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April 24, 2018

**VIA EMAIL & HAND DELIVERY**

[sreilly@waukesha-wi.gov](mailto:sreilly@waukesha-wi.gov)

Mayor Shawn N. Reilly and  
Plan Commission  
Waukesha City Hall  
201 Delafield Street  
Waukesha, WI 53188

RECEIVED

APR 24 2018

CITY PLAN COMMISSION

RE: Sonic Restaurant Redevelopment Proposal

Dear Mayor Reilly and Plan Commission Members:

The Plan Commission has been asked to approve the proposed Redevelopment of a Site located at 2208 East Moreland Blvd (herein the "Site"). I represent Charles Slater who owns two of the adjoining properties, the first being an office building adjacent to the Site, and the next adjoining property on which AT&T currently operates a sales facility.

I am appending to this letter correspondence relating to the development of the Site which was approved by the City of Waukesha in 1991. In reviewing those materials, you will note that in 1991 approval for the construction of a bank facility operated by South Milwaukee Savings Bank was approved. You will also note that, as a condition of approval, the owner was required to grant to the City an easement that would allow vehicular traffic to cross the Site from Heritage Lane and then access the two parcels of land owned by my client.

In a letter dated November 11, 1991, David Kopp advised the Attorney for South Milwaukee Bank (later renamed PyraMax Bank) that the City would expect the Easement would be granted within thirty (30) days of the transfer of legal title which was to occur following approval of the proposed development on the Site.

One of the documents appended is a drawing showing the existing Easement across my client's property as well the proposed Easement. The drawing includes the notation "Easement Needed from South Milwaukee S.B."

Mayor Shawn Reilly and  
Plan Commission  
April 24, 2018  
Page 2

Unfortunately, the Easement was never granted. In 1991, and continuing through 2017, a driveway allowed access from Moreland Blvd. to the two properties owned by my client. However, as a part of the Moreland Blvd. reconstruction project that was undertaken by the City, the driveway access from Moreland Blvd. to my client's property was closed. The only access remaining to my client's property which abuts the Site is by way of an access easement from Spring Dale Road which crosses the AT&T parcel.

As a result of the closing of the driveway access from Moreland Blvd. it is imperative that my client have access from Heritage Lane. That access would be by use of the Easement which the City required when the development of the Site was approved in 1991.

My client does not oppose approval of the pending redevelopment proposal on the Site but does request that approval of the proposal include a requirement that the easement that was initially required in 1991 now be executed and recorded, and that the Easement allow vehicular access from Heritage Lane as was contemplated when the City approved the initial development in 1991.

Very truly yours,

*s/James W. Hammes*

James W. Hammes

JWH:alk  
Enclosures

3-A-4

**COMMERCIAL PLANNED DEVELOPMENT - SOUTH MILWAUKEE SAVINGS BANK**

The request of Torke, Wirth & Pujava Ltd. to approve the plans for revisions to the former Heritage Bank located north of E. Moreland Blvd., east of Springdale Rd. and south of Heritage Drive.

Mr. Kopp stated that the location is 2208 E. Moreland Blvd. The zoning is B-3, 22.52 Commercial Planned Unit Development. The site most recently was a car leasing place and there were numerous problems with the place. The building originally was the Heritage Bank. The new owners are proposing to upgrade the building with a new vestibule, new Tyme machine with night deposit, new drive-through with teller windows and canopy at the rear of the site.

Cross easements are still needed on the site, for access to and from Dunkin Donuts, and 2 driveway openings already exist on site, both with access off Heritage Lane. There are about 38 total parking spaces being shown for the site, with good internal circulation patterns for traffic.

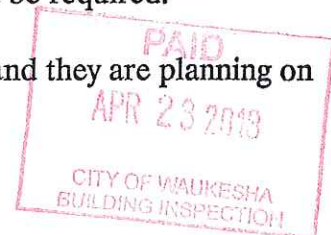
The sanitary sewer line is shown but no other utilities are shown on the plan. These need to be shown for final approval and before building permits are issued. No electric service is shown as serving the site. There is an existing well on the site but they are indicating that they would like to hook up to city service before surfacing the parking lot.

