

It is expected that a Quorum of the Joint Review Board, Board of Public Works, Park Board, Administration Committee, and/or Common Council may attend this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
PLAN COMMISSION
Council Chambers
140 Main Street, Menasha**

March 7, 2017

4:00 PM

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. [Minutes of the February 21, 2017 Plan Commission Meeting](#)
- D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA
Five (5) minute time limit for each person
- E. ACTION ITEMS
 - 1. [No Build Easement – 208 Main Street \(Pedestrian Walkway\)](#)
- F. DISCUSSION
 - 1. Pedestrian Walkway – General Discussion
- G. ADJOURNMENT

**** Please Note Start Time ****

**CITY OF MENASHA
Plan Commission
Council Chambers, City Hall – 140 Main Street
February 21, 2017
DRAFT MINUTES**

A. CALL TO ORDER

The meeting was called to order at 3:35 PM by Alderman Benner.

B. ROLL CALL/EXCUSED ABSENCES

PLAN COMMISSION MEMBERS PRESENT: Ald. Benner, EA Gordon, Commissioners Sturm and Cruickshank.

PLAN COMMISSION MEMBERS EXCUSED: Mayor Merkes, Commissioners Schmidt and Homan.

OTHERS PRESENT: PP Englebert, Ald. Collier, and Dave Schmalz (McMahon).

C. MINUTES TO APPROVE

1. **Minutes of the February 7, 2017 Plan Commission Meeting**

Motion by Comm. Sturm, seconded by Comm. Cruickshank, to approve the February 7, 2017 Plan Commission meeting minutes as presented. The motion carried.

2. **Minutes of the February 14, 2017 Joint Park Board and Plan Commission Meeting**

Motion by Comm. Sturm, seconded by EA Gordon, to approve the February 14, 2017 Joint Park Board and Plan Commission meeting minutes as presented. The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. No one spoke.

E. COMMUNICATION

1. None.

F. DISCUSSION

1. None.

G. ACTION ITEMS

1. **Certified Survey Map – 1116 Lake Park Road – Lot Division**

PP Englebert introduced the proposed CSM for 1116 Lake Park Road. The property is currently a 1.31 acre lot and contains one single family home. The owner wishes to split the land into three lots. All proposed lots meet code standards for lot size and width regulations in the R-1 District. PP Englebert explained that under an existing agreement with Calumet County, the City of Menasha has authority to grant driveway access on Lake Park Road.

Commissioners discussed the Certified Survey Map and impacts of the planned reconstruction of Lake Park Road on the proposal.

Motion by EA Gordon, seconded by Comm. Sturm, to recommend approval of the Certified Survey Map – 1116 Lake Park Road. The motion carried.

H. ADJOURNMENT

Motion by Comm. Cruickshank, seconded by Comm. Sturm, to adjourn at 3:45 PM. The motion carried.

Minutes respectfully submitted by PP Englebert.



MEMORANDUM

Date: March 2, 2017
To: Plan Commission
From: Community Development Department/KE
RE: Revocable No-Build Easement – Main Street Pedestrian Walkway

Property owners of Your Daily Grind Coffee Shop, located at 204 Main Street, wish to construct a service window on a portion of the east façade of their building. The purpose of the window is to serve patrons in the Main Street Pedestrian Walkway. The walkway lies directly adjacent to the east side of Your Daily Grind, and the east façade of the building is situated on the property line.

In order for construction of a window to commence on the property line, applicable building codes require a fire separation distance of at least ten feet. Since the property extending 10 feet to the east of the building is owned by the City of Menasha, the owners of Your Daily Grind have requested the City of Menasha to provide a no-build easement to satisfy the fire separation distance requirement. The no-build easement would extend 10 feet over the westernmost portion of the walkway adjacent to the proposed window and would require the city to abstain from erecting a permanent building, garage, or shed in the easement area.

The no-build easement is revocable by the city in its sole discretion upon six months written notice to the property owner. In the event that a window is constructed and the easement is revoked, the property owner will be under an obligation to remove the window and seal the window opening in accordance with all building and zoning code requirements.

Staff recommends approval of the Revocable No-Build Easement as proposed.

**REVOCABLE NO-BUILD
EASEMENT AGREEMENT**

This Revocable No-Build Easement Agreement ("Agreement") is made effective on _____, 2017 ("Effective Date") by and between the City of Menasha, a Wisconsin municipal corporation, 140 Main Street, Menasha, WI 54952 ("Grantor"), and Vermicorp Holding, Inc., a Wisconsin corporation, 204 Main Street, Menasha, WI 54952 ("Grantee"). Grantor and Grantee are each a "Party" and are together the "Parties."

1. Affected Property.

Grantor owns the following real property located at 208 Main Street, Menasha, and legally described as: ORIGINAL PLAT OF MENASHA E 23' OF LOT 17 EXC N 10' & W 8' OF LOT 18 EXC N 10' OF BLOCK 43 (PEDESTRIAN WALKWAY), MENASHA, WINNEBAGO COUNTY, WISCONSIN as shown in Exhibit 'A' ("Grantor's Property").

