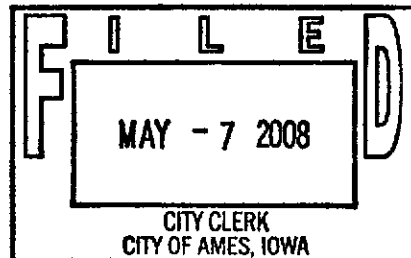




City Attorney's Office

515 Clark Avenue, P. O. Box 811  
Ames, IA 50010  
Phone: 515-239-5146 • Fax: 515-239-5142

May 7, 2008



The Honorable Ann Campbell, Mayor,  
and Members of the City Council  
of the City of Ames, Iowa

Re: Update on Contract Issues Wolford Development Options

Dear Mayor Campbell and Council Members:

During March and April I corresponded with William Bartine, attorney for Wolford Development Options, concerning the status of the Shops at East Prairie. Mr. Bartine responded to each of the points raised in my letter, and since then we have continued our discussions. Copies of the letters are attached.

I expect that additional information from Mr. Bartine and Wolford Development Options will be provided to the City next week.

Yours truly,

Douglas R. Marek  
City Attorney

Attachments

c: Diane Voss



City Attorney's Office

515 Clark Avenue, P. O. Box 811  
Ames, IA 50010  
Phone: 515-239-5146 • Fax: 515-239-5142

March 13, 2008

William D. Bartine  
Belin Lamson McCormick Zumbach Flynn  
666 Walnut Street, Suite 2000  
Des Moines, Iowa 50309-3989

Re: Wolford Development Options, L.L.C. and The Shops at East Prairie

Dear Bill:

Earlier this week the Public Works Department completed the review of the public improvement plans for the Shops at East Prairie. Comments from the City of Ames, Iowa Department of Transportation, and the Federal Highway Administration were sent to Mr. Wolford with a request for revisions prior to final construction plan approval. I have enclosed a copy of the comments for your file.

As this project moves toward construction of off-site and on-site public improvements, I thought it would be helpful to review pending issues from the November 2005 development agreement between the City of Ames and Wolford Development Options. I would also like to review other issues related to the progress of this development that we have discussed in the past but which are as yet unresolved.

**Off-Site Improvements:** The agreement between the City and Wolford provides at section 7.10 that all of the obligations of the developer under Article 7 must be performed or completed, or the work must be in progress to complete these obligations, before any on-site construction may begin. Once the revised public improvement plans are submitted and approved by City staff, construction of all relevant off-site improvements must begin before any on-site improvements may be constructed. Obligations of Article 7 include water, sanitary sewer, bike path, storm sewer, street lights, and improvements on 13<sup>th</sup> Street and the I-35 ramp.

**Fees and Contributions:** Requirements of Article 7 of the agreement also include payment of a forty-one thousand dollar (\$41,000.00) water connection fee and a fifty thousand dollar (\$50,000.00) Cy-Ride Bus fee. The fees and contribution must be paid in conjunction with construction of off-site improvements before any on-site improvements may be constructed.

**On-Site Grading:** Once work is in progress to complete all requirements of Article 7, on-site grading may begin in compliance with the terms of a grading permit and an erosion and sediment control permit. The City acknowledges that on-site grading is necessary before off-site sewer and water lines can be completed.

Letter of Credit: Section 7.11 of the agreement requires security for the completion of public infrastructure requirements of Article 7 as a condition for approval of the final plat. At the January 10 meeting with City staff and representatives of Wolford Development, Ken Beckman and you raised the issue of dual obligee bonds for security instead of letters of credit. At that time, Mr. Beckman indicated that he would be providing me with additional information and examples of dual obligee bonds from other Wolford Development projects. I have yet to receive any further information.

Lot Line Adjustments to Accommodate Change in Location of Bike Path: City staff has determined that the changes in the preliminary plat reflecting the lot line adjustments necessary to accommodate the shift of the bike path from the west side of the entrance to the east side of the entrance can be approved administratively and presented to the City Council for approval with the final plat. This determination was previously conveyed to the Wolford Development engineering team, but I additionally wanted to confirm the decision with you. In a separate letter to Mr. Wolford, I also have confirmed that the relocation of the bike path from the north side to the south side of 13<sup>th</sup> Street complies with section 7.7 of the development agreement. A copy of that letter is enclosed.

East Barilla Site: This site is currently owned by East Prairie, LLC, and is zoned planned regional commercial. Some time ago Mr. Wolford, in a letter to the Mayor and City Council, indicated that he intended to request re-zoning of this property from planned regional commercial to planned industrial. Mr. Wolford also indicated that he intended to contribute one hundred fifty thousand dollars (\$150,000.00) to the City towards the development of a bike path west of the East Prairie property. Mr. Wolford has not yet initiated these actions.

