

**APPLICATION FOR
URBAN DESIGN COMMISSION
REVIEW AND APPROVAL**

AGENDA ITEM # _____
Project # _____

DATE SUBMITTED: <u>10/15/07</u>	Action Requested
UDC MEETING DATE: <u>11/07/07</u>	<input type="checkbox"/> Informational Presentation
	<input type="checkbox"/> Initial Approval and/or Recommendation
	<input type="checkbox"/> Final Approval and/or Recommendation

PROJECT ADDRESS: 9821 Mineral Point Road

ALDERMANIC DISTRICT: 9

OWNER/DEVELOPER (Partners and/or Principals) ARCHITECT/DESIGNER/OR AGENT:
Kurt Welton, President & CEO _____
Welton Enterprises, Inc. _____

CONTACT PERSON: Michael R. Christopher
Address: 2 E. Mifflin St., Ste. 600
Madison, WI 53703
Phone: 608-252-9365
Fax: 608-252-9243
E-mail address: mrc@dewittross.com

TYPE OF PROJECT:

(See Section A for:)

- Planned Unit Development (PUD)
 - General Development Plan (GDP)
 - Specific Implementation Plan (SIP)
- Planned Community Development (PCD)
 - General Development Plan (GDP)
 - Specific Implementation Plan (SIP)
- Planned Residential Development (PRD)
- New Construction or Exterior Remodeling in an Urban Design District * (A public hearing is required as well as a fee)
- School, Public Building or Space (Fee may be required)
- New Construction or Addition to or Remodeling of a Retail, Hotel or Motel Building Exceeding 40,000 Sq. Ft.
- Planned Commercial Site

(See Section B for:)

- New Construction or Exterior Remodeling in C4 District (Fee required)

(See Section C for:)

- R.P.S.M. Parking Variance (Fee required)

(See Section D for:)

- Comprehensive Design Review* (Fee required)
- Street Graphics Variance* (Fee required)
- Other condition of final approval of rezoning

*Public Hearing Required (Submission Deadline 3 Weeks in Advance of Meeting Date)

Where fees are required (as noted above) they apply with the first submittal for either initial or final approval of a project.



DEWITT
ROSS & STEVENS^{SC}
LAW FIRM

www.dewittross.com

Capitol Square Office
Two East Mifflin Street
Suite 600
Madison, WI 53703-2865
Tel 608-255-8891
Fax 608-252-9243

West Office
8000 Excelsior Drive
Suite 401
Madison, WI 53717-1914
Tel 608-831-2100
Fax 608-831-2106

Metro Milwaukee Office
13935 Bishop's Drive
Suite 300
Brookfield, WI 53005-6605
Tel 262-754-2840
Fax 262-754-2845

Please respond to: Capitol Square Office
Direct line: 608-252-9365
Email: mrc@dewittross.com

October 15, 2007

HAND DELIVERY

Paul Wagner, Chair
Urban Design Commission
215 Martin Luther King, Jr. Blvd., Room LL 100
Madison, WI 53703

RE: Silicon Prairie Business Park

Dear Paul:

I represent NEW WEI, LLC by Kurt Welton who is the owner of the Silicon Prairie™ Business Park (“SPBP”) located at 9821 Mineral Point Road. The purpose of this letter is to get your feedback on our Amendment which is necessary to complete the rezoning of the SPBP. In September of 2007, the City of Madison approved the rezoning of Lots 1-5 from Specific Manufacturing District (“SM”) to Research Park - Specialized Manufacturing District (“RPSM”). The City conditioned the approval upon the Urban Design Commission’s review of our Amendment to the Protective Covenants and Restrictions (“Covenants”). Our changes may also be viewed in italics in the attached Amendment.

The City approved the rezoning of the SPBP for a number of reasons which are summarized below.

1. The proposed rezoning is consistent with the *Comprehensive Plan* and the Pioneer Neighborhood Development Plan (“PNDP”).
2. A high-quality, dense, industrial type of building on Lot 1 would “hold the corner” of the intersection of Mineral Point Road and South Point Road.
3. It is necessary to construct a multi-story building on Lot 1 in order to economically justify the cost of acquiring and removing the single family home adjacent to Lot 1 which obviously represents an inconsistent land use.

Paul Wagner, Chair
Urban Design Commission
October 15, 2007
Page 2

4. Although the objective of promoting economic development is common in both the SM and RPSM zoning categories, the SM *Statement of Purpose* emphasizes light industrial uses on site while the RPSM text is much more flexible because it also emphasizes the construction of aesthetically attractive working environments for specialized manufacturing establishments, research and development institutions and offices. The permitted uses of the RPSM zoning text represents the niche in the market that Kurt Welton envisions.
5. The rezoning of Lots 1-5 will be consistent with the contemplated land uses directly across from Mineral Point Road, within the BlackHawk Church Town Center development.
6. The proposed rezoning would allow for an exemplary development at a key “gateway” location.

