

To: Mayor and Members of Council

July 25, 2011

Re: Garden of Eden Estates Development – Progress Report

### **Background**

A Development Agreement was entered into on August 29, 2005 for the development of the area now known as Garden of Eden Estates. The Development Agreement outlines the service requirements of the Developer. On March 7, 2011 Council reviewed the deficiencies of the development and entered into an agreement with the Developer to establish performance deadlines for remedying the deficiencies.

The completion of pavement within the subdivision and the pavement of White City Drive from the Emerald Vista subdivision to the entrance of the Garden of Eden Subdivision has not been completed yet. The Development Agreement states that the pavement of White City Drive is to be complete when 84 lots are sold or 5 years from the date of the agreement, whichever is sooner. A letter was sent to Mr. Schwartz on May 31, 2011 from our lawyer in response to an email from the Developer dated May 10, 2011. Please see attached correspondence.

Mr. Schwartz has forwarded his file onto a lawyer from Noble Johnston and Associates.

### **Discussion**

The items as identified at the March 7, 2011 meeting and agreed to remedy with the March 8, 2011 signed agreement have mostly been completed. SaskPower was going to revisit the location of the power boxes once the final grade was complete.

Ken Vander Vinne from KGS surveyed the drainage works and will be providing a report to the Town. This report will be provided to Council for the next Council meeting.

The Developer has informed the Town that Southern Asphalt has been awarded the contract to complete the pavement of the interior subdivision roads. I spoke to Kevin Jorgensen, from Southern Asphalt, and he assured me that he was awarded the contract and intends to begin paving the second week of August or even sooner if possible. White City Drive is not part of this paving contract. Kevin also informed me that he would not be able to agree to pave White City Drive this year, as his work schedule is full for 2011.



Mr. Schwartz is requesting correspondence from the Town stating that the Town will 'never again withhold development permits'. Our legal Counsel will draft a letter to Mr. Schwartz ensuring him that the Town will take action as need be. The Town cannot make a statement that we will 'never again' withhold development permits. As long as the Developer is fulfilling his part of the agreement the Town will not withhold development permits.

**Budget Implications**

None

**Conclusion**

Council will have a report from KGS in regards to the remediation of the deficiencies as noted on March 7, 2011 at the next Council meeting.

**Recommendation**

The purpose of this report is for information purposes.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Shauna Bzdel".

Shauna Bzdel,  
Town Manager

SCHWARTZ HOMES LTD./  
GARDEN OF EDEN ESTATES  
37 PARADISE CIRCLE, WHITE CITY, SASK. CANADA S4L 0A1  
PH.306-781-2330 FAX 306-781-0271 email [eschwartz@sasktel.net](mailto:eschwartz@sasktel.net)

MAY 10, 2011

Town Of White City  
P..O. Box 220  
White City, Sk  
S4L 5B1

Attn; Shauna Bzdel, Town Manager

Re: our brief conversation that you requested regarding pavement on White City Drive.

In a meeting October 20, 2009 with Brian Dimen (town manager) we discussed pavement of White City Drive, I advised we wanted to proceed with pavement in accordance with the development agreement. The fact that the road was property of the R.M. of Edenwold also was discussed. He was to speak to the R. M.. Since then in letters to the town , Sept. 20,2010, Oct. 19, 2010 & Feb. 10, 2011 we stated we wished to proceed with pavement , there was no replies.

I already had spoke to Stan Capnerhurst, the R.M. councilor,he said no one from White City discussed this with him.

In respect to your request for pavement from the existing pavement on White City Drive, Schedule "A" of the Development Agreement is very clear ;  
Pavement of Centre St.(White City Drive) from Emerald Vista Subdivision to the Garden of Eden Subdivision  
And the road to the entrance of the Subdivision to be the responsibility of the Developer.  
That is very clear, from the edge of each subdivision and to Eden gate. That measurement is 670 M.

Secondly it is also clear on Schedule "C" item 4 Roadway Structure that the road surface be 6M width and 50 mm thickness pavement over #32 or #33 base.