Evidence of Binding Leases: Sections 5.3 and 10.2 of the development agreement require Wolford to provide evidence of binding leases or purchase agreements. You spoke at the December 18 meeting of the City Council and provided a report of the progress that Wolford Development had made to that point. Since that time, no additional information about the status of leases has been provided to the City.

Report to Council: City staff understands that Wolford Development hopes to begin construction of off-site improvements in the near future. City staff will be reporting to the City Council on March 25 the status of the project and anticipated construction schedule. If you have any additional information from Wolford Development Options that would be relevant to the report please let me know.

If you have questions or if you would like to discuss any of the issues, please contact me.

Sincerely,

Douglas R. Marek  
City Attorney

c: Steve Schainker

Enclosures

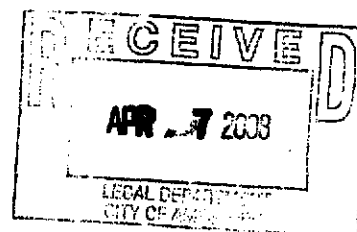
**BELIN LAMSON McCORMICK ZUMBACH FLYNN**  
**A PROFESSIONAL CORPORATION**  
**ATTORNEYS AT LAW**

Mark McCormick	John T. Seitz	Dennis P. Ogden	Wayne E. Reames	Michael B. Abbott	Of Counsel
Steven E. Zumbach	Robert A. Mullen	Edward M. Mansfield	S. Christian Nelson	David W. Nelmark	Danielle M. Shelton
Thomas L. Flynn	Patricia A. Shoff	Stephen R. Eckley	Holly M. Logan	William B. Ortman	
Jon L. Staudt	William D. Bartine	David Swinton	Lance W. Lange	Kelsey J. Knowles	
Richard W. Lozier, Jr.	Quentin R. Boyken	Margaret C. Callahan	Christopher McDonald		David W. Belin
James V. Sarcone, Jr.	Charles F. Becker	Robert D. Sharp	Matthew C. McDermott		(1928 - 1999)
James R. Swanger	Sheila K. Tipton	Garth D. Adams	Silvia J. Hansell		Roger T. Stetson
Jeremy C. Sharpe	Mark E. Weinhardt	Michael R. Reck	Nathan J. Barber		(1953 - 2004)

William D. Bartine 2600-007  
Direct Dial: (515) 283-4616  
Direct Fax: (515) 558-0616  
E-mail: wdbartine@belinlaw.com

April 4, 2008

Douglas Marek, Esq.  
City Attorney  
City of Ames  
515 Clark Avenue  
P. O. Box 811  
Ames, IA 50010



Re: Wolford Development Options, L.L.C. / City of Ames  
Response to Your Letter of March 13, 2008

Dear Doug:

I have discussed your letter of March 13th with Wolford Development, and I have the following responses.

**Off-Site Improvements.** Wolford Development has received the comments from your Public Works department and has forwarded them to its team consisting of the contractor, civil engineers, traffic engineers, and architects, for review and response. Given the extensive nature of the more than 100 comments and the complexity of the project, we are expecting to submit revised drawings to the City by the middle of April. For the record, Morgan Construction has been diligently working with the City in submitting the plans and responding to the City's comments; the developer's cost for preparing these off-site working drawings currently exceeds \$400,000, with more fees to be incurred as the plans move toward approval.

**Fees and Contributions.** Wolford Development will owe the water connection fee at the point in the process that any other developer would owe such a fee. However, with regard to the Cy-Ride Bus fee, Wolford Development has proposed that such fee would be payable when its construction loan is in place and work on the on-site improvements commences.

**On Site Grading.** No response necessary.

**Letter of Credit.** Doug, I apologize if you have not received the materials concerning the dual obligee bonds that we discussed. Walter Ford and I originally forwarded this information to you in January, and upon receipt of your March 13th letter I forwarded it to you again in March. I am attaching copies of those e-mails to confirm our efforts in this regard. I will send you hard copies of

Doug Marek, Esq.  
April 4, 2008  
Page 2

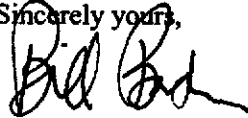
this information, and you should feel free to contact either Walter or me if you have questions, although I suggest that Walter would be the better source for information on the expected form of documents.

**Lot Line Adjustments, etc.** It appears that this item of your letter is merely informational and does not require a response from Wolford Development.

**East Barilla Site.** Mr. Wolford has directed me to proceed promptly to prepare a rezoning (down-zoning) application with respect to the East Barilla site, per his letter to the Mayor and Council. With regard to the bike path contribution, Wolford Development will agree to pay this fee upon closing of the construction loan for the life style center and commencement of on-site improvements.

Please call me if you have any questions after you have reviewed this letter.