It is for this last reason that the City has requested your review of our Amendment to the Covenants.

When the SPBP was rezoned in 2002, Kurt submitted a Declaration of Protective Covenants and Restrictions, which was approved by your office. It should be noted that the Covenants contain a provision by which all buildings are reviewed and approved by an Architectural Control Committee (“ACC”). The ACC consists of a licensed architect, a licensed landscape architect, a licensed engineer with experience in storm water management, the Developer or its designee and the Director of the City of Madison Department of Planning and Development or his designee. The contract purchaser of any building to be constructed on Lots 1-5 would be required to address the following considerations to be reviewed by the ACC:

1. Multi-story buildings
2. Buildings which would have a minimal setback from Mineral Point Road and South Point Road
3. Underground parking
4. Surface parking to be located behind the building and not oriented to any street frontage
5. Pedestrian-friendly design
6. “Green” building design that combines energy and water efficiency, healthy indoor air quality and the use of natural building materials
7. “Green” building materials which are natural, durable and renewable

Paul Wagner, Chair
Urban Design Commission
October 15, 2007
Page 3

8. Indoor air quality which emits few or no carcinogens, toxicants, or irritants by using products with minimal emissions of Volatile Organic Compounds which will be moisture resistant and will be healthfully maintained by requiring simple, non-toxic, or low-Voc methods of cleaning
9. A design that incorporates green spaces consistent with the environmental setting
10. A design that provides for aesthetic and safe passageways for vehicles, pedestrians and bicyclists

By requiring review and approval by the ACC, the buildings on Lots 1-5 will be held to high standards of design making them unique and distinct in the City of Madison.

Please feel free to contact me or Kurt Welton, who can be reached at (608) 833-5590.

Thank you.

Sincerely,

DEWITT ROSS & STEVENS s.c.

Michael R. Christopher / RLS

Michael R. Christopher

MRC:aet
Enclosure

cc: Urban Design Commission members (w/ enclosure)
Alderperson Paul Skidmore (w/ enclosure)
Mr. Brad Murphy (w/ enclosure)
Mr. Kevin Firchow (w/ enclosure)
Mr. Bill Fruhling (w/ enclosure)
Mr. Al Martin (w/enclosure)
Mr. Kurt Welton (w/ enclosure)

**SECOND AMENDMENT TO
DECLARATION**

Document Number

**First Amendment to the Declaration of Protective Covenants
and Restrictions for the Silicon Prairie™ Business Park**

This amendment is made this ___ day of October, 2007,
by NEW WEI, LLC, its successors in interest or assigns (the
“Developer”).

RECITALS:

WHEREAS, the Developer is the owner of certain lands
in the City of Madison, Dane County, State of Wisconsin
described as Lots One (1) through Seventeen (17) (individually a
“Lot” and collectively the “Lots”) and Outlots One (1) through
Two (2) (individually an “Outlot” and collectively the
“Outlots”), Silicon Prairie™ Business Park (the Lots and Outlots
being collectively referred to herein as the “Development”); and

WHEREAS, in October, 2000, the City of Madison (the “City:”) approved the development
and zoned it SM Specific manufacturing District pursuant to the City of Madison General
Ordinances; and

WHEREAS, On March 27, 2003 after review and approval by the City Urban Design
Commission, the Developer recorded Declaration of Protective Covenants and Restrictions
(“Declaration”) to ensure that the Development will become and remain an attractive place to do
business, to ensure the most appropriate improvement of each Lot; to guard against the erection of
poorly designed and/or poorly proportion structures; and to promote and maintain the highest and
best uses of the lands commensurate with the zoning and use classifications and demographics of
this Development; and

WHEREAS, Article III of said Declaration creates an Architectural Control Committee
(“ACC”) to review all improvements to be constructed within the Development to ensure that any
proposed Development is consistent with the Declaration; and

WHEREAS, the ACC includes a licensed architect, a licensed landscape architect, a licensed
engineer with experience in storm water management, the Developer or its designee and the
Director of the City of Madison Department of Planning and Development or his designee; and

WHEREAS, in order to improve the ability to market the Development and to create a more
aesthetically pleasing gateway entrance to the Development, the Developer has applied for a
rezoning of Lots One (1) through Five (5) (the “Rezoned Lots”) from SM Specific Manufacturing
District to RPSM Research Park Specialized Manufacturing District; and

Name and Return Address

Michael R. Christopher
DeWitt Ross & Stevens SC
2 East Mifflin Street, Suite 600
Madison, WI 53703

(Parcel Identification Number)

WHEREAS, on September 4, 2007 the City conditionally approved the Developer's application for rezoning upon the condition that the Declaration be amended to reflect the change in zoning.

