

59



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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R-2003-0101 Resolution In Committee

Resolution to rescind Resolution No. 27274, adopted by the Common Council on December 17, 2002, relative to establishing a Planned Development District Commercial-Industrial PDD-2 for Summit Place, LLC and Tri City National Bank on approximately 3.77 acres located at 9** S. 70 St. (the northeast corner of vacated W. Walker St. and S. 70 St.) and to ~~execute a Planned~~ ^{adopt a new} Development District Agreement pursuant to Sec. 12.61 of the Revised Municipal Code

Introduced: 03/04/2003

Controlling Body: Safety & Development Committee

COMMITTEE RECOMMENDATION

APPROVAL & ADOPT

as amended

MOVER: Czaplewski

AYES 4 NOES 0

SECONDER: Kopplin

EXCUSED Narlock

COMMITTEE ACTION DATE 3/4/03

SIGNATURES OF COMMITTEE MEMBERS

[Signature]
Chair

Vice-Chair

COMMON COUNCIL ACTION

adopted as amended

FINAL ACTION DATE 3-4-03

MOVER: Lajsic

SECONDER: Reinke

	AYE	NO
1. Barczak	<u>ex</u>	_____
2. Czaplewski	<u>✓</u>	_____
3. Kopplin	<u>✓</u>	_____
4. Lajsic	<u>✓</u>	_____
5. Murphy	<u>✓</u>	_____
6. Narlock	<u>ex</u>	_____
7. Reinke	<u>✓</u>	_____
8. Sengstock	<u>✓</u>	_____
9. Trudell	<u>✓</u>	_____
10. Vitale	<u>✓</u>	_____
TOTAL	<u>8</u>	_____



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2003-0101

Final Action: 3/4/2003

Resolution to rescind Resolution No. 27274, adopted by the Common Council on December 17, 2002, relative to a Planned Development District Agreement pursuant to Sec. 12.61 of the Revised Municipal Code establishing a Planned Development District Commercial-Industrial PDD-2 for Summit Place, LLC and Tri City National Bank on approximately 3.77 acres located at 9** S. 70 St. (the northeast corner of vacated W. Walker St. and S. 70 St.) and to adopt a new Planned Development District Agreement pursuant to Sec. 12.61 of the Revised Municipal Code

WHEREAS, the Common Council of the City of West Allis of West Allis ("City"), on December 17, 2002, passed Ordinance No. 6642, adopted Resolution No. 27274, to establish a Planned Development District Commercial-Industrial PDD-2 for Summit Place, LLC and Tri City National Bank on approximately 3.77 acres located at 9** S. 70 St. (the northeast corner of vacated W. Walker St. and S. 70 St.) and adopted Resolution No. 27274 to execute a Planned Development District Agreement pursuant to Sec. 12.61 of the Revised Municipal Code; and,

WHEREAS, the legal counsel of Tri City National Bank has requested several technical changes relative to the Agreement for Tri City National Bank name and to the amount of acreage involved in the PDD-2 Agreement; and,

WHEREAS, the aforesaid Planned Development District Agreement was never completed or recorded; and

WHEREAS, the remainder of Resolution No. 27274 remains unchanged as follows:

WHEREAS, Summit Place, LLC. and Tri City National Bank have submitted an application for a Planned Development District Commercial-Industrial pursuant to Section 12.61 of the West Allis Revised Municipal Code for certain lands consisting of approximately 3.77 acres as depicted and described as:

A tract of land being in the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 34, Township 7 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, described as follows:

Beginning at the Southwest corner of Parcel 1, CSM 6525; thence North $00^{\circ}46'50''$ West, 91.26 feet along west side of said parcel, to the Southeast corner of Outlot 1, CSM 6525; thence South $88^{\circ}54'09''$ West, 53.90 feet along the south side of said Outlot 1, to the Southwest corner of said Outlot 1; thence North $00^{\circ}46'50''$ West, 384.99 feet, to the centerline of West Walker Street; thence North $88^{\circ}54'09''$ East, 355.03 feet, along said centerline, to the centerline of the right-of-way on South 70th Street; thence South $00^{\circ}53'01''$ East, 474.78 feet; thence South $88^{\circ}37'28''$ West, 301.79 feet, to the Point of Beginning of this description.

Said land contains 3.77 Acres, more or less.

Said land being located at 851-55 S. 70 St. and 8** S. 70 St.

Tax Key No. 440-0004-005	851-55 S. 70 St.
Tax Key No. 440-0259-008	9** S. 70 St.
Tax Key No. 440-0004-003	8** S. 70 St.

