

45.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
R-2007-0189	Resolution	In Committee
Resolution approving a Purchase & Sale and Development Agreement by and between the City of West Allis and LG River Tower Associates, LLC.		
Introduced: 8/7/2007		Controlling Body: Public Works Committee
Sponsor(s): Public Works Committee		

COMMITTEE RECOMMENDATION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>8-7-07</u>	<input checked="" type="checkbox"/>		Barczak				
			Czaplewski				
			Dobrowski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic				
			Narlock	<input checked="" type="checkbox"/>			
			Reinke				
		<input checked="" type="checkbox"/>	Sengstock	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
			Weigel				
TOTAL				<u>5</u>			<u>1</u>

SIGNATURE OF COMMITTEE MEMBER

Richard Smith _____
 Chair Vice-Chair Member

COMMON COUNCIL ACTION ADOPT

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>AUG - 7 2007</u>	<input checked="" type="checkbox"/>		Barczak				<input checked="" type="checkbox"/>
			Czaplewski	<input checked="" type="checkbox"/>			
			Dobrowski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
	<input checked="" type="checkbox"/>		Narlock	<input checked="" type="checkbox"/>			
			Reinke	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Sengstock	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
			Weigel	<input checked="" type="checkbox"/>			
TOTAL:				<u>9</u>			<u>1</u>



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2007-0189

Final Action: 8/7/2007

Sponsor(s): Public Works Committee

Resolution approving a Purchase & Sale and Development Agreement by and between the City of West Allis and LG River Tower Associates, LLC.

WHEREAS, LG River Tower Associates, LLC, has submitted a Development Plan for construction of a Walgreen's Pharmacy with drive thru project on certain lands located south of W. Greenfield Ave. and west of S. 60 St. Right of way in the City of West Allis (the "Project"); and,

WHEREAS, the Common Council, by Resolution No. R-2007-0059 adopted April 17, 2007, approved the Special Use and Development Plan for the Project; and,

WHEREAS, the Special Use and Development Plan requires the installation of certain public improvements for the Project; and,

WHEREAS, the Public Works schedule and budget of the City does not include the aforesaid public improvements for the Project. LG River Tower Associates, LLC accepts the terms of the agreement attached with this resolution.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Purchase & Sale and Development Agreement for the Project (initially approved for SIDCOR Real Estate which has transferred their interest to LG River Tower Associates, LLC), a copy of which attached hereto and made apart hereof, by and between the City of West Allis and LG River Tower Associates, LLC, be and is hereby approved.

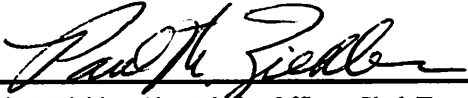
BE IT FURTHER RESOLVED that the proper City officers are hereby authorized and directed on behalf of the City to execute and deliver the aforesaid Agreement.

BE IT FURTHER RESOLVED that the City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of the Agreement, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

Dev-R-481\8-7-07

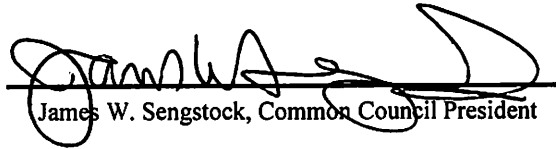
cc: Department of Development
Public Works
Engineering

ADOPTED 08/07/2007



Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 8-9-07



James W. Sengstock, Common Council President

PURCHASE AND SALE AND DEVELOPMENT AGREEMENT

This Agreement made and entered into by an between the CITY OF WEST ALLIS, a Municipal Corporation with principal offices at 7525 W. Greenfield Avenue, West Allis, Wisconsin 53214 ("the City") and LG River Tower Associates, LLC with principal offices at 950 N. Western Ave., Ste. 2, Lake Forest, IL 60045 or its assignee (the "Developer").

WHEREAS, the Development Plan requires the installation of certain public improvements; and,

WHEREAS, the Engineering Department's Five Year Capital Improvement Plan and budget does not include the aforesaid public improvements, and normally there would be a substantial delay in the installation of the improvements unless this agreement were entered into.

