



INVER GROVE HEIGHTS CITY COUNCIL AGENDA
MONDAY, JULY 11, 2011
8150 BARBARA AVENUE
7:30 P.M.

1. CALL TO ORDER

2. ROLL CALL

3. PRESENTATIONS:

4. CONSENT AGENDA – All items on the Consent Agenda are considered routine and have been made available to the City Council at least two days prior to the meeting; the items will be enacted in one motion. There will be no separate discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from this Agenda and considered in normal sequence.

A. Minutes – June 27, 2011 Regular Council Meeting _____

B. Resolution Approving Disbursements for Period Ending July 6, 2011 _____

C. Pay Voucher No. 25 for City Project No. 2008–18, Public Safety Addition/City Hall Renovation Project _____

D. Change Order No. 1 for City Project No. 2011–09B, Sealcoating _____

E. Final Compensating Change Order No. 1, Final Pay Voucher No. 2, Engineer’s Final Report, and Resolution Accepting Work for City Project No. 2010–09C, Blaine Avenue Mill and Overlay _____

F. Approve 2011/2012 Collective Bargaining Agreement between the City and Law Enforcement Labor Services (LELS), Local 84 _____

G. Approve Easement Encroachment Agreement with Cahill Investments, LLC _____

H. Resolution Accepting Proposal from Barr Engineering Co. for Engineering Services to Review Gerten’s Greenhouse Plan Submittal Compliance with Storm Water Model _____

I. Personnel Actions _____

5. PUBLIC COMMENT – Public comment provides an opportunity for the public to address the Council on items that are not on the Agenda. Comments will be limited to three (3) minutes per person.

6. PUBLIC HEARINGS:

A. CITY OF INVER GROVE HEIGHTS; Consider Proposed Spending Plan to Authorize Expenditures of Tax Increments from the City’s TIF District No. 4–1 pursuant to Minnesota Statutes, Sections 469.176 Subd. 4m and a Proposed Business Subsidy Agreement pursuant to Sections 116J.993 to 116J.995 _____

B. CITY OF INVER GROVE HEIGHTS; Resolution Approving Layout No. 1 of the T.H. 52 West Frontage Road from 0.35 Miles South of Concord Boulevard to 0.20 Miles North of Inver Grove in the City of Inver Grove Heights as prepared by the Minnesota Department of Transportation _____

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

A. STEPHEN WEBB; Consider the following actions for property located at 10115 Cloman Path:

- i. A Conditional Use Permit to allow an amateur radio tower in excess of height allowed in a residential zoning district _____
- ii. A Variance to exceed structure height in the Critical Area Overlay District _____

B. LUTHER NISSAN KIA; Consider Resolution relating to a Conditional Use Permit Amendment to add a 20,000 square foot building addition and a 43,000 square foot parking lot addition to the existing site for the property located at 1470 50th Street _____

C. XPAND INC; Consider a Resolution for an Interim Use Permit for an agricultural building in the Northwest Area for property located at 1400 70th Street _____

D. CITY OF INVER GROVE HEIGHTS; Consider an Ordinance Amendment to the City Code relating to Criteria for Granting a Variance _____

E. CITY OF INVER GROVE HEIGHTS; Consider an Ordinance Amendment to Change the Zoning of Two City Owned Parcels from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District. Properties located at 8336 Babcock Trail and along the 7400 block of River Road. _____

F. CITY OF INVER GROVE HEIGHTS; Consider a Conditional Use Permit to allow fill in excess of 1,000 Cubic Yards in the Floodplain for property located at 4301 63rd Street _____

PUBLIC WORKS:

G. CITY OF INVER GROVE HEIGHTS; Consider Resolution Concerning the Concord Hills Development _____

ADMINISTRATION:

H. CITY OF INVER GROVE HEIGHTS; Consider Resolution Providing for the Sale of \$4,610,000 General Obligation Refunding Bonds, Series 2011A _____

8. MAYOR AND COUNCIL COMMENTS:

9. ADJOURN

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, JUNE 27, 2011 - 8150 BARBARA AVENUE**

CALL TO ORDER/ROLL CALL The City Council of Inver Grove Heights met in regular session on Monday, June 27, 2011, in the City Council Chambers. Mayor Tourville called the meeting to order at 7:30 p.m. Present were Council members Madden and Piekarski Krech; City Administrator Lynch, Assistant City Administrator Teppen, City Attorney Kuntz, Public Works Director Thureen, Parks and Recreation Director Carlson, and Community Development Director Link.