WHEREAS, the Application was forwarded to the Plan Commission for review and recommendation and its recommendation has been received; and,

WHEREAS, the Common Council has duly noticed and held a Public Hearing on December 17, 2002, on the Application; and,

WHEREAS, the Common Council, after due consideration, finds that the proposed development as set forth in the Application, with certain conditions, meets the standards set forth in Sections 12.61(6), (7), (8) and (9) of the West Allis Revised Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Application, a copy of which is attached hereto and made a part hereof, be and is hereby approved subject to additional conditions set forth in the Planned Unit Development-Commercial-Industrial Agreement hereinafter identified.

BE IT FURTHER RESOLVED that the Agreement for Planned Unit Development-Commercial-Industrial by and between Summit Place, LLC., Tri City National Bank, and the City of West Allis, a copy of which is attached and made a part hereof, be and is hereby approved and that the Mayor and Acting City Clerk/Treasurer are hereby authorized and directed to execute and deliver said Agreement on behalf of the City, together with all such other and further instruments and documents, as may be required by said Agreement, for its full and complete implementation.

BE IT FURTHER RESOLVED that the Official City Zoning Map was amended by Ordinance No. 6642 on December 17, 2002.

cc: Dept. of Development
Dept. of Building Inspections and Zoning
Div. of Planning & Zoning

ZON-R-365\3-4-03-2-revss\jmg

ADOPTED AS AMENDED 03/04/2003

Dorothy E Steinke

Dorothy E. Steinke, Deputy City Clerk/Treasurer

APPROVED AS AMENDED March 6, 2003

Jeannette Bell

Jeannette Bell, Mayor



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2003-0101

Final Action:

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WHEREAS, the legal counsel of Tri City National Bank has requested several technical changes relative to the Agreement for Tri City National Bank name and to the amount of acreage involved in the PDD-2 Agreement; and,

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WHEREAS, the remainder of Resolution No. 27274 remains unchanged as follows:

WHEREAS, Summit Place, LLC. and Tri City National Bank have submitted an application for a Planned Development District Commercial-Industrial pursuant to Section 12.61 of the West Allis Revised Municipal Code for certain lands consisting of approximately 3.77 acres as depicted and described as:

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Tax Key No. 440-0004-005 851-55 S. 70 St.
Tax Key No. 440-0259-008 9** S. 70 St.
Tax Key No. 440-0004-003 8** S. 70 St.

WHEREAS, the Application was forwarded to the Plan Commission for review and recommendation and its recommendation has been received; and,

WHEREAS, the Common Council has duly noticed and held a Public Hearing on December 17, 2002, on the Application; and,

WHEREAS, the Common Council, after due consideration, finds that the proposed development as set forth in the Application, with certain conditions, meets the standards set forth in Sections 12.61(6), (7), (8) and (9) of the West Allis Revised Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Application, a copy of which is attached hereto and made a part hereof, be and is hereby approved subject to additional conditions set forth in the Planned Unit Development-Commercial-Industrial Agreement hereinafter identified.

BE IT FURTHER RESOLVED that the Agreement for Planned Unit Development-Commercial-Industrial by and between Summit Place, LLC., Tri City National Bank, and the City of West Allis, a copy of which is attached and made a part hereof, be and is hereby approved and that the Mayor and Acting City Clerk/Treasurer are hereby authorized and directed to execute and deliver said Agreement on behalf of the City, together with all such other and further instruments and documents, as may be required by said Agreement, for its full and complete implementation.

BE IT FURTHER RESOLVED that the Official City Zoning Map was amended by Ordinance No. 6642 on December 17, 2002.

cc: Dept. of Development
Dept. of Building Inspections and Zoning
Div. of Planning & Zoning

ZON-R-365\3-4-03-2-revss\jmg

ADOPTED _____
(As Amended)

