



### Memorandum

To: Common Council  
From: Greg Keil, CDD, Pamela Captain, CAHRD  
Date: March 24, 2011  
RE: Review comments related to Development Agreements with The Ponds of Menasha, LLC and Cypress Homes and Realty, Inc.

The following comments are provided to aid you in addressing some of the points Attorney Carlson referenced in review of the proposed development agreements.

#### The Ponds of Menasha, LLC

1. Recital Deleted
2. Clarify that upon Developer's sale or transfer of each parcel, the first \$5,700 shall be paid to the City off the amount due on the note.
3. Add a provision that an escrow or other restricted account be maintained, acceptable to the City, holding Developer's borrowed funds, namely \$2,000,000, with funds released only for the purpose of payment of expenses associated with the construction of public infrastructure for Development Areas "A" and "B".
4. Add a provision that that the Developer will not create a condominium unless or until Cypress Homes has sold all condominium units constructed in accordance with its development agreement with the City.

#### Cypress Homes and Realty, Inc.

1. Recital deleted.
2. Section 3.02. Platting is to occur in accordance with City ordinance. There is no date certain for completion of the platting since the City is required to produce and record the certified survey map (CSM) and gain approval of the tax incremental district (TID). The timing on the completion of the TID and CSM is not certain.
3. Article 1, Definitions of Public and Private infrastructure. --They are attachments.
4. Section 3.0101. There is no mortgage requirement since the project will be a condominium that has condo fees. Does the City want the property back?
5. Irrevocable Letter of Credit. – The Developer has not responded to the proposed Letter of Credit in favor of the City. If this cannot be negotiated, we will propose an arrangement similar to that outlined in Item 3, above.

There are several other changes to the development agreements that have been incorporated into the documents since the version that was inserted into the agenda packets was created prior to March 7, 2011. Those changes are as follows:

The Ponds of Menasha, LLC

1. Section 1.02.--A refinement of the definition of Private Infrastructure.
2. Section 1.02 --A refinement in the definition of Public Improvements.
3. Section 3.01.--A clarification that the interest rate specified is an annual rate.
4. Section 4.05.--A correction to the parcel described as Outlot 6.
5. Section 4.02.6 --A clarification as to the date when the threshold value of improvements needs to be met.