3. PRESENTATIONS:

- A.** Recognize Retirement of Chief Charles Kleckner from the Inver Grove Heights Police Department after 30 Years of Service

Mr. Lynch recognized Police Chief Charles Kleckner. He explained Chief Kleckner is retiring after 30 years of service in the City. He stated Chuck was hired as a patrol officer in 1981, was promoted to sergeant in 1990, became a lieutenant in 1998, and was appointed Police Chief in 2004. As a lieutenant Chuck supervised three (3) high profile murder investigations during his tenure. In 2003 Chuck served as the Dakota County Drug Task Force Vice President and received the Community Peace Award in 1998 for his contributions towards ending domestic violence in Dakota County. Chuck was responsible for the development and implementation of the Police Bike Patrol program, which is still widely popular in the City today. Chuck also served as the Crime-Free Multi-Housing Coordinator, was the team leader on the Inver Grove Heights High Risk Entry Team, authored and obtained a cops grant to cover over-time costs to investigate motor vehicle thefts in conjunction with the City's car dealerships. Between 1985 and 1998 he was a fire-arms, baton use, high risk vehicle stops, and use of force instructor. He stated Chuck has received countless letters of recognition and thanks from members of the community and local businesses including the Robert B. Lewis House, each of the Inver Grove Heights Neighborhood Crime Watch groups, the Inver Grove Heights Fire Department, and all of the other Dakota County law enforcement agencies. Mr. Lynch thanked Chuck for his friendship and professional association over the last five (5) years and stated he has been a tremendous asset to the City and the Police Department throughout his career.

Chief Kleckner stated it is hard to believe 30 years have gone by so quickly and opined that it must be a testament to enjoying his job so much. He thanked the Mayor and City Council for their confidence and support to the Police Department. He recognized the officers and people he worked with on a daily basis and stated he was very proud to have worked with everyone in the department. He introduced his family and thanked them for their support and patience. He explained one of the reasons he enjoyed working in Inver Grove Heights is because it has always had a small town feel and he thoroughly enjoyed each of the positions he held in the department. He stated he has considered it a privilege to work in the City for the past 30 years.

Mayor Tourville presented a certificate to Chief Kleckner and thanked him for his service. He declared Thursday, June 30th as Chief Kleckner Day in the City of Inver Grove Heights. He stated Chuck did a tremendous job and stated his leadership and mentorship to the officers and employees of the department have left the City in good hands.

4. CONSENT AGENDA:

Citizen Allan Cederberg requested that Item 4A, Minutes of June 13, 2011 Regular Council Meeting, be removed from the Consent Agenda.

Councilmember Piekarski Krech removed Item 4L, Adopt Trail Gap Report, and Item 4O, from the Consent Agenda.

Councilmember Madden removed Item 4M, Approve VMCC/Grove Improvement Projects, from the Consent Agenda.

- B. **Resolution No. 11-104** Approving Disbursements for Period Ending June 22, 2011
- C. Changer Order No. 1 for City Project No. 2011-09A, Cracksealing
- D. Agreement for 2011 Citizen-Assisted Lake Monitoring Program (CAMP)
- E. Land Alteration Permit No. C-086-11 for Steve Watrud for Part of Lot 1, Block 1 of the Gainey Addition
- F. Approve Contract for Geotechnical Services to Sample and Test Pond Sediments at Three Storm Water Facility Maintenance Locations
- G. **Resolution No. 11-105** Accepting Individual Project Order No. 17C with Kimley-Horn & Associates, Inc. for Additional Construction Phase Services for City Project No. 2011-09D, South Grove Street Reconstruction – Area 6
- H. **Resolution No. 11-106** Receiving Bids and Awarding Contract for the 2011 Pavement Management Program, City Project No. 2010-09I – Blaine Avenue (North Area) Mill and Overlay
- I. **Resolution No. 11-107** Receiving Bids and Awarding Contract for the 2011 Pavement Management Program, City Project No. 2011-09F – 65th Street East Improvements
- J. **Resolution No. 11-108** Approving Assessment Against Dakota County Tax Parcel No. 20-36500-21-060 with Respect to City's Local Improvement Project to Abate Failed Septic System on Property Owned by Steven Patrick Barry and Irene E. Barry
- K. Approve Easement Agreement with Xcel Energy for Gas Rectifier Line
- N. Proclamation Designating July as Park and Recreation Month
- P. Approve Park Naming Policy
- Q. Agreement with IGHHA for Dasher Board and Wall Panel Advertising
- R. Authorize Legal Boundary Survey of Property Owned by Lawrence Kladek for Future Trail Purposes
- S. Approve Access Agreement for Property Located at 4325 66th St.
- T. Personnel Actions

Motion by Madden, second by Piekarski Krech, to approve the Consent Agenda

Ayes: 3

Nays: 0 Motion carried.

A. Minutes – June 13, 2011 Regular Council Meeting

Allan Cederberg, 1162 East 82nd Street, commented on item 6B related to the approval of the transfer of the liquor license for the King of Diamonds. He stated that the transfer of the license was approved and questioned if the Optional 2 AM license was also approved.