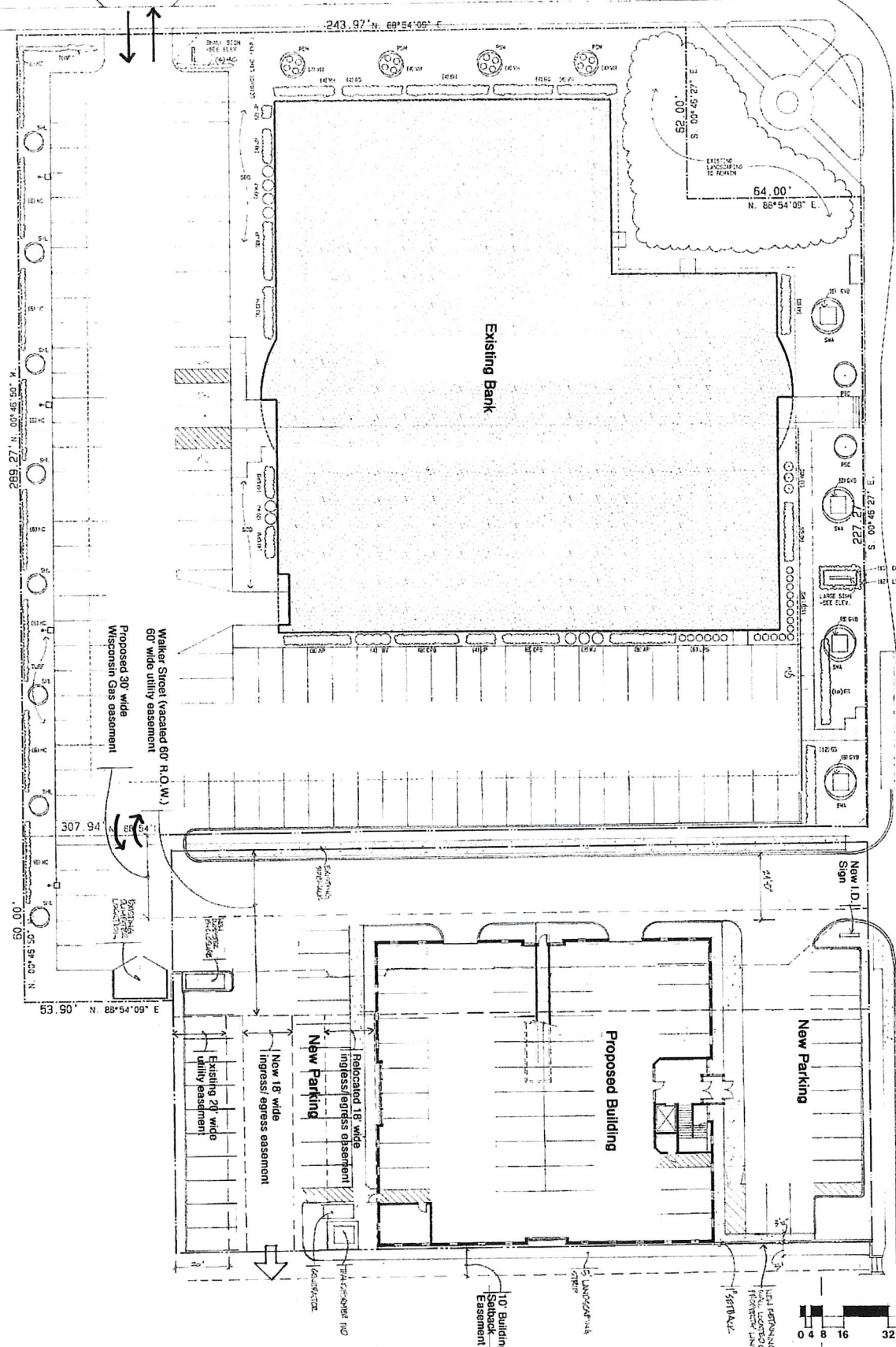
APPROVED _____
(As Amended)

Paul M. Ziehler, Acting City Clerk/Treasurer

Jeannette Bell, Mayor

WEST WALKER STREET

SOUTH 70th STREET



01	Sheet	Summit Place II	RENNER architects	architectural solutions 826 NORTH WATER STREET MILWAUKEE, WI 53202 414.273.6637 FAX 273.6638	REVISIONS BY
02	Sheet				
03	Sheet				
04	Sheet				
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PLANNED DEVELOPMENT AGREEMENT

This Agreement made and entered into by and between the CITY OF WEST ALLIS, a Municipal Corporation with principal offices at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214 (the "City"), Summit Place, LLC (the "Developer") a Wisconsin Limited Liability Company and Tri City National Bank, a National Banking Association. Summit Place has principal offices at 1126 South 70 Street, West Allis, WI 53214 and Tri City National Bank has principal offices at 6400 South 27 Street, Oak Creek WI, 53154.

