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AMENDMENT TO THE

# REGIONAL WATER QUALITY MANAGEMENT PLAN

FRANCIS

## CITY OF ST. FRANCIS MILWAUKEE COUNTY

AS ADOPTED BY THE

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

AUGUST 2001

CUDAHY

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# SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

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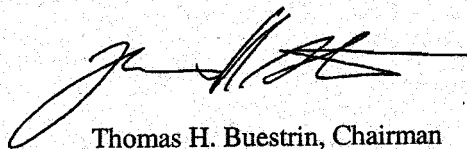
Serving the Counties of: KENOSHA  
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**SUBJECT:** Certification of Amendment to the Adopted Regional Water Quality Management Plan (St. Francis Sanitary Sewer Service Area)

**TO:** The Legislative Bodies of Concerned Local Units of Government within the Southeastern Wisconsin Region, namely: the County of Milwaukee, the City of St. Francis, and the Milwaukee Metropolitan Sewerage District.

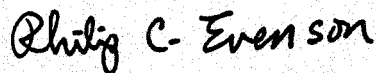
This is to certify that at the meeting of the Southeastern Wisconsin Regional Planning Commission, held at the Commission Offices in Waukesha, Wisconsin, on the 1st day of August 2001, the Commission did by unanimous vote of all Commissioners present, being 14 ayes and 0 nays, and by appropriate Resolution, a copy of which is made a part hereof and incorporated by reference to the same force and effect as if it had been specifically set forth herein in detail, adopt an amendment to the regional water quality management plan, which plan was originally adopted by the Commission on the 12th day of July 1979, as part of the master plan for the physical development of the Region. Said amendment to the regional water quality management plan pertains to revisions to the primary environmental corridor boundary within the St. Francis sanitary sewer service area and consists of the documents attached hereto and made a part hereof. Such action taken by the Commission is recorded on, and is a part of, said plan, and the plan as amended is hereby transmitted to the constituent local units of government for consideration, adoption, and implementation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal and cause the Seal of the Southeastern Wisconsin Regional Planning Commission to be hereto affixed. Dated at the City of Waukesha, Wisconsin, this 1st day of August 2001.



Thomas H. Buestrin, Chairman  
Southeastern Wisconsin  
Regional Planning Commission

ATTEST:



Philip C. Evenson, Deputy Secretary

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**RESOLUTION NO. 2001-15**

**RESOLUTION OF THE SOUTHEASTERN WISCONSIN REGIONAL PLANNING  
COMMISSION AMENDING THE ADOPTED REGIONAL WATER QUALITY  
MANAGEMENT PLAN, THAT PLAN BEING A PART OF THE MASTER PLAN  
FOR THE PHYSICAL DEVELOPMENT OF THE REGION CONSISTING OF THE  
COUNTIES OF KENOSHA, MILWAUKEE, OZAUKEE, RACINE, WALWORTH,  
WASHINGTON, AND WAUKESHA IN THE STATE OF WISCONSIN  
(ST. FRANCIS SANITARY SEWER SERVICE AREA)**

WHEREAS, pursuant to Section 66.0309(10) of the *Wisconsin Statutes*, the Southeastern Wisconsin Regional Planning Commission, at a meeting held on the 12th day of July 1979, duly adopted a regional water quality management plan as documented in the three-volume SEWRPC Planning Report No. 30, *A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000*; and

WHEREAS, by letter dated April 18, 2001, the City of St. Francis requested that the Commission amend the regional water quality management plan to remove certain lands from the primary environmental corridor along a portion of the Lake Michigan shoreline to accommodate proposed development; and

WHEREAS, the proposed amendment to the regional water quality management plan is documented in a Commission staff memorandum entitled, "Amendment to the Regional Water Quality Management Plan, City of St. Francis, Milwaukee County," dated July 2001, attached hereto and made a part hereof; and

WHEREAS, the requested change to the regional water quality management plan, as documented in the aforereferenced staff memorandum, was the subject of a public hearing held jointly by the City of St. Francis and the Regional Planning Commission on June 4, 2001; and

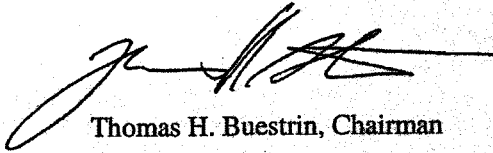
WHEREAS, Section 66.0309(9) of the *Wisconsin Statutes* authorizes and empowers the Regional Planning Commission, as the work of making the whole master plan progresses, to amend, extend, or add to the master plan or carry any part or subject thereof into greater detail;

NOW, THEREFORE, BE IT HEREBY RESOLVED:

FIRST: That the regional water quality management plan for the Southeastern Wisconsin Region, being a part of the master plan for the physical development of the Region and comprised of SEWRPC Planning Report No. 30, Volumes One, Two, and Three, which was adopted by the Commission as a part of the master plan on the 12th day of July 1979, be and the same hereby is amended in the manner identified on Map 3 of the aforereferenced SEWRPC staff memorandum.

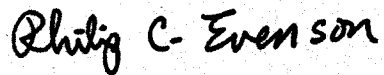
SECOND: That a true, correct, and exact copy of this resolution, together with the aforereferenced SEWRPC staff memorandum, shall be forthwith distributed to each of the local legislative bodies of the local governmental units within the Region entitled thereto and to such other bodies, agencies, or individuals as the law may require or as the Commission, its Executive Committee, or its Executive Director, at their discretion, shall determine and direct.

The foregoing resolution, upon motion duly made and seconded, was regularly adopted at the meeting of the Southeastern Wisconsin Regional Planning Commission held on the 1st day of August 2001, the vote being: Ayes 14; Nays 0.



Thomas H. Buestrin, Chairman

ATTEST:



Philip C. Evenson, Deputy Secretary

# AMENDMENT TO THE REGIONAL WATER QUALITY MANAGEMENT PLAN

## CITY OF ST. FRANCIS MILWAUKEE COUNTY

August 2001

### INTRODUCTION AND BACKGROUND

On July 12, 1979, the Southeastern Wisconsin Regional Planning Commission formally adopted an areawide water quality management plan for Southeastern Wisconsin.<sup>1</sup> Important elements of the plan relate to the delineation of public sanitary sewer service areas attendant to each of the recommended sewage treatment plants in Southeastern Wisconsin and to the preservation of primary environmental corridor lands.

The plan was formally certified over the period from July 23 to September 20, 1979, to all of the local units of government in the Region and to the concerned State and Federal agencies. The plan was formally endorsed by the Wisconsin Natural Resources Board on July 25, 1979. Such endorsement is particularly important because under State law and administrative rules, certain actions by the State regulatory agencies must be found to be in accordance with the adopted and endorsed plan. These actions include, among others, Wisconsin Departments of Natural Resources and Commerce approval of locally proposed sanitary sewer extensions.

Section NR 110.08(4) and Section Com. 82.20(4) of the *Wisconsin Administrative Code* require that the Wisconsin Department of Natural Resources, with respect to public sanitary sewers, and the Wisconsin Department of Commerce, with respect to private sanitary sewers, make findings that all proposed sanitary sewer extensions are in conformance with adopted areawide water quality management plans and the sanitary sewer service areas identified in such plans. These Departments, in carrying out their responsibilities in this respect, require that the Southeastern Wisconsin Regional Planning Commission, as the designated areawide water quality management planning agency for the Southeastern Wisconsin Region, review and comment on each proposed sewer extension as to its relationship to the approved plan and sewer service areas.

During the period of September through December of 1995, and again earlier this year, the City of St. Francis has presented the Regional Planning Commission with information relating to development plans for lands along a portion of the Lake Michigan shoreline in the vicinity of and south of E. Howard Avenue extended. The most recent development plan, as approved by the City of St. Francis, includes provisions for two buildings to be partially located within the lands identified as primary environmental corridor, such lands being recommended in the plan to be kept free of building encroachment. To resolve the plan conflict, the City of St. Francis, by letter dated April 18, 2001, requested that the Southeastern Wisconsin Regional Planning Commission amend the regional water quality management plan. A copy of the City's letter is attached hereto as Appendix A. The basic purpose of the amendment would be to change the delineation of a primary environmental corridor for an approximately 800-foot-long portion of the Lake Michigan shoreline within the City so as to exclude the building sites. This plan amendment documents the Regional Planning Commission's response to this request.

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<sup>1</sup>The adopted areawide water quality management plan is documented in SEWRPC Planning Report No. 30, A Regional Water Quality Management Plan for Southeastern Wisconsin: 2000, Volume One, Inventory Findings, September 1978; Volume Two, Alternative Plans, February 1979; and Volume Three, Recommended Plan, June 1979. A plan update and status report is documented in SEWRPC Memorandum Report No. 93, A Regional Water Quality Management Plan for Southeastern Wisconsin: An Update and Status Report, March 1995.

## **ENVIRONMENTALLY SIGNIFICANT LANDS WITHIN THE CITY OF ST. FRANCIS SEWER SERVICE AREA**

The entire City of St. Francis is included within the sanitary sewer service area attendant to the Milwaukee Metropolitan Sewerage District sewerage system as identified in the regional water quality management plan. The environmentally sensitive lands within the City of St. Francis as delineated in the regional land use and water quality management plans are shown on Map 1 and consist of primary environmental corridor lands and an isolated natural resource area. The boundary of the primary environmental corridor, as shown on Map 1, has been refined to reflect more-detailed site topography made available as part of site development proposals in the lakeshore area southwest of Howard Avenue extended.

Environmental corridors are defined by the Commission as linear areas in the landscape containing concentrations of natural resources and resource-related amenities. These corridors generally lie along the major stream-valleys and around major lakes. Almost all the remaining high-value wetlands, woodlands, wildlife habitat areas, major bodies of surface water, and delineated floodlands and shorelands are contained within these corridors. In addition, significant groundwater recharge and discharge areas, many of the most important recreational and scenic areas, and the best remaining potential park sites are located within the environmental corridors. Such corridors are, in effect, a composite of the most important individual elements of the natural resource base in Southeastern Wisconsin, and have immeasurable environmental, ecological, and recreational value.

The land use element of the adopted regional water quality management plan recommends that lands identified as primary environmental corridors not be developed for intensive urban use. Accordingly, the plan further recommends that sanitary sewers not be extended into such corridors for the purpose of accommodating urban development in the corridors.

The primary environmental corridor lands are delineated based upon mapping features shown on one inch equals 400 feet scale orthophotographs and using a point system for value rating the various elements of the resource base. This environmental corridor delineation process is described in SEWRPC *Technical Record*, Vol. 4, No. 2, in an article entitled, "Refining the Delineation of Environmental Corridors in Southeastern Wisconsin." In the case of the Lake Michigan shoreline, the primary environmental corridor lands are delineated at 200 feet landward from the top of the bluff or to the limits of certain natural resource features, whichever is greater. The primary environmental corridors as delineated in the City of St. Francis are shown on Map 1. The areas included are limited to the Lake Michigan shoreline and to a woodland complex with small wetland areas located north of Crawford Avenue extended, east of S. Illinois Avenue, and west of S. Lake Drive. This area includes the 37-acre St. Francis Seminary Woods area which is classified as NA2—natural area of countywide or regional significance.


Also identified on Map 1 is the one isolated natural resource area in the City. Isolated natural resource areas generally consist of those natural resource base elements that have "inherent natural" value, such as wetlands, woodlands, wildlife habitat areas, and surface water area, but that are separated physically from the primary and secondary environmental corridors by intensive urban or agricultural land uses. Since isolated natural resource areas may provide the only available wildlife habitat in an area, provide good locations for local parks and nature study area, and lend aesthetic character and natural diversity to an area, they should also be protected and preserved in a natural state to the extent practicable. An isolated natural resource area must be at least five acres in size. The natural resource area in the City of St. Francis is a woodland located within Nathaniel Green Park.

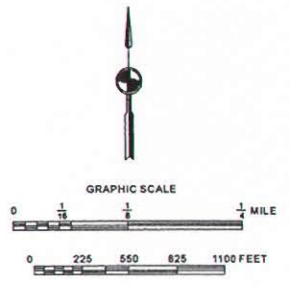


Map 1

CITY OF ST. FRANCIS PLANNED SANITARY SEWER SERVICE AREA



-  PRIMARY ENVIRONMENTAL CORRIDOR
-  REFINED PRIMARY ENVIRONMENTAL CORRIDOR
-  ISOLATED NATURAL RESOURCE AREA
-  WETLANDS AND SURFACE WATER AREAS LESS THAN FIVE ACRES IN SIZE
-  CITY BOUNDARY AND PLANNED SANITARY SEWER SERVICE AREA BOUNDARY
-  U.S. PUBLIC LAND SURVEY ONE-QUARTER SECTION BOUNDARIES
-  AREA INCLUDED IN DETAIL MAP SHOWING PROPOSED CHANGE TO THE PRIMARY ENVIRONMENTAL CORRIDOR



Source: SEWRPC.

Photography Date: 2000

The environmentally sensitive lands shown on Map 1 based upon the regional land use plan and the regional water quality management plan have also been integrated into County<sup>2</sup> and local<sup>3</sup> plans.

## **PROPOSED PLAN AMENDMENT**

The amendment requested by the City of St. Francis would involve a redelineation of the primary environmental corridor boundary along a reach of the Lake Michigan shoreline extending about 800 feet from the existing southern dike wall at the former Wisconsin Electric Power Company generation site located in the vicinity of E. Howard Avenue extended. The proposed change to the primary environmental corridor boundary, as shown on Map 2, would redefine the primary environmental corridor in the reach from a line 200 feet landward of the existing top of the bluff to a line immediately adjacent to the existing top of the bluff. The land area proposed to be deleted from the primary environmental corridor is about 3.7 acres in size and is comprised of open space with a grassland and shrub cover .

The reason for the change as presented in the City's April 18th letter request (see Appendix A) is to allow for the development of a condominium complex on the property along this reach of the Lake and southward in accordance with a plan advanced by a developer and approved by the City. The development plan is deemed by the City to be a very desirable proposal that considers many factors, such as building setbacks, density, and building height. A preliminary development plan for a 800-foot reach of the undeveloped land extending southward from E. Howard Avenue extended is shown on the map included herein as Appendix A. In making this request, the City cites the importance of the development project as a means of revitalizing one of the urban centers in Milwaukee County.

As a component of the development plan, the City of St. Francis and the site developer of the parcel encompassing the primary environmental corridor area under consideration have indicated a commitment to provide structural stabilization measures to the shoreline along which the environmental corridor change is proposed. The measures proposed are summarized in Appendix A and would include: reconstruction of a quarry stone revetment at the toe of the existing bluff, some regrading and vegetation of the bluff slope, the installation of a groundwater seepage control system, and stabilization of an existing drainageway located at the southern end of the subject 800-foot-long shoreline section.

## **WATER QUALITY IMPACTS**

Increased nonpoint source pollution would be expected to be generated from the stormwater runoff draining the 3.7-acre area to be removed from the primary environmental corridor under the current development proposal, compared to conditions whereby that area would remain in primary environmental corridor. This change in the nonpoint source pollutant loadings is due to the conversion from open land with grass and shrub cover to high-density urban development. The current development proposal calls for directing stormwater runoff to a detention pond to be constructed at a yet-to-be-determined location on Milwaukee County-owned lands east of the development site. Thus, the nonpoint source pollutant loadings from the site would be reduced compared to development conditions with no nonpoint source controls.

An analysis of the estimated pollutant loadings from the 3.7-acre area was conducted by the Commission staff and the results are summarized in Table 1. Pollutant loadings expressed in pounds per year of sediment, phosphorus,

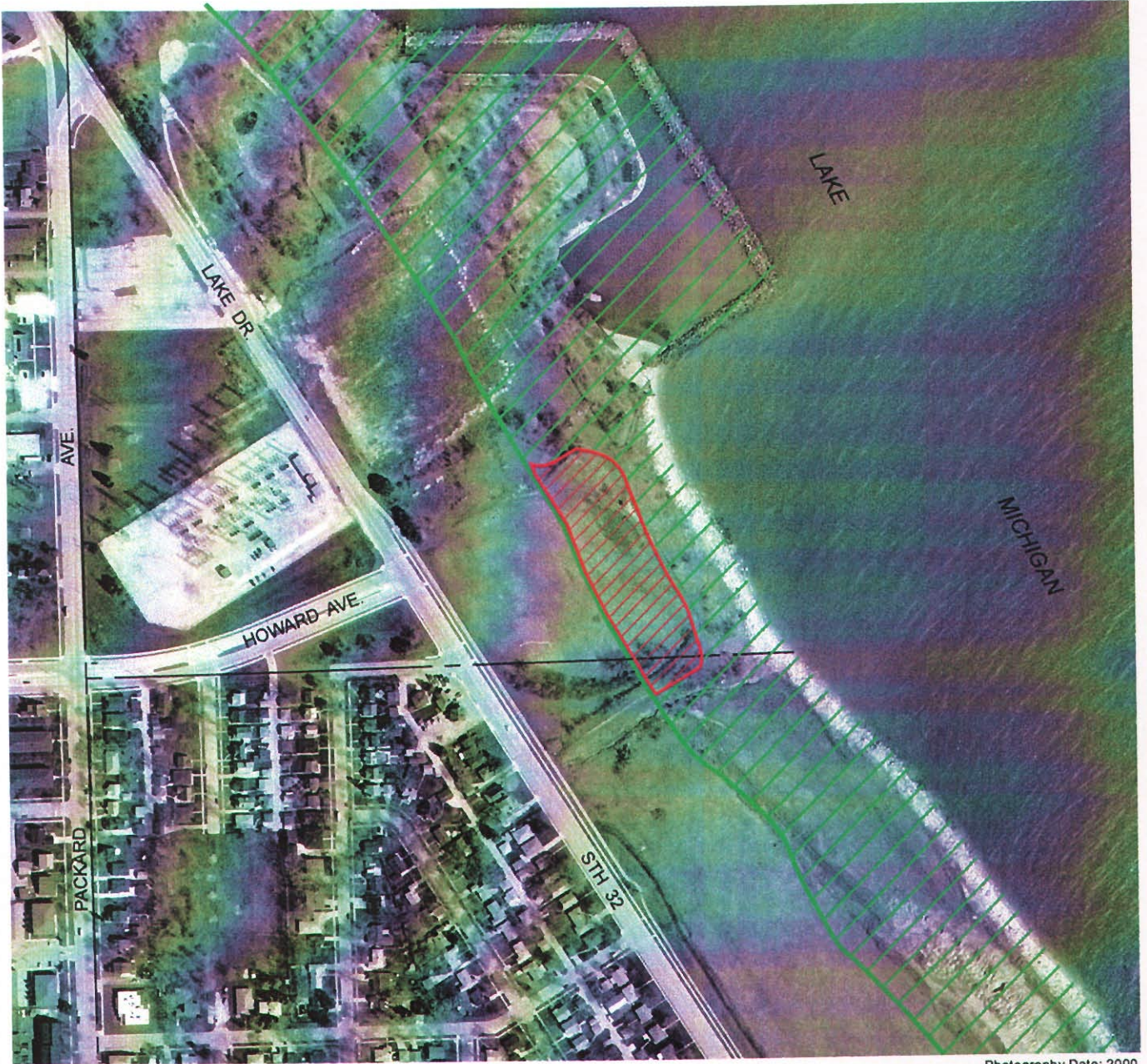
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<sup>2</sup>*SEWRPC Community Assistance Planning Report No. 132, A Park and Open Space Plan for Milwaukee County, November 1991.*

<sup>3</sup>*SEWRPC Community Assistance Planning Report No. 110, A Lake Michigan Coastal Erosion and Related Land Use Management Study for the City of St. Francis, Wisconsin, August 1984.*

Map 2

INITIALLY PROPOSED CHANGE TO THE PRIMARY ENVIRONMENTAL CORRIDOR IN THE ST. FRANCIS SANITARY SEWER SERVICE AREA



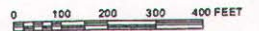
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 EXISTING PRIMARY ENVIRONMENTAL CORRIDOR (2000)

 AREA PROPOSED TO BE REMOVED FROM THE PRIMARY ENVIRONMENTAL CORRIDOR AND CONVERTED TO URBAN USES



GRAPHIC SCALE



Source: SEWRPC.

Table 1

**NONPOINT SOURCE POLLUTANT LOADINGS FROM THE PORTION OF THE ST. FRANCIS LAKE MICHIGAN DEVELOPMENT SITE TO BE REMOVED FROM THE PRIMARY ENVIRONMENTAL CORRIDOR**

Pollutant	Pollutant Loadings (pounds per year)		
	Existing Land Use <sup>a</sup>	Full Development of Area <sup>b</sup>	Area under Construction <sup>c</sup>
Sediment .....	40	220	7,500
Phosphorus .....	0.15	1.1	6.0
Copper .....	Negligible	0.15	Negligible
Zinc .....	Negligible	1.0	Negligible

<sup>a</sup>Consists of existing open land use on the 3.7-acre area proposed to be removed from the primary environmental corridor.

<sup>b</sup>Consists of full development of the 3.7-acre area proposed to be removed from the primary environmental corridor assuming detention controls as proposed by the developer.

<sup>c</sup>Consists of 50 percent the 3.7-acre area proposed to be removed from the primary environmental corridor site under construction. Assumes construction erosion controls in place to reduce sediment loading by 80 percent.

Source: SEWRPC.

and metals were estimated for the following three conditions: 1) existing land use, which includes open space uses; 2) full development of the entire area as multi-family residential development, including the treatment of runoff in a detention pond as proposed by the developer; and 3) during the construction phase of the development project. The analyses assume that the detention basin would achieve a reduction of about 75 percent of the sediment pollutant loadings to the basins. This would also result in pollutant loading reductions for phosphorus, copper, and zinc. It was also assumed that construction site erosion controls would be put into place during construction and would achieve an 80 percent reduction in pollutant loads from the site during the construction phase. The loadings were estimated using typical unit area loadings and assumed treatment reduction levels. In addition, the results of the unit area loading were checked using the Source Loading and Management Model (SLAMM), as developed by Robert Pitt and John Voorhees. Copper and zinc were used as indicators of metals pollutant loadings in urban stormwater.

