



City of Madison

Proposed Rezoning

Location

9502 & 9602 Silicon Prairie Parkway/
101, 102 & 202 St Philomena Way

Applicant

Kurt Welton – NEW WEI, LLC/Michael
Christopher – DeWitt Ross & Stevens SC

From: SM

To: RPSM

Existing Use

Vacant Land in Business Park

Proposed Use

Rezoning 5 Lots in Silicon Prairie
Business Park for Office Development

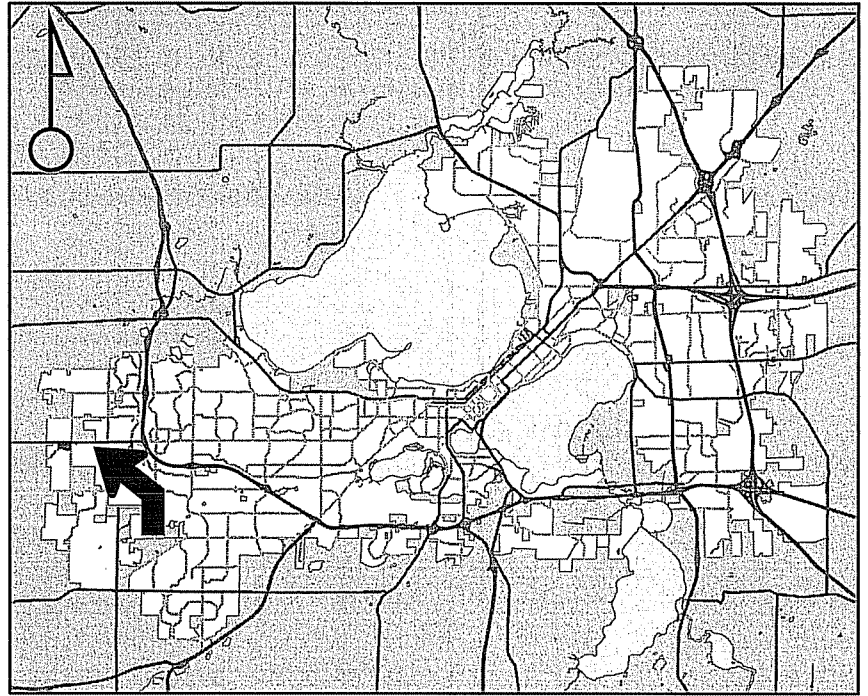
Public Hearing Date

Plan Commission

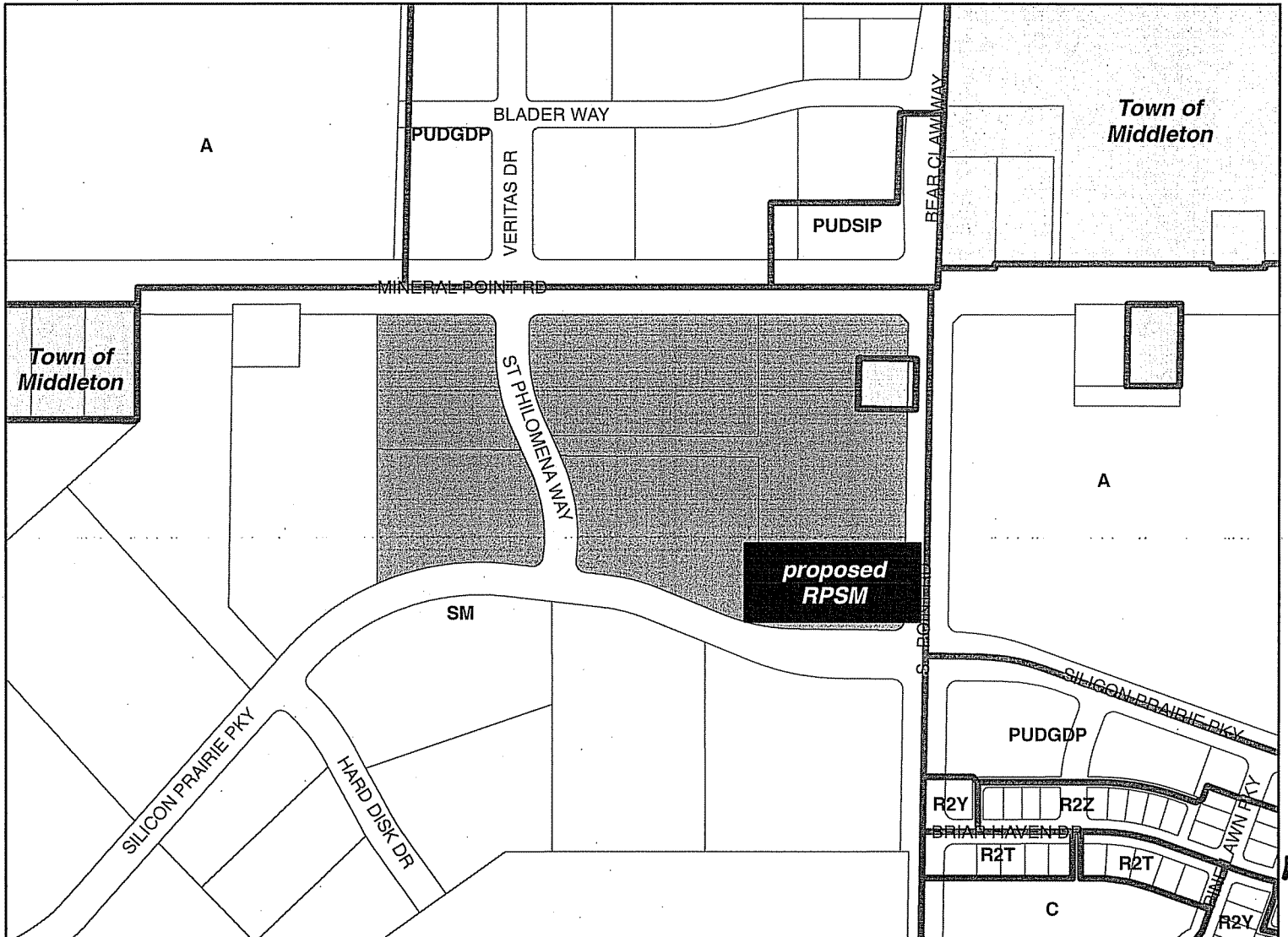
06 August 2007

Common Council

04 September 2007



For Questions Contact: Kevin Firchow at: 267-1150 or kfirchow@cityofmadison.com or City Planning at 266-4635





10

LAND USE APPLICATION

Madison Plan Commission

215 Martin Luther King Jr. Blvd; Room LL-100
 PO Box 2985; Madison, Wisconsin 53701-2985
 Phone: 608.266.4635 | Facsimile: 608.267.8739

- The following information is required for all applications for Plan Commission review.
- Please read all pages of the application completely and fill in all required fields.
- This application form may also be completed online at www.cityofmadison.com/planning/plan.html
- All zoning application packages should be filed directly with the Zoning Administrator's desk.
- All applications will be reviewed against the applicable standards found in the City Ordinances to determine if the project can be approved.

