

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39th AVENUE
PLEASANT PRAIRIE, WISCONSIN
6:00 P.M.
JANUARY 13, 2014
AGENDA**

1. Call to Order.
2. Roll Call.
3. Consider the minutes of the December 9, 2013 Plan Commission meeting.
4. Correspondence.
5. Citizen Comments.
6. New Business.
 - A. **PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLANS** for the request of Luke Nardi to operate a dispatching office for Regal Limousine and Forward Transport at the Truesdell Plaza 8531 75th Street, Unit B in Pleasant Prairie.
 - B. **PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-10 AND TO AMEND THE SETTLEMENT AGREEMENT RELATED TO THE SAMPLING AND ANALYTICAL TESTING PLAN** for the BP Amoco gasoline station and convenience store located at 10477 120th Avenue at the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc., the property owners.
 - C. Consider **Plan Commission Resolution #14-01** to initiate a zoning text amendment related to fences.
7. Adjourn.

It is possible that members and possibly a quorum of members of other governmental bodies of the municipality may be in attendance in the above stated meeting to gather information; no action will be taken by any other governmental body except the governing body noticed above.

The Village Hall is handicapped accessible. If you have other special needs, please contact the Village Clerk, 9915 39th Avenue, Pleasant Prairie, WI (262) 694-1400.

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9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
6:00 P.M.
December 9, 2013**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on December 9, 2013. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Jim Bandura; John Braig and Judy Juliana (Alternate #1). Andrea Rode (Alternate #2) was excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie-Harris, Community Development Director; Tom Shircel, Assistant Village Administrator and Peggy Herrick, Assistant Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE NOVEMBER 11, 2013 PLAN COMMISSION MEETING.**

Don Hackbarth:

Move approval, Mr. Chairman.

Michael Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO APPROVE THE MINUTES OF THE NOVEMBER 11, 2013 PLAN COMMISSION MEETING AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**

Jean Werbie-Harris:

I have one piece of correspondence. It's an official notice from the Wisconsin Department of Transportation notifying the government officials and others that there's going to be a meeting on December 19th from 4:30 to 6 at the St. Catherine's Medical Center Campus. And this is to talk about the Highway 50 reconstruction project for the Village and the community. And this presentation will begin at 4:45, again, for local officials. And committee members are requested to attend. Again, 4:30 to 6 on December 19th. Presentation at 4:45. The DOT is preparing detailed engineering plans for nearly five miles of Highway 50 east of 116th Avenue to just west of 43rd Avenue in the City and the Village.

John Braig:

And where is the meeting?

Jean Werbie-Harris:

St. Catherine's Medical Center Campus, 9555 76th Street in Pleasant Prairie. So it's the main medical center campus. They have a meeting room in the back. You go through the atrium, and then to the right they have a meeting room.

Tom Terwall:

Thank you.

5. CITIZEN COMMENTS.

Tom Terwall:

If you're here for an item that appears on the agenda tonight as a public hearing we would ask that you hold your comments until the public hearing is held so we can incorporate your comments as a part of the official record. However, if you're here for an item that's either not a public hearing or not on the agenda now would be your opportunity to speak. We'd ask that you come to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments? Seeing none, we'll go right ahead then to Item 6, New Business.

6. NEW BUSINESS.

A. PUBLIC HEARING AND CONSIDERATION OF A CONCEPTUAL PLAN for the request of Matt Phillips, agent for Senior Lifestyle Corporation for the proposed Senior Lifestyle Community that will provide 96 senior living dwelling units in phase 1 and 66 dwelling units in phase 2 on the vacant 9 acre property generally located south of Prairie Ridge Blvd. and east of 97th Court within the Prairie Ridge development.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, this is a request for consideration of a conceptual plan at the request of Matt Phillips, agent for Senior Lifestyle Corporation, for a proposed Senior Lifestyle Community that will provide 96 senior living dwelling units in Phase 1 and 66 dwelling units in Phase 2 on a vacant 9 acre property that's generally located south of Prairie Ridge Blvd. and east of 97th Court west of 96th Avenue within the Prairie Ridge development as noted with the red star on the aerial photograph.

The proposed Senior Lifestyle Community will provide 96 senior assisted living units in Phase 1 and 66 senior living units in Phase 2 on the vacant 9 acre property located in the Prairie Ridge development. Again, this is just south of Prairie Ridge Boulevard between 97th Court and 96th Avenue. Phase 1 is anticipated to begin in 2012, and no exact time frame has been set for Phase 2. Specifically they are requesting a conceptual plan approval this evening for the two phase project.

Some background information just to bring everyone up to speed on this particular area, on May 17, 2004 the Village Board had approved a conceptual plan for the proposed Arbor Ridge Condominium Development which included a 15 2-unit building, 5 4-unit buildings and 8 6-unit buildings for a total of 98 units in a Prairie Ridge senior campus which included a total of up to 521 senior apartments to be constructed in phases as specified below.

Peggy is just going to go through some of the areas. Phase 1 at the very northeast corner was 120 senior living units built on just under 7 acres of land. That was constructed prior to May of 2004. Phase 2 directly to the south and just to the west of 94th Avenue was 71 senior living unit building on just over 4 acres of land, and that was constructed in 2006. Phase 3 which was 70 senior living units build on just over 3 acres of land, again, that was not constructed, and that's currently vacant land. And then phases 4 through 7 were a total of 260 units within two buildings which was to be identified on just over 9.2 acres of land. Again, this area that I just mentioned at the end, those Phases 4 through 7 that is obviously not going to be developed by VK Development, but this is the specific area that's being proposed by Senior Lifestyle for their two phase project.

The first area that I had talked about is that Arbor Ridge Condominiums, and that's those red buildings that is just to the west of that development. Some of the initial work was done in that very southern phase with respect to infrastructure being in the ground, sewer, water. Some preliminary work was done in that particular location. But when the economy turned and the property was lost back to the bank none of that work with respect to new construction took place. So what we are seeing right now is just a resurgence of looking for some existing vacant available properties in Pleasant Prairie, and this is one of those particular areas that, again, is intended to be more a continuum of care. But in this case they are looking to do a two phased senior project.

Back in 2004 the Village had entered into a development agreement with the then VK Development relating to the public and private improvements pertaining to Phases 1 through 7 in the Arbor Ridge Condominiums. This development agreement is still in effect, and there is a letter of credit on file that has been renewed over the years by the bank for this particular area to put in these improvements.

The developer's engineer, Nielson Madsen and Barber, Mark Eberle, he's with us this evening. he prepared a cost evaluation of all of the outstanding improvements, the public and private improvements related to this Senior Lifestyle project to determine if the current letter of credit is sufficient and what type of funds we need to have financially as a Village to secure that these public and private improvements are completed. The cost estimates have not yet been reviewed by staff. We did receive them the other day and we do have a copy of them, but as part of the conceptual plan review process it's our intent to review these cost estimates and to make sure that we do have money that can secure these improvements to be completed.

The two roads that are of some concern to the Village with respect to needing them to be completed are 97th Court, and again that leads from Prairie Ridge Boulevard south to 94th Avenue. And then on the east side 96th Avenue runs from Prairie Ridge Boulevard down to 97th Court. Again, for this particular development those are the two areas of public improvements initially and then private improvements that do need to be completed. And what the staff has done in the staff comments is actually put together some details with respect to some of those improvements that are yet to be completed. They understand this, and they understand that their obligation will be that if there's not enough money financially in the letter of credit that they will have to post additional funds in order for these public improvements and private improvements to be completed for this development to move forward.

1. The first of which is 97th Court shall be fully improved from 94th Avenue to Prairie Ridge Boulevard including sidewalks on both sides and parkway trees. 97th Court shall be constructed to the Villages new standard which is composite pavement section, seven inches of concrete overlaid with 1.7 inches of HMA. Plans, specs and contract bidding documents for these improvements will need to be submitted and reviewed.
2. 96th Avenue, again that's the north/south road on the east side, from 97th Court to 81st Street shall be fully improved to support the development. Also, the existing portion of 96th Avenue from 81st Street to Prairie Ridge Boulevard shall be final paved. So part of that is paved and part is not with its final paving.
3. Parkway street trees shall be installed along the 97th Court east and west sides. 96th Avenue, 96th Court there's some street trees missing, a couple of them/ 81st Street missing trees along the north side, and a street tree is missing along Prairie Ridge Boulevard. A detailed landscaping plan showing the street tree types, the sizes, shall be prepared. Again, that will be submitted along with the detailed site and operational plans for this project. The street tree types shall be listed in the Village's current approved plan. We do have a listing of these street trees that we do like to use. And we don't want any substitutions that don't comply with today's standards, for example no ash trees and fruit trees and things like that.
4. Street lights, the residential type concrete base and pole with a Sheridan head fixture they'll need to be installed along 97th Court and 96th Avenue.
5. Street signs shall be installed pursuant to the Village requirements.
6. Concrete sidewalks five feet in width shall be installed on the right of ways on both sides of the development. As you notice, all of the commercial areas as well as the residential areas that are multifamily have street sidewalks on both sides of the street.

7. With respect to sanitary water and storm, the proposed sanitary service for the Phase 1 building requires a sanitary extension from 98th Circle. The sanitary extension from the existing manhole of 98th Circle is to a manhole on 97th Court and shall be a public sewer main extension requiring some of the details are set forth in the staff memo.
8. The existing water main along 97th Court is shown outside the pavement area in several locations with conflicts with the plan designs. So we'll need to get the utilities to hotline and mark these locations a little bit more accurately.
9. The backfill for the sewer connection with the pavement area shall be slurry. Also, the sewer extension shall be backfilled with a slurry in 97th Court.
10. There are several storm sewer catch basins along the existing barrier curb within the proposed entrance drives. The plans need to show details regarding the new covers and castings and such.

The reason why I brought all of this information up is it's very, very important for us with all of these developments such as this where we have unfinished business with respect to public improvements that we bring that up and we discuss it in detail with the developer so that they understand what's expected as they move forward and they pick up these properties to complete these infill projects.

The Senior Lifestyle's development agreement, just to clarify, a new or amended development agreement will need to be entered into with them in order to make sure that all of these public and private improvements are included with respect to the approval process.

With respect to their conceptual plan now this evening, the petitioner is proposed to develop a 9 acre site for a 162 senior housing unit development within two phases. Phase 1 is 96 units, Phase 2 will include 66 units. The senior housing community will include central dining facilities, a multipurpose room, fitness center and an arts and crafts room. According to the application, as part of their monthly fee residents will have access to meals and other services such as housekeeping, linen service, transportation, social and recreational activities.

Supportive care and assisted living services from trained employees will also be available to the residents who require assistance with activities of daily living including management of medications, bathing, dressing, toileting, ambulating and eating and residents who have Alzheimer's disease or other forms of dementia. So they have often to referred to this as a memory care facility.

Phase 1, the 96 unit facility, has 61 surface parking areas. The living units will be in a three story building. On the first level of each of the two living wings includes 16 units with a common living and dining area with kitchen facilities and a screened in porch. In addition, there is access to an outdoor garden and patio area. The two wings are connected to a one story area that will include a larger dining and living room with a multipurpose room, craft room and with an attached greenhouse, fitness room, salon and therapy room. This common area will also have two elevators to access the upper levels. The second and third floor will provide for a total of 32 living units and no common living spaces. A majority of the units are one bedroom units. There are a limited number of efficiencies and one bedroom units with a small living area.

Pursuant to the zoning ordinance the minimum number of parking spaces not including the handicapped accessible parking spaces is one space per six patient beds plus one space per employee on the largest work shift plus one space per staff member and visiting doctor. So the number of spaces that they have provided appears to be adequate for their needs. The number shall be verified when the total number of employees actually is presented in the staff numbers and the visiting doctors can be evaluated. The staff actually has worked with them over the last couple of months to try to lay things out so that there would be ample parking and access on multiple sides of the development and how it interconnects to the future Phase 2 to the south.

Phase 2 is 66 units with 51 underground parking spaces and 48 surface parking spaces. Again, we're looking for the development since it has 66 bedrooms there needs to be at least 33 parking spaces plus the required handicapped accessible parking. The parking meets the minimum requirements. One of the things that we talked about with them is that if there are any dimensional variations such as with parking or with anything else on the site, for example height of the building or density, we would work with them through a planned unit development which is a zoning overlay for the property.

With respect to the zoning map and text amendments and the conditional use permit, the current zoning of the property is R-11 UHO. It's a Multiple Family Residential District with an Urban Landholding Overlay District. The proposed Senior Lifestyle project is classified as a community living arrangement in the zoning ordinance which is allowed within the R-11 District with the approval of a conditional use permit to be granted by the Plan Commission. The conditional use permit is not being considered this evening. They are primarily looking for conceptual plan approval from the Plan Commission and the Board in order to give them a positive direction with respect to the purchase of the land and then continuing to move through the planning and zoning process with the Village.

The zoning ordinance relating to community living arrangements in the R-11 District requires that the net density shall not exceed 21 units per acre. And then with this development their net density is 18.5 units per acre. The facility shall be in conformance with statutory requirements for a living unit of this type. The petitioner shall submit as a part of the conditional use permit the type of living arrangement that they are proposing. The purpose of the living arrangement, the type of individuals that will reside on the property and the plan for supervising and administering the needs to the residents. Again, a little bit more detail is presented as we get into the conditional use permit process.

Also a report and license from the Department of Health and Family Services. I'm not sure if it's still entitled that at the State, so we'll have to make sure we have the correct title. But they do need to get the proper licensing from the State as well. The property and the structure shall be serviced by municipal sanitary sewer and water. And the lot shall be a minimum of 3 acres, and clearly with 9 acres they exceed that minimum.

In addition, the property is proposed to be rezoned to a planned unit development. Developing the property as a PUD will allow for some more flexibility with respect to the dimensional requirements. One of the other things that a PUD does typically require is the DSIS which is the digital security imaging system or exterior cameras that would be required for this facility on the exterior of the site.

With respect to the building height the maximum height in this district is 35 feet. They're looking to have a 45 foot height. This is good illustrations of some of the building elevations and renderings for the project. The staff has a number of recommendations with respect to some of these renderings with respect to the building materials and some of the architectural features on the building. And we've provided some of those markups and updates to them as to how we'd like to see some of the building treatments modified.

The PUD ordinance will be drafted and considered by the Plan Commission and the Board after final plans have been reviewed and submitted. Again, this is the first step in the process for a conceptual plan approval. And next we will go through the conditional use permit process, and they will be submitting plans that are similar to the site and operational plans and then the PUD process prior to building permits. With that the staff would like to introduce Matt Phillips from Senior Lifestyles to tell us a little bit about his company and the project and a little bit about their background for the Plan Commission.

Matt Phillips:

Good evening.

Tom Terwall:

Good evening.

Matt Phillips:

It's nice to be here. It's been more than a couple months actually. When I first came up here I think it was in April.

Jean Werbie-Harris:

Time flies.

Matt Phillips:

At that time Jean asked do you have any other communities in Wisconsin. At that time we had one called Harbor Village in Greendale. And since then we took over management for I think ten existing communities that were formerly operated by a company called CRL. So we're in Kenosha, Sheboygan, Waukesha, Green Bay, Appleton.

Tom Terwall:

For the record would you give us your name and address.

Matt Phillips:

Sure. My name is Matt Phillips, and I'm the Executive Vice President at Senior Lifestyle. And our address is 111 Wacker Drive in Chicago. And Senior Lifestyles is a privately held company. We just celebrated our 28th anniversary. We have a little over 100 senior living communities around the county in 22 states. And we really have two different product types. We've got 20 or

so affordable housing programs primarily in the City of Chicago that are tax credit deals. And then the balance of our portfolio is what we refer to as market rate senior living. So non-subsidized senior housing.

And we're interested in developing here in Pleasant Prairie as a very high end senior living community. As Jean said we think the first phase would be 96 units, and we think over time the market will have demand for the additional units. But we'd prefer to phase it. A lot has happened over the last I guess when this started in 2005 getting approved. And so we'd rather take a little bit size chunk on the first phase of development, get it going, have a success and then bring that into the second phase. Really just here to introduce myself and answer any questions that you have and tell you how excited we are to be developing here.

Tom Terwall:

Thank you. I'm going to open the public hearing. If there are any questions [inaudible].

Matt Phillips:

Sure.

Tom Terwall:

This is a matter for public hearing. Is there anybody else wishing to speak on this matter? Anybody else wishing to speak? Seeing none, I'm going to open it up to comments and questions from the Commissioners and staff. Jean, is the issue of the [inaudible] height been rezoned.

Jean Werbie-Harris:

I'm sorry, I couldn't hear you.

Tom Terwall:

My understand was you said that the zoning calls for a 35 foot maximum height, and they're proposing 45.

Jean Werbie-Harris:

And the staff is supporting that height, yes.

Tom Terwall:

Okay.

Wayne Koessl:

And that was cleared by the fire department, too?

John Braig:

Jean, the staff recommends subject to the comments and conditions, and it discusses quite a number of items including street lighting, street trees and things like that. Does the Village have a set of standards that will specify or that plans for street lighting or street trees would have to meet? In other words not one street light on every corner but lights --

Jean Werbie-Harris:

Absolutely. This area is identified and is -- this area has to comply with the commercial covenants and the commercial area standards of Prairie Ridge. So it's not similar to a single family subdivision where street lights are just at the entrance of the subdivision or at mid block or at the intersection of public streets. There's a standard that's going to be met with respect to the spacing of the street lights in this particular area.

John Braig:

Thank you.

Don Hackbarth:

I may be confused here, but there was a time where we had a philosophy that we were not going to put in sidewalks in residential areas.

Jean Werbie-Harris:

That was the philosophy.

Don Hackbarth:

What is it now?

Jean Werbie-Harris:

The staff has been recommending and we have been presenting various cross-sections and specifications to the Village Board that public sidewalks would be placed for all new residential developments and commercial developments in the Village.

Don Hackbarth:

I think that's a good idea because without sidewalks you could have a person come to his house, flip the garage door opener, go in, close the garage door and never see their neighbor. I think sidewalks are conducive to neighborhood get together and be more congenial with the neighborhood. Also on Sheet Number 4A I wish one of these units would have been blown up a little further. Because to me it looks like it's a room with a bathroom. Is that what it is?

Jean Werbie-Harris:

This is assisted living. So maybe Matt or someone from his team is willing to come up and explain exactly what types of facilities are typically designed for assisted living.

Don Hackbarth:

But you were talking about having a dinette or something in the units.

Jean Werbie-Harris:

No.

Matt Phillips:

There are two different types of units in the Phase 1. The first floor units are memory support units, and those units would typically have a bathroom with a separate shower or tub area and a living area for a bed approximately 350 square feet. And the idea is to get people out of their rooms. And so the bulk of the space that they're sharing in these neighborhoods of 16 have a separate country kitchen where everyone would eat together in the kitchen and activity space. The upper two floors are assisted living units, and those are roughly twice the size of the memory support unit so around 650 to 700 square feet. And those units will either be one bedroom units, predominantly one bedroom units, and some of them have an extra little den area.

Don Hackbarth:

What differentiates that lower unit area from a nursing home?

Matt Phillips:

Well, the primary thing is a licensure. A nursing home is licensed as such and we're not. So a nursing home will be an appropriate place for people that have much higher acuity levels. The memory support is often less a physical ailment and more of a mental one. And so the people need assistance but they're ambulatory. They're not bedridden which you find typically more so in a nursing home.

Don Hackbarth:

Would somebody in an upper unit when they get to that point then move down to the lower unit. Is that the idea?

Matt Phillips:

Often that's the case, yes.

Don Hackbarth:

Okay.

Tom Terwall:

Thank you. Any other comments or questions? Mike?

Michael Serpe:

I'm a little familiar with the assisted living since some of my family members have been a part of it. And to say the least I think this is a welcome addition to the Village, and I would move approval.

John Braig:

Second.

Jean Werbie-Harris:

I just wanted to bring up one other point. And I did get an email from John McNamara from the bank and I haven't had a chance to go through it along with all the details of the cost estimates from Mark Eberle. When the original letter of credit was posted by VK back in 2004-2006, there was an understanding that the letter of credit was to include the first phase of the condominium development for private improvements as well as all of the public improvements on the balance of the site. So when we look at the letter of credit and the amount of monies that are left we need to make sure that there's enough funding to keep all of those improvements in mind with respect to getting the work done.

So we need to make sure that if there's additional funding that has to be presented by this developer we're not going to just use the entire letter of credit that's on file to complete these improvements. We need to make sure that all those improvements can be completed, or it has to be provided with a supplemental letter of credit. Having not looked at all the details maybe Mark Eberle the engineer that put these estimates together might be able to address that. Again, I've got about 12 pages here, I just have not had a chance to go through it. It was quite lengthy of a report that he put together.

Tom Terwall:

Can you shed some light on this, Mark?

Mark Eberle:

Mark Eberle, Nielson, Madsen and Barber, 1458 Horizon Boulevard. The construction cost estimate that we put together and shipped to Jean's office this week does include the entire property. So not only the public improvements but the private improvements for the condominiums. So it's very detailed. I think we have it all covered. And they need to run through it and take a look at it.

Tom Terwall:

Thank you.

Mike Pollocoff:

It's good that we got those things. But I just want to make sure the Plan Commission knows we're dealing with two different entities, the people who are actually proposing the assisted living and senior housing, and then there's the developer of the property. At least in my initial discussions with the developer there's no initial plans for developing what's identified on the map as the red housing structures.

This is one of those issues where we're looking at a finite point in time where the proposal before us tonight is for the senior campus. And we have a second one for the ultimate condominiums or whatever that multifamily use might be, and that's the more nebulous. And the existing source of funds is not nebulous. It's a finite fixed source of funds. And we don't really have a plan for how the rest of that development is going to be developed. And we've been through these in the Village. And the effort to make sure that letters of credit that were issued times previous to the collapse of the residential market are self-sufficient and can take a development all the way through to its end.

This looks to be a good proposal, and the staff is recommending that it be approved. I just want everybody to walk into this with their eyes wide open that we need to really have a good look at, one, the finances and what it's going to take to carry this whole thing off as we see it today. Plus the vehicle to ensure that the Village isn't holding the bag or we have stranded assets. Because that area with the multifamily housing has sewer, water, storm sewer. We have areas that the ponds are put in. We need to make sure that those ponds are protected from erosion sloughing into the ponds and make sure we don't lose the capacity of those ponds. There's a significant amount of work that still needs to take place, and we need to make sure that happens.

So while this is a good proposal that we're bringing forward and considering, I want everybody to, as I said, walk in with their eyes wide open and acknowledge that we not only have to plan for this development, but since we have no certainty as to what the rest of the development is going to be there is going to have to be some kind of agreement or language or vehicle to make sure that that second phase is handled and accommodated and there's a way to either bring that to fruition earlier so they've got some certainty, or to protect the Village through enhancing the letter of credit or providing a way for that to happen over time. Otherwise we'll have a really nice senior development, and there will be this no man's land between 96th and the pond where we're trying to figure out what's going to happen, and those are problems.

You think about the second phase of Chateau. That's a big chunk of land that is difficult to development because back when the County was running things and we were a town that second phase was not accounted for, but it was platted and ready to go. So those things end up being problems. And I don't want to see in the middle of a really nice development have that island of issues that there's not enough money to finish that off.

Tom Terwall:

Will that be handled through the developer's agreement, is that correct?

Jean Werbie-Harris:

Yes.

Mike Pollocoff:

Right. And I just think it needs to be acknowledged in the conceptual plan approval. They've given it to us. We haven't had time to review it, and we won't have time to review it because of the Board meeting following this. But before we go any farther as we go to that agreement that's going to have to get ironed out.

Wayne Koessl:

Through the Chair. Have they reviewed the conditions and the comments and agree with them?

--:

Yes.

Wayne Koessl:

Okay, and one other question. For the change from 35 to 45 feet of the height will that have to be approved by the fire department or just the staff?

Jean Werbie-Harris:

It will have to go through the staff through the Plan Commission and Board as part of a PUD. So we're not approving that height tonight even though the staff is recommending it. That won't get approved until we put the PUD together.

Wayne Koessl:

Okay, thank you.

Tom Terwall:

Is your motion still in effect?

Michael Serpe:

Yes.

Tom Terwall:

And the second?

John Braig:

Yes.

Tom Terwall:

A MOTION BY MIKE SERPE AND A SECOND BY JOHN BRAIG TO APPROVE THE CONCEPTUAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM AND INCORPORATING MIKE POLLOCOFF'S COMMENTS AS WELL. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Welcome. By the time you're done I'll be ready to move in.

B. Consider the request of Jonah Hetland of Bear Development, LLC requesting a six month time extension of the Site and Operational Plans conditionally approved for Goddard School to be constructed at STH 50 and 91st Avenue.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is the request of Jonah Hetland of Bear Development, LLC, requesting a six month time extension of the site and operational plans conditionally approved for the Goddard School to be constructed at the northwest corner of Highway 50 and 91st Avenue in the Village.

The Village sent an approval letter this past spring to Mr. Hetland regarding the site and operational plan approvals for the Goddard School. It's an 8,251 square foot preschool/daycare facility for children ranging in age from six weeks to six years of age. It's proposed on Lot 20 of the Westfield Heights Subdivision of Pleasant Prairie.

The site and operational plans were approved subject to all the comments and conditions as set forth at the Plan Commission meeting on April 22, 2013. As you know site and operational plans are valid for six months. Prior to the six month expiration they requested an extension. They really only need the extension for a few weeks as we have a closing on December 11th which is this week Wednesday. But we did need to make sure that there was an approval in place so that it allowed them to continue forward with the closing, the preconstruction meeting and obtaining their permits within the next week. The staff recommends approval of their six month extension until May 24, 2014. But we believe that it's going to happen much quicker than that.

Don Hackbarth:

So moved.

John Braig:

Second.

Tom Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JOHN BRAIG TO GRANT THE SIX MONTHS EXTENSION. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. Consider Plan Commission Resolution #13-10 to initiate zoning text amendments related to non-metallic mining regulations.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, Resolution 13-10 is a resolution to initiate zoning text amendments. Specifically the Plan Commission may initiate a petition for the amendment of the zoning ordinance which may include rezoning of property, change in zoning district boundaries, or in this case the changes in the text of the zoning ordinance.

The Village staff is proposing to re-evaluate the Village's non-metallic mining regulations related to some pending changes potentially in the State's regulations. So we'd like to be very proactive in reviewing various proposed regulations and our current regulations. And we would like to study them and bring them back to the Plan Commission for further consideration and a public hearing.

The Plan Commission is not by this resolution making any determinations regarding the merits of any proposed changes to the zoning text but is only initiating the process by which the proposed changes and the zoning text can be promptly evaluated and a public hearing can be held. The staff recommends approval as presented.

John Braig:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

MOVED BY JOHN BRAIG AND SECONDED BY WAYNE KOESSL TO ADOPT RESOLUTION 13-10.

Don Hackbarth:

Just one comment. Does this have anything to do with the 104th Street thing years ago? Does it? Okay.

Michael Serpe:

We can't forget what kind of a public hearing we had over that. The largest in the State of Wisconsin for a Village.

Tom Terwall:

WE HAVE A MOTION BY JOHN BRAIG AND A SECOND BY WAYNE KOESSL TO APPROVE. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. ADJOURN.

John Braig:

Move adjournment.

Michael Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

Meeting Adjourned: 6:40 p.m.

WIS 50 Reconstruction Project



DATE

Thursday, Jan. 23, 2014

TIME

4:30 to 7 p.m.

(presentation at 5:15 p.m.)

PLACE

Journey Church (main lobby)
10700 75th St. in Kenosha

CONTACT INFORMATION

If you have questions about
the project or meeting,
please contact:

Jason Dahlgren, PE
WisDOT Project Manager
(262) 521-5349
Jason.Dahlgren@dot.wi.gov

HISTORICAL and ARCHAEOLOGICAL RESOURCES

Citizens who are interested
in or knowledgeable about
historical or archaeological
resources in the project
area are invited to share
information at the public
meeting or contact Jason
Dahlgren (see above).

You are *INVITED!*

Public Information Meeting

The Wisconsin Department of Transportation (WisDOT) is hosting a public information meeting to obtain feedback on the latest design plans and project schedule for the reconstruction of WIS 50. Displays and design plans will be available for review at the meeting and project staff will be on-site to discuss the plans and answer your questions.

Project Overview

WisDOT is developing detailed engineering plans for nearly five miles of WIS 50 from just east of 116th Avenue in the village of Pleasant Prairie to just west of 43rd Avenue in the city of Kenosha.

The design plans include:

- Widening the roadway from four to six lanes between 116th and 57th avenues.
- Reconstructing the existing four-lane road between 57th and 43rd avenues.
- Reconstructing and improving intersections with WIS 50.
- Implementing access management measures.
- Providing improved access road connections.

.....

To request interpretation services for the hearing impaired, please call 711, the Wisconsin Telecommunication Relay System, at least three working days prior to the meeting. Ask the communication assistant to contact Jason Dahlgren, PE, of the Wisconsin Department of Transportation at (262) 521-5349.

- A. **PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLANS** for the request of Luke Nardi to operate a dispatching office for Regal Limousine and Forward Transport at the Truesdell Plaza 8531 75th Street, Unit B in Pleasant Prairie.

Recommendation:

Village staff recommends that the Plan Commission **approve** the **Conditional Use Permit, including Site and Operational Plans**, subject to the comments and conditions of the Village staff report of January 13, 2014.

VILLAGE STAFF REPORT OF JANUARY 13, 2014

CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLANS for the request of Luke Nardi to operate a dispatching office for Regal Limousine and Forward Transport at the Truesdell Plaza 8531 75th Street, Unit B in Pleasant Prairie.

PUBLIC HEARING COMMENTS:

As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described below:

Findings of Fact

1. The petitioner is requesting a Conditional Use Permit, including Site and Operational Plans, to operate a dispatching office for Regal Limousine and Forward Transport at the Truesdell Plaza 8531 75th Street, Unit B.
2. Regal Limousine is a local limousine service operating in Kenosha County since 1987 and Forward Transport is a medical transport company with contracts with the state of Wisconsin through MTM to provide non-emergency transportation for Title IX recipients to and from medical appointments. The application is provided as **Exhibit 1**.
3. The property is located in a part of the Northwest One Quarter of U.S. Public Land Survey Section 9, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie, Wisconsin and further identified as Tax Parcel Number 91-4-122-092-0176.
2. The current zoning of the property is B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and a portion of the property is zoned C-1, Lowland Resource Conservancy District. The proposed uses are considered taxi services and the B-2 District requires a Conditional Use Permit be approval for taxi services.
3. Pursuant to the submitted *Operational Plan (Exhibit 1)*:
 - The office area is approximately 430 feet, with an additional 320 square feet of storage space that is attached to the Truesdell Mini-Mart. The space would primarily be used as office space for the owner and 1-2 employees to dispatch, take phone reservations, schedule appointments and process billing and payroll.
 - The fleet of four (4) luxury sedans/limousines and six (6) minivans would be parked along the rear property line when not in use. Drivers would pick up vehicles from the location and occasionally drop paperwork or customer payments off in the office. There will be little if any customer traffic, the medical transportation does all of its customer service via phone, and the limo service has 1-2 customers per year who prefer to make reservations in person.
 - There are currently two (2) conventional spaces and one (1) handicap space adjacent to the rear of the building which will be for the use of the business. In addition, they petitioner proposes to allocate 12 additional spaces at the rear of the property, along the existing curb for additional parking of his vehicle fleet.
 - The office will be open Monday through Friday, 9:00 a.m. to 5:00 p.m. Drivers will come to the property to pick up vehicles at other times, depending on the scheduling needs. However, they will not access the interior office.
 - The office/management staff include: 1-2 salaried full-time and 1-2 hourly part-time staff. The drivers are paid by commission, rather than hourly, with approximately 4-6 equivalent to full-time and 2-4 part-time, depending on the volume of business. There will be approximately six (6) full-time and four (4) part-

time employees. Future hiring will be based on business growth. The petitioner anticipates hiring one (1) more full-time dispatcher and 1-2 new drivers in the future.