It can be noted by review of Table 1 under site development conditions, there will be an expected increase in nonpoint source pollutant runoff from the 3.7-acre land area being considered for removal from the primary environmental corridor when compared to existing conditions. The increase in sediment loading is expected to be most significant during construction, with increases also expected following development. However, it should be noted that stormwater from the 3.7-acre area will drain to Lake Michigan via a detention pond. The amount of pollutants estimated to be discharged under development and construction conditions are insignificant when considered within the framework of the total pollutant loading to the Lake or to the reach of the Lake within St. Francis. Furthermore, if effective shoreline protection measures are put in place, there will be an unquantified reduction in the sediments lost on the face of the bluff which currently has areas which are actively eroding. Accordingly, it may be concluded that there are no significant nonpoint source water quality issues associated with the proposed plan amendment.

**LAKE MICHIGAN SHORELINE EROSION CONTROL**

The only other issue related to the proposed change in the primary environmental corridor boundary relates to bluff stability and shore erosion. The bluff along the subject reach of lakeshore has visible signs of limited active erosion. The area involved in the proposed change to the primary environmental corridor is located within the

Lake Michigan coastal zone area identified in Southeastern Wisconsin. Accordingly, the relationship of the subject proposal to related Lake Michigan coastal zone programs and plans is briefly presented. This will allow for any issues to be identified for proper public input on the proposal.

One previously prepared plan and two ongoing programs involving coastal management are most directly related to the proposal to change the environmental corridor boundary. The previously prepared plan is the Milwaukee County erosion control plan as documented in SEWRPC Community Assistance Planning Report No. 163, *A Lake Michigan Shoreline Erosion Management Plan for Milwaukee County, Wisconsin*, October 1989. One ongoing program is the Wisconsin Department of Administration Coastal Management Program, being carried out in cooperation with the Wisconsin Department of Natural Resources and the University of Wisconsin Sea Grant Institute. That program is designed to provide information on coastal erosion hazards and mitigative measures, including a model ordinance. A second related program is the ongoing program of the University of Wisconsin Sea Grant Institute which develops educational technical guidance programs and materials related to Lake Michigan shoreline protection and management. The most recent product of that program is the report entitled *Coastal Processes Manual, 2nd Edition*, dated 1998. The staff of the Sea Grant Institute includes experts in the area of coastal erosion processes and protection measures. The guidance from that staff is often sought when considering the viability and soundness of a shoreline protection measure. The programs and plan noted above are also reviewed by real estate salespersons and potential property buyers when considering decisions on Lake Michigan shoreline properties.

The proposed change to the primary environmental corridor and the development proposal it would support are not in conflict with the related plans and programs noted above with respect to the need for shoreline protection measures at the subject site. Both the plan and programs recognize the need for structural measures to protect buildings and facilities in urban areas under certain conditions. The subject proposal is not consistent with the plan and programs noted above with respect to the recommendations set forth in each to maintain facility setback areas, or shoreyards, between the top of a stabilized bluff to structures as an allowance for uncertainties relating to bluff conditions. The proposed development plan provides for no such setback in the subject reach.

## **SEWAGE TREATMENT PLANT IMPACTS**

Development of the entire St. Francis site would provide for about 700 to 900 housing units. The area is served by the Jones Island sewage treatment plant which is part of the Milwaukee Metropolitan Sewerage District (MMSD) sewerage system. The City of St. Francis has indicated that the MMSD has been apprised of the proposed project. Furthermore, the development was accounted for in the MMSD year 2010 facility plan, which plan was the basis for the sewerage facilities designed to serve the metropolitan Milwaukee area through the year 2010. Facility planning with a design year 2020 is expected to be initiated late this year. Recommendations developed under such planning would be designed to accommodate all committed development, including the subject development proposal. Furthermore, the number of housing units involved is not likely to be substantially affected by the proposed revision to the primary environmental corridor lands, since the change involves only a small portion of the development site. Accordingly, the change to the primary environmental corridor is not expected to have a significant impact in the available sewage treatment plant capacity.

## **PUBLIC REACTION TO THE PLAN AMENDMENT**

The public participation process attendant to the proposed plan amendment consisted of two parts. The first part consisted of a series of intergovernmental meetings involving the City of St. Francis, the Wisconsin Department of Natural Resources, Milwaukee County, and the site developer representatives to discuss the environmental corridor and Lake Michigan shoreline management recommendations as they relate to options for the site development. The second part consisted of a public hearing on the proposed plan amendment sponsored by the City of St. Francis and SEWRPC. That hearing was held on June 4, 2001, at 7:00 p.m. at the City of St. Francis City Hall. The minutes of the meeting, including written comments, are attached hereto as Appendix B. The following summarizes that record.

A total of 45 people attended the June 4, 2001, public hearing. The hearing consisted of opening remarks by Mayor Lawrence Burazin, a presentation explaining the plan amendment, and a public comment period.

The results of the public hearing may be summarized as follows:

1. The City of St. Francis officials reiterated their support for the proposed plan amendment. The presentation by city officials during the hearing indicated the City would consider and address the issues related to shoreline protection, including long-term maintenance of constructed shoreline stabilization measures.
2. The Coastal Hazards Work Group, an advisory group to the Wisconsin Coastal Management Program, presented comments on coastal management considerations. The work group consists of representatives of the Wisconsin Department of Administration, Coastal Management Program; the Wisconsin Department of Natural Resources; the Wisconsin Department of Military Affairs, Division of Emergency Management; the University of Wisconsin-Extension Sea Grant Institute; the State Cartographer's office; and the University of Wisconsin-Madison Land Information and Computer Graphics faculty. The work group generally supported the conduct of detailed engineering bluff stability analyses as has recently been carried out for the subject development. The work group stated a concern with regard to the construction of buildings near the edge of the coastal bluff and supported the use of an environmental corridor along the shoreline as a measure of security from unexpected bluff and bank erosion. Given the limited setback provided for the proposed building in the subject reach of shoreline, the work group cited the importance of, and concerns related to, long-term meticulous maintenance of shoreline protection and bluff stability measures. The more common practice of neglected maintenance was noted, particularly in instances with changing property ownership.
3. The issues raised with regard to shoreline and bluff protection and maintenance were responded to by the City Common Council members present who indicated they believed the issues raised could be adequately addressed.
4. Four people, including former Mayor Milton Vretenar, indicated support for the development project and for the City of St. Francis officials' efforts to carry out the development.
5. Two people raised questions regarding aspects of the development, including nonpoint source runoff, detention basin location, and fiscal impact analyses.
6. State Senator Richard A. Grobschmidt presented a letter of strong support for the development proposal. Senator Grobschmidt highlighted the positive impacts of the proposal on development patterns within and outside Milwaukee County. He also highlighted the positive aspects of the development relating to the provision of public land and shoreline access.
7. Mr. Rob Montgomery, an engineer representing the developer, reported on positive aspects of the evolving design of the shoreline protection and bluff stabilization plan for the development. He indicated that the current plan will provide for a 30- to 60-foot shoreyard between the buildings and the top of the bluff within the subject 800-foot-long reach of shoreline. He also indicated that a 30- to 42-foot-wide relatively flat access area would be provided in a terrace fashion along and within lower portions of the bluff. Thus, a total of from 60 to nearly 100 feet of relatively flat shoreyard would be in place under the bluff regrading proposal. He also addressed concerns relating to possible impact of lakebed erosion and subsurface material composition.
8. A representative of the site developer stated that the current shoreline and bluff stabilization proposal which has been engineered, generally meets the spirit of the environmental corridor concept

recommended by SEWRPC. He also indicated that it was planned to create a homeowners association which would be responsible for maintenance of utilities, buildings, and other aspects of the development. He noted that shoreline structure maintenance could also be included in the homeowner association maintenance requirements. Such requirements would be included in covenants carried with the property.

9. Two people submitted written comments, one in favor and one not in favor of the development.

## **CONCLUSIONS REGARDING AMENDMENT TO THE REGIONAL WATER QUALITY MANAGEMENT PLAN**

There is strong support for the proposed development from City of St. Francis officials. No major negative environmental impacts have been identified with regard to the proposed plan amendment. The concerns related to shoreline and bluff stabilization have been recognized and addressed based upon statements made at the hearing by the developer, the developer's engineer, and City of St. Francis officials. These parties have stated that the subject site will be protected by soundly engineered structural measures consistent with standards promulgated by the Wisconsin Department of Administration Coastal Management Program and the University of Wisconsin-Extension Sea Grant Institute. It was indicated that a shoreyard of from 60 to nearly 100 feet would now be provided along the subject 800-foot reach. Because of the limited shoreyard available and the uncertainties involved in the factors affecting bluff stability, long-term meticulous maintenance of the structural measures is considered very important.

Following review and comment at the public hearing and at a June 20, 2001, Southeastern Wisconsin Regional Planning Commission meeting, it was concluded that the plan amendment should also include a refined delineation of the primary environmental corridor boundary on lands currently proposed for development to the southeast of the 800-foot-long shoreline reach being given detailed consideration herein. These additional lands involve about 1,800 feet of shoreline. Within this area the primary environmental corridor boundary is being refined to reflect proposed grading plans associated with the proposed development. In this area the boundary of the primary environmental corridor is refined to reflect an area from the lakeshore which is adequate to accommodate a regraded stable bluff, as well as an approximately 200-foot-wide shoreyard, and the total corridor width, including the bluff face, being approximately 300 feet. The refined primary environmental corridor boundary for the entire shoreline being planned for development, including the 800 feet initially considered and the additional 1,800 feet, is shown on Map 3. A preliminary plan dated July 9, 2001, showing the development concept proposal, including grading and shoreline protection and bluff stabilization measures locations, for the entire reach is shown in Appendix C. In addition, details attendant to the shoreline protection measures for the northwesterly 800 feet of shoreline reach as planned by the developer are provided herein as Appendix D. The shoreline protection, bluff stabilization, and grading plans for the entire 2,600-foot reach were submitted for review to Milwaukee County, as the owner of the lands on which most of the grading and shore protection work are to be undertaken. Milwaukee County's response comments and permission to carry out and maintain the proposed projects is provided herein as Appendix E. In addition, an agreement between the project developer and the City of St. Francis providing for the long-term maintenance of the shore protection and bluff stability measures to be installed for the northerly 800-foot reach has been executed and is provided herein as Appendix F.


Based upon the foregoing, it is recommended that the Southeastern Wisconsin Regional Planning Commission formally adopt the proposed amendment to the regional water quality management plan for the City of St. Francis, as summarized on Map 3. In making this recommendation to adopt the plan amendment, it was recognized that the lands to be removed from the primary environmental corridor consisted of previously farmed, and otherwise disturbed, open space with no significant natural resource base features. Rather, the lands were included within the primary environmental corridor based upon the defined 200-foot buffer from the bluff edge.

PROPOSED CHANGE IN PRIMARY ENVIRONMENTAL CORRIDOR BOUNDARY  
IN THE CITY OF ST. FRANCIS SANITARY SEWER SERVICE AREA



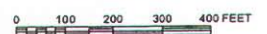
Photography Date: 2000

 EXISTING PRIMARY ENVIRONMENTAL CORRIDOR (2000)

 AREA PROPOSED TO BE REMOVED FROM THE  
PRIMARY ENVIRONMENTAL CORRIDOR AND  
CONVERTED TO URBAN USES



GRAPHIC SCALE



Source: SEWRPC.



## **APPENDICES**

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**Appendix A**

**CITY OF ST. FRANCIS APRIL 18, 2001, LETTER  
REQUESTING PLAN AMENDMENT**

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# City of St. Francis

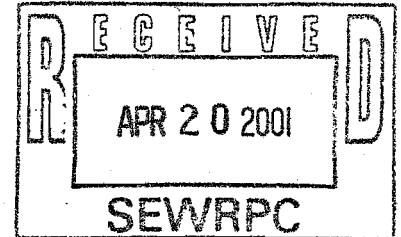
4235 South Nicholson Avenue  
St. Francis, Wisconsin 53235  
(414) 481-2300 FAX: (414) 481-6483

CITY ADMINISTRATOR

Ralph Voltner, Jr.

April 18, 2001

Philip C. Evenson, Executive Director  
Southeastern Wisconsin Regional  
Planning Commission  
916 N. East Avenue  
P.O. Box 1607  
Waukesha, WI 53187-1607



**RE: PARK SHORE DEVELOPMENT PROJECT – CITY OF ST. FRANCIS**

Dear Mr. Evenson:

## INTRODUCTION

The City of St. Francis (the City) has long sought to develop lands along the Lake Michigan shoreline, south of East Howard Avenue extended, in the City. As a prerequisite to state approval of sanitary sewer extensions, the Southeastern Wisconsin Regional Planning Commission (SEWRPC) staff must make a finding of “no conflict with the regional water quality management plan” attendant to a proposed sanitary sewer extension that would serve the subject development site. SEWRPC staff, the Wisconsin Department of Natural Resources (WDNR), Milwaukee County, the City, and the developer of the Park Shore Development, Kimball Hill Homes (the Developer), have exchanged communication(s) and have met on a number of occasions to evaluate the proposed project against SEWRPC Planning Report No. 45 (Report No. 45), entitled “A Required Land Use Plan for Southeastern Wisconsin: 2020.”

As described further below, the proposed project achieves, in a very positive and significant way, many of the planning objectives contained in Report No. 45. Recently, SEWRPC staff raised the issue of whether the proposed environmental corridor and shoreyard along an 800-foot section of the project site (Phase I) was in compliance with Report No. 45. On March 30, 2000, the abovementioned governmental agencies met at WDNR regional headquarters to discuss the issue. The recommendation from SEWRPC staff was that the City seek an amendment to Report No. 45 to re-delineate the primary environment corridor boundary of Phase I of the subject development site, consistent with the attachment hereto. In addition, the Developer agreed to implement its development plans consistent with the performance specifications found in paragraph (4) of a SEWRPC staff letter of February 8, 2001.

The City of St. Francis formally requests SEWRPC to amend the regional water quality management plan to re-delineate the primary environmental corridor boundary on the shoreline adjacent to Phase I of the Kimball Hill Park Shore Development Project in the City.

## POLICY CONSIDERATIONS

The intergovernmental meeting of March 30, 2001, covered a wide range of topics relative to good planning for the proposed housing development, Park Shore. Many of these considerations were summarized in a handout utilized on March 20, a portion of which is reprinted below.

There are a substantial number of policy considerations, which affect dialogue of the project under consideration by the Wisconsin Department of Natural Resources and SEWPRC. Report No. 45, identifies a significant number of those variables.

### REVITALIZING EXISTING URBAN CENTERS

On page (3) of Report No. 45, SEWRPC quotes its earlier own reports, talks about efficient settlement patterns, and encourages "...a centralized settlement pattern..." Report No. 45 goes on to discuss "stabilizing and revitalizing existing urban centers, halting the historic loss in population and jobs in those centers, and promoting a return to growth..." Quality housing stock helps to revitalize existing urban centers. Continuing depopulation trends in Milwaukee County are inconsistent with SEWPRC's plans. The project should be encouraged. At page 80, Report No. 45 indicates that the population density of the developed (urban) area has decreased dramatically. The regional land use plan anticipates urban population density to continue to decline, "but at a reduced rate..." The Kimball project plays a significant role in providing quality housing stock for Milwaukee County.

### FINDING OF NO SIGNIFICANT ADVERSE WATER QUALITY IMPACT

SEWRPC was comfortable in recommending that the City advance this request for re-delineation of the environmental corridor to the full Commission, because it had successfully negotiated with the City and the Developer "performance standards" for the shoreyard covering the 800 feet of Phase I of the project, which is the same 800 feet to be the subject of this re-delineation of the environmental corridor. The performance standards are shown schematically on the attached figure to this letter and can be described as follows:

Adjacent to the Phase 1 development area, the Developer proposed that the area be secured using

1. A quarry stone armor revetment consistent with current U.S. Army Corps of Engineers design criteria with a crest elevation of approximately 590, NGVD 1929. Over the majority of the Phase 1 project area, this revetment will consist of an augmentation and reconstruction of the existing quarry stone revetment originally installed for the Lakeside power station. The Developer is currently in discussion with the U. S. Army Corps of Engineers and Milwaukee County regarding permit considerations for installation of this revetment. The Developer also needs to understand that the WDNR will not have issues related to 401 water quality certification of the proposed revetment. Due to the extended review time and uncertain outcome of any permit request for a design incorporating fill into the waters of Lake Michigan, the proposed shoreline revetment will consist only of augmentation or reconstruction of the existing shoreline protection at its present location. This revetment design will secure the existing shoreline to prevent continued bluff toe erosion;

2. A regraded and revegetated bluff face to incorporate an aesthetic blend of native and ornamental vegetation, to provide the connected shoreline greenspace objectives of primary environmental corridor and shore yard designation. This regraded bluff face will incorporate engineering features, as necessary, to control bluff face seepage and local stabilization. Maximum bluff slope angles will be 2.5H:1V, with the majority of the bluff slope at shallower slope angles. The bluff face will incorporate one or more flatter areas along its slope to allow pedestrian transit and to facilitate maintenance access.
3. An engineering design for the bluff slope and structures that provides a minimum factor of safety of 1.5 against rotational or sloughing failure of the bluff and shore protection system. This system will be dependent only on the soil properties of the underlying bluff materials, and will not rely on tiebacks or other special measures to achieve an adequate factor of safety.
4. Stabilization of the existing drainageway from the storm sewer system exiting near Howard Avenue and entering Lake Michigan at the southern end of the Phase I development. This stabilization will include partial filling of the existing ravine and redesign of the system, using a series of rock-armored "letdown" sections with intervening gently-sloped drainage sections. This design approach will stabilize the existing ravine and prevent further erosion of both the routine bottom and adjacent upland areas.

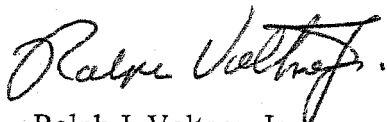
If necessary, there will be a delay of occupancy of any buildings or development structures within 200 feet of the existing bluff edge until the features described in elements (1) through (3) above are installed and complete.

### CONCLUSION

The City stands prepared to participate in any required public meetings and/or hearings which SEWRPC or its staff requests be held. We note that the City's request is consistent with Wis. Admin. Code provision quoted above regarding re-designation of "environmental corridor" boundaries.

The City would like to thank you and your staff for working so very hard to find an appropriate process to balance all of the important public policy considerations associated with this project.

Sincerely,



Ralph J. Voltner, Jr.  
Administrator, City of St. Francis

Enclosure

Cc: Gloria McCutcheon, WDNR District Director, Southeast Region  
State Senator Richard Grobschmidt  
Mayor Burazin & Common Council

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## **Attachment A - Engineering Description**

### **Regional Water Quality Management Plan Amendment Request**

**City of St. Francis**

**Milwaukee County**

#### **1 Performance objectives for bluff stabilization and environmental corridor**

The objectives of the bluff stabilization and environmental corridor design for the Kimball Hill Phase 1 project area are the following:

1. Create a long-term stable shoreline and bluff system
2. Accommodate pedestrian transit through the corridor and access for periodic maintenance
3. Provide a corridor landscape design compatible with ownership by Milwaukee County; and
4. Safely accommodate the proposed residential buildings to the west of the corridor.

#### **2 Engineering design**

##### 2.1 Approach and Summary of Design

The preliminary engineering design for the environmental corridor has been prepared based on site surveys, data collection, and engineering analysis. The design process has also considered criteria developed by the U.S. Army Corps of Engineers, the Southeastern Wisconsin Regional Planning Commission, the University of Wisconsin Sea Grant Institute, and other organizations.

Schematic plan view and section drawings describing the proposed environmental corridor design are shown on Figures 1 through 4, attached. The proposed development area is south of the site of the former Lakeside Power Plant, as shown on Figure 1. Existing conditions on the site are illustrated on Figure 2. The proposed residential development project calls for multi-story residential buildings to be placed in the area west of a stabilized bluff crest, as shown on Figure 3. A typical cross-section through the proposed stabilized bluff and environmental corridor is included as Figure 4. The proposed bluff stabilization and corridor design includes the following elements:

1. A reconstructed and raised revetment along the Lake Michigan shoreline, to provide protection from erosion via wave action;
2. A regraded and re-vegetated bluff face with a slope angle of no greater than 2.5H:1V;

3. A 15-foot wide access pathway installed in the regraded bluff face, at elevation 590 to 600;
4. A groundwater seepage control system, consisting of an upper-level system associated with foundation footing drains for the proposed residential buildings, and a lower system, consisting of drainage trenches and piping in the bluff face at and below approximately elevation 600; and
5. An upper shore yard setback of from 15 to 30 feet in width, separating the crest of the regraded bluff from the proposed buildings.

Specifics of the design criteria and proposed corridor construction are summarized in the following sections.

## 2.2 History of Stabilization and Previous Investigations

The Lake bluff and shoreline adjacent to the Kimball Hill Phase 1 development site (the subject of this regional water quality plan amendment request) was stabilized by regrading and shoreline revetment construction by WEPCO during its ownership of the Lakeside power plant. The bluff slope was regraded by WEPCO, and planted with dense ground cover vegetation. The Lake Michigan shoreline was protected by a revetment constructed between 1935 and 1938, and later reconstructed in 1973.

Previous investigations of the area by SEWRPC reported in 1984, 1989, and 1995 concluded that the Lake Michigan Bluff in the area of the plan amendment was stable. The 1984 report (SEWRPC community assistance planning report No. 110) described in the 1973 revetment a reconstruction by WEPCO, and concluded that the area was stable with respect to both slope stability and shoreline protection. The 1989 study (SEWRPC community assistance planning report No. 163) also concluded that the existing shoreline was stable with respect to rotational and translational sliding, and included a slope stability analysis of the existing bluff in the area of interest, based on field data. However, the 1989 report indicated that the shoreline revetment had been somewhat damaged due to wave action, presumably during the high lake levels that occurred during the late 1980s. The 1995 report (SEWRPC technical report No. 36) included a reanalysis at the same cross-section location as was evaluated in the 1989 report, and again concluded that the bluff was stable with respect to rotational failure.