FOR OFFICE USE ONLY:

Amt. Paid _____ Receipt No. _____
 Date Received _____
 Received By _____
 Parcel No. _____
 Aldermanic District _____
 GQ _____
 Zoning District _____
For Complete Submittal
 Application _____ Letter of Intent _____
 IDUP _____ Legal Descript. _____
 Plan Sets _____ Zoning Text _____
 Alder Notification _____ Waiver _____
 Ngrhd. Assn Not. _____ Waiver _____
 Date Sign Issued _____

1. **Project Address:** Lots 1-5, 9821 Mineral Point Road **Project Area in Acres:** 21
Project Title (if any): Silicon Prairie Business Park

2. **This is an application for:** (check at least one)

<input checked="" type="checkbox"/> Zoning Map Amendment (check only ONE box below for rezoning and fill in the blanks accordingly)		
<input checked="" type="checkbox"/> Rezoning from <u>SM</u> to <u>RPSM</u>	<input type="checkbox"/> Rezoning from _____ to PUD/PCD-SIP	
<input type="checkbox"/> Rezoning from _____ to PUD/PCD-GDP	<input type="checkbox"/> Rezoning from PUD/PCD-GDP to PUD/PCD-SIP	
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Demolition Permit	<input type="checkbox"/> Other Requests (Specify): _____

3. **Applicant, Agent & Property Owner Information:**

Applicant's Name: Kurt Welton Company: NEW WEI, LLC
 Street Address: 567 D'Onofrio Dr./PO Box 44580 City/State: Madison, WI Zip: 53744
 Telephone: (608) 833-5590 Fax: (608) 252-9243 Email: mrc@dewittross.com
 Project Contact Person: Michael R. Christopher Company: DeWitt Ross & Stevens SC
 Street Address: 2 E. Mifflin St., Suite 600 City/State: Madison, WI Zip: 53703
 Telephone: (608) 255-8891 Fax: (608) 252-9243 Email: mrc@dewittross.com
 Property Owner (if not applicant): _____
 Street Address: _____ City/State: _____ Zip: _____

4. **Project Information:**

Provide a general description of the project and all proposed uses of the site: The rezone will facilitate construction of an upscale esthetically attractive business park, including business office buildings, research facilities and light industrial, which will comply with the recorded covenants and restrictions as well as the zoning requirements.

Development Schedule: Commencement N/A Completion N/A

CONTINUE → 10

5. Required Submittals:

Site Plans submitted as follows below and depicts all lot lines; existing, altered, demolished or proposed buildings; parking areas and driveways; sidewalks; location of any new signs; existing and proposed utility locations; building elevations and floor plans; landscaping, and a development schedule describing pertinent project details:

- **Seven (7) copies** of a full-sized plan set drawn to a scale of one inch equals 20 feet (collated and folded)
- **Seven (7) copies** of the plan set reduced to fit onto 11 inch by 17 inch paper (collated, stapled and folded)
- **One (1) copy** of the plan set reduced to fit onto 8 1/2 inch by 11 inch paper

Letter of Intent: Twelve (12) copies describing this application in detail but not limited to, including: existing conditions and uses of the property; development schedule for the project; names of persons involved (contractor, architect, landscaper, business manager, etc.); types of businesses; number of employees; hours of operation; square footage or acreage of the site; number of dwelling units; sale or rental price range for dwelling units; gross square footage of building(s); number of parking stalls, etc.

Legal Description of Property: Lot(s) of record or metes and bounds description prepared by a land surveyor.

Filing Fee: \$ 2,700 See the fee schedule on the application cover page. Make checks payable to: *City Treasurer*.

IN ADDITION, THE FOLLOWING ITEMS MAY ALSO BE REQUIRED WITH YOUR APPLICATION; SEE BELOW:

For any applications proposing demolition of existing (principal) buildings, photos of the structure(s) to be demolished shall be submitted with your application. Be advised that a *Reuse and Recycling Plan* approved by the City's Recycling Coordinator is required to be approved by the City prior to issuance of wrecking permits.

A project proposing **ten (10) or more dwelling units** may be required to comply with the City's Inclusionary Zoning requirements outlined in Section 28.04 (25) of the Zoning Ordinance. A separate **INCLUSIONARY DWELLING UNIT PLAN** application detailing the project's conformance with these ordinance requirements shall be submitted concurrently with this application form. Note that some IDUP materials will coincide with the above submittal materials.

A *Zoning Text* must accompany **all** Planned Community or Planned Unit Development (PCD/PUD) submittals.

FOR ALL APPLICATIONS: All applicants are required to submit copies of all items submitted in hard copy with their application (including this application form, the letter of intent, complete plan sets and elevations, etc.) as **INDIVIDUAL** Adobe Acrobat PDF files compiled either on a non-returnable CD to be included with their application materials, or in an e-mail sent to pcapplications@cityofmadison.com. The e-mail shall include the name of the project and applicant. Applicants who are unable to provide the materials electronically should contact the Planning Unit at (608) 266-4635 for assistance.

6. Applicant Declarations:

Conformance with adopted City plans: Applications shall be in accordance with all adopted City of Madison plans:

→ The site is located within the limits of Pioneer Neighborhood Development Plan, which recommends:

Employment District to promote economic development & higher wages for this property.

Pre-application Notification: Section 28.12 of the Zoning Ordinance requires that the applicant notify the district alder and any nearby neighborhood or business associations by mail no later than **30** days prior to filing this request:

→ List below the Alderperson, Neighborhood Association(s), Business Association(s) AND dates you sent the notices:

Paul Skidmore 05/16/07 Neighborhood meeting 5/17/07

If the alder has granted a waiver to this requirement, please attach any such correspondence to this form.

Pre-application Meeting with staff: Prior to preparation of this application, the applicant is required to discuss the proposed development and review process with Zoning Counter and Planning Unit staff, note staff persons and date.

Brad Murphy,
Planner Tim Parks, Date 05/8/07 | Zoning Staff Matt Tucker Date 5/8/07

Michael Waidelich

The signer attests that this form has been completed accurately and all required materials have been submitted:

Printed Name Michael R. Christopher Date 5/30/07

Signature Michael R. Christopher Relation to Property Owner Attorney

Authorizing Signature of Property Owner [Signature] Date 6-4-2007

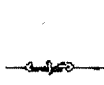
LEGAL DESCRIPTION

Lots One (1) through Five (5), Silicon Prairie Business Park Plat, as attached hereto.