W I T N E S S E T H:

WHEREAS, the Developer desires to improve and develop for commercial use certain lands in the City of West Allis, Milwaukee County, Wisconsin, depicted and legally described in Exhibit "A", attached hereto and made a part hereof (the "Site"); and,

WHEREAS, Summit Place, LLC and Tri City National Bank owns or shall own upon final execution of this Agreement, in fee or otherwise retains a legal or equitable interest in separate parcels of the Site; and,

WHEREAS, the Developer and Tri City National Bank have made application to the Common Council of the City (the "Common Council") to establish a Planned Development District-Commercial-Industrial pursuant to Section 12.61 of the Revised Municipal Code of the City (the "Application", City Clerk File No. _____, dated _____, 2002) to permit the development of a commercial project on the Site (the "Project"); and,

WHEREAS, the Application was referred to the Planning Commission for review and recommendation and its recommendation has been received; and,

WHEREAS, a public hearing on the Application was duly noticed and held by the Common Council on December 17, 2002; and,

WHEREAS, the Common Council is authorized to establish planned development districts for commercial uses pursuant to Section 62.23(7)(b) of the Wisconsin Statutes and Section 12.61 of the Revised Municipal Code of the City; and,

WHEREAS, the Common Council has approved the Application, subject to the terms and conditions set forth herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants hereinafter set forth, the parties agree:

1. **Binding Effect.** It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with the land for the benefit thereof, and the provisions hereof shall bind and inure to the benefit of the parties and their respective successors in interests from the effective date of this Agreement.

2. **Site Development.** Subject to the terms and conditions of this Agreement, the Site shall be developed in accordance with the site, landscaping and architectural plans approved by the Plan Commission pursuant to Section 12.13 of the Revised Municipal Code, copies of which are attached hereto and made a part hereof as Exhibit "B" (the "Development Plan"). A minimum of seventy-three (73) parking stalls shall be provided on site for the Summit II office building to be located at 9** S. 70 St. (tax key number 440-0259-008) within the proposed building and surface parking lots on said site. Under conventional zoning, eighty-six (86) parking spaces are required, but for the purposes of this development plan a minimum of seventy-three (73) parking spaces are required in accordance with the site, landscaping and architectural plan approved on February 26, 2003, by the West Allis Plan Commission. Furthermore, the benefits from improved design of the resulting development justify the variation from the normal parking requirements. The proposed development will be adequately served by off-street parking facilities.

3. **District Regulations.** The permitted uses of the Site, the density and intensity of said uses, the maximum height, bulk and size of proposed buildings and structures and their location on the Site shall be as set forth in the Exhibit "B" (the "Development Plan").

4. **Use, Occupancy and Operation.** Permitted uses shall be used, occupied, operated and maintained in accordance with all applicable federal, state and local laws, statutes, ordinances and regulations, the Application and this Agreement.

5. **Licenses, Permits and Approvals.** In addition to the approval of its Application, the Developer will secure all permits, licenses and approvals from the City, State and other governmental authorities which are required for the construction, use, occupancy and operation of the Project, including Public Works infrastructure improvements referenced in Exhibit "C" (Public Works Infrastructure Agreement). The Developer agrees that it has sole responsibility for making application for the permits, licenses and other approvals for the Project and will prepare all plans and/or specifications and pay all fees required in connection therewith. The City, its officers or agents, as the case may be, may, in the exercise of their reasonable discretion, decide in good faith not to issue any required permit, license or approval to permit the construction, use, occupancy and operation of the Site as contemplated by this Agreement because of the Developer's failure to comply with applicable laws, ordinances or regulations.

6. **Development Schedule.** Construction of the Project shall commence no later than one (1) year from the date of approval of the Development Plan by the Plan Commission as provided in Section 12.13(7)(c) of the Revised Municipal Code. This Agreement shall lapse and be of no effect upon failure to commence construction as herein provided.

7. **Not a Joint Venture.** The Developer, Tri City National Bank and the City hereby renounce the existence of any form of joint venture or partnership between among them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making Tri City National Bank, the City and Developer joint venturers or partners.

8. **Cooperation.** Each party shall execute and deliver to the other all such other and further instruments and documents as may be reasonably necessary to carry out this Agreement

in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

9. **Amendments.** The parties agree that no changes in the approved Application and related conditions shall be made unless agreed in writing by all parties and authorized by the Common Council in accordance with the procedures set forth in Section 12.61(14) of the Revised Municipal Code of the City. No amendments will be made in the approved Development Plan or related conditions unless such amendments are agreed to in writing by all parties and are shown to be required by changes that have occurred in conditions since the Development Plan and related conditions were approved, or by a change in the development policies of the City.