## 2.3 Existing Conditions

A topographic map illustrating existing conditions is included as Figure 2. At present, the Lake Michigan bluff and shoreline in the area of the proposed plan amendment is largely stable. Most of the revetment at the Lake Michigan shoreline is visible at present, due to the very low lake water levels (April 2001 water levels were approximately 977, NGVD 1929, a near-record low). The bluff face is completely vegetated, except for several limited areas of seepage-induced sloughing below elevation 600. The quarry stone revetment placed by WEPCO in 1973 blankets the shoreline area and extends to an irregular top elevation of from approximately elevation 584 to 590, or from 4 to 10 feet above typical Lake Michigan water level. The revetment stone consists mainly of quarry dolomite, with piece sizes consistent with the WEPCO design, which called for placement of 4-ton to 8-ton stone in the revetment section. The bluff face has a slope of from 2.5H:1V to 3H:1V (horizontal distance : vertical

distance) above the revetment crest, and is vegetated primarily with dense ground cover, with occasional trees and shrubs.

Soils in the area of the bluff consist of glacial deposits, mainly the Oak Creek Till, as identified and described in the SEWRPC reports on the project site. Kimball Hill conducted numerous borings on the project site to support the proposed design. These borings indicate somewhat variable soil conditions, but generally a dense silty clay above approximately elevation 590 to 600, with a somewhat sandier soil including water-bearing horizons occasionally appearing near elevation 590, with dense clay till below. These observations are consistent with the previous observations by SEWRPC. The presence of the more permeable soils around elevation 590 coincides with the observation of some areas of groundwater seepage and sloughing on the existing bluff face at similar elevations.

The Lake Michigan shoreline in the area is subject to open coast wave conditions for waves approaching from the east and southeast. The site is partially shielded from waves approaching from the northeast by the WEPCO breakwater surrounding the former power plant cooling water recirculation area and immediately to the north, and also by the Milwaukee South Shore breakwater, approximately 1000 ft offshore to the northeast.

### 2.3 Slope stability analysis

Detailed slope stability analyses were conducted for the area, using conservative estimates of analysis parameters. The slope configuration evaluated in the analysis was consistent with the schematic cross-section shown in Figure 4, attached. Specifics on the analysis include the following:

- Soil strength parameters were based on on-site sampling data, regional data, and also considered the data and analysis procedures used in previous SEWRPC investigations of the project area.
- Groundwater elevation data from monitoring wells on-site indicates that the area is not subject to unusually high perched groundwater conditions. Groundwater conditions assumed in the stability analyses included control (if present) of shallow groundwater by drains associated with the building foundations, as well as control of groundwater seepage on the lower bluff slope using constructed drains.
- The loadings from the proposed building structures were included in the analysis. The buildings adjacent to the bluff crest are proposed to have two-story basement parking facilities, which will help in maintaining slope stability by applying building foundation loads relatively deep in the bluff profile. Specific footing loads were based on project building design data.
- Lake Michigan water levels were assumed to be at the historic low for record data on Lake Michigan, producing a conservative analysis condition.

Both block failure and circular (rotational) failure were evaluated. The rotational failure analyses were evaluated using Bishop's method, consistent with the analysis procedure used in previous SEWRPC studies and recommended in technical literature. The analysis concluded that the factor of safety against failure for the proposed corridor condition (as summarized on Figures 3 and 4) is greater than 1.5. This factor of safety indicates stability of the bluff in the post-development condition. However, in order to maintain this factor of

safety, bluff toe revetment protection, over-crest runoff erosion control, and groundwater seepage sloughing must be controlled.

#### 2.4 Bluff shoreline protection revetment design

The existing revetment installed by WEPCO has a substantial amount of conservatively sized quarry stone armor units in place on the shoreline. The armor stone extends over a distance of typically 40 feet perpendicular to the shoreline, with much of the lakeward stone laid at very mild slope. The more steeply slope portion of the revetment is adjacent to the existing toe of the bluff slope. However, the crest of the revetment is quite variable in elevation, as noted above, and was probably subject to overtopping during the high water conditions on the late 1980s.

The bluff reconstruction approach will utilize the substantial mass of armor stone already in place as a toe protection system, and will raise the crest of the revetment to at least elevation 590, NGVD 1929, using new quarry stone armor pieces. A splash apron constructed of graded riprap will extend above the revetment crest on the slope of the regraded bluff, to prevent bluff face erosion during extreme storm conditions. The reconstructed revetment will be a two-layer armor design, with armor and filter design based on U.S. Army Corps of Engineers design criteria and specifications. Stone size specification will be based on shoaling and breaking wave analysis of offshore wave conditions, for extreme still water and storm surge water level rise conditions. The design water level conditions will include consideration of the 100-year high water stage and low return period storm surge, as well as the 10-year and 50-year high water levels, with more extreme storm surge conditions. Stone sizing will be based on the  $H_{10}$  wave for less than 5 percent damage.

The reconstructed revetment will be subject to permit review by the Corps of Engineers, Milwaukee County, and (depending upon determination of permit applicability) the Wisconsin DNR.

#### 2.5 Groundwater seepage control

Groundwater seepage will be prevented from discharging at the bluff face, to control potential future sloughing erosion of the vegetated bluff. The upper seepage control system will include foundation drains associated with building foundations. The lower seepage control system will be accomplished by installation of trench drains and drainage piping in the regraded bluff face, at all areas where permeable sand seams are encountered. Based upon field observations and geotechnical data, it is expected that this groundwater seepage control system will extend from the crest of the reconstructed revetment to approximately elevation 600. However, the drains may extend higher, depending upon field conditions in encountered. The seepage control system will be designed using filter criteria based on on-site soil grain size analysis.

#### 2.6 Bluff slope revegetation

The regraded bluff slope and access walkway will be vegetated using primarily grasses and forbs, to provide a stable bluff surface with dense vegetation that will minimize the potential for surficial erosion. The specific vegetation species will be selected in coordination with Milwaukee County personnel. It is expected that the species planted on the regraded bluff will be dominated by native grasses with extensive root systems, and will also include a

variety of forbs to provide wildflower displays at various times during the year. Limited specimen trees and shrubs may also be planted, to provide landscape diversity, also with concurrence by Milwaukee County.

## 2.7 Drainage way reconstruction

The existing storm drainage channel extending from the storm sewers at Howard Avenue, extended (see figures) will be stabilized to prevent future channel erosion. The stabilized channel will consist of alternating mild-slope channel sections consisting of a fieldstone lined low flow channel with a vegetated overbank section, and more steeply slope sections protected with quarry stone or fieldstone armor. The steeper sections will be especially important near the bluff face, where storm water flow will be conveyed out of the existing drainage way to Lake Michigan.

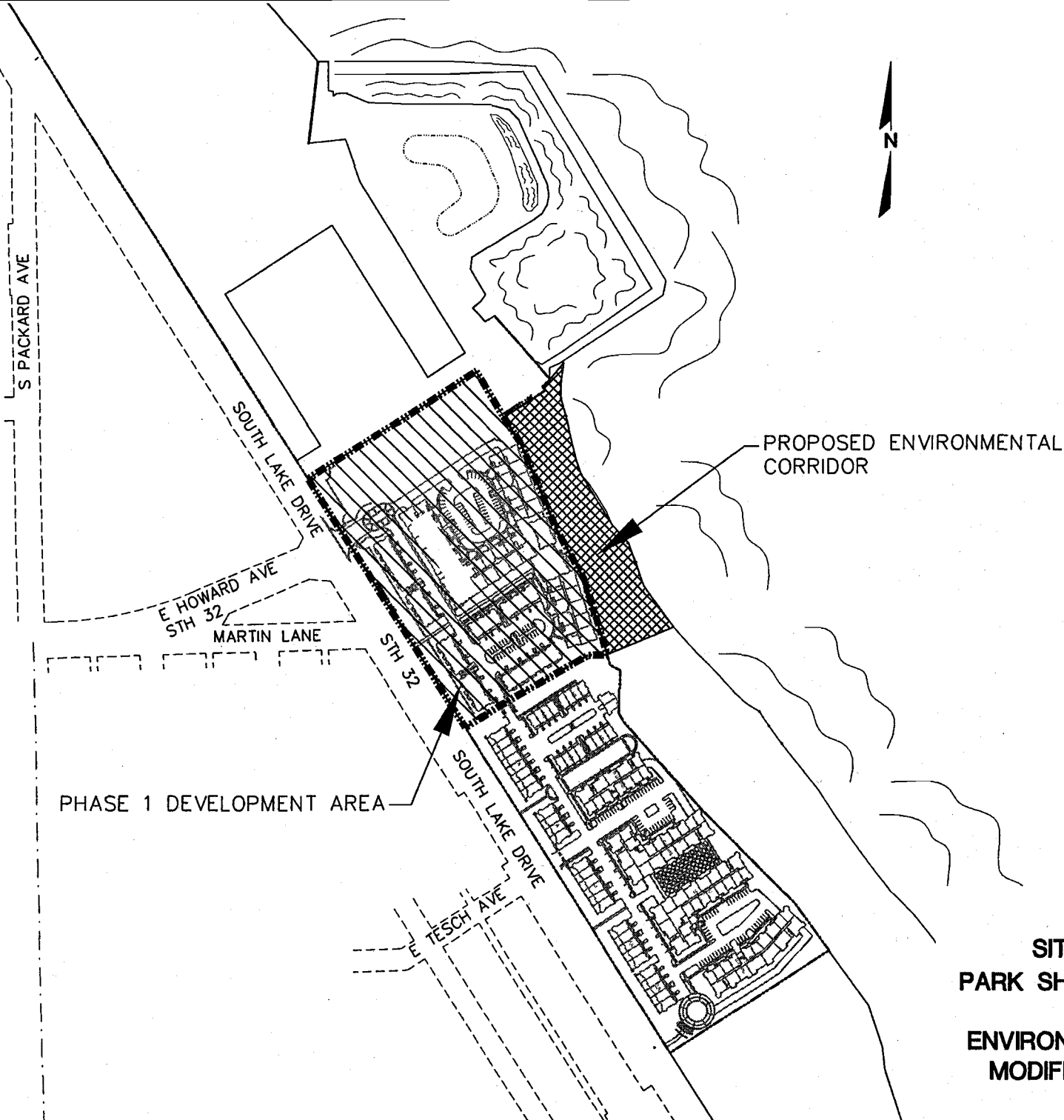
## 2.8 Control of development area storm water runoff

Storm water runoff originating in the development area west of the reconstructed environmental corridor and bluff will be safely conveyed away from the bluff face by a storm water management system. This storm water management system will discharge storm water runoff from the development area to a newly-constructed storm water quality basin at the location of the existing ash ponds opposite the former power plant (see Figure 1). Construction of this water quality basin will also accomplish the closure of the existing lagoons on the lakefill area. This storm water quality control basin will treat storm water runoff from the proposed development to the standards required by the Wisconsin DNR storm water management manual.

### **Attachments**

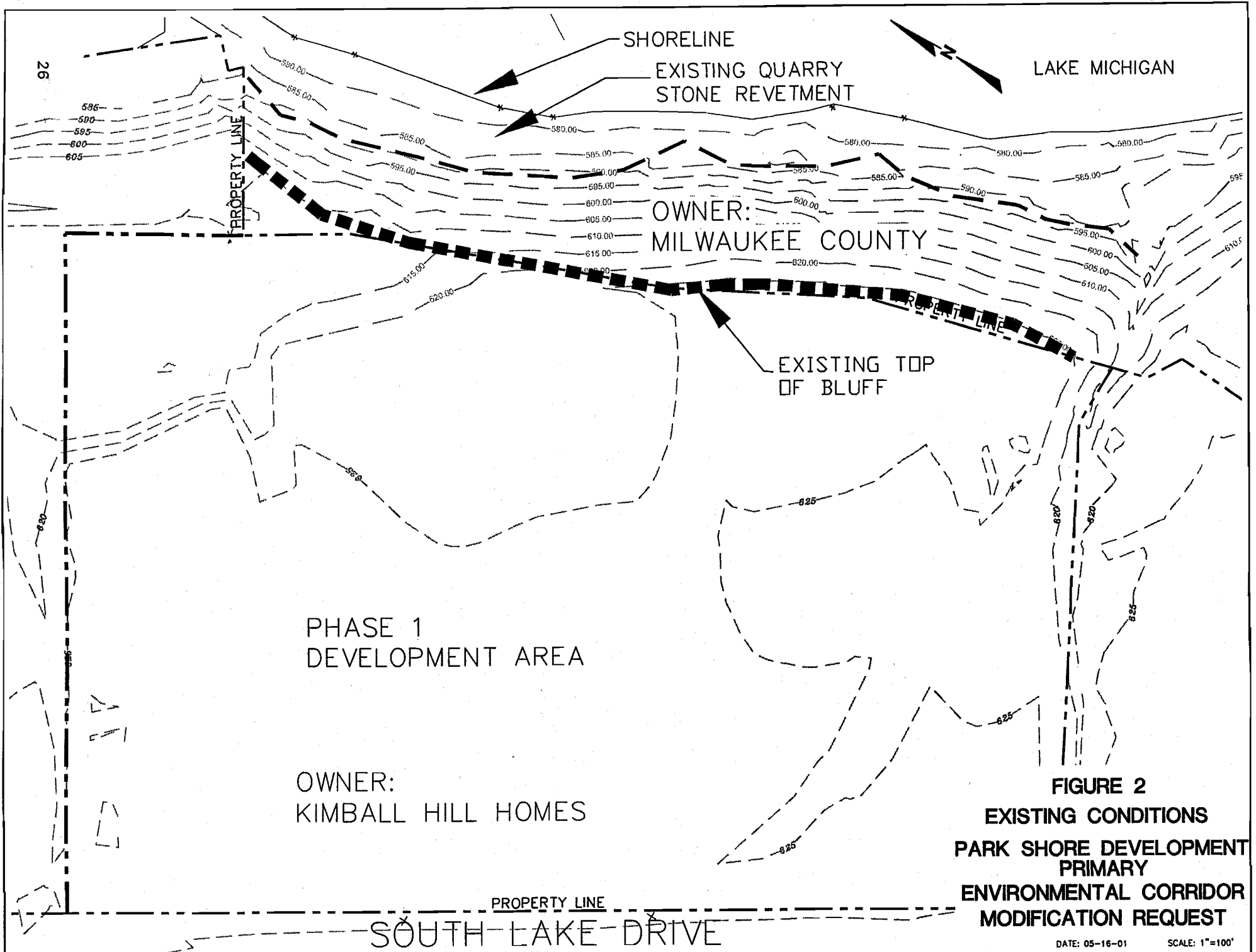
Figure 1	Site Location
Figure 2	Existing Conditions
Figure 3	Proposed Conditions
Figure 4	Typical Cross-Section

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**FIGURE 1**  
**SITE LOCATION**  
**PARK SHORE DEVELOPMENT**  
**PRIMARY**  
**ENVIRONMENTAL CORRIDOR**  
**MODIFICATION REQUEST**

DATE: 05-16-01 SCALE: 1"=400'



26

SHORELINE

EXISTING QUARRY  
STONE REVETMENT

LAKE MICHIGAN

PROPERTY LINE

OWNER:  
MILWAUKEE COUNTY

EXISTING TOP  
OF BLUFF

PROPERTY LINE

PHASE 1  
DEVELOPMENT AREA

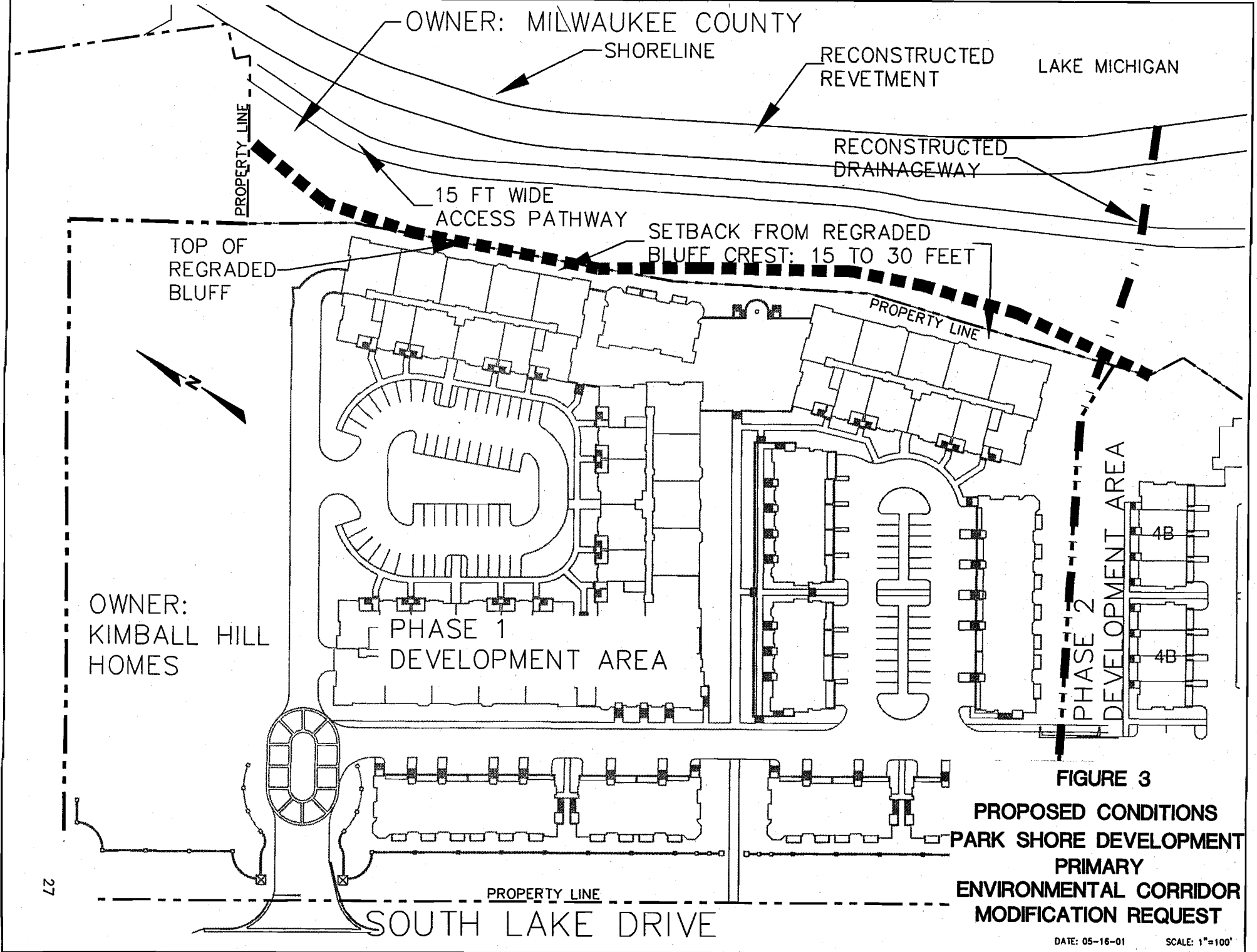
OWNER:  
KIMBALL HILL HOMES

PROPERTY LINE

SOUTH LAKE DRIVE

**FIGURE 2**  
**EXISTING CONDITIONS**  
**PARK SHORE DEVELOPMENT**  
**PRIMARY**  
**ENVIRONMENTAL CORRIDOR**  
**MODIFICATION REQUEST**





OWNER: MILWAUKEE COUNTY

SHORELINE

RECONSTRUCTED  
REVETMENT

LAKE MICHIGAN

RECONSTRUCTED  
DRAINAGEWAY

PROPERTY LINE

15 FT WIDE  
ACCESS PATHWAY

SETBACK FROM REGRADED  
BLUFF CREST: 15 TO 30 FEET

TOP OF  
REGRADED  
BLUFF

PROPERTY LINE

OWNER:  
KIMBALL HILL  
HOMES

PHASE 1  
DEVELOPMENT AREA

PHASE 2  
DEVELOPMENT AREA

FIGURE 3

PROPOSED CONDITIONS  
PARK SHORE DEVELOPMENT  
PRIMARY  
ENVIRONMENTAL CORRIDOR  
MODIFICATION REQUEST

PROPERTY LINE

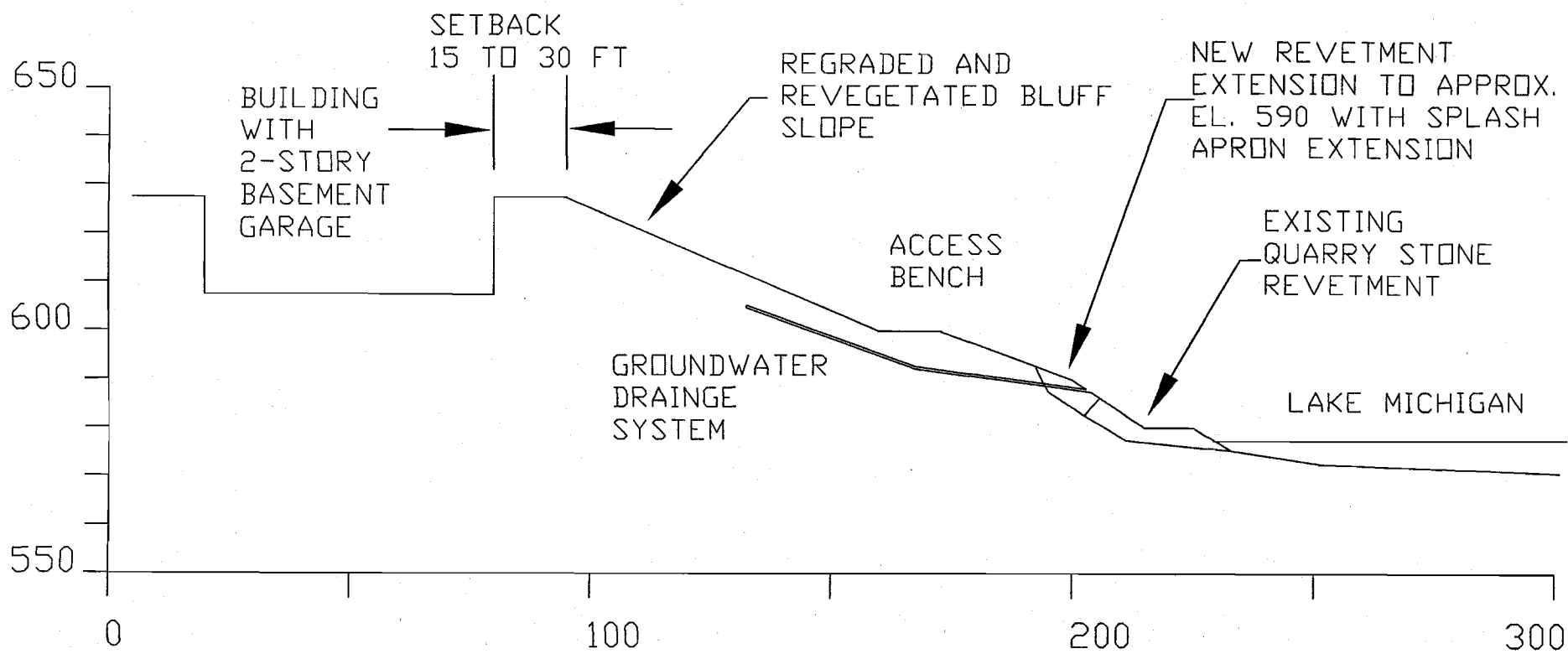
SOUTH LAKE DRIVE

DATE: 05-16-01

SCALE: 1"=100'

# TYPICAL SECTION THROUGH PHASE 1

MAXIMUM SLOPE ANGLE 2.5H:1V,  
WIDTH 130 TO 190 FEET FROM  
BUILDING TO SHORELINE



**FIGURE 4**  
**TYPICAL CROSS SECTION**  
**PARK SHORE DEVELOPMENT**  
**PRIMARY**  
**ENVIRONMENTAL CORRIDOR**  
**MODIFICATION REQUEST**

**Appendix B**

**SUMMARY MINUTES OF  
JUNE 4, 2000, PUBLIC HEARING**

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**SUMMARY MINUTES OF THE PUBLIC HEARING  
HELD JUNE 4, 2001  
SEWRPC - Amendment to Regional Water Quality Management Plan  
Related to Environmental Corridor Boundary in the City of St. Francis**

Present: Mayor Burazin, Alderpersons Vugrinovich, Raclaw, Lillrose and Sopolinski

Also Present: City Administrator Voltner, City Clerk Uecker, City Engineer Schultz, Fire Chief Nearingard, Building Inspector Vretenar, interested citizens and the press

Excused: Alderwoman Fliss

Mayor Burazin called the Public Hearing to order at 7:00 p.m. He then read a brief introductory statement (attached).

