

RESOLUTION NO. 5-2020

A RESOLUTION OF THE BOARD OF WORKS AND PUBLIC SAFETY TO TEMPORARILY CLOSE THE CITY'S PEDESTRIAN PATHWAY AND OTHER MATTERS RELATING TO THE BROOKS DEVELOPMENT

Whereas, pursuant to Indiana Code § 36-9-6-2, the Board of Works and Public Safety shall “supervise the streets, alleys, sewers, public grounds, and other property of the city, and shall keep them in repair and good condition.”

Whereas, on **October 22, 2019**, the City, Utility Board and VJW The Brooks, LLC entered an *Agreement for Reimbursement of Certain Public Improvements*. Such Agreement was amended on **April 14, 2020**.

Whereas, Section 96 of the City's Municipal Code addresses impermissible noises within the City. Issues of Noise are also addressed in Section 4.701 of the City's Unified Development Ordinance.

Whereas, Section 15.202(C) of the City's Unified Development Ordinance outlines the process for securing a Site Permit. On September 4, 2020 the City issued Site Permit SP20-0274 to the Brooks Land, LLC.

Whereas, the Board of Works and Public Safety wishes to address some issues that have arisen since the commencement of site work at the Brooks Development (“Site”) by Brook Land, LLC (“Developer”) to ensure that work can continue in an orderly manner and in a way that minimizes the impact on adjacent residential subdivisions.

Wherefore, be it resolved by the City of Valparaiso Board of Works and Public Safety as follows:

Section 1. **Pathway.**

At the request of the Developer, the pedestrian pathway between Keystone and Beauty Creek Villa Homes subdivision has been temporarily closed. This is in the interest of public safety to allow contractors the ability to move dirt from the north side of the pathway to the south side and to construct the Public Improvements as defined in the *Agreement for Reimbursement of Certain Public Improvements*, as amended on **April 14, 2020**. As part of the temporary closure, Developer and its contractors have agreed to take steps to make the pathway accessible when requested by the City.

Section 2. **Noise, Scheduling and Contractor Staging.**

The Board of Works reminds the Developer and all contractors that the south, east and west sides of the Site abut residential subdivisions. In addition, the north side of Ransom Road contains residential structures. Although site work requires the operation of machinery, excessive and unnecessary noise is prohibited and shall form the basis of the suspension of any permit. Both Section 96 of the City's Municipal Code and Section 4.701 of the City's Unified Development Ordinance outline the minimum requirements.

As a condition to the pathway closure in Section 1, the Developer and its contractors shall not begin work on Site until **7:00 am**. No work shall take place on Sundays and City holidays. All work shall cease at **5:30 pm**. The term “work” shall include starting machinery, whether in use or not, and the moving of equipment when a “back-up” beeper is audible. Any deviation from this schedule must be temporary and approved in writing from the City. In addition, such deviation must be communicated to the neighboring subdivisions as provided in Section 5 no later than 48 hours prior to the deviation. Notwithstanding the preceding, it is understood that a fueling contractor will need access to the site at **6:00 am** to fuel machinery. Such is allowed with the understanding that such fueling will be done in a manner to limit noise and no vehicle shall operate with an audible “back-up” beeper. Also, there may be instances when certain

contractors work past **5:30 pm**. Any such work shall be in compliance with all City rules and regulations.

Contractor's central staging area is currently on the far east side of the development, just north of the existing pedestrian pathway. This is extremely close to the Keystone neighborhood. Although the City understand that there are logistic reasons why this location is necessary, as the project progresses, Developer and contractor will look for alternative staging areas away from residential neighborhoods.

Section 3. **Weekly Written Update/Status Meetings.**

As provided in **Section 2.3** of the *Agreement for Reimbursement of Certain Public Improvements*, as amended on **April 14, 2020**, the Developer is responsible for providing a status report on the construction of all Public Improvements. Weekly status reports shall commence **Friday, September 25, 2020** and shall continue every Friday for the duration of the construction. **The status report shall include an anticipated weekly construction schedule.** Status reports shall be emailed to Don McGinley and Steve Poulos on or before Friday at 9:00 am.

In addition, Developer intends to initiate weekly status meetings concerning the overall Site and Public Improvements. Don McGinley, or his designee, shall be invited to participate, although the City's participation shall not be mandatory or replace the need for weekly status reports.

Section 4. **Appearance before the Board of Works.**

Upon written request, a representative of the Developer shall attend regularly scheduled Board of Works and/or Valparaiso Utility Board meetings to provide a public update. The representative must be a person familiar with the Site and work surrounding the Public Improvements.

Section 5. **Communication with neighboring residents.**

Given the scope of the Public Improvements and overall development, Developer has acknowledged the importance of keeping the residents in the adjacent subdivisions updated as to work. Although signage was contemplated several weeks ago, it has not been finalized by the Developer. Descriptive signage will be placed at the east and west pathway entrances no later than **October 2, 2020** and maintained during the overall development. Developer will also develop a method to provide periodic updates and information (via email and social media) to the Property Owner Associations of Keystone, Beauty Creek Villas Home, Manchester Meadows and Windsor Park.

Section 6. **Incorporation.**

This Resolution is incorporated into Site Permit SP20-0274 and shall be included in any other permit relating to work associated with the Public Improvements, as such term is defined in the *Agreement for Reimbursement of Certain Public Improvements*, as amended on **April 14, 2020**.

Section 7. **Enforcement.**

Besides any remedy allowed to the City by law, any violation of any provision of this Resolution shall subject any active permit relating to the Site to be suspended.

Section 8. **Duration.**

This Resolution shall remain effective until the completion and approval of the Public Improvements.

Section 9. **Effective Date.**

The effective date of this Resolution shall be **September 25, 2020**.

Adopted this 25th day of September, 2020.


VALPARAISO BOARD OF WORKS AND
PUBLIC SAFETY


Member


Member

Member

Attest:


Clerk-Treasurer