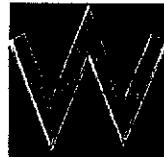
Sincerely yours,



William D. Bartine  
For the Firm

WDB:cj  
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cc: Mr. James L. "Bucky" Wolford  
Mr. Walter Ford



WOLFORD  
DEVELOPMENT, INC.

May 9, 2008

The Honorable Mayor Ann Campbell, Mayor  
And City Council Members  
City Of Ames  
515 Clark Avenue  
Ames, Iowa 50010

Re: Wolford Development Options, LLC  
Status of the Development of The Shops at East Prairie

Dear Mayor Campbell and Council Members:

It is our understanding from Steve Schainker, the City Manager, the Mayor and City Council would like a written report from Wolford Development Options, LLC, (hereafter "WDO") indicating the status of our efforts on proceeding with the development of The Shops at East Prairie for the City Council meeting on Tuesday, May 13, 2008. Before addressing the update of the project we think it is important to reiterate the facts as they stand today. Under the terms and conditions of the Development Agreement executed between the City of Ames and WDO, dated November 8, 2005, there were three primary issues to be accomplished by December 1, 2007, as follows:

1. Close on all the land in the Southeast and Northeast quadrants of Interstate 35 and 13<sup>th</sup> Street totaling 291 acres at a cost of \$6,095,875. We were required to purchase all of the land in order for the Rezoning Ordinance to be published by the City Clerk for the rezoning to be effective. WDO performed this requirement and is now a major property owner in the City of Ames at the cost of \$6,095,875 as stated above.
2. Under the agreement, WDO was required to submit to the City evidence of equity capital and written commitments from a construction lender for funding and financing necessary for completion of the North Site subject to customary conditions required by the construction lender and based on Developer's performance of certain obligations as required by such construction lender. WDO has furnished that letter through its attorney, Bill Bartine, to the City Attorney, Doug Marek, on November 30, 2007.
3. Under the agreement WDO was required to submit to the City fully executed binding leases or sale transaction instruments with at least three hundred twenty-nine thousand (329,000) square feet GBA of Major Anchors, Minor Anchors, Specialty Shops, of which there must be: (a) at least two Major Anchor Stores having an aggregate area of not less than one hundred sixty thousand (160,000) square feet GBA; (b) at least eighty thousand (80,000) square feet GBA of

Retail Stores that did not have a store open for business in the City as of December 31, 2004;  
AND (c) not less than forty thousand (40,000) square feet GBA of Minor Anchor Stores.

To date, WDO has not satisfied this condition, but has been diligently pursuing accomplishing this leasing requirement since approval on October 23, 2007. Through its attorney, Bill Bartine, WDO provided a report to Doug Marek, the City Attorney, on November 30, 2007, stating the progress of our leasing efforts as of that date. Needless to say, the late approval of our project on October 23, 2007, made it difficult to accomplish the required leasing by the December 1, 2007 date. In addition, the negative status of the national economic conditions thru the Christmas Holiday season and beyond continues to make it difficult to finalize the requirement of executed leases. However, WDO continues to diligently pursue this leasing requirement in the report being given below concerning meetings at our International Conference of Shopping Centers (ICSC) Convention in Las Vegas on May 18 thru May 21, 2008.

Per the request of the City Manager, Steve Schainker, WDO was asked to provide an update of the leasing to date, as well as, updating the status of the Offsite Construction Drawings and the down zoning of the East Barilla property.

As of today, WDO has 28 confirmed retailer meetings and 3 tentative retailer meetings for the upcoming annual ICSC Convention (See Attachment). These 31 retailers/meetings represent 155,498 square feet of retail space of which 113,862 square feet would be new to the Ames marketplace. The majority of these meetings involve finalizing the economic terms and conditions of a Letter of Intent which would result in the drafting of lease documents for review and execution. In addition, WDO has lease documentation in for review from one Major Anchor and has a Letter of Intent executed with the second Major Anchor. We will also be meeting with these two Major Anchors at the ICSC Convention.

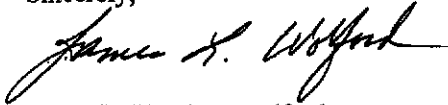
With regard to the Offsite Construction Drawings, WDO made their first submittal to the City on February 12, 2008 and received comments from the City on March 10, 2008. The comments submitted back to us March 10<sup>th</sup> included 117 comments from the City, 37 comments from IDOT and 3 comments from the Federal Highway Administration. On May 9, 2008, WDO resubmitted the Off-site Construction Drawings addressing all 157 comments to the drawings by the City, IDOT and the Federal Highway Administration. It is important to note that WDO has spent \$720,000 to date on the Off-site Construction Drawings since receiving final approval on October 23, 2007. Also, WDO intends to meet with the City Staff as soon as they have time to review the re-submitted drawings to develop a construction schedule to proceed with the public improvements indicated on the Off-site Construction Drawings.