Mayor Tourville clarified that Mr. Cederberg was not disputing the accuracy of the minutes and that the minutes were correct.

Mr. Kuntz stated the Council approved the transfer of the entire On-Sale Intoxicating liquor license. He explained the ability to operate after 1:00 a.m. until 2:00 a.m. is regulated via a separate license issued by the State of Minnesota. He noted the City is not the issuing authority of that license and is merely asked by the State if the City allows the sale of alcohol until 2:00 a.m. He stated the clerk will follow up with more information to Mr. Cederberg.

Motion by Madden, second by Piekarski Krech, to approve the Minutes of June 13, 2011 Regular Council Meeting

Ayes: 3

Nays: 0 Motion carried.

L. Adopt Trail Gap Report

Councilmember Madden expressed concerns regarding where the money would come from in the future to maintain the trails. He stated when the City starts building and constructing things there should be a plan in place with respect to maintenance and operation costs for the future.

Councilmember Piekarski Krech pointed out that the report is a guideline and it does not necessarily mean that the trails are going to be built.

Motion by Madden, second by Piekarski Krech, to adopt the Trail Gap Report

Ayes: 3

Nays: 0 Motion carried.

M. Approve VMCC/Grove Improvement Projects

Councilmember Piekarski Krech questioned what is being ordered for furniture and what was wrong with the existing furniture.

Mr. Carlson stated the tables and chairs that overlook the pool would be replaced and other, more comfortable furniture such as couches would be added to create a more inviting atmosphere for guests of the facility. He explained that a suggestion from the audit that was done was to create a more comfortable atmosphere for guests and members of the facility.

Councilmember Piekarski Krech asked how often the couches would be replaced, because they will be used heavily and will experience a lot of wear and tear. She questioned what would be done with the current chairs.

Mayor Tourville suggested that they may be able to be sold as excess property.

Councilmember Piekarski Krech asked what kind of tables and chairs they are getting for this kind of money.

Mr. Carlson responded that commercial grade furniture would be purchased. He suggested that the item could be tabled if the Council would like more detailed information regarding the furniture specifications.

Mr. Lynch explained staff has been putting together a comprehensive capital plan. He stated it is all about the quality of life and there are policy decisions that need to be made by the Council in terms of what money is spent on.

Allan Cederberg, 1162 E. 82nd Street, questioned what the costs were to hire someone to do plan the remodeling projects and assist with the interior design.

Mr. Carlson stated the flooring cost is \$6,300 and the furniture cost is \$15,605. He stated he did not have the exact figure that was spent on design assistance for the improvement projects.

Motion by Piekarski Krech, second by Madden, to approve VMCC/Grove Improvement Projects

Ayes: 3

Nays: 0 Motion carried.

O. Approve Park Maintenance Fund (Fund 444) Funding Transfer

Councilmember Piekarski Krech stated she still disagrees with where the money is coming from and thinks the Council needs to have more discussion about how the City is going to fund parks and how they are using discretionary money.

Mayor Tourville directed staff to put the item on a work session agenda for further discussion.

5. PUBLIC COMMENT: None.

6. PUBLIC HEARINGS:**A. CITY OF INVER GROVE HEIGHTS;** Consider Application of El Loro of Inver Grove Heights, Inc. dba El Loro for an On-Sale/Sunday Intoxicating Liquor License for Premises Located at 5681 Blaine Ave.

Ms. Teppen stated the item pertains to an application for an On-Sale/Sunday intoxicating liquor license for El Loro Mexican restaurant. She explained the Police Department completed the requisite background investigation and found no basis for denial of the request.

Councilmember Madden asked for clarification on the address.

Alex Gomez, applicant, clarified that the correct address was 5681 Blaine Ave.

Councilmember Madden questioned when the restaurant would open.

Mr. Gomez responded that he would like to be open by August 15th.

Motion by Piekarski Krech, second by Madden, to close the public hearing.

Ayes: 3

Nays: 0 Motion carried.

Motion by Piekarski Krech, second by Madden, to approve the application of El Loro of Inver Grove Heights, Inc. dba El Loro for an On-Sale/Sunday Intoxicating Liquor License for premises located at 5681 Blaine Ave.

Ayes: 3

Nays: 0 Motion carried.

B. CITY OF INVER GROVE HEIGHTS; Consider Proposed Spending Plan to Authorize Expenditures of Tax Increments from the City's TIF District No. 4-1 pursuant to Minnesota Statutes, Sections 469.176 Subd. 4m and a Proposed Business Subsidy Agreement pursuant to Sections 116J.993 to 116J.995

Mayor Tourville informed the audience that the Council would open the public hearing and take comments, but they would likely not vote and table the item to the first meeting in July because two council members were absent.