- On-site there will be only one (1) shift during operating hours, with 1-2 staff in the office during that time. The remainder of the employees (dependent on business volume) will be driving off-site. Therefore, the average number of employees on-site is usually two (2), with a maximum of five (5) if multiple drivers happen to be dropping off payment or paperwork at the same time.
 - Anticipated average number of automobile trips to and from the site is about 40 (including drivers arriving for work and leaving at the end of the day); maximum expected is approximately 50. There are no anticipated truck trips to and from the location.
 - Security cameras and a recording system, through ADT to monitor the office and the fleet will be provided. The cameras will be mounted outside to monitor the fleet in the rear parking area, as well as inside to monitor the interior office.
4. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on December 19, 2013 of this hearing. Public hearing notices were also published in the Kenosha News on December 30, 2013 and January 6, 2014. The petitioner was mailed a copy and the property owner was emailed a copy of this memorandum on January 10, 2014.
5. According to the Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

Village Staff Conclusions and Recommendation: (to be read out loud)

The Village staff has determined that based upon the foregoing information presented in the application and related materials provided and the public hearing this evening, that the proposed use meets the following standards for granting a Conditional Use Permit in that:

- a. The project does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems and the traffic patterns on the site do not hinder, harm or distract the provisions of public services;
- b. The project does not impair an adequate supply of light and air to the adjacent properties;
- c. The project does not increase danger of fire--in so far as the danger of fire does not exceed the capabilities of the Village Fire and Rescue Department;
- d. The project does not create storm water flooding or drainage, create obnoxious odors, problems or otherwise endanger the public health, safety or welfare;

- e. There is no existing identified hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency that would endanger the public's health, safety or welfare related to the proposed project; and
- f. The proposed and applied for use on this particular parcel is not inherently inconsistent with the B-2, Community Business District in which it is located or the adjoining Zoning Districts and/or neighborhood.

Based on the foregoing information and the comments received during the public hearing, the Village staff recommends that if the Plan Commission determines that the petitioner has met the specific standards for the granting of a Conditional Use Permit, including Site and Operational Plans, as specified above, then approval of the Conditional Use Permit shall be approved subject to the following conditions:

1. Compliance with the all requirements as stated in the January 9, 2014 memorandum from the Village Fire & Rescue Department. **Note that Condition #1 also requires that a letter be submitted to the Fire & Rescue Department prior to receiving a building permit, stating that the project will comply with all requirements addressed within the January 9, 2014 Fire & Rescue memorandum. A copy of this letter shall also be provided to the Community Development Department.**
2. Compliance with the attached conditions of the memorandum dated January, 3, 2014 from the Village Building Inspection Department.
3. Security cameras and a recording system through ADT to monitor the office and fleet shall be installed, operational and inspected by the Village prior to occupancy.
4. The 12 proposed parking spaces for the limousine/minivan fleet along the rear property line need to be striped.
5. A sign is not required; however if no wall sign or change to the primary monument sign is proposed, then prior to occupancy non-illuminated vinyl letters stating the name of the business and the address shall be provided on the office door. If any additional signs are proposed proper sign permits shall be obtained prior to installation of said signs.
6. The business shall be limited to parking a maximum of 12 limousines/minivans along the designated rear property line parking area ONLY. The limousines/minivans shall not be parked elsewhere on the site.
7. The limousines/minivans shall be kept in good, clean, operable condition and all vehicles shall be properly licensed.
8. There shall be no parking of junked, unlicensed, inoperable, dismantled vehicles anywhere on the property.
9. Only vehicles related to the Regal Limousine/Forward Transport business may be parked on-site overnight.
10. The site shall not be used for vehicle service and/or repair (except for vehicle service and/or repair related to Merlin's Muffler).
11. The site shall not be used to park, sell or advertise any vehicles that are "for sale".
12. No vehicular parking will be permitted in driveways, maneuvering lanes, fire lanes or on landscaped areas.
13. No outside banners, strings of pennants, flags, inflatable devices or streamers affixed or attached to the building(s), light poles, ground or landscaping, etc.
14. No outdoor storage of any materials.

15. No on-site residential uses are allowed.
16. No use shall be conducted in such a way as to constitute a public or private nuisance or to violate any of the performance standards set out in 420-38 of the Village Zoning Ordinance.
17. All buildings, structures, site improvements and sites shall be maintained in a safe, structurally sound, neat, well-cared-for and attractive condition.
18. The site, building and structure shall be maintained in a neat, presentable, aesthetically pleasing, structurally sound and nonhazardous condition. All litter and debris shall be promptly removed.
19. The use, site, building and structure shall be operated in full compliance with the approved site and operational plan, any required conditional use permit, any required license and all other applicable provisions of Chapter 420 and of all other Village ordinances and codes.
20. No other changes to the exterior site shall be made without the Village's approval. In addition, any addition, alteration, extension, expansion or other proposed change in the approved operation shall be subject to the Village's Conditional Use procedures as if such use were being established anew.
21. **Upon approval of the Conditional Use Permit and prior to issuance of permits the Conditional Use Grant document will be prepared by the Village for signature of the property owner and the petitioner/tenant shall sign the Conditional Use Grant Document and said document shall be recorded at the Kenosha County Register of Deeds office. All recording and filing fees shall be paid by the application/owner.**
22. **The petitioner shall provide the Village with the name(s) and title(s) of the persons authorized to execute the Conditional Use Permit for the Ronald & Carol M. Schuler Family Limited Partnership, the owners of the property.**
23. The Conditional Use Grant shall become effective upon the execution and recording of said document and shall constitute an effective covenant running with the land.
24. The Conditional Use Grant is subject to amendment and termination in accordance with the provisions of the Village Zoning Ordinance.
25. Operation of the use granted shall be in strict conformity to the approved plans filed in connection with the petition for this permit and with the conditions of approval. Violations of these conditions may result in the revocation of the conditional use permit or zoning violation prosecution, or both.
26. **Prior to occupancy, a Commercial Building/Occupancy Permit shall be obtained and a Certificate of Compliance shall be issued by the Village to ensure compliance with all permit requirements.**
27. All plans shall conform to applicable Village ordinance requirements, and to all other applicable local, state and federal requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water management, streets and highways and fire protection; and in the event of conflicting requirements or standards, the most restrictive shall apply.



Office of the Village
Fire & Rescue Chief
Doug McElmury

VILLAGE STAFF MEMORANDUM

TO: Jean Werbie-Harris, Community Development Director
FROM: Doug McElmury, Chief Fire & Rescue Department
CC: Lt. Thomas Clark, Fire & Rescue Department
Peggy Herrick, Assistant Planner, Community Development
SUBJECT: Review of the Regal Limousine/Forward Transport Office 8531 75th Street
DATE: January 9, 2014

This is a review for the office in Suite B at 8531 75th St. to be occupied by Regal Limousine/Forward Transport

Fire and Rescue Department comments are based on the information given by Regal Limousine/Forward Transportation.

1. A letter shall be submitted to the Fire & Rescue Department prior to receiving a building permit, stating that the project will comply with all requirements addressed within this document.
2. There shall be no storage of flammable liquids within the office space.
3. Keyholder information must be submitted to the Fire and Rescue Department.
4. Two sets of all building keys (Master, fire alarm pull station, annunciator, etc.) shall be placed within each Knox box.
5. Fire extinguisher must be in place with a current inspection tag.
6. Occupancy permit fee will apply, fee will be: \$75.00.

MEMORANDUM

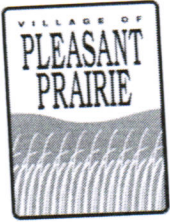
TO: Peggy Herrick, Assistant Planner
FROM: Sandro Perez, Building Inspection Superintendent
SUBJECT: Site and Operational Plans comments/conditions for Regal Limousine at 8531 75th street
DATE: January 3, 2014

The following are my comments/conditions:

- 1) All building, plumbing, and HVAC plans will need to be designed to the IBC Codes, Wisconsin Plumbing Code, prior to submitting (4 sets Municipal) for building permits from the Village of Pleasant Prairie.
- 2) Halls, corridors, stairways, passageways, work aisles and other means of egress from factories, offices and mercantile buildings shall have emergency lighting and exit lighting per Article 700 of the NEC, SPS 316.46. The Village Fire & Rescue Department should be contacted for further information and requirements. Contact Fire & Rescue Chief Doug McElmury at 262-694-8027.
- 3) If water main is to serve both domestic and fire protection combined, the plans will need Department of Commerce approval and Village Fire & Rescue Department approval prior to obtaining permits and commencing work.
- 4) This parcel and building must comply with all requirements of Barrier-Free Design.
- 5) The architect(s)/ professional engineer(s) shall submit, to the Village and State, the compliance statement, Form SBD 9720, **prior to the final inspection with the Village Building Inspection and Fire & Rescue Departments.**
- 6) The electrical contractor will be required to be licensed by the State of Wisconsin. The electrical contractor shall obtain a permit prior to beginning work. Low voltage electrical contractors will also be required to obtain permits prior to beginning work.
- 7) All mechanical contractors shall obtain a permit from the Village prior to beginning work.
- 8) Building plans will need to show detail on fire stopping of all penetrations through fire rated walls and fire separation walls as required by emergency rule that took affect on January 28, 1998.
- 9) Sprinkler plans are required to be submitted to, and reviewed by the Village Fire & Rescue Department.
- 10) Any and all fire alarm installations require plan review and permit from the Village of Pleasant Prairie Fire & Rescue and Inspection Department.
- 11) HVAC Test and Balance report must be completed by final inspection

Should you have any questions, please contact me directly.

* * * *



**VILLAGE OF PLEASANT PRAIRIE
SITE AND OPERATIONAL PLAN
AND CONDITIONAL USE PERMIT ZONING APPLICATION**

USE THIS FORM FOR:

Tenants/Use changes proposing to occupy 50% or more of an existing commercial/industrial building.

To construct a **new** or addition to principal or accessory structure.

Use requires a Conditional Use Permit.

FOR OFFICE USE ONLY	
Application Filed on	20
Preliminary Determination of Completeness on:	20
Revised Plans Submitted:	20
<input type="checkbox"/> Public Hearing Required: Hearing Date:	, 20
Published on: and	, 20
Notices sent on:	, 20
Approved by <input type="checkbox"/> Plan Commission on	20
<input type="checkbox"/> Zoning Administrator on	20
Denied by <input type="checkbox"/> Plan Commission on	20
<input type="checkbox"/> Zoning Administrator on	20

SECTION 1: GENERAL INFORMATION

NAME OF BUSINESS: Regal Limousine/Forward Transport

SITE ADDRESS: 8531-75th St. Unit B, Pleasant Prairie WI 53142

BRIEF PROJECT DESCRIPTION: We would like to move our business and dispatching office to the location above, leasing the existing, vacant unit from Truesdell Mini-Mart (Ronald, Carol Schuler Family Limited Partnership).

PROPOSED NUMBER OF FULL TIME EMPLOYEES: 6 total, 1 on-site

PROPOSED NUMBER OF PART-TIME EMPLOYEES: 4 total, 1 on-site

SITE SIZE: 750 sq. ft. _____ acres

PROPOSED BUILDING SIZE: _____ sq.ft. **HEIGHT:** _____ ft.

PROPOSED ADDITION SIZE: _____ sq.ft. **HEIGHT:** _____ ft.

LEGAL DESCRIPTION: _____

TAX PARCEL NUMBER(S): 092-0176

CURRENT ZONING CLASSIFICATION(S) OF THE PROPERTY: B-2

1. Is a zoning map amendment proposed with this project? Yes No
 - If yes, proposed Zoning Classification(s): _____
2. Is a zoning text amendment proposed with this project? Yes No
 - If yes, provide a copy of the proposed text amendment with this application

3. If property is zoned M-1 or M-2, indicate the Occupancy Type pursuant to the Use and Occupancy Classification specified in Chapter 3 of the 2006 International Building Code (2006 IBC). Include all that apply and associated square footage for each classification:

- Factory Group F-1 (Moderate-hazard) _____ sq ft
- Factory Group F-2 (Low-hazard) _____ sq ft
- Storage Group S-1 (Moderate-hazard) _____ sq ft
- Storage Group S-2 (Low-hazard) _____ sq ft
- Business Group B _____ sq ft
- High-Hazard Group H* _____ sq ft
- Other _____ sq ft
- Other _____ sq ft

**If Use and Occupancy Classification is High-Hazard Group H please provide a detailed written narrative that explains the specific use, quantity of storage and handling of the high hazard materials along with appropriate MSSD sheets with this application.*

PUBLIC SERVICES:

1. Is the property serviced by Public Sanitary Sewer? YES NO
 - If no, the closest public sewer is located at _____
2. Is the property serviced by Public Water? YES NO
 - If no, the closest public water is located at _____
3. Maximum number of gallons/minute of water expected to be used per day is: minimal-
7 gallons/day

THIS APPLICATION IS FOR A: (check one)

- Preliminary Site and Operational Plan:** An applicant may apply for preliminary site and operational plan approval in connection with an erosion control permit application for early mass grading, or in connection with an early foundation permit, or for other good cause shown
- New Site and Operational Plan** - business moving into empty unit
- Amendment to an existing Site and Operational Plan**
 - Date of initial site and operational plan approval: _____
 - Date of each approved amendment: _____

SECTION 2: EXISTING USES AND BUILDINGS ON THE SITE

Are there any existing buildings on the site? YES NO

- If yes, provide an attachment that explains the current uses on the property and current uses in each building and if the use(s) is proposed to continue; and the gross floor area and height of each building.
- If no, what is the current use of the property? _____

SECTION 3: PHOTOGRAPHS

Standard-sized photographs (not Polaroid) showing all aspects of the site (e.g. locations of proposed improvements, bodies of navigable water, wetlands, wooded areas, etc.) and of the exterior of structures or other site improvements, together with a statement regarding each photograph, which includes the date the photograph was taken, the location from which it was taken, the direction in which the camera was pointed, and a description of what is shown in the photograph. With respect to all existing signs, the applicant shall file photographs of all existing signs and shall specify in the written statement accompanying each such photograph and show the dimensions of such sign. Digital images are acceptable.

SECTION 4: CONDITIONAL USE

1. **Does the proposed project require a Conditional Use Permit?** YES NO
 - If no then skip to Section 5.
 - If yes, then continue with this Section.
2. **Are you amending an existing Conditional Use Permit?** YES NO
 - If yes, provide a copy of the Conditional Use Grant Document you are proposing to amend.
 - If no, continue with this Section.
3. If you answered **YES** to either question 1 or 2 above then this application shall include information as to how the proposed project will not impair an adequate supply of light and air to adjacent properties; increase danger of fire; cause traffic congestion or traffic circulation problems; create storm water flooding or drainage; create obnoxious odors, problems or otherwise endanger the public health, safety or welfare; will not hinder, harm or distract the provision of public services; and that the proposed project is not inherently inconsistent with either the district in which it is located or adjoining districts or neighborhoods as required pursuant to the Village Zoning Ordinance.

SECTION 5: NON-CONFORMING USE

1. **Is any use on the site a nonconforming use?** YES NO
 - If no, then skip to Section 7.
 - If yes, then continue with this section.
2. If you answered **YES** to question 1 above, prima facie proof of each element of legal nonconforming use status shall be submitted to the Village with this application (i.e. that the nonconforming use was legal in its inception, that the use was active and actual and not merely casual, occasional, incidental or accessory when it became nonconforming, that the use has been continuous with no gap of 12 or more consecutive months since it became nonconforming, that no building or structure housing the nonconforming use has been structurally repaired or altered to the extent of fifty (50) percent or more of its assessed value since the use became nonconforming, and that the use has not been changed in nature or physically extended or expanded since becoming nonconforming).

SECTION 6: PERFORMANCE STANDARDS

Pursuant to the Village Zoning Ordinance, any application for a permit under this ordinance or any use subject to the regulations and standards set forth in the Village Zoning Ordinance shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in accordance with the performance standards set forth in Section 420-38 of the Village Ordinance. Continued compliance with the regulations and standards is required. Violations of such standards shall be remedied as required by the Village Zoning Ordinance.

No land or building in any district shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; water pollution; electrical, radioactive or other disturbances; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area or premises; provided that any use permitted by this ordinance may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

The Village may require additional information be submitted to ensure that the Village Performance Standards are being met.

SECTION 7: PLAN COMPONENTS

The application shall include a list of all documents, materials or information that are attached to and a part of the application form. Submit eight (8) full-sized and one (1) set reduced to 11" x 17" of all plans and other attachments shall be included as part of this application, except if a component has been waived or deferred in writing by the Village Zoning Administrator. **For specific details related to each of the required information and plans see the attachment entitled "Plan Components and Related Standards" in Section 420-57 of the Village Zoning Ordinance.**

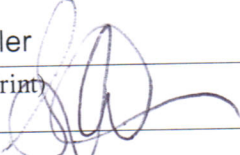
- Application—Applicant, Site, Use, Project and Plan Information
- Application fee
- Operational plan
- Title sheet
- Survey
- Site plan
- Grading and drainage plan
- Building and fire protection plans
- Lighting plan
- Landscape and open space plan
- Signage plan
- Industrial/commercial waste survey
- Performance standards compliance
- Additional requirements, as determined by the Village Zoning Administrator, other appropriate Village staff members, or the Village Plan Commission, as appropriate.

Two or more plans may be combined, provided that all of the information submitted on the combined plan is clearly legible, but in no case shall the combined plans fail to show any of the information required for each individual plan as described below, unless such information is waived or deferred pursuant to the Zoning Ordinance.

SECTION 8: SIGNATURES

I,(We), hereby certify that all the above statements and all attachments submitted herewith are true and correct to the best of my knowledge. In addition I, (we) understand the requirements and procedures for Site and Operational Plan/Conditional Use Permit approval.

PROPERTY OWNER:

Name: Steve Schuler
 (Please Print)
 Signature: 
 Address: 8531-75th St.
Pleasant Prairie, WI 53142
 (City) (State) (Zip)
 Phone: 262-694-3797
 Fax: 262-694-7922
 E-mail: schulersteve@yahoo.com
 Date: 12-2-13

APPLICANT:

Name: Luke Nardi
 (Please Print)
 Signature: 
 Address: 8845 Sheridan Rd. Suite A
Kenosha, WI 53142
 (City) (State) (Zip)
 Phone: 262-620-0309
 Fax: 262 458 3632
 E-mail: lnardi7@gmail.com
 Date: 10/27/2013

Is the applicant the owner of the property? YES NO

If no, then either proof of the applicant's legal interest in the subject real property (e.g. accepted offer to purchase, lease, etc., which may be appropriately redacted to preserve confidential information) or written authorization signed by the owner for the applicant to act as the owner's agent in connection with the application shall be included with the application.

DEVELOPER (if Applicable)

Name: _____
 (Please Print)
 Signature: _____
 Address: _____

 (City) (State) (Zip)
 Phone: _____
 Fax: _____
 E-mail: _____
 Date: _____

USER OR OCCUPANT OF SITE:

Name: _____
 (Please Print)
 Signature: _____
 Address: _____

 (City) (State) (Zip)
 Phone: _____
 Fax: _____
 E-mail: _____
 Date: _____

Operational Plan for Proposed Use of 8531 75th St. Unit B

A) Proposed use of the currently vacant unit attached to Truesdell Mini-Mart at 8531 75th St. Pleasant Prairie, WI 53142, to be the dispatching office of Regal Limousine/Forward Transport owned L. Nardi, Inc./ Forward Transport LLC and operated by Luke Nardi. Regal Limousine is a local limousine service , operating in Kenosha County since 1987. Forward Transport is a medical transport company with contracts with the state of Wisconsin through MTM to provide non-emergency transportation for Title IXX recipients to and from medical appointments.

The space would primarily be used as office space for the owner and 1-2 employees to dispatch, take phone reservations, schedule appointments and process billing and payroll. The fleet of four luxury sedans/limousines and six minivans would be parked along the rear property line (see attached aerial view of the site with proposed parking highlighted in yellow) when not in use. Drivers would pick up vehicles from the location and occasionally drop paperwork or customer payments off in the office. There will be little if any customer traffic- the medical transportation does all of its customer service via phone, and the limo service has 1-2 customers per year who prefer to make reservations in person.

B) The operations of the businesses do not clearly fall under any of the classifications of businesses outlined in Chapter 420 of the Zoning Ordinance. However, the closest fit would likely be a Taxi Service which is considered a conditional use of the property, which is zoned B-2. The existing business, from whom Regal/Forward would be leasing the unit, is itself a conditional use of the property. In addition, we feel that the current use- a gas station- is well suited to the requirements of Regal/Forward, as the exit/entrance to the property are already accommodating for consumer vehicle movement. The proposed area for parking (see Attachment) is both under-utilized at the moment and behind the building, which limits the sight-line from Highway 50.

C) The office area is approximately 430 feet, with an additional 320 square feet of storage space.

D) The office will be open Monday through Friday, 9AM-5PM. Drivers will come to the property to pick up vehicles at other times, depending on the scheduling needs. However, they will not access the interior office.

E) The office/management staff include 1-2 salaried full-time and 1-2 hourly part-time staff. The drivers are paid by commission, rather than hourly, with approximately 4-6 equivalent to full-time and 2-4 part-time, depending on the volume of business. Approximate full time total is 6 and part-time total is 4 part-time. Future hiring will be based on business growth. We anticipate hiring one more full-time dispatcher and 1-2 new drivers in the future.

F) On-site there will be only one shift during operating hours, with 1-2 staff in the office during that time. The remainder of the employees (dependent on business volume) will be driving off-site.

G) The average number of employees on-site is usually 2, with a maximum of 5 if multiple drivers happen to be dropping off payment or paperwork at the same time.

H) No anticipated students, participants or persons gathered in assembly.

I) According to Chapter 420 -50, a professional office requires one parking space for every 250 square feet. The office portion of the unit would require (rounding up) 2 spaces, which fits perfectly with our usual maximum of 2 staff in the office. In addition, the fleet itself requires at least 10 spaces, and we have space for and would like to have 12 spaces for future business growth.

J) There are currently 2 conventional spaces and 1 handicap space adjacent to the rear of the building which will be for the use of the business. We propose to allocate 12 additional spaces at the rear of the property, along the existing curb (see Attached). This configuration would be within code according to Chapter 420-48, and similar to the configuration already in place at the property directly to the west.

K) Anticipated average number of automobile trips to and from the site is about 40 (including drivers arriving for work and leaving at the end of the day); maximum expected is approximately 50.

L) No anticipated truck trips to and from the location.

M) No material production on site. Storage will be limited to business paperwork and basic automotive maintenance supplies such as fluids and small replacement parts- repair work on the vehicles will not be done on site.

N) Equipment to be used on site includes basic office equipment (computers, fax machine, etc.), a small portable vehicle power pack (for jump starts) and air compressor, and security cameras and recording system.

O) Waste will be limited to basic office waste- mostly paper and packaging.

P) Waste will be disposed of in the dumpster provided by the landlord.

Q) We will provide security cameras and a recording system, through ADT to monitor the office and the fleet. The cameras will be mounted outside to monitor the fleet in the rear parking area, as well as inside to monitor the interior office.

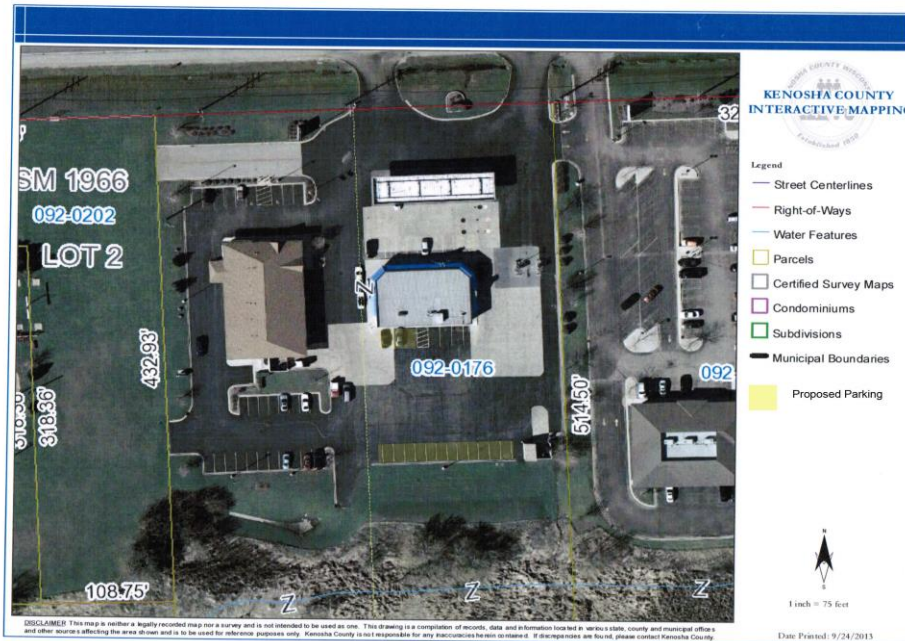
R) Plowing, shoveling, salting and building maintenance is to be provided by the landlord.

S) No adverse impacts to neighboring businesses are anticipated. However, if any unexpected issues arise, we are committed to working with our neighbors to create a plan that eliminates or minimizes those issues.

T) Permits required:

Occupancy Permit (current permit is for current location in Kenosha, we can supply a copy if needed)

Attachment: Mock Up of Proposed Parking



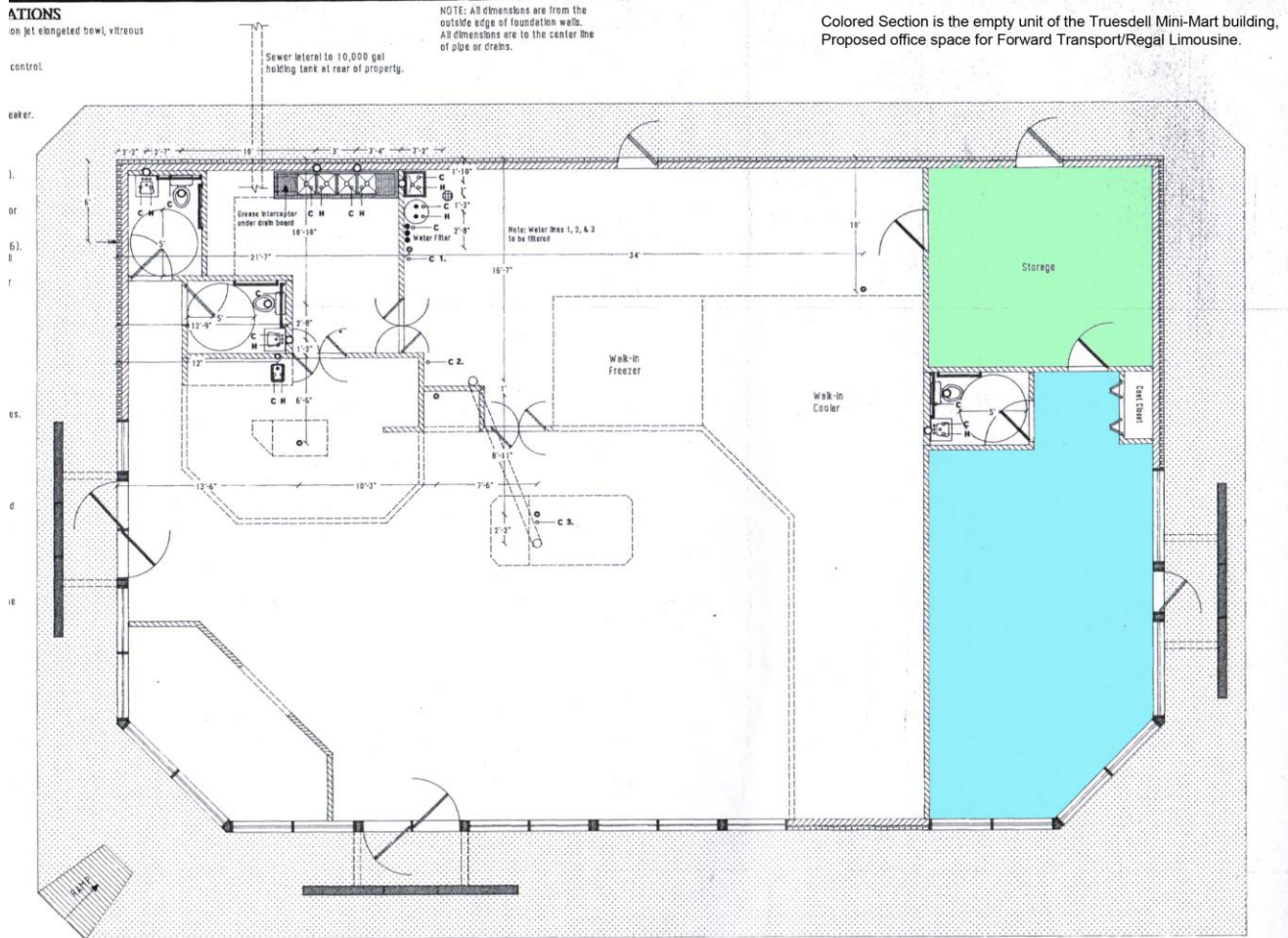
As seen above, the proposed parking for the site plan highlighted in yellow. The proposed site is the vacant unit is the separate but attached unit on the west side of the Truesdell Minimart building, located on lot 092-0176.

Below, a photo of the site, with the proposed parking spaces taped off.



Floor Plan
 Forward Transport/Regal Limousin
 Proposed Use of 8531 75th St., Pleasant Prairie, WI 53142

Below is a floor plan of the existing building, with the unit that we hope to move Forward/Regal into highlighted in color.



- B. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-10 AND TO AMEND THE SETTLEMENT AGREEMENT RELATED TO THE SAMPLING AND ANALYTICAL TESTING PLAN** for the BP Amoco gasoline station and convenience store located at 10477 120th Avenue at the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc., the property owner.

Recommendation:

Village staff recommends that the Plan Commission **conditionally approve** the amended **Conditional Use Permit**, including the **Settlement Agreement Amendment #2**, subject to the comments and conditions of the Village staff report of January 13, 2014.

Village staff recommends that the Plan Commission send a favorable recommendation for the **Settlement Agreement Amendment #2** to the Village Board, subject to the comments and conditions of the Village staff report of January 13, 2014.

**B. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO
CONDITIONAL USE PERMIT #12-10 AND TO AMEND THE SETTLEMENT
AGREEMENT RELATED TO THE SAMPLING AND ANALYTICAL TESTING PLAN**
for the BP Amoco gasoline station and convenience store located at 10477 120th
Avenue at the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII,
Inc., the property owner.