10. **Subsequent Actions.** This Agreement shall not prevent the Common Council in subsequent actions applicable to the Site from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the Site as set forth herein; and which do not materially alter any obligations of Developer. Nor shall this Agreement prevent the City from denying or conditionally approving any subsequent development applications for the Site on the basis of such existing or new rules, regulations and policies. Nothing in this Agreement shall, in any manner, limit the ability of the Common Council to exercise its legal authority to legislate.

11. **Conveyance.** Until the City certifies that all building construction and other physical improvements specified in the Development Plan have been completed, the Developer shall have no power to convey or otherwise transfer the Site, or any part thereof, without the consent of the City (which consent shall not unreasonably be withheld or delayed) and no such consent shall be given unless the grantee of the Developer is obligated, by written instrument, to the City to carry-out the Development Plan in accordance with the Development Schedule and also that the grantee and the successors and assigns of the grantee, shall have no right or power to convey or otherwise transfer the Site, or any part thereof, or erect or use any building or structure erected thereon free from obligation and requirement to conform to the approved Development Plan and any amendments thereof, as stated in the Development Agreement language.

12. **Assignment.** No party shall assign or transfer any of its interests, rights or obligations under this Agreement without the prior written consent of the others which consent shall not unreasonably be withheld or delayed.

13. **Remedies.** Any party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation or enforcement by a specific performance the obligations and rights of the parties hereto. No consequential, indirect, incidental or exemplary damages of any kind shall be recoverable in any action by any party, whether based on contract, negligence, strict liability or otherwise.

14. **No Waiver.** Failure by any party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall not constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition in this

Agreement and breach thereof may be waived, altered or modified except by written instrument executed by the party to be bound. The waiver of any breach by any party shall not affect or otherwise alter this Agreement, but each and every covenant, agreement, term or condition of this Agreement shall continue in full force and effect with respect to any other than existing or subsequent breach thereof.

15. **Severability.** If any provision of this Agreement, the Development Plan and/or related conditions are held by a court of competence jurisdiction to be invalid, void or enforceable, the remaining provisions thereof shall continue in full force and effect.

16. **Governing Law.** This Agreement shall be construed under and enforced in accordance with Wisconsin Law.

18. **No Personal Liability.** Under no circumstances shall any alderperson, officer, official or employee of the City have any personal liability arising out of this Agreement, and Developer shall not seek or claim any such personal liability.

19. **Third Parties.** This Agreement is made solely for the benefit of the parties, their respective successors and assigns in interest, and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof.

20. **Memorandum.** The parties agree that at the request of the City they will execute a Memorandum of this Agreement to be recorded in the Office of the Register of Deeds of Milwaukee County, Wisconsin.

21. **Time is of the Essence.** Time is of the essence with regard to all dates and time periods set forth herein and the attached exhibits.

22. **Entire Agreement.** This Agreement, including the exhibits and attachments annexed hereto, constitute the entire Agreement and supersedes all other prior agreements and understandings, both written and oral, by the parties or any of them, with respect to the subject matter hereof.

23. **Common Council Approval.** This Agreement shall be effective only after approval by the Common Council, and the execution and delivery thereof by the parties.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the parties here onto set forth their hands and seals this
13 day of March, 2003.

CITY OF WEST ALLIS

By: Jeannette Bell
Jeannette Bell, Mayor

Attest:
Paul M. Ziehler
Paul M. Ziehler,
Acting City Clerk/Treasurer

State of Wisconsin)
) ss
Milwaukee County)

On this 13 day of March, 2003, personally came before me Jeannette Bell and Paul M. Ziehler, to me known to be the Mayor and City Clerk/Treasurer, respectively, of the City of West Allis and the persons who executed the foregoing instrument and acknowledged the same.

Hermine Couturier
Notary Public, State of Wisconsin
My Commission Expires: 10-10-04

(SIGNATURES CONTINUED ON NEXT PAGE)

By: _____
SUMMIT PLACE, LLC, Member

By: _____
Tri City National Bank
Gary Kaufman, Vice President

State of Wisconsin)
) ss
Milwaukee County)

On this ___ day of _____, 2003, personally came before me _____ of the above-named company, to me known to be a member of said company, acknowledged that he executed the foregoing instrument as such officer as the deed of said company, by its authority.

Notary Public, State of Wisconsin
My Commission Expires: _____

This Agreement was approved by the Common Council of the City of West Allis by Resolution No. _____, adopted _____, 2003 and approved on _____, 2003.

NOTE: A fee of \$300.00 per commercial unit is payable to the City Clerk/Treasurer at the time of application for building permits.