



VIA HAND DELIVERY &
EMAIL COMMUNICATION

January 8, 2007

Mayor David J. Cieslewicz
Madison Common Council Members
Madison Plan Commission Members
City of Madison
210 Martin Luther King, Jr. Blvd.
Madison, WI 53703

Re: Madison-Burke-Sun Prairie-DeForest Boundary Agreement and Pathway
Community Church Lands Along Reiner Road

Dear Mayor, Council Members and Plan Commission Members:

We represent Pathway Community Church ("Pathway") which is the owner of certain lands located at the northeast corner of the intersection of Reiner Road and Nelson Road, and which holds an option to purchase certain lands located northerly along Reiner Road, all in the Town of Burke. This land will eventually be in the City of Madison under the Madison-Burke-Sun Prairie-DeForest Boundary Agreement ("Boundary Agreement"). A copy of Exhibits 11 and 12 from the Boundary Agreement is attached to this letter, and we have highlighted on the map (Exhibit 12) the lands that are owned or under contract to Pathway.

Although we are generally supportive of the concept of a boundary agreement between and among the various jurisdictions, and appreciate that the Boundary Agreement places all of the land owned by or under contract with Pathway in the City of Madison, we write to you at this time to express our objections and concerns with regard to a particular aspect of the treatment of the Pathway lands in Exhibits 11 and 12 of the Boundary Agreement.

Under Exhibits 11 and 12 to the Boundary Agreement, the Community Separation/Open Space designation has been placed on a portion of the lands owned by or under contract to Pathway. The line showing this designation is on Exhibit 12 and we have highlighted

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Mayor David J. Cieslewicz
Madison Common Council Members
Madison Plan Commission Members
January 8, 2007
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it on the enclosed copy. According to Exhibit 11, the nature of the restriction on the use of lands in this Community Separation designation area, including lands owned by or under contract to Pathway, will be quite severe, as not only is development for any business or residential use going to be prohibited, but any active recreational use will be prohibited as well.

We understand from discussions with the Planning Unit staff, and from a review of the language of Exhibit 11, that the exact boundaries of the Community Separation/Open Space area may be open to some negotiation at the time that a particular development plan is submitted, but we want to make clear that the legal effect of Exhibits 11 and 12 on a portion of the land now owned by Pathway, and on the overwhelming majority of the land under contract to Pathway, is to severely restrict, impair and reduce the value of this land to the point where no productive economic use may be made of this property.

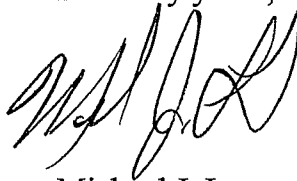
Although we remain willing to work with the City and its staff concerning the implementation of a park and open space program in the Reiner Road area, we want to make it clear at this time that the implementation of the terms of Exhibits 11 and 12 on a portion of the lands owned by Pathway and on the overwhelming majority of the lands under contract to Pathway, as now written, in the face of a specific development proposal from Pathway that meets other City requirements, will constitute a taking of property for public use and will require that the City pay just compensation to the owner.

The imposition of the community separation requirement in the area where the Pathway lands (whether owned or under contract) are located is dubious from a policy point of view, as this designation will have little impact on those traveling along US 151. Is this a good place to invest City money in the acquisition of open space? We feel this is highly questionable. The development of these lands should be evaluated using general City requirements, just like any other development parcels.

In the event that the City proceeds with the Boundary Agreement as it is now written, the Church will proceed with the preparation of its plans for this area, and the final scope of any Community Separation/Open Space area will need to be determined as part of the review process. The City will need to show considerable flexibility in evaluating these plans to avoid the possibility of a taking claim derived from the literal application of Exhibits 11 and 12 of the Boundary Agreement.

Mayor David J. Cieslewicz
Madison Common Council Members
Madison Plan Commission Members
January 8, 2007
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Sincerely yours,

A handwritten signature in black ink, appearing to read 'M. J. Lawton', written in a cursive style.

Michael J. Lawton

MJL:tept

cc: Brad Murphy
James Voss
Richard Brewster
Andrew Kessenich
Ronald Trachtenberg

EXHIBIT 11

Modification to the Madison-Sun Prairie Community Separation Agreements

A. Modifications to the Defined Permanent Open Space Areas

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the permanent open space provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, executed in 1991 and modified in 1993, and 1995, as illustrated in **Exhibit 12** and described further below:

1. North of U. S. Highway 151

- a. A substantial landscaped buffer zone shall be established and maintained along the north frontage of USH 151 between the American Parkway/Nelson Road interchange and the CTH C/Reiner Road interchange. The buffer zone shall be a minimum of 300 feet in depth measured from the near edge of the USH 151 right-of-way, and shall be preserved from development where no development is now present and be ultimately restored where development is now present.