PUBLIC HEARING COMMENTS:

As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described below:

FINDINGS OF FACT

BACKGROUND INFORMATION

1. The petitioner is requesting the following approvals for the BP Amoco gasoline and convenience store located at 10477 120th Avenue, known as Lot 14 of CSM 1489 located in a part of U.S. Public Land Survey Section 30, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 92-4-122-302-0130:
 - a. **Conditional Use Permit Amendment** that would allow BP Amoco to continue to operate the gasoline station and convenience store with the approval of **Settlement Agreement Amendment #2** which addresses the request for modified analytical test parameters, discharge water standards and reporting requirements of the carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site located at 10477 120th Avenue.
2. VIDHYA Corp, VIII, Inc. ("Vidhya") is the current owner of a property located at 10477 120th Avenue, Pleasant Prairie Wisconsin (the "Property") with the following Tax Parcel number: 92-4-122-302-0130. The Property contains the BP Amoco gasoline station #3789 and convenience store (the "Station").
3. The property is zoned B-4, PUD Freeway Service Business District with a Planned Unit Development Overlay and a gasoline station requires a Conditional Use Permit in the B-4 District.
4. Vidhya received several Village approvals for the referenced property. Recently, a Conditional Use Permit granted by the Village Plan Commission on July 16, 2012, 2012 included the requirement that Vidhya and the Village parties to enter into a **Settlement Agreement** to address remedial actions and activities for stopping illicit discharges from the Property. The **Settlement Agreement (Exhibit 1)** was executed by the parties on November 19, 2012. **Amendment #1 to the Settlement Agreement** dated April 1, 2013 was also approved subject to the May 28, 2013 Plan Commission amended CUP approval. The Findings of Fact which detail the May 28, 2013 Plan Commission meeting staff comments, chronology of events, historical details and actions taken for the property are documented as **Exhibit 2** attached to this memorandum.
5. In return for Vidhya's agreement to complete and fulfill performance of certain Remedial Activities at the Property to further address the Releases, and to bring the Property into compliance with Village Ordinances, the Village has agreed to the terms of the Settlement Agreement and to allow the Conditional Use Permit, amended as provided below, to continue in effect. In accordance with the **Original Settlement**

Agreement dated November 19, 2012 (see **Exhibit 1**), Vidhya and/or Vidhya's consultants or contractors on Vidhya's behalf, shall complete the following Remedial Activities, in accordance with applicable law:

- a. By October 1, 2012, conduct interim Remedial Activities by installing a 21,000 gallon frac water holding tank (delivered September 17, 2012) for pump out and ground water level control of the UST tank field to eliminate from the north storm water ditch, discharges of petroleum impacted ground water (subject to reasonable permit issuance by the controlling governmental agencies). Pumping of the tank field started September 20, 2012;
- b. Prepare and submit to the Village a written plan for sampling, and analytical testing of the storm water discharge, to include at a minimum PVOC, lead, naphalene and PAH analysis during the initial startup phase, see **Exhibit B of Exhibit 1**. Depending on the results of testing, additional parameters may be added or subtracted from the sampling regimen, reasonably acceptable to the Village, by November 6, 2012. In addition, the Village or its contractors shall be entitled to perform similar sampling and analytical testing, at Vidhya's expense, for purposes of confirmation of testing results and compliance monitoring;
- c. Beginning on November 9, 2012, prepare a daily inspection log (to be delivered to the Village Engineer weekly) and complete daily inspections of the Property, to include the storm water discharge culvert and the road ditch and weekly checks of the tank sumps;
- d. Work with the WI DNR to prepare a Preliminary Site Investigation Plan based on the information and sampling results developed during implementation of the Remediation Plan which Site Investigation Plan will be completed and a copy delivered to the Village by November 16, 2012;
- e. Prepare and submit to the Village a Preliminary Remediation Plan, reasonably acceptable to the Village, by November 16, 2012; said Remediation Plan to include testing and remediation in compliance with all local, state and federal laws, rules, regulations and ordinances, including without limitation, those contained in Chapter 292 of the Wisconsin Statutes;
- f. Contain any contaminated materials at the Property, including but not limited to maintaining and replacing, as necessary, surface water skimmer booms and/or additional materials to capture any sheen in the road ditch area;
- g. By December 19, 2012, install a system of blocking/recovery wells near the storm water outfall and near the sanitary lateral (also submit and obtain Village Erosion Control Permit) and install a carbon treatment system on the Property by January 18, 2013 to treat and control groundwater level in the tank field and construct a heated and insulated small structure that will prevent equipment from freezing; provided that Vidhya agrees that the liquid level in the diesel tank sumps and gasoline tank sumps shall be maintained at a level of 8 feet or greater below the ground surface to the top of the water level in the sumps. All parties acknowledge prior to construction of any recovery system Vidhya shall provide plans and elevations to the Village for Village review, and to obtain any necessary temporary or permanent amendments or changes to the C.U. Permit and the PUD Ordinance affecting the Property **Exhibit C of Exhibit 1** shows the location for the carbon treatment system for ground water treatment;
- h. Consult with the WI DNR and obtain WI DNR comments on the planned Remedial Activities;

- i. Replace northerly outfall manhole by December 7, 2012 and to properly dispose of any contaminated soils that may have to be excavated during said storm sewer repairs or any future repairs;
- j. Re-sod and restore the Property disturbed by implementation of Remedial Activities;
- k. Consent to the amendment of the Conditional Use Permit and the PUD Ordinance affecting the Property, to provide that any violation of the terms of this Settlement Agreement will be a violation of the terms of the C.U. Permit, to authorize the construction of the carbon ground water treatment system and structure;
- l. Comply with the performance standards and reporting requirements of the WI DNR WPDES Permit and with WI DNR regulatory requirements for the investigation and remediation of any onsite and offsite discharges or releases incorporated herein by reference; and
- m. Substantial completion and implementation of all Remedial Activities shall take place on or before March 1, 2013, and final completion of all Remedial Activities shall take place the earlier of April 1, 2013 or 120 days following the obtaining of all required approvals and permits from the Village, the State and the WI DNR, (the "Compliance Date").
- n. Vidhya agrees to pay all reasonable costs and expenses incurred by the Village arising out of, or relating to, the alleged illicit discharges at the Property or the enforcement of this Agreement, including without limitation, reasonable attorneys' fees, environmental consultant fees, fees for the Village Engineer and other Village staff, testing, sampling, and all similar costs. The Village estimates that its costs to September 27, 2012 were shown on **Exhibit E of Exhibit 1** attached hereto and incorporated herein by reference. Vidhya agrees to pay the outstanding amounts owing to the Village on or before December 31, 2012 and to pay any other invoices from the Village for such expenses within fourteen (14) days following the date they have been notified by the Village in accordance with Paragraph 17 of the Settlement agreement of amounts owed.
- o. The Village agrees not to issue any new Citations regarding anything covered in this Agreement, subject to the ability of the Village to issue new Citations if Vidhya violates any terms or provisions of this Agreement or Village ordinances after the date of this Agreement, and allow the Conditional Use Permit, as amended, to continue in effect. Nothing contained in this Agreement shall affect the rights of the parties regarding any Citations and Fines issued prior to the date of this Agreement. All such existing Citations and Fines shall be the subject of the pending legal action in the Village Municipal Court.
- p. Vidhya shall apply for and obtain all local, state and federal permits that are required for Vidhya to undertake the Remedial Activities, including but not limited to a Wisconsin DOT Work-in-the-Right-Of-Way Permit and a Village erosion control permit (collectively, the "Remedial Activities Permit(s)"). All parties acknowledge that the C.U. Permit and PUD Ordinance affecting the Property will need to be amended to allow the construction of the carbon ground water treatment system and structure.
- q. The Village agrees to reasonably support and facilitate the review and approval of Vidhya's applications for the Remedial Activities Permits.
- r. Except as specifically set forth in the Settlement Agreement, Vidhya agrees to indemnify and to hold harmless the Village and all of its elected officials,

officers, directors, employees, agents, shareholders, attorneys, subsidiaries, successors and assigns from any and all claims, causes of action, loss, costs, expense, damage, injury, obligation, liability, penalty, fine, suit, including, without limitation, attorney and consultant fees and expenses, of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to or arising out of the Remedial Activities and where founded upon or growing out of the acts or omissions of Vidhya.

- s. Except as specifically provided in the Settlement Agreement, there are no representations, covenants, warranties, promises, agreements, conditions, or undertakings, oral or written, between the Village and Vidhya, as to the subject matter hereof. Except as specifically provided in the Settlement Agreement, all Village Ordinances apply to Vidhya and the Property.
6. If Vidhya does not complete any of its obligations under the Settlement Agreement by the due date (the "Delayed Completion"), Vidhya agrees to pay liquidated damages to the Village in accordance with **Exhibit F of Exhibit 1** and incorporated herein by reference (the "Liquidated Damages"), provided however, that Vidhya will not pay Liquidated Damages if the Delayed Completion is substantially caused by any of the following: (a) the Village; (b) a delay in Vidhya's Remedial Activities which delay is beyond Vidhya's reasonable control; or, (c) a Force Majeure Event. For purposes of the Settlement Agreement, a "Force Majeure Event" means an event or occurrence including without limitation, drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, explosion, strike, lockout or other labor dispute which is beyond the reasonable control of, and not due to the fault or negligence of, the party affected, and which could not have been avoided by due diligence and use of reasonable efforts. If Vidhya violates any provisions of the Settlement Agreement, the Village may also exercise all rights and remedies allowed pursuant to the Settlement Agreement and applicable law, including without limitation, issuing additional Citations, seeking the suspension or revocation of the C.U. Permit, seeking injunctive relief and collecting its actual damages from Vidhya. The use of any remedy shall not preclude the use of any other remedies.

NEW INFORMATION:

7. On December 9, 2013, Vidhya submitted a written request to amend the Conditional Use Permit and modify the referenced Settlement Agreement entered into by the Village and Vidhya dated November 19, 2012 and the subsequent Settlement Agreement Amendment #1 dated April 1, 2013, with Settlement Agreement Amendment #2.
8. Drake Environmental Consulting Group and the Village Engineer have reviewed the proposed Amendments to Exhibit B – Sampling and Analytical Testing Plan, of the April 1, 2013 Settlement Agreement between the Village and Vidhya. Three (3) changes that were proposed by Vidhya to the requirements in the Sampling and Analytical Testing Plan include:
 1. Analytical Test Parameters;
 2. Discharge Water Standards; and
 3. Reporting Requirements.

Analytical Test Parameter Proposed Changes:

The Village agrees to the monthly effluent testing of the following parameters:

- PVOC + naphthalene,
- PAHs
- Total lead

The Village agrees to the monthly influent testing of the following parameters:

- PVOC + naphthalene,
- PAHs
- Total lead

The Village agrees that such reduced monthly testing may be permitted so long as the laboratory analytical results for the effluent samples remain below the preventative action Limit (PAL). The Wisconsin Department of Natural Resources (WI DNR) has indicated that the Owner's WPDES Permit will be modified to include effluent testing for total lead. The proposed enforcement standard for total lead will be 50µg/L daily maximum and a 18.24µg/L weekly average limit. (**See Exhibit 3**). Current PAL limits for total lead will be the standard until the WI DNR modifies the Owner's discharge permit.

Such reduced sampling would require the Owner to permit the Village to conduct the following monthly compliance sampling:

- Sampling for the above listed parameters for both influent and effluent locations up to twice per month and effluent sampling may be conducted for dissolved lead (up to once per month) for dissolved lead.

Discharge Water Standards Proposed Change:

With regard to the Proposed Discharge Water Standards Change, the criteria for discharge should remain the same as contained within the original agreement, until a revised WPDES Permit is issued to the Owner stipulating the effluent standard for total lead at 50µg/L daily maximum and 18.24µg/L weekly average limit. At such time when the WI DNR modifies the existing discharge permit to include the above standards and the Village receives a copy of modified permit this will become the new standard for total lead.

Reporting Requirements Proposed Changes:

With regard to the Reporting Requirements, frequency changes which have been proposed, the Village agrees to permit the Owner to reduce the reporting frequency to a monthly submittal with the caveat that all of the requested information identified in the original agreement be provided in all such future submittals.

The reporting frequency change shall not alter the Owner's obligation to immediately notify the WI DNR and the Village of any discharge exceedances or other changes to the system at the site or deviations from anticipated performance of the system. Any future discovery of free product at the site is also required to be immediately reported to the WDNR and the Village.

The Village agrees that such reduced monthly testing may be permitted so long as the laboratory analytical results for the effluent samples remain below the PAL. The Wisconsin Department of Natural Resources DNR has indicated that the Owner's WPDES Permit will be modified to include effluent testing for total lead. The proposed

enforcement standard for total lead will be 50µg/L daily maximum and a 18.24µg/L weekly average limit. (**See Exhibit 3**). Current PAL limits for total lead will be the standard until the DNR modifies the Owner's discharge permit.

In addition, as a result of the ongoing concerns regarding lead in the effluent from the treatment system, the Owner will install dual bag filters downstream from the existing carbon chambers. (**See Exhibit 4**). The flow meter and sampling port will be located downstream from these newly installed filters.

9. Finally, regarding the requested reconsideration of Village Code Violations related to lead; it is the Village's position that the violations are the result of exceedances that were stipulated and agreed to by the Owner in the original settlement agreement. Until such time those limits are changed by the WI DNR and agreed to by the Owner and the Village they shall remain in effect.
10. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on December 19, 2013 of this hearing. Public hearing notices were also published in the Kenosha News on December 30, 2013 and January 6, 2014. The petitioner was mailed a copy and the property owner was emailed a copy of this memorandum on January 10, 2014.
11. According to the Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

Village Staff Conclusions and Recommendation: (to be read out loud)

The Village staff has determined that based upon the foregoing information presented in the application and related materials provided, adherence to the Settlement Agreement and Amendments # 1 and #2, and the public hearing this evening, that the proposed use meets the following standards for granting a Conditional Use Permit in that:

- a. The project does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems and the traffic patterns on the site do not hinder, harm or distract the provisions of public services;
- b. The project does not impair an adequate supply of light and air to the adjacent properties;
- c. The project does not increase danger of fire--in so far as the danger of fire does not exceed the capabilities of the Village Fire and Rescue Department;
- d. The project does not create storm water flooding or drainage, create obnoxious odors, problems or otherwise endanger the public health, safety or welfare;
- e. There is no existing identified hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency that would endanger the public's health, safety or welfare related to the proposed project; and

- f. The proposed and applied for use on this particular parcel is not inherently inconsistent with the B-4, Freeway Service Business District in which it is located or the adjoining Zoning Districts and/or neighborhood.

Based on the foregoing information and the comments received during the public hearing, the Village staff recommends that if the Plan Commission determines that the petitioner has met the specific standards for the granting of a Conditional Use Permit, as specified above, then approval of the Conditional Use Permit Amendment and Settlement Agreement Amendment #2 shall be conditionally approved subject to:

1. The execution of the **Settlement Agreement Amendment #2** to be prepared and drafted by the Village and based upon the conditions set forth in this memorandum and approval of the Village Plan Commission and the Village Board. The Settlement Agreement Amendment #2 shall be executed by the parties by February 28, 2014.
2. The compliance with the Settlement Agreement and subsequent Settlement Agreement Amendments #1 and #2.
3. The compliance with previously Village approved Conditional Use Permit and Site and Operational Plan conditions.
4. The Village Engineer's receipt of the modified WPDES permit from the WI DNR.
5. The installation of effluent filters on the treatment system, pursuant to Exhibit 4 by February 28, 2014.
6. All other conditions as set forth in the adopted and amended Conditional Use Permits for the property.

3. If property is zoned M-1 or M-2, indicate the Occupancy Type pursuant to the Use and Occupancy Classification specified in Chapter 3 of the 2006 International Building Code (2006 IBC). Include all that apply and associated square footage for each classification:

- Factory Group F-1 (Moderate-hazard) _____ sq ft
- Factory Group F-2 (Low-hazard) _____ sq ft
- Storage Group S-1 (Moderate-hazard) _____ sq ft
- Storage Group S-2 (Low-hazard) _____ sq ft
- Business Group B _____ sq ft
- High-Hazard Group H* _____ sq ft
- Other _____ sq ft
- Other _____ sq ft

**If Use and Occupancy Classification is High-Hazard Group H please provide a detailed written narrative that explains the specific use, quantity of storage and handling of the high hazard materials along with appropriate MSSD sheets with this application.*

PUBLIC SERVICES:

1. Is the property serviced by Public Sanitary Sewer? YES NO
 - If no, the closest public sewer is located at _____
2. Is the property serviced by Public Water? YES NO
 - If no, the closest public water is located at _____
3. Maximum number of gallons/minute of water expected to be used per day is: Unchanged

THIS APPLICATION IS FOR A: (check one)

- Preliminary Site and Operational Plan: An applicant may apply for preliminary site and operational plan approval in connection with an erosion control permit application for early mass grading, or in connection with an early foundation permit, or for other good cause shown
- New Site and Operational Plan
- Amendment to an existing Site and Operational Plan
 - Date of initial site and operational plan approval: July 2, 2001
 - Date of each approved amendment: May 28, 2013

SECTION 2: EXISTING USES AND BUILDINGS ON THE SITE

Are there any existing buildings on the site? YES NO

- If yes, provide an attachment that explains the current uses on the property and current uses in each building and if the use(s) is proposed to continue; and the gross floor area and height of each building.
- If no, what is the current use of the property? _____

SECTION 3: PHOTOGRAPHS

Standard-sized photographs (not Polaroid) showing all aspects of the site (e.g. locations of proposed improvements, bodies of navigable water, wetlands, wooded areas, etc.) and of the exterior of structures or other site improvements, together with a statement regarding each photograph, which includes the date the photograph was taken, the location from which it was taken, the direction in which the camera was pointed, and a description of what is shown in the photograph. With respect to all existing signs, the applicant shall file photographs of all existing signs and shall specify in the written statement accompanying each such photograph and show the dimensions of such sign. Digital images are acceptable.

SECTION 4: CONDITIONAL USE

1. Does the proposed project require a Conditional Use Permit? YES NO
 - If no then skip to Section 5.
 - If yes, then continue with this Section.
2. Are you amending an existing Conditional Use Permit? YES NO
 - If yes, provide a copy of the Conditional Use Grant Document you are proposing to amend.
 - If no, continue with this Section.
3. If you answered YES to either question 1 or 2 above then this application shall include information as to how the proposed project will not impair an adequate supply of light and air to adjacent properties; increase danger of fire; cause traffic congestion or traffic circulation problems; create storm water flooding or drainage; create obnoxious odors, problems or otherwise endanger the public health, safety or welfare; will not hinder, harm or distract the provision of public services; and that the proposed project is not inherently inconsistent with either the district in which it is located or adjoining districts or neighborhoods as required pursuant to the Village Zoning Ordinance.

SECTION 5: NON-CONFORMING USE

1. Is any use on the site a nonconforming use? YES NO
 - If no, then skip to Section 7.
 - If yes, then continue with this section.
2. If you answered YES to question 1 above, prima facie proof of each element of legal nonconforming use status shall be submitted to the Village with this application (i.e. that the nonconforming use was legal in its inception, that the use was active and actual and not merely casual, occasional, incidental or accessory when it became nonconforming, that the use has been continuous with no gap of 12 or more consecutive months since it became nonconforming, that no building or structure housing the nonconforming use has been structurally repaired or altered to the extent of fifty (50) percent or more of its assessed value since the use became nonconforming, and that the use has not been changed in nature or physically extended or expanded since becoming nonconforming).

SECTION 6: PERFORMANCE STANDARDS

Pursuant to the Village Zoning Ordinance, any application for a permit under this ordinance or any use subject to the regulations and standards set forth in the Village Zoning Ordinance shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in accordance with the performance standards set forth in Section 420-38 of the Village Ordinance. Continued compliance with the regulations and standards is required. Violations of such standards shall be remedied as required by the Village Zoning Ordinance.

No land or building in any district shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; water pollution; electrical, radioactive or other disturbances; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area or premises; provided that any use permitted by this ordinance may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

The Village may require additional information be submitted to ensure that the Village Performance Standards are being met.

SECTION 7: PLAN COMPONENTS

The application shall include a list of all documents, materials or information that are attached to and a part of the application form. Submit eight (8) full-sized and one (1) set reduced to 11" x 17" of all plans and other attachments shall be included as part of this application, except if a component has been waived or deferred in writing by the Village Zoning Administrator. **For specific details related to each of the required information and plans see the attachment entitled "Plan Components and Related Standards" in Section 420-57 of the Village Zoning Ordinance.**

- Application—Applicant, Site, Use, Project and Plan Information
- Application fee
- Operational plan
- Title sheet
- Survey
- Site plan
- Grading and drainage plan
- Building and fire protection plans
- Lighting plan
- Landscape and open space plan
- Signage plan
- Industrial/commercial waste survey
- Performance standards compliance
- Additional requirements, as determined by the Village Zoning Administrator, other appropriate Village staff members, or the Village Plan Commission, as appropriate.

Two or more plans may be combined, provided that all of the information submitted on the combined plan is clearly legible, but in no case shall the combined plans fail to show any of the information required for each individual plan as described below, unless such information is waived or deferred pursuant to the Zoning Ordinance.

SECTION 8: SIGNATURES

I,(We), hereby certify that all the above statements and all attachments submitted herewith are true and correct to the best of my knowledge. In addition I, (we) understand the requirements and procedures for Site and Operational Plan/Conditional Use Permit approval.

PROPERTY OWNER:

Name: VIDHYA Corp VIII, Inc.
(Please Print)
Signature: *Dimit Patel*
Address: 1491 W. Roosevelt Road
West Chicago, IL 60185
(City) (State) (Zip)
Phone: 630.479.1529
Fax: 630.562.3349
E-mail: ddwc1@sbcglobal.net
Date December 6, 2013

APPLICANT:

Name: J. Michael McTernan, Attorney
(Please Print)
Signature: *Dimit Patel*
Address: 6633 Green Bay Road
Kenosha, WI 53142
(City) (State) (Zip)
Phone: 262.654.8700
Fax: 262.654.8600
E-mail: jmm@addmlaw.com
Date: December 6, 2013

Is the applicant the owner of the property? YES NO

If no, then either proof of the applicant's legal interest in the subject real property (e.g. accepted offer to purchase, lease, etc., which may be appropriately redacted to preserve confidential information) or written authorization signed by the owner for the applicant to act as the owner's agent in connection with the application shall be included with the application.

DEVELOPER (if Applicable)

Name: n/a
(Please Print)
Signature: _____
Address: _____
(City) (State) (Zip)
Phone: _____
Fax: _____
E-mail: _____
Date _____

USER OR OCCUPANT OF SITE:

Name: Same as Owner
(Please Print)
Signature: _____
Address: _____
(City) (State) (Zip)
Phone: _____
Fax: _____
E-mail: _____
Date: _____

SITE AND OPERATIONAL PLAN

BP Amoco Gas Station and Convenience Store located at 10477 – 120th Avenue is a self-service gasoline and diesel station, selling petroleum products to consumers of passenger vehicles and light trucks. It does not service or sell petroleum products to over-the-road trucks, cabs or other specialized commercial or construction vehicles. In addition, BP operates a convenience store that provides various grocery store and automobile supplies and accessories, along with a quick service restaurant, bakery, self-service coffee bar and soda fountain, and an e-commerce area for computerized assistance with weather and traffic information. The quick service restaurant provides seating for approximately 12 people and quick food selections of bakery items, sandwiches, soups and salads. The facility also provides separate men's and women's washrooms, and various other related convenience service amenities, including but not limited to, vacuum cleaners and compressed air for automobile maintenance, automated teller machine, along with the sale of alcohol and tobacco products as authorized by its license.

Due to several reported hazardous substance releases at the BP gas station dating back to 1993, the owner's consultants have developed and installed a carbon treatment system on the Property that has already successfully treated more than 250,000 gallons of contaminated ground water. This system has been installed in an enclosed and heated facility, located adjacent to the southern end of the existing gas station. This building addition was constructed in order to house the filters and pumps that are necessary to operate the operational carbon treatment system. The building additional and all required improvements requested by the Village have been completed. The carbon treatment system is detailed in the Settlement Agreement entered into between the property owner and the Village, and the property owner has been obtained all applicable permits necessary for all of the applicable improvements noted herein.

The expansion of the building measures approximately 375 square feet (25 feet 7 inches by 14 feet 7 inches) and closely "squares" the building foot print, leaving the southern emergency exit in place. The same exterior building materials (brick and trim) were used in order to match the expansion to the existing building.

The carbon treatment system will not create any disturbance to the surrounding property owners as it is housed in an enclosed and insulated expansion of the building. Even though more than 250,000 gallons of water have been treated to date, it is anticipated that the system will operate off and on for several years, dependent on the rise of ground water due to changes in the weather.

This system will not require any additional staff to manage and operate, as it will be automated and will only occasionally require the replacement of carbon filters that will be disposed of using sealed drums provided and retrieved by qualified environmental disposal companies.

Moreover, the system will not alter existing operations of the gasoline station and convenience store, as those operations will continue as normal.

As currently exists, BP is currently open for business between the hours of 6am through 11pm, seven days a week, but maintains expanded hours (up to 24 hours a day) during the various peak holiday seasons. During those expanded times, additional staff is maintained in order to service the increase in customers. Deliveries and shipments occur during those times that BP is open to the public. Currently, there are seven full time and three part time employees, but additional seasonal help is retained during those peak holiday seasons. Currently, there are only two shifts of employees, but a third shift is added when the hours are expanded. There are currently 21 parking spaces on the site due the expansion of the building, two parking spaces were removed, leaving a total of 21 parking spaces (one handicapped access parking space, and twenty conventional parking spaces).

It is anticipated that traffic volumes of 500 to 1,000 daily trips will continue, and no truck trips other than deliveries of goods to the BP. The main products being sold at the BP include, but are not limited to: gasoline and diesel fuels, related automobile supplies and parts, along with food and beverages, all of which are currently being sold at the BP, which will continue after the expansion. Aside from the installation of the carbon treatment system, all of the existing equipment will continue to be utilized in the operation of the BP (petroleum delivery systems, coolers, ovens, and related food preparation equipment).

Aside from the disposal of the carbon filters, the BP only has normal household cleaners used in the maintenance of the business in order to clean the food preparation and service areas, floors and bathrooms. The only waste that is disposed of at the BP is spoiled food and drink products, grey water waste and sanitary waste from the bathrooms.

The owners have installed and maintained a fully functioning and operational security camera system. This system was upgraded, pursuant to terms and conditions approved by the Village. Technicians made those modifications to the system in order to comply with the current Village ordinances.

Moreover, the owners retain landscapers to regularly maintain, replace and upgrade the landscaping that surrounds the property, including the removal of all snow and ice from the parking lots, driveways and sidewalks. In addition, employees walk the property on a regular basis to pick up debris, empty garbage cans, restock self-service washer fluids and paper towels, and to monitor the entire property in order to maintain it in a first class condition.

The owner maintains all permits and licenses required to operate its business. Those permits and licenses allow for the sale of petroleum, alcohol, tobacco, food, and related items sold in its business, issued from the various government agencies.

Proposed Amendments to Exhibit B – Sampling and Analytical Testing Plan, of the April 1, 2013 Settlement Agreement between the Village of Pleasant Prairie, Wisconsin (the “Village”) and VIDHYA Corp. VIII, Inc. (“Vidhya”):

Three changes are proposed to the requirements in the Sampling and Analytical Testing Plan:

- 1. Analytical Test Parameters**
- 2. Discharge Water Standards**
- 3. Reporting Requirements**

Details and rationale for the changes are described below:

1) Analytical Test Parameter Proposed Change

Existing Requirements from Exhibit B – Sampling & Analytical Testing Plan

Effluent Sampling

Initial and Weekly sampling parameter list included Volatile Organic Compounds (VOCs), naphthalene, Gasoline Range Organics (GRO), Diesel Range Organics (DRO), Polynuclear Aromatic Hydrocarbons (PAHs) and lead.

Monthly Sampling parameters included only Petroleum VOCs (PVOCs) if no impacts in the effluent from the previous testing for VOCs, PVOCs, naphthalene, PAH, or lead were identified within the effluent samples.

The Village settlement agreement does not state the method of testing for lead, whether it is dissolved (filtered) lead, or total recoverable (unfiltered) lead; this is ambiguous because it is capable of two or more interpretations of the required compliance process.

Proposed Sampling Requirements

Now that the system has been running and information has been established on the chemistry results, we propose the following sampling requirements:

Effluent

We propose testing for the Wisconsin Pollutant Discharge Elimination System (WPDES) permit requirements on a monthly basis. These parameters include testing the effluent for total flow, total benzene, toluene, ethylbenzene & xylenes (BTEX), benzene, Methyl tert -butyl ether, PAHs, and naphthalene. These parameters can be covered by running two laboratory analytical tests, PVOCs and PAHs.

In addition, we propose testing for total lead subject to the request for the WPDES general permit standard for effluent discharge of 50 ug/L maximum and 20 ug/L weekly average, and discussion below.

Influent

To evaluate progress in the removal of contaminants and for other purposes, we also propose to test the influent to the treatment system monthly for PVOCs + Naphthalene and total lead.

Discussion

The dissolved phase lead represents the amount of lead dissolved in the groundwater, which is the component of lead that poses the greatest risk of potential significant contaminant migration. Dissolved lead will typically remain in the groundwater and move with the water.

Total recoverable lead includes both the dissolved phase lead in the water, and any lead that may be present in the water in suspended particulates, such as sediment. Once acidified in the sample container, any lead that was present in the sediment becomes suspended in the solution and will be detected in the laboratory analysis.

The source of lead on sediment may be from many sources, including most likely natural sources that make up the sediment grain. Lead as a gasoline additive was generally banned in 1986.

The Vidhya site first opened as a gasoline station in approximately 1992, and has never handled leaded gasoline. Previous environmental consultant reports document that lead has been detected in the sediment (soil) samples at the site, both in the recent 2013 work performed by Alpha Terra Science during the ditch assessment, and in earlier work performed by Delta in the 1990's.

Elevated levels of lead were detected in sediment from Delta soil borings MW-1B (12 mg/kg), MW-2B (12 mg/kg), MW-2B (12 mg/kg), MW-3B (12 mg/kg), and MW-4B (18 mg/kg) (attached, Table 1). Soil boring MW-1 and MW-2 were located to the southeast of the former USTs, soil boring MW-3 was located to the west of the former USTs and soil boring MW-4 was located near the drainage ditch (attached, Figure 1). The lead levels detected in site sediments are likely related to natural sources, since leaded gasoline has not been used on the property. Reference reports regarding background naturally occurring lead concentrations.

Levels of lead at concentrations of 12 to 45 mg/kg (parts per million) in soils could readily be entrained in a water sample and result elevated total recoverable lead concentrations.

To avoid the uncertainty and variability associated with sediment contamination in the effluent water, testing for filtered, dissolved lead answers the question of whether there is significant dissolved lead in the groundwater that is being discharged to the ditch. Testing the water for total recoverable lead will result in results that will depend primarily on the amount and nature of any sediment in the sample. Dissolved lead is generally associated with contaminant migration for the protection of the groundwater pathway and total lead analysis is generally associated with the direct contact pathway.

2) Discharge Water Standards Proposed Change

An analysis of the discharge standards should include a comparison of the appropriate NR140 groundwater enforcement standards (ESSs), the direct soil contact pathway analysis and the existing Wisconsin Department of Natural Resources (WDNR) WPDES discharge permit criteria.

Current Requirements

The current Settlement Agreement states:

“.....No treated water will be permitted to be discharged until such time that the analytical results are determined below acceptable discharge levels (i.e. no detects above either NR 140 Preventative Action Limit (PAL) standards, Safe Drinking Water Act (SDWA) limits or WPDES permit level limits).”

Proposed Modification

We propose the following amendment to change the Agreement to read:

“.....No treated water will be permitted to be discharged until such time that the analytical results are determined below acceptable discharge levels (i.e. WPDES Permit limits).”

Discussion and Reasoning:

1. The discharged water from the treatment system empties to the adjacent roadway ditch, where it gradually flows to the east. Meeting the limits established by the WDNR general storm water permit is a reasonable treatment objective as explained in paragraph 2.
2. The WDNR, in issuing the WPDES permit for the treatment system, has criteria to meet for the effluent chemistry. The WDNR WPDES permit # WI-0046566-06 does not require sampling or reporting for lead, either as total recoverable or dissolved-phase as indicated in the WDNR WPDES permit cover letter dated Nov 2, 2012. Based on historic results, we feel evaluation of lead is prudent to evaluate whether there may be a concern over direct contact exposure in the road ditch area. The WDNR general storm water permit standard of 50 ug/L is appropriate as WDNR recently and currently has determined the direct contact soil standard to be 400 mg/kg.
3. The Agreement with the Village requires lead sampling from the effluent. The Agreement does not specify the type of lead (dissolved or total recoverable). The Village of Pleasant Prairie is currently using a standard of 1.5 micrograms per liter (ug/L) (NR 140 PAL) to determine if there has been an exceedance of the permit limits in the discharge to the drainage ditch. The standards of NR140 are for groundwater, and testing of groundwater for metals (lead) includes filtration of the sample. Dissolved lead is the test parameter that should be compared to NR140 standards, not total recoverable (unfiltered) lead.