Mr. Bob Beibel of SEWRPC gave a presentation on the proposed amendment to the Regional Water Quality Management Plan. He stated that there are several environmentally sensitive areas in the City, one of which is along the lakeshore. Bluff stabilization would be required as well as toe protection prior to building on the proposed site on the lakefront. Mr. Beibel also reviewed the subsequent steps that are needed in the amendment process.

The Mayor then called for public comments.

Alberto Varga  
Coastal Hazards Work Group

Mr. Varga read a prepared statement (attached).

Philip Keiller  
Sea Grant Advisory Group

Mr. Keiller is the author of the above referenced statement. He felt that the development needs a risk management plan to include shore protection, stability, etc. He is in support of careful setback distances.

Milton Vretenar  
4216 South Packard Avenue

Mr. Vretenar, the former Mayor, stated that he is bewildered as to why the City of St. Francis is getting the "short end of the stick" in regards to this development. He felt that other communities had similar projects and had no problems. This project is much needed to increase the tax base for the City and asked that the appropriate officials take a healthy look at this project and get it going.

Rudy Hoppe  
3125 East Crawford Avenue

Mr. Hoppe stated that he is pleased with the work that both Mayor Burazin and former Mayor Vretenar have done to get this project going and his only true comment was to get this project done as soon as possible.

Robert Montgomery  
Kimball Hill Homes

Mr. Montgomery is the engineer for Kimball Hill Homes and answered some of the engineering questions as they related to design of the project. He stated that the design of the project is evolving. He also stated that they have increased the width of the shore yard and it is currently 60 to 98 feet and that many of the suggestions of the Coastal Hazards Work Group has been incorporated into the present design.

Ray Klug  
4093 South Lake Drive

Mr. Klug felt that prior to any further permission be given to the developer, they should be made to stabilize the shoreline. He also asked if any studies have been done as to the effect of traffic on Lake Drive and Packard Avenue as a result of this project.

Al Richards  
4103 South Lipton Avenue

Mr. Richards questioned why all of a sudden this is a problem. He stated that the area to be developed is the least eroded, from his observations, and has the least amount of fill. He felt that if the developer did some preventive care, the area would not erode for several hundred years. He felt that we should try to make this work and have it done properly. Doing nothing will improve nothing.

Ray Malek  
Starfire, Inc.

Mr. Malek stated that he is a business owner in the City of St. Francis and stated that he firmly believes that the developer has a fair proposal. He also stated that the City needs the additional tax base that this development will afford. He feels that it is a travesty that this hearing is being held at such a late date - where was the planning 15 years ago when the lake was eroding? He supports the City's request for the amendment.

Carol Grundy  
9280 South Nicholson Road  
Oak Creek

Ms. Grundy questioned how this project, with the increase in tax base, would affect City services and their respective costs.

Senator Richard Grobschmidt

Senator Grobschmidt read a letter that he had sent to SEWRPC Executive Director Everson. He also stated that he is in support of the amendment and the proposed development. (Attached)

Russ Vogel  
Kimball Hill Homes

Mr. Vogel stated that Kimball Hill has met the challenges for the bluff stabilization and drainage as well as the spirit of the environmental corridor. He stated that the City would be proud of the development once it is finished. He also stated they will include in the Homeowner's Covenant an Agreement to maintain the shoreline and bluff protection as suggested by Mr. Varga and Mr. Keiller.

A letter was then read that was submitted to SEWRPC from Christopher Stawski. Mr. Stawski is against the amendment and the project.

There being no further comments, the Mayor called the Public Hearing three times.

The Hearing was declared closed at 8:30 p.m.

## **PUBLIC HEARING**

### **Amendment to Regional Water Quality Management Plan Related to Environmental Corridor Boundary in the City of St. Francis**

#### **INTRODUCTORY STATEMENT**

This public hearing is being held for the purpose of receiving public comment on, and reaction to, a proposed amendment to the regional water quality management plan related to the boundary of the primary environmental corridor in the City of St. Francis. That amendment concerns the redelineation of the primary environmental corridor lands adjacent to an 800-foot reach of the Lake Michigan shoreline in order to accommodate a development proposal. The public hearing is being sponsored by the City of St. Francis and the Southeastern Wisconsin Regional Planning Commission (SEWRPC).

Following these introductory remarks, SEWRPC staff will explain the amendment. The hearing will then be opened up for public comment.

Following the public hearing, the City and SEWRPC will determine whether any changes should be made to the plan amendment as presented at the hearing. The City and SEWRPC will then formally adopt the amendment report and forward it to the Wisconsin Department of Natural Resources for consideration.

We ask that everyone be sure to sign the attendance sheets set in the back of the room.

#### **OTHER ITEMS OF BUSINESS**

Just prior to the public comment period, please ask people to state name and address each time they wish to speak.

RPT/vk  
#43179 V1 - ST. FRANCIS RWQ PUBLIC HEARING INTRO  
06/01/01



**Statement of the Coastal Hazards Work Group for a Public Hearing in the City of St. Francis Concerning the Proposed Park Shore Development Project. June 4, 2001.**

The Coastal Hazards Work Group, an advisory group to the Wisconsin Coastal Management Program, has some comments to make about the proposed Park Shore Development Project in the City of St. Francis, Milwaukee County, Wisconsin. The Work Group is made up of staff from the Coastal Management Program, Department of Natural Resources, Office of Emergency Management in the Department of Military Affairs, Sea Grant Advisory Services, State Cartographers Office, and UW-Madison's Land Information and Computer Graphics Facility. The Work Group advises the Coastal Management Program on natural coastal hazards along Wisconsin's Great Lakes coast.

The Coastal Hazards Work Group is testifying for information purposes concerning the proposed Park Shore Development Project in the City of St. Francis, Milwaukee County. The project developers have had done the type of engineering slope stability analysis long advocated for prudent coastal development. The Group is concerned about the planned construction of certain buildings and other facilities near the edge of the coastal bluff on this property.

The main reason for this concern is that the planned construction setback distance of 50 feet and less, from the edge of the bluff, seems inadequate because the long-term integrity of the constructed facilities on the coastal margin of the development will depend upon meticulous maintenance of nearby shore protection structures, vegetated slope cover, groundwater interception and removal, and surface water interception. Meticulous maintenance of built elements where required for bluff stability is not common along Wisconsin's coast. Neglected maintenance of shore protection (including bluff stability) is common, particularly for facilities like those in the Park Shore Development that seem likely to change ownership numerous times over a presumed useful lifetime of 50 years or more.

A second concern of the Work Group is that extreme precipitation events, and saturated bluff soil conditions should be anticipated and taken into consideration in the engineering design and construction of the bluff stabilization elements of the development. See the Footnote on Page 2.

A third concern of the Work Group is the possibility of significant lakebed erosion nearshore in the vicinity of present and planned shore protection for the development. Lakebed erosion undermines almost every kind of shore protection structure and leads to its early failure. There is circumstantial evidence of lakebed erosion in southeastern Wisconsin.

A fourth concern is that the proposed site poses some unusual challenges in determining its load bearing properties because it has been substantially filled with concrete rubble of assorted sizes, disrupted soils (with variable characteristics) and other construction waste (SEWRPC 1984, pg. 9; SEWRPC 1989, Appendix A, pgs. 464 to 469).

The Work Group supports the required use of an ample Environmental Corridor along the coastal margin of the state because such a corridor offers a measure of security from unexpected bluff and bank erosion that imperils coastal homes, apartments, condominiums, factories, offices and other structures during their useful lives.

The Work Group recommends a minimum setback distance of 100 feet from the lakeward edges of natural coastal bluffs and banks as a general practice for construction or relocation of buildings and other facilities on Wisconsin's Lake Michigan coast. The reasons for the recommended distance include: 1) unknowable commitments to long-term maintenance, performance and stability of any shore protection structure, 2) unknowable commitments to long-term maintenance and performance of constructed groundwater interception and control, surface water interception and control, 3) concern about extreme precipitation events and lake storm events that exceed design conditions, and 4) concern about nearshore lakebed erosion that tends to undermine almost every type of shore protection structure and cause its collapse. In situations where careful bluff-stability analyses and competent engineering plans have not been made, the rationale for the recommended minimum setback includes added uncertainties about future recession rates of erodible bluffs or banks, and future instability of bluffs and banks. A site-specific, minimum setback distance determined from an uncertainty analysis of the elements mentioned in this paragraph is better than a generalized minimum setback distance.

#### **Footnote**

In a recent 11-year period, Southeastern Wisconsin had three extreme precipitation events (1986, 1996, 1997) in which rainfall was greatly in excess of what would be expected in a 100-year precipitation event (SEWRPC 1997). A "100-year event" is an event expected to occur once on the average within 100 years (a recurrence interval), has a one percent chance of occurring in any one year, and a 22 percent chance of occurring in 25 years (FEMA 2000). The major stormwater drainage system in the region is generally designed to handle runoff from storms having recurrence intervals of from 10 to 100 years (SEWRPC 1997).

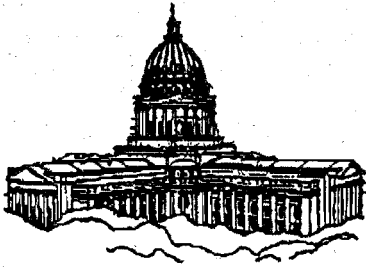
#### **References**

FEMA 2000. Coastal construction manual. Federal Emergency Management Agency, Mitigation Directorate.

SEWRPC. 1984. A Lake Michigan coastal erosion and related land use management study for the City of St. Francis, Wisconsin. Southeastern Wisconsin Regional Planning Commission. August 1984. Community Assistance Planning Report No. 110.

SEWRPC. 1989. Lake Michigan shoreland erosion management plan for Milwaukee County, Wisconsin. Southeastern Wisconsin Regional Planning Commission. October 1989. Community Assistance Planning Report No. 163.

SEWRPC. 1997. Flooding and stormwater drainage problems result from major storm of June 20-21, 1997. Southeastern Regional Planning Commission Newsletter, Vol. 37, No. 3.



WISCONSIN STATE SENATOR  
**RICHARD GROBSCHMIDT**

7TH SENATE DISTRICT

May 30, 2001

Philip C. Evenson, Executive Director  
Southeastern Wisconsin Regional Planning Commission  
P.O. Box 1607  
916 N. East Ave.  
Waukesha, WI 53187-1607

Dear Director Evenson:

On June 4<sup>th</sup> the Commission will hold a public hearing to accept comments on the Park Shore Development Project in the City of St. Francis. I am writing to express my support for a Commission recommendation that the project can be accommodated within the regional water quality management plan.

The proposal before the Commission has been worked on by a group that includes SEWRPC staff, representatives of the City of St. Francis, Milwaukee County, the DNR, and the developer. It addresses a variety of concerns noted in SEWRPC's review. The proposal meets the environmental concerns related to bluff stabilization and shoreline protection as well as issues related to proper management of stormwater.

I am lending my support to the project because I believe that the proposed development of this land is in the best interest of the City of St. Francis and the greater metropolitan area. Adding a carefully designed housing development within an already developed urban area of Milwaukee County impresses me as consistent with good land use policy. I think that the commission's support for the proposal could be an important step in helping slow the trend of new housing being located in the remaining rural areas of Milwaukee County.

It is also worth noting that the City of St. Francis is home to a considerable amount of tax-exempt property. The community continually relies on a limited tax base to fund basic government services. Adding to the City's tax base, as this project will in a significant way, can help local officials better meet the basic service needs of their community, and the growing number of mandated programs that are finding their way onto municipal budgets.

SEWRPC  
May 30, 2001  
page two.

Lastly, I think the development proposal achieves an acceptable balancing of private and public use of the lakeshore. At an early point in the project's development, Kimball Hill Homes committed to providing public use of the shoreline. The proposal includes a transfer of ownership of the beach and shoreline area to Milwaukee County, easements that will assure access, and commits the developer to helping with the construction of a bike path that will link to existing shoreline bike paths.

I hope the Commission will recognize not only the significant effort that has gone into the development of this proposal, but also, the great opportunity that lies ahead of the City of St. Francis. I hope you will make a finding that enables this project to continue forward toward the start of construction in the near future.

Sincerely,

RICHARD GROBSCHMIDT  
State Senator  
7<sup>th</sup> Senate District

RG:js











**SEWRPC Public Hearing**  
**Monday, June 4, 2001**  
**7:00 p.m.**

Name Please Print	Address Please Print	Speak - Yes	Speak - No
Nancy Schultz	MMSD		X
Dimitry Grabowski	OAK CREEK PO Box 134		X
Don Schantzen	OAK CREEK		X
Beth Rankinen	CNI		X
CLIFF COURNAK	ST. FRANCES 3022 E. WATKINS		X
Susan Lyles	3839 E. Denton Ave.		
DENNIS WEEDALL	PARKS DEPT		
Ross Vogel	KIMBALL Hill HOMES		
Ellen Fente	4430 S. New York		X
Michael	4430 S New York		X
DAVE GOLTE	4438 S. New York Ave		X
NANCY GOLTZ	" " "		X
Rob Monty omeny	2378 Rinden Rd Cottage Grove WI	X	
Bob WALCZAL	2615 - E. BOTSFORD		X
Ray Kling	4093 S. Lakewood Dr.	X	
Jeanne Schlay	31244 Ollie		X
Stemon Canyon	DNR		X
Walter Wagner	State Senate		X
ALAN WAGNER	WAGNER KAMURKA		
Alan Richards	4103 S. Lipton Ave ST. FRANCIS	X	
RAY MALEK	STARFIRE INC 3550 S. BOW	X	
	ST FRANCIS		
DAVID MALEK	3560 W. Iowa Ave		✓
MARYE PARKER	2803 E. KOENIG AVE		X
Bill Park	2803 E. CHURCH ST. 53702		X
BRAD VANDEVENTER	3195 S. SUNRISE ST	X	



# Olive Branch Direct to You Inc.

*Landscape Supplies*

June 5, 2001

Mayor Lawrence J. Burazin  
City of St. Francis  
4235 S. Nicholson Avenue  
St. Francis, WI 53235

Re: Park Shore Development Project

Honorable Mayor Burazin:

I am writing as a concerned businesswomen in the City of St. Francis supporting the Park Shore Development Project. I live two blocks west of this proposed project and feel this will greatly enhance our neighborhood while providing a quality addition to the city. This project is essential for future development of the City of St. Francis while increasing the property values. The developers have a significant national reputation in providing high quality developments and delivering what they have forecasted. I have personally seen some of their work and am quite impressed with their projects. Unlike previous developers, this project is ready and able to move forward fulfilling their plans which is long overdue for the lakefront property.

The developing of "upscale" condominiums, apartments, and coach homes for the lakefront in a controlled well engineered project is exactly what that property should be utilized as. That particular piece of property is ideal for this project and with the high quality developers of Park Shore Development it is a definite win for the City of St. Francis.

Please pass on my support to SEWRPC and let them know we, the citizens of St. Francis do not need any more delays in developing this fine piece of property.

Sincerely,

A handwritten signature in cursive script, which appears to read "Linda R. Neargarder".

Linda R. Neargarder, President  
Olive Branch Direct to You, Inc.

HISTORIC JAMES S. PECK MANSION  
1105 North Waverly Place  
Milwaukee, Wisconsin 53202  
Tel 414-276-8202  
Fax 414-276-4887  
www.urban-taylor-stawski.com



CHRISTOPHER J. STAWSKI  
SCOTT B. TAYLOR  
JAY A. URBAN  
REBECCA L. SALAWDEH  
BETH A. EL-DEMERDASH

June 1, 2001

**VIA FACSIMILE**

Southeastern Wisconsin Regional Planning Commission  
P.O. Box 1607  
Waukesha, WI 53187-1607

RE: Park Shore Development Project

Dear Sir/Madam:

I am writing you regarding the proposed development in St. Francis which has been named the Park Shore Development Project. I understand that the City of St. Francis has requested that the Southeastern Wisconsin Regional Planning Commission (SEWRPC) delineate the boundary of the primary environmental corridor adjacent to the first phase of the lakefront development. I am writing you to voice my opposition to this request.

I am a resident of St. Francis and live directly across the street from the Park Shore Development Project. Contrary to the assertion of the City of St. Francis, the Project is not essential to the future development of St. Francis. There are numerous other areas of the city that are expected to become available for development within the next several years. The city does not need to develop this land to further its developmental needs.

In addition, I do not believe that the condominiums and apartments planned for this site will increase the property values in the city. On the contrary, this development may actually decrease the property values of the surrounding areas. The increased traffic, noise and disruption from these units will necessitate an increase in city services. This will increase the need for tax revenue. This most certainly will result in current residents of the City of St. Francis paying additional taxes to support a development that most of the city's residents do not want.

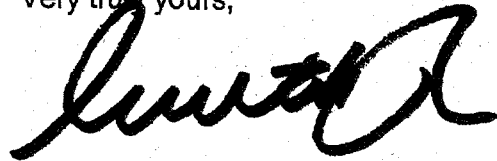
Proceeding with this project will also ruin the park-like nature of the property. This property offers unspoiled views of the lakefront and downtown Milwaukee. The view is available for everyone to enjoy. Once this proposed development takes place, the view will be enjoyed by only a select few. The character of the land will be destroyed. This is clearly not in the long term best interest of St. Francis or the community.

U R B A N  
T A Y L O R &  
S T A W S K I  
L I M I T E D

---

I am available to discuss my views in greater detail should SEWRPC so desire. Thank you for your consideration.

Very truly yours,



Christopher J. Stawski

CJS:cab

# RESOLUTION NO. 2299

## RESOLUTION SUPPORTING AMENDMENT TO REGIONAL WATER QUALITY MANAGEMENT PLAN RELATED TO ENVIRONMENTAL CORRIDOR BOUNDARY IN THE CITY OF ST. FRANCIS

**WHEREAS** the Southeastern Wisconsin Regional Planning Commission (SEWRPC) has developed a Regional Water Quality Management Plan related to the Environmental Corridor Boundary in the City of St. Francis, particularly along the shore of Lake Michigan, and

**WHEREAS** there has been proposed changes to such plan for which a public hearing was held at the St. Francis City Hall on Monday June 4, 2001, and

**WHEREAS** there is a certain need for balance between effective use of land and the needs of water quality in an environmental corridor such as the shore of Lake Michigan, and

**WHEREAS** the amendments as proposed by SEWRPC meet the needs of all parties concerned and reach the balance called for.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of St. Francis, that it hereby supports amendments to the Regional Water Quality Management Plan related to the Environmental Corridor Boundary in the City of St. Francis as proposed by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and requests that such plan be adopted with all due speed.

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to forward a copy of this resolution to the Southeastern Wisconsin Regional Planning Commission, the Secretary of the Wisconsin Department of Natural Resources, our representatives in State Senate and Assembly, and the Governor of the State of Wisconsin.