Grantee owns the following real property located at 204 Main Street, Menasha, lying directly west of Grantor's property and legally described as: ORIGINAL PLAT OF MENASHA E 35' OF W 37' OF LOT 17 OF BLOCK 43 EXCL N 10', MENASHA, WINNEBAGO COUNTY, WISCONSIN. ("Grantee's property")

2. Grant of Easement.

- a) Whereas, Grantee wishes to construct a window on a portion of the east side of the building located upon Grantee's property, which wall is located on the property line between Grantor's property and Grantee's property. Under applicable building codes, such construction is not permitted unless a fire separation distance of at least ten feet is provided by Grantee; and
- b) Whereas, Grantee could accomplish this separation by securing a ten foot no-build easement to create the ten feet of space on the Grantor's property as an alternate to the 2009 International Building Code as adopted and amended by the State of Wisconsin and the City of Menasha and in the Menasha Building Code 15-1-2; and
- c) Whereas, Grantor is willing to grant a revocable no-build easement as hereinafter described with the clear understanding that such easement is revocable by the Grantor in its sole discretion and without compensation to Grantee or its successors in interest; and
- d) Whereas, Grantee acknowledges that the no-build easement granted hereinafter is revocable by the Grantor in its sole discretion and without compensation and further understands that if such easement is revoked that the right to have the window on the common boundary will lapse and the window will have to be removed, the openings closed, and the building brought into full compliance with applicable codes to the same extent as if this easement had not been granted.

Return to:

City Clerk
City of Menasha
140 Main Street
Menasha, WI 54952

PIN: 1-00243-00, 1-00242-00

- e) Therefore, Grantor grants to Grantee a revocable no-build easement as hereinafter described, subject to the terms and conditions as hereinafter set forth, over and upon a portion of the Property described below and in accordance with the attached EXHIBIT A:

ORIGINAL PLAT OF MENASHA E 23' OF LOT 17 EXC N 10' & W 8' OF LOT 18 EXC N 10' OF BLOCK 43 (PEDESTRIAN WALKWAY), MENASHA, WINNEBAGO COUNTY, WISCONSIN.

3. Easement Reservations and Limitations.

- a) Grantor agrees that during the period this easement is in effect that it will not build any permanent building, garage, or shed in the area covered by the easement which would cause the Grantee's property to be in violation of City building codes or restrictions. The parties agree that this restriction does not apply to surface cover, sculptures, landscaping, or any other ornamental feature associated with the pedestrian walkway.
- b) Grantor shall have the right in its sole discretion, and for any purpose whatsoever, to terminate this easement upon six months written notice to the current owner of Grantee's property. Such notice shall be effective upon mailing by certified mail to the address of the then current owner as shown on the records of the Winnebago County Register of Deeds.
- c) Grantee agrees that in the event this easement is terminated it will promptly and within six months from the effective date of the notice cause the window to be removed, cause the openings to be closed, and otherwise make such changes to the building as will correct any condition relating to such window and opening as are in violation of any building code or restriction.
- d) Grantee further agrees that any termination of this easement or expense occasioned thereby shall be without recourse and that the Menasha, and its successors in interest, shall not be liable for any damage resulting from such termination.

4. Maintenance.

Grantor has the right in its sole discretion to construct, install, maintain, operate, repair, replace and resurface the pedestrian walkway.

5. Runs with Land.

The terms, conditions and provisions of this Agreement shall run with the land and extend to, be binding upon and inure to the benefit of the Parties' successors, heirs and assigns.

The Parties hereby enter into this Agreement as of the Effective Date.

GRANTOR:
City of Menasha

GRANTEE:
Vermicorp Holding, Inc.

By: _____
Donald Merkes, Mayor

By: _____
Timothy H Lenth, Registered Agent

ACKNOWLEDGMENT – Vermicorp Holding, Inc.

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally appeared before me this ___ day of _____, 2017, Timothy H Lenth, as the Registered Agent of Vermicorp Holding, Inc., and acknowledged the foregoing instrument to be his/her voluntary act and deed in such capacity.

Dated this _____ day of _____, 2017.

Name: _____
Notary Public, State of Wisconsin
My Commission Expires: _____

ACKNOWLEDGMENT – City of Menasha

STATE OF WISCONSIN)
) ss.
COUNTY OF WINNEBAGO)

Personally appeared before me this ___ day of _____, 2017, Donald Merkes, Mayor, for the City of Menasha and acknowledge the foregoing instrument to be his/her and the City of Menasha’s voluntary act and deed, and accepted the Easement on behalf of the City of Menasha.

Dated this _____ day of _____, 2017.

Deborah A. Galeazzi, City Clerk
Notary Public for City of Menasha
My Commission Expires: _____

This document was drafted by:
Pamela A. Captain, Menasha City Attorney
140 Main St., Menasha, WI 54952
(SBN: 1023192)

EXHIBIT A



Legal Description:
ORIGINAL PLAT OF MENASHA E 23' OF LOT 17 EXC N 10' & W 8' OF LOT 18 EXC N 10' OF BLOCK 43 (PEDESTRIAN WALKWAY), MENASHA, WINNEBAGO COUNTY, WISCONSIN

MAIN ST

**EXHIBIT A
No-Build Easement**

The City of Menasha creates and provides maps for INFORMATIONAL PURPOSES ONLY. The City makes no claims to accuracy or completeness, provides no warranties of any kind, and assumes no liability for their use.