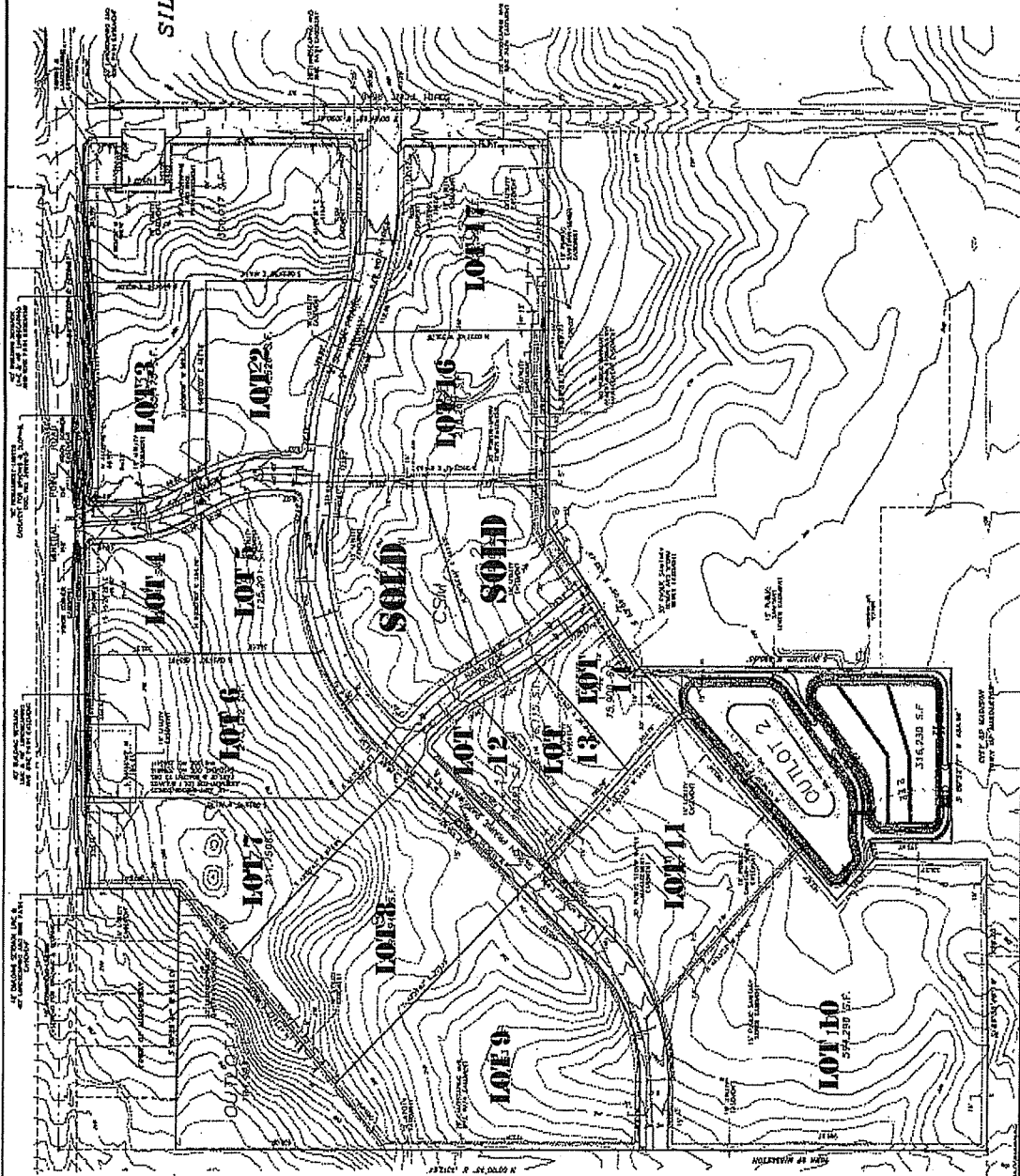
SILICON PRAIRIE™ BUSINESS PARK

ALL OF LOT 1, OUTSIDE SURVEY HAS NO DATA, AS SHOWN IN VOLUME 98 OF CERTIFIED SURVEY MAPS, OR PAGES 74-75, AS INDICATED NUMBER THEREON. THIS DOCUMENT IS A LEGAL INSTRUMENT AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE OF ANY KIND. THE CITY OF MADISON, WISCONSIN, HAS REVIEWED THIS MAP AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CITY OF MADISON, WISCONSIN, ZONING ORDINANCE.

ENGINEER: BOB W. LILL
 DATE: 11/17/06
 DRAWN BY: J. W. HAY
 PLANNING: J. W. HAY



NOVEMBER 2006





DEWITT
ROSS & STEVENS^{LLC}
LAW FIRM

www.dewitross.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@dewitross.com

June 4, 2007

Brad Murphy
City of Madison
Department of Planning & Development
215 Martin Luther King, Jr. Blvd.
Madison, WI 53710

RE: Silicon PrairieTM Business Park
Letter of Intent

Dear Brad:

I represent NEW WEI, LLC, by Kurt Welton, who is the owner of Silicon PrairieTM Business Park ("SPBP") located at 9821 Mineral Point Road. The purpose of this letter is to detail our request that the City support a re-zoning of Lots 1-5 of the SPBP from the Specific Manufacturing District ("SM") zoning category to Research Park-Specialized Manufacturing District ("RPSM"). *Exhibit A* is the SPBP Plat which contains 107 acres in total and notes the five lots proposed for re-zoning which constitute approximately 21 acres.

On May 21, 2007, my client and I made an informational presentation to the Plan Commission. At that meeting we received many positive comments from Commissioners in reaction to our request to re-zone approximately 20% of the SPBP to RPSM. In addition, Kurt had a neighborhood meeting on May 17, 2007, in which he summarized his proposal in a letter sent to Alderperson Skidmore and thirty-seven nearby property owners. There was no objection raised at that meeting to his request.

Without repeating the written information submitted prior to our informational presentation, below is a summary of why Kurt feels that this proposed re-zoning makes perfect land use sense.

1. The proposed re-zoning is consistent with the *Comprehensive Plan* and the Pioneer Neighborhood Development Plan ("PNDP").
2. The proposed re-zoning would allow for an exemplary development at a key "gateway" location.

June 4, 2007

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3. 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.
4. 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.
5. *Exhibit B* represents the respective *Statement of Purpose* sections of the SM and RPSM zoning categories. Although the objective of promoting economic development is common in both 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.
6. The proposed re-zoning of Lots 1-5 would be consistent with the contemplated land uses directly across Mineral Point Road, within the BlackHawk Church Town Center development.

There are no potential users at this time, although the granting of re-zoning would allow for additional flexibility in marketing this property. Planning staff has suggested, and my client has agreed, that the following uses which would ordinarily be permitted in the RPSM text would be prohibited in the SPBP. Those uses are:

- (9) **Health Clubs;**
- (11) **Drive-up service windows for banks and financial institutions; and**
- (12) **Medical, Dental and Optical Clinics.**

When the SPBP was re-zoned in 2002, Kurt submitted a Declaration of Protective Covenants and Restrictions ("*Covenants*") which were approved by the Urban Design Commission in May, 2002. In essence, the detailed *Covenants* outlined design objectives so that all buildings are reviewed and approved by an Architectural Review Committee based on the design criteria and review procedures contained in the *Covenants*. See *Exhibit C*.

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It is my client's desire to supplement the design criteria as it relates to Lots 1-5 of the SPBP. It is the applicant's intent to work with City staff to incorporate these additional design criteria, but I want to summarize his intent. Any building to be constructed on Lots 1-5, would be required to include the following design criteria to be reviewed and approved by the Architectural Review Committee:

- Multi-story buildings
- Buildings which would have a minimal setback from Mineral Point Road and South Point Road
- Underground parking should be encouraged where feasible
- Surface parking would be located behind the building and not oriented to any street frontage
- Pedestrian-friendly design
- Encourage compact building design
- Encourage "green" building design that combines energy and water efficiency, healthy indoor air quality and the use of natural building materials
- "Green" building materials which are natural, durable and renewable
- Good indoor air quality which emits few or no carcinogens, toxicants, or irritants by using products with minimal emissions of Volatile Organic Compounds, will be moisture resistant, and will be healthfully maintained by requiring simple, non-toxic, or low-Voc methods of cleaning
- The buildings should be designed to attempt to maximize energy efficiency, help reduce energy consumption in buildings and facilities by promoting water conservation that helps reduce water consumption and conserves water in landscaped areas

DEWITT
ROSS & STEVENS sc
LAW FIRM

June 4, 2007
Page 4

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

Michael R. Christopher *jxj*

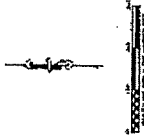
MRC:smp

cc: Kurt Welton

SILICON PRAIRIESM BUSINESS PARK

ALL OF LOT 1, CONVEYED SURVEY UNDER MAP, AS RECORDED IN PUBLIC RECORDS OF CERTIFIED SURVEY MAPS, OF PAGES 72-74, AS DOCUMENT NUMBER 101111, AND THE REMAINDER OF SAID LOT 1, AS RECORDED IN PUBLIC RECORDS OF CERTIFIED SURVEY MAPS, OF PAGES 72-74, AS DOCUMENT NUMBER 101111, AND THE REMAINDER OF SAID LOT 1, AS RECORDED IN PUBLIC RECORDS OF CERTIFIED SURVEY MAPS, OF PAGES 72-74, AS DOCUMENT NUMBER 101111, AND THE REMAINDER OF SAID LOT 1, AS RECORDED IN PUBLIC RECORDS OF CERTIFIED SURVEY MAPS, OF PAGES 72-74, AS DOCUMENT NUMBER 101111.