PASSED and APPROVED this 19<sup>th</sup> day of June 2001.

/s/Lawrence J. Burazin

Mayor

ATTEST:

/s/Anne B. Uecker, CMC/AAE

City Clerk

Prepared by: Richard H. Staats, City Attorney

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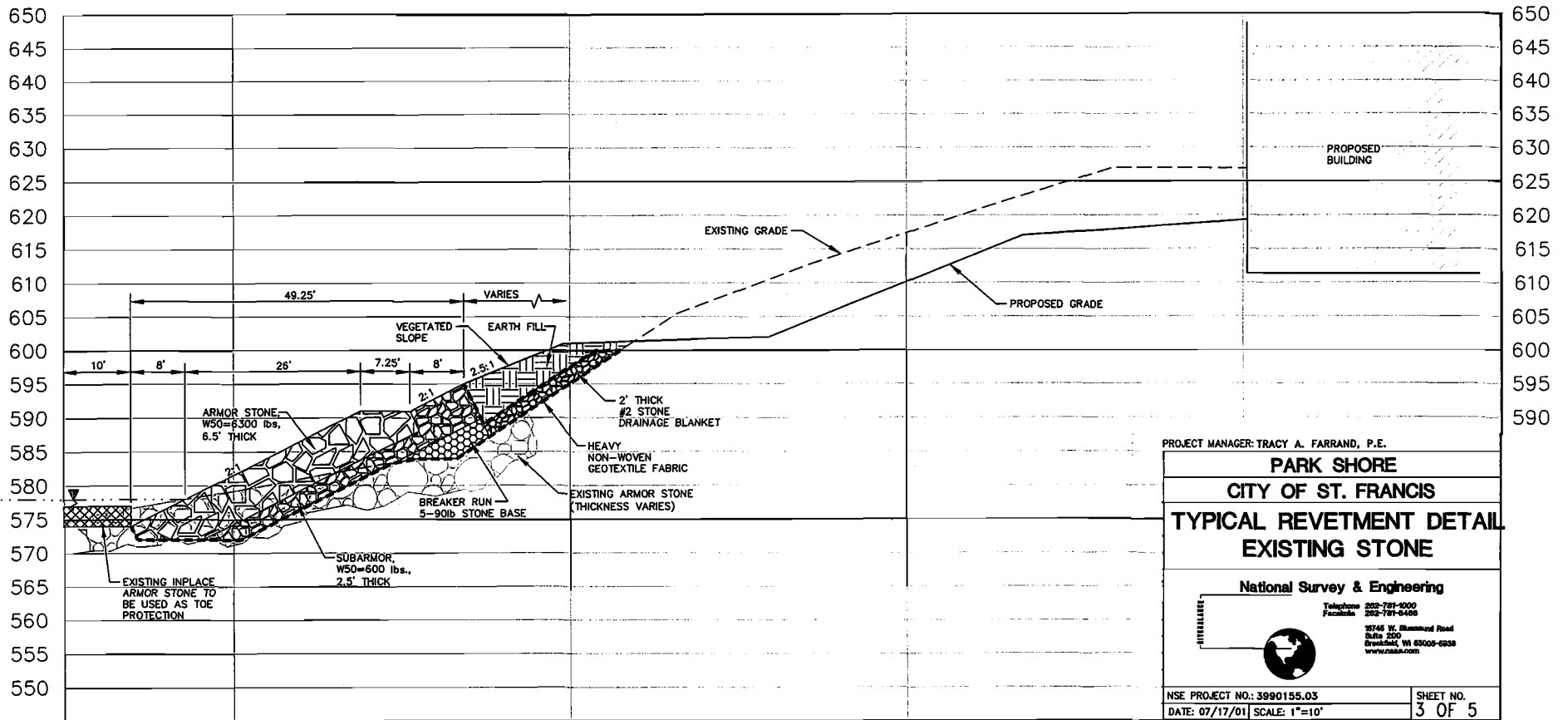
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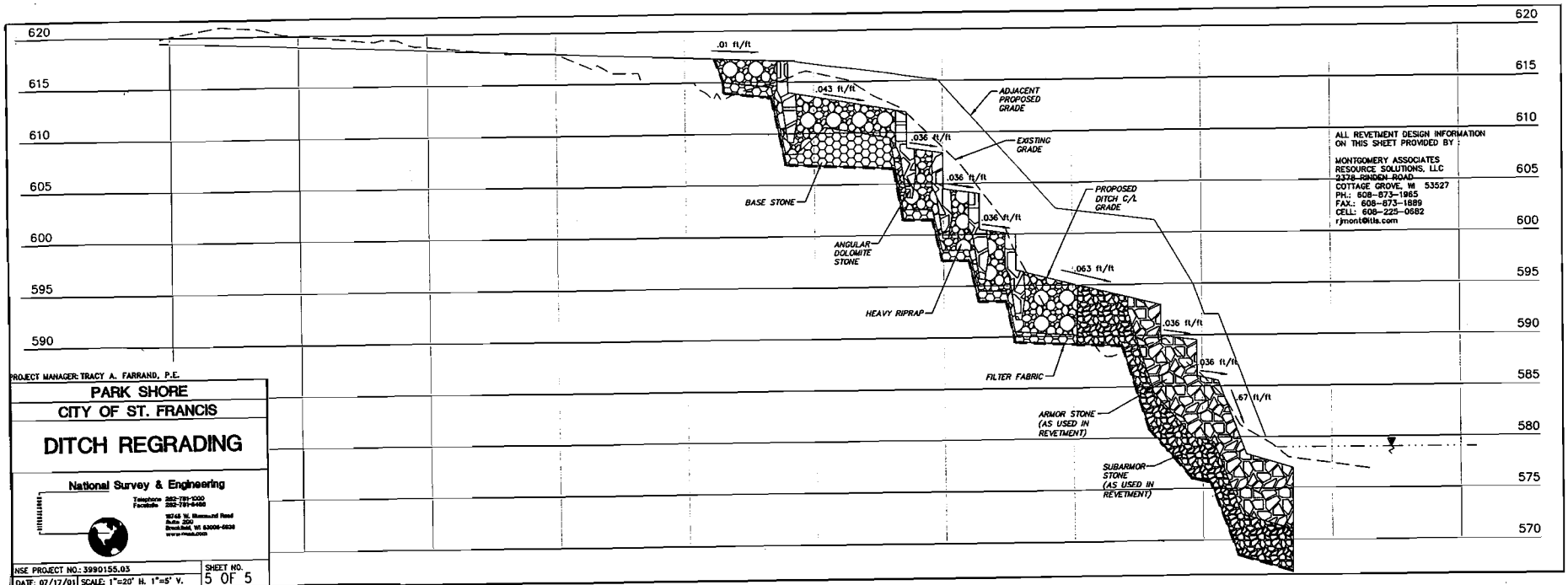
**Appendix D**

**CITY OF ST. FRANCIS SHORELINE  
PROTECTION MEASURE CROSS-SECTIONS  
DATED JULY 17, 2001**

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PROJECT MANAGER: TRACY A. FARRAND, P.E.

**PARK SHORE**  
CITY OF ST. FRANCIS

**DITCH REGRADING**

**National Survey & Engineering**  
Telephone: 262-781-0200  
Facsimile: 262-781-0200  
1001 W. Wisconsin Road  
P.O. Box 20  
Madison, WI 53702-0020  
www.nse.com

NSE PROJECT NO.: 3990155.03  
DATE: 07/17/01 SCALE: 1"=20' H. 1"=5' V.

SHEET NO.  
5 OF 5

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**Appendix E**

**MILWAUKEE COUNTY PROJECT REVIEW LETTER**

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OFFICE OF COUNTY EXECUTIVE

# Milwaukee County

F. THOMAS AMENT • COUNTY EXECUTIVE

July 24, 2001

Mr. Philip C. Evenson  
Executive Director  
Southeastern Wisconsin Regional Planning Commission  
916 N. East Avenue  
P.O. Box 1607  
Waukesha, WI 53187-1607

RE: St. Francis Development

Dear Mr. Evenson: *PLT*

Milwaukee County has been working cooperatively with the City of St. Francis for over a year in efforts to develop the former WEPCO Lakeside Power Plant property on South Lake Drive. This project has the potential to create up to \$300 million in new taxable development on a formerly tax-exempt parcel, as well as bringing new residents and businesses to Milwaukee County's southeast suburbs. In a recent letter to St. Francis Mayor Lawrence Burazin you posed several questions regarding the County's current and future responsibilities and involvement in the proposed development of this site. I believe this communication will provide the information you are seeking and trust that it will result in obtaining this necessary approval from SEWRPC to finally move this project forward.

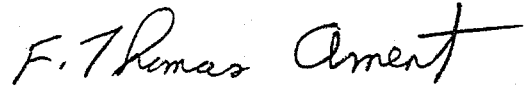
County Parks Department and Public Works staff have reviewed the proposed grading, shore protection, and bluff stability measures and find them to be satisfactory. The County will issue the needed right of entry permits to enter upon the lands concerned and put those measures in place. The County will, as necessary, issue the needed right of entry permits and easements to the developers, the City of St. Francis, and/or any future homeowners association to enter upon the lands concerned and perform any required maintenance activities. The County will work with the developer, the City of St. Francis, and any future homeowners association to minimize the impact on public access to the County land and the lake during construction and maintenance activities. The revised plans also provide for a substantially improved bike trail route that will avoid having the trail cross an access road to the development altogether and will run the trail along the lake for a greater distance (which has been a County objective).

July 23, 2001  
Mr. Philip C. Evenson  
Page 2

County Parks Department and Corporation Counsel staff assisted the developer and the City of St. Francis in drafting the Shoreline Improvements and Maintenance Agreement which was approved by the City of St. Francis Common Council on July 17, 2001. The Shoreline Improvements and Maintenance Agreement satisfactorily addresses County interests in the matter. The Shoreline Improvements and Maintenance Agreement is consistent with the Development Agreement on the original land transfer that was approved by the County Board (County Board File No. 00-367) and executed on July 7, 2000. The approvals that the County is committing to are authorized under the Development Agreement and under normal administrative authority of the Parks Department for day to day management of the Park System.

I believe that this communication addresses all of the items that you requested to be provided by the County. Please let me know if you need any additional items or have any questions.

Sincerely,



F. Thomas Ament  
Milwaukee County Executive

CC: Supervisor Daniel Diliberti, SEWRPC Commissioner  
Supervisor Lori Lutzka  
St. Francis Mayor Lawrence J. Burazin  
State Senator Richard A. Grobschmidt  
David Novak, Director of Public Works, SEWRPC Commissioner  
William R. Drew, SEWRPC Commissioner  
Thomas M. Mollan, County Executive Chief of Staff  
Susan L. Baldwin, Director of Parks, Recreation and Culture  
Robert G. Ott, Corporation Counsel  
John Schapekahn, Principal Assistant Corporation Counsel  
Kevin Haley, Landscape Architect  
Russ Vogel, Kimball Hill Homes  
Dean Frederick, Thompson Corporation  
Ralph Voltner, City Administrator, City of St. Francis  
Gloria L. McCutcheon, Regional Director WDNR-Southeast Region  
Dennis Weedall, Deputy Director of Parks (F&A)

**Appendix F**

**CITY OF ST. FRANCIS DEVELOPER  
AGREEMENT FOR MAINTENANCE**

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**RESOLUTION NO. 2301**

**A RESOLUTION APPROVING AGREEMENT WITH PARK SHORE L.L.C. FOR SHORELINE IMPROVEMENTS AND MAINTENANCE AGREEMENT AND AUTHORIZING MAYOR TO EXECUTE AND DELIVER DOCUMENT**

WHEREAS, Park Shore L.L.C. a Wisconsin limited liability company (Park Shore) has approached the City of St. Francis to install Shoreline Improvements on land abutting the shore of Lake Michigan, and

WHEREAS, these improvements would protect the environmental corridor boundary and Milwaukee County park land in St. Francis, and

WHEREAS, the protection will promote effective use of land and erosion control, and

WHEREAS, this agreement will also promote and insure long term maintenance of the area denoted on various attached exhibits that will become part of the final Planned Unit Development Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor is hereby authorized to execute and deliver such agreement on behalf of the City of St. Francis.

NOW, THEREFORE BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a copy of this resolution to the Southeastern Wisconsin Regional Planning Commission, the Secretary of the Wisconsin Department of Natural Resources, County Executive Ament, our representatives in State Senate and Assembly, and the Governor of the State of Wisconsin.

PASSED and APPROVED this 17th day of July, 2001.

/s/Lawrence J. Burazin  
Mayor

ATTEST:

/s/Anne B. Uecker, CMG/AAE  
City Clerk

## **SHORELINE IMPROVEMENTS AND MAINTENANCE AGREEMENT**

This Shoreline Improvements and Maintenance Agreement ("Agreement") made as of this 17th day of July, 2001 by and between the City of St. Francis, Wisconsin ("City") and Park Shore, L.L.C., a Wisconsin limited liability company ("Park Shore").

### *RECITALS*

A. Park Shore is the record fee simple owner of certain real estate ("Real Estate") located within the City, County of Milwaukee, State of Wisconsin and identified as Parcel 1 and Parcel 2 on the Certified Survey Map No. 6895 (City No. 5-2000) attached to and made a part of this Agreement as Exhibit A. The Real Estate is legally described on Exhibit B attached to and made a part of this Agreement.

B. Park Shore intends to improve the Real Estate for the construction and sale by either it or its assignee or transferee of quality residences and to organize one or more homeowners associations (collectively the "Homeowners Association") to carry out, among other things, the maintenance and repair of certain common areas on the Real Estate and on any offsite areas for which the Homeowners Association is also obligated by contract to maintain and repair.

C. In connection with certain approvals granted for construction of improvements on the Real Estate, Park Shore has agreed to construct and install certain offsite shoreline improvements including refurbishing of the existing revetment at the edge of Lake Michigan, regrading of the bluff, installation of a drainage and erosion control system within the face of the bluff and planting of certain landscaping and related installations of slope stabilization materials, and maintenance of all of these improvements (collectively the "Shoreline Improvements"). Plans and specifications for all construction and future modifications or repairs shall be reviewed and approved by Milwaukee County Department of Parks, Recreation and Culture ("County") prior to commencement of any work. The Shoreline Improvements are specifically defined as being those shown on drawings attached to and made a part of this Agreement as Exhibit C.

D. The Shoreline Improvements are to be installed along the shoreline of Lake Michigan located generally northeasterly of the Real Estate as shown on attached Exhibits A & B on property adjacent and contiguous to the Real Estate which is owned and operated by the County. Such property upon which the Shoreline Improvements shall be installed shall be referred to as the "Shoreline Property" and is legally described on Exhibit D attached to and made a part of this Agreement.

E. The parties desire to provide in this Agreement for the all of the terms and conditions of the installation of the Shoreline Improvements by Park Shore and the maintenance of the Shoreline Improvements by Park Shore and/or the Homeowners Association, which shall ultimately be responsible for maintenance also of certain common areas on the Real Estate, and for certain related rights and obligations of the parties.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Installation of Shoreline Improvements by Park Shore.

(a) Obligation to Install.

Park Shore shall at its cost, and without charge, fee or other cost to the City or County, install and maintain the Shoreline Improvements as defined and provided for on attached Exhibit C. No modification to Exhibit C shall be made without a written amendment to this Agreement signed by both parties. The City agrees that no bond, letter of credit or other security shall be required for any

installation of the Shoreline Improvements. It is understood that County will require a restoration bond in conjunction with the issuance of the required right of entry permits for construction activities. Upon creation and organization of the Homeowners Association, the maintenance of the Shoreline Improvements installed by Park Shore shall be carried out by the Homeowners Association as required in paragraph 2 and elsewhere in this Agreement.

(b) Schedule of Installation.

Upon receipt of all required permits and other approvals from the City, the County and from any other applicable and required governmental agency, Park Shore shall commence and complete the installation of the Shoreline Improvements according to the schedule ("Schedule") attached to and made a part of this Agreement as Exhibit E. Park Shore shall use its best commercially reasonable efforts to cause the Shoreline Improvements to be installed within the time or times contemplated in the Schedule, provided, however, that Park Shore shall not be liable or otherwise responsible for any delays in the installation or completion of the Shoreline Improvements due to strikes, inability to obtain or delays in obtaining any required permits or other consents, shortages or unavailability of material or subcontractors, unforeseen conditions, weather, acts of God or any other causes that are beyond its commercially reasonable control. However, such delays will not relieve Park Shore from responsibility for completing all work according to approved plans including any additional work necessitated by such delays.

(c) Compliance with Exhibit C and Laws and Ordinances.

The Shoreline Improvements shall be installed in compliance with all of the drawings and other documents constituting Exhibit C to this Agreement and in compliance with all applicable laws and ordinances. The parties understand and are proceeding specifically on the understanding that the Shoreline Improvements as delineated on Exhibit C fully comply with all applicable laws and ordinances.

(d) Insurance.

Prior to commencement of the installation of the Shoreline Improvements or any subsequent maintenance or repairs, Park Shore and/or Homeowners Association shall obtain and maintain in full force and effect, until the improvements have been fully installed and approved by City, County and all permitting authorities, indemnification and insurance to the City and County in a form and level acceptable to and approved by the County Risk Manager for all activities related to construction which is permitted on County land. Similar insurance shall also be obtained and maintained for future operation, maintenance and major maintenance of any and all other activities and construction which is permitted on County Property. Park Shore and/or Homeowners Association shall deliver to the City and County certificates of such insurance naming the City and the County as additional named insureds.

(e) Lien Waivers.

Park Shore shall be responsible for obtaining any appropriate waivers of lien from any contractors and subcontractors responsible for any portion of the installation of the Shoreline Improvements and for preventing any mechanics liens caused by the installation of the Shoreline Improvements from being recorded and enforced on or with respect to the Shoreline Property.

(f) Inspection of Installation of Work.

During installation of the Shoreline Improvements the City and the County shall have the right at any time and from time-to-time to inspect the installation of the Shoreline Improvements. No such inspection process shall unreasonably hamper or impede progress of the installation of the Shoreline Improvements. If any such representative discovers a possible defect or deficiency in the installation of the Shoreline Improvements, such representative shall notify Park Shore's designated construction representative of such defect or deficiency promptly and without delay. Upon such

notification, Park Shore shall take immediate and appropriate steps to remedy such defect or deficiency and notify City and County of the steps taken.

(g) Contractors, Subcontractors and Assigns.

Park Shore may cause any portion or all of the Shoreline Improvements to be supervised and installed by contractors and subcontractors chosen by it. No such supervision or installation by third parties shall relieve Park Shore of its obligations under this Agreement.

2. Maintenance and Repair of Shoreline Improvements by Homeowners Association.

(a) Creation of Obligation.

Park Shore shall organize the Homeowners Association, whose members shall be the individual homeowners from time-to-time of residences to be constructed on the Real Estate, to carry out the long-term maintenance and repair of the Shoreline Improvements after they are installed by Park Shore. The Homeowners Association may consist of one or more individual associations and possibly a master association, but in any event such homeowners association(s) shall collectively have the obligations of the Homeowners Association under this Agreement. Such obligations shall be imposed by Park Shore on the Homeowners Association through one or more recorded declarations ("Declaration") providing for, among other things, the creation of the Homeowners Association, the rights and obligations of the Homeowners Association in connection with various common areas on the Real Estate and the Shoreline Property, the imposition of the obligations provided for in this Agreement with respect to the Homeowners Association and such other rights and obligations determined by Park Shore to be appropriate to include in such Declaration. The obligations of the Homeowners Association under this Agreement shall be perpetual and not subject to modifications, waiver or termination except by written document executed by the City and by either Park Shore or, if already created, the Homeowners Association. However, any such modification, waiver or termination requires approval of the County in order to take effect.

(b) Maintenance of Fund(s) for Repairs.

The Declaration shall also provide that the common expenses of the Homeowners Associations shall include, as necessary, all expenses of administration, maintenance, operation, repair, replacement and landscaping of common areas on the Real Estate and the Shoreline Property, all costs necessary for the Homeowners Association to carry out its obligations under this Agreement, the cost of insurance required or permitted to be obtained by the Board of Directors of the Homeowners Association, and other appropriate expenses properly incurred by the Homeowners Association for the common benefit of all of the owners of the Real Estate. Park Shore shall establish an initial budget, which will be encompassed in the Declaration for the Homeowners Association, which includes reasonable estimates on an annual basis for the long-term maintenance and repair by the Homeowners Association of the Shoreline Improvements. Such Declaration shall require the Homeowners Association to create an account or reserve for such purpose and to annually fund it and also to levy special assessments, all as deemed reasonably necessary and appropriate by the Homeowners Association. It shall be the obligation of the Homeowners Association, after the initial budget prepared by Park Shore, to review at least annually and modify such budget, account and/or reserve as necessary. Both the initial budget created by Park Shore and the subsequent budgets, accounts, reserves and special assessments prepared and levied by the Homeowners Association shall at all times be prepared and carried out in good faith based on all available information to avoid to the extent reasonably possible a material shortfall at any time in the amount available to the Homeowners Association to carry out its obligations under this Agreement to maintain and repair the Shoreline Improvements. Not less than annually the Homeowners Association through its Board of Directors shall solicit input from the City and County with respect to any opinions or suggestions the City or County may have regarding upcoming and future maintenance and repair needs and possible or probable costs of such maintenance and repairs, and the Homeowners Association may also retain its own consultants for such purposes. In the event of a conflict of opinion between City and Home Owners Association, an independent third party consultant, selected from a list of consultants provided by



County and acceptable to both City and Home Owners Association, shall settle the dispute. The sums which may be held in such fund or account from time-to-time by the Homeowners Association shall not under any circumstances be deemed a limitation of the obligations of the Homeowners Association to fully pay for the maintenance and repair of the Shoreline Improvements and any subsequent repairs after the completion of the installation of them by Park Shore. Upon any failure of Park Shore and/or the Home Owners Association to maintain or cause the maintenance of the Shoreline Property improvements to occur, the City will have the right, after notice and failure of such owners to perform such maintenance, to maintain such Shoreline Property improvements and/or pay the costs thereof. Further, any amounts paid or incurred by the City, if not repaid within thirty (30) days after notice, shall become an assessment and be posted to the property tax bill for any such delinquent properties.