Mr. Lynch reviewed the location of Tax Increment Financing District 4-1, including the commercial portion of the Argenta Hills development. He stated the first item to be considered by the Council is a resolution that would amend the TIF District 4-1 spending plan. He noted the resolution identifies the purpose for the amendment as well as the goal/goals that would be achieved as a result of the amendment to the spending plan. He explained in 2010 the state legislature changed the tax increment financing laws to allow expenditures outside tax increment financing districts and at the time public and private improvements were required to begin by July 1, 2011 and be completed by December 31, 2011. He stated in the most recent legislative session the previously established deadlines were amended to allow public and private improvements to commence by July 1, 2012 with a completion deadline of December 31, 2012. He explained the second item to be considered by the Council is a resolution adopting a contract for private development between the City and IGH Investments, LLC. He noted the City's bond counsel and financial advisors would also be available to answer questions. He explained that both items being considered are allowed by law and the purpose for both would mainly be the creation of jobs and a means to jump start the development that stalled in 2008.

Councilmember Piekarski Krech expressed concerns that two council members were absent for consideration of such a critical issue. She opined that it is very important that every council member receive the same information so that all five (5) members can vote on the issue in an informed manner.

Councilmember Madden suggested that they could still take comments from the public.

Mayor Tourville noted that every council member received the same packet of information.

Mr. Lynch added that the council members not in attendance could watch the meeting online and would

also be provided with the minutes of the meeting which would contain comments from the public.

Mayor Tourville stated the public hearing was noticed and scheduled for this meeting and if the item is tabled staff will ask bond counsel and the city's financial advisors to attend the meeting on July 11th.

Steve Apfelbacher, Ehlers & Associates, discussed how the City came to be in this situation and reviewed the items proposed for Council consideration. He reiterated that the purpose of the public hearing is to consider a spending plan which authorizes expenditures for the tax increment financing district and to develop and approve a proposed business subsidy agreement. He stated the developer approached the City to see if the City could help leverage construction of a major retailer in a project that was undertaken in 2008 and lies dormant in 2011. He explained the City has been looking for development to occur in the Northwest Area to help pay for the infrastructure (through connection fees) that was constructed by the City. He stated up to this point approximately \$650,000 in connection fees have been assessed and will be paid over the next ten (10) years and the City needs to make sure that those fees continue to be paid in addition to the construction fees from that particular project. He added that the proposed project would expand the tax base by approximately \$300,000 per year in property taxes and that figure would increase to approximately \$500,000 per year if the entire project was undertaken. He explained the major concern from the developers is that they want the project to proceed now while there is still a market. He noted if the developers were to wait and the market goes away there would be no assurances. He stated proceeding with the proposed project could drive development within the Northwest Area.

Mr. Apfelbacher reviewed the amendments that were adopted by the state legislature with respect to tax increment financing laws. He explained that TIF District 4-1 has cash balances in the district and they have looked at the use of those balances over the term of the district, through 2019. He stated based upon their review, there is approximately \$10 million dollars worth of debt that is currently outstanding and in addition to that the district is also helping to pay debt that is outstanding in TIF District 2-1. He explained that when factoring in and projecting current increment they felt comfortable that the City could continue to pay for all of the obligations that are outstanding, fund the debt that exists in TIF District 2-1, and still have cash balances to fund requests from the developer. He noted that the developer's books were reviewed and it was agreed that a payment of \$1,250,000 is necessary to support the project. He stated that would be broken down into two different pieces, the first payment of approximately \$500,000 would be due in the fall of 2011 for various public improvements and the remaining \$700,000 would be payable upon completion of the project. He added that based on the deadlines set forth by the state legislature all of the expenditures would need to be paid by the end of next year. He explained that it was recommended that a contract be developed that would minimize the risk to the City and ensure that if the development does not occur the City would not expend those funds. He stated it was proposed that the contract require the developer to start by September 1, 2011 and if they do not start the agreement would be terminated. He explained upon completion of the public improvements the City would escrow approximately \$550,000 and would not be payable until the project has been constructed as described in the agreement. He noted that the intent was to create a scenario in which the developer has to perform in order to have the funds expended. He stated the potential use of the increment in the district was also examined and considering the existing cash balances and the future cash balances that are available there would be additional funds within that district to be utilized for other projects specifically within TIF District 4-1. He added that surplus dollars available at the end of the term of the district would go back to the City and County, noting that from the school district's perspective there is little advantage in keeping those dollars as they are only able to receive a small portion of any surplus under state law. He stated there have been approximately 20 cities in the State that have utilized the same statute, including the cities of Lindstrom and Carver. He reiterated that the law is very specific in that it is not possible for the City to use additional TIF dollars for public improvements, and the use of the funds must be related to a specific, private development and be the responsibility of the private developer.