APPROVED BY THE BOARD OF SUPERVISORS OF MONTERO COUNTY, CALIFORNIA, ON 11/11/06.



NOVEMBER 2006

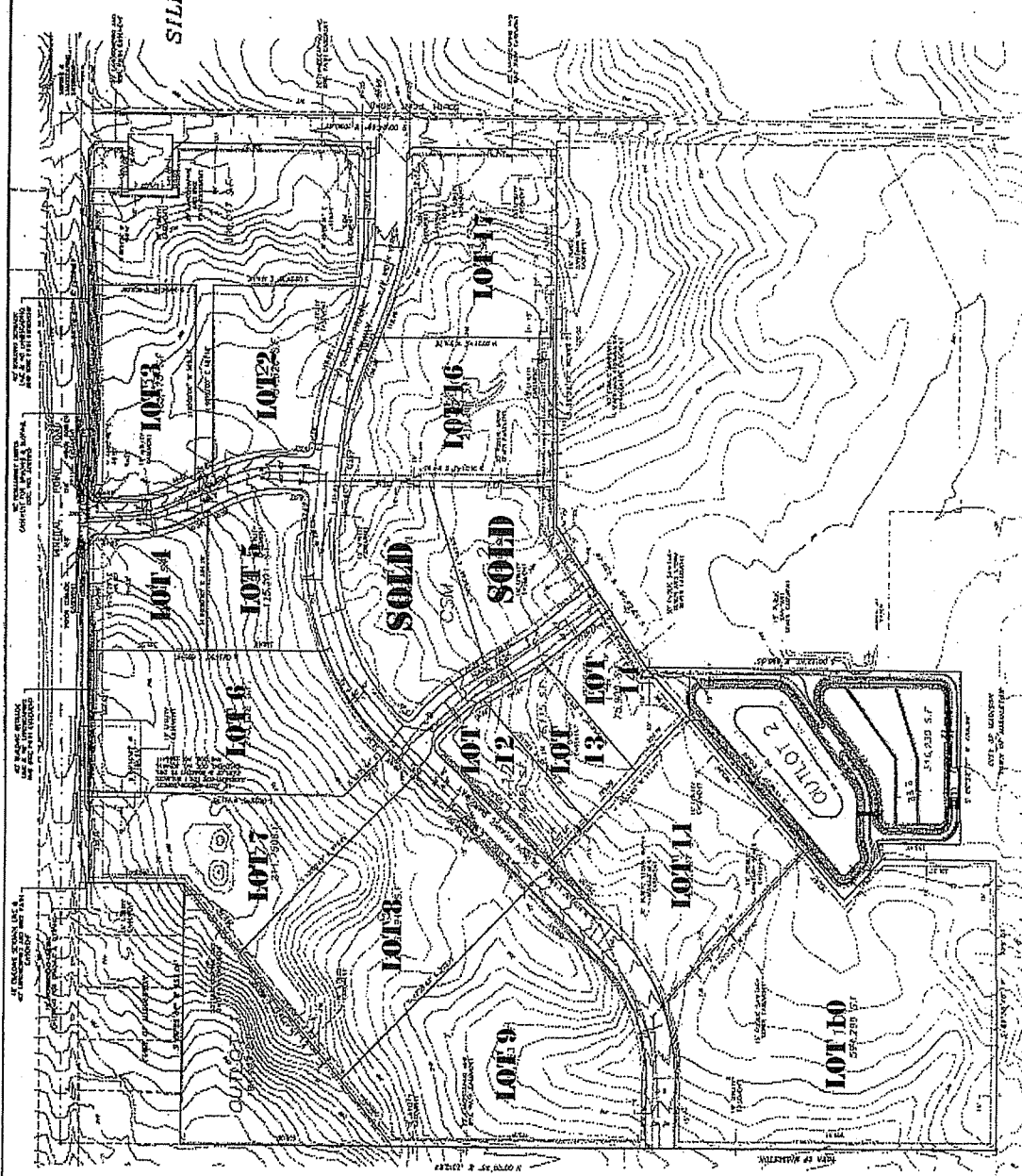


EXHIBIT **A**

28.10 MANUFACTURING DISTRICTS.

(2) RPSM Research Park - Specialized Manufacturing District

- (a) Statement of Purpose . The RPSM Research Park-Specialized Manufacturing District is established to provide an aesthetically attractive working environment exclusively for and conducive to the development and protection of offices, research and development institutions, and certain specialized manufacturing establishments, all of a non-nuisance-type. The essential purpose of this district is to achieve development which is practical, feasible and economical and an asset to the owners, neighbors and the community and to promote and maintain desirable economic development activities in a park like setting.

(3) SM Specific Manufacturing District

- (a) Statement of Purpose . The SM Specific Manufacturing District is established to accommodate industrial uses which are not noxious or offensive by reason of emission of smoke, dust, fumes, odors, noise or vibrations for the production, assemblage or light industrial processing of goods and products, on site, and the storage, warehousing, and distribution of said goods and products entirely within enclosed substantially constructed buildings, except for loading and unloading operations. Commercial uses are not permitted in the SM Specific Manufacturing District.



Document #3678744,
pages 003354 through 003382.

Recorded at the
Dane County Register of Deeds
on March 27, 2003 at 5:02 PM

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

Return to:
Jesse S. Ishikawa
Reinhart Boerner Van Deuren s.c.
P.O. Box 2018
Madison, WI 53701-2018

Parcel Number

This Declaration, made this 4th day of March, 2003, by NEW WEI, L.L.C., its successors in interest or assigns (the "Developer").

RECITALS:

- A. 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 Plat (the Lots and Outlots being collectively referred to as the "Development").
- B. The Development has been zoned SM Specific Manufacturing District pursuant to the City of Madison General Ordinances.
- C. The restrictions in effect for the SM Specific Manufacturing District are set forth on Exhibit A (which restrictions, as they may change from time to time due to the amendment of the zoning ordinances that govern the SM Specific Manufacturing District, are referred to in this Declaration as the "Zoning Restrictions").
- D. The Silicon Prairie™ Business Park Plat (the "Plat") is hereby attached to



this document as Exhibit B.

E. The Developer desires to subject the Development to the conditions, restrictions, covenants and reservations set forth below, which shall encumber the development of each Lot, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

NOW THEREFORE, Developer declares that the Development and each Lot thereof shall be developed, used, held, sold, and conveyed subject to the conditions, restrictions, covenants and reservations set forth below, which shall inure to the benefit of, and encumber the Development and each Lot thereof, and run with the land, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

ARTICLE I STATEMENT OF PURPOSE

The general purpose of this Declaration is to help assure that the Development will become and remain an attractive place to do business; to insure the most appropriate improvement of each Lot; to guard against the erection thereon of poorly designed or poorly proportioned 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.

