snow Storage Plan for any portions of the proposed development. Therefore, staff recommends that the applicants submit a Snow Storage Plan along with each applicable Site Plan, Special Use, etc. in accordance with Section 15-5.0210 of the Unified Development Ordinance, to the Planning Department staff, for review and approval as part of such site plans, special uses, etc.

Natural Resource Protection:

While the applicants have provided a Natural Resource Protection Plan (NRPP) pursuant to Sections 15-3.0401C. and 15-3.0403B. of the UDO) and indicate that a Natural Resource Special Exception will be necessary, the NRPP is incomplete, contradicts information that was provided for the creation of PDD No. 37, and does not provide any information about how the City's natural resource protection standards will otherwise be met. Therefore, staff recommends that the applicants revise the Project Narrative to indicate what if any mitigation measures are

envisioned, and through that process, how the City's Natural Resource Protection standards will otherwise be met, for Planning Department staff review, prior to submittal of the proposed PDD amendment to the Common Council.

It should be noted that detailed Natural Resource Protection Plan(s), along with applicable Site Intensity and Capacity Calculations, would be required at the time of a Site Plan, Special Use, etc. as is typically required by the UDO.

Lighting:

The applicant has not submitted a Lighting Plan for any portions of the proposed development, and recommends that lighting be as provided on recorded plans. Therefore, staff recommends that the applicants submit a Lighting Plan along with each applicable Site Plan, Special Use, etc. (other than for The Rock Sports Complex, which lighting standards are set forth elsewhere in this PDD ordinance) which meets the lighting regulations set forth in Division 15-5.0400 of the Unified Development Ordinance, to the Planning Department staff, for review and approval as part of such site plans, special uses, etc.

It should be noted that detailed Lighting Plan(s) will be required at the time of a Site Plan, Special Use, etc. as is typically required by the UDO, except as otherwise described for The Rock Sports Complex area earlier in this staff report.

Architecture:

It is important to note that the applicants have not prepared any architectural plans for any of the proposed buildings within PDD No. 37, nor have the applicants indicated what if any common or complementary design themes will be employed within this area. Rather, the applicants have provided artist renderings and examples from other projects within southeastern Wisconsin, for some of the building types envisioned within PDD No. 37. Therefore, staff recommends that the applicants prepare an Architectural and Site Design Plan for PDD No. 37 which identifies the use of common or complementary design themes, elements, or features throughout the development and/or for the four separate areas of PDD No. 37, for staff review and approval prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the Architectural and Site Design Plan as may be determined by the City). Staff further recommends that the applicants prepare a preliminary Architectural and Site Design Plan for staff review prior to submittal of the proposed PDD amendment to the Common Council.

Stormwater Management:

The applicants have not submitted a Stormwater Management Plan nor have they submitted much information about stormwater management in general. Therefore, staff recommends that the applicants submit a Comprehensive Stormwater Management Plan for PDD No. 37, for Engineering Department staff review and approval, prior to any development within PDD No. 37.

It should be noted that detailed Stormwater Management Plan(s) would be required at the time of a Site Plan, Special Use, etc. as is typically required by the UDO.

Signage:

The applicants have requested that a separate Master Sign Program govern all signage. Therefore, staff recommends that the applicants prepare a Master Sign Program for PDD No. 37, for staff review and approval, prior to any development within PDD No. 37.

Market Analysis:

Due to the scale and many unique characteristics of the proposed Ballpark Commons project, and the potentially significant impact upon City services and facilities, staff recommends that the applicants prepare a Market Analysis of the entire Ballpark Commons project, including an analysis of its fiscal impact upon the City and its provision of services to this area, for staff review and approval, prior to the submittal of any detailed plans within PDD No. 37 (such plans to incorporate the findings and recommendations of the Market Analysis as may be determined by the City). Staff further recommends that a preliminary Market Analysis be prepared for staff review prior to submittal of the proposed PDD amendment to the Common Council.

Design Standards:

Due the size and scale of the proposed Ballpark Commons project, including its greater intensity of envisioned land uses and proximity to adjacent residential subdivisions, ensuring proper design for all aspects of the project, not least of all site layout, architecture, landscaping, etc. will be extremely important. Therefore, staff has included certain design standards within the draft PDD amendment ordinance. These standards are patterned after similar standards found in the South 27<sup>th</sup> Street Plan that had also been incorporated into the City's 27<sup>th</sup> Street zoning ordinances.

CONCLUSION:

As previously noted, due to the lack of detail in much of the applicants' submittal materials, and the applicant's desired review time frame, the applicants have requested General Approval of the PDD amendment. If the Common Council grants such approval, additional detailed plans will be required from the applicants before any development can occur. As recommended herein by staff, such detailed plans would generally be reviewed by staff and the Plan Commission, and recommendations provided, for final consideration and approval by the Common Council.

In addition, staff is recommending that the applicants prepare certain District-wide plans prior to the submittal of any detailed plans. Such plans include: a Market Analysis; a Comprehensive Stormwater Management Plan; an Architectural and Site Design Plan; a General Landscape Plan; a Parking Study; a Traffic Impact Analysis; a Street Design Plan; and a Bike and Pedestrian Plan.

However, it is very important to note that certain items such as a final Traffic Impact Analysis or final Stormwater Management Plan could result in significant changes to the layout of this project. Staff would also note that the large number of buildings identified in the Development Concept Plan may be overly optimistic as not enough space may be available to meet landscape surface ratio requirements, parking requirements, and the stormwater management requirements.

As a portion of the subject property extends into the Village of Greendale (although it appears no active facilities are proposed within that area), staff would suggest that the applicant obtain the Village's support of this project as well.