

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement"), entered into effective as of July 16, 2024 ("Effective Date"), by and between the City of Whitewater, Wisconsin, a Wisconsin Municipal Corporation, ("City") and Whitewater Alpha Real Estate, LLC ("Developer"). Each of the foregoing may also be referred to in this Agreement as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Article XI, Section 3 of the Wisconsin Constitution grants cities the right to determine their local affairs in government, subject to the Constitution and certain enactments of the legislature of the State of Wisconsin;

WHEREAS, the State of Wisconsin legislature adopted Wisconsin Statute Section 62.11(5), which grants to common councils of cities the power to act for the government and good order of the city, for its commercial benefit and for the health, safety and welfare of the general public;

WHEREAS, the City desires to encourage development and promote mixed-use development within the City;

WHEREAS, the Developer, pursuant to that certain Offer to Purchase entered into with the City of Whitewater for a vacant parcel located on Bluff Road described on Exhibit A which is incorporated herein, is to acquire the Property and develop it;

WHEREAS, the Developer has filed, or will file, with the City plans, specifications, documents and exhibits as required by the City for the development of the Property and for making other improvements.

NOW, THEREFORE, in consideration of the foregoing Recitals which are incorporated herein, and the following promises and mutual obligations of the Parties hereto, each of them does hereby covenant and agree as follows:

1. Developer Improvements. Developer shall complete improvements on the property in accordance with the terms, conditions and requirements of EXHIBIT B ("Developer's Improvements"). The plans, specifications and site plans for Developer's Improvements are subject to City approval, and Developer shall not commence construction of Developer's Improvements until such time as the City has approved such plans, specifications and site plans in writing. After the City's approval of Developer's Improvements, such documents shall not be modified without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. City's approval of Developer's Improvements shall not excuse Developer from complying with

any other governmental approvals, permits, ordinances or laws that are applicable to the Property or Developer's Improvements. All work to be performed by the Developer related to Developer's Improvements shall be performed in a good and workmanlike manner and consistent with the prevailing industry standards for such work in the area of the City. Developer shall perform all work in compliance with all applicable laws, regulations, ordinances and buildings codes and shall obtain and maintain all necessary permits and licenses for such work.

2. Minimum Level of Construction and Property Transfer Restrictions.

(a) The developer agrees that, pending site plan and zoning approval by the PARC at the May 24, 2024 meeting, construction will commence on or before May 31, 2025. If construction does not commence prior to May 31, 2026, the City reserves the right to acquire the property back from the Developer for the amount exchanged at closing. (b) The developer agrees to commence and complete construction in a reasonable timeframe. If the proposed building is not completed by May 31, 2027, the City reserves the right to purchase the property back from the Developer for the amount exchanged at closing plus the appraised value of improvements.

(b) Agreement Runs with the Land. The Agreement shall inure to the benefit of the City and shall be binding on the from time-to-time owners of the Property and shall constitute covenants running with the land. Property Transfer Restrictions. Parties to this agreement cannot transfer this property to a non-tax paying entity without a corresponding payment in lieu of the taxes for the life of the tax increment financing district 11. This payment in lieu of taxes will be based on an assessed value established as if a tax paying entity owned the building.

3 Default.

(a) Events of Default. A party shall be in default under this Agreement if such party shall fail to carry out or fulfill one or more of its obligations hereunder and such failure shall continue for a period of thirty (30) days following receipt of written notice from the other party specifying such failure; provided, however, if the nature of the default is such that it cannot be cured within thirty (30) days, a party shall not be in default if it immediately undertakes steps to cure the default after receipt of notice and then diligently and in good faith prosecutes the curing of such default to its conclusion.