The buffer zone is specifically intended to provide a natural undeveloped appearance along the highway frontage, and no development, signage or other urban improvements shall be permitted, other than a single community welcome sign for the City of Madison consistent with the character and intent of the zone, stormwater management facilities, and access roads thoroughly screened by landscaped berms from the highway. The entire area of the frontage buffer zone shall be planted with a mixture of native plant materials that include large deciduous and coniferous trees, appropriate understory shrubs and groundcovers to create and maintain a natural appearance. Where development is located adjacent to the buffer zone, the plantings are intended to screen the development visually from USH 151 travelers. Additional berming within the buffer zone may be appropriate as needed to help to screen development on lands to the north.

Madison and Sun Prairie agree to require fee dedication and/or easements and other implementation measures in an effort to secure the permanent preservation of this USH 151 buffer zone as part of development approvals within their respective jurisdictions.

The landscaped buffer zone is intended to be permanent open space extending beyond the term of this Cooperative Plan.

- b. A continuous permanent open space area is recommended north of USH 151, within Section 14 (T8N R10E) and extending generally between USH 151 and

Hoepker Road. The recommended minimum width of this open space area is 2,000 feet, as illustrated conceptually in **Exhibit 12**, but the area may be wider or narrower at specific locations. This open space area has been acquired by Madison as part of its commitment to implement the 1991 City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, as modified in 1993 and 1995; but no plans have been prepared for its ultimate use at this time. Recognizing that other elements of the 1991 Intergovernmental Agreement regarding establishment of a wide, continuous open space corridor extending north of Hoepker Road toward Token Creek have not been, and will not be, implemented, it is mutually agreed by the parties that the boundaries of this recommended open space area may be modified by Madison through further more-detailed planning, and that portions of the current open space area within the City of Madison may instead be developed with more intensive uses at some future time, provided that such development is compatible with uses in the balance of the open space area.

- c. Madison, Sun Prairie and Burke shall work cooperatively to establish multi-use bicycle/pedestrian paths or trails within the designated open space area north of USH 151 as needed to connect with other existing or proposed future trail connections north and west to Token Creek County Park and Cherokee Marsh and south and east to existing and proposed future trail connections south of USH 151. The location of the trail linkages will be determined through cooperative planning by Madison, Sun Prairie, Burke and Dane County.

2. South of U. S. Highway 151

- a. A substantial landscaped buffer zone shall be established and maintained along the south frontage of USH 151 between the American Parkway/Nelson Road interchange and the CTH C/Reiner Road interchange. The buffer zone shall be preserved from development where no development is now present and be ultimately restored where development is now present. The buffer zone is specifically intended to provide a natural, undeveloped appearance along the highway frontage, and to visually screen adjacent development to the east from USH 151 travelers.

Between the American Parkway/Nelson Road interchange and the south boundary of the Capital Avenue plat, the buffer zone shall be a minimum of 300 feet in depth measured from the near edge of the USH 151 right-of-way. No changes are made to the open space provisions in the existing Landfill/Ancillary Facilities Agreement that apply to the landscaped buffer zone along the USH 151 frontage of the Waste Management property. From a point on the south boundary of the Capital Avenue plat 300 feet from the near edge of the USH 151 right-of-way, the buffer zone shall narrow following a straight line extending generally northeasterly to the point where the west line

of the east one-half of the NE quarter of Section 14 of T8N-R10E intersects the east boundary of the USH 151 right-of-way, as illustrated in **Exhibit 12**. The current buffer zone along the USH 151 frontage of the Capital Avenue plat is only 50 feet, but at such future time as properties within the Capital Avenue plat may be re-subdivided and/or redeveloped in combination with other parcels with different or expanded uses, the parties agree that the expanded buffer zone as shown in **Exhibit 12** shall be implemented to the extent feasible, including potential implementation as a condition of development approvals.

The buffer zone is specifically intended to provide a natural undeveloped appearance along the USH 151 frontage, and no development, signage or other urban improvements shall be permitted, other than a single community welcome sign for the City of Sun Prairie consistent with the character and intent of the zone. The entire area of the frontage buffer zone shall be planted with a mixture of native plant materials that include large deciduous and coniferous trees, appropriate understory shrubs and groundcovers to create and maintain a natural appearance. Where development is located adjacent to the buffer zone, the plantings are intended to screen the development visually from USH 151 travelers. Additional berming within the buffer zone may be appropriate as needed to help to screen development on lands to the south.