ARTICLE II GOVERNMENTAL RESTRICTIONS

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 in this Declaration 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 governs 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.

ARTICLE III DEVELOPER AND ARCHITECTURAL CONTROL COMMITTEE APPROVALS

3.01 Establishment, Duties, Membership.

(a) **Creation.** There shall be an Architectural Control Committee, which shall have the rights and obligations set forth in this Declaration for the Committee and any powers necessary to exercise those rights.

(b) **Composition.** The Committee shall consist of five (5) persons. Four of the members (the "Developer Appointees") shall be appointed by Developer and shall include one licensed architect, one licensed landscape architect, one licensed engineer with experience in storm water management, and the Developer or its designee. The fifth member (the "City Appointee") shall be the Director of the City of Madison Department of Planning and Development or the designee of the Director. All Developer Appointees shall serve at Developer's pleasure until such time as all Lots in the Development have been fully improved. At such time as all Lots subject to this Declaration have been fully improved, the Committee shall cease to exist. In the event of any temporary or permanent vacancy in any Committee seat held by a Developer Appointee prior to the date on which all Lots in the Development are developed and the Committee is abandoned, Developer shall, within thirty (30) days of the vacancy, appoint a new member to fill the vacancy on the Committee. In the event of any vacancy in the Committee seat held by the City Appointee, the Director of the City of Madison Department of Planning and Development shall within thirty (30) days of the vacancy, appoint a new member to fill the vacancy on the Committee. If the City Appointee position on the Committee is vacant due to the failure of the Director of the City of Madison Department of Planning and Development to appoint a new member, the Director, or Acting Director if there is no actual Director, shall be deemed to be the member for purposes of approval. A member of the Committee may resign by submitting a written resignation to the Developer in accordance with Section 3.04.

(c) **Duties.** No improvements of any kind or nature, including, but not limited to, buildings, outbuildings, parking lots, walls, landscaping or fences, shall be constructed or erected upon a Lot, and no exterior alterations shall be made to any of the improvements unless, and until complete plans and specifications for the proposed improvements as set forth in Section 3.02, and the Performance

Insurance as set forth in Section 3.07, (the "Plan" or "Plans") shall have been submitted to the Developer and approved by the Developer and the Committee in writing. The Developer and the Committee may grant approval, grant approval with conditions, or deny with reasons, within thirty (30) days after delivery of the Plans to Developer. If the Developer or the Committee fails to grant approval, in writing, within the thirty (30) day period, the Developer's or the Committee's approval, as the case may be, shall be deemed to be denied. The thirty (30)-day period shall not begin until five (5) complete sets of Plans have been received by the Developer to review, and shall not commence until all of the Plans have been submitted.

(d) **Committee Procedure.** Following submission of Plans to the Developer in the manner provided in Section 3.04, the Developer shall have the right to approve or disapprove of the same. If the Developer approves the Plans, or approves of the Plans subject to conditions, the Developer shall forward one set of the Plans to each member of the Committee for review. Each member of the Committee shall communicate in writing to Developer such member's approval, disapproval or approval subject to conditions. Failure of any committee member to respond to Developer within seven (7) days of the date a set of Plans has been delivered by Developer to such member shall constitute approval by such member. The Committee shall act by a majority of its members. If approval by a majority of the Committee members is subject to conflicting conditions, Developer shall have the option of negotiating a settlement, in writing, of the conflicts with the Committee members or of calling a meeting of the Committee, or the conflicting members, to resolve the conflict, if necessary.

(e) **Review fee.** The Developer Appointees who are the licensed architect, licensed landscape architect and licensed engineer shall be entitled to compensation at their customary hourly rates for time reasonably spent reviewing any Plans submitted to them. Each Owner submitting Plans to the Committee for review shall pay to the Committee, at the time of submission, funds equal to the estimated cost of review.

3.02 Plans and Documents. The Plans to be submitted to the Developer for delivery to the Committee shall include, at a minimum:

- (a) Plans and specifications showing building construction details, to scale, showing dimensions and square footages, of all proposed:
 - (i) buildings, roof mounted equipment, walls and fences,
 - (ii) loading docks, overhead doors and service entrances,
 - (iii) parking lots, flag poles, fountains, works of art, bike racks, and outbuildings,
 - (iv) sidewalk, entry, and driveway locations,
 - (v) building setbacks and other improvements,

- (vi) proposed elevations, to scale, of all structures, colors, building materials, and screening to be used.
- (b) A detailed site plan, to scale, showing both existing and finished grades, and showing the location of all:
 - (i) existing lot lines and easements,
 - (ii) trees and vegetation, with species and size noted,
 - (iii) proposed improvements, including any future expansions,
 - (iv) site lighting with height, spacing, design and illumination characteristics,
 - (v) all proposed signage and informational structures,
 - (vi) locations of all proposed and existing utilities including sanitary and storm sewers, water, electric, gas and telephone,
 - (vii) locations of all proposed connections, transformers, meters, boxes, and switch fuse units.
- (c) Construction details and site plans, to scale, showing all:
 - (i) erosion control measures to be used both before, during and after construction, and
 - (ii) permanent stormwater solutions, to include, but not be limited to: infiltration trenches, rain gardens, detention and retention structures, basins, ditches, swales, and ponds.
- (d) Landscaping Plans to scale, showing all:
 - (i) existing vegetation and size and species of trees, and
 - (ii) proposed plantings, showing locations, sizes, and species.
- (e) Performance Insurance as set forth in Section 3.07 below.
- (f) Such other materials, samples, and plans as the Developer, or the Committee, may deem necessary in order to render their decision.

3.03 Developer Rejection. The Developer and Committee shall each have the right to reject any Plans which, in the judgment and sole opinion of the Developer or the Committee, as the case may be:

- (a) Do not conform to any of the covenants or restrictions in this Declaration;
- (b) Are not desirable for aesthetic reasons;
- (c) Do not conform to the general purposes of this Declaration;
- (d) For any reason lack merit or are objectionable as business park neighbors; or

(e) Are incomplete, lacking in sufficient detail, or inadequate in any respect, including a failure to provide the Performance Insurance as set forth in Section 3.07 below.

3.04 Developer Address of Record. Until such time as notice is recorded of a change of address, all plans, applications for approval, and requests of any nature, or for any reason, should be sent to the Developer at:

Kurtis D. Welton, President
NEW WEI, L.L.C.
P.O. Box 44580
Madison, WI 53744-4580

3.05 Developer and Committee Liability. Neither the Developer, nor any of its staff or employees nor the Committee or any of its members, nor the City of Madison, its staff, its employees, or commission members, shall be liable for damages to any party submitting a request for approval, or liable for damages to any Owner of any Lot by reason of:

(a) Any action, failure to act, approval or lack of approval with regard to any such requests;

(b) The construction or performance of any work, whether or not pursuant to approved plans or specifications;

(c) The failure of any Plans approved by the Developer and/or the Committee, or improvements constructed pursuant to such Plans, to comply with any applicable Government Restrictions;

(d) The development of any property within the Development; or

(e) The use of the Performance Insurance as set forth in Section 3.07 below.

3.06 Variances. The Developer and the Committee shall have the power and absolute discretion to authorize a variance from any of the requirements contained within this Declaration if it finds that the strict application thereof would, in its sole discretion and opinion, cause difficulties or undue hardships to any Owner, or for any other reason.