The architectural changes to the site include an addition to the flat roof with eyebrow dormers in the front with black asphalt shingles in the front of the building. They are showing a standing-seam metal roof which Staff hopes will be compatible in color with the existing roof. There are no roof top mechanicals shown. There is a screening space being shown on the northwest corner of the building which apparently will house all of the mechanicals. An extended drive through will be on the north elevation of the site with four lanes. The brick will match the existing building.

The landscaping plan shows drastic revisions to the site. They will be removing the asphalt and adding grass, boulders and plantings around the 6 optional parking spaces at the rear. They will be adding a new planting area along the building next to the drive-through windows. There will be plantings around the entrance way with trees and new shrubs. Landscaping bonds for twice the amount of materials and labor will be required.

Lighting for the building will be located at the entrance to the site and they are planning on removing the old poles.

All signage needs to go before the Sign Review Board for approval.



Water Utility stated that if there is to be water service to the building, the owners need to discuss this and service should be established before the asphalt paving of the parking lot is done.

With those comments and conditions, Staff recommends in favor of the plans.

Mr. Vanden Noven stated that if there were going to be trees planted in the large rear green area, it should be checked to make sure they will not interfere with sight vision around the curve on the street.

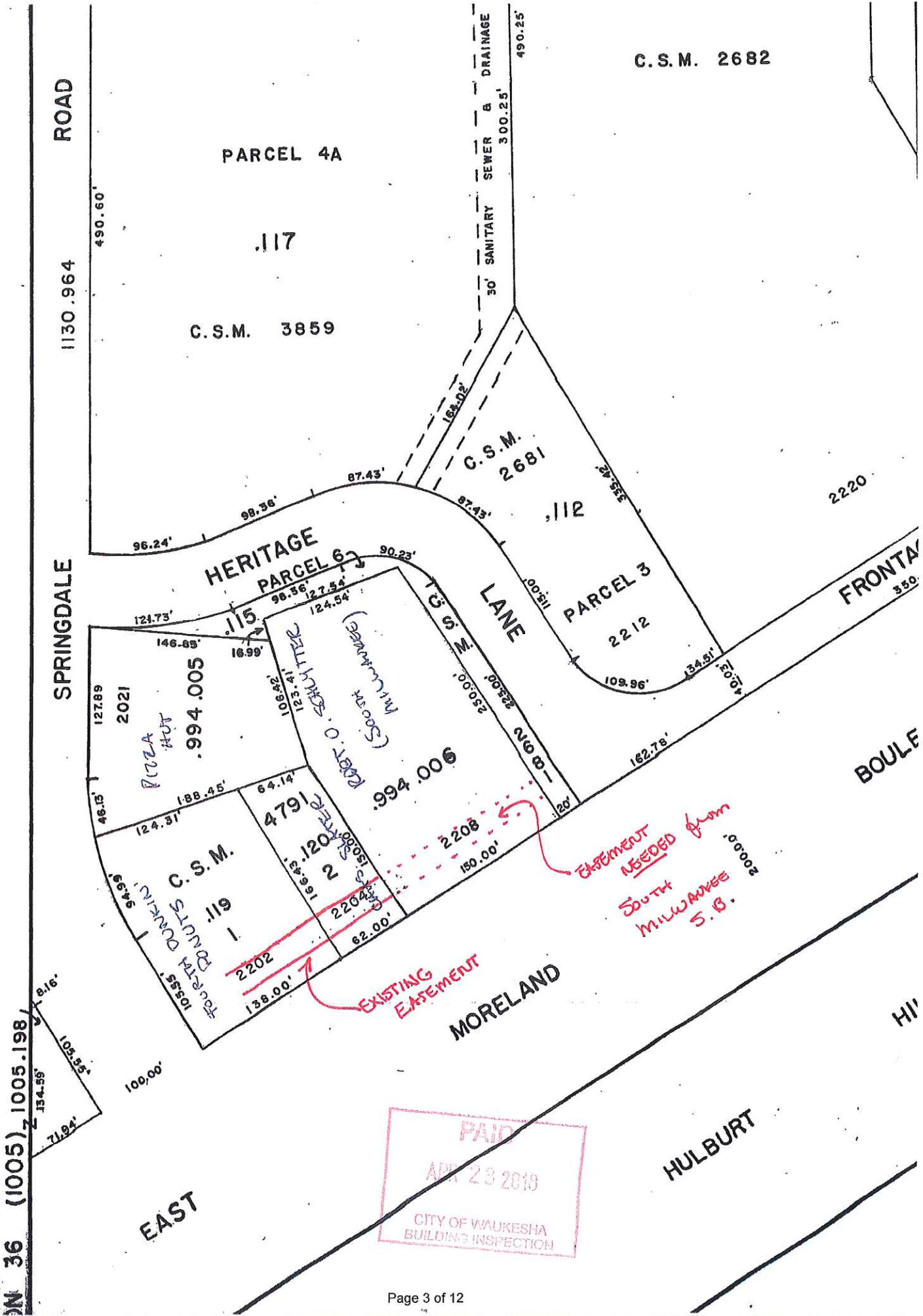
Mr. Aldrian moved for approval. Ms. O'Brien seconded.