4. The 1.5 ug/L lead standard from the NR140 PAL being used by the Village is inappropriate for the following reasons: The NR140 PAL was originally developed for landfill perimeter monitoring and is a groundwater warning level threshold value, to indicate if there might eventually be future exceedances in the groundwater of the higher NR 140 ES. The NR 140 ES is the actual, risk-based concentration for various parameters that poses a risk to human health or the environment. NR 140 PAL levels are for early warning of a possible future ES exceedance due to a migrating contaminant plume in groundwater.
5. The Annual Drinking Water Quality Report for the Village of Pleasant Prairie (attached) indicates a lead concentration of 5 ug/L was detected in the Village's drinking water for the year ending December 31, 2011. Using the standard that is being applied in the Settlement Agreement means that the Village is requiring less lead in Vidhya's effluent to the ditch (not a drinking water supply) than what the Village found in their own drinking water supply. Additionally, the current Village standard in the Settlement Agreement of 1.5 ug/L for total recoverable lead is 10 times more stringent than the National Primary Drinking Water Regulations (NPDWR) Action Limit (AL) drinking standard of 15 ug/L for lead (attached) and 33 times more stringent than the WDNR General Discharge Permit of 50 ug/L.
6. To the best of our knowledge, comparing dissolved lead to the NR 140 ES, the effluent has only been above the NR 140 ES once, on April 22, 2013, during a period of heavy rain and free product recovery during the initial start-up period of the final groundwater sump.. Since the initial startup samples from April 2013, issues related to free product appear to have been resolved, and the effluent results indicate the discharge of all test parameters, including lead (dissolved), have not exceeded the NR140 ES, nor the WDNR required WPDES standards.

Due to the reasons mentioned above, the standards of comparison for the discharge of treated wastewater to the drainage ditch should be the existing WPDES general permit limits of 50 ug/L because the exposure and risk analysis should be protective of the direct contact standard for soils of 400 mg/kg.

3) Reporting Frequency

Current Requirement

In the Settlement Agreement, Exhibit B – Sampling & Analytical Testing Plan, under the Additional Conditions Section, a bullet list indicates the owner is to provide weekly summary reports for a period of two years to the Village. Information requested in the 104 weekly reports includes:

- Tabulated analytical test results for sampling events
- Treatment system flow
- Treatment system operational status
- Estimate of carbon / zeolite media remaining along with anticipated changeout dates

- Other Operation & Maintenance data
- Monthly water levels from monitoring wells

Proposed Modification

We request this information be included in a monthly summary report, as most of the data referenced for submittal in the weekly reports will be obtained on a biweekly (flow, operations) or monthly (chemical sampling and water level information) basis. Weekly reporting is not necessary, as new information will not be available on a weekly basis. Since the WDNR requires monthly submittal of their WPDES permit forms, we request that the Village require the same.

Requested Reconsideration of Village Code Violations Related to Lead

The Village has issued municipal violations to Vidhya for multiple violations of Ordinance 297-1 related to illicit discharges from . . . property located at 10477 120th Avenue. There are no findings of adverse impact on the storm water. The fine for each code violation was \$676 for the period 4/12/13 – 4/29/13 and \$681 for the period 5/01/13 – 10/23/13. The total fine for the 34 code violations related to the illicit discharges to the drainage ditch was \$23,124. Specifics related to the justification for the violations are not provided on the Citations, and there has been no explicit determination of an adverse impact on the storm water, in fact soil sampling of the North ditch area is well below WDNR direct contract soil standards.

In review of Ordinance 297-1, there is an exception for discharges under Exception D 1) for discharges covered by a WDNR permit. The WDNR WPDES permit does not require sampling or reporting for total recoverable or dissolved phase lead. In discussions with the WDNR - Theera Ratarasarn, we discussed adding a total lead limit of 50 ug/L and a weekly average total lead limit of 20 ug/L. These limits would be acceptable to Vidhya and we request these limits be added by amendment to the Settlement Agreement.

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (the "Agreement") is made this 19th day of November, 2012, between the Village of Pleasant Prairie, Wisconsin (the "Village") and VIDHYA Corp VIII, Inc. ("Vidhya").

RECITALS

A. Vidhya is the current owner of a property located at 10477 120th Avenue, Pleasant Prairie Wisconsin (the "Property") with the following Tax Parcel number: 92-4-122-302-0130. The Property contains BP Amoco gasoline station #3789 (the "Station").

B. In June 1993, August 1993, December 22, 1998, September 1999, May 2006 and February 2001, separate hazardous substance releases (the "Prior Releases") at the Property were reported to the Wisconsin Department of Natural Resources (the "WDNR"), for which the WDNR identified BP as the responsible party ("RP"). The WDNR closed the site with GIS Registry on December 20, 2006 (Exhibit A contains information regarding historical releases).

C. On April 26, 2011, the Village of Pleasant Prairie reported to the WDNR what it claimed was a hazardous substance release at the Property. The WDNR subsequently identified Vidhya as the RP. In addition, on or about June 9, 2009 WE Energies and the owner of an adjacent property reported a strong gassy smell and a possible spill in a ditch line area along the south side of STH 165, adjacent to the Property (Collectively, the Prior Releases, June 2009, April 2011 and any subsequent releases at the Property are referred to as the "Releases".)

D. The Station operates at the Property under Conditional Use Permit #01-11, approved by the Village Plan Commission on June 25, 2001 (the "C.U. Permit").

E. On February 22, 2012, the Village issued a compliance order (the "Order") to Vidhya to: eliminate the alleged illicit discharge at the Property; cease and desist the alleged discharges, practices, or operations; and/or, to abate or remediate the alleged stormwater pollution or contamination hazards and restore any affected property.

F. Vidhya is of the opinion that because the site is situated in clay, the pipelined utility trenches with granular backfill serve as a collection system for the multiple petroleum releases which occurred during BP's ownership. Some tests results have contained high concentrations of contaminants, including diesel range organics (DRO) and benzene which may indicate a more recent discharge of petroleum products on the Property which could be contributing to the alleged illicit discharge at the Property.

G. From April, 2011 to November 5, 2012, significant Remedial Activities have been conducted by Vidhya, see Exhibit A attached.

H. The Village has alleged that Vidhya has not met the Order's required actions, and has issued several citations (the "Citations") to Vidhya and is also alleging that Vidhya is noncompliant with the terms of the C.U. Permit due to "illicit discharges or

petroleum releases into the drainage ditch adjacent to the Property that have occurred and continue to occur from the Property, which also drain onto the adjacent property impacting the water quality and resulting in potentially both soil and water contamination." The Citations include potential fines totaling \$84,500.00 (the "Fines"). The Village has also threatened to suspend or revoke the C.U. Permit and use of the Property as a gas station until or unless "there is compliance with the standards, regulations and condition imposed with said permit." Even though the Village alleges that Vidhya has not met the Order's required actions, the Village stopped issuing Citations as of July 22, 2012. A public hearing was held before the Village Plan Commission on August 20, 2012 and at that time evidence and testimony were submitted and the hearing was closed. The Village Plan Commission made no findings and did not act on the Petition of the Village to revoke or suspend the C.U. Permit and has since adjourned the meeting to November 19, 2012.

I. Vidhya disputes that it is responsible for the Releases at the Property or for the environmental condition of the Property. Nonetheless, Vidhya has spent approximately \$300,000 to date to address the Releases and has agreed to take additional actions to further address the Releases.

J. Illicit discharges at the Property which violate Village Ordinances continue and Vidhya has agreed to perform remedial activities for stopping said illicit discharges from the Property and Vidhya further agrees to comply with all Village Ordinances.

K. In return for Vidhya's agreement to complete and fulfill performance of certain Remedial Activities at the Property to further address the Releases, and to bring the Property into compliance with Village Ordinances, the Village has agreed to the terms of this Agreement and to allow the C.U. Permit, amended as provided below, to continue in effect.

NOW, THEREFORE, in consideration of the mutual covenants and conditions below, the receipt and sufficiency of which is hereby acknowledged, the Village and Vidhya hereby agree as follows:

AGREEMENT

1. The Parties agree that this Agreement is the compromise of a dispute and without admission of fault or liability the Parties agree to a resolution contained herein in the interest advancing their mutual and individual interests.

2. Vidhya and/or Vidhya's consultants or contractors on Vidhya's behalf, shall complete the following Remedial Activities, in accordance with applicable law:

- a. By October 1, 2012, conduct interim Remedial Activities by installing a 21,000 gallon frac water holding tank (delivered September 17, 2012) for pump out and ground water level control of the UST tank field to eliminate from the north storm water ditch, discharges of petroleum impacted ground water (subject to reasonable permit issuance by the controlling governmental agencies). Pumping of the tank field started September 20, 2012;

- b. Prepare and submit to the Village a written plan for sampling, and analytical testing of the storm water discharge, to include at a minimum PVOC, lead, naphalene and PAH analysis during the initial startup phase, see Exhibit B attached. Depending on the results of testing, additional parameters may be added or subtracted from the sampling regimen, reasonably acceptable to the Village, by November 16, 2012. In addition, the Village or its contractors shall be entitled to perform similar sampling and analytical testing, at Vidhya's expense, for purposes of confirmation of testing results and compliance monitoring;
- c. Beginning on November 9, 2012, prepare a daily inspection log (to be delivered to the Village Engineer weekly) and complete daily inspections of the Property, to include the storm water discharge culvert and the road ditch and weekly checks of the tank sumps. By November 26, 2012 Vidhya agrees that the liquid level in the diesel tank sump and gasoline tank sump shall be maintained at a level of 8 feet or greater below the ground surface to the top of the water level in the sump;
- d. Work with the WDNR to prepare a preliminary Site Investigation Plan based on the information and sampling results developed during implementation of the remediation plan which Site Investigation Plan will be completed and a copy delivered to the Village by November 16, 2012;
- e. By December 7, 2012 commence installation of the ground water monitoring wells and soil probes pursuant to the Preliminary Site Investigation Plan. The work shall be complete by December 14, 2012;
- f. Prepare and submit to the Village a preliminary remediation plan, reasonably acceptable to the Village, by November 16, 2012; said remediation plan to include without limitation, testing and remediation in compliance with all local, state and federal laws, rules, regulations and ordinances, including without limitation, those contained in Chapter 292 of the Wisconsin Statutes;
- g. Contain any contaminated materials at the Property, including but not limited to maintaining and replacing, as necessary, surface water skimmer booms and/or additional materials to capture any sheen in the road ditch area;
- h. By December 19, 2012, install a system of blocking/recovery wells near the storm water outfall and near the sanitary lateral (also submit and obtain Village Erosion Control Permit) and install a carbon treatment system on the Property by January 18, 2013 to treat and control groundwater level in the tank field and construct a heated and insulated small structure that will prevent equipment from freezing.

All parties acknowledge prior to construction of any recovery system Vidhya shall provide plans and elevations to the Village for Village review, and to obtain any necessary temporary or permanent amendments or changes to the C.U. Permit and the PUD Ordinance affecting the Property. Attached hereto as Exhibit C and incorporated herein by reference are the proposed locations for the carbon treatment system for ground water treatment;

- i. Consult with the WDNR and obtain WDNR comments on the planned Remedial Activities;
 - j. Vidhya agrees to replace northerly outfall manhole by December 7, 2012 and to properly dispose of any contaminated soils that may have to be excavated during said storm sewer repairs or any future repairs;
 - k. Re-sod and restore the Property disturbed by implementation of Remedial Activities;
 - l. Consent to the amendment of the C.U. Permit and the PUD Ordinance affecting the Property, to provide that any violation of the terms of this Settlement Agreement will be a violation of the terms of the C.U. Permit, to authorize the construction of the carbon ground water treatment system and structure described in Paragraph 2.h above, and to provide for the additional requirements listed on Exhibit D attached hereto and incorporated herein by reference as conditions of the C.U. Permit;
 - m. Comply with the performance standards and reporting requirements of the WDNR WPDES Permit and with WDNR regulatory requirements for the investigation and remediation of any onsite and offsite discharges or releases incorporated herein by reference; and
 - n. Substantial completion and operation of all Remedial Activities shall take place on or before April 1, 2013, and final completion of all Remedial Activities shall take place on or before May 1, 2013 (the "Compliance Date").
3. Vidhya agrees to pay all reasonable costs and expenses incurred by the Village arising out of, or relating to, the alleged illicit discharges at the Property or the enforcement of this Agreement, including without limitation, reasonable attorneys' fees, environmental consultant fees, fees for the Village Engineer and other Village staff, testing, sampling, and all similar costs. The Village estimates that its costs to September 27, 2012 are approximately \$39,099.40 as shown on Exhibit E attached hereto and incorporated herein by reference. Vidhya agrees to pay the amount of \$39,099.40 on before December 31, 2012 and to pay any other invoices from the Village for such expenses within fourteen (14) days following the date they have been notified by the Village in accordance with Paragraph 17 below of the amounts owed.

4. The Village agrees not to issue any new Citations regarding anything covered in this Agreement, subject to the ability of the Village to issue new Citations if Vidhya violates any terms or provisions of this Agreement or Village ordinances after the date of this Agreement, and allow the Conditional Use Permit, as amended, to continue in effect. Nothing contained in this Agreement shall affect the rights of the parties regarding any Citations and Fines issued prior to the date of this Agreement. All such existing Citations and Fines shall be the subject of the pending legal action in the Village Municipal Court.

5. Vidhya shall apply for and obtain all local, state and federal permits that are required for Vidhya to undertake the Remedial Activities, including but not limited to a Wisconsin DOT Work-In-The-Right-Of-Way Permit and a Village erosion control permit (collectively, the "Remedial Activities Permit(s)"). All parties acknowledge that the C.U. Permit and PUD Ordinance affecting the Property will need to be amended as described in Paragraph 2.l. above and to allow the construction of the carbon ground water treatment system and structure as described in Paragraph 2h.above.

6. The Village agrees to reasonably support and facilitate the review and approval of Vidhya's applications for the Remedial Activities Permits.

7. Except as specifically set forth herein, Vidhya hereby agrees to indemnify and to hold harmless the Village and all of its elected officials, officers, directors, employees, agents, shareholders, attorneys, subsidiaries, successors and assigns from any and all claims, causes of action, loss, costs, expense, damage, injury, obligation, liability, penalty, fine, suit, including, without limitation, attorney and consultant fees and expenses, of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to or arising out of the Remedial Activities and where founded upon or growing out of the acts or omissions of Vidhya.

8. Except as specifically provided in this Agreement, there are no representations, covenants, warranties, promises, agreements, conditions, or undertakings, oral or written, between the Village and Vidhya, as to the subject matter hereof. Except as specifically provided in this Agreement, all Village Ordinances apply to Vidhya and the Property.

9. If any provision of this Agreement conflicts with applicable Village, state, or federal laws, ordinances, rules or regulations, such conflict shall not affect the other provisions of this Agreement which can be given effect without the conflicting provision, and, to this end, the provisions of this Agreement shall be severable, and the invalidity or partial invalidity or unenforceability of any one (1) provision or portion hereof shall not affect the validity or enforceability of the remaining portions of said provision or any other provisions of this Agreement.

10. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, and shall be considered to "run with the land" and bind subsequent owners/occupants of and at the Property, provided, however, that Vidhya may not assign any of its obligations under this Agreement without the express written consent of the Village.

11. This Agreement shall be construed under the laws of the State of Wisconsin. The Village shall be entitled to collect from Vidhya its reasonable attorneys' fees and costs in collecting any amounts owed by Vidhya to Village.

12. Time is deemed to be of the essence with regard to all dates and time periods set forth herein or incorporated herein.

13. If Vidhya does not complete any of its obligations under this Agreement by the due date (the "Delayed Completion"), Vidhya agrees to pay liquidated damages to the Village in accordance with Exhibit F attached hereto and incorporated herein by reference (the "Liquidated Damages"), provided however, that Vidhya will not pay Liquidated Damages if the Delayed Completion is substantially caused by any of the following: (a) the Village; (b) a delay in Vidhya's Remedial Activities which delay is beyond Vidhya's reasonable control; or, (c) a Force Majeure Event. For purposes of this Agreement, a "Force Majeure Event" means an event or occurrence including without limitation, drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, explosion, strike, lockout or other labor dispute which is beyond the reasonable control of, and not due to the fault or negligence of, the party affected, and which could not have been avoided by due diligence and use of reasonable efforts. If Vidhya violates any provisions of this Agreement, the Village may also exercise all rights and remedies allowed under this Agreement and applicable law, including without limitation, issuing additional Citations, seeking the suspension or revocation of the C.U. Permit and seeking injunctive relief and collecting its actual damages from Vidhya. The use of any remedy shall not preclude the use of any other remedies.

14. This Agreement, and all other documents or instruments that may be required by this Agreement, may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument. This Agreement may contain more than one (1) counterpart of the signature page, and may be executed by the affixing of the signatures of each of the signers to one (1) of such counterpart signature pages; all of such counterpart signature pages shall be read as though one (1), and shall have the same force and effect as though all of the signers had signed a single signature page.

15. Access and Purposes. Vidhya hereby permits the Village, its employees, duly authorized representatives, agents and subcontractors, to enter upon and have rights of ingress and egress over and access at reasonable times to the Property for the purpose of observing the conduct of the Remedial Activities and to take water, soil and other samples for testing.

16. Term. The term of this Agreement will commence upon execution of this Agreement and continue until Vidhya has completed its obligations under this Agreement. Paragraphs 3, 4, 5 and 7 will survive expiration or termination of this Agreement.

17. Notice. Any request, demand or other notice required or permitted to be given under this Agreement shall be in writing and may be, and shall be deemed, given and sent, if mailed, two days after the date when deposited in the United States mail, certified

mail, return receipt requested, postage prepaid, or by overnight courier service, telecopy, telegraph or telex when delivered to the appropriate office for transmission, charges prepaid, or by telecopy when received, addressed:

If to Vidhya: Dixit Patel
VIDHYA Corp VIII, Inc.
1491 W. Roosevelt Road
West Chicago, IL 60185
Telephone: 630-202-6724
Fax:
E-mail: ddwc1@sbcglobal.net

With a copy to: J. Michael McTernan
Alia, DuMez, Dunn & McTernan, S.C.
6633 Green Bay Road
Kenosha, Wisconsin 53142
Telephone: 262-654-8700
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Donald P. Gallo, Esq.
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E-mail: dgallo@reinhartlaw.com

If to the Village: Michael R. Spence, P.E., LEED AP
Village Engineer/Building Inspection
Village of Pleasant Prairie
9915-39th Avenue
Pleasant Prairie, WI 53158
Telephone: 262-948-8951
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E-mail: mspence@plprairiewi.com

Michael Pollocoff
Village Administrator
9915-39th Avenue
Pleasant Prairie, WI 53158
Telephone: 262-948-8951
Fax: 262-925-6786
Email: mpollocoff@plprairiewi.com

With a copy to: Timothy J. Geraghty, Esq.
Village Attorney
Godin Geraghty Puntillo Camilli, S.C.
6301 Green Bay Road
Kenosha, WI 53142
Telephone: 262-657-3500
Fax: 262-657-1690
E-mail: tgeraghty@wi.rr.com

All parties shall acknowledge in writing the receipt of any notice delivered in person.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

VIDHYA Corp VIII, Inc.
PRAIRIE

By: David P. Peter

THE VILLAGE OF PLEASANT

By: John P. Steinhilber
John P. Steinhilber Village President

Attest: Jane M. Korman
Jane M. Korman Village Clerk

APPROVAL OF _____

This Agreement was approved by the
_____ of the Village of Pleasant
Prairie by Resolution dated the
_____ day of _____, 2012.

EXHIBIT A

Chronology of Immediate and Interim Remedial Activities Conducted by VIDHYA Corp VIII, Inc. November 6, 2012

- 4/26/11 - Fire chief reports petroleum observed in storm sewer catch basin on north side of property. Frank Bennett, Retail Petroleum Inspector, requires tightness testing of dispenser sumps, repair of leaking union under diesel dispense and pumping of one inch layer of diesel product from diesel sump. Two booms to absorb petroleum were installed.
- 6/1/11 - Tanknology conducted tank testing identified gas and diesel releases but they were contained in annular space and did not escape double wall system and did not impact the environment.
- 6/9/11 - Moraine and Interstate Pump and Tank met on site to identify issues and solutions. Moraine sampled soil and surface water in north drainage ditch area and identified diesel constituents as being six (6) times more prevalent than those of gasoline.
- 7/8/11 - Moraine conducted further sampling and recommended inspecting the interior lining of the catch basins and storm sewers. They also recommended excavation of contaminated soils in the north drainage ditch area. Moraine concluded that the impacts are the result of on-going incidental spillage from daily fueling that run off into the two down gradient catch basins which then travels through the discharge pipe or surrounding backfill into the north drainage ditch.
- 11/17/11 - Quality Environmental Solutions (QES) and representatives from Anderson Pump and Graham Enterprise (fuel supplier) attended a meeting with the Village. QES disagrees with Moraine's conclusions that the source of the impacts in the north ditch are from surface runoff from fueling operations but rather from weathered petroleum products from overspills in the 1990's into the tank field via the piping utility trenches' granular fill. High precipitation resulting in higher groundwater table has mobilized the weathered petroleum via the utility trench backfill. QES recommended removal and disposal of all impacted materials in the drainage ditch area, installation of engineered controls to prevent migration to off-site properties and installation of new booms and an oil/water separator.
- 3/27/12 - Petroleum products were pumped from tank field backfill and containment pans near the pump islands.
- 5/12 - Unipump removed flexible piping and replaced it with fiberglass piping and continue to pump from tank field, backfill, containment pans and dispensers. A second set of booms were installed. QES conducted second soil sampling along the pipe lines. Excess soils from pipe replacement were disposed of at a landfill.
- 6/12 - Three (3) on-site inspections were conducted and no observations of a sheen in the north drainage ditch.

- 7/5-12/12 - Impacted soils (124 tons) were removed from north drainage ditch area and disposed. QES then collected soil samples indicating some residual contamination in the excavation area. QES concluded from soil sampling in piping area that the release is historic. Sod was placed over the excavation area.
- 8/7/12 - Midwest Engineering Services (MES) sampled ditch surface water.
- 8/13/12 - MES was retained to conduct remedial actions to prevent further migration of residual petroleum contamination offsite.
- 8/20/12 - MES provided a draft Remedial Activities and Schedule.
- 8/28/12 - Future Environmental cleaned the onsite stormwater system and removed accumulated sludge. DeBelak Plumbing used sewer camera scope to evaluate the integrity of the existing stormwater sewer system. The northwestern catch basin was the only defective section of the system.
- 9/14/12 - VIDYHA attended a meeting with Village, consultants, and legal representation.
- 9/17/12 - Northshore Environmental positioned a 21,000-gallon "frac" tank onsite.
- 9/20/12 – The proposed groundwater treatment system was ordered from Carbonair.
- 9/26/12 – Northshore Environmental pumped petroleum-impacted water from gas basin into “frac” tank.
- 10/1/12 – Northshore Environmental pumped petroleum-impacted water from diesel basin into “frac” tank. A total of 19,000 gallons of petroleum-impacted water has been pumped into “frac tank.
- 9/26/12 - MES submitted the WPDES General Permit application for discharge of contaminated groundwater from remedial action operations to WDNR.
- 10/9/12 – MES collected a water sample from gas basin and submitted to laboratory for analytical testing for VOCs and PAHs per WDNR request.
- 10/19/12 – MES collected water sample from diesel basin and submitted to laboratory for analytical testing for VOCs and PAHs.
- 11/2/12 - WDNR approved the WPDES Permit.
- 11/5/12 - MES prepared a Preliminary Site Investigation Workplan, a revised Remedial Activities plan, and a treatment system sampling analysis plan for submittal and approval from WDNR.

Exhibit B-Sampling & Analytical Testing Plan

System Start-up (Assume 3 days):

Owner to sample influent and effluent for VOCs, naphthalene, GRO, DRO, PAHs and lead once daily during the first three days of system operation.

Village may collect duplicate samples (at Owner's expense) for analysis of VOCs and/or PVOCs, naphthalene, GRO, DRO, PAHs and lead up to once daily during the first three days of system operation.

Owner shall provide Village with electronic copies of laboratory analytical results upon receipt (or laboratory may provide analytical results directly to Village Engineer via electronic delivery. No treated water will be permitted to be discharged until such time that the analytical results are determined below acceptable discharge levels (i.e. no detects above either NR 140 PAL standards, Safe Drinking Water Act limits or WPDES permit level limits).

Weekly Sampling (Duration – 12 Weeks following system start-up):

If no VOCs, naphthalene, GRO, DRO, PAHs or lead are detected during the system start-up testing within the influent and effluent samples following the completion of the initial six weeks of testing, subsequent weekly testing during weeks 7 through 12 of influent and effluent samples to be obtained by Owner can, at the Village's discretion, be reduced to include analysis of only PVOCs and any other detected analytes within the influent samples and PVOCs and any other detected analytes within the effluent samples.

Village may, at Owner's expense, collect influent and/or effluent samples for analysis of VOCs and/or PVOCs, naphthalene, GRO, DRO, PAHs and lead up to once per week during the 12 week "weekly sampling" period unless effluent analytical results indicate an exceedance of either NR 140 PAL standards, SDWA limits or WPDES permit limits. In the event that any of the Village's weekly compliance sample results exceed such limits, additional testing (including up to daily testing) may be immediately initiated until such time that the effluent meets discharge standards.

Monthly Sampling (Duration – Minimum Two Years)

If no VOC, PVOc, naphthalene, PAH or lead impacts are identified within the effluent samples collected during the 12 week "weekly sampling" period, monthly influent and effluent sampling for PVOcs shall be conducted by the Owner.

Village may, at Owner's expense, collect influent and/or effluent samples for analysis of VOCs and/or PVOcs, naphthalene, GRO, DRO, PAHS and lead up to once per month. In the event that any of the Village's monthly compliance sample results exceed such limits, additional testing (including up to daily testing) may be immediately initiated until such time that the effluent meets discharge standards.

Quarterly Sampling (Duration – Years two through ten+)

Following at least two years of monthly influent and effluent sampling, a change to quarterly sampling may be approved by the Village at its sole discretion if all of the preceding monthly

testing results showed no detectable levels of contamination above the laboratory's method detection limits which will be presumed to be below the NR 140 PAL standards at that time.

Village may, at Owner's expense, collect influent and/or effluent samples for analysis of VOCs and/or PVOCs, naphthalene, GRO, DRO, PAHS and lead up to once per month during the quarterly sampling. In the event that any of the Village's compliance sample results exceed applicable limits, additional testing (including up to daily testing) may be immediately initiated until such time that the effluent meets discharge standards.

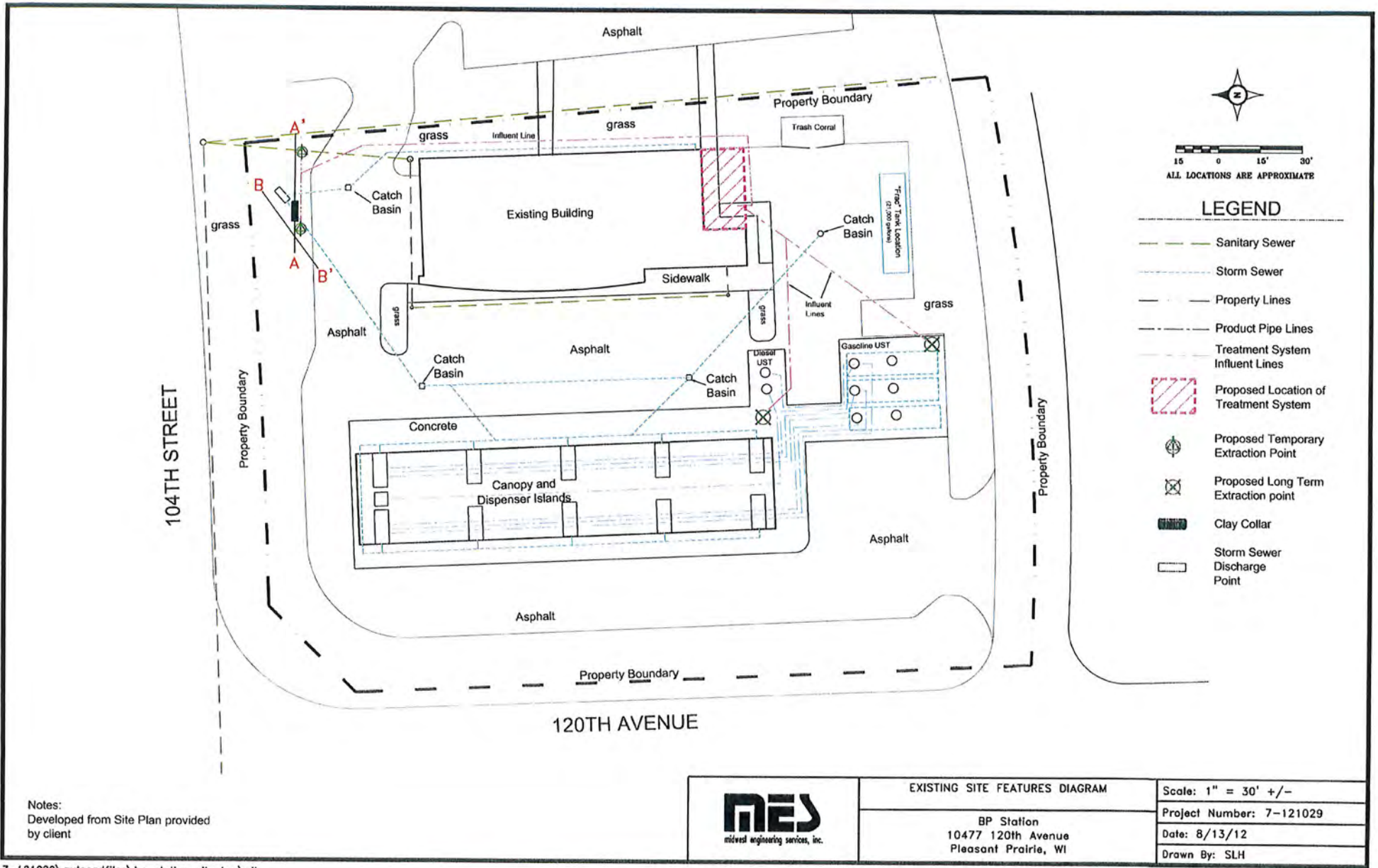
*****Additional Extraction Point Sampling Requirements**

Owner to sample each additional extraction point influent for VOCs, naphthalene, PAHS, lead, GRO & DRO at the time that any new extraction points are added to the system. A minimum of two influent samples are to be collected from each point during the first two days of extraction from such points and companion effluent samples are to be collected daily for two days following the start-up of extraction at each additional point. No discharge of treated water is permitted to occur until the results of the additional extraction point sampling demonstrates that the effluent results comply with all applicable standards.

Village may, at Owner's expense, collect companion influent and effluent samples for analysis of VOCs and/or PVOCs, naphthalene, GRO, DRO, PAHS and lead as each additional extraction point is connected to the system until such time that the treated water meets all applicable discharge requirements.

Additional Conditions:

- Owner to immediately report any exceedances of applicable discharge standards to the Village and the Wisconsin Department of Natural Resources;
- Owner to provide to Village weekly summary reports in an electronic format containing tabulated analytical test results for each sampling event and sampling point (influent vs. effluent) and treatment system performance data (gallons treated/discharged, operational status of system, and estimate of carbon/zeolite media remaining along with anticipated changeout dates and any other operation & maintenance data, etc.) commencing with the week following start-up through the second anniversary date of system start-up. Thereafter, monthly summary reports shall be provided to the Village for the remainder of the project.
- Once groundwater monitoring wells have been installed at the site, monthly groundwater elevation readings shall be obtained from all monitoring wells at the site (including any monitoring wells installed off-site as part of the release investigation activities) and reported to the Village within the required weekly summary reports or in a separate transmittal entitled "BP Amoco Site - groundwater conditions").