3.07 Performance Insurance. With respect to any improvements to be constructed upon an undeveloped Lot, each Owner shall deliver to the Developer, coincident with its submission of Plans, a Letter of Credit (the "Insurance") in an amount equal to Twenty Percent (20%) of the cost of all improvements shown on the Plans, including landscaping. The Insurance shall be released back to the Owner when the substantial completion of all improvements, in accordance with Developer approved Plans, is reasonably satisfactory to the Developer. If the Owner fails to build its project

in accordance with the Plans that have been approved, the Developer may use the Insurance to correct deficiencies, augment landscaping or screening, or otherwise complete the improvements as shown in the Plans with the cooperation of the Owner. If the Owner does not cooperate with the Developer in allowing these uses of the Insurance, the Developer may use the funds elsewhere in the Silicon Prairie™ Business Park Plat or keep them as liquidated damages.

3.08 Termination of Committee Approval Rights. At such time as all Lots within the Development have been fully improved, the Committee shall have no further rights to approve or disapprove of any Plans or to grant variances under this Article III or under Articles IV and V. The Developer's rights to approve or disapprove any Plans, or grant variances shall continue.

ARTICLE IV DESIGN OBJECTIVES

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 in accordance with City of Madison Zoning Codes, 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.

4.02 Design Guidelines. The following guidelines for design will be used to evaluate the aesthetic appropriateness of any particular building project. The intent of these guidelines is to establish a level of quality that will assist in the preparation of plans and serve as a guide for the approval of Plans by the Developer and the Committee.

(a) The exterior of a building shall not be unsightly or offensive in its massing, fenestration, color, materials, or the combination of these elements.

(b) All building facades and elevations should be designed to be harmonious with each other, visually pleasing, and architecturally compatible in design. Each building shall exhibit a coordinated design that incorporates all architectural elements in an aesthetic relation to each other, including but not limited to the windows, rooflines, horizontal and vertical lines, soffits, fenestrations, and structural mass; expressing a clear relationship to the purpose they serve and a harmony in scale with the building and site plan as a whole.

(c) All structures should exhibit design principles of composition, detail, proportion, rhythm, scale and unity within the architectural design of all exterior facades, to achieve design integrity and coherence.

(d) All exterior materials, finishes, and designs of proposed buildings are subject to Developer and Committee approval. The following list is not exhaustive, but should give an indication of the substance and quality of the materials that will be looked for, and are recommended by, the Developer and the Committee.

(i) Masonry, including natural or cut stone (ashlar), brick, and tile.

(ii) Concrete, including cast-in-place or pre-cast concrete with an architectural finish. When using concrete as an exterior surface the designer should be careful to avoid a monolithic or monotonous appearance, and the use of various textures, colors, and accents will be encouraged. Architectural finishes can include:

1. exposed aggregate, properly sealed;
2. integrated coloring systems;
3. painted or stained surfaces, properly prepared;
4. sandblasted surfaces, properly sealed;
5. scored, pre-formed, or revealed accent bands.

(iii) Glass, including clear, tinted or reflective and attached using the following systems:

1. framed glass curtain wall systems;
2. framed doors, windows, and skylights;
3. framed glass "storefront" systems;
4. framed "spandrel" panels.

(iv) Metal, including corrosion resistant siding, copings, fascia, soffits, column enclosures, trim, canopies, and roofing. When using metal as an exterior surface the designer should be careful to avoid a monolithic or monotonous appearance, and the use of various textures, colors, and accents will be encouraged. If metal is used on the exterior face of a building, it will be used judiciously, and the use of any type of prefabricated metal building is highly discouraged.

(v) EIFS systems are highly discouraged, and may only be used in absolutely necessary applications. If used, extra care and design efforts will be required to prove to the Developer and the Committee that the building envelope integrity will have the long-term ability to withstand the extreme temperature and weather variations and conditions that are common in the Madison, Wisconsin area. Plan details regarding the flashing, structural supports, strength of materials, attachment systems, adjacent surfaces and their water runoff characteristics will all be scrutinized for engineering and structural design soundness and their long-term ability to withstand sun, mold, insect, bird, animal, ice, water and other weather condition damage.

4.04 Landscaping. All landscaping plans within the Plat should take into account the rural surroundings of the area and preserve, where possible, natural open spaces. Through the intelligent use of existing topographic and environmental features and the creation of "quiet places" the landscape plan should enhance the quality of the Development. The following are minimum landscape design requirements that will serve as a quantifiable design standard for the Developer and the Committee in the approval process, as well as the designer in the creation process. The primary goal will be to create a lush landscaped environment that will grow into a valuable and pleasing part of the environment in the Development and reflect, in part, a native Wisconsin oak opening habitat. Professional assistance in choosing the proper combination of plant varieties and arrangements is available from many sources. See the suggested list attached below labeled **Suggested Plant Consultants**.

Certain plant species shall not be allowed due to their invasive and noxious nature. Invasive plants have become recognized in recent years as a major threat to the integrity of landscaped areas. These species have the ability to invade natural systems and proliferate, often dominating a community to the detriment and sometimes the exclusion of native species. Invasive species can alter natural ecological processes by reducing the interactions of many species to the interactions of only a few species. Invasive species may also prey on or hybridize with natives. Invasive species often lack natural predators and diseases which control populations in their native environments. As the diversity and populations of native plants decrease, so does the variety of habitats available for wildlife. Therefore plants listed on the attached **Invasive Plant List** will not be allowed.

Landscaping plans will be evaluated in their entirety; however, the following standards are the minimum landscaping requirements for each Lot.

- (a) One healthy growing tree, with a trunk diameter of not less than 2" measured at the top of the root ball, for every 100 feet of site perimeter. One third of all the trees planted, at a minimum, shall be native to the original prairie habitat and appropriate to the solar, hydrologic and soil characteristics of their site.
- (b) The front yard shall contain at least 30% of all trees, and one shrub with a minimum circumference of branches when planted of 15" for every 25 feet of public street frontage. One-half of these shrubs shall be native prairie plantings appropriate to the solar, hydrologic and soil characteristics of their site, and may be exempt from the 15" circumference requirement as long as they are mature healthy plants with proper form and shape to their species. The remainder of the landscaping shall have a number of shrubs equal to at least half the number in the front yard.
- (c) All waste containers, electrical transformers or generators, utility boxes, pedestals or enclosures, and storage areas must be screened with a combination of opaque materials architecturally similar in appearance to the main structures and/or landscaping. The Developer and the Committee shall approve this screening plan.

(d) Open spaces shall be planted with permanent grasses or groundcovers, shrubs and trees where appropriate, and perennial and annual flowers. Groundcover, perennial flowers, and some grasses (especially native prairie grasses and flowers appropriate to the solar, hydrologic and soil characteristics of their site) may be able to take the place of shrubs in the overall scheme of the landscape plan.

(e) Finished grades on-site must tie in to street curb grades, berms and swales as shown on the Plat and the master stormwater control plan on file with the City of Madison Engineer as approved by the City of Madison.

(f) When planning for plantings near lot lines and adjacent to streets, special care must be taken to avoid long-term problems associated with underground utilities, easements for storm water control, bike paths, or other issues that might arise with neighboring Owners and their use and maintenance of their property.

(g) All areas of Lots not improved shall be landscaped in accordance with Section 4.04(d), provided, however, that the foregoing requirement shall not apply to Lots held by the Developer for resale or other development.

4.05 Landscaping Design. The following guidelines are suggestions that the Developer and Committee will look to in its evaluation and approval process, and should serve as design criteria for proposed projects.