Mr. Feller stated that the cross-easement across this site to Dunkin Donuts and Heritage Lane should be obtained, in recordable form, before they get a building permit. A lot of times, the developer comes in to get the building permit and it takes another two weeks to get that cross-easement documented properly, so it has to be in before the building permit is issued.

Mayor Vrakas felt that Staff should go out to the site and make sure the planting of trees at the rear will not be a problem.

Mr. Aldrian moved to approve the request with all Staff's recommendations and that the cross easment between Dunkin Donuts and this site be recorded before obtaining a building permit. Ms. O'Brien seconded and the motion carried unanimously.





C.S.M. 2682

PARCEL 4A

.117

C.S.M. 3859

C.S.M. 2681

.112

PARCEL 3  
2212

HERITAGE  
PARCEL 6

2204  
2202  
2208  
150.00'  
62.00'

.994.005  
2021  
PIZZA HUT

.994.006  
PART O. SOUTH TEE (SOUTH MILWAUKEE)

C.S.M. .119  
FOURTH COURTS

EXISTING EASEMENT

EASEMENT NEEDED from SOUTH MILWAUKEE S.B.

PAID  
APR 23 2018  
CITY OF WAUKESHA  
BUILDING INSPECTION

MURPHY & BRENNAN  
ATTORNEYS AT LAW  
2013 FOURTEENTH AVENUE  
P.O. Box 308  
SOUTH MILWAUKEE, WISCONSIN 53172-0308

JOSEPH G. MURPHY  
KITTY K. BRENNAN\*  
MARY E. LEONARD

TELEPHONE  
(414) 764-4410  
FAX 764-6769

\*COURT COMMISSIONER

September 30, 1991

City of Waukesha  
Planning Department  
201 Delafield Avenue  
Waukesha, WI 53188

ATTN: Dave

RE: South Milwaukee Savings Bank, S.A.  
2208 East Moreland Boulevard

Dear Dave:

This is to put in writing the matters I told you about in our phone conversation of September 26, 1991. On August 14, 1991, the architects of the South Milwaukee Savings Bank presented the plans for the renovations to the building located at 2208 East Moreland Boulevard. The Commission approved those plans subject to a number of conditions.

We have a problem with one of those conditions. The condition is for cross easements between Dunkin Donuts and the 2208 East Moreland Boulevard site. Our problem with this condition is that South Milwaukee Savings Bank does not own this site. We have an accepted Offer to purchase this site and that Offer to Purchase allows the owner to schedule the closing anytime prior to August 1, 1992. There is nothing we can do to compel him to close earlier, and he has informed us that he will not grant this easement. I do not know the history of this problem and cannot even guess as to the reason why the owner is reluctant to grant this easement. Nevertheless, we cannot comply with the condition as established by the Commission.

