



## OFFICE OF CORPORATION COUNSEL

---

PAUL BARGREN  
Corporation Counsel

MARK A. GRADY  
COLLEEN A. FOLEY  
Deputy Corporation Counsel

TIMOTHY R. KARASKIEWICZ  
ROY L. WILLIAMS  
LEE R. JONES  
MOLLY J. ZILLIG  
ALAN M. POLAN  
JENNIFER K. RHODES  
DEWEY B. MARTIN  
JAMES M. CARROLL  
PAUL D. KUGLITSCH  
Principal Assistant  
Corporation Counsel

To: Honorable Supervisors of the  
Committee on Transportation, Public Works and Transit

From: Paul Bargren 

Date: November 26, 2013

Re: Southridge Mall transit issues

On October 29, 2013, the Committee on Transportation, Public Works and Transit referred an item to this office. The referral asked whether Southridge Shopping Mall is part of a Tax Increment District, of which Milwaukee County is a participant, and if so, whether the developer has received TID resources over the last few years. The referral also asked what legal action can be taken.

### Background

Southridge Mall is a substantial development and taxpayer primarily in the Village of Greendale. It is owned by Simon Property Group Inc., a large national property manager. Southridge describes itself as the largest mall in Southeastern Wisconsin.

Effective November 1, 2013, despite complaints from the public and the transit system, Southridge relocated a Milwaukee County Transit System bus stop. The old stop was at a sidewalk that led directly to a mall entrance 429 feet from the bus stop, with an elevation change of 3 feet between the stop and the entrance.<sup>1</sup> The new stop is at a far edge of a mall parking lot, 974 feet from the mall entrance with a total elevation change of 13 feet. *See Fig. A, attached.* In order to reach the sidewalk that leads to the mall, passengers disembarking at the new bus stop must traverse a 239-foot section of the parking lot surface. That portion of the surface has been painted as a walkway. The walkway has a curb on one side but no barrier between the walkway and the traffic lane on the other side. The walkway also crosses an entry road into the parking lot before reaching the sidewalk that leads to the mall entrance. Anecdotally, riders who disembark are inclined to ignore the walkway and take a shortcut across the parking lot to the mall.

Much of Southridge Mall is in the 26-acre Tax Increment District (TID) Number Two, Village of Greendale, which was created in December 2010.<sup>2</sup> The total cost is \$15.85 million, including \$10 million provided to Simon and \$5 million for interest on the borrowed funds. The project also included \$600,000 for road and utility work and \$250,000 for administration costs. Payback is expected to be 12 to 15 years.

---

<sup>1</sup> Distances and elevations were analyzed from Milwaukee County GIS data at <http://maps.milwaukeecounty.org>

<sup>2</sup> The Draft Plan for TID No. 2 is at <http://www.greendale.org/TIF-2/assets/TIF-2-Greendale-PlanDRAFT-1.pdf>. The TID statute in § 66.1105 speaks only of cities, but § 66.1339 grants all those powers to villages as well. TID and "TIF District" tend to get used interchangeably.

Under the TID process, all property taxes on the incremental increase in property value are used to pay back the project cost, at the expense of the other units of government, including the county, who would otherwise be able to levy taxes there. The village has projected the \$15.85 million investment will produce an estimated initial additional taxable property value of \$52,500,000.

Figure B is a general site plan of the mall as of 2010. The bus stop is in the northeast corner. Note that Southridge moved the bus stop from inside the TID in the Village of Greendale to a portion of the mall parking lot in the City of Greenfield, outside the TID (north of the heavy dashed line in Figure B). Figure C shows the TID.

### **1. Milwaukee County was a participant in the TID Joint Review Board.**

Greenfield's TID included a joint review board as provided in § 66.1105(3)(g), Stats. The joint review board included members from Milwaukee County and the other taxing bodies whose property taxes are diverted to the village for the TID. By statute, the county representative is the County Executive or his/her designee, with preference given to "the county treasurer or another person with knowledge of local government finances" as designee. § 66.1105(4m)(ae)2. The joint review board met on November 17 and December 22, 2010, during the Walker administration. It's not clear who represented the County on this joint review board.