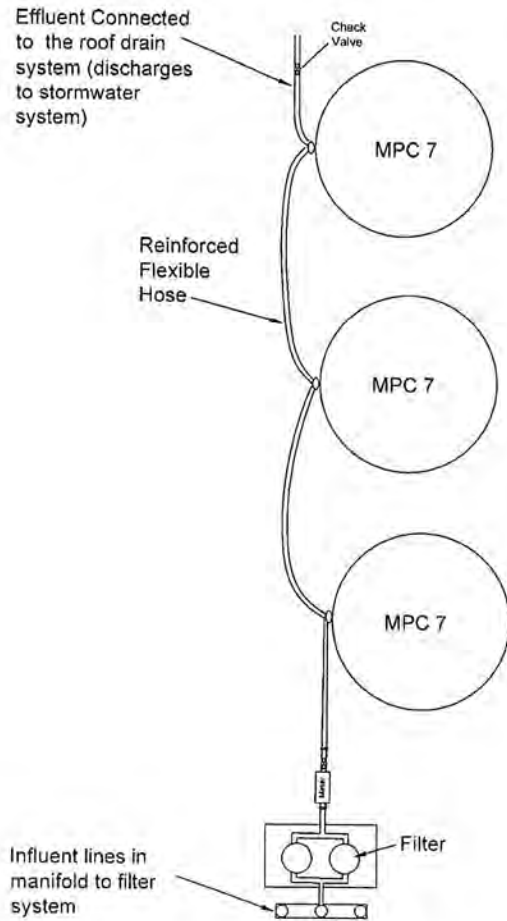
Notes:
Developed from Site Plan provided
by client

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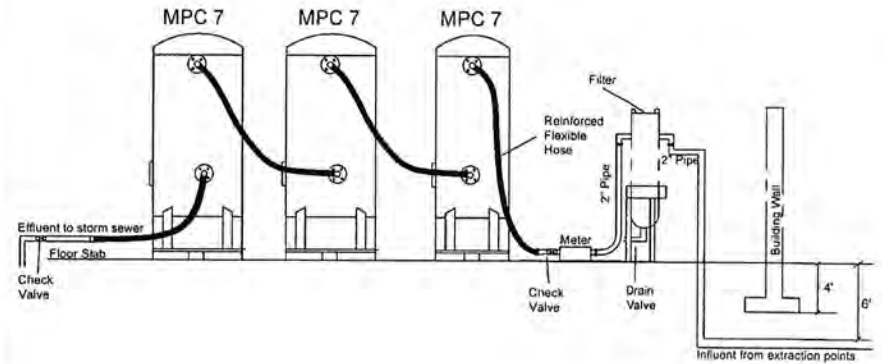
FIGURE 1

Exhibit C

System Plan View



System Cross Section



Notes:
Developed from Site Plan provided by client.



DETAIL OF TREATMENT SYSTEM

BP Station
10477 120th Avenue
Pleasant Prairie, WI

Scale: NOT TO SCALE
Project Number: 7-121029
Date: 8/13/12
Drawn By: SLH



midwest engineering services, inc.

geotechnical • environmental • materials engineers

821 Corporate Court
Suite 102
Waukesha, WI 53189-5010
262-521-2125
FAX 262-521-2471
www.midwesteng.com

November 13, 2012

Jean M. Werbie-Harris
Community Development Director
Village of Pleasant Prairie
9915 39th Avenue
Pleasant Prairie, Wisconsin 53158

SUBJECT: Explanation of Clay Collar Installation and Catch Basin Soil Handling
BP Station
10477 120th Avenue
Village of Pleasant Prairie, Wisconsin
MES Project No. 7-121029
FID No. 230103830
BRRTS No. 02-30-557069

Ms. Werbie-Harris,

The construction of the clay collar that is planned for the northern storm water discharge point will be constructed by Bouterse Construction under the field supervision of Midwest Engineering Services. The activities will consist of the excavation of the surface topsoil material, which will be stockpiled for potential reuse as topsoil once the collar has been installed. The excavation will be extended into and to a depth beneath the granular material around the 12 inch storm water. If water is encountered within the granular material a sump pump will be installed and the water will be pumped to one of the "frac" tanks located along the south of the station. Once water removal is completed, the excavation will extend vertical to a depth of at least 12 inches beneath the granular material around the pipe. It is anticipated that the granular fill material extends to a depth between 3.5 to 4.5 feet. It is proposed that any relatively "clean" granular material may be used to backfill the excavation (around the pipe on the up stream side) once the clay collar is constructed. Any surrounding soil fill, natural soils, and comingled soil and granular material will be excavated, loaded into a "special waste licensed" truck and transported to a WDNR-licensed special waste facility (Kestrel Hawk Landfill).

Due to the location of existing utilities, the excavation will be in a general parallel location to the existing curb line and thus not perpendicular to the storm water line. As such, it is anticipated that the length of the exposed granular material will be about 3.5 feet. As requested, both sides of the excavation will be extended about 2 feet horizontally from the granular material. Once the excavation has been completed and the granular material around the pipe has been removed, chipped bentonite will be placed in about 12 to 18 inch lifts and

MES Project No. 7-121029
BP Station
Village of Pleasant Prairie, Wisconsin
Page 2

wetted with clean water to assure activation. This material will extend to about 12 inches from the ground surface. Topsoil will then be placed to the ground surface.

Regarding the soil that will be encountered during the removal and replacement of the catch basin, any soil and comingled granular material and soil will be removed and transported to Kestrel Hawk Landfill. These excavation and handling services (remedial actions) will be performed in general accordance with NR 708 requirements under NR 708.05(3).

We trust this information meets your needs. Please feel free to contact us if you have any questions.

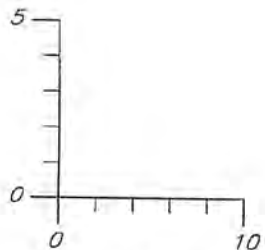
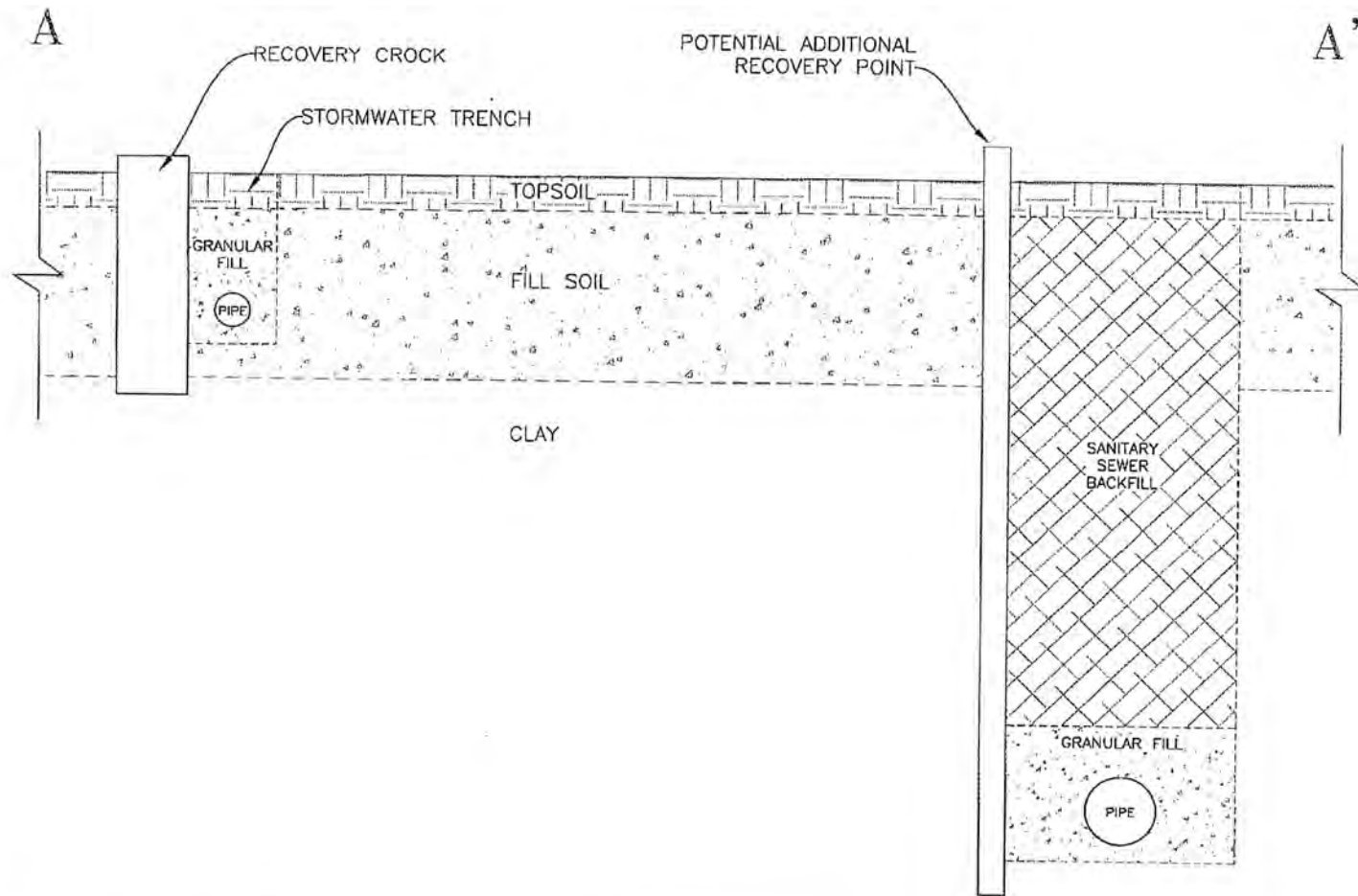
Sincerely,

MIDWEST ENGINEERING SERVICES, INC.




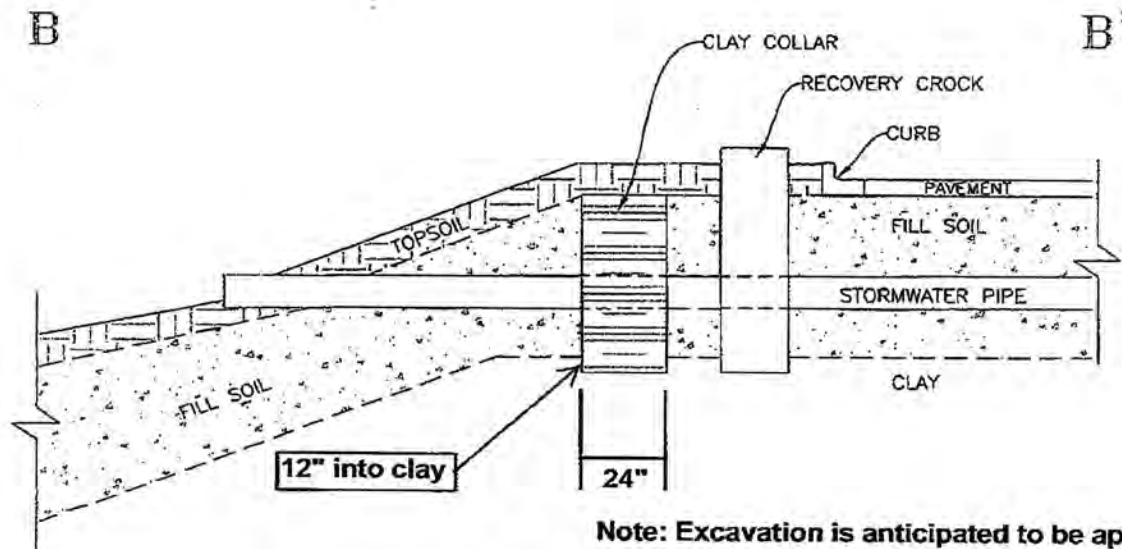
Patrick J. Patterson, P.E., P.G.
Department Manager
Environmental Services

cc: Mr. Dixit Patel; VIDHYA Corp. VIII, Inc.
Atty. J. Michael McTernan; Alia, DuMez, Dunn and McTernan, S.C.
Atty. Donald P. Gallo; Reinhart Boerner Van Deuren, S.C.

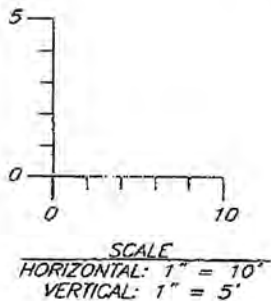


SCALE
 HORIZONTAL: 1" = 10'
 VERTICAL: 1" = 5'

 midwest engineering services, inc.	CROSS-SECTION A-A' RECOVERY POINTS	MES Project No: 7-121029
	BP STATION #3789 10477 120th AVE. KENOSHA, WI	BRRS No: 03-30-242791 Date: SEPTEMBER, 2012 Drawn By: KP



Note: Excavation is anticipated to be approximately 24" (2') wide and approximately 8 feet long. However, the excavation will extend at least 2 feet beyond both sides of the granular material around the 12" storm water pipe. The collar will extend 12" into natural clay soil. Due to existing utilities in this area, the clay collar/excavation will be constructed parallel to the existing curb line.



CROSS-SECTION B-B'
 CLAY COLLAR AND RECOVERY CROCK

BP STATION #3789
 10477 120th AVE.
 KENOSHA, WI

MES Project No: 7-121029

BRRS No: 03-30-242791

Date: SEPTEMBER, 2012

Drawn By: KP

ORD. # 12-40

**ORDINANCE TO AMEND CHAPTER 420 ATTACHMENT 3 APPENDIX C
SPECIFIC DEVELOPMENT PLANS 10
OF THE VILLAGE ZONING ORDINANCE
PURSUANT TO CHAPTER 420-137
OF THE VILLAGE ZONING ORDINANCE
FOR BP-AMOCO PLANNED UNIT DEVELOPMENT
IN THE VILLAGE OF PLEASANT PRAIRIE,
COUNTY OF KENOSHA, STATE OF WISCONSIN**

**THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF PLEASANT PRAIRIE,
KENOSHA COUNTY, WISCONSIN, DO ORDAIN THAT CHAPTER 420 ATTACHMENT 3
APPENDIX C SPECIFIC DEVELOPMENT PLANS 10 FOR BP-AMOCO PLANNED UNIT
DEVELOPMENT IS HEREBY AMENDED AS FOLLOWS:**

10. BP-AMOCO PUD

- a. It is the intent that the BP-Amoco development will provide for development and uses on the property as legally described below in conformity with the adopted Village Comprehensive Plan and the basic underlying zoning district; that the development will not be contrary to the general welfare and economic prosperity of the community; and that the structures, landscaping, parking areas, architectural design, lighting, general site development and signage for the facility shall be properly maintained and general site development will result in an attractive and harmonious commercial retail area, will operate as a uniform development and will not adversely affect the property values of the surrounding properties.
- b. Legal Description: The property included is known as Lot 14 of Certified Survey Map #1489, located in U.S. Public Land Survey Section 30, Township 1 North, Range 22 East in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin and is hereinafter referred to as the DEVELOPMENT.
- c. Requirements within the DEVELOPMENT:
 - (i) The DEVELOPMENT shall be in compliance with all Federal, State, County and Village ordinances and regulations except as expressly modified in Section d below. Additionally, all portions of the Village Zoning Ordinance not modified by this PUD shall apply to the DEVELOPMENT.
 - (ii) The DEVELOPMENT shall be in compliance with the LakeView Corporate Park Declaration of Development Standards and Protective Covenants and Modifications, as may be amended from time to time, as recorded at the Kenosha County Register of Deeds Office.
 - (iii) Compliance with the Reciprocal Access Easement (Recorded at the Kenosha County Register of Deeds Office on August 22, 2001 as Document #1232401). This easement allows for vehicular cross-access between the DEVELOPMENT site and the Culver's restaurant, located to the immediate east.
 - (iv) Compliance with the Settlement Agreement approved by the Village Board on November 19, 2012 on file with the Village.
 - (v) Compliance with the Conditional Use Grant Document #12-10 including Site and Operational Plans approved by the Village Plan

Commission on November 19, 2012 and recorded at the Kenosha County Register of Deeds Office.

- (vi) Compliance with the Digital Security Imaging System Agreement (DSIS) and recorded Access Easement as approved by the Village on November 19, 2012.
- (vii) Hours of operation (when the public is allowed to remain on-site) shall be limited from 5:00 a.m. to 12:00 a.m. daily. A Temporary Use Permit may be issued for 24-hour operations during any holiday period. A Temporary Use Permit may be issued for 24-hour operations during any holiday period subject to approval of the Village Police Chief. In addition, a 24-hour holiday operation may require the owners to enter into an agreement and pay for the overtime services of the Police Department, a determined by the Police Chief. Pursuant to the zoning ordinance and liquor license requirements, the store is allowed to be open until midnight; however, Class A Beer is only allowed to be sold from 8:00 am to midnight and Class A Intoxicated Liquor is only allowed to be sold from 8:00 am to 9:00 p.m.
- (viii) Delivery hours or any other activities outside the principal building that might cause a disturbance to neighboring areas (e.g., outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup), except for snow removal, is allowed only from 6:00 a.m. to 10:00 p.m.
- (ix) The DEVELOPMENT, including but not limited to, the building, accessory structure pump, canopy and garbage enclosure, signs, landscaping, parking lots, exterior site lighting, etc., and the site as a whole, shall be maintained both inside and outside in a neat, presentable, clean aesthetically pleasing, structurally sound and non-hazardous condition. Maintenance shall be conducted on a regular basis both inside and outside of the buildings and site.
- (x) The inside of the building shall be clean, bath rooms shall be inspected and cleaned, floors shall be swept and walls shall be re-painted and repaired as necessary.
- (xi) Parking is only allowed in designated parking spaces within the DEVELOPMENT. No parking is allowed on STH 165, 120th Avenue or shared the private roadway south of the DEVELOPMENT. In addition, the parking lot areas shall be striped with reflected white or yellow paint and all handicapped accessible parking spaces shall be clearly marked. Any pot holes or other damages to the parking lot shall be promptly repaired.
- (xii) The building and site improvements within the DEVELOPMENT shall be made in accordance with the applicable Village Ordinance and Codes, that may be amended from time to time.
- (xiii) All buildings/structures and all exterior additions, remodeling or alterations to the any buildings/structures within the DEVELOPMENT shall be constructed of the same or complimentary exterior materials, colors and architectural style.
- (xiv) Plantings, mulch/stone shall be installed and maintained pursuant to the Village approved Landscape Plan on file with the Village.

- (xv) All exterior site building and landscaping maintenance shall be performed regularly by the owners or managers of the DEVELOPMENT. Specifically garbage/litter shall be picked up on a site on a daily basis, site lighting, signage, parking lot and pumps shall be in working order and provide receipts. If improvements are damaged or not working properly shall be promptly repaired.
- (xvi) No flags, pennants, streamers, inflatable signage, spot lights, walking signs, shall be affixed to any building, landscaping vehicle, roof-top, or the ground shall be allowed unless expressly permitted by the Zoning Ordinance.
- (xvii) The DEVELOPMENT shall be maintained in a neat, presentable, aesthetically pleasing, structurally sound and nonhazardous condition. All litter or garbage on and adjacent to the site shall be picked up on a daily basis by the petitioner.
- (xviii) The DEVELOPMENT shall comply with all applicable performance standards set forth in Section 420-38 of the Village Zoning Ordinance.
- (xix) No outdoor vending machines, propane tanks, oil drums, or newspaper stands shall be allowed on the site outside of the building.
- (xx) No outside storage of merchandise or donation drop boxes for clothing, furniture or other household products permitted shall be allowed anywhere on the site.
- (xxi) The DEVELOPMENT shall not be used for any outside parking (neither overnight nor during the day) of junked, inoperable, dismantled or unlicensed vehicles. All junked, inoperable, dismantled or unlicensed vehicles that are parked outside will be issued citations.
- (xxii) No vehicular parking shall be permitted in the cross access driveways, on-site driveways, maneuvering lanes, fire lanes or landscaped areas.
- (xxiii) No semi-trucks, semi-trailers, cabs, or construction-related equipment shall be parked during the day or overnight on the site.
- (xxiv) No used vehicles "for sale" or "for lease" shall be parked on the site.
- (xxv) No semi-trailers, storage units, storage bins, roll-off storage devices (e.g. P.O.D.S., S.A.M.S.) or other trucks shall be used for storage purposes on the site. Outdoor storage of any materials, including but not limited to: products, oil, wood, windshield wiper fluids, business supplies, pallets, crates, etc., is also prohibited.
- (xxvi) The garbage dumpster gates shall be kept closed at all times, except when garbage is being collected. In addition, all garbage and recycling materials shall be stored within the garbage dumpster enclosure.
- (xxvii) All signs within the DEVELOPMENT shall comply with Article X of Chapter 420 of the Village Municipal Code and this PUD Ordinance. In addition, all signs shall be in good working order, properly maintained, repaired as needed, painted and well-kept.
- (xxviii) Owner, manager and employees shall be informed of these regulations and perform daily site inspections and shall comply with the requirements of this Ordinance.

(xxix) Semi-annual zoning inspections will be conducted for the Development to verify compliance with this PUD.

d. Specific modifications to the Village of Pleasant Prairie Zoning Ordinance for the DEVELOPMENT:

(i) Section 420-48 L related to setbacks for parking areas is amended to read as follows:

L. Setbacks for parking areas (which includes parking spaces, maneuvering lanes and fire lanes). Parking areas shall be set back a minimum of 15 feet (as measured from the north property line to the back-of-curb) from all adjoining street rights-of-way and a minimum of 20 feet (as measured from the north property line to the back-of-curb) from all adjoining private roadways and lot lines.

(ii) Section 420-121 H (4) (c) related to building setbacks in the B-4, Freeway Service Business District is amended to read as follows:

(c) Setbacks:

[1] Street setback: minimum of 65 feet from arterial streets or highways and a minimum of 40 feet from nonarterial streets or private roads.

[2] Side setback (to east property line): 13 feet minimum.

(iii) Section 420-78 K (1) related to the Aggregate Permitted Background Commercial Sign Area is amended to read as follows: :

(1) The maximum Aggregate Permitted Background Commercial Sign Area allowed within this DEVELOPMENT is 181 square feet,

e. Amendments

(i) The PUD regulations for the DEVELOPMENT may be amended pursuant to Chapter 420-137 of the Zoning Ordinance.

(ii) The Zoning Administrator has the discretion to approve minor changes, adjustments and additions to this PUD ordinance document without the need for Village Plan Commission and Village Board review and approval.

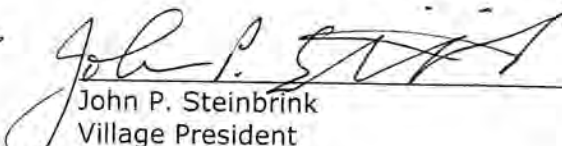
Adopted this 19th day of November, 2012.

VILLAGE OF PLEASANT PRAIRIE

ATTEST:



Jane M. Romanowski
Village Clerk



John P. Steinbrink
Village President

Posted: 11-20-12



**VILLAGE OF PLEASANT PRAIRIE
CONDITIONAL USE GRANT NO. 12-10**

Before the Village of Pleasant Prairie Plan Commission,
Kenosha County, Wisconsin, in regard to the property
located at 10477 120th Avenue.

Return to:

Village of Pleasant Prairie
9915 39th Avenue
Pleasant Prairie, WI 53158

Tax Parcel Number:

92-4-122-302-0130

Legal Description: Lot 14 of CSM 1489 (Document #872365) located in the Northwest One Quarter of U.S. Land Survey Section 30, Township 1 North, Range 22 East in the Fourth Principal Meridian, lying and being in the Village of Pleasant Prairie, Kenosha County Wisconsin.

WHEREAS, the Zoning Code and Zoning District Map of the Village of Pleasant Prairie, pursuant to State Statute, provides that the premises may not be used of right for the purpose hereinafter described but that upon petition such use may be approved by the Village of Pleasant Prairie as a Conditional Use Grant in particular circumstances as defined by the standards in the Zoning Ordinance; and

WHEREAS, such petition having been made to allow BP Amoco to operate a gasoline station and convenience store and to install a carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site and public hearing held thereon, and the Village Plan Commission having determined that by reason of the particular nature, character and circumstances of the proposed use, and of the specific and contemporary conditions, that the grant of such use upon the terms and conditions hereinafter prescribed would be consistent with the requirements of the Zoning Ordinance. Specifically, based upon the information presented at the public hearing, and in particular the memorandum from the Village Fire & Rescue Department, the project meets the following standards for granting a Conditional Use Permit in that the project/use:

- The project does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems and the traffic patterns on the site do not hinder, harm or distract the provisions of public services.
- The project does not impair an adequate supply of light and air to the adjacent properties.
- The project does not increase danger of fire --in so far as the danger of fire does not exceed the capabilities of the Village Fire & Rescue Department.
- The project does not create storm water flooding or drainage, create obnoxious odors, problems or otherwise endanger the public health, safety or welfare.

- There are no existing identified hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency that would endanger the public's health, safety or welfare related to the proposed use.
- The proposed and applied for use on this particular parcel is not inherently inconsistent with the B-4, Freeway Service Business District in which it is located or the adjoining zoning districts and land uses.

NOW THEREFORE, a Conditional Use Permit is granted, subject to compliance with the terms and conditions hereinafter stated to allow BP Amoco to operate a gasoline station and convenience store and to install a carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site.

1. Compliance with PUD Ordinance #12-40, including the Digital Security Imaging System Agreement on file with the Village.
2. Compliance with the terms and conditions of the executed Settlement Agreement approved by the Village Board on November 19, 2012 on file with the Village.
3. Compliance with the Site and Operational Plans as conditionally approved by the Village Plan Commission on November 19, 2012 on file with the Village.
4. Compliance with the Preliminary Site Investigation Work Plan dated November 14, 2012. The Remedial Action Plan and Remedial Design Report shall be compliant with NR 700 shall be submitted to the Village.
5. Compliance with the WI DNR WPDES Permit issued on November 2, 2012.
6. Compliance with the Wisconsin Department of Transportation Work in the Right-of-Way Permit dated November 26, 2012.
7. All hard surfaced areas including the parking lot areas, drive lanes, paved areas adjacent to the pumps, sidewalks, etc. shall be clean, neat and free from pot holes or other cracks which present a safety risk to the pedestrians or traveling public. The hard surface areas of the site shall be maintained and free of any debris or potholes which may cause distractions or damages to vehicles. All pavement markings shall be done in yellow or white reflective paint.
8. The gas station and convenience store shall operate in an organized, well-kept, clean, neat and professional manner. The inside of the store shall be maintained, painted, and clean for the public. Damaged or dirty walls, floors, coolers, bathrooms, racking, displays lighting, etc. shall be taken care of or repaired promptly. Malfunctioning gas pumps shall be repaired as soon as possible.
9. A Kenosha County Health Department permit and regular inspections will be conducted on the premises. Violations may result in the suspension or revocation of the Health Permit and the Conditional Use Permit.
10. The hours of operation (when the public is allowed to enter or remain on site for business purposes) shall be limited from 5:00 a.m. to 12:00 a.m. daily. A Temporary Use Permit may be issued for 24-hour operations during any holiday period. A Temporary Use Permit may be issued for 24-hour operations during any holiday period subject to approval of the Village Police Chief. In addition, a 24-hour holiday operation may require the owners to enter into an agreement and pay for the overtime services of the Police Department, as determined by the Police Chief. Pursuant to the Zoning Ordinance and liquor license requirements, the store is allowed to be open until midnight; however, Class A Beer is only allowed to be sold from 8:00 a.m. to midnight and Class A Intoxicated Liquor is only allowed to be sold from 8:00 am to 9:00 p.m.

11. Currently, deliveries and shipments occur during the time that BP is open to the public.
12. The delivery hours or any other activities outside the principal building that might cause a disturbance to neighboring areas (e.g., outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup), except for snow removal, is allowed only from 6:00 a.m. to 10:00 p.m.
13. BP Amoco Gas Station and Convenience Store located at 10477 120th Avenue is a self-service gasoline and diesel station, selling petroleum products to consumers of passenger vehicles and light trucks. It does not service or sell petroleum products to over-the-road trucks, cabs or other specialized commercial or construction vehicles. In addition, BP operates a convenience store under the brand name AM/PM that provides various grocery store and automobile supplies and accessories, along with a quick service restaurant, bakery, self-service coffee bar and soda fountain, and an e-commerce area for computerized assistance with weather and traffic information. The quick service restaurant provides seating for approximately 12 people and quick food selections of bakery items, sandwiches, soups and salads. The facility also provides separate men's and women's washrooms, and various other related convenience service amenities, including but not limited to, vacuum cleaners and compressed air for automobile maintenance, automated teller machine, along with the sale of alcohol and tobacco products as authorized by its license.
14. Due to several reported hazardous substance releases at the BP gas station dating back to 1993, the owner's consultants are developing and installing a carbon treatment system that will treat contaminated ground water. This system needs to be installed in an enclosed and heated facility. As a result, the southeast corner of the building is being expanded in order to house the filters and pumps that are necessary to operate the carbon treatment system. This system is detailed in a Settlement Agreement being entered into between the property owner and the Village, and the property owner will obtain all applicable permits before installing said system.
15. The expansion of the building will measure approximately 420 square feet (30 feet by 15 feet) and will simply "square" the building foot print. The same exterior building materials (brick and trim) will be used in order to match the expansion to the existing building.
16. No through penetration between the new carbon room addition and the existing building shall be allowed to ensure no transfer of potentially toxic chemicals such as but not limited to carbon monoxide.
17. The 420 square foot addition shall not be used for the storage of any materials including but not limited, cleaning supplies, extra toilet paper or other supplies, merchandize or other products.
18. The 420 square foot addition is subject to compliance with the following conditions from the Village Building Inspection Department:
 - a. All building, plumbing, lighting and HVAC plans will need to be designed to the IBC Codes, prior to submitting (4 sets) for building permits from the Village of Pleasant Prairie. Since the total cubic footage of the accessory structure is less than 100,000 cubic ft. this can be a Municipal review. All sub-contractors will be required to apply for permits.
 - b. Halls, corridors, stairways, passageways, work aisles and other means of egress from factories, offices and mercantile buildings shall have emergency lighting and exit lighting per Article 700 of the NEC, SPS 316.46 Which requires interior and exterior lighting. The existing plans only show interior lighting. The Village Fire &

Rescue Department shall be contacted for further information and requirements. Contact Fire & Rescue Chief Doug McElmury at 262-694-8027.

- c. The architect(s)/ professional engineer(s) shall submit, to the Village and State, the compliance statement, Form SBD 9720, prior to the final inspection with the Village Building Inspection and Fire & Rescue Departments.
 - d. The electrical contractor will be required to be licensed by the Village of Pleasant Prairie. The electrical contractor shall obtain a permit from the Village prior to beginning work. All contractors must be licensed or registered with the State of Wisconsin.
 - e. All fire alarm installations require plan review and permit from the Village of Pleasant Prairie Fire & Rescue Department.
19. **Downspouts shall be tied into the on-site storm sewer system and shall not be discharged onto existing pavement.**
 20. Landscaping on the site shall be installed, watered, weeded, trimmed and maintained in good condition at all times. Litter and debris shall be removed from the landscaping on a daily basis. Damaged, dying or dead plant material shall be removed and new plantings shall be installed on a regular basis. Mulch shall be raked in place on a regular basis and replaced yearly.
 21. The carbon treatment system will not create any disturbance to the surrounding property owners as it will be housed in an enclosed and insulated expansion of the building. It is anticipated that the system will operate off and on for several years, dependent on the rise of ground water due to changes in the weather.
 22. This system will not require any additional staff to manage and operate, as it will be automated and will only occasionally require the replacement of carbon filters that will be disposed of using sealed drums provided and retrieved by qualified environmental disposal companies. Moreover, the system will not alter existing operations of the gasoline station and convenience store, as those operations will continue as normal.
 23. Currently, there are seven (7) full time and three (3) part time employees, but additional seasonal help is retained during peak holiday seasons. Currently, there are only two shifts of employees, but a third shift has been added when the hours are expanded during the Midnight Madness house Thanksgiving evening/Black Friday. There are currently 23 parking spaces on the site, but with the expansion of the building, two (2) parking spaces are being removed, leaving a total of 21 parking spaces (one handicapped access parking space, and 20 conventional parking spaces). The number of parking spaces excludes the cars that can be parked at the pumps.
 24. Pursuant to the Village Zoning Ordinance the minimum parking requirements for a gasoline station with a convenience store is five (5) spaces per each 2,000 square feet of gross floor area plus 1 space for each employee on the largest shift plus the required handicapped accessible parking spaces pursuant to the state code. Therefore, a minimum of 13 spaces plus their required handicapped accessible parking spaces is required (5 spaces plus 3 spaces plus 5 spaces (assuming no more than five workers on site).
 25. It is anticipated that traffic volumes of 500 to 1,000 daily trips will continue, and there will be no truck trips other than deliveries of goods to the BP. The main products being sold at the BP include, but are not limited to: gasoline and diesel fuels, related automobile supplies and parts, along with food and beverages, all of which are currently being sold at the BP, which will continue after the expansion. Aside from the installation of the carbon treatment system, all of the existing equipment will continue to be utilized in the operation

of the BP (petroleum delivery systems, coolers, ovens, and related food preparation equipment).