Madison and Sun Prairie agree to require fee dedication and/or easements and other implementation measures in an effort to secure the permanent preservation of this USH 151 buffer zone as part of development approvals within their respective jurisdictions.

The landscaped buffer zone is intended to be permanent open space extending beyond the term of this Cooperative Plan.

- b. On the Waste Management property, no changes are made to the provisions in the 1993 Landfill/Ancillary Facilities Agreement by and among Browning-Ferris Industries of Wisconsin, Inc. (now Waste Management, Inc.), the City of Madison, the City of Sun Prairie and Dane County regarding land uses and open space preservation. This agreement provides that development uses on the property now owned by Waste Management are limited to an integrated solid waste facility consisting of 1) a special waste landfill, 2) a hauling company, 3) a materials recovery facility, and 4) a transfer station, which activities are specifically confined to identified locations within the property by the terms of the agreement. The agreement also provides that the use of the balance of the property, as well as the final use of the landfill portion of the property after closure of the landfill, shall be limited to open space and conservancy uses approved by Madison, Sun Prairie, and Dane County except for necessary landfill monitoring and maintenance activities. The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies this provision to specify that Sun Prairie will cede

its approval of future open space and conservancy uses on the Waste Management property to Madison.

- c. A permanent open space area is recommended in an irregularly shaped area located adjacent to and east of the USH 151 landscaped buffer zone described in Section A.2.a. between the current east boundary of the Waste Management property and the south boundary of the Capital Avenue plat, as illustrated in **Exhibit 12**. Land uses within this area shall be permanent open space uses as defined in Chapter 5 of the 1990 City of Madison Peripheral Area Development Plan and consistent with the general objective of maintaining a visual sense of non-developed open space along this segment of the USH 151 corridor.
- d. The recommended continuous community separation open space corridor that includes the permanent open space area north of USH 151 described in Section A.1.b., and the open space uses on the Waste Management property described in Section A.2.b., is extended eastward to encompass additional lands east of Reiner Road, as illustrated in **Exhibit 12** and described further below:
 - i. A permanent open space area is recommended east of Reiner Road beginning at the southwest corner of the First Addition to Smith's Crossing subdivision plat in the City of Sun Prairie; thence east and southeasterly to the Canadian Pacific railroad right-of-way; thence northeasterly following the railroad right-of-way to the east boundary of the Town of Burke (T8N-R10E); thence south following the Town line to a point approximately 2,000 feet north of the centerline of Nelson Road; thence west and southwesterly to encompass the large wooded hill located northeast of the Nelson Road/Reiner Road intersection; thence northwesterly to a point on Reiner Road approximately 1,500 feet north of the centerline of Nelson Road. The boundary of the recommended permanent open space area is illustrated conceptually in **Exhibit 12**.

The recommended minimum width of this permanent open space corridor is 2,000 feet, but the corridor may be wider or narrower depending on the locations of specific open space features and/or lands with development constraints. Detailed Madison land use and open space plans will establish the exact boundaries of the open space areas to be preserved, the uses allowed on any recommended development areas adjacent to or within open space preservation areas, and the specific methods for ensuring long-term protection of the most desirable open space lands.

It is expressly intended that the wooded hill and steep slopes located east of Reiner Road be maintained in an essentially natural state, free not only

from urban development, but from intensive recreational uses that would alter its visual character.

- ii. Land uses within the future permanent open space areas shall be consistent with permanent open space uses as defined in Chapter 5 of the 1990 City of Madison Peripheral Area Development Plan. This provision is not intended to prohibit the expansion, reconfiguration or reconstruction of existing residential properties located within the recommended open space areas.
- iii. Madison, Sun Prairie and Burke shall each have the opportunity to comment on all proposed land uses within the permanent open space area prior to consideration by the municipality with development approval jurisdiction.
- e. Madison, Sun Prairie and Burke shall work cooperatively to establish multi-use bicycle/pedestrian paths or trails within the designated open space area south of USH 151 as needed to connect with other existing or proposed regional trail connections north of USH 151, east toward Sun Prairie, and south toward Madison and proposed recreational trail connections extending along the Door Creek corridor and south to Lake Kegonsa. The location of the trail linkages will be determined through cooperative planning by Madison, Sun Prairie, Burke and Dane County.