The total amount of pavement we are responsible for is 4,020 sq. metres, this will cost us \$166,000.00 this year. We are prepared to proceed with this in 2011. If the town or the R.M.wish to have it done to different standards we will contribute the \$166,000.00 when completed, provided the work is done this year.

We are sending a copy of this letter to The R. M. of Edenwold requesting permission to proceed with this work in Sept./Oct., 2011.

Thanks for an early response as we need to book the Paving Company.

Yours Very Truly,

Ernie Schwartz  
c.c. R.M. of Edenwold

**GERRAND RATH JOHNSON LLP**  
BARRISTERS & SOLICITORS

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*Counsel:* GERALD L. GERRAND, Q.C.

*Counsel:* ELTON R. GRITZFELD, Q.C. (1930-2006)

PLEASE REFER TO: **Mark F. Mulatz**  
*Email: mmulatz@grj.ca*

May 31, 2011

**Schwartz Homes Ltd.**  
**(Garden of Eden Estates)**  
37 Paradise Circle.  
White City SK S4L 0A1

**Attention: Ernie Schwartz**

Dear Mr. Schwartz:

**RE: Town of White City**  
**Garden of Eden Subdivision**  
**Our File Reference: 3683.017 MFM**

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We have been instructed to respond to the matters raised in your correspondence of May 10, 2011 addressed to the Town of Whit City.

With respect to your contention that the extension of the pavement of the roadway from Centre Street to the Garden of Eden subdivision is from the edge of the Emerald Vista subdivision, or 670 metres, we advise that the Development Agreement is quite clear on this point. It reads:

“Pavement of Centre Street from Emerald Vista subdivision to Garden of Eden subdivision and the road to the entrance of the subdivision to be the responsibility of the Developer.”

It was clearly intended the roadway would be from Centre Street to the Garden of Eden subdivision. This is the only reasonable interpretation of this requirement and the Town will not accept anything less.

With respect to the dimensions of the connecting roadway from Centre Street, the Agreement once again is quite clear. You are obligated to build a proper roadway from Centre Street to the entrance of the Garden of Eden subdivision. This roadway must comply with the R.M. of Edenwold standards, a

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May 31, 2011

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copy of which is enclosed. The reference in the Development Agreement to the roadways, relate to roadways within the subdivision, as the Town cannot dictate the dimension of the roadways which are in the R.M. – and not in the Town.

It is imperative you comply with the Development Agreement or the Town will be required to take enforcement proceedings. Please note you are currently in breach, as the roadway as per Schedule A was to be completed within five (5) years of execution of the Development Agreement.

Yours truly,

**GERRAND RATH JOHNSON LLP**

Per:

  
Mark F. Mulatz

MFM/ld  
Enclosure

CC Town of Whit City

## R.M. of Edenwold No. 158

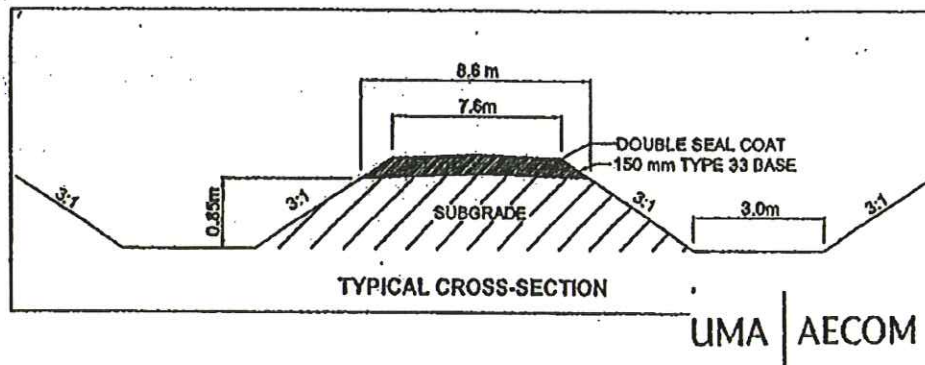
### Road Standards

The entire internal road system shall be constructed prior to any development permits being issued within a multi-parcel subdivision. The internal roads shall be finished with a hard surface, being either a chip seal or asphalt finish to be determined at Council's discretion and completed within two (2) years from the date of signing of a servicing agreement. The road shall be engineered and the base and surfacing construction shall meet the municipality's specific standards. The municipality's engineer, at the developers cost, shall inspect the road, as required, during construction and prior to the municipality assuming responsibility of same.