NOW, THEREFORE, in consideration of the payment of one (1) dollar (\$1.00) and other good and valuable consideration and in consideration of the mutual covenants hereinafter set forth, the parties agree:

1. The Developer hereby agrees to pay the full cost of replacing the 102-year-old sanitary sewer line (which shall include adequate lateral connections for Walgreens), and the 96-year-old storm sewer line located north-south through the site from W. Greenfield Avenue to South 61st Street. The cost of the work shall include surveying, engineering design and plan preparation, construction, administration, plan submittal to appropriate governmental agencies for approval, the actual construction cost of installing the new sanitary and storm sewer following all public bidding laws and policies and other related City costs. Surveying, engineering design and plan preparation, construction, administration, plan submittal to appropriate governmental agencies for approval and other related City costs shall be set at fifteen (15) percent of the actual construction cost of the project. The City shall reduce its easement to 36' total for both sanitary and storm sewer lines. If for any reason, the City must perform repairs, maintenance, construction, alter or relay these sewer lines, the City will not pay for the costs of restoration or loss of business or revenue. Providing that Developer provides the cash (letter of credit) bond to the City within ten (10) days following the City's request, then the City shall complete the replacement of the sanitary and sewer lines prior to January 2008.

2. The Developer hereby agrees to share equally with the City of West Allis the cost of reconstructing the alley along the south side of the property from South 62nd Street east to the ninety-degree (90°) turn in the alley to the south. The length is approximately four hundred and fifty (450) feet. The City

Engineer will determine actual limits of the reconstruction. Alley will be reconstructed in Portland cement concrete pavement with storm sewer and include all other related work. The West Allis Engineering Department will design and construct the sanitary & storm sewer lines and the alley. The City shall use best efforts to make such adjustments to the alley infrastructure to accommodate the civil engineering plans (which shall include adequate lateral connections for Walgreens) for the Walgreen's development. After the Developer issues the cash (letter of credit) bond to the City, the City shall complete the alley replacement within six (6) months following.

3. It is understood and agreed that the closure of all the property's existing driveways connecting onto West Greenfield Avenue are required in order to approve a new driveway off of W. Greenfield Avenue to service the Walgreen's property. The Developer will pay for all costs related to closing the property's driveways connecting onto West Greenfield Avenue. The costs include, but are not limited to, removing and replacing the sidewalk, curb & gutter and pavement and modification to underground utilities.

4. The Developer hereby agrees to the following conditions for obtaining ingress and egress from South 60th Street. The Developer acknowledges that all Driveway Approach Permit Applications contain the following statement, "The permittee further agrees to indemnify and hold harmless the City of West Allis in case of the happening of any accident, pedestrian or automobile related, or on account of all damages of any nature whatsoever arising through the issuance of a driveway permit on South 60th Street. The City Engineer reserves the right to revoke said permit at any time, if in his judgment, it is in the best interest of the City of West Allis." The City Engineer may make such changes, additions, repairs, relocations and removals to the South 60th Street driveway as may at any time be considered necessary to facilitate relocation, reconstruction, widening and maintenance of the street or to provide proper protection to life and property on or adjacent to the street or if alternative access to the property becomes available. If five (5) or more reported accidents of types susceptible to correction by closing the driveway on 60th St. have occurred within a 12 month period, each accident involving personal injury or property damage to an apparent extent of \$1,500 or more, then the City Engineer may exercise his right to close or modify the 60th St. driveway. Accidents as a result of driver related factors such as drunk or reckless driving shall not be included in the accident count. The Developer may appeal the City Engineer's decision to the Board of Public Works, the City Council and/or the appropriate court of law.

5. The Developer hereby agrees to permit a suitable cross access easement, as approved by the City Engineer, to 1409-11 South 60th Street, tax key number 453-0002-000, (southwest corner of S. 60th Street and W. Greenfield Avenue) if the private driveway onto 60th Street is closed.