(a) Open space plantings should include combinations of two or more of the following: shrub masses, large shade trees, ornamental and fruit trees, evergreens, flowers and groundcovers in well defined planting beds. Large boulders, fountains, benches, tasteful sculptures and statues, as well as other artistic forms are to be encouraged in open spaces to provide places for employees to relax and enjoy their breaks.

(b) Foundation plantings should include similar massings as described in (a) above, but should be mindful of the building itself when considering size, orientation, and maintenance requirements.

(c) The landscape design should help define both the vehicle and pedestrian uses of the Property, should serve to accentuate the entrances, relate buildings to the street and sidewalks to improve and encourage pedestrian access, beautify the signage, and enhance the break and rest areas of the site. Care should be taken to assure that landscaping does not interfere with traffic vision on corner sites and at driveway entrances.

(d) The landscape and architectural designs should complement each other and can be used to buffer necessary but visually undesirable elements of the project (electrical transformers, waste containers, storage areas, etc.).

4.06 Other Design Restrictions and Considerations. The following restrictions and considerations shall apply to all Lots in the Plat:

(a) The Developer and Committee shall have the right to designate those portions of the site that may or may not be used for storage, and the style, nature and extent of screening that may be required.

(b) Side yard requirements and setback requirements shall be as prescribed in the Zoning Restrictions but pertain solely to the building site and not necessarily to individual Lots. It is understood that the scope of some projects may include multiple Lots or reconfigurations of platted Lots.

(c) Stormwater drainage control is essential to the maintenance of value in and amongst the various projects, and therefore no structure, plantings, storage, or other materials may be placed or permitted to remain within any easement of record, or within any drainage swale, which may alter or change the direction or flow of water within the easement or swale. Easements, rain gardens and swale areas shall be maintained continuously by the Owner for the maximum efficiency and usefulness for which they were intended, unless any public utility or other entity is responsible for their upkeep, in which case the Owner shall be responsible for notifying the other entity of any necessary maintenance that is not adequately performed. No Lot(s) may be developed or grades changed which result in the flooding, erosion, or sedimentation of adjacent properties. All stormwater runoff shall be properly channeled into storm drains, swales, storm water storage areas, rain gardens, or other stormwater management facilities. Alternative stormwater management practices, such as rain gardens and infiltration swales and trenches, are highly encouraged to minimize downstream runoff.

(d) Temporary structures are not allowed in the Development except for the use of a construction trailer during the construction of a building or structure. If an Owner desires to erect a tent for temporary recreational, educational, sales or promotional activities, it must seek the approval of the Developer if it is to remain in place for more than three days.

(e) Building signage that is tasteful, appealing, and artistic is encouraged, but in all cases must be approved by the Developer in advance of its construction. Approval of signs by the Developer and the Committee is the first step in a process that may also include the necessary approval and permitting of the City of Madison, Dane County, and other governmental units depending on size and location. Pylon signs and above roof graphics are forbidden. Ground

signs consisting of architecturally designed and visually pleasing materials matching the building exterior are encouraged.

(f) Lighting shall be installed in accordance with the Plans approved by the Developer and the Committee. Exterior lighting of buildings and grounds should be designed and be of such controlled focus and intensity so as not to unreasonably disturb the Owners of adjacent Lots, and to avoid, as much as possible, the indiscriminate illumination of the sky.

(g) The Plans must provide vehicular access along at least one side of the building to the rear yard, unless the rear yard abuts a public street or alleyway with access therefrom.

(h) All parking lots and driveways shall be constructed of asphalt or concrete.

4.07 Construction Deadline. Construction of any structures or other improvements on a Lot, once commenced, shall be diligently pursued to their final completion, and no delays in construction longer than thirty (30) days shall be allowed, subject to delays occasioned by acts of God, weather, seasonal considerations, casualty, war, civil disturbance, shortage of materials, strike, government restriction, or other reasons not within the control of the Owner.

ARTICLE V USE RESTRICTIONS

5.01 Refuse Disposal. Refuse Disposal shall be in sanitary containers, screened from public view in a fashion approved by the Developer and the Committee. No Lot or any part of a Lot may be used for the dumping or storage of rubbish, trash, garbage, building materials, yard waste (leaves, grass clippings or debris), rocks, earth or other waste materials except as set forth above. No trash, building materials, rubbish, garbage, yard waste (leaves, grass clippings or debris), rocks or earth may be placed on any Outlot.

5.02 Antennae. To the extent permitted by law, antennae or antennae systems are strictly forbidden without the express written authorization of the Developer and Committee. This restriction includes exterior television, radio receiving or transmission antennae, satellite signal receiving dishes, cellular or digital telephone antennae systems, and microwave radio towers, dishes, or antennae.

5.03 Alternative Electrical Generation Systems. Alternative energy systems incorporating unique design, high efficiency, low impact on the environment, renewable resources and energy saving features are encouraged, but any electrical generating systems, especially solar or wind powered, that are visible from the ground or adjacent properties will require the express written authorization of the Developer and the Committee. Any permission granted will take into account the profiles, shadows, sun reflections, noise, vibrations, and the other visual, physical and psychological effects said

systems may have upon neighboring properties, their occupants and manufacturing systems, the general public, and public rights-of-way. Input from stakeholders who may, in the opinion of the Developer and the Committee, be affected by the installation of any of these alternative energy systems may be solicited before any decisions are made. In the event that the Developer installs a central plant for the entire Silicon Prairie™ Business Park individual Owners may be required to obtain their heating and cooling supply from the Developer. Central plants offer the opportunity for greatly improved efficiencies; on-site electricity generation with thermal recovery, and load control such as thermal storage. The aggregation of the campus to a single electric service also allows the lowest possible electricity and gas utility prices, saving money and increasing reliability.

5.04 Maintenance. Maintenance of buildings, landscaping, stormwater control structures, parking lots, storage areas, and grounds shall be the responsibility of Owners from the date of their acquisition of the property throughout their period of ownership. The minimum standard of care shall be a clean, sanitary, aesthetic and presentable condition at all times, whether or not improvements to the property have taken place.

5.05 Animals. Animals are strictly forbidden in the Development. This includes the raising, breeding, or keeping of any animals, livestock, or poultry of any kind. No animal barns, houses, enclosures, vivariums, or pens shall be placed on any lot. Nothing in this restriction is intended to forbid the occasional visit of domesticated pets accompanying their owners to their place of business, the walking of domesticated pets on pedestrian paths, or the use of Seeing Eye dogs by the blind.

5.06 Nuisances. Nuisance activities are not allowed in the Development. This includes noxious, annoying or offensive activities that may have a detrimental effect on the value of other Lots, the performance of business activities, or the maintenance of a safe and productive working environment and workforce.

5.07 Storage. Storage shall be limited to materials used in business operations, the manufacturing process on-site, or to finished products not yet shipped to their final destination, will be temporary in nature, and will require the prior approval of the Developer. No inoperable, dilapidated or junked vehicles or equipment of any kind may be kept upon any Lot except within a fully enclosed building.

ARTICLE VI MISCELLANEOUS PROVISIONS

6.01 Amendment by Owners. This Declaration may be amended at any time by an instrument duly executed by the Owners of at least 75% of the Lots. If the Developer at the time of the proposed amendment holds any interest in any Lot or if any Lot in the Development is not fully improved, no such amendment shall be effective unless executed by the Developer. Developer's approval may be withheld at its sole, absolute and unrestricted discretion. Any amendments executed pursuant to this Section 6.01 shall take effect only upon recording. Any amendment of Section 3.01 that would

eliminate the right of the Director of the City of Madison Department of Planning and Development to appoint the City Appointee to the Committee, or that would dilute the City Appointee's power on the Committee and any amendment of Article II, shall also require the approval of the City of Madison.