(b) Remedies. If a party does not cure or undertake to cure a default within the time period set forth above, the non-defaulting party may pursue the remedies provided for in this Agreement or otherwise available at law or in equity. The rights and remedies of the parties, whether provided by law or provided by this Agreement, shall be cumulative, and the exercise of any one or more of such remedies shall not preclude the exercise at the same time or different times of any such other remedies for the same event of default or breach or of any remedies for any other event of default or breach by Developer. No waiver made

by the City with respect to the performance or manner or time of any obligation of Developer under this Agreement shall be considered a waiver of any rights of the City to enforce any other obligations of Developer.

5. Guarantor Obligations. In the event of default of Developer of any payment obligation in this Agreement, Guarantor will discharge such obligation.

6. Miscellaneous.

(a) Changes. Parties to this Agreement may, from time to time, require changes in the scope of this Agreement. Such changes, which are mutually agreed upon by and between the Developer and the City, shall be incorporated in written amendments to this Agreement. Parties of this agreement can not transfer this property to a non-tax paying entity without a corresponding payment in lieu of the taxes for the life of Tax Increment Financing District 11.

(b) Approvals in Writing. Whenever under this Agreement approvals, authorizations, determinations, satisfactions, or waivers are authorized or required, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing, signed by the duly authorized representative of the party, and delivered to the party to whom it is directed at the address specified in this Agreement. Whenever under this Agreement the consent, approval or waiver of the City is required or the discretion of the City may be exercised, the City Manager shall have the authority to act, as the case may be. Whenever any approval is required by the terms of this Agreement and request or application for such approval is duly made, such approval shall not be unreasonably withheld.

(c) Notices and Demands. A notice, demand, or other communication under this Agreement by any party to any other party shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally to:

In the case of the Developer:

Whitewater Alpha Real Estate LLC
811 Robert Street
Fort Atkinson, WI 53190
jkistle@kh-group.org
Phone: 262-995-7484

In the case of the City:

City of Whitewater
Attn: Taylor Zeinert, CDA Director
312 W. Whitewater Street
P.O. Box 178
Whitewater, WI 53190
Email: tzeinert@whitewater-wi.gov
Phone: 262-473-0104

With a Copy to:

Jonathan K. McDonell, City Attorney
Harrison, Williams & McDonell, LLP
522 West Main Street
Whitewater, WI 53190
Email: jm@hmattys.com
Phone: 262-473-7900

(d) No Liability of City. The City shall have no obligation or liability to the lending institution, architect, contractor, or subcontractor, or any other party retained by Developer in the performance of its obligations and responsibilities under the terms and conditions of this Agreement. Developer specifically agrees that no representations, statements, assurances, or guarantees will be made by Developer to any third party or by any third party which are contrary to this provision.

(e) Completeness of Agreement. This Agreement and any addition of supplementary documents or documentation incorporated herein by specific reference contains all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement or any part hereof shall have any validity or bind any of the parties hereto.

(f) Matters to be Disregarded. The titles of the several sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

(g) Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected hereby.

(h) Recording of Agreement. The Agreement and any and all subsequent modifications thereof or additions thereto may, upon being duly executed, be recorded by either party with the Register of Deeds for Walworth County, Wisconsin.

(i) Successors and Assigns. The terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto as well as their respective successors, transferees, and assigns. Any transfer of any party's interest under this Agreement or real property described in EXHIBIT A shall not release the transferor from its obligations hereunder unless specifically agreed to herein.

(j) Ambiguities Not Construed. The Developer has had substantial input concerning the terms of this agreement, and therefore, any ambiguities will not be construed against the City on the basis that its attorney drafted this Agreement.

EXHIBIT A

The Property

Lot 2 of Certified Survey Map No. 3236 according to the recorded plat thereof, recorded in Vol. 18 of CS on page 71 as Document No. 446556 located in the SE 1/4 of Section 3, T4N, R15E, City of Whitewater, Walworth County, Wisconsin.

Tax Key No. /A323600002

EXHIBIT B

Developer Improvements

Statement of Use

The Royal Hounds of Whitewater will be a dog daycare and boarding facility. We intended to operate with a minimum of two employees on staff during all business hours, one person working reception and one person tending to the care, sanitation, and playing of the dogs. I personally will be onsite for all business hours until we establish a client base and train up staff members. At full capacity we will house 40 dogs, but will be housing much less than that during non-holiday times.