The joint review board's only statutory function is to endorse the village's decision to create the TID, by majority vote. There is no continuing review power. That provides no real ability for the county to impose conditions on the operation of a TID. The county's representative could vote against the TID as presented by the sponsoring municipality and attempt to sway other representatives to vote against the TID as well, but in practice this seems very unlikely. To my knowledge there are no cases where this has happened. Sec. 66.1105(4m) mentions that "[a]dditional meetings of the [standing joint review] board shall be held upon the call of any member." Milwaukee County could call a meeting, unless the board has been dissolved, to raise the transit issue in discussion, but there is not any provision for taking action on same.

The county could seek the sponsoring municipality's agreement beforehand for concessions on transit stops, etc., to be included in the TID grant, but whether the municipality would agree or other taxing bodies would join in the request is an open question.

In sum, Milwaukee County can attempt to persuade others involved to provide for benefits such as good transit access as part of a TID, but there is no firm ability to achieve that result through the joint review process.

### **2. Legal action**

A closed session pursuant to § 19.85(g), Stats., to discuss legal strategy would be appropriate.

Figure A

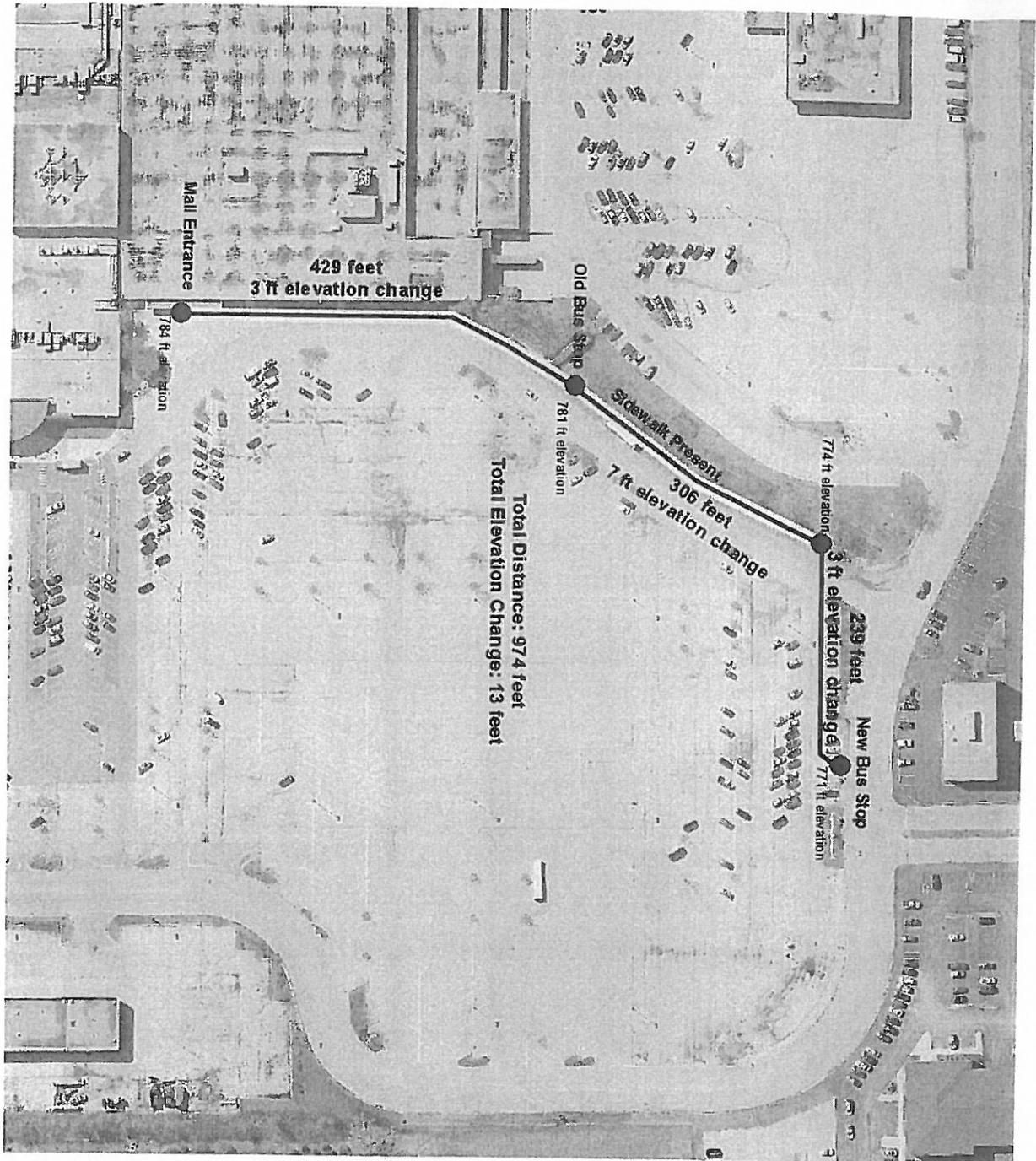


Figure B (2010)