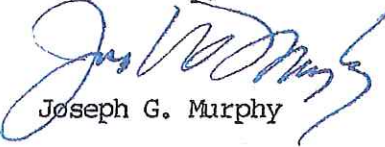
As I told you in our phone conversation, I cannot imagine any circumstances under which the South Milwaukee Savings Bank would impose any barrier to anyone wishing to travel across that stretch of the parking lot to or from Dunkin Donuts. I agree with you that it makes the most sense for each property to have an easement to cross its neighbors property for the purpose of increasing the ease with which the potential customers of both Dunkin Donuts and the Savings Bank can access the two properties. However, we simply cannot comply with this requirement and we cannot force the owner to comply.



City of Waukesha  
Planning Department  
September 30, 1991  
Page Two

The bids for this project have already gone out and are returnable September 30, 1991. It is our hope that the Planning Commission will find these circumstances sufficient to remove this as a condition for the building permit.

Yours truly,



Joseph G. Murphy

JGM:blb

xc: South Milwaukee Savings Bank, S.A.



Signs on the site will consist of 2 brick monument signs, identical to those at Elmwood's Phase I. They will be located at the Madison Street entrance with the proper Elmwood Court address. These need approval from the Sign Review Board.

Sidewalks are shown on the site, with grades, but no other connection to Elmwood Court Phase I is shown.

A PUD agreement is required and a Homeowners Association will be created for the 4 units as well.

The plat is sufficient and no Certified Survey Map will be required as this area has already be platted as part of Sterling Hollow.

School and parkland fees are required, along with pavement contributions for street, sidewalk, curb and gutter. Sanitary sewer contributions are also required.

The Engineering Department Staff comments that it is questionable to lay sanitary sewer laterals to the buildings under patio decks A retaining wall is needed between the southerly building and the right-of-way line of Madison Street. And a swale will be needed on the east property line to drain water to Madison Street.

With those comments, Staff recommends in favor of the plans.

Ald. Opel said that she would like to discuss the issue of sidewalks at the next meeting.

Mr. Vitale moved to approve the preliminary plans for Elmwood Court, Phase II. Mr. Aldrian seconded. The motion carried with Mr. Stevens and Mr. Vanden Noven voting no.

#### COMMERCIAL PLANNED DEVELOPMENT - SOUTH MILWAUKEE SAVINGS BANK

The request by Attorneys Murphy and Brennan to reconsider a cross easement requirement for the South Milwaukee Savings Bank, to be located at 2208 E. Moreland Blvd.

Mr. Kopp stated that this is back before the Commission to reconsider the approval of the cross easements for the site. The owner of the site is not South Milwaukee Savings Bank, the owner is Bob Schlytter, who also owns the Westbrook Shopping Mall to the west. The Plan Commission granted approval for revisions and an addition to the building in August, 1991. There have been some problems with the drive between this building and Dunkin Donuts which has been blocked off in the past. As a condition of approval with South Milwaukee Savings Bank, the Plan Commission stated that they wanted easements between the two sites. The bank agreed to this; however, there is a problem with this because the bank will not close on this property until August, 1992. They have one year to close and they will not be the owners of the property until that time. The problem is that they have

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CITY OF WAUKESHA  
BUILDING INSPECTION



approval for the plans with the condition that they will provide a cross easement between the two sites. South Milwaukee Bank has no legal way to take possession of this property and grant the City cross easements until August, 1992. The present owner, Mr. Schlytter, also refuses to grant such an easement. Therefore, South Milwaukee Bank is asking the Commission to waive the condition. Staff is opposed to this idea, and feels there are other options. If the waiver is not possible, it has been suggested that the attorney for South Milwaukee Bank and the attorney for the City of Waukesha enter into some agreement that the City will get a cross easement the day that South Milwaukee Bank takes possession of the property. Staff does not recommend in favor of the waiver request but rather supports the negotiation of an agreement between the attorneys. That is Staff's recommendations.