Steve Bubel, Kennedy and Graven, stated he acts as the City's bond counsel and has worked very closely with Ehlers and Associates, the City Attorney and the City Administrator to develop and negotiate the proposed contract for business subsidy with the developer. He explained the contract states exactly what

the developer must build. The first is the Target facility, a 135,000 square foot store, the second involves additional commercial improvements of three (3) buildings totaling 15,000 square feet, and the third involves site improvements such as parking, landscaping, the completion of Amana Trail from T.H. 3 to Argenta Trail, and a pedestrian/bike trail to the north. He stated the contract outlines specific timeframes for the completion of various components of the project in conjunction with the assistance the City has been asked to provide. By September 1, 2011 there must be the beginning of some type of construction either on the site or the identified site improvements and if that does not occur the contract is terminated. By December 1, 2011 the developer must provide the City proof that they have spent close to \$550,000 in some kind of construction of this project. He stated if the first two deadlines are met, the City will place \$549,000 in escrow with the title company and the funds will be held on the City's behalf until the remainder of the deadlines established in the contract are met. By February 15, 2012 the construction of the actual Target building must commence. He noted if that does not occur the money being held in escrow would be returned to the City. He explained by December 1, 2012 the entire project must be completed, the Target store must open for business and the developer must prove that they have created 14 construction jobs. If all of the deadlines are satisfactorily met the escrow money would be released and the additional funds of approximately \$700,000 would be released. He noted the final provision, as required by statute, is that after the project has been completed and the funds have been provided the business must remain in operation for a period of at least five (5) years. If the business were to close at some point in the first five (5) years the City would be entitled to a pro-rated refund of the funds that were issued. He reiterated that none of the funds will be spent until the project has been completed to the terms and specifications set forth in the contract as negotiated by the City. He explained that the creation of at least 14 construction jobs by December 1, 2012 is a requirement of the spending law. The business subsidy law requires the City to establish goals for the subsidy and in this case the actual public purpose is to get the abandoned project completed. He noted that the contract also requires the developer to pay the City's out of pocket costs, such as attorney and consultant fees.

Councilmember Piekarski Krech clarified that as long as the business remains open for five years the developer gets to retain the money.

Mr. Bubel responded in the affirmative.

Mr. Lynch stated there are two letters that need to be received by the Council.

Motion by Madden, second by Piekarski Krech, to receive letters from Progress Plus and Independent School District No. 199.

Ayes: 3

Nays: 0 Motion carried.

Dian Piekarski, 7609 Babcock Trail, asked if the bond counsel or Ehlers and Associates know where the bulk of the City's TIF dollars in district 4-1 come from in this economy and is the City in jeopardy of not being able to generate the revenue that has typically been generated if something were to happen. She also asked if there are any other projects in the city that have stalled, defaulted, or remain incomplete and what liability does the City or its taxpayers have for those projects and how will that be handled. She questioned if the City's legal counsel recommended moving forward on just the word of the developer that Target is going to proceed with the store. She opined that Target has not signed off on anything.

Mayor Tourville stated the City is not doing business with Target, they are doing business with the developer, IGH Investments LLC. He reiterated that the developer would not receive any of the funds if Target is not built and does not open.

Ms. Piekarski expressed concerns that the proposed Target store has been downsized and opined that the partners that make up IGH Investments, LLC have protected themselves by creating the LLC and if the project was to fail the partnership may become insolvent and the City may not be able to recoup the funds and could end up with an empty situation. She opined that the companies that comprise IGH Investments LLC could fund the project internally using the funds that were received from the sale of the land to Target.

She commented that the projected tax revenue from the completed project was estimated to be between \$200,000-\$300,000 annually, and it appears that the City of Inver Grove Heights would really only collect \$75,000 annually. She stated if that figure is correct it would take the City 16 years to break even on \$1,250,000. She commented that Progress Plus reported a 27% vacancy rate in retail space at the last EDA meeting and opined that if the project was to move forward additional retail space would be created with unknown tenants and money would be taken out of a TIF district that could use the money to fund its own retail area. She opined that the purpose should be to reinvest TIF dollars in the district from which the money comes from. She referred to page 2B and the terminology that states “assistance authorized expressly includes, but is not limited to assistance to IGH Investments LLC” and questioned what else it is open to. She referred to page 12, item number 4, which states that the subsidy is needed to pay for infrastructure serving the Northwest Area. She commented that it was her understanding from the City Administrator that the City was not having trouble making payments on the bonds for the extension of the sewer and water to the area and questioned why the City is trying to force soft development. She opined that if the development cannot stand on its own and needs subsidizing to get going what are the odds that it will be able to survive if the economy does not improve. She referred to page 15, Section 4.3 relating to the commencement of construction by September 1, 2011 and questioned what would prevent the developer from only constructing the smaller commercial improvements or site improvements and then walking away from the remainder of the development. She referred to Article 6, Section 6.3 which states that the City can utilize “any funds available to the City to fund the TIF loan and may also approve, in its discretion, an interfund loan to apply Tax Increments toward repayment of other funds used for those purposes” and asked why that clause was included. She referred to page 28, section 10.9, where it states that the agreement may be amended only written agreement approved by the City and the developer and questioned why in section 10.10 the authority for City approvals is granted to a City representative rather than bringing it to the City Council for approval. She opined that the agreement is too wide open and does not provide enough accountability. She stated her main concern is if someone else comes along with a great idea for district 4-1 the City won't have the money to contribute because it was expended on this project.