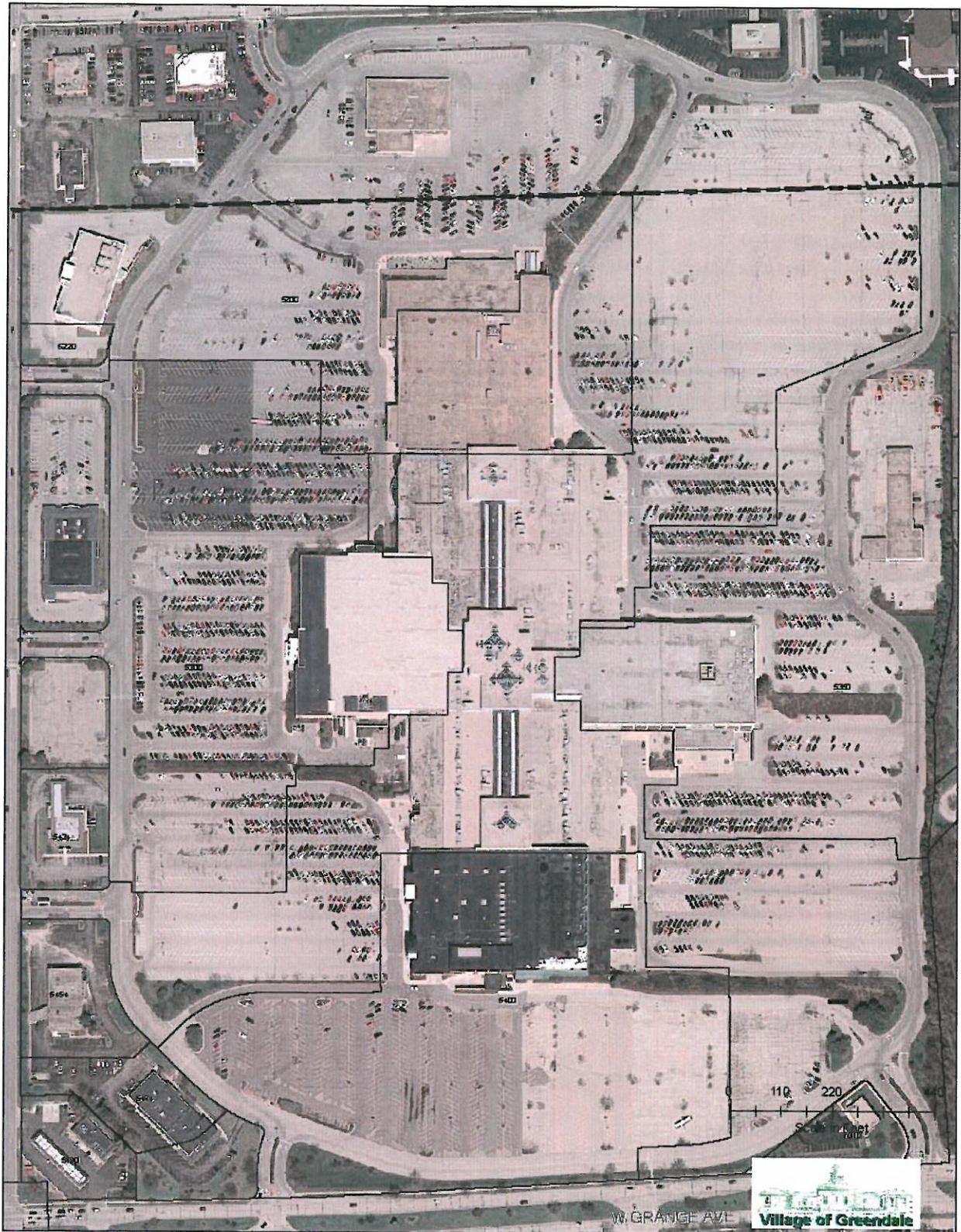


Figure C