6. The Developer hereby agrees to submit for City approval a Certified Survey Map combining all properties within six (6) months after Common Council approval. The Certified Survey Map shall include all easements as required in this Public Works Infrastructure Agreement. The City agrees to release the Grant of a Perpetual Easement dated December 19, 1960 when the CSM is approved. It is anticipated that construction of all public improvements will be completed in 2008. Construction of Walgreen's is scheduled to start in March 2008 with occupancy in August 2008. If the building schedule is changed or modified, the City Engineer reserves the right to change or modify the schedule for public improvements to reflect the revised building schedule.

7. The Developer shall file a cash (letter of credit) bond with the City, in the amount of 110% of the estimated cost of items described in this Agreement as estimated by the City Engineer to cover all costs set forth in this agreement. The form of the bond shall be subject to approval by the City Attorney and made a part hereof and shall be released upon City's completion of the work and Developer's payment to the City of Developer's share of the costs.

8. No occupancy permit for any construction pursuant to the Development Plan for the Project shall be issued by the City's Building Inspector until completion of construction of the public work and improvements subject to this Agreement unless specifically waived by the City Engineer. For purposes of this Agreement, the term "completion of construction" shall mean completion of the subject work and improvements in accordance with final approved plans and specifications, acceptance of the work and improvements by the City and execution and delivery of all applicable easements. However in no event shall the City Engineer delay the issuance of the occupancy permit in the event that the City's completion of construction has been delayed to no fault of Developer.

9. The Developer's agrees to purchase for \$12,500 the City's small triangular shaped parcel, tax number 454-0050-003 at the southwest corner of 60th Street and Greenfield Avenue. Closing on said parcel shall occur within 120 days of the signing of this Agreement by both parties. The City shall provide Title Insurance for said parcel including a Gap Endorsement. Closing shall be conducted by Wisconsin Title Service Company with each party equally sharing costs associated therewith in an amount not to exceed a total of \$250.00. Title shall be transferred by Warranty Deed subject to the usual and customary Municipal and Zoning ordinances, easements and use restrictions as well as all exceptions, restrictions and encumbrances as stated on the Commitment for Title Insurance. The Common Council initially approved the sale to SIDCOR Real Estate who has since assigned their right to LG River Tower Associates, LLC (the Developer). The City will pay, at \$6.17 per square foot, to Developer and Developer will convey to City within six months of Closing, the approximately 2 foot wide strip of land abutting the property/right-of-way line along 60th Street as depicted in Exhibit A attached hereto. Said land conveyed from Developer to City

is approximately 69 square feet and the total purchase price shall be approximately \$425.81. Developer shall also grant to the City within six months of the Closing, the two (2) Temporary Limited Easements (TLEs) along south 60th street depicted in Exhibit A at no additional cost beyond the consideration given by this Agreement. Said TLEs are for the purpose of reconstructing South 60th Street scheduled to begin in 2009 and shall expire upon completion of the road reconstruction project. It's anticipated that the TLE will be no wider than ten (10) feet.

10. The City Engineer shall be the sole interpreter of this Agreement as to the completion of public improvements and his decision with respect to such interpretation shall be final and not subject to contest or dispute by the Developer only in the event that the Developer has (i) not complied with this Agreement and (ii) not acted in good faith and used best efforts to comply with this Agreement.

11. It is further understood that the City will not be responsible for any costs, liabilities, judgments related to approvals not given by other governmental agencies.

12. This Agreement shall be governed by the laws of the State of Wisconsin. In the event of a dispute between the parties resulting in Mediation and/or the commencement of legal action, the proper forum for such action shall be the Milwaukee County Circuit Court, State of Wisconsin.

INWITNESS WHEREOF, the parties hereto set forth their hands and seals this 15th day of August, 2007.