B. Modifications to the Defined Development Areas

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the development area provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, executed in 1991 and modified in 1993, and 1995, as illustrated in **Exhibit 12** and described further below:

1. North of U. S. Highway 151

- a. Provisions limiting the allowed land uses that may be established within the defined Sun Prairie Future Development Area located west of relocated CTH C and south of the former Hoepker Road right-of-way are hereby null and void, and the allowed types of development shall be established by Sun Prairie land use plans.

Notwithstanding the preceding provision, Sun Prairie agrees that any development on lands adjacent to the defined permanent open space area shall be of high quality design, that building facades facing the open space shall incorporate materials and design similar to the other facades, and that any building loading and service areas, outdoor storage or parking areas shall include substantial landscape screening that will effectively reduce their

visibility from the open space area. It is further agreed that lighting and signage within the development area shall seek to minimize any visual impacts on the adjacent open space area, including use of downcast and shielded lighting fixtures and other appropriate methods. In no case shall signage other than that is not consistent with Sun Prairie standards be placed where it will be substantially visible from within the open space area.

Madison and Burke shall have the opportunity to comment on all land use plan amendments and proposed developments within the Sun Prairie Future Development Area prior to consideration of the proposal.

- b. As described in Section A.1.b., above, a portion of the recommended open space area north of USH 151 currently owned by, and within, the City of Madison may instead be developed with more intensive uses at some future time, provided that such development is compatible with uses in the balance of the open space area. Madison agrees that any development on lands adjacent to the defined permanent open space area shall be of high quality design, that building facades facing the open space shall incorporate materials and design similar to the other facades, and that any building, loading and service areas, outdoor storage, or parking areas shall include substantial landscape screening that will effectively reduce their visibility from the open space area. It is further agreed that lighting and signage within the development area shall seek to minimize visual impacts on the adjacent open space area, including use of downcast and shielded lighting fixtures and other appropriate methods. In no case shall signage that is not consistent with Madison standards be placed where it will be substantially visible from within the open space area.

Specific boundaries and allowed types of development within a future development area, in the event that one is created at a future time, shall be established by Madison land use plans.

Sun Prairie and Burke shall each have the opportunity to comment on all land use plan amendments or proposed developments establishing or within a future Madison development area north of USH 151 prior to consideration of the proposal.

2. South of USH 151

- a. A General Development Area is established north of the current Waste Management property, south of the Capital Avenue plat, and east of the USH 151 landscaped buffer zone and recommended permanent open space area described in Sections A.2.a. and A.2.c., as illustrated in **Exhibit 12**.

Within the General Development Area, the allowed types of development shall be established by Sun Prairie land use plans. Lighting within the General Development Area shall seek to minimize any visual impacts on the adjacent landscaped buffer zone and open space areas, including use of downcast and shielded lighting fixtures and other appropriate methods; and signage that is not consistent with Sun Prairie standards shall not be placed where it will be substantially visible from the USH 151 corridor.

- b. Madison, Sun Prairie and Burke shall each have the opportunity to comment on all land use plan amendments or proposed developments within the General Development Area prior to consideration of the proposal by the municipality with development approval jurisdiction.

C. Modifications to the Ultimate Jurisdictional Boundaries

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the ultimate jurisdictional boundaries provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation.

1. The ultimate jurisdictional boundary between the City of Madison and the City of Sun Prairie is established by the Boundary Adjustment Area Plans defined in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan, as illustrated in **Exhibit 2** and **Exhibit 3**.
2. Article 4.b. of the revision to the Madison-Sun Prairie Intergovernmental Agreement Regarding Community Separation executed on March 3, 1993, which provides for the future detachment of a portion of the current Waste Management landfill property from the City of Madison and its attachment to the City of Sun Prairie at the request of the City of Sun Prairie, is hereby null and void.