Jerry Lawler, South Milwaukee Bank, then asked that the cross easement be waived for 30 days, contemplating the review by the attorney to draw up an agreement for the easement to be put into effect in August, 1992 when the land is acquired by South Milwaukee Bank. This would be a temporary waiving of the agreement only, and would enable them to obtain a building permit in the meanwhile.

Ald. Opel moved to allow the issuance of the building permit with the understanding that the attorney will negotiate a cross easement which will go into effect at the time of closing for South Milwaukee Bank and which must be done before the occupancy permit is issued. Mr. Vitale seconded and the motion carried unanimously.

#### **REZONING 124 W. MAIN ST.**

The staff request to rezone 124 W. Main St. from B-3, General Business to R-4-A, Residential Planned Unit Development. This property is part of the Rivers Edge Apt. project site.

Mr. Crandell stated that this is the former Kettle Moraine property on W. Main St. across from the old courthouse. It is now owned by Mr. Styza and is also part of the Rivers Edge project. Staff reviewed the legals for the rezoning and it has been determined that this piece of property has not been zoned. It is zoned B-3, General Business and Staff recommends that the site be zoned R-4-A, Residential Planned Unit Development to be consistent with the rest of the project.

Ald. Opel moved for approval. Mr. Stevens seconded and the motion carried unanimously.

#### **INDUSTRIAL PLANNED UNIT DEVELOPMENT - AIRPORT PARK - OLSEN SAFETY**

The request of Gerald Nell to approve the plans for the Olsen Safety Building to be located south of Northview Road and west of Airport Road.

**COMMERCIAL PLANNED DEVELOPMENT - SOUTH MILWAUKEE SAVINGS BANK**

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# CITY PLAN COMMISSION

## CITY OF WAUKESHA

201 DELAFIELD WAUKESHA, WISCONSIN 53188-3690 TELEPHONE 414/524-3750 FAX 414/524-3888

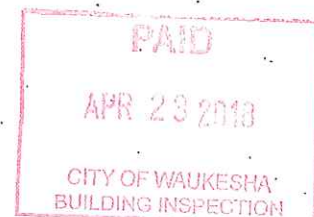
FRANK M. HEDGCOCK, A.I.C.P.  
DIRECTOR OF COMMUNITY DEVELOPMENT

MICHAEL J. HOEFT, P.E.  
DIRECTOR OF PLANNING

STEVEN P. CRANDELL  
ASSISTANT DIRECTOR OF PLANNING

TO: Building Inspector  
FROM: Planning Department *AMH*  
DATE: October 10, 1991  
RE: South Milwaukee Savings Bank  
2208 E. Moreland Blvd.

Please issue a building permit to South Milwaukee Bank. The Plan Commission authorized this on 10/9/91. South Milwaukee has 30 days to draft and execute a contract with the city, guaranteeing a cross-easement. Once this is done, an occupancy permit may be issued.



MURPHY & BRENNAN  
ATTORNEYS AT LAW  
2013 FOURTEENTH AVENUE  
P.O. BOX 308  
SOUTH MILWAUKEE, WISCONSIN 53172-0308

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MARY E. LEONARD

\*COURT COMMISSIONER

TELEPHONE  
(414) 764-4410  
FAX 764-6769

October 30, 1991

City Attorney Curt R. Meitz  
Waukesha City Attorneys Office  
201 Delafield Street  
Waukesha, WI 53188



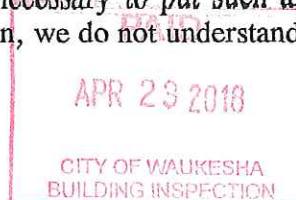
RE: South Milwaukee Savings Bank, S.A.