6.02 Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

6.03 Nonforfeiture. Any violation of these restrictions shall not result in a forfeiture or reversion of title to any Lot.

6.04 Expansion. The Developer, its successors or assigns, shall have the right, but not the obligation, to bring within and subject to this Declaration, at such times and such stages as Developer in its sole discretion shall determine, additional lands that are contiguous to the Development, by executing and recording with the Register of Deeds of Dane County amended or supplemental declarations of covenants and restrictions with respect to the additional property. Such additional lands shall, upon the recording of such amended or supplemental declarations, be deemed a part of this Development. Under no circumstances shall this Declaration or any amended or supplemental declaration bind the Developer, its successors or assigns, to make any additions.

6.05 Attorneys' Fees. If any suit of action is brought to enforce the provisions of this Declaration, the party who prevails in such action or suit shall be entitled to recover its court costs and attorney's fees from the other party.

6.06 Term. This Declaration shall continue and remain in full force and effect at all times with respect to all property, and each party thereof, now or hereafter made subject thereto (subject however to the right to make Amendments hereto), until January 1, 2020. However, if, within one (1) year prior to January 1, 2020, unless there shall be recorded an instrument directing the termination of these Covenants signed by Owners of not less than 75% of the Lots then subject to these Covenants, as in effect immediately prior to the expiration date, they shall be continued automatically for an additional period of twenty (20) years and thereafter for successive periods of twenty (20) years unless within one (1) year prior to the expiration of any such period, the Covenants are terminated as set forth herein.

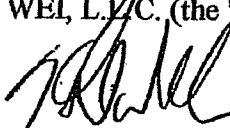
6.07 Enforcement. The Developer, the Committee, or any Owner, shall have the right to enforce by any proceedings at law or in equity any and all restrictions, conditions, covenants, and regulations herein. Failure to enforce shall not be deemed a waiver of any right to enforce in the future.

6.08 Assignability of Developer's Rights. The Developer shall have the right, by recording a written instrument of assignment, to assign all of its rights to act as "Developer" under this Declaration to any other person, in which case upon recording of

the assignment, the person to whom such rights have been assigned shall be the "Developer" for all purposes whatsoever under this Declaration.

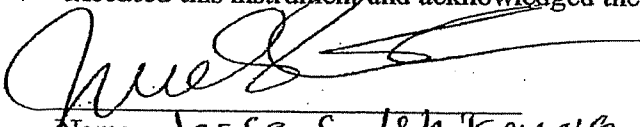
4 IN WITNESS WHEREOF, the Developer has executed this Declaration this day of March, 2003.

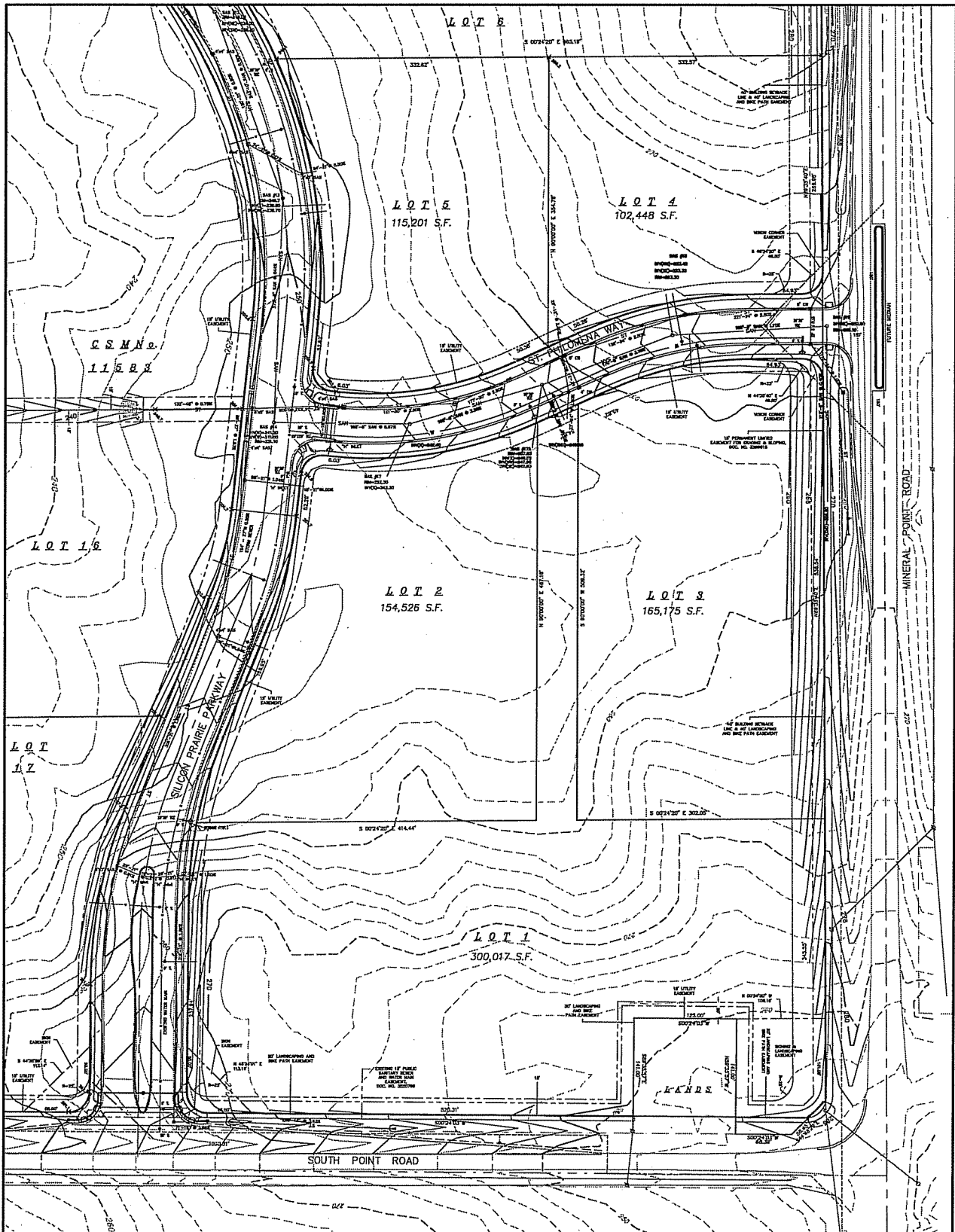
NEW WEI, L.L.C. (the "Developer")

By: 
Kurtis D. Welton, President

STATE OF WISCONSIN)
) SS.
COUNTY OF DANE)

Personally came before me this 4 day of March, 2003, Kurtis D. Welton, to me known to be the President of NEW WEI, L.L.C., the Developer, who executed this instrument and acknowledged the same.


Name: Jesse S. Ishikawa
Notary Public, Dane County, Wisconsin
My Commission (is) (expires) permanent



DEVELOPER:
NEW HO, L.L.C.
567 D'ORFORD DRIVE
SUITE 210
MADISON, WI 53710
608-633-5500

ZONING: M4

USCON/SALE/PLAN-1-10-10

**LOTS 1-5, SILICON PRAIRIE
BUSINESS PARK**

CITY OF MADISON, DANE COUNTY, WISCONSIN

SURVEYOR/ENGINEER:

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