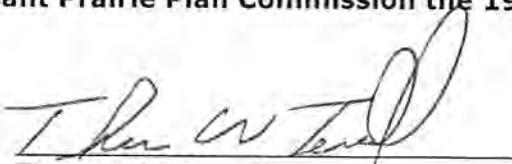
26. Aside from the disposal of the carbon filters, the BP only has normal household cleaners used in the maintenance of the business in order to clean the food preparation and service areas, floors and bathrooms. The only waste that is disposed of at the BP is spoiled food and drink products, grey water waste and sanitary waste from the bathrooms.
27. In accordance with the DSIS Agreement, the security cameras shall be inaccessible to employees. Conspicuous signs shall be posted at the entrance stating that security cameras with an inaccessible recording device is in place on the premises. Said system shall be maintained in working order at all times and the Village of Pleasant Prairie Police Department shall be promptly provided any requested video. The recording shall be kept in an archive for a minimum of two weeks and the Pleasant Prairie Police Department shall have remote access to the system to monitor and download video. Specifically, internet access shall be provided which would allow the Police Department to have "live time" monitoring of the BP store and site.
28. The parking lot shall be illuminated to provide sufficient lighting for the public's safety and for the security cameras to operate effectively per the Village's satisfaction.
29. A clear and unobstructed view of the cash registers and transaction areas shall be maintained from the internal 30-foot wide on-site circulation access roadway.
30. The building shall be equipped with and shall use an inaccessible drop safe.
31. Between 10:00-12:00 p.m. and 5:00-7:00 a.m. at least two (2) employees shall be working on-site unless the business has taken measures to protect a lone clerk such as the installation of bullet resistant glass or other equipment as approved by the Police Department, making the lone employee inaccessible.
32. Installation and full operation of a hold-up alarm, which is monitored by a UL listed central station with functioning telephone service, shall be used at the BP station building.
33. The cash register shall not be left unattended for periods of time when the convenience store is open to the public.
34. A height strip shall be located at each doorway entering and exiting the convenience store.
35. The owner shall retain landscapers to regularly maintain, replace and upgrade the landscaping that surrounds the property, including the removal of all snow and ice from the parking lots, driveways and sidewalks. In addition, employees walk the property on a regular basis to pick up debris, empty garbage cans, restock self-service washer fluids and paper towels, and to monitor the entire property in order to maintain it in a first class condition.
36. The owner shall obtain all permits and licenses required to operate its business. Those permits and licenses allow for the sale of petroleum, alcohol, tobacco, food, and related items sold in its business, issued from the various government agencies.
37. All signs shall comply with Article X of Chapter 420 of the Village Municipal Code and with the BP Amoco PUD Ordinance on file with the Village. All signs shall be in good working order, properly maintained or repaired as needed, painted and well-kept.
38. The following types of signs are prohibited and shall not be installed. For a complete listing of prohibited signs refer to the Article X of Chapter 420 of the Village Municipal Code.:
 - a. Any sign with flashing or pulsating lights.

- b. Any inflatable sign, including but not limited to tethered balloon signs or other gas-filled figures.
 - c. Any temporary, spring-action metal advertising sign used, for example, to advertise cigarette or gasoline prices.
 - d. Any spotlights used as visual attention-getters.
 - e. Strings of lights, tinsel, pennants, pinwheels or other similar devices hanging between two points or attached to light poles, cars, landscaping or structures on the property.
39. The Village has received numerous complaints relating to the operations of the station site including litter and garbage on the site; broken light standards and signs; inoperable pumps; pumps that don't issue receipts; dead landscaping; violation of security protocol; interior building damage to walls, floors, painting, counters; garbage overflowing; illegal outside storage of product; allowing products to be stored outside; allowing a pothole to remain in the drive area causing damage of cars etc. These ongoing complaints must be addressed on a daily basis by the owners as a responsible business owner in the Village. The Zoning staff will conduct inspections on a semi-annual basis to ensure compliance with these issues.
40. The use, operations, site, building and structures shall be designed, laid out, constructed and maintained in full compliance with the approved Site and Operational Plans, the Conditional Use Permit, Liquor and Tobacco Licenses and all other applicable provisions of the Village Municipal Code and all other applicable Village, County, State or federal regulations.
41. The use, operations, site, building and structures shall be conducted in such a way as to constitute a public or private nuisance or to violate any of the Performance Standards set out in Section 420-38 of the Village Zoning Ordinance.
42. The site, building and garbage dumpster structure shall be maintained in a clean, neat, presentable, aesthetically pleasing, odor-free, structurally sound and nonhazardous condition inside and outside of the store at all times. All litter and debris outside of the structures shall be promptly removed on a daily basis. The garbage dumpster enclosure doors shall not be left open on garbage day and shall be promptly closed and secured after the pick-up of garbage.
43. The handicapped parking spaces shall be appropriately signed, painted on the pavement and maintained pursuant to ADA requirements.
44. All exterior mechanical units, antennae and/or satellite dishes, whether roof-mounted or ground-mounted, shall be screened from the general public's view.
45. All required landscaping shall be installed per the plans and written verification and/or certification shall be provided to the Village by the landscape installer/designer that the landscaping has been installed in accordance with the Village approved landscape plan.
46. On site building alterations/modifications or changes in the operations or use of the site shall be in strict conformity to the Village approved plans and the Settlement Agreement approved in connection with the petition for this Conditional Use Permit. Violations of these conditions may result in the suspension or revocation of the conditional use permit and zoning violation prosecution, or both.
47. All uses shall conform to applicable Village Ordinance requirements, and to all other applicable local, County, State and Federal requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water discharges and storm water management, noise, streets and highways and

fire protection; and in the event of conflicting requirements or standards, the most restrictive as determined by the Village shall apply.

48. All required permits shall be obtained from the Village prior to commencing work.
49. Operation of the uses granted herein shall be in strict conformity to the approved and documents filed and approved in connection with the petition for Site and Operational Plan approval. Any violation of these conditions may result in the revocation of the approval or zoning violation prosecution, or both.
50. No changes to the exterior site, building or structures shall be made without the Village's approval. No painting of the exterior masonry of the BP station building or garbage dumpster enclosure shall be permitted, unless expressly permitted by the Village. Colors for building trim work shall be approved by the Village.
51. Any addition, alteration, extension, expansion or other proposed change in the approved operation shall be subject to the Village's Conditional Use procedures as if such use were being established anew.
52. The Conditional Use Permit shall become effective upon the execution and recording of said document and shall constitute an effective covenant running with the land.
53. The Conditional Use Permit is subject to amendment and termination in accordance with the provisions of the Village General Zoning and Floodplain/Shoreland Zoning Ordinance.
54. **This Conditional Use Permit is valid until May 1, 2013. In order for this facility to continue to operate after May 1, 2013, this conditional use permit shall be reconsidered by the Plan Commission at a public hearing and amended prior to May 1, 2013.**

Granted by the action of the Village of Pleasant Prairie Plan Commission the 19th day of November 2012.


Thomas W. Terwall
Plan Commission Chairman

ATTEST:


Donald Hackbarth
Secretary

[Owners signature on following page]

EXHIBIT E

Total Cost¹⁾

Cost Entity	Total	Comments
Village Engineering Department	\$12,356.25	Thru 9/26
Communtiy Development/Zoning	\$1,760.00	Thru 9/27
Environmental Consultant	\$14,783.15	Thru 9/15
Attorney Fees	\$10,200.00	Thru 9/21
	Total: \$39,099.40	

¹⁾Activities go back to April 26, 2011. Work includes site visits, reviews, correspondance, discussions with regulatory officials, meetings. Additional fees beyond these dates will be invoiced and shall be paid pursuant to the PreDevelopment Agreement on file with the Village.

Exhibit F - Milestone Dates Liquidated Damages
BP Amoco Gas Station
Parcel Number 92-4-122-302-0130

Milestone	Scheduled Date	Actual Date	Liquidated Damages \$ per day ⁵⁾
Daily inspection log (to be delivered to the Village weekly)	11/09/12		
Conduct interim Remedial Activities ¹⁾	10/01/12	9/17/12	
Pump tank field	10/01/12	9/20/12	
Contain any contaminated materials at the Property ²⁾	10/10/12		
Submit erosion control permit and construction plan to Village	11/20/12		
Replace northerly outfall manhole	12/07/12		
Maintain liquid level in each of the sumps for the diesel and gasoline tanks at the level agreed to in the Agreement ³⁾	11/26/12		\$200
Prepare and submit to the Village a written plan for sampling, and analytical testing of the storm water discharge reasonably acceptable to the Village	11/16/12		\$200
Prepare and submit to the Village a Site-investigation work plan reasonably acceptable to the Village ³⁾	11/16/12		\$200
Prepare and submit to the Village a preliminary Site-remediation plan reasonably acceptable to the Village ⁴⁾	11/16/12		\$200
Install a system of blocking/recovery wells near the storm water outfall and near the sanitary lateral	12/19/12		\$200
Consent to the amendment of the C.U. Permit and the PUD Ordinance and Settlement Agreement ⁵⁾	11/19/12		
Commence installation of soil borings and monitoring wells	12/07/12		\$200
Obtain all permit approvals from Village, State, DNR	11/20/12		
Construct a heated and insulated structure that will prevent equipment from freezing	1/18/13		
Install a long term carbon groundwater treatment system to treat and control groundwater level in the tank field	1/18/13		\$300
Substantial completion and operation of all Remedial Activities defined and agreed to in the Site-Remediation Plan	4/01/13		\$676
Final completion of work including site restoration.	5/01/13		\$100

Notes:

- 1) Install two-21,000 gallon frac holding tanks;
- 2) To include but not limited to: Maintain and replace as necessary surface water skimmer booms and/or additional materials to capture sheen in road ditch area;
- 3) This level must be maintained from November 26, 2012 until the permanent system is installed and operating;
- 4) Includes without limitation testing and remediation for all "downstream" properties affected by any petroleum discharges from the Property;

- 5) Liquidated damages will occur concurrently for multiple items until they are complete.
- 6) PUD Ordinance and Settlement agreement to be considered by the Village Board on November 19, 2012

AMENDMENT TO SETTLEMENT AGREEMENT

THIS AMENDMENT is entered into this 1st day of ~~March~~ April, 2013, between the Village of Pleasant Prairie, Wisconsin (the "Village") and VIDHYA Corp VIII, Inc. ("Vidhya").

RECITALS

- A. The Village and Vidhya entered into a Settlement Agreement (the "Agreement") and the Village issued a Conditional Use Permit Including Site and operational Plans valid through May 1, 2013 (the "CUP") in connection with the operation of a gas station and convenience store at 10477 120th Avenue, Pleasant Prairie, Wisconsin (the "Property").
- B. The Agreement requires Vidhya to substantially complete certain Remedial Activities by April 1, 2013 and for final completion of all Remedial Activities by May 1, 2013.
- C. Vidhya has asked the Village to extend the deadlines for substantial completion and final completion due to problems with the sumps on the Property and to allow Vidhya time to replace the sumps as part of its Remedial Activities.
- D. The Village agrees to extend the date for substantial completion to April 22, 2013 and the date for final completion to May 20, 2013, but only on the terms and conditions provided in this Amendment.

AGREEMENT

1. CONDITIONS FOR EXTENSIONS.

Vidhya agrees to comply with, and the agreement of the Village to extend any deadlines in this Amendment are contingent upon, the following:

- a. By 5PM on Tuesday March 26, 2013 DJ Burns and Mike Spence shall receive the requested water elevation readings and copies of field notes which Richard from Northshore previously agreed to deliver to DJ Burns by Friday March 22, 2013.
- b. Information with detailed specifications for the new pumps shall be received by DJ Burns and Mike Spence by 5PM on Thursday March 28, 2013.
- c. A supplemental site investigation work plan to determine the eastern edge of any impacts within the ditch line to the North (to include, without limitation, the ditch line east of the culvert at the east end of the Culver's property and also to the east of the existing BP Amoco building, to include the horizontal and vertical extent of contamination) and to complete the definition of

the vertical and horizontal extent of the contamination on the Property, including without limitation, any caused by releases on or about March 13, 2013, shall be delivered to DJ Burns and Mike Spence by 5 PM on April 15, 2013.

- d. An additional round of groundwater sampling from the existing monitoring wells on the Property shall be completed, and all tests results from the testing of such groundwater samples shall be delivered to DJ Burns and Mike Spence, prior to any determination as to whether the site investigation is complete.
- e. Vidhya shall replace the existing sumps in the gas tank and diesel tank areas with new sumps whose depth shall be at least the greater of 13 feet or the depth of the backfill beneath the existing tanks.
- f. Vidhya shall provide DJ Burns and Mike Spence with at least 48 hours advance notice of the time the permanent system will be started.
- g. The requirement for three consecutive days of influent and effluent testing at system startup shall be completed before the substantial completion deadline.
- h. "Substantial completion" under the Agreement and this Amendment shall include, without limitation, all systems being working and operational, the building having its permanent roof, doors, walls, masonry, electrical, HVAC, and all other fixtures completed; with only minor "punch list" repairs and corrections to be completed. Cement patching of driveway and parking areas will not be required for substantial completion but are required for final completion.
- i. All required documentation and sampling results, if not required to be delivered sooner in this Amendment, shall be received by DJ Burns and Mike Spence by 5 PM on April 15, 2013.
- j. Vidhya acknowledges the Village has not unreasonably delayed the issuance of any permits and Vidhya acknowledges that the Village has not breached any term or provision of the Agreement and has not caused any delays to Vidhya's performance under the Agreement.
- k. Vidhya shall timely request (including without limitation the submission of all required applications and documentation and the payment of all fees), for the Village Plan Commission meeting on April 22, 2013, that the CUP be extended through May 28, 2013.
- l. Vidhya shall timely request (including without limitation the submission of all required applications and documentation and the payment of all fees), for the Village Plan Commission meeting on May 28, 2013, that the CUP be permanently extended.
- m. Vidhya shall maintain a minimum 8 foot depth from ground surface to water/liquid/groundwater in the extraction sumps (to include the gasoline UST and diesel UST sumps/extraction wells which are to be installed and the previously installed northeast extraction sump) at all times while the treatment system described in the Agreement is operational.
- n. Except as specifically provided otherwise in this Amendment, Vidhya shall comply with each and every provision of the Agreement.
- o. Notices and information to be provided to DJ Burns and Mike Spence in this Amendment shall be deemed delivered upon the email or facsimile transmission of such notices or information to both DJ Burns and Mike Spence.

- p. By April 22, 2013 Vidhya shall have delivered to the Village the signed DSIS agreement and easement and the DSIS system for the Property shall have passed Village inspections and be fully operational.

2. EXTENSION OF DEADLINES.

Subject to the terms of Paragraph 1 above, the Village agrees that the deadlines for "substantial completion" and "final completion" in Paragraph 2. h. and Exhibit F of the Agreement are extended to 5 PM on April 22, 2013 for "substantial completion" and 5 PM on May 20, 2013 for "final completion".

IN WITNESSETH WHEREOF, the parties have entered into this Amendment on the date first written above.

VIDHYA Corp VIII, Inc.

By: Dixie P. Reitel

The Village of Pleasant Prairie

By: John A. Smith

- A. **TABLED PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-10** for the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc., the property owners, to allow BP Amoco to operate the gasoline station and convenience store located at 10477 120th Avenue after May 1, 2013.

Recommendation:

The Village staff recommends a one (1) year approval of the Conditional Use Permit to June 1, 2014 subject to the comments and conditions as outlined in the staff memorandum.

VILLAGE STAFF REPORT OF MAY 28, 2013

PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-10 for the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc., the property owners, to allow BP Amoco to operate the gasoline station and convenience store located at 10477 120th Avenue after May 1, 2013.

Findings of Fact (up to November 19, 2013): Previously read into and made part of the public record.

1. The petitioner is requesting the following approvals for the BP Amoco gasoline and convenience store located at 10477 120th Avenue, known as Lot 14 of CSM 1489 located in a part of U.S. Public Land Survey Section 30, Township 1 North, Range 22 East in the Village of Pleasant Prairie and further identified as Tax Parcel Number 92-4-122-302-0130:
 - a. **Conditional Use Permit including Site and Operational Plans** that would allow BP Amoco to operate the gasoline station and ~~AM/PM~~ convenience store and to address the installation of a carbon treatment system that will treat existing contaminated ground water from several reported hazard substance releases at the site located at 10477 120th Avenue.
2. VIDHYA Corp, VIII, Inc. ("Vidhya") is the current owner of a property located at 10477 120th Avenue, Pleasant Prairie Wisconsin (the "Property") with the following Tax Parcel number: 92-4-122-302-0130. The Property contains the BP Amoco gasoline station #3789 and convenience store (the "Station").
3. In June 1993, August 1993, December 22, 1998, September 1999, May 2006 and February 2001, separate hazardous substance releases (the "Prior Releases") at the Property were reported to the Wisconsin Department of Natural Resources (the "WDNR"), for which the WDNR identified BP as the responsible party ("RP"). The WDNR closed the site with GIS Registry on December 20, 2006 (**Exhibit A of Exhibit 1** contains information regarding historical releases).
4. On April 26, 2011, the Village of Pleasant Prairie reported to the WDNR what it claimed was a hazardous substance release at the Property. The WDNR subsequently identified Vidhya as the Responsible Party. In addition, on or about June 9, 2009 WE Energies and the owner of an adjacent property reported a strong gassy smell and a possible spill in a ditch line area along the south side of STH 165, adjacent to the Property (Collectively, the Prior Releases, June 2009, April 2011 and any subsequent releases at the Property are referred to as the "Releases".)
5. The Station operates at the Property under Conditional Use Permit #01-11, approved by the Village Plan Commission on June 25, 2001 (the "C.U. Permit").
6. On February 22, 2012, the Village issued a compliance order (the "Order") to Vidhya to: eliminate the alleged illicit discharge at the Property; cease and desist the alleged discharges, practices, or operations; and/or, to abate or remediate the alleged stormwater pollution or contamination hazards and restore any affected property.
7. Vidhya is of the opinion that because the site is situated in clay, the pipeline and utility trenches with granular backfill serves as a collection system for the multiple petroleum releases which occurred during BP's ownership. Some tests results have contained high concentrations of contaminants, including diesel range organics (DRO) and benzene which may indicate a more recent discharge of petroleum products on the Property which could be contributing to the alleged illicit discharge at the Property.

8. From April, 2011 to November 5, 2012 several Remedial Activities have been conducted by Vidhya, see **Exhibit A of Exhibit 1**.
9. The Village has alleged that Vidhya has not met the Order's required actions, and has issued several citations (the "Citations") to Vidhya and is also alleging that Vidhya is noncompliant with the terms of the C.U. Permit due to "illicit discharges or petroleum releases into the drainage ditch adjacent to the Property that have occurred and continue to occur from the Property, which also drain onto the adjacent property impacting the water quality and resulting in potentially both soil and water contamination." The Citations include potential fines totaling \$84,500.00 (the "Fines"). The Village has also threatened to suspend or revoke the C.U. Permit and use of the Property as a gas station until or unless "there is compliance with the standards, regulations and condition imposed with said permit." Even though the Village alleges that Vidhya has not met the Order's required actions, the Village stopped issuing Citations as of July 22, 2012. A public hearing was held before the Village Plan Commission on August 20, 2012 and at that time evidence and testimony were submitted and the hearing was closed. The Village Plan Commission made no findings and did not act on the Petition of the Village to revoke or suspend the C.U. Permit and has since adjourned the meeting to November 12, 2012.
10. Vidhya disputes that it is responsible for the Releases at the Property or for the environmental condition of the Property. Nonetheless, Vidhya has spent approximately \$300,000 to date to address the Releases and has agreed to take additional actions to further address the Releases.
11. Illicit discharges at the Property which violate Village Ordinances continue and Vidhya has agreed to perform remedial activities for stopping said illicit discharges from the Property and Vidhya further agrees to comply with all Village Ordinances.
12. In return for Vidhya's agreement to complete and fulfill performance of certain Remedial Activities at the Property to further address the Releases, and to bring the Property into compliance with Village Ordinances, the Village has agreed to the terms of the Settlement Agreement and to allow the C.U. Permit, amended as provided below, to continue in effect.
13. In accordance with the **Settlement Agreement** (see **Exhibit 1**), Vidhya and/or Vidhya's consultants or contractors on Vidhya's behalf, shall complete the following Remedial Activities, in accordance with applicable law:
 - a. By October 1, 2012, conduct interim Remedial Activities by installing a 21,000 gallon frac water holding tank (delivered September 17, 2012) for pump out and ground water level control of the UST tank field to eliminate from the north storm water ditch, discharges of petroleum impacted ground water (subject to reasonable permit issuance by the controlling governmental agencies). Pumping of the tank field started September 20, 2012;
 - b. Prepare and submit to the Village a written plan for sampling, and analytical testing of the storm water discharge, to include at a minimum PVOC, lead, naphalene and PAH analysis during the initial startup phase, see **Exhibit B of Exhibit 1**. Depending on the results of testing, additional parameters may be added or subtracted from the sampling regimen, reasonably acceptable to the Village, by November 6, 2012. In addition, the Village or its contractors shall be entitled to perform similar sampling and analytical testing, at Vidhya's expense, for purposes of confirmation of testing results and compliance monitoring;

- c. Beginning on November 9, 2012, prepare a daily inspection log (to be delivered to the Village Engineer weekly) and complete daily inspections of the Property, to include the storm water discharge culvert and the road ditch and weekly checks of the tank sumps;
- d. Work with the WDNR to prepare a Preliminary Site Investigation Plan based on the information and sampling results developed during implementation of the Remediation Plan which Site Investigation Plan will be completed and a copy delivered to the Village by November 16, 2012;
- e. Prepare and submit to the Village a Preliminary Remediation Plan, reasonably acceptable to the Village, by November 16, 2012; said Remediation Plan to include testing and remediation in compliance with all local, state and federal laws, rules, regulations and ordinances, including without limitation, those contained in Chapter 292 of the Wisconsin Statutes;
- f. Contain any contaminated materials at the Property, including but not limited to maintaining and replacing, as necessary, surface water skimmer booms and/or additional materials to capture any sheen in the road ditch area;
- g. By December 19, 2012, install a system of blocking/recovery wells near the storm water outfall and near the sanitary lateral (also submit and obtain Village Erosion Control Permit) and install a carbon treatment system on the Property by January 18, 2013 to treat and control groundwater level in the tank field and construct a heated and insulated small structure that will prevent equipment from freezing; provided that Vidhya agrees that the liquid level in the diesel tank sumps and gasoline tank sumps shall be maintained at a level of 8 feet or greater below the ground surface to the top of the water level in the sumps. All parties acknowledge prior to construction of any recovery system Vidhya shall provide plans and elevations to the Village for Village review, and to obtain any necessary temporary or permanent amendments or changes to the C.U. Permit and the PUD Ordinance affecting the Property **Exhibit C of Exhibit 1** shows the location for the carbon treatment system for ground water treatment;
- h. Consult with the WDNR and obtain WDNR comments on the planned Remedial Activities;
- i. Replace northerly outfall manhole by December 7, 2012 and to properly dispose of any contaminated soils that may have to be excavated during said storm sewer repairs or any future repairs;
- j. Re-sod and restore the Property disturbed by implementation of Remedial Activities;
- k. Consent to the amendment of the C.U. Permit and the PUD Ordinance affecting the Property, to provide that any violation of the terms of this Settlement Agreement will be a violation of the terms of the C.U. Permit, to authorize the construction of the carbon ground water treatment system and structure;
- l. Comply with the performance standards and reporting requirements of the WDNR WPDES Permit and with WDNR regulatory requirements for the investigation and remediation of any onsite and offsite discharges or releases incorporated herein by reference; and
- m. Substantial completion and implementation of all Remedial Activities shall take place on or before March 1, 2013, and final completion of all Remedial

Activities shall take place the earlier of April 1, 2013 or 120 days following the obtaining of all required approvals and permits from the Village, the State and the WDNR,(the "Compliance Date").

- n. Vidhya agrees to pay all reasonable costs and expenses incurred by the Village arising out of, or relating to, the alleged illicit discharges at the Property or the enforcement of this Agreement, including without limitation, reasonable attorneys' fees, environmental consultant fees, fees for the Village Engineer and other Village staff, testing, sampling, and all similar costs. The Village estimates that its costs to September 27, 2012 were shown on **Exhibit E of Exhibit 1** attached hereto and incorporated herein by reference. Vidhya agrees to pay the outstanding amounts owing to the Village on or before December 31, 2012 and to pay any other invoices from the Village for such expenses within fourteen (14) days following the date they have been notified by the Village in accordance with Paragraph 17 of the Settlement agreement of amounts owed.
- o. The Village agrees not to issue any new Citations regarding anything covered in this Agreement, subject to the ability of the Village to issue new Citations if Vidhya violates any terms or provisions of this Agreement or Village ordinances after the date of this Agreement, and allow the Conditional Use Permit, as amended, to continue in effect. Nothing contained in this Agreement shall affect the rights of the parties regarding any Citations and Fines issued prior to the date of this Agreement. All such existing Citations and Fines shall be the subject of the pending legal action in the Village Municipal Court.
- p. Vidhya shall apply for and obtain all local, state and federal permits that are required for Vidhya to undertake the Remedial Activities, including but not limited to a Wisconsin DOT Work-in-the-Right-Of-Way Permit and a Village erosion control permit (collectively, the "Remedial Activities Permit(s)"). All parties acknowledge that the C.U. Permit and PUD Ordinance affecting the Property will need to be amended to allow the construction of the carbon ground water treatment system and structure.
- q. The Village agrees to reasonably support and facilitate the review and approval of Vidhya's applications for the Remedial Activities Permits.
- r. Except as specifically set forth in the Settlement Agreement, Vidhya agrees to indemnify and to hold harmless the Village and all of its elected officials, officers, directors, employees, agents, shareholders, attorneys, subsidiaries, successors and assigns from any and all claims, causes of action, loss, costs, expense, damage, injury, obligation, liability, penalty, fine, suit, including, without limitation, attorney and consultant fees and expenses, of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to or arising out of the Remedial Activities and where founded upon or growing out of the acts or omissions of Vidhya.
- s. Except as specifically provided in the Settlement Agreement, there are no representations, covenants, warranties, promises, agreements, conditions, or undertakings, oral or written, between the Village and Vidhya, as to the subject matter hereof. Except as specifically provided in the Settlement Agreement, all Village Ordinances apply to Vidhya and the Property.

14. If Vidhya does not complete any of its obligations under the Settlement Agreement by the due date (the "Delayed Completion"), Vidhya agrees to pay liquidated damages to the Village in accordance with **Exhibit F of Exhibit 1** and incorporated herein by reference (the "Liquidated Damages"), provided however, that Vidhya will not pay Liquidated Damages if the Delayed Completion is substantially caused by any of the following: (a) the Village; (b) a delay in Vidhya's Remedial Activities which delay is beyond Vidhya's reasonable control; or, (c) a Force Majeure Event. For purposes of the Settlement Agreement, a "Force Majeure Event" means an event or occurrence including without limitation, drought, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, explosion, strike, lockout or other labor dispute which is beyond the reasonable control of, and not due to the fault or negligence of, the party affected, and which could not have been avoided by due diligence and use of reasonable efforts. If Vidhya violates any provisions of the Settlement Agreement, the Village may also exercise all rights and remedies allowed pursuant to the Settlement Agreement and applicable law, including without limitation, issuing additional Citations, seeking the suspension or revocation of the C.U. Permit, seeking injunctive relief and collecting its actual damages from Vidhya. The use of any remedy shall not preclude the use of any other remedies.
15. The property is zoned B-4, PUD Freeway Service Business District with a Planned Unit Development Overlay and a gasoline station requires a Conditional Use Permit in the B-4 District.
16. C.U. Permit #91-001 (**Exhibit 2**) approved by the Village on August 5, 1991 allowed for the construction and operation of a gasoline station/convenience store.
17. C. U. Permit #01-11 (**Exhibit 3**) approved by the Village on June 24, 2001 allowed the owner to re-develop the property and construct and operate a 4,200 square foot gasoline station/convenience store with 10 fuel dispensers. Diesel fuel is allowed to be sold at the new facility only to automobiles and light trucks. The gasoline station/convenience store was allowed to be open 24 hours and to provide the following customer services: a quick service restaurant and bakery, convenience store, self-service coffee bar and soda fountain and an e-commerce area for computerized assistance with weather and traffic information.
18. PUD Ord. #01-32 (**Exhibit 4**) approved by the Village on July 2, 2001 allowed for the new 4,200 square foot building to be constructed 13 feet from the rear property line; allowed the north parking lot/paved maneuvering areas adjacent to 104th Street to be setback minimum of 15 feet to the north property line, and allowed for the total Aggregate Permitted Background Commercial Sign area to be increased to 181 square feet. The flexibility provided in the PUD was allowed provided that the development comply with all other Federal, State and Village Ordinances; the development comply with the LakeView Corporate Park Declaration of Development Standards and Protective Covenants and Modifications; and the cross-access easement agreement between this property and the property to the east (Culver's Restaurant). See **Exhibit 5** for a copy of the Cross-Access Easement.
19. Conditional Use Permit #03-13 (C.U. Permit #03-13) approved by the Village on July 28, 2003 (**Exhibit 6**) allowed for a 203 square foot restroom addition to the facility.
20. On November 5, 2012 the Village Board conditionally approved a Class "A" fermented malt beverage license application to sell prepackaged malt beverages until November 20, 2012. The license provides that certain conditions must be satisfied, including but not limited to the Plan Commission approval of a Conditional Use Permit and Site and Operational Plans, no outstanding building, fire and zoning violations and a valid occupancy permit. The petitioner is currently operating under

a Class "A" fermented malt beverage license and a license for the sale of tobacco products.