(c) Draft Provisions of Declaration.

Relevant draft provisions of the Declaration governing the Homeowners Association and its obligation to repair and maintain the Shoreline Improvements are attached to and made a part of this Agreement as Exhibit F. Park Shore may in its discretion modify and complete appropriate portions of attached Exhibit E, provided, however, that in any event the final Declaration shall be consistent with the provisions and intent of this Agreement so that all of the obligations of the Homeowners Association provided for in this Agreement are appropriately imposed on such Homeowners Association by such Declaration.

(d) Inspection of Shoreline Improvements and Recommendations for Repairs.

The City shall at its cost from time-to-time and not less than once each year shall cause the inspection of the Shoreline Improvements by a licensed engineer qualified to do such inspections, and prepare and deliver to the County and the Board of Directors or property manager(s) of the Homeowners Association, as designated by the Homeowners Association, a report indicating the condition of all components of the Shoreline and any specific maintenance or repairs necessary to or for any or all of such components of the Shoreline Improvements. Promptly upon receipt of such report, the Homeowners Association shall at its cost take all necessary actions to cause all corrective repairs and maintenance as required in such report from the City. Such repairs and maintenance shall be carried out by the Homeowners Association and its designated contractors, subcontractors and representatives as soon as commercially reasonably possible subject to the provisions allowing delayed performance provided for in paragraph 1(b) above with respect to installation of the Shoreline Improvements by Park Shore. The Homeowners Association may pay for the cost of any such maintenance and repair from sums reserved for such purposes as provided for in subparagraph (b) above, but no such budget, reserve or account shall constitute a limitation of the obligation of the Homeowners Association to pay for and carry out all such required maintenance and repair.

3. Access to Shoreline Property.

(a) Access to be Provided.

The parties understand that reasonable access, as determined by the County, whether by license or permanent easement or otherwise, will be made available by the County, as applicable, to permit the installation of the Shoreline Improvements by Park Shore and the maintenance and repair of those Shoreline Improvements by the Homeowners Association on the Shoreline Property. If and to the extent that there is at any time any delay or denial of such reasonable access, then Park Shore and the Homeowners Association, as applicable, shall not be required to carry out any of its obligations under this Agreement which are hindered or prohibited by denial of such access until appropriate access is given and maintained. Neither Park Shore nor the Homeowners Association shall at any time be obligated to pay any fee, imposition, charge, donation or other levy or payment of any kind to the County or to any other entity for such access at any time.

(b) Avoidance of Damage to Shoreline Property.

Park Shore and the Homeowners Association, as applicable, shall use their best reasonable efforts to avoid any damage to the Shoreline Property and to other improvements on the Shoreline Property while carrying out their respective obligations under this Agreement. Park Shore and/or the Homeowners Association shall cooperate with the City and the County to minimize any interruption, lack of use, or inconvenience to the public with respect to Lake Michigan and any portion of the shoreline wherever located and the Shoreline Property by reason of actions by Park Shore and the Homeowners Association and their designated contractors, subcontractors and representatives in carrying out their respective obligations under this Agreement. Park Shore or the Homeowners Association shall be liable for damage to any portion of the Shoreline Property or improvements caused by reason of actions by Park Shore and /or the Homeowners Association and their designated contractors, subcontractors and representatives in carrying out their respective obligations under this Agreement and shall restore all areas damaged by access and construction activities to the satisfaction of the County.

4. Authority to Carry Out Agreement.

The City and Park Shore represent and warrant to each other that it has full and lawful right, power and authority to execute and deliver and perform all of the terms and conditions of this Agreement. Each has been duly and validly authorized by all necessary proceedings and consents without further action or approval by any other internal body or entity. Accordingly, this Agreement constitutes the legal, valid and binding obligation of each of its parties, enforceable in accordance with its terms and provisions. None of the provisions and obligations under this Agreement violate any other contract or commitment of either party.

5. General Provisions.

(a) Breach. Before any failure of any party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the County and the party alleged to have failed to perform, of the alleged failure or failures, and shall demand performance. No breach of this Agreement shall be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of such notice and is promptly thereafter completed. Each of the parties to this Agreement shall have all remedies available at law and in equity to enforce this Agreement or recover damages in case of a breach of this Agreement beyond any applicable cure period. Each party to this Agreement shall be responsible only for a breach of its own obligations under this Agreement. Accordingly, for example, the Homeowners Association shall not be liable for any breach of this Agreement by Park Shore in connection with Park Shore's obligations to install the Shoreline Improvements, and Park Shore shall not be liable for any breach of this Agreement by the Homeowners Association in connection with the Homeowners Association's obligations to maintain and repair the Shoreline Improvements.

(b) Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute together the same Agreement.

(c) Mutual Cooperation and Assistance. The parties agree to expeditiously take such actions, including the execution and delivery of such documents, instruments, certifications and payments, as may be necessary or appropriate from time to time to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out such terms, provisions and intent.

(d) Entire Agreement. This Agreement constitutes the entire understanding of the parties regarding its subject matter and may be amended only by a written document executed by both parties, and approved by the County.

(e) Recitals. The Recitals at the beginning of this Agreement are an integral part of this Agreement.

(f) No Delay in Consent. No party shall unreasonably withhold or delay any consent, approval or action required or requested of it under this Agreement.

(g) Wisconsin Law Applies. This Agreement and its interpretation shall be governed exclusively by its terms and by the laws of the State of Wisconsin.

(h) Notices. Any notice, demand or communication required under this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally or by courier or by registered or certified mail, postage and charges prepaid, or by telecopy or e-mail with a confirmation copy by regular mail. Any such notice shall be deemed given at the earlier of the actual receipt of such notice or within two business days after the date on which the same was deposited in the United States mail or on the date sent by telecopy or e-mail. All such notices, demands and communications shall be given or served on a party at the address last designated in writing by a party or, if no such designation has been made, at its last known principal address. Copies of all such communications shall be sent to the County.

(i) No Waiver of Performance. No failure of any party to seek redress for default of or to insist upon the strict performance of any obligation under this Agreement shall prevent a subsequent act, which would have originally constituted a default, from having the effect of an original default.

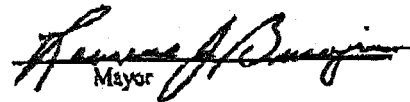
(j) Binding on Successors and Assigns. The rights and obligations under this Agreement are binding upon and shall inure to the benefit of the parties and their respective successors and assigns in title and in interest.

(k) Severable. If any provision of this Agreement shall be held invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application of it shall be enforceable to the fullest extent permitted by law. The parties each acknowledge their belief that this Agreement is fully lawful, valid and enforceable.


IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated above.

City of St. Francis

By:

  
Mayor

ATTEST:

  
City Clerk

Park Shore, L.L.C., a Wisconsin limited liability company by Kimball Hill Development Company, an Illinois corporation, its managing member

By:   
David K. Hill, President

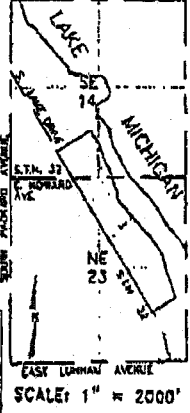
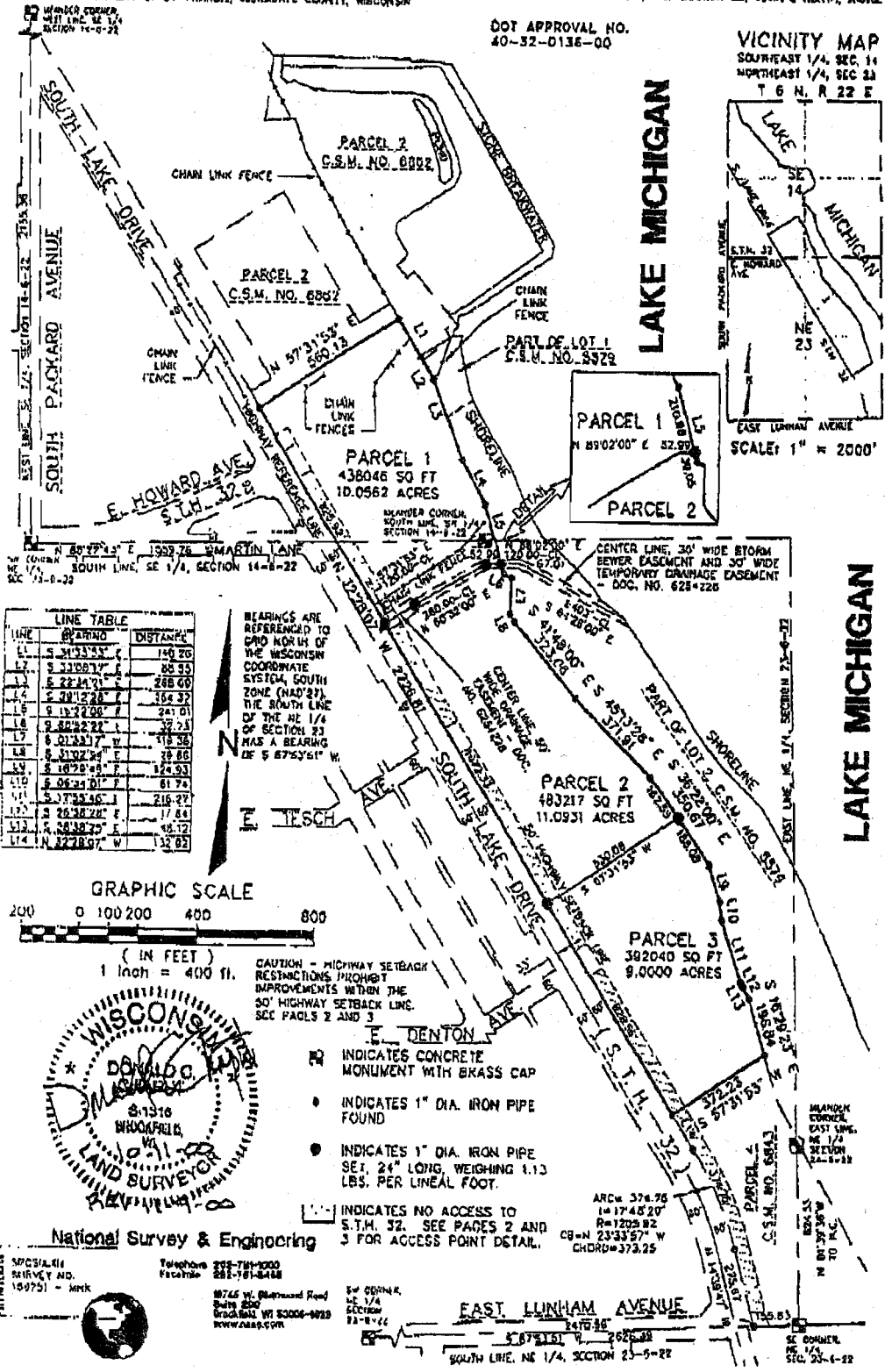
# CERTIFIED SURVEY MAP NO. 6895

## CITY NO. 5-2000

A DIVISION OF OF PARCEL 3 OF CERTIFIED SURVEY MAP NO. 6892 IN THE SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SECTION 14 AND THE NORTHEAST 1/4, NORTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SECTION 23, TOWN 8 NORTH, RANGE 28 EAST IN THE CITY OF ST. FRANCIS, MILWAUKEE COUNTY, WISCONSIN

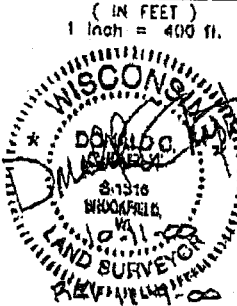
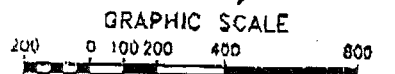
DOT APPROVAL NO.  
40-32-0136-00

VICINITY MAP  
SOUTHEAST 1/4, SEC. 14  
NORTHEAST 1/4, SEC. 23  
T 8 N. R 22 E



LINE	BEARING	DISTANCE
L1	S 21°33'55" E	140.20
L2	S 22°06'17" E	88.55
L3	S 22°24'31" E	248.60
L4	S 20°12'28" E	384.37
L5	S 15°22'08" E	241.01
L6	S 8°23'22" E	37.25
L7	S 01°33'17" E	118.36
L8	S 31°02'34" E	28.86
L9	S 10°28'48" E	124.93
L10	S 05°24'10" E	61.74
L11	S 17°33'45" E	216.27
L12	S 28°38'22" E	17.44
L13	S 28°38'22" E	48.72
L14	N 27°28'07" W	132.92

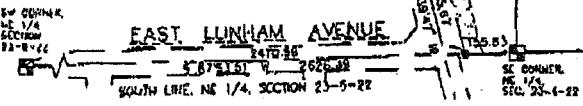
BEARINGS ARE REFERENCED TO GRID NORTH OF THE WISCONSIN COORDINATE SYSTEM, SOUTH ZONE (NAD 83). THE SOUTH LINE OF THE NE 1/4 OF SECTION 23 HAS A BEARING OF S 87°56'11" W.



- CAUTION - HIGHWAY SETBACK RESTRICTIONS, HIGHWAY IMPROVEMENTS WITHIN THE 50' HIGHWAY SETBACK LINE, SEC. PARCELS 2 AND 3
- INDICATES CONCRETE MONUMENT WITH BRASS CAP
  - INDICATES 1" DIA. IRON PIPE FOUND
  - INDICATES 1" DIA. IRON PIPE SET, 24" LONG, WEIGHING 1.13 LBS. PER LINEAL FOOT.
  - INDICATES NO ACCESS TO S.T.M. 32. SEE PAGES 2 AND 3 FOR ACCESS POINT DETAIL.

National Survey & Engineering

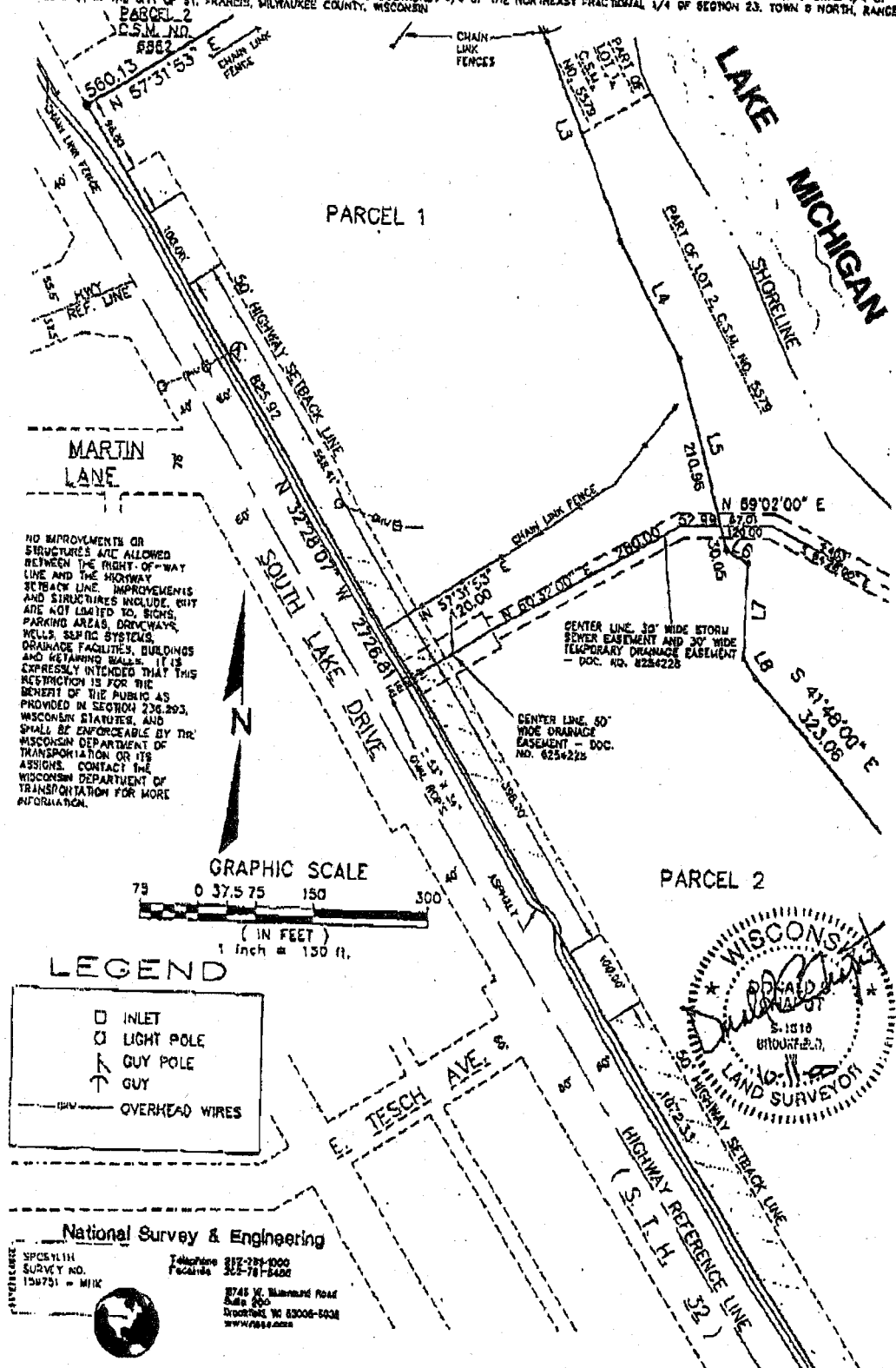
SPECIALTY SURVEY NO. 150721 - Mark  
Telephone 262-781-2000  
Facsimile 262-781-2448  
8745 W. Butterwood Road  
Suite 200  
Brookfield, WI 53006-4928  
www.nse.com



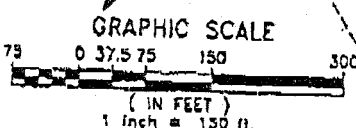
# CERTIFIED SURVEY MAP NO.

CITY NO. 5-2000

A DIVISION OF PARCEL 3 OF CERTIFIED SURVEY MAP NO. 8852 IN THE SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SECTION 14 AND THE NORTHEAST 1/4, NORTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SECTION 23, TOWN 5 NORTH, RANGE 22 EAST IN THE CITY OF ST. FRANCIS, MILWAUKEE COUNTY, WISCONSIN

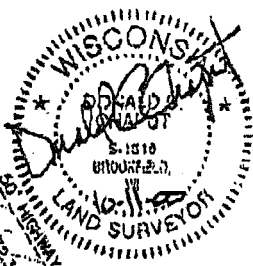


NO IMPROVEMENTS OR STRUCTURES ARE ALLOWED BETWEEN THE RIGHT-OF-WAY LINE AND THE HIGHWAY SETBACK LINE. IMPROVEMENTS AND STRUCTURES INCLUDE, BUT ARE NOT LIMITED TO, SIGNS, PARKING AREAS, DRIVEWAYS, WELLS, SEPTIC SYSTEMS, DRAINAGE FACILITIES, BUILDINGS AND RETAINING WALLS. IT IS EXPRESSLY INTENDED THAT THIS RESTRICTION IS FOR THE BENEFIT OF THE PUBLIC AS PROVIDED IN SECTION 236.203, WISCONSIN STATUTES, AND SHALL BE ENFORCEABLE BY THE WISCONSIN DEPARTMENT OF TRANSPORTATION OR ITS AGENTS. CONTACT THE WISCONSIN DEPARTMENT OF TRANSPORTATION FOR MORE INFORMATION.