NOW THEREFORE, Developer declares that the Declaration is hereby amended and that the provisions of this Amendment shall inure to the benefit of, and encumber the Development and run with the land, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

1. Zoning Restrictions. The definition of Zoning Restrictions in the Declaration is amended so that the provisions contained in M.G.O. 28.10 (2) RPSM Research Park Specialized Manufacturing District. RPSM Research Park Specialized Manufacturing District apply to the Rezoned Lots and that the provisions contained in M.G.O. 28.10 (3) SM Specific Manufacturing District apply to Lots Six (6) through Seventeen (17) (the "Remaining Lots").

2. Article II of the Declaration is amended to provide:

This Development is subject to existing zoning and use restrictions imposed by the City of Madison, including, without limitation, the Zoning Restrictions and all provisions of the Madison General Ordinances, as well as other statutes and regulations imposed by any other governmental units (which Zoning Restrictions, other ordinances, statutes and regulations are collectively referred to as the "Government Restrictions"). The Developer recognizes that the Zoning Restrictions control, in large part, the nature and use of the lands within the Development. The Zoning Restrictions may be changed by the City of Madison as the result of amendments to the ordinance that creates and govern the RPSM Research Park Specialized Manufacturing District and the SM Specific Manufacturing District. The Developer, so long as it owns any interest in any Lot, may unilaterally petition for a rezoning change or termination. Any other owner of the fee simple interest (or, in the case of a land contract, a vendee's interest) in a Lot (individually an "Owner" and collectively the "Owners") may petition the City of Madison to change or terminate any of the Zoning Restrictions only if such petition has been signed by not fewer than the Owners of at least 75% of the Lots and, if Developer then owns any interest in any Lot, by the Developer. If there is any conflict between any restriction set forth in this Declaration and any Government Restriction, the more restrictive restriction shall apply.

All Owners acknowledge the City of Madison may require, prior to issuing a building permit for any improvements upon any Lot, that the Owner of the Lot grant easements, if none are in existence already, along the side lot lines for a distance of six feet (6') from the edge of the property towards the inside of the Lot, to the City of Madison, to other public utilities, and to the Developer as necessary for drainage and stormwater purposes, for the placement of underground pipes, wiring, cables, conduits and other utility facilities and equipment, and for heating and cooling supply lines.

The Developer and all Owners are hereby on notice that the Common Council retains the ability to rezone properties to carry out the recommendations of its adopted plans, and to accomplish the plan's objectives.

3. Section 4.01 of the Declaration governing General Design Objectives is amended to read:

4.01 General. The design objectives for all building architecture and site layout within the Plat are to create an attractive setting for industrial and manufacturing uses on the SM Lots and for business office uses on the Rezoned Lots in accordance with the applicable provisions of section 28.10, Madison General Ordinances, and for the development of a business park that sets high standards for quality and excellence in building design and site layout. Individual projects are encouraged to display creativity and unique identity. A harmonious blend of all projects will be a desirable goal for the total business park development, as well as immediate neighbors of the Development. The ultimate goal will be the creation of a business park with a unique and enduring design, and which makes a statement of functionality and integrity within the requirements of the applicable ordinances.

To further ensure that the area maintains its distinct design, the contract purchaser will be required to include the following considerations for any building to be constructed on Lots 1-5, and these additional considerations must be evaluated and approved by the Architectural Control Committee:

- 1. Multi-story buildings*
- 2. Buildings which would have a minimal setback from Mineral Point Road and South Point Road*
- 3. Underground parking*
- 4. Surface parking to be located behind the building and not oriented to any street frontage*
- 5. Pedestrian-friendly design*
- 6. "Green" building design that combines energy and water efficiency, healthy indoor air quality and the use of natural building materials*
- 7. "Green" building materials which are natural, durable and renewable*
- 8. Indoor air quality which emits few or no carcinogens, toxicants, or irritants by using products with minimal emissions of Volatile Organic Compounds which will be moisture resistant and will be healthfully maintained by requiring simple, non-toxic, or low-Voc methods of cleaning*
- 9. A design that incorporates green spaces consistent with the environmental setting*
- 10. A design that provides for aesthetic and safe passageways for vehicles, pedestrians and bicyclists*

4. All other provisions of the Declaration remain in full force and effect for the Rezoned Lots and the remaining lots of the Development. Nothing herein shall be read to relieve the Development and each lot thereof from the conditions, restrictions, covenants and reservations set forth in the provisions of the Declaration not specifically amended herein.

IN WITNESS WHEREOF, the Developer has executed this Amendment this ____ day of October, 2007.

NEW WEI, LLC
(the "Developer")

By: _____
Kurtis D. Welton, President

State of Wisconsin)
) ss.
County of Dane)

Personally came before me this ____ day of October, 2007, Kurtis D. Welton, to me known to be the President of NEW WEI, LLC, the Developer, who executed this instrument and acknowledged the same.

Name: _____
Notary Public, Dane County, Wisconsin
My Commission expires: _____

This document drafted by:
Attorney Michael R. Christopher
DeWitt Ross & Stevens SC
2 East Mifflin St.
Suite 600
Madison, WI 53703