Mr. Bubel explained the spending plan was drafted to authorize this particular project, but noted that it is based on a law that the legislature gave the City based on the fact that it was going to be on a short-term basis in that there are specific deadlines that have to be met. The plan was written to give the City maximum flexibility in that it authorizes the use of the money for this project and/or another project that meets the same criteria of the statute. He clarified any new project that is proposed would come back to the City Council for approval.

Mayor Tourville noted that any city in the State of Minnesota could use the statute in the same manner.

Mr. Bubel stated the commencement of construction in Section 4.3 refers to specifically identified site improvement related to this project that must be constructed. He noted housing is not included in the defined site improvements. He clarified that if all the developer did was start construction and then walk away from the project, therefore not meeting the specific deadlines that are laid out in the contract, the developer would not get any assistance from the City because the contract would be void. He clarified that the Council is also provided with flexibility in that the developer does not have rights to tax increment financing just the \$1.25 million. He explained the intent of the phrase pertaining to amendment of the contract will be clarified to eliminate any confusion on how the contract could be amended. He noted it is typical to have the City Administrator sign off on small approvals rather than bring every little thing back to the City Council, but a contract amendment would be a significant change that would be brought back to the Council for approval.

Mayor Tourville suggested that any expenditure would need to come back to the City Council for approval.

Mr. Apfelbacher displayed a map to illustrate where the increment comes from. He explained that 4-1 has been very successful tax increment district from the City's perspective. He stated when this sort of thing is done, a development district is typically created and then another district is created inside the development district. He identified the development district of 4-1, stating it is bound by 494 to the north,

Highway 52 to the west, to the City boundaries on the east side, and along the south it is generally bound by 55th street. He noted to the south there is a housing section that occurred to the south of 55th that is also inclusive of the district. He explained within the district it has generally been the commercial and housing areas that have been developed in the district, so increment has been collected from a mix of uses within the district. He stated the reason it was recommended to use increment from 4-1 and shift it to 2-1 is because the state changed the properties that are collected as tax increment revenues for commercial property. As a result the City received less tax increment revenue, making it necessary to shift revenue from district 4-1 to 2-1. He stated cash flow projections included paying all of the obligations of TIF District 2-1, the \$1.25 million proposed for this project, as well as the outstanding debt obligations in 4-1. He noted after reviewing all of the factors it was projected that over the life of the district approximately \$3 million dollars would be generated additionally for use on other projects in TIF District 4-1. The assumption is that the existing increment would continue to be paid over the life of the district. He stated the City has two outstanding debt obligations in TIF District 2-1, totaling approximately \$4 million dollars and outstanding debt obligations totaling approximately \$6 million dollars in 4-1.

Councilmember Piekarski Krech questioned if all of the projections were over the life of the district, through 2019.

Mr. Apfelbacher responded in the affirmative.

Councilmember Piekarski Krech questioned how much debt there is now and how much the City will incur from now until 2019 to make sure that the district is solvent.

Mr. Apfelbacher explained at the end of 2010 the City had just under \$ 3 million dollars in cash balance within the district and approximately \$10 million is owed. He noted where the fund balance will go would depend on how aggressively the City pays the debt that is existing within 2-1. He projected that the debt in 2-1 could be paid, subject to Council approval, by 2014 and the City would still have \$950,000 available for incentives in 4-1. He noted approximately \$1.5 million is collected in increment annually in district 4-1 and just under \$300,000 is collected annually in 2-1. He explained that his main concern overall for the project is the fact that the City is paying the debt for the Northwest Area and in order to pay that debt in the future the City needs to collection connection fees. He stated if the City does not start collection connection fees in approximately 3-4 years a point will be reached at which the City may have to look at carrying that sewer debt for quite some time. He noted a critical mass, such as Target, is necessary for the development in order to provide an incentive for everything else that is planned to go around it. He explained the dilemma for the developer is that Target was started and building stopped, they can't sell the land because Target owns it, and they need Target to be built to get everything else going around it. He reiterated that no other businesses are going to move in without knowing what is going to happen on the Target property. He stated the hope is that the proposed incentive will help get the critical mass built to spur the rest of the development, thereby allowing the City to start collecting connection fees.