Dear Mr. Meitz:

This is a follow-up to our phone conversation of October 28, 1991, wherein I advised you that I represent South Milwaukee Savings Bank, who has applied for a Building Permit for certain improvements they are making to a property upon which they have an accepted Offer to Purchase. The property is located at 2208 East Moreland Boulevard.

As you will know from discussions with your Planning Department, although we have an accepted Offer to Purchase, we have no closing date on this other than sometime prior to August 1, 1992. The closing date is completely up to the Seller to select. Until closing we will simple be tenants in the building. At the first meeting of the Planning Commission on this matter, which happened on August 14, 1991, the Planning Commission required the South Milwaukee Savings Bank to grant cross easements to the owners of the Dunkin Donuts property as a condition for the issuance of the Building Permit. Since we do not own the building at the present time we cannot comply with this condition. At its meeting on October 9, 1991, the situation was explained to the Planning Commission and the Commission agreed to issue the Building Permit and to direct the Planning Department not to issue an occupancy permit until they received from us an agreement that we would go ahead with an agreement granting cross easements to the property on which Dunkin Donuts is located when we gain title to the property.

On behalf of South Milwaukee Savings Bank, I am authorized to tell you that South Milwaukee Savings Bank agrees to in good faith negotiate a reasonable cross easement agreement with the owners of the property on which the Dunkin Donuts is located. We will, upon obtaining title to the property, take all such reasonable steps as are necessary to put such an easement into place. However, as I told you in our phone conversation, we do not understand our obligation

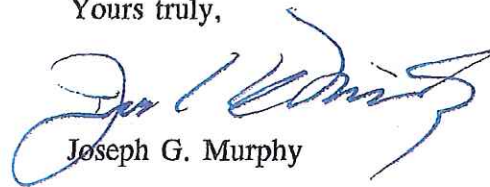


City Attorney Curt R. Meitz  
Waukesha City Attorneys Office  
October 30, 1991  
Page Two

to the City to require us to grant whatever easement Dunkin Donuts is requesting, but rather to grant a reasonable easement that will allow the flow of traffic between the two properties without unduly upsetting our operations or our parking lot.

Thank you for your attention to this matter.

Yours truly,



Joseph G. Murphy

JGM:blb

xc: South Milwaukee Savings Bank, S.A.





# CITY PLAN COMMISSION

## CITY OF WAUKESHA

201 DELAFIELD WAUKESHA, WISCONSIN 53188-3690 TELEPHONE 414/524-3750 FAX 414/524-3688

FRANK M. HEDGCOCK, A.I.C.P.  
DIRECTOR OF COMMUNITY DEVELOPMENT

MICHAEL J. HOEFT, P.E.  
DIRECTOR OF PLANNING

STEVEN P. CRANDELL  
ASSISTANT DIRECTOR OF PLANNING

November 11, 1991

Attorney Joseph Murphy  
Murphy & Brennan  
2013 Fourteenth Avenue  
P. O. Box 308  
South Milwaukee, WI 53172

Dear Attorney Murphy:

This letter is a follow-up to our phone conversation of Thursday, November 7, 1991, regarding 2208 E. Moreland Blvd. in the City of Waukesha. Based upon further information provided by City Engineer Paul Feller, it is not necessary for South Milwaukee Savings Bank to negotiate cross easements with the owner of Dunkin Donuts, or with the property owner adjacent to 2208 E. Moreland Blvd. An access easement currently runs across both properties. What will be needed is simply an easement, granted to the City of Waukesha, for vehicular traffic. This should certainly remove any uncertainties surrounding the potential negotiation of cross-easements with any other adjacent property owners.

The City would expect that the easement would be granted, with proper documents executed and recorded, within thirty (30) days of transfer of legal title to your client, South Milwaukee Savings Bank.

I assume that this arrangement will be acceptable to your client. However, if there are any problems with this, please communicate them to me at your earliest convenience.

Very truly yours,

*David M. Kopp*

David M. Kopp, MUP  
Planner

DMK/vb

cc: Jerry Lawler  
South Milwaukee Savings Bank



**COPY**

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