### LEGEND

- INLET
- LIGHT POLE
- ⊥ GUY POLE
- ↑ GUY
- OVERHEAD WIRES



**National Survey & Engineering**

Telephone 912-791-0000  
 Facsimile 302-781-6400

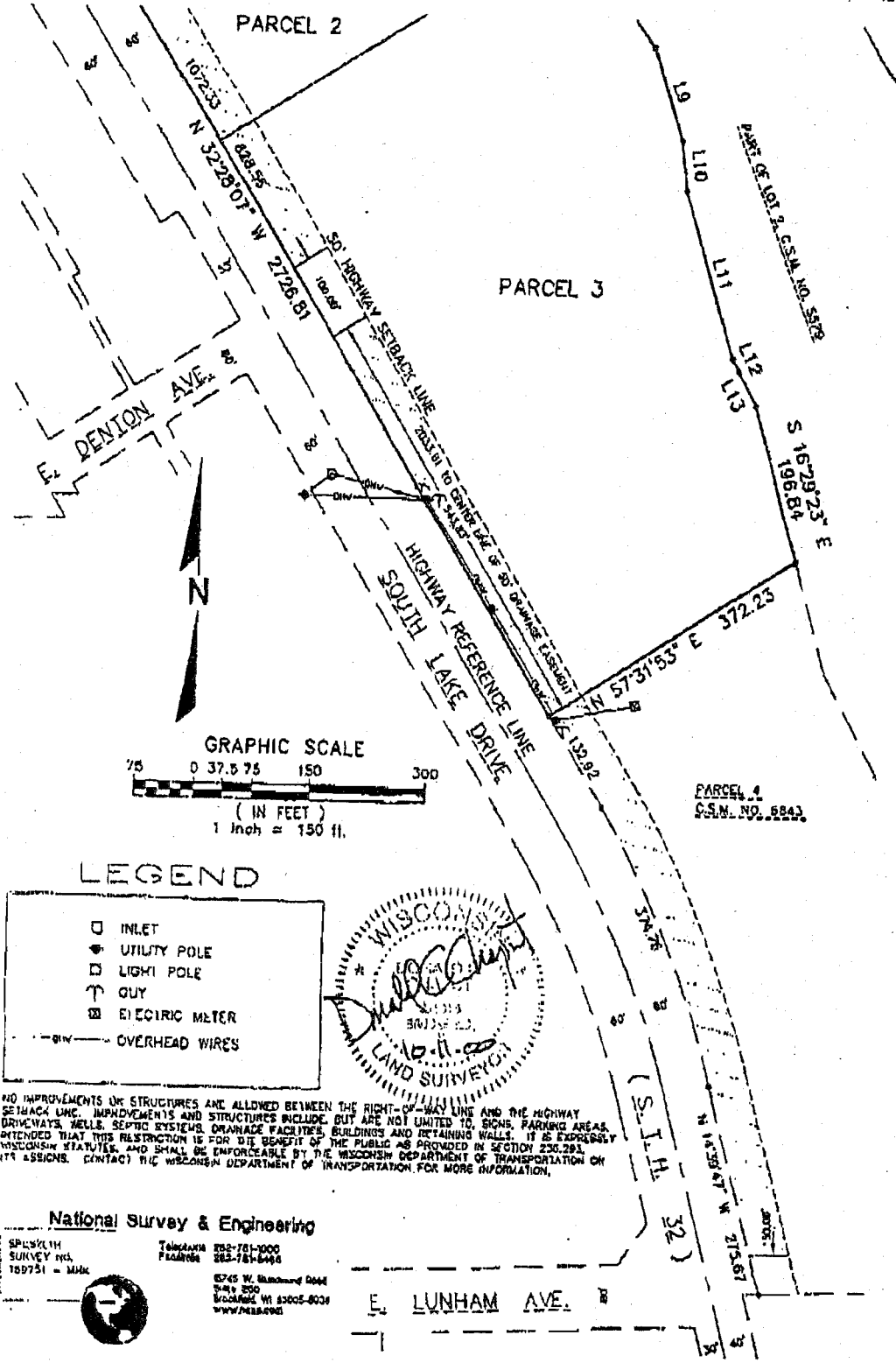
8745 W. Hammond Road  
 Suite 650  
 Rockdale, WI 53006-6034  
 www.nse.com



# CERTIFIED SURVEY MAP NO.

CITY NO. 5-2000

A DIVISION OF OF PARCEL 3 OF CERTIFIED SURVEY MAP NO. 8842 IN THE SOUTHWEST 1/4 AND SOUTHEAST 1/4 OF THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 16 AND THE NORTHEAST 1/4, NORTHWEST 1/4 AND SOUTHEAST 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SECTION 23, TOWN 8 NORTH, RANGE 23 EAST IN THE CITY OF ST. FRANCIS, MILWAUKEE COUNTY, WISCONSIN





CERTIFIED SURVEY MAP NO. \_\_\_\_\_  
CITY NO. 5-2000

Parcel 3 of Certified Survey Map No. 6862 in the Southwest 1/4 and Southeast 1/4 of the Southeast fractional 1/4 of Section 14 and the Northeast 1/4, Northwest 1/4, Southeast 1/4 of the Northeast fractional 1/4 of Section 23, Town 6 North, Range 22 East, in the City of St. Francis, Milwaukee County, Wisconsin

OWNER'S CERTIFICATE

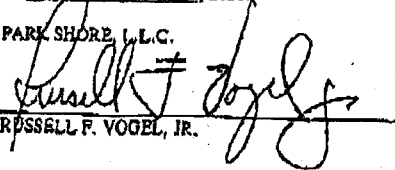
PARK SHORE, L.L.C., a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said corporation caused the land described on this map to be surveyed, divided and mapped as represented on this map in accordance with the requirements of the City of St. Francis.

PARK SHORE, L.L.C. as owner, do further certify that this map is required by S.236.20 or 236.12 to be submitted to the following for approval or objection: City of St. Francis and Wisconsin Department of Transportation

PARK SHORE, L.L.C., as owner, hereby restrict all lots and blocks so that no owner, possessor, user, licensee or other person may have any right of direct vehicular ingress from or egress to any highway lying within the right-of-way of S.T.H. "32", it is expressly intended that this restriction constitute a restriction for the benefit of the public as provided in s. 236.293, Stats., and shall be enforceable by the department or its assigns. Access as shown may be permitted by the department through the driveway permitting process. Permits are revocable.

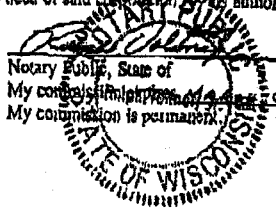
IN Witness Whereof, PARK SHORE, L.L.C. has caused these presents to be signed by RUSSELL F. VOGEL, JR., its VICE-PRESIDENT, this 9<sup>th</sup> day of NOVEMBER, 2000.

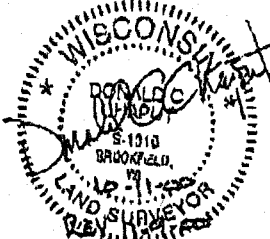
PARK SHORE, L.L.C.

  
RUSSELL F. VOGEL, JR.

STATE OF WISCONSIN )  
MILWAUKEE ) SS  
WABKESHA COUNTY )

PERSONALLY came before me this 09<sup>th</sup> day of NOVEMBER, 2000  
RUSSELL F. VOGEL, JR. of the above named PARK SHORE, L.L.C. to me known to be the person who executed the foregoing instrument, and to me known to be such Vice-President of said corporation, and acknowledged that he/she executed the foregoing instrument as such officer as the deed of said corporation in his authority.

 (SEAL)  
Notary Public, State of  
My commission expires on 11/07/2004  
My commission is permanent.

  
WISCONSIN  
DONALD C. [Signature]  
S. 1010  
BROOKFIELD, WI  
LAND SURVEYOR  
RENEWED 11/1/00



CERTIFIED SURVEY MAP NO. \_\_\_\_\_  
CITY NO. 3-2000

Parcel 3 of Certified Survey Map No. 6862 in the Southwest 1/4 and Southeast 1/4 of the Southeast fractional 1/4 of Section 14 and the Northeast 1/4, Northwest 1/4, Southeast 1/4 of the Northeast fractional 1/4 of Section 23, Town 6 North, Range 22 East, in the City of St. Francis, Milwaukee County, Wisconsin

CONSENT OF CORPORATE MORTGAGEE

RFC CONSTRUCTION FUNDING CORP., a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, mortgagee of the above-described land, does hereby consent to the surveying, dividing, mapping, and dedication of the land described on this plat, and does hereby consent to the above certificate of PARK SHORE, I.I.C. owner.

IN WITNESS WHEREOF, the said RFC CONSTRUCTION FUNDING CORP., has caused these presents to be signed by, Ted McDonald VP, and its corporate seal to be hereunto affixed on this 8<sup>th</sup> day of November, 2000.

RFC CONSTRUCTION FUNDING CORP.

*[Signature]*

STATE OF MARYLAND  
MONTGOMERY COUNTY

PERSONALLY came before me this 8<sup>th</sup> day of NOVEMBER, 2000, TED McDONALD, its VP, of the above named corporation, to me known as the persons who executed the foregoing instrument, and to me known to be the DIRECTOR of the corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of the corporation, by its authority.

*Lana L. Woody* (SEAL)  
Notary Public, State of Wisconsin  
My commission expires \_\_\_\_\_

LANA L. WOODY  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires April 3, 2004

PLANNING COMMISSION APPROVAL

APPROVED by the Planning Commission of the City of St. Francis on this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

*Lawrence J. Burazin*  
LAWRENCE BURAZIN, MAYOR

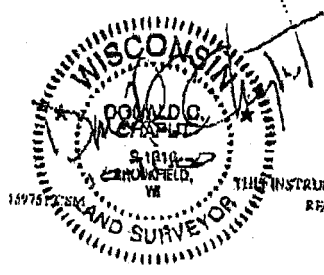
JACK SCHULTZ, SECRETARY

COMMON COUNCIL APPROVAL

APPROVED by the Common Council of the City of St. Francis in accordance with Resolution No. \_\_\_\_\_ adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

*Lawrence J. Burazin*  
LAWRENCE BURAZIN, MAYOR

ANNIE B. UECKER, CITY CLERK



THIS INSTRUMENT WAS DRAFTED BY DONALD C. CHAPUT,  
REGISTERED LAND SURVEYOR #16975

**EXHIBIT B TO  
SHORELINE IMPROVEMENTS AND  
MAINTENANCE AGREEMENT**

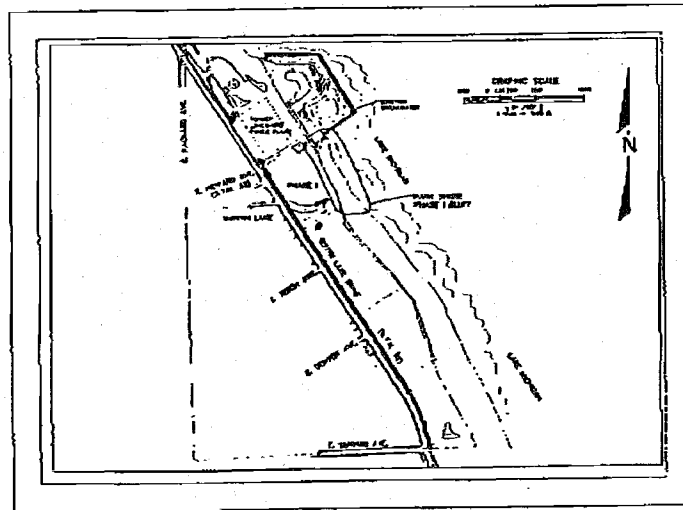
**Legal Description of Real Estate**

Parcels 1 and 2 of Certified Survey Map No. 6895, recorded November 27, 2000, as Document No. 7993915, being a Division of Parcel 3 of Certified Survey Map No. 6862 in the Southwest  $\frac{1}{4}$  and Southeast  $\frac{1}{4}$  of the Southeast Fractional  $\frac{1}{4}$  of Section 14 and the Northeast  $\frac{1}{4}$ , Northwest  $\frac{1}{4}$  and Southeast  $\frac{1}{4}$  of the Northeast Fractional  $\frac{1}{4}$  of Section 23, Town 6 North, Range 22 East in the City of St. Francis, Milwaukee County, Wisconsin.

# PARK SHORE PHASE I BLUFF STABILIZATION

CITY OF ST. FRANCIS, WISCONSIN

## VICINITY MAP



### OWNER/DEVELOPER:

KIMBALL HILL HOMES  
5999 NEW MILK ROAD, BLDG. 5  
ROLLING MEADOWS, IL 60008  
PH.: 847/364-7300  
FAX.: 847/364-2869  
E-MAIL: www.kimbothillhomes.com

### ENGINEER:

National Survey & Engineering  
1100 N. Lincoln Ave.  
Suite 200  
St. Francis, WI 53090-4994  
Phone: 262-599-2200  
Fax: 262-599-2201  
www.nsewi.com

### BENCHMARKS:

- #1 HYDRANT AT SW CORNER OF E DENTON AVE AND SOUTH LAKE DRIVE  
NW FLANGE BOLT  
ELEV. = 642.76
- #2 HYDRANT AT NW CORNER OF E TESCH AVE AND SOUTH LAKE DRIVE  
NW FLANGE BOLT  
ELEV. = 635.86
- #3 TOP OF CULVERT EAST OF EAST R/W LINE OF SOUTH LAKE DRIVE  
421 FEET NORTH OF NORTH R/W LINE OF E TESCH AVE  
CHISELED SQUARE  
ELEV. = 624.66
- #4 HYDRANT ON WEST SIDE OF SOUTH LAKE DRIVE  
538 FEET NORTH OF THE NORTH R/W LINE OF E TESCH AVE  
NW FLANGE BOLT  
ELEV. = 633.36

### PLAN INDEX

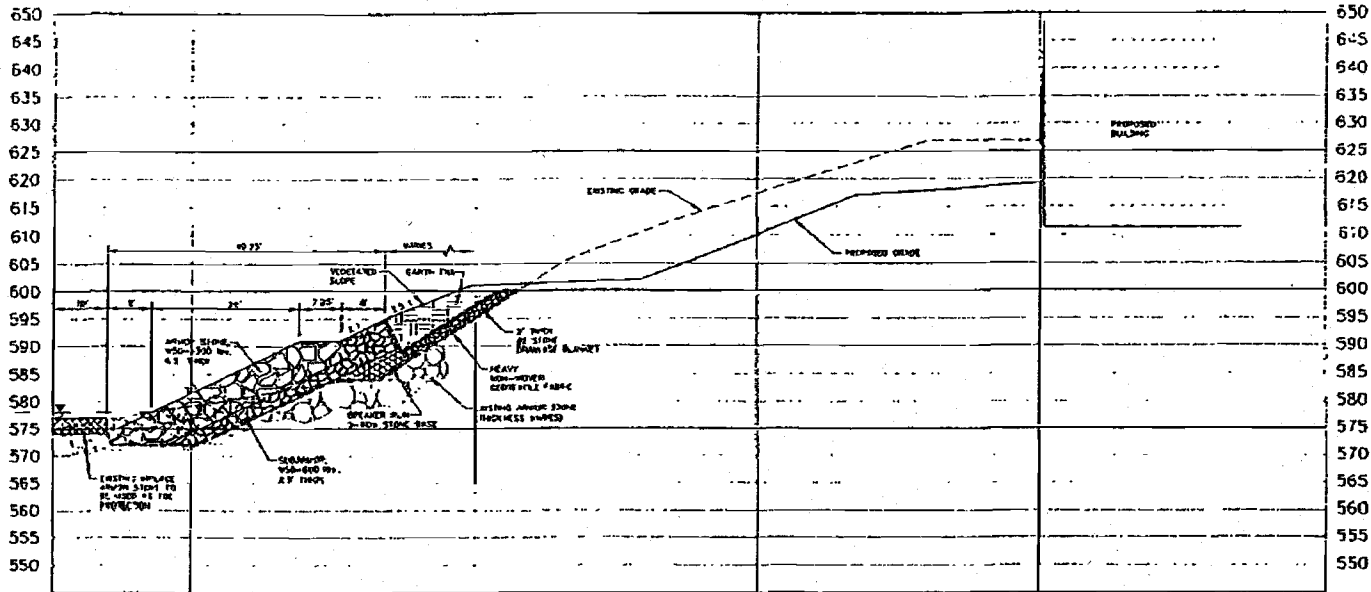
SHEET NO.	DESCRIPTION
	COVER SHEET
1	BLUFF - EXISTING CONDITIONS
2	BLUFF - PROPOSED IMPROVEMENTS
3	TYPICAL REVETMENT DETAIL - EXISTING STONE
4	TYPICAL REVETMENT DETAIL - EXISTING CONCRETE RUBBLE
5	DITCH REGRADING

PRELIMINARY  
NOT FOR  
CONSTRUCTION

PLAN DATE: JULY 17, 2001





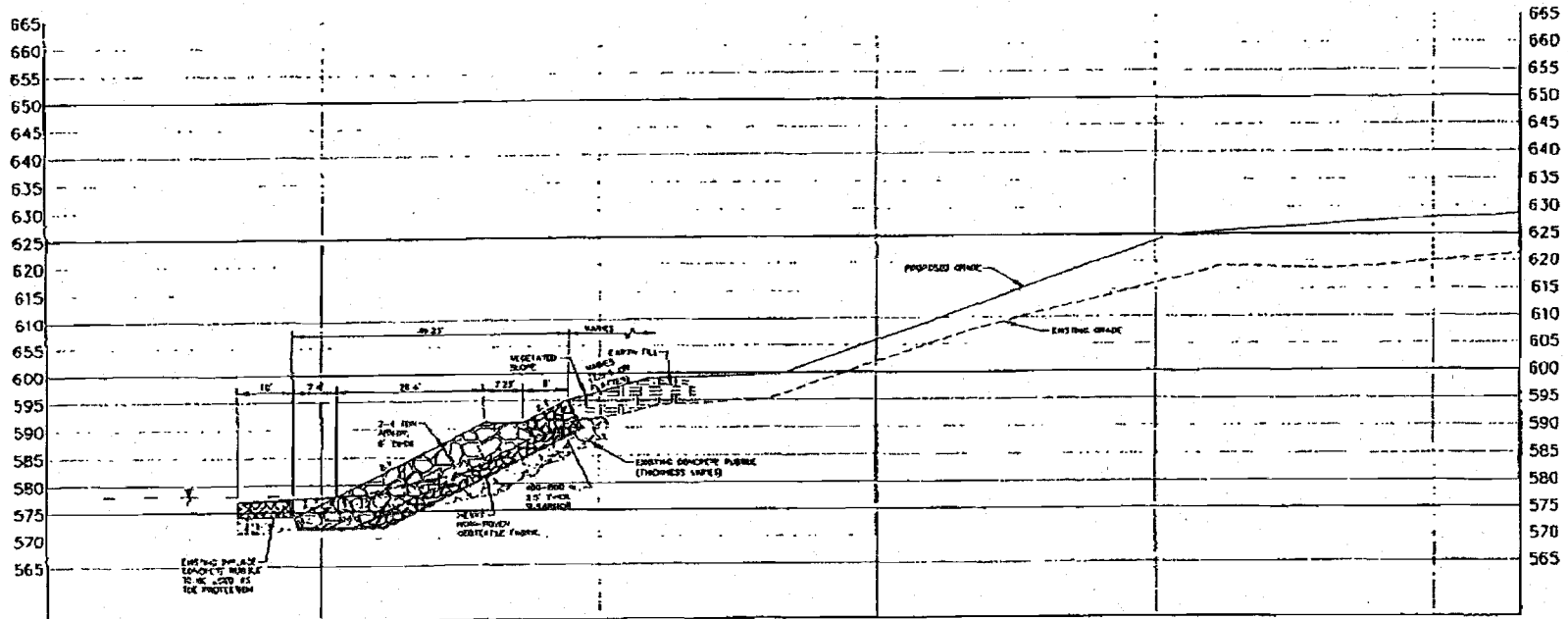


ALL REVETMENT DESIGN INFORMATION ON THIS SHEET PROVIDED BY :

MONTGOMERY ASSOCIATES  
 RESOURCE SOLUTIONS, LLC  
 2378 RINDEN ROAD  
 COTTAGE GROVE, WI 53527  
 PH: 608-873-1965  
 FAX: 608-873-1889  
 CELL: 608-225-0682  
 rjr-on1@tts.com

PRELIMINARY  
 NOT FOR  
 CONSTRUCTION

PREPARED BY: TRACY A. FARRER, P.E. PARK SHORE CITY OF ST. FRANCIS	
TYPICAL REVETMENT DETAIL EXISTING STONE	
National Survey & Engineering Survey & Engineering 1000 W. Wisconsin Ave. Suite 100 Madison, WI 53706 Phone: 608-261-1111 Fax: 608-261-1112 www.nse.com	
SHEET NO. 3 OF 5	PROJECT NO. 1000758-02 DATE: 07/27/09



ALL RETEMENT DESIGN INFORMATION  
ON THIS SHEET PROVIDED BY :

MONTGOMERY ASSOCIATES  
RESOURCE SOLUTIONS, LLC  
2378 RINDEN ROAD  
COTTAGE GROVE, WI 53527  
PH: 608-873-1965  
FAX: 608-873-1889  
CELL 608-225-0682  
rjmont@t.s.com

**PRELIMINARY  
NOT FOR  
CONSTRUCTION**

REVISIONS		PARK SHORE CITY OF ST. FRANCIS	
DATE	BY	TYPICAL RETEMENT DETAIL EXISTING CONCRETE RUBBLE	
		National Survey & Engineering Survey, Mapping, & Engineering 1000 S. ... ...	
PROJECT NO. 201708.03		SHEET NO. 4 OF 5	
DATE: 07/21/17		SCALE: 1"=10'	





# ALTA/ACSM LAND TITLE SURVEY

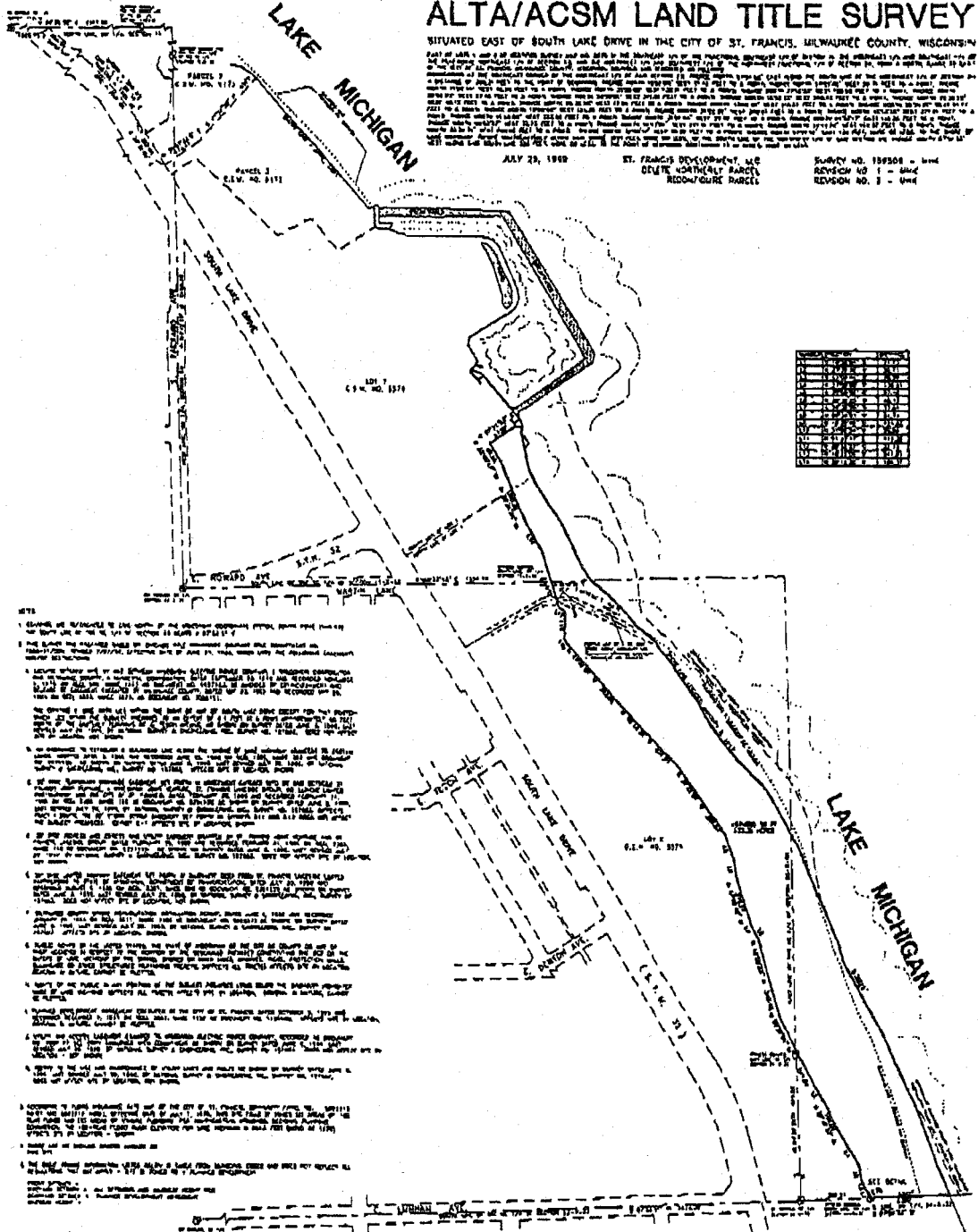
SITUATED EAST OF SOUTH LAKE DRIVE IN THE CITY OF ST. FRANCIS, MILWAUKEE COUNTY, WISCONSIN

East of Lake Drive and West of South Lake Drive in the City of St. Francis, Milwaukee County, Wisconsin. This survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.