Councilmember Piekarski Krech asked what would happen if Target is there for five years but the economy doesn't pick up so there isn't enough development around it, and Target decides to leave the location.

Mr. Apfelbacher stated the developer would be better able to answer that question.

Councilmember Piekarski Krech stated School District 199 is concerned because money is being taken from their TIF district to be used in another TIF district and their school district would not benefit from the money generated in 4-1.

Mayor Tourville clarified that the school district would not lose money, but would not generate money either.

Councilmember Piekarski Krech opined that the school district supports the project, but has concerns regarding the way the project is being advanced.

Mayor Tourville clarified that the Manley housing development went broke and the City is in the midst of

trying to solve the issue.

Mr. Lynch clarified that the City had no role in that development, and therefore had no risk. He explained the role the City has tried to play was to work with the bank to try to find a way to acquire the property so the public infrastructure could be completed. He noted there would be discussion regarding the Concord Hills development later in the meeting.

Jim White, Fine & Associates, identified himself as a developer in district 4-1. He opined that there is another use in that district and could also use funds to acquire eight (8) houses. He explained they have a two phase project underway and the second phase involves the property on which the homes are located. He stated they have put over \$2 million dollars into the project and could use the City's assistance to acquire the remaining properties. He noted they are in serious discussions with several developers for retail anchors and they are getting close because the market is starting to turn around.

Mayor Tourville stated the City has tried to buy properties numerous times and the City would be happy to continue to work with them. He suggested that Mr. White set up a meeting for further discussion.

Jerry Lemke, 2417 E. 53rd St., stated he lives in the southeast quadrant. He stated he agreed that the entire Council should be present before a decision is made. He explained he would like to discuss the southeast quadrant and the transfer of money from TIF District 4-1 to the Argenta Hills and Target development. He opined that someone dropped the ball on the development. He stated his home should not be in the southeast quadrant because it is designated as commercial and he said the homes that are there are a big obstacle to further development in the district.

Mayor Tourville reiterated that offers have been made to purchase the property. He stated the City is not actively trying to buy the houses because they do not own the property and Fine and Associates indicated that they would like to handle the property acquisitions.

Mr. Lemke stated the homeowners were told that there is not enough equity to pay for the houses and they need TIF money. He stated the noise is going to be awful and traffic will be bad along with pollution. He opined that if this happens and they develop around them the property values will drop drastically. He asked what the TIF transfer does for them.

Mayor Tourville reiterated that the discussion needs to be with the developer not the city.

Mr. Lemke opined that the City should have worked more aggressively to develop the southeast quadrant. He stated this issue needs to be looked at carefully.

Aida Schaeffer, 8450 Alta Ave. E., stated the residents have been watching limited progress. She stated she is concerned that the City is not making the best of its resources. She questioned why the City should be investing in a project that is not interested in moving forward at this time. She asked why the City should fund something for a commercial developer. She questioned if there is a better use for the TIF money. She asked if there is a requirement to use it and asked where the money goes if they don't use it.

Mayor Tourville stated his understanding is that if an agreement is reached, Target would agree to build. He reiterated that an agreement was put together that protects the City. He explained that if the money is not used it stays throughout the life of the district and would eventually be returned to the County and the City. He explained they are looking at tax base being generated because that could be more revenue than leaving the TIF money in the district.

Ellen Waters, Progress Plus, stated they provided a letter of support for the project. She explained the board thought this was a good deal that provided almost no risk to the City. She stated the retail market is very complex and Target is a leader in the industry and other retailers want to be near Target. She opined that one cannot underestimate the message of value and this project would send a positive message. She commented on the retail vacancy rate and stated this is an opportunity to capture more of those dollars. She indicated that studies have shown that what is vacant tends to be older and obsolete. She reiterated that this would put Inver Grove Heights on the map and would attract other businesses.

Mr. Cederberg opined that the Council should not do anything unless they see a contract from Target. He stated there is no workforce housing to support this development. He questioned if a credit report was supplied by the developer. He asked if the people in district 4-1 were informed of the hearing and the intent to use TIF money for this purpose. He also asked where the developer gets the money to pay for the buildings while he is building.

Mr. Lynch responded that they have a balanced budget that is not dependent on the TIF district.

Mr. Cederberg opined that the City needs to go to Target and find out what they are doing.

Greg Munson, IGH Investment LLC, clarified that the primary purpose of creating the LLC was to combine two different companies that came together to form a partnership. He stated the City is not moving forward on just the word of the developer, they have a contract in place and the City will not expend money until the development is actually built. He explained that they get the money to pay for the improvements because they have the money set aside from the original contract. He indicated that they have had private discussions with Target and have come up with different ideas to provide Target with an incentive to move forward now. He reiterated that they do not expect money from the City unless they deliver results.