The facility will be a 44' x 44' metal building with a lean-to over the entrance and a brick facade to satisfy the aesthetic requirements of the Whitewater planning committee. The entrance will open to a finished lobby with windows that provide views to the remainder of the facility, a heated open warehouse with indoor play yards and boarding provisions. The structure will be back 62' from the road and have an eight spot parking lot and dumpster on the north side of the lot, utilizing the existing curb-cut on the West side of the lot. On the East side of the lot will be a 22' x 44' fence, 6' high to contain outdoor dog play groups. The fence will abut to buried bricks at the base to thwart any digging attempts. All outdoor areas will have a maintained lawn and any trees as required by the city.

To ensure the well-being of our neighbors, dogs will be encouraged to play nicely and quietly. Problematic dogs will be placed in time out, or denied service if a problem persists. All solid waste will be bagged and disposed of in the garbage. All liquid waste will be cleaned with an enzymatic cleaner that uses microbes to digest foul odors and is safe for the environment, dogs, and people. The indoor structure will be sterilized every day with kennel specific cleaner for safety and cleanliness. The structure is laid out so that a dog needs to pass through at least two doors to leave the facility, keeping the dogs and surrounding areas safe and secure.

The Royal Hounds of Whitewater

We are the Kistle's and we are proud owners of service businesses dedicated to caring for individuals since 2020. With three successful service businesses already established, we are not newcomers to the area. Now, we are eager to expand our investments into Whitewater by opening a Doggy Daycare to serve the community's canine population.

While we understand that the city of Whitewater may not have had experience with a business like ours before, it is worth noting the success of similar doggy daycares in other communities across Wisconsin. Despite a lack of previous permit requests for this type of business in Whitewater, doggy daycares have thrived in various parts of the state. Many of these facilities, like those in zones similar to Lot 1BR, provide outdoor play areas and have become valued services within their communities. A sampling of these successful facilities include:

- Stay and Play Pet House
3792 Jackson St,
Oshkosh, WI 54901

- Playtime Doggy Daycare III
4333 S 108th St,
Greenfield, WI 53228

- The Woof
8601 Durand Ave,
Sturtevant, WI 53177

- Woofhaus
4375 Milton Ave.
Janesville WI

- Dog Haus University
825 E Johnson St
Madison, WI

Our proposed doggy daycare represents more than just a business venture; it embodies our commitment to enhancing community spirit and economic vitality in Whitewater. We have observed a significant demand for local amenities, evidenced by an influx of visitors from surrounding areas seeking essential services. By establishing our daycare, we aim to address this demand and become a go-to destination for pet owners in our town and its environs, potentially boosting tourism from neighboring areas.

In addition to providing top-tier care and services for dogs, our facility will serve as a catalyst for increased local engagement. It will encourage both residents and visitors to invest more time and resources within our

town, thereby bolstering our local economy. Furthermore, by creating job opportunities, our doggy daycare will contribute to the town's economic resilience and overall prosperity.

Lot 1BR, located near highway 12 and the new Kwik Trip Gas station, is an ideal location for our business. With ample space for outdoor play areas and easy accessibility from main roads, it offers convenience for pet owners while ensuring a peaceful environment for our operations.

In terms of environmental considerations, we are committed to minimizing our impact. Dog waste will be promptly scooped and disposed of properly, and we will use an enzyme cleaner that is safe for both the yard and dogs to sterilize our paved yard during cleaning sessions. Additionally, we will implement a rigorous waste management plan and utilize eco-friendly cleaning products to reduce chemical pollution.

To address noise concerns, we are fortunate that our closest residential neighbors are across the street, with a commercial building next to us. Additionally, we will limit outdoor play hours to times less likely to disrupt the surrounding community, such as during daytime hours.