AUG 29, 1998

ST. FRANCIS DEVELOPMENT, LLC  
DELITE NORTHWEST PARCEL  
MIDWAY/GURE PARCEL

SURVEY NO. 199804 - 1044  
REVISION NO. 1 - 1044  
REVISION NO. 2 - 1044



1. All parcels shown on this plat are the property of St. Francis Development, LLC.
2. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
3. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
4. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
5. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
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18. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
19. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.
20. The survey was made for the purpose of showing the location of the several parcels of land shown on the attached plat and for the purpose of showing the location of the several parcels of land shown on the attached plat.

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100

**LEGEND**

- 1/4" = 100' (1:40,000)
- 1/8" = 100' (1:80,000)
- 1/16" = 100' (1:160,000)
- 1/32" = 100' (1:320,000)
- 1/64" = 100' (1:640,000)
- 1/128" = 100' (1:128,000)
- 1/256" = 100' (1:256,000)
- 1/512" = 100' (1:512,000)
- 1/1024" = 100' (1:1024,000)
- 1/2048" = 100' (1:2048,000)
- 1/4096" = 100' (1:4096,000)
- 1/8192" = 100' (1:8192,000)
- 1/16384" = 100' (1:16384,000)
- 1/32768" = 100' (1:32768,000)
- 1/65536" = 100' (1:65536,000)
- 1/131072" = 100' (1:131072,000)
- 1/262144" = 100' (1:262144,000)
- 1/524288" = 100' (1:524288,000)
- 1/1048576" = 100' (1:1048576,000)
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**EXHIBIT "E" TO  
SHORELINE IMPROVEMENTS AND  
MAINTENANCE AGREEMENT**

**SCHEDULE**

MASS GRADING PHASE 1 AND UPPER BLUFF	SEPT 01
MASS GRADING PHASE 2 UPPER BLUFF	SEPT 01
STORM SEWER AND SETTLEMENT BASIN	OCT 01 - JUNE 02
REVTMENT RECONSTRUCTION PHASE 1	OCT 01
STORM OUT FALL CONSTRUCTION	OCT 01 - JUNE 02
BIKE PATH SUBGRADE	JULY 02

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR THE  
PARK SHORE MASTER ASSOCIATION**

This instrument was prepared by and after recording mail to:

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR THE  
PARK SHORE MASTER ASSOCIATION**

This Declaration is made by Park Shore, L.L.C. a Wisconsin limited liability company ("Declarant") on July 31, 2001.

**RECITALS:**

A. Declarant is the owner in fee simple of a certain parcel of real estate in the City of St. Francis, Milwaukee County, Wisconsin, and legally described in Exhibit "A" attached hereto and made a part hereof ("Property").

B. Declarant and Developer, as hereinafter defined, desire to develop a townhome and condominium residential development on the Property, known as Park Shore ("Development"). Declarant is desirous of submitting the Property, in whole, to the provisions of this Declaration.

NOW THEREFORE, Declarant hereby declares that the Property is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, reservations, and easements ("Declaration") hereinafter set forth.

**ARTICLE I  
Declaration Purposes**

1. General Purposes. The Declarant is the owner of the Property located in the City of St. Francis, Milwaukee County, Wisconsin, and desires to create thereon a townhome and condominium residential development for future owners of lots and residences to be created upon the Property.

(a) The Declarant desires to provide upon the Property, through its planning and layout, the harmonious development of a townhome and condominium community by the imposition of the covenants, conditions, restrictions and easements, as hereinafter set forth, for the benefit of the Property and the Owners, as hereinafter defined, thereof.

(b) The Declarant, by the imposition of covenants, conditions, restrictions and easements and the reservation of certain powers unto itself, does intend to provide for the Property a plan for development which is intended to enhance and to protect the values of Declarant's townhome residential and condominium community ("Park Shore").

(c) The Declarant desires to protect the Owners of the Lots, as hereinafter defined, against such improper use of surrounding Lots as may depreciate the value of their property.

(d) The Declarant desires to provide for the long-term maintenance and repair of the Lake Michigan shoreline improvements east of the Development ("Shoreline Improvements") pursuant to the Shoreline Agreement, as defined below and to consult and confer with the representatives of the City of St. Francis at least as often as annually about the condition of the Shoreline Improvements and the necessity of any current or long-term repairs or maintenance.

2. Declaration. To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that the Property, whether or not referred to in any deed of conveyance of such properties, at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth. The provisions of this Declaration are intended to create mutual equitable servitude upon each Lot becoming subject to this Declaration in favor of each and all other such Lots; to create privity of contract and estate between the grantees of such Lots, their heirs, successors and assigns; and to operate as covenants running with the land for the benefit of each and all such Lots becoming subject to this Declaration, and the respective Owners of such Lots, present and future.

## ARTICLE II Definitions

1. The following words and terms, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Adjacent Owners" shall mean with respect to any two lots, the Owners of each of the two Dwelling Units which share a Party Wall.

(b) "Association" shall mean and refer to the Park Shore Master Association, a Wisconsin not for profit corporation, and its successors and assigns.

(c) "Board" shall mean and refer to the Board of Directors of the Association

as constituted from time to time.

-2-

(d) "By-Laws" shall mean the By-Laws of the Association, as amended from time to time, which are attached hereto as Exhibit B and made a part hereof.

(e) "City" shall mean the City of St. Francis.

(f) "Community Area" shall mean all real property, which is legally described in Exhibit "C" attached hereto and made a part hereof, owned, to be owned or maintained by the Association for the common use and enjoyment of all members of the Association and such other uses thereto by way of easement or other grant from the Declarant, the Association or others as may be granted to or by the Association for the common use and enjoyment of the Owners.

(g) Common Expenses shall mean the expenses of administration (including management and professional services), maintenance, operation, repair, replacement, and landscaping of the and the Community Area; the expenses of maintenance and repair of the Shoreline Improvements as provided in the Shoreline Agreement; the cost of additions, alterations, or improvements to the Shoreline Improvements and the Community Area; the cost of insurance required or permitted to be obtained by the Board under Article VI; any expenses designated as Common Expenses by this Declaration or the By-Laws; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners.

(h) "Declarant" shall mean Park Shore, L.L.C., a Wisconsin limited liability company and its successors and assigns, whether such succession of assignment applies to all or any part of the Property. Any such successor or assignee shall be deemed a Declarant and entitled to exercise all or a portion of the rights of Declarant provided herein if designated as such by Declarant in any instrument recorded for such purposes.

(i) "Developer" shall mean Park Shore, L.L.C., a Wisconsin limited liability company and its successors and assigns.

(j) "Dwelling Unit" or "Unit" shall mean a townhome residence located on a Lot and intended for the shelter and housing of a Single Family, as hereinafter defined. Dwelling shall include any Structure attached or adjacent to the dwelling utilized for storage of personal property, tools and equipment and driveways, walkways, patios and landscaped area. Developer intends that each Lot which is made subject to this Declaration as part of the Premises shall be improved with a building consisting of a townhome residential unit which shares a wall with another residential unit located on an adjacent Lot (a "Party Wall"). The Party Wall, as extended, will be constructed on the lot line between the adjacent Lots. Each such Lot shall be a Dwelling Unit hereunder.

(k) "Lot" shall mean each part of the Property, the size and dimension of which shall be established by the legal description in the Lot Deed conveying such Lot. A Lot may also be established by Declarant pursuant to the Subdivision Plat or by an instrument in writing executed, acknowledged and recorded by Declarant which designates a part of the

Property as a Lot for the purposes of the Declaration.

(l) "Lot Deed" shall mean the deed of Declarant conveying a Lot to an Owner.

-3-

(m) "Member" shall mean and refer to every person or entity who holds membership in the Association.

(n) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the Developer to the extent of the number of Lots owned by Declarant and also includes the interest of Developer or of Declarant as contract seller of any Lot.

(o) "Party Wall" shall mean a wall constructed on the Property between two townhome Units and lying partially within both Units used as a dividing wall between the two Units and as an exterior wall for each such Unit.

(p) "Property" shall mean and refer to the real estate legally described in Exhibit "A" attached hereto and made part hereof.

(q) "Single Family" shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, maintaining a common household in a Dwelling.

(r) "Shoreline Agreement" shall mean the Shoreline Improvements and Maintenance Agreement made as of \_\_\_\_\_, 2001 by and between the City and the Declarant which sets forth the Association's maintenance and repair responsibilities for the Shoreline Improvements, as defined in the Shoreline Agreement, and the method of funding of such maintenance and repair.

(s) "Structure" shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground.

(t) "Subdivision Plat" shall mean the certified survey as recorded or may be recorded at the Office of the Recorder of Deeds of Milwaukee County, Wisconsin and includes one or more phases or units thereof.

### ARTICLE III

#### Covenants and Restrictions Relating to Townhomes

1. Party Walls. The Owner of a townhome Dwelling Unit immediately adjacent to

a Party Wall shall have the obligations and be entitled to the rights and privileges provided in these covenants and, to the extent not inconsistent with this Declaration, general legal principles governing Party Walls. Such Owners shall be governed by the following provisions relating to Party Walls:

-4-

for each of the Owners of the damaged Dwelling Units. All such policies of insurance (i) shall contain standard mortgage clause endorsements in favor of the First Mortgagees as their respective interests may appear, (ii) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act of neglect of any Owner, (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement thereof, (iv) to the extent possible, shall provide that such policy shall not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' written notice to the First Mortgagee of each Unit Ownership, and (v) shall contain waivers of subrogation with respect to the Association, its directors, officers, employees and agents (including the managing agent), Owners, occupants of the Dwelling Unit, First Mortgagees, the Declarant and the Developer or, alternatively, all such parties shall be named as additional insureds.

2. Insurance Trustee/Use of Proceeds. The Board may engage the services of any bank or trust company authorized to do trust business in Illinois to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine consistent with the provisions of this Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$50,000 in the aggregate, the Board shall engage a corporate trustee as aforesaid, or in the event of any loss resulting in the destruction of the major portion of one or more Dwelling Units, the Board shall engage a corporate trustee as aforesaid upon the written demand of the mortgagee or any Owner of any Dwelling Unit so destroyed. The rights of First Mortgagees under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in this Declaration with respect to the application of insurance proceeds to the repair or reconstruction of the Dwelling Units. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Board of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

3. Other Insurance. The Board shall also have the authority to and shall obtain the following insurance:

(a) Insurance on the Dwelling Units against all loss or damage from explosion of heating apparatus installed in, on or about said Dwelling Units, in such amounts as the Board shall deem desirable.



(b) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by an Owner occurring in, on or about the Dwelling Units or upon, in or about the streets and passageways and other areas adjoining the Dwelling Units, in such amounts as the Board shall deem desirable (but not less than \$1,000,000 covering all claims for personal injury and or property damage arising out of a single occurrence).

-12-

(c) Such workers' compensation insurance as may be necessary to comply with applicable laws.

(d) Employer's liability insurance in such amount as the Board shall deem desirable.

(e) Directors and Officers liability insurance.

(f) All insurance required under the terms of the Shoreline Agreement.

(g) Such other insurance in such reasonable amounts as is required under the Act or the Board shall deem desirable. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. To the extent possible, all of such policies shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the Association and First Mortgagees who specifically request such notice. The premiums for such insurance shall be Common Expenses.

4. Owner's Responsibility. Each Owner shall obtain his or her own insurance on the contents of his or her own Dwelling Unit, the furnishings and personal property therein, and his or her personal liability to the extent not covered by the liability insurance for all of the Owners obtained as part of the Common Expenses as above provided, and the Board shall have no obligation whatsoever to obtain any such insurance coverage on behalf of the Owners. Each Owner shall promptly report, in writing to the Board, all additions, alterations or improvements to his Dwelling Unit without prior request from the Board and shall reimburse the Board for any additional insurance premiums attributable thereto, and shall be responsible for any deficiency in any insurance loss recovery resulting from his failure to so notify the Board. The Board shall not be responsible for obtaining insurance on such additions, alterations or improvements unless and until such Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board for such additional premiums; and upon the failure of such Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Dwelling Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements.

5. Waiver of Subrogation. Each Owner hereby waives and releases any and all claims which he may have against any other Owner, the Association, its directors and officers, the Declarant, the Developer, the manager and the managing agent, if any, and their respective

employees and agents, for damage to the Dwelling Units, or to any personal property located in the Dwelling Units, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

6. Repair or Reconstruction.

(a) In the case of damage by fire or other disaster to a portion of a Dwelling Unit (a "Damaged Improvement") where the insurance proceeds are sufficient to repair or

-13-

reconstruct the Damaged Improvement, then the proceeds shall be used to repair or reconstruct the Damaged Improvement.

(b) In the event that the insurance proceeds are insufficient to repair or reconstruct the Damaged Improvement, then the Owner shall be responsible for the cost of repairing or reconstructing the Damaged Improvement in excess of the insurance proceeds.

ARTICLE VII

Park Shore Master Association

1. Creation and Purposes. The Developer shall form a Wisconsin not for profit corporation to be known as the Park Shore Master Association which shall provide for maintenance and operation of the Dwelling Unit Exteriors, the Community Area and the Shoreline Improvement and in general to maintain and promote the desired character of the Property.

2. Board of Directors and Officers. The Association shall have a Board of not less than 3 directors who shall be elected by the Members of the Association at such intervals as the By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the By-Laws and that the first Board and subsequent Boards (until Developer has turned over control of the Association to the Members, as provided in Section 3 of this Article VII) shall be appointed by the Developer and shall be 3 in number. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the Articles of Incorporation or the By-Laws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The By-Laws of the Association shall include such added provisions for the protection and indemnification of its officers and directors as shall be permissible by law. The directors and officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or omissions made in good faith as such directors or officer. The Owners shall indemnify and hold harmless each of such directors or officers against all contractual liability arising out of contracts made by such directors or officers on behalf of the Owners of the Association, unless any such

contracts shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any Owner arising out of any such contract made by the Board or officers or out of the aforesaid indemnity in favor of the directors or officers to the extent not covered by insurance, shall be limited to such Owner's proportionate share of the total liability.

3. Turnover Date. The Developer shall through the Board appointed by it in accordance with Section 2 of this Article, exercise control over all Association matters, until the first to occur of (a) 3 years from the date of this Declaration, (b) the individual sale and conveyance of legal or equitable title to 75% of the Lots to Owners other than Declarant, or (c) Developer elects to voluntarily turn over to the Members the authority to appoint the Board, which election it shall evidence by directing the Declarant to execute an instrument setting forth

-14-

its intention to so turn over its authority hereunder. The date upon which the authority to appoint the Board passes to the Members shall be hereinafter referred to as the "Turnover Date".

4. Membership and Voting.

(a) Every person or entity who is record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including a contract seller, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots.

(b) From and after the time that the Developer has relinquished its authority to appoint the directors as hereinabove provided, each Member shall be entitled to one (1) vote on each matter submitted to a vote of Members for each Lot owned by him or it, provided, that where title to a Lot is in more than one person, such co-owners acting jointly shall be entitled to but one vote. When more than one person holds such interest in any Lot, all such persons shall be Members.

5. Powers and Duties of the Association. The Association, through the Board, shall have the following powers and duties:

(a) Maintain, repair and replace the Dwelling Unit Exteriors, including but not limited to driveways and entry sidewalks, but not perimeter sidewalks, if any.

(b) Maintain, repair and replace the landscaping and improvements in the Community Area, and in the Dwelling Unit Exterior, pursuant to terms of this Landscaping Plan.

(c) Maintain and repair the Shoreline Improvements and carry out all other rights and obligations of the Association pursuant to the terms of the Shoreline Agreement.

(d) In the event the Association fails to fulfill such responsibilities, the Village may, but shall not be obligated to do so, and the costs thereof may be recorded as a lien on the title to all Lots, which may be foreclosed by court action initiated by the Village and in addition, the Village may bring an action at law against the Owner or Owners of record of such Lots.

(e) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same at the first annual meeting of the Members of the Association after such appointment.

(f) Establish and maintain a working capital and contingency fund in an amount to be determined by the Board.

-15-

(g) At its option, mow, care for, and maintain vacant and unimproved property and remove rubbish from same and to do any other things necessary or desirable in the judgment of the Board to keep any vacant and unimproved property and parkways in the Property neat in appearance and in good order. The foregoing rights shall not apply to any Lot or other portion of the Property owned by Declarant.

(h) Make such improvements to the Property and provide such other facilities and services as may be authorized from time to time by the affirmative vote of 2/3 of the Members of the Association acting in accordance with By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping the Property a highly desirable residential community.

(i) Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Voting Members by the Articles of Incorporation, the Declaration or By-Laws.

(j) Adopt reasonable rules and regulations to implement the intent of this Declaration, and the power to assess fines and recover attorneys' fees and collection or litigation costs in enforcing this Declaration or any such rules and regulations. Such rules and regulations shall include but are not limited to rules and regulations regarding the size, type of material and location of fences, walls, buildings or other structures or improvements except for Dwelling Units, whether original or a replacement, temporary or permanent, located on any Lot. All such improvements subject to rules and regulations of the Association must comply with all applicable City ordinances if, and to the extent there is any conflict between this Declaration, the rules and regulations implemented by the Board and the provisions of any ordinances, codes, rules and regulations of the City, then such conflict shall be resolved by the application of the more stringent provision as among this Declaration, the rules and regulations and such ordinances, codes, rules and regulations of the City.

#### 6. Maintenance Assessments.

(a) Developer shall collect, from each initial purchaser of a Lot at the closing of the sale of such Lot: (i) the sum of \$\_\_\_, which shall be allocated as a Contingency and Replacement Reserve for the Association to be utilized for repair and replacement of capital improvements made or to be made on the Community Area; (ii) the sum of \$\_\_\_, which shall be allocated as a separate "Shoreline Reserve Fund" for the Association to be utilized for repair and maintenance of the Shoreline Improvements over a long-term period; (iii) an initial working capital contribution to the Association in an amount equal to 2 months' Annual Assessment at the rate in effect with respect to the Dwelling Unit as of the closing, which amount shall be held and used by the Association for its initial working capital needs; (iv) an insurance fund contribution to the Association in the amount of \$\_\_\_, which amount shall be held and used by the Association for its initial insurance needs; and (v) the pro rata amount of the Annual Assessment due for the portion of such month following the closing, which assessment amount shall be determined by the Board.

-16-

After the Turnover Date, the Developer shall assign to the Association all proceeds of the Contingency and Replacement Reserve and the Shoreline Reserve Fund to be applied by the Association for the purposes set forth in the preceding paragraph. The Declarant and Developer shall have no right to utilize any of the funds received from an initial purchaser prior to the Turnover Date. All of the above collected funds, except the Contingency and Replacement Reserve and the Shoreline Reserve Fund, may be used for, but not limited to, maintenance, snow removal and landscaping as described in Section 5(e) above and the insurance expenses described in Section 9 of this Article. The Shoreline Reserve Fund may be used only for the maintenance and repair of the Shoreline Improvements. The Association shall pay for the cost of any maintenance or repair of the Shoreline Improvements, but no such budget, reserve, or account shall constitute a limitation of the Association to pay for and carry out all such required maintenance and repair.

(b) Each Owner, by acceptance of a deed or other conveyance from the Declarant, its successors or assigns, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements and unforeseen expenses, to be collected from time to time as hereinafter provided in this Declaration, together with By-Laws of the Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them. The assessments to be utilized for expenses and purposes hereunder shall be allocated equally among all Owners other than Declarant.

(c) The assessment levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Property and in

particular for the improvement and maintenance of the Dwelling Unit Exteriors, the Community Area and the Shoreline Improvements ("Maintenance Assessments"). Such uses shall include, but are not limited to, the cost of the Association of all taxes, snow removal, insurance, repair, replacement and maintenance and other charges required by the Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, replacements, taxes, and other charges as specified herein.

(d) In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement within the Dwelling Unit Exteriors, including the necessary fixtures and personal property related thereto, if any, and the Community Area and for the maintenance and repair of the Shoreline Improvements as required in the Shoreline Agreement.

(e) Both annual and special assessments must be fixed at a uniform amount for all Lots. Annual assessments shall be collected, in advance, on a monthly basis.