Concerning down zoning of the East Barilla property, our attorney, Bill Bartine is currently completing the application and will be submitting it to the City to accomplish the down zoning of this tract of land to Planned Industrial. This submittal should take place within the next two weeks.

In closing, Wford Development Options, LLC contends it is diligently working to fulfill all requirements of the Development Agreement between the City of Ames and Wford Development Options, LLC. We believe this is confirmed by our continuing to spend large sums of money to purchase the land (\$6,095,875), prepare and submit the Off-Site Construction Drawings (\$720,000) and pursuing to complete the leasing requirements. We further believe our spirit of working in good faith is shown by our having completed two of the three requirements. Our total investment to date including purchasing

the land, preparation of the Off-site Construction Drawings, architectural drawings and all necessary work to obtain approval of the Master Site Plan and Major Site Development Plan is \$10,465,216. This is a very substantial investment by our company and shows our commitment to Ames. On many occasions we have been labeled as "outsiders." However, as now a major land owner (291 acres) and our substantial investment in Ames, we feel it is time for us to be accepted in the Ames community.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Wolford".

James L. "Bucky" Wolford

Attachment

JLW:kde



**Shops at East Prairie  
LEASE STATUS REPORT**

Interest Level	Status	Count	Meeting Status SQ.FT.	Percentage of Shop Space	New to Market SQ.FT.	Percentage of Shop Space
Unavailable	(1)	6	43,850	14.33%	31,150	10.18%
Attempting to Arrange	0	13	33,680	11.00%	1,800	0.59%
Tentative Meeting Scheduled	1	3	15,500	5.06%	12,000	3.92%
Scheduled Meeting	2	28	139,998	45.74%	101,862	33.28%
Combined Tentative & Scheduled Meetings		31	155,498	50.81%	113,862	37.20%
<i>Small Shop Space @ 225,603sf plus Mini-Anchors 80,246sf = 306,049sf (MP-1 dated 03.24.08)</i>						

Company Name	Squate Footage	Category	Meeting Status		New to Market
National Retailer	1,600	Service / Formalwear	2	Scheduled Meeting	1,600
National Retailer	3,000	HBAD	2	Scheduled Meeting	
National Retailer	4,800	Apparel / Unisex	2	Scheduled Meeting	
National Retailer	4,000	Apparel / Women's	2	Scheduled Meeting	4,000
National Retailer	1,000	Specialty	2	Scheduled Meeting	1,000
National Retailer	1,200	Jewelry / Costume	2	Scheduled Meeting	
National Retailer	3,800	Cards / Gifts	2	Scheduled Meeting	
National Retailer	6,500	Apparel / Women's	2	Scheduled Meeting	6,500
National Retailer	7,162	Apparel / Junior's	2	Scheduled Meeting	7,162
National Retailer	6,500	Apparel / Women's	2	Scheduled Meeting	6,500
National Retailer	5,200	Apparel / Children's	2	Scheduled Meeting	
National Retailer	7,000	Shoes / Family	2	Scheduled Meeting	7,000
National Retailer	15,000	Apparel / Family	2	Scheduled Meeting	15,000
National Retailer	3,500	Shoes / Athletic	2	Scheduled Meeting	3,500
National Retailer	10,000	Entertainment	2	Scheduled Meeting	10,000
National Retailer	1,600	Apparel / Unisex	2	Scheduled Meeting	
National Retailer	4,500	Apparel / Men's	2	Scheduled Meeting	4,500
National Retailer	1,486	Jewelry / Fine	2	Scheduled Meeting	
National Retailer	5,000	Apparel / Women's	2	Scheduled Meeting	
National Retailer	15,000	Apparel / Unisex	2	Scheduled Meeting	15,000
National Retailer	4,500	Apparel / Unisex	2	Scheduled Meeting	
National Retailer	5,000	Apparel / Women's	2	Scheduled Meeting	5,000
National Retailer	1,200	Specialty	2	Scheduled Meeting	1,200
National Retailer	10,000	Shoes	2	Scheduled Meeting	10,000
National Retailer	1,000	Specialty	2	Scheduled Meeting	1,000
National Retailer	2,250	Apparel / Women's	2	Scheduled Meeting	
National Retailer	5,500	Apparel / Women's	2	Scheduled Meeting	
National Retailer	2,900	Apparel / Unisex	2	Scheduled Meeting	2,900
National Retailer	7,500	Apparel / Unisex	1	Tentative Meeting	7,500
National Retailer	3,500	Apparel / Unisex	1	Tentative Meeting	
National Retailer	4,500	Apparel / Women's	1	Tentative Meeting	4,500

Revised: 5/8/2008