Exhibit 12

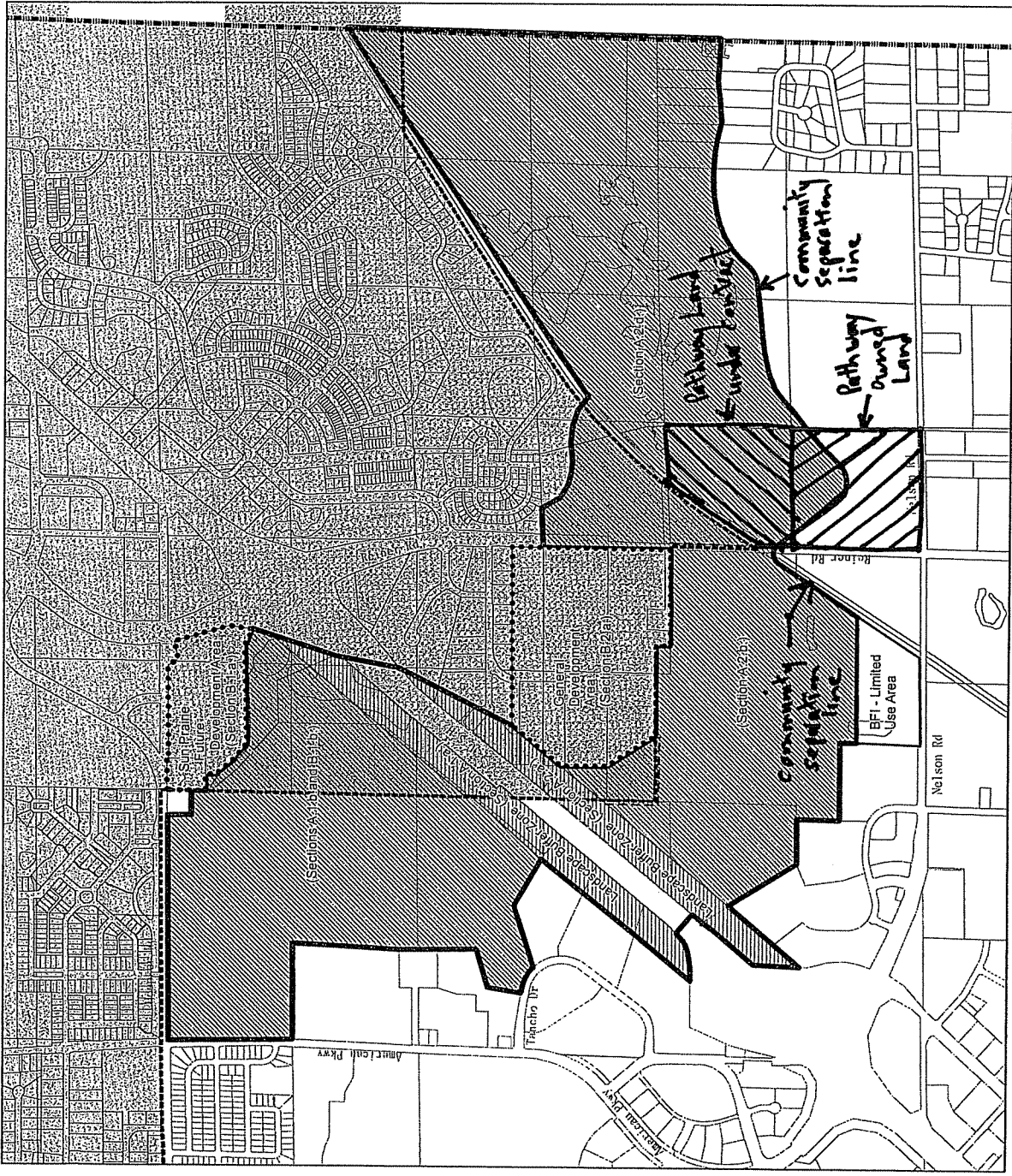
**Madison-Sun Prairie Community
Separation Agreement Area**

Exhibit 12 Madison-Sun Prairie
Community Separation
Agreement Area

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006

- Final Boundary Line
- Recommended Open Space
- Landscaped Buffer Zone
- Future City of Sun Prairie
- Future City of Madison

Data Source:
City of Madison, Department of Planning and Development, Planning Unit



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5 January 2007

Mayor David J. Cieslewicz
Members of the Common Council
Members of the Board of Estimates
Members of the Plan Commission
City of Madison

Re: Our client: Madison Crushing & Excavating, Inc.
Final Town of Burke, Village of DeForest, City of Sun Prairie,
and City of Madison Cooperative Plan dated December 22, 2006

Dear Mr. Mayor, Members of the Common Council, Members of the Board of Estimates
and Members of the Plan Commission:

We are the attorneys for Madison Crushing & Excavating, Inc.

Madison Crushing & Excavating, Inc. owns lands in the area bounded by Reiner Road to the west, Nelson Road to the south, the Town of Burke/Town of Sun Prairie town line to the east and the railroad tracks to the north. We are enclosing with this letter a copy of Exhibit 12 to the Final Town of Burke, Village of DeForest, City of Sun Prairie, and City of Madison Cooperative Plan dated December 22, 2006, which we have marked to show the exact location of the Madison Crushing & Excavating, Inc. lands. Madison Crushing & Excavating, Inc. anticipates quarrying these lands for the next twenty years and therefore it is anticipated that these lands will stay in the Town of Burke during that period of time.