By establishing our doggy daycare in Whitewater, we not only fulfill a clear demand for pet care services but also contribute to the economic growth and community well-being of our city. Our commitment to environmental sustainability and responsible operations further solidifies our case for establishing this much-needed facility in our community.



PROPOSED BUILDING for
ROYAL HOUNDS of WHITEWATER
 BLUFF ROAD
 WHITEWATER, WISCONSIN
 WISCONSIN

FIRST FLOOR PLAN

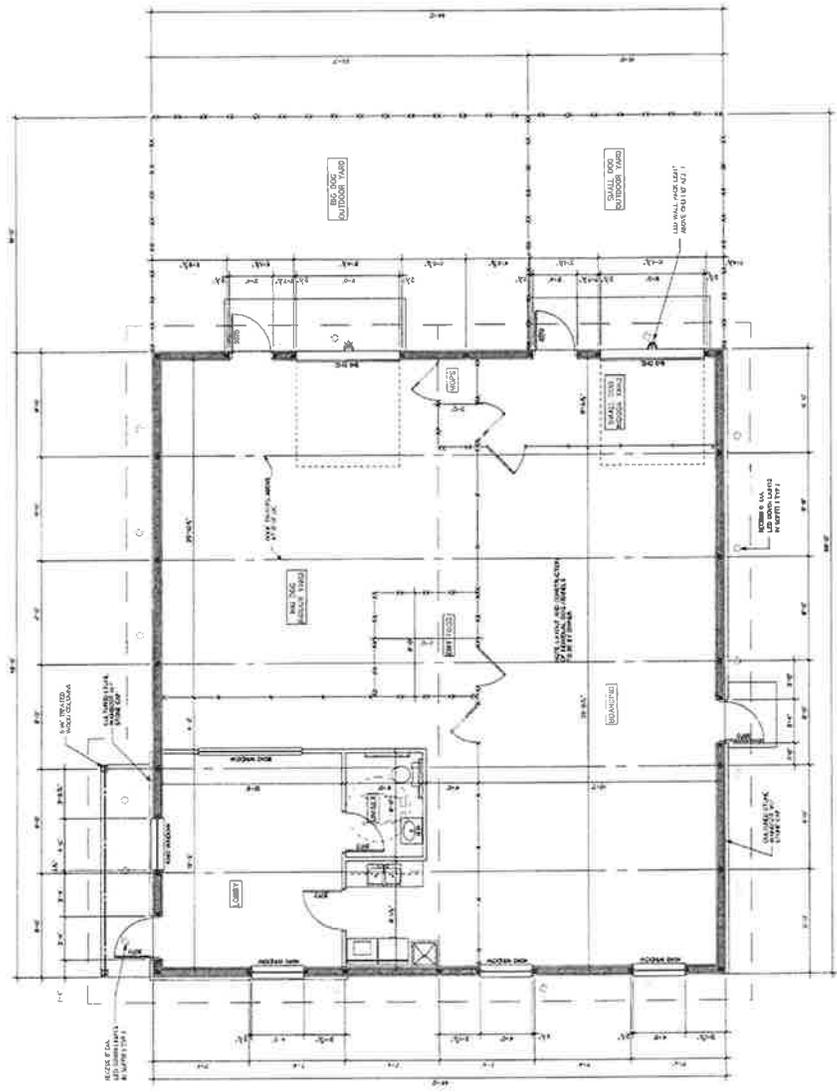
FARRIS, HANSEN & ASSOCIATES, INC.
 Engineering, Architecture, Surveying
 1100 W. Wisconsin Avenue
 Oshkosh, WI 54901
 Phone: (920) 231-1000
 Fax: (920) 231-1000

PROJECT NO.
 100654

DATE
 02/09/2003

SCALE
 1/8" = 1'-0"

SHEET NO.
 5 of 8



FIRST FLOOR PLAN
 SCALE: 1/8" = 1'-0"