21. In 2008, Vidhya began operating BP Amoco gasoline and convenience store under the existing C. U. Permit #01-11 and C.U. Permit #03-13 and PUD Ord. #01-32.
22. Pursuant to the terms of the Settlement Agreement, Vidhya has submitted a request to amend the C.U. Permit and the PUD Ordinance. Pursuant to the application the applicant has made the following statements (See **Exhibit 7**):
 - a. BP Amoco Gas Station and Convenience Store located at 10477 120th Avenue is a self-service gasoline and diesel station, selling petroleum products to consumers of passenger vehicles and light trucks. It does not service or sell petroleum products to over-the-road trucks, cabs or other specialized commercial or construction vehicles. In addition, BP operates a convenience store ~~under the brand name AM/PM~~ that provides various grocery store and automobile supplies and accessories, along with a quick service restaurant, bakery, self-service coffee bar and soda fountain, and an e-commerce area for computerized assistance with weather and traffic information. The quick service restaurant provides seating for approximately 12 people and quick food selections of bakery items, sandwiches, soups and salads. The facility also provides separate men's and women's washrooms, and various other related convenience service amenities, including but not limited to, vacuum cleaners and compressed air for automobile maintenance, automated teller machine, along with the sale of alcohol and tobacco products as authorized by its license.
 - b. Due to several reported hazardous substance releases at the BP gas station dating back to 1993, the owner's consultants are developing and installing a carbon treatment system that will treat contaminated ground water. This system needs to be installed in an enclosed and heated facility. As a result, the southeast corner of the building is being expanded in order to house the filters and pumps that are necessary to operate the carbon treatment system. This system is detailed in a Settlement Agreement being entered into between the property owner and the Village, and the property owner will obtain all applicable permits before installing said system.
 - c. The expansion of the building will measure approximately 450 square feet (30 feet by 15 feet) and will simply "square" the building foot print. The same exterior building materials (brick and trim) will be used in order to match the expansion to the existing building.
 - d. The carbon treatment system will not create any disturbance to the surrounding property owners as it will be housed in an enclosed and insulated expansion of the building. It is anticipated that the system will operate off and on for several years, dependent on the rise of ground water due to changes in the weather.
 - e. This system will not require any additional staff to manage and operate, as it will be automated and will only occasionally require the replacement of carbon filters that will be disposed of using sealed drums provided and retrieved by qualified environmental disposal companies.
 - f. Moreover, the system will not alter existing operations of the gasoline station and convenience store, as those operations will continue as normal.

- g. BP is currently open for business between the hours of 6:00 a.m. through 11:00 p.m., seven (7) days a week, but maintains expanded hours (up to 24 hours a day) during Thanksgiving-Black Friday. During this expanded time, additional staff is maintained in order to service the increase in customers.

Pursuant to the Village Zoning Ordinance, businesses in the B-4 District are allowed be open (when the public is allowed to enter or remain on site for business purposes), except for hotels, uses requiring a Village liquor license, restaurants or gasoline stations whose hours are established by a conditional use permit: 5:00 a.m. to 12:00 midnight maximum; for hotels: no limit; for uses requiring a Village liquor license: as provided in § 125.68(4), Wis. Stats.; and for gasoline stations and restaurants: up to 24 hours pursuant to a conditional use permit.

Village staff recommends that the BP station hours of operation (when the public is allowed to enter or remain on site for business purposes) be limited from 5:00 a.m. to 12:00 a.m. daily. A Temporary Use Permit may be issued for 24-hour operations during any holiday period subject to approval of the Village Police Chief. In addition, a 24-hour holiday operation may require the owners to enter into an agreement and pay for the overtime services of the Police Department, as determined by the Police Chief. Pursuant to the zoning ordinance and liquor license requirements, the store is allowed to be open until midnight; however, Class A Beer is only allowed to be sold from 8:00 am to midnight and Class A Intoxicated Liquor is only allowed to be sold from 8:00 am to 9:00 p.m.

- h. Currently, deliveries and shipments occur during the time that BP is open to the public.

Staff recommends that the BP station delivery hours or any other activities outside the principal building that might cause a disturbance to neighboring areas (e.g., outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup), except for snow removal, is allowed only from 6:00 a.m. to 10:00 p.m.

- i. Currently, there are seven (7) full time and three (3) part time employees, but additional seasonal help is retained during those peak holiday seasons. Currently, there are only two shifts of employees, but a third shift has been added when the hours are expanded during the Midnight Madness hours Thanksgiving evening/Black Friday. There are currently 23 parking spaces on the site, but with the expansion of the building, two (2) parking spaces are being removed, leaving a total of 21 parking spaces (one handicapped access parking space, and 20 conventional parking spaces). The number of parking spaces excludes the cars that can be parked at the pumps.

Pursuant to the Village Zoning Ordinance the minimum parking requirements for a gasoline station with a convenience store is five (5) spaces per each 2,000 square feet of gross floor area plus 1 space for each employee on the largest shift plus the required handicapped accessible parking spaces pursuant to the state code. Therefore, a minimum of 13 spaces plus their required handicapped accessible parking spaces is required (5 spaces plus 3 spaces plus 5 spaces (assuming no more than five workers on site).

- j. It is anticipated that traffic volumes of 500 to 1,000 daily trips will continue, and no truck trips other than deliveries of goods to the BP. The main products being sold at the BP include, but are not limited to: gasoline and

diesel fuels, related automobile supplies and parts, along with food and beverages, all of which are currently being sold at the BP, which will continue after the expansion. Aside from the installation of the carbon treatment system, all of the existing equipment will continue to be utilized in the operation of the BP (petroleum delivery systems, coolers, ovens, and related food preparation equipment).

- k. Aside from the disposal of the carbon filters, the BP only has normal household cleaners used in the maintenance of the business in order to clean the food preparation and service areas, floors and bathrooms. The only waste that is disposed of at the BP is spoiled food and drink products, grey water waste and sanitary waste from the bathrooms.
23. The owners have installed and maintained a fully functioning and operational security camera system. However, the facility and site shall be equipped with fully functioning and operational security cameras both inside and outside the facility at each entrance and exit and a Digital Security Imaging System (DSIS) will be required to be installed in accordance with the requirements of Chapter 410 of the Village Municipal Code. The required DSIS Agreement will be drafted by the Village for review and approval of the Village Board. The location and number of security cameras shall be provided and approved by the Village Police Chief. At a minimum the DSIS Agreement will require the following:
- a. The security cameras shall be inaccessible to employees. Conspicuous signs shall be posted at the entrance stating that security cameras with an inaccessible recording device is in place on the premises. Said system shall be maintained in working order at all times and the Village of Pleasant Prairie Police Department shall be promptly provided any requested video. The recording shall be kept in an archive for a minimum of two weeks and the Pleasant Prairie Police Department shall have remote access to the system to monitor and download video.
 - b. The parking lot shall be illuminated to provide sufficient lighting for the public's safety and for the security cameras to operate effectively per the Village's satisfaction.
 - c. A clear and unobstructed view of the cash registers and transaction areas shall be maintained from the internal 30-foot wide on-site circulation access roadway.
 - d. The building shall be equipped with and shall use an inaccessible drop safe.
 - e. Between 10:00-12:00 p.m. and 5:00-7:00 a.m. at least two (2) employees shall be working on-site unless the business has taken measures to protect a lone clerk such as the installation of bullet resistant glass or other equipment as approved by the Police Department, making the lone employee inaccessible.
 - f. Installation and full operation of a hold-up alarm, which is monitored by a UL listed central station with functioning telephone service, shall be used at the BP station building.
 - g. The cash register shall not be left unattended for periods of time when the convenience store is open to the public.
 - h. A height strip shall be located at each doorway entering and exiting the convenience store.

- b. The owners retain landscapers to regularly maintain, replace and upgrade the landscaping that surrounds the property, including the removal of all snow and ice from the parking lots, driveways and sidewalks. In addition, employees walk the property on a regular basis to pick up debris, empty garbage cans, restock self-service washer fluids and paper towels, and to monitor the entire property in order to maintain it in a first class condition.
 - c. The owner maintains all permits and licenses required to operate its business. Those permits and licenses allow for the sale of petroleum, alcohol, tobacco, food, and related items sold in its business, issued from the various government agencies.
- 24. The Village has received numerous complaints relating to the operations of the station site including litter and garbage on the site; broken light standards and signs; inoperable pumps; pumps that don't issue receipts; dead landscaping; violation of security protocol; interior building damage to walls, floors , painting, counters; garbage overflowing; illegal outside storage of product; allowing products to be stored outside; allowing a pothole to remain in the drive area causing damage of cars etc. These complaints were not address unless written up as violation at the yearly inspection,
 - 25. In an email dated October 25, 2012, the Village requested additional information be submitted by November 6, 2012. (**Exhibit 8**).
 - 26. On November 6, 2012 additional information was submitted (**Exhibit 9**) and reviewed by the Village. Upon review of the additional information. Additional information was still required to be submitted as requested in the email dated November 9, 2012 (**Exhibit 10**).
 - 27. On November 12, 2012, the Village staff met with the petitioner and other representatives to discuss the outstanding items. Revised Plans will be submitted related to the changes of the building and written responses will be provided to the Village related to the additional information requested by the Village as noted in **Exhibit 10**.
 - 28. Notices were sent to adjacent property owners via regular mail on September 28, 2012 and notices were published in the Kenosha News on October 1 and 8, 2012 related to the October 15, 2012 Plan Commission meeting.
 - 29. At the October 15, 2012 Plan Commission meeting the Plan Commission tabled the requests until the November 12, 2012 Plan Commission meeting.
 - 30. The petitioner was e-mailed a copy of the draft memo on November 9, 2012 and a copy of this revised memo was provided to the petitioner on November 12, 2012.

Finding of Facts (November 19, 2012 to present)

- 31. A Settlement Agreement was executed between the Owners of the BP Gas Station and the Village on November 19, 2013. The Agreement stipulated conditions and milestones that the Owner must be in compliance with in order to allow for continued operation and the remediation of the illicit discharge from their facility. There has been substantial progress and completion on the remediation (see Village Engineer's Memo in the Findings of Fact). The substantial completion date was extended from April 1, 2013 to April 22, 2013 and then to May 20, 2013. The second extension was as a result of a request by the Owners' legal counsel to allow the diesel and gasoline sumps to be replaced. During the installation of the well piping and electrical for the

pumps it was discovered that the condition of the existing sumps was extremely deteriorated and that replacement was the best option and additional time would be needed for this. This was granted.

32. One provision in the Settlement Agreement was to keep the groundwater levels 8 feet or more below the ground surface. The Village Engineer provided a table which shows that these levels were exceeded 5 times for the diesel sump and 12 times for the gasoline sump.
33. Communication between the Owners Environmental Consultant and the Village and the Village's consultant (Drake) was sporadic and not always timely, but is now the parties are now communicating. Village staff had not received timely sampling results and a required update to the site investigation plan as specified in the Settlement Agreement Amendment. The Owners' consultant (Midwest) changed project managers with no notice. The Engineer was told that Midwest, Northern Environmental, and Misurelli Construction were unaware that there was an Amendment to the Agreement. The third groundwater extraction well has not been constructed as of today (Friday, April 19, 2013). It may be installed tomorrow—Saturday--only because the Engineer called the Owners' counsel and reminded him that this was to have been completed as per the Amendment as well as three days of testing. These issues have all been resolved.
34. Work that has been completed has been acceptable. However, this spring submittal of required information had been inconsistent and in many instances has had to be prompted by Village staff and our consultant. The reports are now being filed with the Village. See copies of Settlement Agreement Amendment, Exhibit of Milestone Dates and Gas Well levels.
35. Since the November meeting, the DSIS Agreement and Easement have been executed and the new camera system has been installed and is operational. All other exterior site work is completed.
36. See the attached Memorandum from the Village Engineer **dated May 23, 2013** which provides a spring, 2013 update to the Settlement Agreement work efforts. **(Exhibit 11).**
37. According to the Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials that the project as planned, will not violate the intent and purpose of all Village Ordinances and meets the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

RECOMMENDATIONS:

Conditional Use Permit: If the project meets the following standards for granting a Conditional Use Permit including Site and Operational Plan approval in that the project:

- The project does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems and the traffic patterns on the site do not

hinder, harm or distract the provisions of public services.

- The project does not impair an adequate supply of light and air to the adjacent properties.
- The project does not increase danger of fire --in so far as the danger of fire does not exceed the capabilities of the Village Fire & Rescue Department.
- The project does not create storm water flooding or drainage, create obnoxious odors, problems or otherwise endanger the public health, safety or welfare.
- There are no existing identified hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency that would endanger the public's health, safety or welfare related to the proposed use.
- The proposed and applied for use on this particular parcel is not inherently inconsistent with the B-4, Freeway Service Business District in which it is located or the adjoining zoning districts and land uses.

Village staff recommends that if the Plan Commission determines that the petitioner has met the specific standards for granting of a Conditional Use Permit approval as specified above; then approval of the Conditional Use Permit shall be approved subject to the following conditions:

1. C. U. Permits #91-001, 01-11 and 03-13 shall be released prior to recording the new Conditional Use Permit. The applicant shall submit the required \$55.00 application fee for the release documents to the prepared and \$100.00 for the documents to be recorded. Once the document is prepared the document shall be executed and recorded at the Kenosha County Register of Deeds Office prior to recording the new Conditional Use Grant Document. **EXECUTED AND COMPLETED.**
2. Compliance with the **attached** PUD Ordinance #12-39 being considered by the Village Board on October 15, 2012. **SETTLEMENT AGREEMENT AMENDED-SOME CONDITIONS ARE ONGOING DUE TO THE DYNAMIC NATURE OF THE MONITORING OF THE CLEANUP EFFORTS.**
3. Compliance with the Amended Settlement Agreement between BP and the Village. **AGREED.**
4. No through penetration between the new carbon room addition and the existing building shall be allowed to ensure no transfer of potentially toxic chemicals such as but not limited to carbon monoxide.
5. Compliance with the **attached** memorandum dated November 8, 2012 from the Village Fire & Rescue Department.
6. The following changes have been made to the Preliminary Site Investigation Work Plan dated November 5, 2012:
 - a. The sampling shall include lead as this has been present in the past; **DONE.**
 - b. Figure 2: Details on the clay collar or temporary extraction point or Sections A-A or B-B; **DONE**
 - c. Figure 3: The proposed soil probes shall be centered on the ditch; **DONE**
 - d. Figure 4: Six (6) proposed groundwater monitoring wells shall be installed as shown on the **attached** in the locations previously proposed by the Village's Environmental Consultant including an additional well appropriately located in the vicinity of the underground storage tanks and one well on the east side of the property. **INSTALLED.**

7. The Remedial Action Plan and Remedial Design Report shall be compliant with NR 700 and shall be submitted to the Village. **SUBMITTED.**
8. Compliance with the WI DNR WPDES Permit issued on November 2, 2012. A copy of said permit shall be provided to the Village. (Submitted to Village on November 12, 2012). **COMPLIED.**
9. A Work in the Right-of-Way Permit is required to be obtained from the Wisconsin Department of Transportation prior to any work commencing with the right-of-way of STH 165. A copy of the permit shall be provided to the Village. **DONE.**
10. The facility and site shall be equipped with fully functioning and operational security cameras both inside and outside the facility at each entrance and exit and a Digital Security Imaging System (DSIS) will be required to be installed in accordance with the requirements of Chapter 410 of the Village Municipal Code. The required DSIS Agreement will be drafted by the Village for review and approval of the Village Board. The location and number of security cameras shall be provided and approved by the Village Police Chief. At a minimum the DSIS Agreement will require the following: **DSIS AGREEMENT AND EASEMENT EXECUTED, DSIS CAMERA SYSTEM INSTALLED AND OPERATIONAL—VILLAGE CAN ACCESS SYSTEM. VOPP POLICE DEPARTMENT WILL VERIFY THE FOLLOWING:**
 - a. The security cameras shall be inaccessible to employees. Conspicuous signs shall be posted at the entrance stating that security cameras with an inaccessible recording device is in place on the premises. Said system shall be maintained in working order at all times and the Village of Pleasant Prairie Police Department shall be promptly provided any requested video. The recording shall be kept in an archive for a minimum of two weeks and the Pleasant Prairie Police Department shall have remote access to the system to monitor and download video. **INSTALLED.**
 - b. The parking lot shall be illuminated to provide sufficient lighting for the public's safety and for the security cameras to operate effectively per the Village's satisfaction. **COMPLETED.**
 - c. A clear and unobstructed view of the cash registers and transaction areas shall be maintained from the internal 30-foot wide on-site circulation access roadway. **COMPLETED.**
 - d. The building shall be equipped with and shall use an inaccessible drop safe. **NEED TO CONFIRM WITH PPPD.**
 - e. Between 10:00-12:00 p.m. and 5:00-7:00 a.m. at least two (2) employees shall be working on-site unless the business has taken measures to protect a lone clerk such as the installation of bullet resistant glass or other equipment as approved by the Police Department, making the lone employee inaccessible. **NEED TO CONFIRM WITH PPPD.**
 - f. Installation and full operation of a hold-up alarm, which is monitored by a UL listed central station with functioning telephone service, shall be used at the BP station building. **NEED TO CONFIRM WITH PPPD.**
 - g. The cash register shall not be left unattended for periods of time when the convenience store is open to the public. **AGREED.**
 - h. A height strip shall be located at each doorway entering and exiting the convenience store. **INSTALLED.**

11. The Site and Operational Plans shall include a Lighting Plan. The following shall be shown on the plans: **ALL ITEMS BELOW ADDRESSED.**
 - a. The location of the proposed lights shall be shown on the Site Plan.
 - b. The lighting details and specifications shall be shown on the plans for parking lot and exterior building lightings.
 - c. The parking lot lights shall be silver to match the building.
 - d. Note on the plans that the lights shall be directed downward and not produce a glare or distraction to the adjacent roadways and properties.
 - e. All exterior lighting shall be of the same color and brightness.
 - f. The concrete bases shall not exceed 12 to 18 inches above grade and shall be located within landscaped areas.
 - g. All lighting details shall be in good working order, properly maintained, repaired as needed, painted and well-kept.
 - h. The parking lot shall be illuminated to provide sufficient lighting for the public's safety and for the security cameras to operate effectively per the Village's satisfaction.
12. The plans do not provide information regarding the roof drainage. Downspouts shall be tied into the on-site storm sewer system and not be discharged onto existing pavement. Revise the Plans. **PLANS REVISED.**
13. Landscaping on the site shall be installed, watered, weeded, trimmed and maintained in good condition at all times. Litter and debris shall be removed from the landscaping on a daily basis. Damaged, dying or dead plant material shall be removed and new plantings shall be installed on a regular basis. Mulch shall be raked in place on a regular basis and replaced yearly. On the Landscape Plan identify specifically what new landscaping is proposed to be planted and when. **SPRING CLEAN-UP COMPLETED.**
14. Subject to compliance with the following conditions from the Village Building Inspection Department: **COMPLETED.**
 - a. All building, plumbing, lighting and HVAC plans will need to be designed to the IBC Codes, prior to submitting (4 sets) for building permits from the Village of Pleasant Prairie. Since the total cubic footage of the accessory structure is less than 100,000 cubic ft. this can be a Municipal review. All sub-contractors will be required to apply for permits.
 - b. Halls, corridors, stairways, passageways, work aisles and other means of egress from factories, offices and mercantile buildings shall have emergency lighting and exit lighting per Article 700 of the NEC, SPS 316.46 Which requires interior and exterior lighting. The existing plans only show interior lighting. The Village Fire & Rescue Department shall be contacted for further information and requirements. Contact Fire & Rescue Chief Doug McElmury at 262-694-8027.
 - c. The architect(s)/ professional engineer(s) shall submit, to the Village and State, the compliance statement, Form SBD 9720, **prior to the final inspection with the Village Building Inspection and Fire & Rescue Departments.**

- d. **The electrical contractor will be required to be licensed by the Village of Pleasant Prairie. The electrical contractor shall obtain a permit from the Village prior to beginning work. All contractors must be licensed or registered with the State of Wisconsin.**
 - e. All fire alarm installations require plan review and permit from the Village of Pleasant Prairie Fire & Rescue Department.
15. At the November 12, 2012 meeting with the petitioner, it was discussed that the original plans submitted for review are being revised. Three (3) sets of revised plans and other additional information required pursuant to this staff memo shall be submitted to the Village for final review and approval. **PLANS SUBMITTED.**
 16. The 450 square foot addition shall not be used for the storage of any materials including but not limited to, cleaning supplies, extra toilet paper or other supplies, merchandize or other products. **FINAL INSPECTED.**
 17. All hard surfaced areas including the parking lot areas, drive lanes, paved areas adjacent to the pumps, sidewalks, etc. shall be clean, neat and free from pot holes or other cracks which present a safety risk to the pedestrians or traveling public. The hard surface areas of the site shall be maintained and free of any debris or potholes which may cause distractions or damages to vehicles. All pavement markings shall be done in yellow or white reflective paint. **COMPLETED. ON GOING OPERATIONAL TASK.**
 18. The gas station and convenience store shall operate in an organized, well-kept, clean, neat and professional manner. The inside of the store shall be maintained, painted, and clean for the public. Damaged or dirty walls, floors, coolers, bathrooms, racking, displays lighting, etc. shall be taken care of or repaired promptly. Mal-functioning gas pumps shall be repaired as soon as possible. **COMPLETED. ON GOING OPERATIONAL TASK.**
 19. A Kenosha County Health Department permit and regular inspections will be conducted on the premises. Violations may result in the suspension or revocation of the Health Permit and the Conditional Use Permit.
 20. Hours of operation (when the public is allowed to enter or remain on site for business purposes) be limited from 5:00 a.m. to 12:00 a.m. daily. A Temporary Use Permit may be issued for 24-hour operations during any holiday period. A Temporary Use Permit may be issued for 24-hour operations during any holiday period subject to approval of the Village Police Chief. In addition, a 24-hour holiday operation may require the owners to enter into an agreement and pay for the overtime services of the Police Department, as determined by the Police Chief. Pursuant to the zoning ordinance and liquor license requirements, the store is allowed to be open until midnight; however, Class A Beer is only allowed to be sold from 8:00 am to midnight and Class A Intoxicating Liquor is only allowed to be sold from 8:00 am to 9:00 p.m. **AGREED.**
 21. Delivery hours or any other activities outside the principal building that might cause a disturbance to neighboring areas (e.g., outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup), except for snow removal, is allowed only from 6:00 a.m. to 10:00 p.m. **AGREED.**
 22. All signs shall comply with Article X of Chapter 420 of the Village Municipal Code and with the BP Amoco PUD Ordinance on file with the Village. All signs shall be in good working order, properly maintained, repaired as needed, painted and well-kept.

WALL SIGNS HAVE BEEN REMOVED AND A FEW DAMAGED BRICK WALL AREAS REMAIN ON THE BUILDING – STAFF WILL DISCUSS REPLACEMENT SIGNAGE WITH OWNER.

23. The following types of signs are prohibited and shall not be installed. For a complete listing of prohibited signs refer to the Article X of Chapter 420 of the Village Municipal Code.:
 - a. Any sign with flashing or pulsating lights.
 - b. Any inflatable sign, including but not limited to tethered balloon signs or other gas-filled figures.
 - c. Any temporary, spring-action metal advertising sign used, for example, to advertise cigarette or gasoline prices.
 - d. Any spotlights used as visual attention-getters.
 - e. Strings of lights, tinsel, pennants, pinwheels or other similar devices hanging between two points or attached to light poles, cars, landscaping or structures on the property. **AGREED BY OWNERS.**
24. The use, operations, site, building and structures shall be designed, laid out, constructed and maintained in full compliance with the approved Site and Operational Plans, the Conditional Use Permit, Liquor and Tobacco Licenses and all other applicable provisions of the Village Municipal Code and all other applicable Village, County, State or federal regulations. **AGREED BY OWNERS.**
25. The use, operations, site, building and structures shall be conducted in such a way as to constitute a public or private nuisance or to violate any of the Performance Standards set out in Section 420-38 of the Village Zoning Ordinance. **AGREED BY OWNERS.**
26. The site, building and garbage dumpster structure shall be maintained in a clean, neat, presentable, aesthetically pleasing, odor-free, structurally sound and nonhazardous condition inside and outside of the store at all times. All litter and debris outside of the structures shall be promptly removed on a daily basis. The garbage dumpster enclosure doors shall not be left open on garbage day and shall be promptly closed after the pick-up of garbage. **CLEANED UP SITE – ON GOING OPERATIONAL TASK.**
27. The handicapped parking space shall be appropriately signed, painted on the pavement and maintained pursuant to ADA requirements. **COMPLETED.**
28. All exterior mechanical units, antennae and/or satellite dishes, whether roof-mounted or ground-mounted, shall be screened from the general public's view. **COMPLETED.**
29. All required landscaping shall be installed per the plans and written verification and/or certification shall be provided to the Village by the landscape installer/designer that the landscaping has been installed in accordance with the Village approved landscape plan. **COMPLETED.**
30. On site building alterations/modifications or changes in the operations or use of the site shall be in strict conformity to the Village approved plans and the Settlement Agreement approved in connection with the petition for this Conditional Use Permit. Violations of these conditions may result in the suspension or revocation of the conditional use permit and zoning violation prosecution, or both. **COMPLETED.**

31. All uses shall conform to applicable Village Ordinance requirements, and to all other applicable local, County, State and Federal requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water discharges and storm water management, noise, streets and highways and fire protection; and in the event of conflicting requirements or standards, the most restrictive as determined by the Village shall apply. **AGREED BY OWNER.**
32. All required permits shall be obtained from the Village prior to commencing work. All applications for permits shall provide sufficient details to understand the scope of work being performed. **AGREED BY OWNER.**
33. Operation of the use granted herein shall be in strict conformity to both plans and documents filed and approved in connection with the petition for Site and Operational Plan approval. Any violation of these conditions may result in the revocation of the approval or zoning violation prosecution, or both. **AGREED BY OWNER.**
34. No changes to the exterior site, building or structures shall be made without the Village's approval. No painting of the exterior of the BP station building or garbage dumpster enclosure shall be permitted, unless expressly permitted by the Village. Colors for building trim work shall be approved by the Village. **AGREED BY OWNER.**
35. Any addition, alteration, extension, expansion or other proposed change in the approved operation shall be subject to the Village's Conditional Use procedures as if such use were being established anew. **AGREED BY OWNER.**
36. The Conditional Use Grant shall become effective upon the execution and recording of said document and shall constitute an effective covenant running with the land.
37. The Conditional Use Grant is subject to amendment and termination in accordance with the provisions of the Village General Zoning and Floodplain/Shoreland Zoning Ordinance.
38. **Upon approval, the Village will prepare the required Conditional Use Grant Document to be executed by the property owner prior to issuance of the required permits. After the document is executed, it shall be recorded at the Kenosha County Register of Deeds office at the owner's expense. EXECUTED AND COMPLETED.**
39. **The petitioner shall provide the Village with the name(s) and title(s) of the authorized person(s) for VIDHYA Corp, VIII, INC to sign the document so that the required Conditional Use Grant Document can be prepared. PROVIDED.**
40. If building permits are not issued within said 180 days the Site and Operational Plan approval said approval shall be void. **COMPLETED.**

Jean Werbie-Harris

Subject: FW: Proposed Lead Monitoring for BP- Pleasant Prairie

EXHIBIT 3

From: Mike Spence
Sent: Thursday, January 09, 2014 9:43 AM
To: Jean Werbie-Harris
Cc: Peggy Herrick
Subject: FW: Proposed Lead Monitoring for BP- Pleasant Prairie

Michael R. Spence, P.E., LEED[®] AP

*Village Engineer
Village of Pleasant Prairie
9915 39th Ave.
Pleasant Prairie, WI 53158*

*Phone: 262-948-8931 (direct)
Fax: 262-925-6786*

Email: mspence@plprairiewi.com

Go Green! Please think about our environment before printing this email.

From: Donald P. Gallo [<mailto:dgallo@reinhardtlaw.com>]
Sent: Wednesday, January 08, 2014 3:03 PM
To: 'Ratarasarn, Theera T - DNR'; Mike Spence; djburns@drakecg.com
Cc: Luba, Michael A - DNR; Roszak, Deborah - DNR; Laube-Anderson, Shanna L - DNR; Wood, Peter C - DNR; 'J. Michael McTernan'; Priti Patel (ddwc1@sbcglobal.net); Ken Ebbott; Matt Dahlem (mattdahlem@alphaterra.net); richard@nsecinc.com
Subject: RE: Proposed Lead Monitoring for BP- Pleasant Prairie

Theera;

On behalf of VIDHYA, we accept and agree to these two (2) new lead monitoring limits for Total Recoverable Lead on a going forward basis per your email below. We anticipate that you will issue a revised WPDES permit with an effective date sometime in the near future. Thank you, and Best Wishes,

Donald P. Gallo

Reinhart Boerner Van Deuren s.c.
N16 W23250 Stone Ridge Drive, Suite One | Waukesha, WI 53188
Office: 262-951-4555 | Cell: 414-507-6350 | Fax: 262-951-4690
dgallo@reinhardtlaw.com | [bio](#) | [vCard](#) | reinhardtlaw.com
Legal Secretary: Theresa Skrove | 262-951-4567 | tskrove@reinhardtlaw.com

Reinhart
Attorneys at Law

From: Ratarasarn, Theera T - DNR [<mailto:Theera.Ratarasarn@wisconsin.gov>]
Sent: Wednesday, January 08, 2014 2:06 PM
To: Mike Spence (mspence@plprairiewi.com); Donald P. Gallo
Cc: Luba, Michael A - DNR; Roszak, Deborah - DNR; Laube-Anderson, Shanna L - DNR; Wood, Peter C - DNR; Ratarasarn, Theera T - DNR
Subject: Proposed Lead Monitoring for BP- Pleasant Prairie

January 8, 2014

Michael Spence, P.E., LEED[®] AP – Village Engineer, Village of Pleasant Prairie
Attorney Donald P. Gallo - Reinhart Boerner Van Deuren s.c.

Due to recent concerns (and detection) of lead in discharge samples that were taken from the BP Gas Station located at 10477 120th Avenue in the Village of Pleasant Prairie, I propose to amend the General Permit Cover Letter issued November 2, 2012 to include lead monitoring. In the General Permit there are two (2) limits for Total Recoverable Lead: A daily Maximum of **50 ug/L**, and a Weekly Average Limit. As per section 3.8 of the permit, compliance with lead limits listed in this permit may be demonstrated by testing for total recoverable lead or total lead.

As per our Limit Calculator, the weekly average limit shall be calculated as 1/3 of the weekly average (chronic) lead concentration as a function of the receiving water hardness as specified in s. NR 105.06(table 6) Wis. Adm. Code. The receiving water hardness is determined to be 200 ppm. Therefore, the limit is calculated at $54.71/3 = 18.24 \text{ ug/L}$. Although there is also a mass limit for lead in the permit, I believe that these concentration limits are already protective of the receiving water.

I would like to apologize to Attorney Gallo for not being more specific with the numbers during my conversation with him on December 5, 2013.

I initially did not want to proceed with this proposal during a legal dispute. If acceptable by both parties, please let me know and I will amend the Cover Letter. Again, I appreciate both parties for working with the Department to resolve this issue. Please contact me at any time if you have additional comments or questions.

Sincerely,

Theera Ratarasarn P.E.

Wastewater Engineer - Southern District
Wisconsin Department of Natural Resources
2300 n. Dr. Martin Luther King Jr. Dr.
Milwaukee, WI 53212

(☎) phone: (414) 263-8650

(☎) fax: (414) 263-8716

(✉) e-mail: Theera.Ratarasarn@wisconsin.gov

Website: dnr.wi.gov

Find us on Facebook: www.facebook.com/WIDNR

Quality Customer Service is Important to Us. Tell Us How We Are Doing.

Water Division Customer Service Survey

<https://www.surveymonkey.com/s/WIDNRWater>

From: Mike Spence [<mailto:mspence@plprairiewi.com>]
Sent: Monday, January 06, 2014 11:31 AM
To: Ratarasarn, Theera T - DNR
Subject: BP Site

Michael R. Spence, P.E., LEED[®] AP

Village Engineer

Village of Pleasant Prairie

9915 39th Ave.