The developer shall be responsible for all road construction and maintenance (ie. gravel, grading, etc.) of the internal roads within a multi-parcel subdivision until the municipality assumes responsibility for same. Winter snow clearing will be undertaken by the municipality.

Drainage: A drainage plan for the subdivision shall be provided indicating culvert locations and drainage direction for the internal roads and yard approaches. It will also include the location(s) of the drainage exit from the entire subdivision into existing water runs or on to adjacent land.

Subgrade Construction: The subgrade shall be constructed on a 30 metre right-of-way with an 8.6 metre top width. (See illustration) Traffic gravel shall be applied to the road surface at a rate of 250 cubic metres per kilometer. The cost of the supply and application of the gravel shall be the responsibility of the Developer.



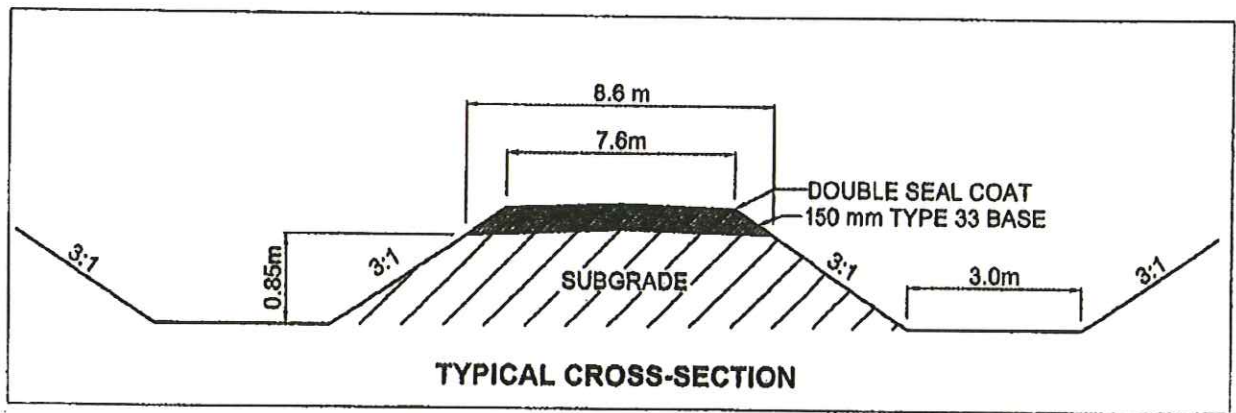
Surface Structure and Prime Coat: The top 150mm of the subgrade shall be shaped and compacted to not less than 97 percent of maximum density. Any existing failures in the subgrade shall be excavated and repaired prior to the base course construction. Type 33 base course shall be used to construct the surface structure. The base course shall

be laid in two 75mm lifts with a specified cross section and compacted to not less than one hundred percent (100%) of maximum density. The finished surface base course shall be primed with MC30 emulsified asphalt at a rate of approximately one litre per square metre (1.0 l/m<sup>2</sup>).