At the public hearing on the preliminary draft of the Town of Burke, Village of DeForest, City of Sun Prairie, and City of Madison Cooperative Plan, Madison Crushing & Excavating, Inc. raised three objections:

1. Madison Crushing & Excavating, Inc. wanted its lands to be in one jurisdiction, not two;
2. Madison Crushing & Excavating, Inc. wanted language that sanitary sewer service would be provided by the municipality best able to serve its lands; and

5 January 2007

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3. Madison Crushing & Excavating, Inc. wanted its lands removed from the Community Separation/Open Space designation area.

Please see the attached copy of our statement of August 10, 2006.

Two of those concerns have been fully met. The Madison Crushing & Excavating, Inc. lands are to be attached to the City of Madison and we have received assurances that the City of Madison and the City of Sun Prairie will cooperate on sanitary sewer service.

The third area of concern, the issue of Community Separation/Open Space designation, has been partially addressed. While a portion of the Madison Crushing & Excavating, Inc. lands are still within the Community Separation/Open Space designated area (see attached Exhibit 12), the southern boundary line of that designated area has been moved north and there is language in the Cooperative Plan that:

The recommended minimum width of this permanent open space corridor is 2,000 feet, but the corridor may be wider or narrower depending on the location of specific open space features and/or lands with development constraints. Detailed Madison land use and open space plans will establish the exact boundaries of the open space areas to be preserved, the uses allowed on any recommended development areas adjacent to or within the open space preservation areas, and the specific methods for ensuring the long-term protection of the most desirable open space lands.

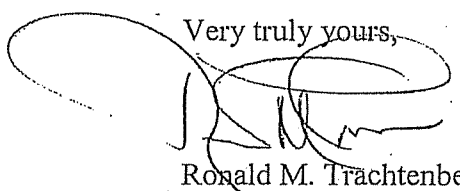
In addition, the City Attorney's office has acknowledged that otherwise developable land that is not required to be dedicated under the normal parkland dedication requirements would have to be purchased by the City of Madison.

As we understand the Cooperative Plan, the exact Community Separation/Open Space corridor as imposed on the Madison Crushing & Excavating, Inc. lands is still subject to negotiations and in any event, those lands that the City of Madison requires for Community Separation/Open space above and beyond normal parkland dedication requirements will have to be purchased by the City of Madison. Those negotiations have not taken place as development of the Madison Crushing & Development, Inc. lands is twenty years out. (At present, Madison Crushing & Development, Inc. conceives of its lands being ultimately developed for low to medium density housing, using the ponds as a water feature to tie in the development. This is consistent with the quarrying restoration plan.)

Madison Crushing & Excavating, Inc. questions the wisdom of requiring Community Separation/Open Space between the City of Madison and the City of Sun Prairie east of Reiner Road. While the general justification under the open space provisions of the Cooperative Plan appears to be one of aesthetics, maintaining an open space view corridor along US Highway 151, the proposed Community Separation/Open Space corridor east of Reiner Road is not visible from US Highway 151 and except for a short distance along Reiner Road, is not visible from any adjacent street or highway and does not so serve the general public. To the extent that the City of Madison desires to preserve an area for a hiking/bicycle path along the railroad tracks to the north, that can be accomplished, but with significantly less than 2000 feet in width for buffering.

What has not taken place to the best of our knowledge is a discussion by the Board of Estimates, Plan Commission, Parks Commission (we do not believe the Cooperative Plan has been referred to the Parks Commission) and the Common Council of the purported benefits of the Community Separation/Open Space designated lands east of Reiner road versus the purchase cost of such designated lands. Recognizing that City staff would like to keep on the present approval time table to avoid an additional public hearing and that development of the Madison Crushing & Excavating lands is twenty years off, and given the latitude of the language within the Cooperative Plan itself, the issue becomes the necessity of having that discussion now. The reason is quite simple: long adopted plans, even if they are not justified, tend to take on a life of their own and become harder to modify as they get older. In this day of limited resources and significant needs, we need to have that discussion now.