IN THE PRESENCE OF:

LG River Tower Associates, LLC

Christine H. Trypell

Dale Dobroth
Dale Dobroth, Member, Manager

(SIGNATURES CONTINUE ON NEXT PAGE)

IN THE PRESENCE OF:

[Signature]

[Signature]

CITY OF WEST ALLIS

By: *Jeannette Bell*
Jeannette Bell, Mayor

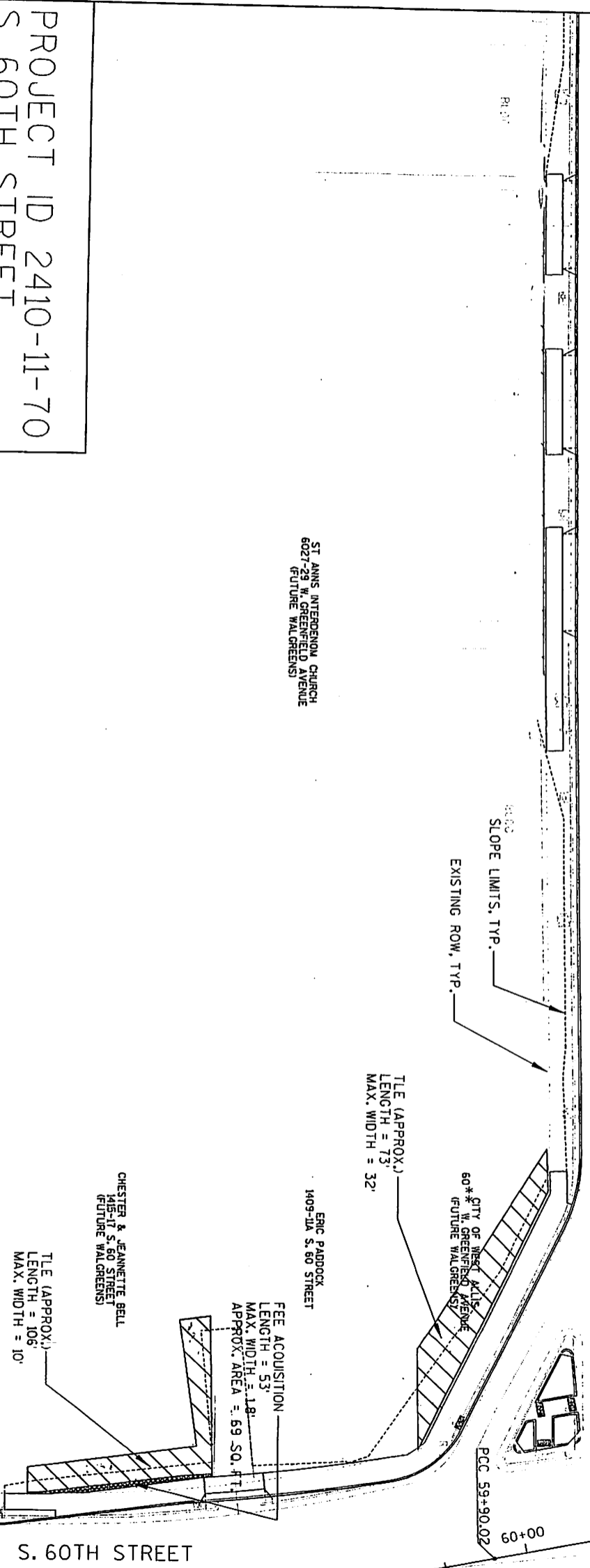
Attest: *Paul M. Ziehler*
Paul M. Ziehler, City Administrative Officer
Clerk/Treasurer

Q/walgreens/PS&Devagree/8-2-07

*Approved as to form this
16th day of August, 2007*

[Signature]
City Attorney

W. GREENFIELD AVENUE



ST ANNS INTERDENOM CHURCH
6027-29 W. GREENFIELD AVENUE
(FUTURE WALGREENS)

TLE (APPROX.)
LENGTH = 73'
MAX. WIDTH = 32'

ERIC PADDOCK
1409-11A S. 60 STREET

FEE ACQUISITION
LENGTH = 53'
MAX. WIDTH = 18'
APPROX. AREA = 69 SQ. FT.

CHESTER & JEANNETTE BELL
1415-17 S. 60 STREET
(FUTURE WALGREENS)

TLE (APPROX.)
LENGTH = 106'
MAX. WIDTH = 10'

PROJECT ID 2410-11-70
S. 60TH STREET
CITY OF WEST ALLIS
RIGHT OF WAY ACQUISITION FROM
FUTURE WALGREENS PROPERTY

J PLUNKETT & A VAN SLETT
1423-25 S. 60 STREET

S. 60TH STREET