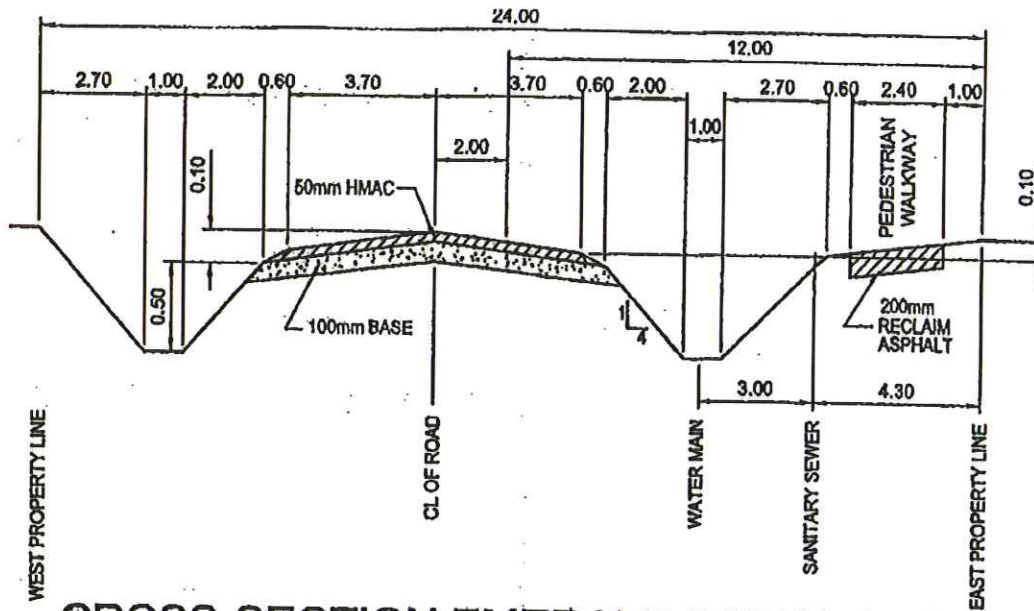
Double Seal Coat: The primed road surface shall be swept prior to the application of HF250. The application rate shall be in the range of 1.5 to 1.8 litres per square metre. The aggregate for the seal coat shall be composed of sound, hard and durable particles of sand, gravel and rock free from injurious quantities of elongated, soft or flaky particles, shale, loam, clay balls, organic or other deleterious material and shall comply with the Ministry of Highways and Infrastructure Specification 4210. The rate of application of the aggregate shall be 0.014 cubic metres per square metre. The second seal coat shall be applied no sooner than 10 days after the application of the first seal coat. The surface of the first seal shall be swept to remove loose rocks and dirt.

The municipality shall assume responsibility for the internal roads once:

- the hard surface finish has been in place for two (2) years; and,
- the roads have been inspected and approved by the municipal engineer and any deficiencies have been corrected.

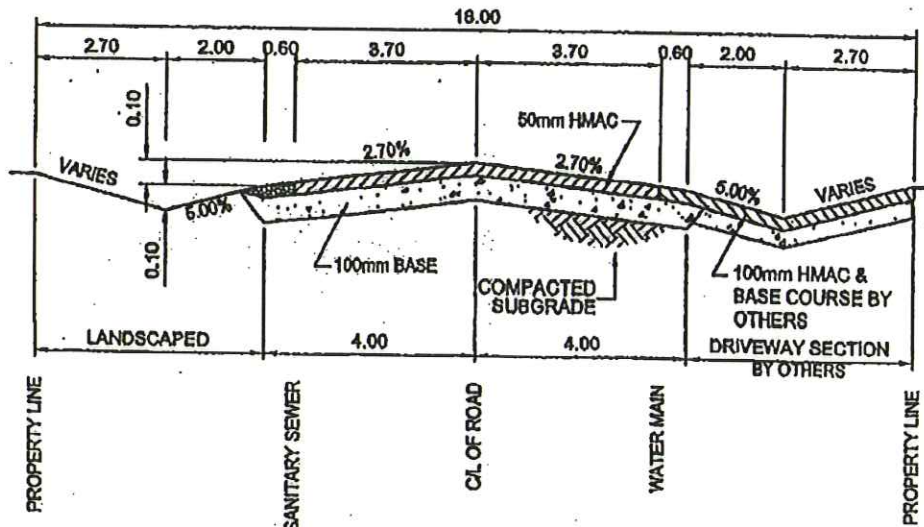


## R.M. OF EDENWOLD NO. 158



### CROSS-SECTION EMERALD PARK ROAD

NTS



### CROSS-SECTION FAIRWAY ROAD

NTS