Very truly yours,


Ronald M. Trachtenberg

RMT:srp
061708

mayor & members 010507

Enclosures

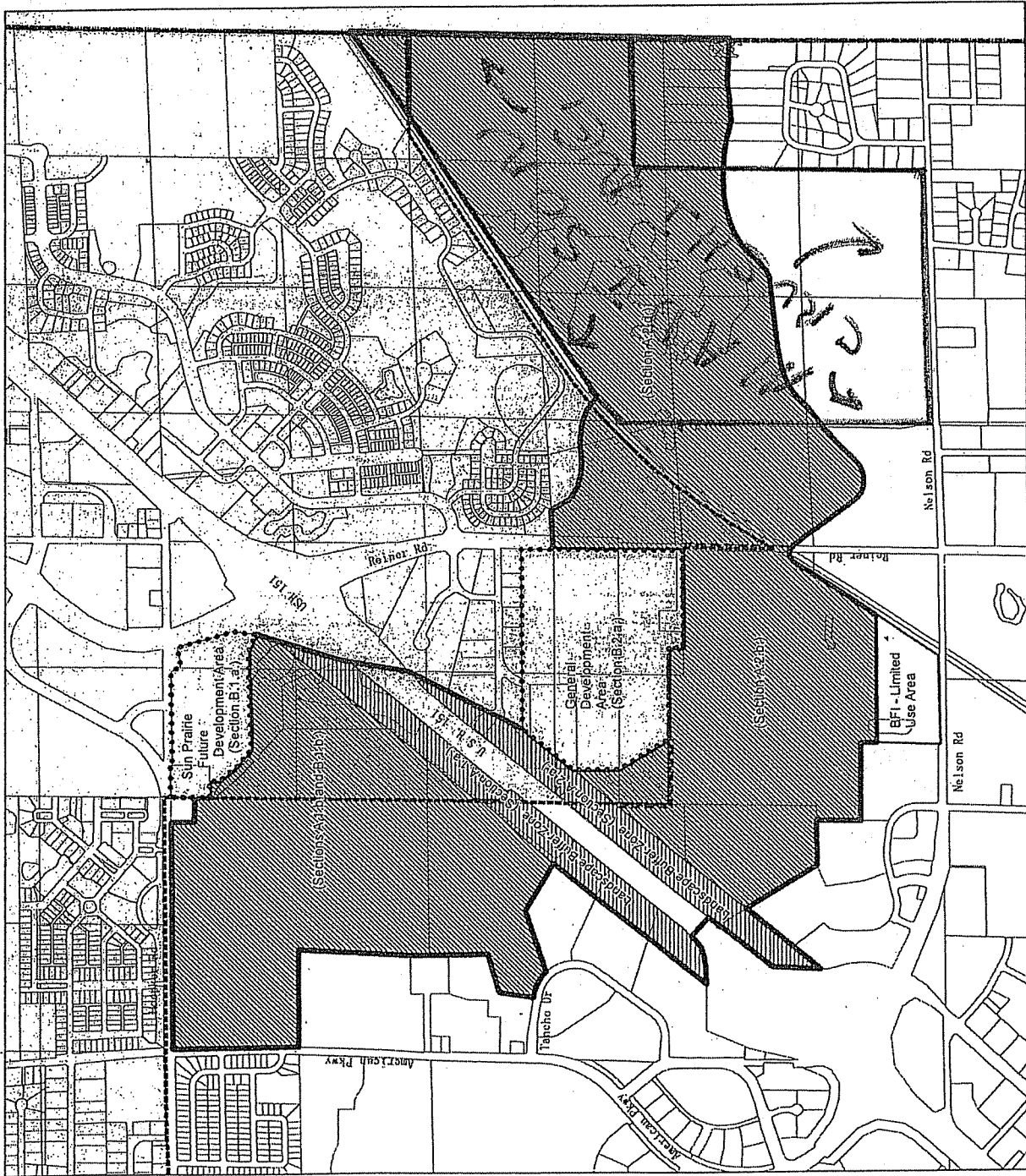
cc: City of Madison Department of Planning and Development
Attn.: Mr. Brad Murphy
City of Madison Office of the City Attorney
Attn.: Mr. James Voss
Attorney Michael J. Lawton
Madison Crushing & Excavating, Inc.
Attn.: Mr. William Ziegler

Exhibit 12 Madison-Sun Prairie
Community Separation
Agreement Area

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006

- Final Boundary Line
- Recommended Open Space
- Landscaped Buffer Zone
- Future City of Sun Prairie
- Future City of Madison

Data Source:
City of Madison Department of Planning and Development, Planning Unit



**STATEMENT TO THE TOWN OF BURKE, VILLAGE OF DEFOREST,
CITY OF SUN PRAIRIE AND CITY OF MADISON REGARDING
THE JULY 26, 2006 DRAFT COOPERATIVE PLAN**

My name is Ron Trachtenberg, and I am an attorney with Murphy Desmond, SC, the attorneys for Madison Crushing & Excavating Co., Inc.