Pleasant Prairie, WI 53158

Phone: 262-948-8931 (direct)

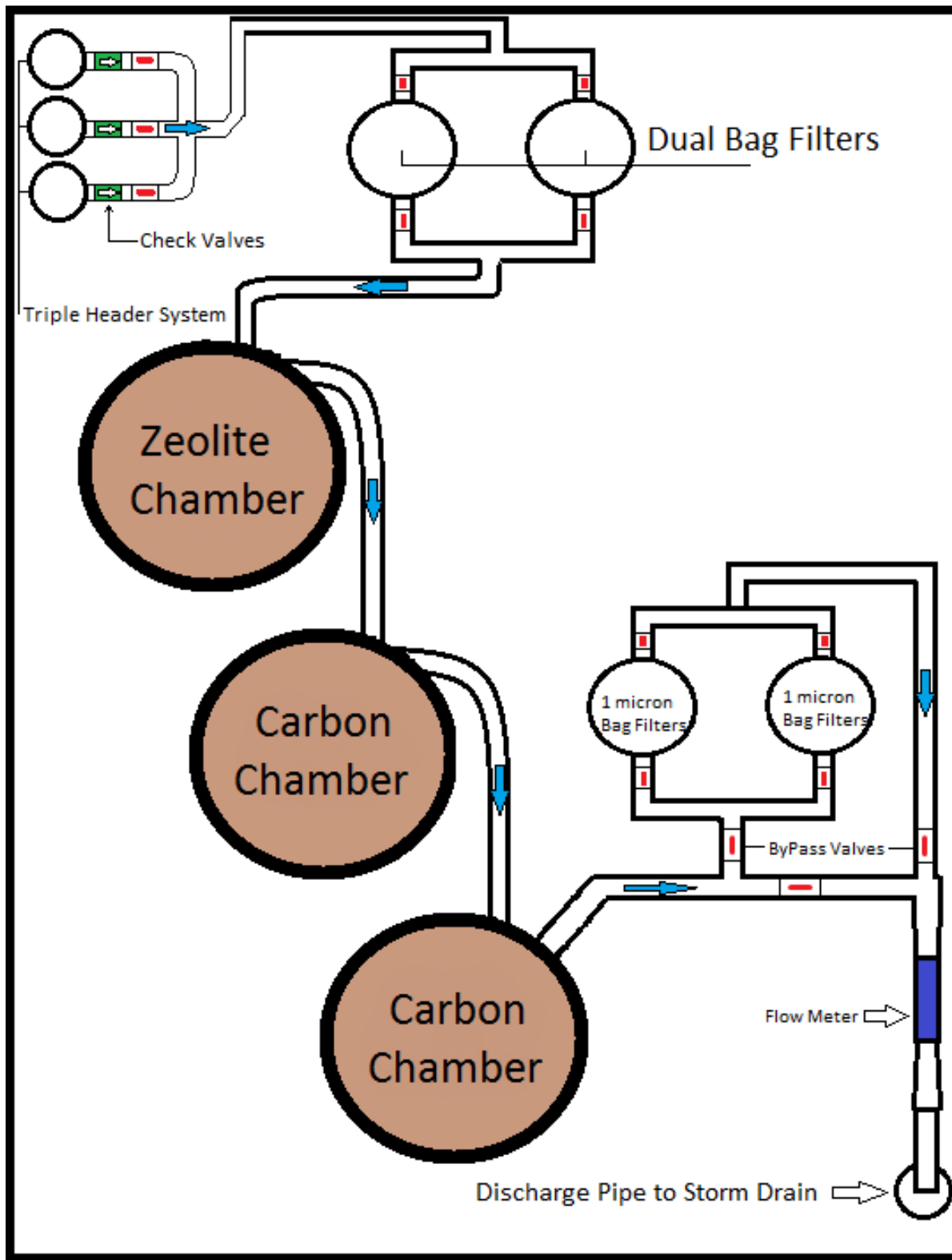
Fax: 262-925-6786

Email: mspence@plprairiewi.com

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N117 W18493 Fulton Drive
 rmantown, Wisconsin 53022
 55.4468 • Fax 262.255.6993
 ail: northshore@nsecinc.com

Well Water Treatment System

For the BP located at 10477 120th Ave

Pleasant Prairie, WI

Scale _____ Date December 6, 2013

Project No. 12B08 Figure _____



Genium Publishing Corporation

1145 Catalyn Street
Schenectady, NY 12303-1836 USA
(518) 377-8854

Sheet No. 471
Charcoal (Activated)

Issued: 12/81 Revision: A, 9/91

Section 1. Material Identification

35

Charcoal (Activated) Description: Relatively pure carbon obtained by the destructive distillation of wood, nut shells, animal bones, or other carbonaceous material. It is activated by heating to 1472 to 1652 °F (800 to 900 °C) with steam or carbon dioxide. Activation results in a porous internal structure (honeycomb-like) with an internal surface area of approximately 10,000 ft²/g. This large surface area gives charcoal a high absorptivity for many gases, vapors, and colloidal solids. Used in water and air purification, waste treatment, solvent recovery, removal of sulfur dioxide from stack gases and "clean" rooms, removal of jet fumes from airports, decolorizing of sugar, catalyst natural gas purification, chromium electroplating, air conditioning, brewing, and as a deodorant.

R -
I -
S 1
K 1

Genium



HMS
H 1
F 1
R 0
PPG*
* Sec. 8

Other Designations: CAS No. 64365-11-3; activated carbon (DOT); Carboraffin,[®] Carborafine,[®] charcoal, activated (DOT); Karborafin,[®] Nuchar 722.[®]

Manufacturer: Contact your supplier or distributor. Consult latest *Chemical Week Buyers' Guide*⁽⁷³⁾ for a suppliers list.

Cautions: Charcoal dust is a respiratory irritant. It is a flammable solid.

Section 2. Ingredients and Occupational Exposure Limits

Charcoal*

1990 OSHA PEL†
None established

1990-91 ACGIH TLV†
None established

1990 NIOSH REL
None established

1985-86 Toxicity Data‡
None listed

* An approximate composition of charcoal (coconut shell) is ca 80% carbon, <20% volatiles (including ca 2% water) and <5% ash content [residue after 1697 °F (925 °C) ignition].

† Related dust exposures are established for carbon black and graphite, synthetic.

‡ Monitor NIOSH, RTECS (FL7242500), for future toxicity data.

Section 3. Physical Data

Melting Point (carbon): >6332 °F (>3500 °C)

Volatiles at 302 °F (150 °C), %wt: <20*

Water Solubility: Insoluble

Appearance and Odor: Porous, hard, black granules or powder; odorless.

* Pertains to coconut shell charcoal.

Section 4. Fire and Explosion Data

Flash Point: None reported

Autoignition Temperature: >1346 °F (>730 °C)*

LEL: 0.14 g/l†

UEL: None reported

Extinguishing Media: For small fires, use dry chemical, sand, water spray, or foam. For large fires, use water spray, fog, or standard foam. Use water spray to cool fire-exposed containers.

Unusual Fire or Explosion Hazards: Activated charcoal is a moderate fire hazard. Depending on particle size, volatiles, and moisture level, charcoal dust can be an explosion hazard when exposed to heat or flame.

Special Fire-fighting Procedures: Since fire may produce toxic fumes, wear a self-contained breathing apparatus (SCBA) with a full facepiece operated in pressure-demand or positive-pressure mode. Structural firefighter's protective clothing provides limited protection. If feasible, remove containers from fire-hazard area. Avoid creating dusty conditions. Do not release runoff from fire control to sewers or waterways.

* 80% coconut shell charcoal, <74 µm diameter.

† This value is for charcoal.

Section 5. Reactivity Data

Stability/Polymerization: Activated charcoal is stable when stored dry at room temperature in closed containers under normal storage and handling conditions. Finely divided carbon particulate reportedly undergo spontaneous combustion when moist, when coated with drying oils, or when freshly calcined. Hazardous polymerization cannot occur.

Chemical Incompatibilities: Activated charcoal may react vigorously or violently (explosion) when mixed with strong oxidizing agents, especially when heated. It can slowly react with oxygen in air at room temperature to create an oxygen-deficient atmosphere in a closed bin. It is not easily ignited, but oxidation rate increases with temperature and oxygen availability.

Conditions to Avoid: Avoid heat and ignition sources.

Hazardous Products of Decomposition: If combustion of this material occurs with a deficiency of oxygen, carbon monoxide can be formed.

Section 6. Health Hazard Data

Carcinogenicity: In 1990 reports, the IARC, NTP, and OSHA do not list activated charcoal as a carcinogen.

Summary of Risks: Charcoal itself is not toxic, but by absorption or inclusion it may contain toxic materials. When fine particulate is airborne, it can be irritating to eyes and the respiratory tract. Excessive inhalation can be damaging to the respiratory systems.

Medical Conditions Aggravated by Long-Term Exposure: None reported.

Target Organs: Respiratory tract.

Primary Entry Routes: Inhalation.

Acute Effects: Eye contact is irritating and may cause conjunctivitis. Dust inhalation can cause respiratory tract irritation.

Chronic Effects: None reported.

FIRST AID

Eyes: Gently lift the eyelids and flush immediately and continuously with flooding amounts of water until transported to an emergency medical facility. Consult a physician immediately.

Skin: *Quickly* remove contaminated clothing. Rinse with flooding amounts of water for at least 15 min. For reddened or blistered skin, consult a physician. Wash affected area with soap and water.

Inhalation: Remove exposed person to fresh air and support breathing as needed.

Ingestion: Activated charcoal is used as a treatment to absorb specific, ingested chemicals. If activated charcoal is ingested, have *conscious and alert* person drink one to two glasses of water to dilute. Activated charcoal may cause vomiting. Never give anything by mouth to an unconscious or convulsing person.

After first aid, get appropriate in-plant, paramedic, or community medical support.

Section 7. Spill, Leak, and Disposal Procedures

Spill/Leak: Notify safety personnel of large spills and remove all heat and ignition sources. Cleanup personnel should protect against dust inhalation and eye contact. Avoid dispersing dust in air. For small spills, use a clean shovel to place charcoal into a clean, dry container for disposal. Cover containers and remove from spill area. For large spills, dike for later disposal. After cleanup is complete, pick up or vacuum residues and place in closed containers for recovery or disposal. Follow applicable OSHA regulations (29 CFR 1910.120).

Disposal: Contact your supplier or a licensed contractor for detailed recommendations. Follow applicable Federal, state, and local regulations.

EPA Designations

RCRA Hazardous Waste (40 CFR 261.33): Not listed

CERCLA Hazardous Substance (40 CFR 302.4): Not listed

SARA Extremely Hazardous Substance (40 CFR 355): Not listed

SARA Toxic Chemical (40 CFR 372.65): Not listed

OSHA Designations*

Air Contaminant (29 CFR 1910.1000, Subpart Z): Not listed

* Related dust exposures are listed for carbon black and graphite, synthetic.

Section 8. Special Protection Data

Goggles: Wear protective eyeglasses or chemical safety goggles, per OSHA eye- and face-protection regulations (29 CFR 1910.133). Since contact lens use in industry is controversial, establish your own policy.

Respirator: Seek professional advice prior to respirator selection and use. Follow OSHA respirator regulations (29 CFR 1910.134) and, if necessary, wear a NIOSH-approved respirator. For emergency or nonroutine operations (cleaning spills, reactor vessels, or storage tanks), wear an SCBA. *Warning! Air-purifying respirators do not protect workers in oxygen-deficient atmospheres.*

Other: Wear impervious gloves to prevent prolonged or repeated skin contact.

Ventilation: Provide general and local exhaust ventilation systems to maintain airborne concentrations that promote worker safety and productivity. Local exhaust ventilation is preferred since it prevents contaminant dispersion into the work area by controlling it at its source.⁽¹⁰³⁾

Safety Stations: Make available in the work area emergency eyewash stations, safety/quick-drench showers, and washing facilities.

Contaminated Equipment: Remove this material from your shoes and equipment. Launder contaminated clothing before wearing.

Comments: Never eat, drink, or smoke in work areas. Practice good personal hygiene after using this material, especially before eating, drinking, smoking, using the toilet, or applying cosmetics.

Section 9. Special Precautions and Comments

Storage Requirements: Store in closed containers in a dry area, away from heat and ignition sources and oxidizing agents. Protect containers from physical damage.

Engineering Controls: Avoid dust inhalation. Consider a respiratory protection program that includes regular training, maintenance, inspection, and evaluation. Follow good handling and housekeeping procedures; avoid spills and dust generation and accumulation.

Transportation Data (49 CFR 172.102)

IMO Shipping Name: Carbon, activated

IMO Hazard Class: 4.2

ID No.: UN1362

IMO Label: Spontaneously combustible

IMDG Packaging Group: III

MSDS Collection References: 1-9, 12, 14, 25, 73, 103, 126, 127, 132, 136, 143, 146

Prepared by: MJ Allison, BS; **Industrial Hygiene Review:** DJ Wilson, CIH; **Medical Review:** AC Darlington, MD; **Edited by:** JR Stuart, MS

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MATERIAL SAFETY DATA SHEET

Hydrosil Spectrum HS-600

Identity (Trade Name As Used On Label)

Hydrosil International Limited

Manufacturer
1180 St. Charles Street

Address
Elgin, IL 60120

1-800-PURPLE1 1-800-787-7531

Phone Number (For Information)

1-847-741-1600 1-847-741-1616

Emergency Phone Number Telex*

MSDS Number*

CAS Number*
February 28, 2001

Date Prepared
William J. Waldschmidt

Prepared By*

Note: Blank spaces are not permitted. If any item is not applicable, or no information is available, the space must be marked to indicate that.

SECTION 1 - MATERIAL IDENTIFICATION AND INFORMATION

COMPONENTS - Chemical Name & Common Names (Hazardous Components 1% or greater; Carcinogens 0.1% or greater)	% *	OSHA PEL	ACGIH TLV	OTHER LIMITS RECOMMENDED
potassium permanganate (KMnO ₄) CAS # 7722-64-7	6-8%	5 mg/m ³	5 mg/m ³	None
Non-Hazardous Ingredients				
molecular sieve/moisture	92-94%			
TOTAL	100			

SECTION 2 - PHYSICAL / CHEMICAL CHARACTERISTICS

Boiling Point N/A	Specific Gravity (H ₂ O = 1) Density 58-62#/ft ³
Vapor Pressure (mm Hg and Temperature) N/A	Melting Point N/A
Vapor Density (Air = 1) N/A	Evaporation Rate (_____ = 1) N/A
Solubility in Water KMnO ₄ - yes, molecular sieve - no	Water Reactive N/A

Appearance and Odor purple granules, odorless

SECTION 3 - FIRE AND EXPLOSION HAZARD DATA

Flash Point and Method Used Noncombustible	Auto-ignition Temperature N/A	Flammability Limits in Air % by Volume N/A	LEL N/A	UEL N/A
Extinguisher Media N/A				
Special Fire Fighting Procedures None				
Unusual Fire and Explosion Hazards None				

SECTION 4 - REACTIVITY HAZARD DATA

STABILITY <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Unstable	Conditions To Avoid Protect containers against puncture and physical damage, keep in a dry area, avoid exposure to water
Incompatibility (Materials to Avoid)	None
Hazardous Decomposition Products	None
HAZARDOUS POLYMERIZATION <input type="checkbox"/> May Occur <input checked="" type="checkbox"/> Will Not Occur	Conditions To Avoid None

SECTION 5 - HEALTH HAZARD DATA

PRIMARY ROUTES OF ENTRY <input type="checkbox"/> Inhalation <input type="checkbox"/> Skin Absorption	<input type="checkbox"/> Ingestion <input checked="" type="checkbox"/> Not Hazardous	CARCINOGEN LISTED IN <input type="checkbox"/> NTP <input type="checkbox"/> IARC Monograph	<input type="checkbox"/> OSHA <input checked="" type="checkbox"/> Not Listed
HEALTH HAZARDS	Acute May be irritating to body tissue upon contact		
	Chronic None		
Signs and Symptoms of Exposure	May stain body tissue		
Medical Conditions Generally Aggravated by Exposure	Open wounds, burns and mucous membranes		
EMERGENCY FIRST AID PROCEDURES - Seek medical assistance for further treatment, observation and support if necessary.			
Eye Contact	Immediately flush with large amounts of water for 15 minutes		
Skin Contact	Immediately flush with soap and water		
Inhalation	Leave contaminated area		
Ingestion	Drink several glasses of water or milk. Seek medical attention		

SECTION 6 - CONTROL AND PROTECTIVE MEASURES

Respiratory Protection (Specify Type)	Treat as low level nuisance dust, use NIOSH/MSA # TC-21C-132		
Protective Gloves	Rubber or plastic gloves	Eye Protection	Safety glasses
VENTILATION TO BE USED	<input type="checkbox"/> Local Exhaust <input type="checkbox"/> Other (specify)	<input checked="" type="checkbox"/> Mechanical (general)	<input type="checkbox"/> Special
Other Protective Clothing and Equipment	Regular work clothing		
Hygienic Work Practices	Wash hands before eating. Wash contaminated clothing.		

SECTION 7 - PRECAUTIONS FOR SAFE HANDLING AND USE / LEAK PROCEDURES

Steps to be Taken if Material Is Spilled Or Released	Sweep up granules and dispose of in accordance with local, state and federal regulations.
Waste Disposal Methods	Reduce potassium permanganate with hypo (10% sodium thiosulfate) solution and deposit in permitted landfill.
Precautions to be Taken in Handling and Storage	Protect containers against physical damage. Store in a cool dry area in closed containers.
Other Precautions and/or Special Hazards	Avoid exposure to water and contaminated air, otherwise the media is rendered useless

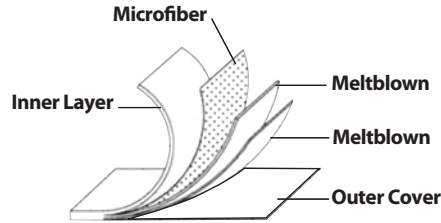
NFPA Rating*	Health _____	Flammability _____	Reactivity _____	Special _____	HMIS Rating*	Health _____	Flammability _____	Reactivity _____	Personal Protection _____
*Optional									

High Efficiency Liquid Filter Bags

Filter Data Sheet
Phone: 630.377.8886

High Efficiency Microfiber Filter Bags

- Micron ratings from 1.0 to 50.0
- All industry standard and custom sizes available
- Choice of steel ring or plastic flange
- Wide chemical compatibility
- Excellent oil absorbing capabilities
- Handles on all bags
- Efficiencies to 95.0%



HIGH EFFICIENCY FILTER BAG

High Efficiency Bag Materials

Microfiber materials provide high efficiencies at low micron ratings. The optional addition of a needle punched felt layer provides a prefilter zone and results in extended life.

This multilayer technology option results in a true graded density material with high performance levels.

High Efficiency Bag Styles

Standard ring bags have a galvanized steel ring (stainless steel optional) sewn in the top of the bag. They are supplied with sewn seams standard.

Plastic flange bags have specially designed flange sewn to the top of the bag.



High Efficiency Materials (95.0% Min.)	Micron Ratings					
	1A	2A	5A	10A	25A	50A
Polypropylene	•	•	•	•	•	•
Polyester	•	•	•	•	•	•

Ordering Information

Media Type	Micron Rating	Bag Dimensions			Ring / Flange Styles	Options
		Size	Diam.	Length		
POMF - Polypropylene	See Chart	P1 =	7.06"	16.5"	S = Galvanized steel	H = Handle (Standard on all ring style bags)
PEMF - Polyester	See Chart	P2 =	7.06"	32.0"	SS = Stainless steel	
		P3 =	4.12"	8.0"	PP = Polypropylene ring	
		P4 =	4.12"	14.0"	T = Titanium	
		P5 =	4.12"	24.0"	P = AJR-P Flange	
		P7 =	5.50"	15.0"	F = AJR-F Flange	
		P8 =	5.50"	21.0"	OSS = AJR-OSS	
		P9 =	5.50"	31.0"	NR = No ring	
		P11 =	8.50"	16.0"		
		P12 =	8.50"	30.0"		
		C1 =	7.31"	16.5"		
		C2 =	7.31"	32.5"		
		RP-1 =	8.0"	30.0"		
		RP-2 =	8.0"	40.0"		
		PC-1 =	9.0"	20.0"		
		PC-2 =	9.0"	30.0"		
		X1 =	4.35"	8.0"		
		X2 =	4.35"	14.0"		
		XO1 =	6.0	22.0"		

600 Series Deep Pleated Liquid Cartridge Filter

Filter Data Sheet

Phone: 630.377.8886

600 Deep Pleated Series

AJR Filtration introduces a new absolute rated filter cartridge, the **600 Deep Pleat Series** filter cartridge. With a removal efficiency of 99%, it is available in filtration ranges from 1 to 40 microns.

Due to the unique design of this pleated cartridge, it provides 35sq. ft. of filter surface area which will fit inside most Size #1 & #2 strainer baskets. Dirt holding capacity and efficiency are maximized by pleating several different filter medias together in a single pleat element. A single **600 Deep Pleat Series** cartridge is designed to replace up to 7 standard 500 Series or 20 standard 100 Series bags.

Our **600 Deep Pleat Series** cartridge is designed to fit into existing baskets and provide an o-ring side-seal without any housing modifications. It is available in different filter media to meet chemical compatibility and industry standards.

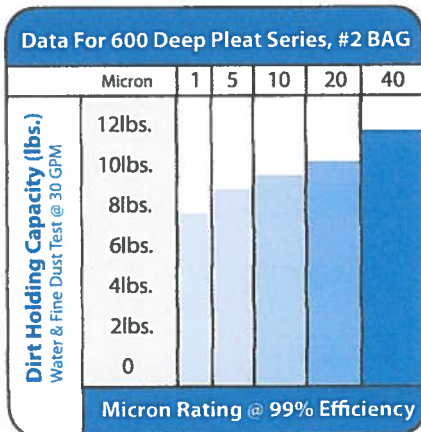
To achieve optimum performance while minimizing filtration costs, it is recommended that the flow rate be at 30 GPM and pressure at a maximum of 25 PSID.

35 square feet of surface media.

Depending on the micron.



Dirt Holding Capacity



X100 Replacement end cap

Ordering Information

DP62	Micron	Media	Length	Cap Style
	1 = 1 micron	PE - Polyester	12	SC = Small Cap - 6 5/8"D
	3 = 5 microns	PO - Polypropylene	26	BC = Big Cap - 7 1/8"D
	5 = 10 microns		52	F = X100 Repl.
	7 = 20 microns			
	9 = 40 microns			

600 Series Deep Pleated Liquid Cartridge Filter

AJR Filtration introduces a new absolute rated filter cartridge, the **600 Deep Pleat Series** filter cartridge. With a removal efficiency of 99%, it is available in filtration ranges from 1 to 40 microns.

Due to the unique design of this pleated cartridge, it provides 35sq. ft. of filter surface area which will fit inside most Size #1 & #2 strainer baskets. Dirt holding capacity and efficiency are maximized by pleating several different filter medias together in a single pleat element. A single **600 Deep Pleat Series** cartridge is designed to replace up to 7 standard 500 Series or 20 standard 100 Series bags.

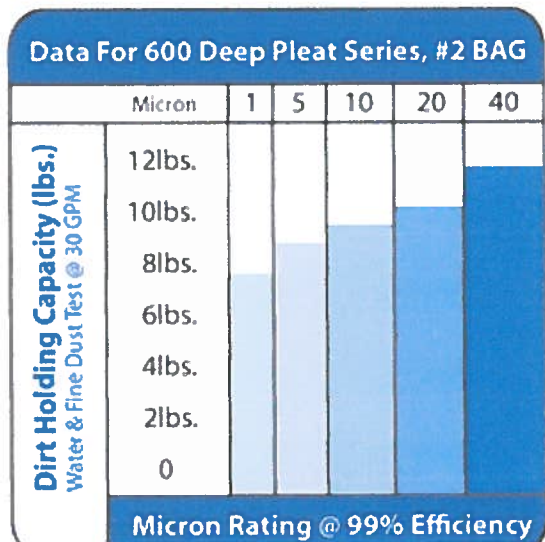
Our **600 Deep Pleat Series** cartridge is designed to fit into existing baskets and provide an o-ring side-seal without any housing modifications. It is available in different filter media to meet chemical compatibility and industry standards.

To achieve optimum performance while minimizing filtration costs, it is recommended that the flow rate be at 30 GPM and pressure at a maximum of 25 PSID.

**35 sq
surface**
Depending



Dirt Holding Capacity



X100 Replacement end cap

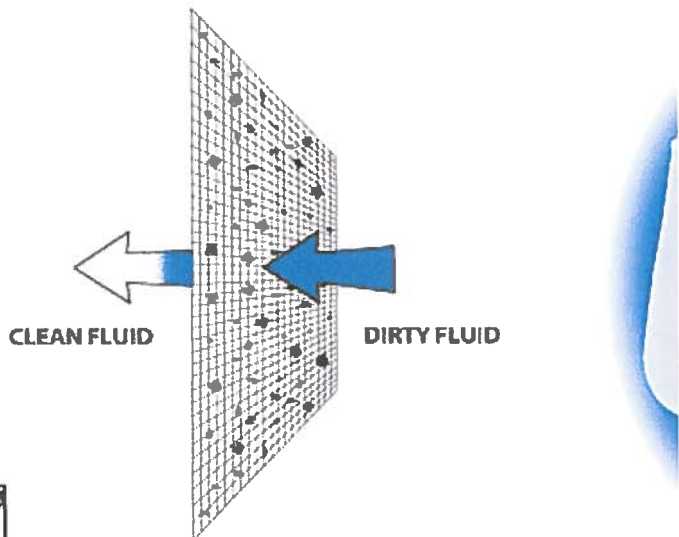
Ordering Information

DP62	Micron	Media	Length	
	1 = 1 micron	PE - Polyester	12	
	3 = 5 microns	PO - Polypropylene	26	
	5 = 10 microns		52	
	7 = 20 microns			
	9 = 40 microns			

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Standard Mesh Liquid Filter Bags Monofilament & Multifilament

- Micron ratings from 1 to 1500
- All industry standard and custom sizes available
- High flow/low pressure drop media
- Surface-retention filtration
- Wide chemical compatibility
- Sewn construction
- Handles standard on all bags
- Choice of steel ring or plastic flange
- Economical removal of non-deformable contaminants
- Non-fiber releasing
- Good removal efficiencies
- Temperature ratings to 350°F
- Polyester and nylon materials meet FDA regulations for contact under CFR21, section 177.1520
- Silicone-free construction



Mesh Bag Materials



Multifilament Mesh media is woven from threads made of smaller fibers. Bags made from this material are low cost and disposable.



Monofilament Mesh is woven from single-fiber threads. The openings are square and uniform. Bags made from this material have excellent strength.

Mesh Bag Styles

Steel-ring bags have a galvanized steel ring at the top of the bag. They are supplied with

Plastic flange bags have a specially-designed plastic flange (They are supplied with sewn seams standard on request).

	1	5	10	25	35	45	50	75	100	125	150	175	200	250	300
NMO = Nylon Monofilament	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
POMO = Polypropylene Monofilament									•	•	•	•	•	•	•
NMU = Nylon Multifilament									•	•	•	•	•	•	•
PEMU = Polyester Multifilament									•	•	•	•	•	•	•

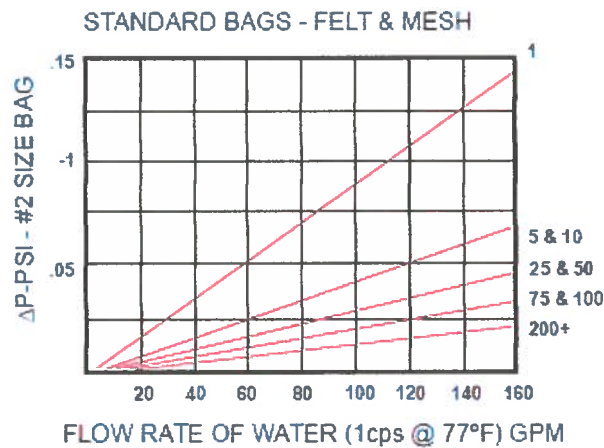
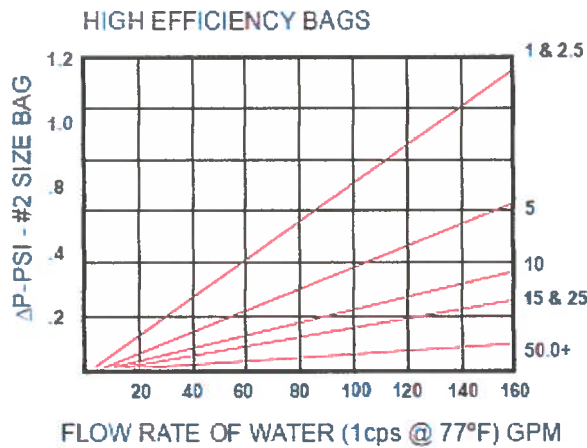
Ordering Information

Media Type	Micron Rating	Bag Dimensions			Ring / Flange Styles
		Size	Diám.	Length	
NMO = Nylon Monofilament	See Chart	P1 =	7.06"	16.5"	S = Galvanized steel
POMO = Polypropylene Monofilament	See Chart	P2 =	7.06"	32.0"	SS = Stainless steel
NMU = Nylon Multifilament	See Chart	P3 =	4.12"	8.0"	PP = Polypropylene ring
PEMU = Polyester Multifilament	See Chart	P4 =	4.12"	14.0"	T = Titanium
		P5 =	4.12"	24.0"	P = AJR-P Flange
		P7 =	5.50"	15.0"	F = AJR-F Flange
		P8 =	5.50"	21.0"	OSS = AJR-OSS
		P9 =	5.50"	31.0"	DS = Draw string

		P11 = 8.50" 16.0"	NR = No ring
		P12 = 8.50" 30.0"	
		C1 = 7.31" 16.5"	
		C2 = 7.31" 32.5"	
		RP-1 = 8.0" 30.0"	
		RP-2 = 8.0" 40.0"	
		PC-1 = 9.0" 20.0"	
		PC-2 = 9.0" 30.0"	
		X1 = 4.35" 8.0"	
		X2 = 4.35" 14.0"	
		XO1 = 6.0 22.0"	

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Filter Bag Pressure Drop ΔPB



The value obtained in step 3, ΔPB is the clean pressure drop caused by the filter bag.

SUMMARY

Step 1

The graphs show the ΔPB produced by a #2 size. The pressure drop is determined from the type of flow rate.

Step 2

Correct for bag size from the table below if the size is not #2.

Bag Size	Dia. X Length
2	7.06 x 32
9	5.5 x 32
1	7.06 x 16
8	5.5 x 21
7	5.5 x 15
4	4.15 x 14
3	4.15 x 8

Step 3

If the viscosity of the liquid is greater than 1 cps (from step 2) by the proper correction factor from the table below.

Viscosity (cps)	Correction Factor
50	
100	
200	
400	
800	
1000	

System Pressure Drop = $\Delta PS = \Delta PH + \Delta PB$

For new applications the ΔPS should be 2.0 psi or less. For high contaminant loading applications, this value should be as low as possible. The lower this value is, the more contaminant a bag will hold. For applications with nominal contaminants, this value can go to 3.0 psi or more. Consult factory for specific recommendations when the clean ΔPS exceeds 2.0 psi.

1500	
2000	
4000	
6000	
8000	
10000	

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1500	
2000	
4000	
6000	
8000	
10000	

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- C. Consider **Plan Commission Resolution #14-01** to initiate a zoning text amendment related to fences.

Recommendation:

Village staff recommends that the Plan Commission approve **Plan Commission Resolution #14-01** as presented at the January 13, 2014 meeting.

**VILLAGE OF PLEASANT PRAIRIE
PLAN COMMISSION
RESOLUTION #14-01
TO INITIATE ZONING TEXT AMENDMENTS**

WHEREAS, the Plan Commission may initiate a petition for amendments of the Zoning Ordinance, which may include rezoning of property, change in Zoning District boundaries, or changes in the text of said Ordinance.

WHEREAS, the Village staff is proposing to re-evaluate the Village's fencing requirements related to the placement of the "good" side of the fence facing the neighboring property.

NOW THEREFORE, BE IT RESOLVED, by the Village Plan Commission, as follows:

1. That the Village Plan Commission hereby initiates and petitions to re-evaluate and amend fencing regulations; and
2. That the proposed changes in the Zoning Text are hereby referred to the Village staff for further study and recommendation; and
3. That the Village Plan Commission is not, by this Resolution, making any determination regarding the merits of the proposed changes in the Zoning Text, but rather, is only initiating the process by which the proposed changes in the Zoning Ordinance Text can be promptly evaluated.

Adopted this 13th day of January 2014.

ATTEST:

VILLAGE OF PLEASANT PRAIRIE

Donald Hackbarth
Secretary

Thomas W. Terwall
Plan Commission Chairman

1-fence amendments