

**ORDINANCE OF THE COMMON COUNCIL**

Rezoning the property at the northwest corner of US Highway 51 and State Highway 138 from RH – Rural Holding to Planned Development (PD).

(Kettle Park West Commercial Center)

Committee Action: Recommend Approval - 0 with the Mayor voting

Fiscal Impact: None

**File Number:** O- 23 -2013

**Date Introduced:** October 22, 2013 – 1<sup>st</sup> Reading  
November 12, 2013 – 2<sup>nd</sup> Reading

**RECITALS**

- A. Leslie & Jeanette Mabie, 1400 US Highway 51 LLC, Peter Burno, and Robert & Margaret Veek (the "Owners") are the owners of the property described on Exhibit A (the "Property").
- B. Forward Development Group ("the Applicant"), acting on behalf of and with the consent of the Owners, has requested that the zoning classification of the Property be changed from RH – Rural Holding to Planned Development ("PD"), to establish a mixed use development.
- C. The Zoning Administrator has determined, pursuant to Section 78-914(1)(a) of the City of Stoughton Municipal Code (the "City Code"), that the most comparable standard zoning district applicable to the proposed Planned Development is Planned Business (PB).
- D. The Applicant has submitted a proposed General Development Plan (the "GDP") consisting of a document entitled "Kettle Park West Commercial Center General Development Plan," dated "September, 2013," and containing the following:
  - a. Thirty five numbered pages.
  - b. Exhibits as follows:
    - i. Map showing GDP Boundary and Adjacent Property Owners.
    - ii. Legal description.
    - iii. Color map entitled "General Development Plan."
    - iv. Color map entitled "General Landscape Plan."
    - v. Color map entitled "Preliminary Highway Improvements."
    - vi. Color map entitled "General GDP Parcels."
    - vii. Color map entitled "Wetland Rehabilitation and Stormwater Treatment."

- viii. Color drawing entitled "Jackson Street Section View."
- ix. Color map entitled "Preliminary Concept Pedestrian & Bike Network."
- x. Color drawing entitled "B-B – West Property Line Landscape Treatment Concept."
- xi. Color drawing entitled "A-A North Landscape Treatment Concept."
- xii. Color drawing depicting Lot A.
- xiii. Color drawing entitled "Preliminary Design Concept Pedestrian Corridor."

c. Attachments as follows:

- i. Large Development Questionnaire.
- ii. Economic and Fiscal Impact Analysis Summary.
- iii. Traffic Impact Analysis.
- iv. 51 x 138 Westside Neighborhood Plan.

- E. On October 14, 2013, the City of Stoughton Planning Commission held a public hearing regarding the application to change the zoning classification of this Property to PD, which was preceded by the publication of a class 2 notice under chapter 985 of the Wisconsin Statutes.
- F. On October 14, 2013, the Planning Commission recommended changing the zoning classification of the Property to PD and recommended approving the GDP, subject to certain conditions.
- G. The Common Council determines that, subject to certain conditions, changing the zoning classification of the Property to PD and approving the GDP is consistent with the spirit and intent of the City's Zoning Code, has the potential for producing significant community benefits in terms of environmental and aesthetic design, promotes the public health, safety and general welfare of the City, and allows appropriate use of the Property.

## ORDINANCE

The Common Council of the City of Stoughton, Dane County, Wisconsin do ordain as follows:

- 1. The recitals set forth above are material to and are incorporated in this ordinance as if set forth in full.
- 2. Except as provided in sections 3, 4, 5, 6 and 9 below, the General Development Plan is approved, and the zoning classification of the Property is changed to Planned Development - PD, pursuant to section 78-914 of the City Code and Wis. Stat. § 62.23(7)(d).
- 3. The following parts of the GDP are not approved and shall not be deemed to be part of the approved GDP:

- a. Page 13 of the GDP, describing approvals received to-date, is not approved.
- b. The following language on page 22 of the GDP is not approved: "east-west pedestrian circulation will be accomplished by a landscaped pedestrian walkway corridor(s) that will provide a safe walking route traversing the parking lot of Parcel A."
- c. That portion of the GDP beginning on page 23 with the heading "Zoning Barriers that are Creating Barriers to Successful Development of the KPWCC," and continuing through the end of page 26, is not approved.
- d. The following language on page 27 of the GDP is not approved: "Any nuisances, offensive or noxious odors, fumes, dust, smoke, noise, vibration, pollution glare or other nuisance, or hazardous uses by reason of excessive danger of fire or explosion shall not be permitted on the property. Determinations of nuisance shall be made by the Developer, the Business Owners Association, or the City of Stoughton upon the basis of written complaint or on its own initiative. Standard for nuisance or offensive and noxious use shall be those of the City of Stoughton."
- e. The language on page 28 of the GDP, above the heading "Density and Intensity Exemptions," is not approved.
- f. Pages 30, 31 and 32 of the GDP are not approved.
- g. The following Exhibits are not approved:
  - i. Color map entitled "General Landscape Plan."
  - ii. Color map entitled "Preliminary Highway Improvements."
  - iii. Color map entitled "Wetland Rehabilitation and Stormwater Treatment."
  - iv. Color drawing entitled "Jackson Street Section View."
  - v. Color map entitled "Preliminary Concept Pedestrian & Bike Network."
  - vi. Color drawing entitled "B-B – West Property Line Landscape Treatment Concept."
  - vii. Color drawing entitled "A-A North Landscape Treatment Concept."
  - viii. Color drawing depicting Lot A.
  - ix. Color drawing entitled "Preliminary Design Concept Pedestrian Corridor."
- h. The following attachments are not approved:
  - i. Large Development Questionnaire.
  - ii. Economic and Fiscal Impact Analysis Summary.
  - iii. Traffic Impact Analysis.
  - iv. 51 x 138 Westside Neighborhood Plan.

4. The first sentence after the heading "Land Use," on page 27 of the GDP, is modified as follows: "Except as listed below, all uses, buildings and other improvements that are allowed as permitted uses in the Planned Business District under the City of Stoughton Zoning Code are permitted uses, buildings and structures within in Kettle Park West Commercial Center. Conditional uses in the Planned Business District are conditional uses in the Kettle Park West Commercial Center, and may be allowed by the City in accordance with the conditional use approval procedures and standards in the City of Stoughton Zoning Code.
5. The language on Page 28 of the GDP, under the heading "Bulk Exemptions," is modified as follows: "All bulk standards are established by this General Development Plan. For a description of the standards for the KPWCC compared to those listed for Planned Business in the Zoning Ordinance, see Table 4 on page 29."
6. Neither this ordinance nor the GDP constitute City approval of any plans or specifications for any public improvements referred to in the GDP, including utility improvements, street improvements, and other public improvements. Plans and specifications for all public improvements to be constructed within the Property shall be approved by the City, separately from the approval of the GDP, and in accordance with the City's ordinances and policies relating to the design, approval and construction of public improvements.
7. No part of the Property may be developed until a Specific Implementation Plan (SIP) has been submitted and approved for that part of the Property. Specific Implementation Plans may be approved in phases, for parts of the Property. However, Planned Development zoning and the GDP, and any approved SIP, shall expire for any part of the Property that is not fully developed within ten years of the date of adoption of this ordinance, and the zoning classification of such property shall revert to RH District.
8. The Property shall be developed and used in full compliance with all standards and requirements in Chapter 78 of the City Code that apply to lands zoned Planned Business, except those standards and requirements that are expressly modified in the approved GDP, or that are expressly modified in an approved Specific Implementation Plan for all or part of the Property. Chapter 78 of the City Code, the GDP, and approved SIPs, constitute the zoning regulations for the Property, and may be enforced as any other zoning regulation in the City of Stoughton. A copy of the General Development Plan and any approved Specific Development Plan shall be maintained and kept on file by the City Clerk.
9. The change in the zoning classification of the Property to Planned Development District shall not be effective until the City and Forward Development Group (or its assignee), and any other parties deemed necessary by the City, have signed an agreement relating to the development of the Property. The agreement must provide for the construction and installation of all public improvements needed to serve the Property, and any other issues the City or the Applicant deem necessary or appropriate in connection with the development of the Property. If the agreement required by this section has not been signed by both parties on or before November

30, 2015, then this ordinance shall automatically, and without any further action, become null and void and of no further force or effect.

10. This ordinance shall take effect upon publication.

Council Adopted:\_\_\_\_\_

Mayor Approved: \_\_\_\_\_

\_\_\_\_\_  
Donna Olson, Mayor

Published:\_\_\_\_\_

Attest:\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Attachment: Exhibit A – Legal Description of the Property

## Exhibit A

### LEGAL DESCRIPTION

PART OF LOT 2, CERTIFIED SURVEY MAP No. 3430, VOLUME 13, PAGE 268-270, AS DOCUMENT No. 1658279, AND LOTS 1, 2 AND 3, CERTIFIED SURVEY MAP No. 3435, VOLUME 13, PAGE 279-281, AS DOCUMENT No. 1658680, AND LOT 1, CERTIFIED SURVEY MAP No. 9632, VOLUME 55, PAGE 194-197, AS DOCUMENT No. 3199102, AND PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER AND PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 5 NORTH, RANGE 10 EAST, TOWN OF RUTLAND, DANE COUNTY, WISCONSIN, DESCRIBED MORE PARTICULARLY AS FOLLOWS:

COMMENCING AT THE SOUTHEAST QUARTER CORNER OF SECTION 1, AFORESAID;  
THENCE NORTH 87 DEGREES 05 MINUTES 45 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER, 33.05 FEET TO THE SOUTHERLY EXTENSION OF THE WEST RIGHT-OF-WAY LINE OF VEEK ROAD;  
THENCE NORTH 00 DEGREES 17 MINUTES 13 SECONDS WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 185.09 FEET TO THE POINT OF BEGINNING;  
THENCE NORTH 87 DEGREES 07 MINUTES 28 SECONDS WEST, 260.52 FEET;  
THENCE SOUTH 00 DEGREES 16 MINUTES 13 SECONDS EAST, 5.01 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF STATE TRUNK HIGHWAY '138';  
THENCE NORTH 87 DEGREES 07 MINUTES 28 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE, 21.50 FEET;  
THENCE SOUTH 00 DEGREES 12 MINUTES 45 SECONDS EAST, 8.67 FEET;  
THENCE NORTH 89 DEGREES 53 MINUTES 46 SECONDS WEST, 343.76 FEET;  
THENCE NORTH 87 DEGREES 53 MINUTES 44 SECONDS WEST, 1004.03 FEET;  
THENCE NORTH 02 DEGREES 12 MINUTES 57 SECONDS EAST, 98.05 FEET;  
THENCE NORTH 49 DEGREES 55 MINUTES 54 SECONDS EAST, 208.46 FEET;  
THENCE SOUTH 87 DEGREES 53 MINUTES 44 SECONDS EAST, 172.86 FEET;  
THENCE NORTH 00 DEGREES 10 MINUTES 51 SECONDS WEST, 933.15 FEET;  
THENCE SOUTH 86 DEGREES 53 MINUTES 51 SECONDS EAST, 645.48 FEET;  
THENCE NORTH 00 DEGREES 06 MINUTES 55 SECONDS WEST, 726.30 FEET;  
THENCE SOUTH 89 DEGREES 53 MINUTES 52 SECONDS WEST, 164.22 FEET;  
THENCE NORTH 50 DEGREES 38 MINUTES 32 SECONDS WEST, 307.48 FEET;  
THENCE NORTH 39 DEGREES 21 MINUTES 28 SECONDS EAST, 229.50 FEET;  
THENCE SOUTH 86 DEGREES 41 MINUTES 54 SECONDS EAST, 286.28 FEET TO THE WEST LINE OF LOT 2 OF CERTIFIED SURVEY MAP NUMBER 8144, AFORESAID;  
THENCE SOUTH 00 DEGREES 05 MINUTES 12 SECONDS EAST ALONG SAID WEST LINE, 195.25 FEET TO THE NORTHWEST CORNER OF CERTIFIED SURVEY MAP NUMBER 9632, AFORESAID;  
THENCE SOUTH 00 DEGREES 06 MINUTES 55 SECONDS EAST ALONG THE WEST LINE OF CERTIFIED SURVEY MAP NUMBER 9632 A DISTANCE OF 888.23 FEET;  
THENCE SOUTH 87 DEGREES 57 MINUTES 29 SECONDS EAST, 1.15 FEET;  
THENCE SOUTH 00 DEGREES 19 MINUTES 58 SECONDS WEST, 198.79 FEET TO THE NORTHWEST CORNER OF LOT 1 CERTIFIED SURVEY MAP NUMBER 9632;  
THENCE NORTH 89 DEGREES 42 MINUTES 22 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 519.75 FEET TO THE NORTHEAST CORNER OF LOT 1, CERTIFIED SURVEY MAP NUMBER 9632 AND THE WESTERLY RIGHT-OF-WAY LINE OF UNITED STATES HIGHWAY '51';  
THENCE SOUTH 01 DEGREES 40 MINUTES 47 SECONDS WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 170.46 FEET TO A POINT OF CURVE;  
THENCE SOUTHEASTERLY 487.72 FEET ALONG AN ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 981.47 FEET, THE CHORD BEARING SOUTH 12 DEGREES 31 MINUTES 39 SECONDS EAST, 482.72 FEET TO THE WEST RIGHT-OF-WAY LINE OF VEEK ROAD;  
THENCE SOUTH 00 DEGREES 17 MINUTES 13 SECONDS EAST ALONG THE WEST RIGHT-OF-WAY LINE, 322.71 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1,539,266.91 SQUARE FEET OR 35.34 ACRES.