Madison Crushing owns approximately 290 acres in Sections 13 and 24 in the Town of Burke as well as other lands in the Town of Burke, Town of Sun Prairie, and City of Sun Prairie. The Section 13 lands include all or parts of the NE1/4 and SE1/4 south of the railroad tracks and the Section 24 lands include all or parts of the W1/2 of the NE1/4 and the E1/2 of the NW1/4. For purposes of this statement, when I refer to the Madison Crushing lands, I am referring just to those lands owned by Madison Crushing in Sections 13 and 14.

Madison Crushing congratulates the Town of Burke, the Village of DeForest, the City of Sun Prairie and the City of Madison in the preparation of the Cooperative Plan to govern the development of lands now within the Town of Burke to urban standards, including the provision of public utilities and services to those lands, the eventual incorporation of those lands into the Village and two Cities and the dissolution of the Town of Burke on a firm economic basis. Madison Crushing supports rational, well planned urban growth.

The Madison Crushing lands consist of wetlands, lands that have been subject to mineral extraction and that have been reclaimed and are ready for development upon the availability of urban services (sewer and water), and lands which will be subject to mineral extraction for an anticipated period of 15 to 20 years depending upon mineral demand and land economics and then subject to reclamation and development upon the availability of urban services. The reclamation plans that have been agreed to, implemented, are in the process of implementation, and are to be implemented are all done and being done in the anticipation of development of those reclaimed lands. We would also note that the area also includes both natural and man-made small lakes and large ponds. In many ways, the Madison Crushing lands are easily developable into an area similar to the Autumn Lake subdivision just recently approved and lauded by the City of Madison.

Madison Crushing would like to address two issues that affect its lands: municipal boundaries and community separation and open space. The Madison Crushing lands are bisected by the proposed municipal boundary between the City of Sun Prairie and the City of Madison and are in the area of community separation between the City of Sun Prairie and the City of Madison, with the vast bulk of its lands being overlaid with the Open Space Corridor designation.

On the first point, we note that the municipal boundary line in the area of the Madison Crushing lands generally follow the section lines and bisect the Madison Crushing lands. We are uncertain as to why the municipal boundary simply does not follow the railroad tracks or why it "drops" south to include the N1/2 of the NW1/4 of Section 24. Madison Crushing

does not favor the City of Sun Prairie or the City of Madison as a political entity. Our position is quite simple. The ultimate boundary between the two Cities should be based upon what City can best provide municipal services to the subject area. To the extent that the proposed municipal boundary line is not based upon the provision of municipal services, it should be revised.

The second point is the inclusion of the bulk of the Madison Crushing lands in the Open Space Corridor designation as reflected in Section 18, Comprehensive/Master Planning, Subsection F, Madison-Sun Prairie Intergovernmental Agreement Regarding Community Separation (pages 51 and 52), and Exhibits 20, Modification to the Madison-Sun Prairie Community Separation Agreements, and 21, Map of the Madison-Sun Prairie Community Separation Open Space Corridor.

Madison Crushing is neutral on the issue of community separation. While community identification does have benefits, it does not necessarily take a "green zone" to foster community identification. While Madison Crushing is willing to work with the City of Sun Prairie and the City of Madison, as well as Dane County, to provide for open space and parkland as part of the development of the Madison Crushing lands, the provision of a green zone solely for the purpose of providing community separation should not be a private burden, but a public expense.

Madison Crushing notes the very broad spatula approach (broader than even a butter knife) in designating the proposed green space as designated in Exhibit 20, section A. 2. h. and as shown on Exhibit 21, including vast amounts of developable land. Madison Crushing submits that this designation will constitute a taking of private land for a public purpose without compensation at the time the Madison Crushing lands are ready for development if such development is prohibited based upon the Open Space Corridor designation or unless such lands are bought by a public entity at fair market value.

Madison Crushing calls upon the City of Sun Prairie and the City of Madison, in consultation with the Town of Burke, to revise the aforementioned Section 18 and Exhibits 20 and 21 to better reflect a reasonable differentiation between developable lands and community separation, parks and open space, or expressly provide in the Cooperative Plan that pursuant to and as part of Exhibit 20, section A. 2. h., that the City of Sun Prairie and the City of Madison, in consultation with the Town of Burke, will work with Madison Crushing (and the other property owners in the area) in the future to develop a modification to Exhibits 20 and 21 to better reflect a reasonable differentiation between developable lands and parks and open space as part of the development of the Madison Crushing lands (and neighboring lands) as part of master planning neighborhoods in the area of the Madison Crushing lands.