Marley Danner, 8314 Delaney Circle, asked if the new housing development was tax increment financing.

Mayor Tourville responded in the negative.

Mr. Danner asked if more homes would be built. He stated he is not opposed to the development, he has an issue with tax increment financing housing.

Mayor Tourville noted it has to be workforce housing in order to qualify for tax increment financing.

Ms. Piekarski asked the Council to look at the questions about the Argenta Hills project. She asked for clarification regarding the estimated tax dollars the City will get.

Mr. Lynch explained all of the planned development is not taken into consideration. It only includes what will be generated from the Target development and the smaller tenants totaling 30,000 square feet.

Ms. Piekarski clarified that the TIF money would be used to fund this portion of the project, not all of the planned development.

Mr. Apfelbacher explained that the \$1.25 million dollar figure is tax increment revenue from all of the taxing jurisdictions.

Mayor Tourville stated they would keep the public hearing open and continue on July 11, 2011.

Motion by Piekarski Krech, second by Madden, to continue public hearing to July 11, 2011 at 7:30 p.m.

Ayes: 3

Nays: 0 Motion carried.

Mayor Tourville called for a five minute recess.

7. REGULAR AGENDA:

COMMUNITY DEVELOPMENT:

- A. IGH INVESTMENTS, LLC (ARGENTA HILLS 3rd ADDITION);** Consider Resolution relating to a Final Plat, Final PUD Development Plan and Development Contract with related documents for the plat of Argenta Hills 3rd Addition

Mr. Link stated the request is for a ten (10) lot single-family residential plat located on the west side of Robert Street, just north of 80th Street. He noted this is the second stage of a residential development that includes several additional stages. He explained most of the grading has been done for the property as part of the first phase of the development, and the conditions of the preliminary plat were all met except for

a right turn lane on Robert Street (T.H. 3). He stated the developer has been working with Mn/DOT since last fall regarding the turn lane and noted there has been progress in the process. Planning staff and the Planning Commission recommended that the plat be approved with the condition that the plat not be filed, and building permits not be issued until Mn/DOT approves the design of the right turn lane. He noted certificates of occupancy would not be issued until construction of the right turn lane began. He stated Tom Kaldunski contacted Mn/DOT for an update on the permit and the developer proposed several alternatives for consideration in the event of a state government shutdown.

Mr. Kaldunski said they received a letter today from Mn/DOT giving three conditions that have to be met. One of the concerns Mn/DOT had was commercial traffic and the developer suggested looking at alternative ways to bring commercial traffic out.

Jacob Vick, IGH Investments, said it is their intent to build the turn lane. He discussed the government shutdown and explained they could find a temporary construction access and suggested adding a condition.

Mr. Link reiterated that the concept sounds reasonable.

Mr. Kuntz stated they condition number 3 could be amended to read until someone approves an alternate access off of Highway 3 to relieve the commercial vehicle traffic.

Councilmember Piekarski Krech questioned why they can't use Amana Trail.

Mr. Link indicated that there are still a few questions that need to be answered regarding jurisdiction and alignment.

Mr. Kuntz stated they would like to hear from the developer if they pull a building permit with a temporary access but don't have the turn lane done they are taking that risk.

Mr. Vick acknowledged that is a risk they are taking.

Mayor Tourville stated they need to figure out language.

Mr. Kuntz stated the condition would state, "or until such time the temporary access for commercial vehicles is constructed after being approved by the City's Engineering and Planning department and such jurisdictions that have authority over the feeder road".

Mr. Kaldunski reviewed the schedule and stated they are looking at late August or early September to start construction of the turn lane.

Motion by Piekarski Krech, second by Madden, to adopt Resolution No. 11-109 relating to a Final Plat, Final PUD Development Plan and Development Contract with related documents for the plat of Argenta Hills 3rd Addition

Ayes: 3

Nays: 0 Motion carried.

B. STEPHEN WEBB; Consider the following actions for property located at 10115 Cloman Path:

- i) A Conditional Use Permit to allow an amateur radio tower in excess of height allowed in a residential zoning district
- ii) A Variance to exceed structure height in the Critical Area Overlay District

Mr. Link explained the approval of a Conditional Use Permit requires four (4) votes. He stated with only three Council members present, no action could be taken on the item. He stated the Planning Commission recommended approval with some flexibility as to the final location of the tower. He noted prior to the Council meeting an issue was raised by a neighbor with respect to the proposed location of the tower. He stated staff would utilize the additional time to meet determine what alternatives there are for the exact location on the property.

Mayor Tourville stated the applicant needs to work with staff and the neighbor regarding where the tower should go.

Stephen Webb, 10115 Cloman Path, stated it is difficult to understand where the tower needs to go if someone has never seen the property. He explained there are a number of topographical issues that need to be considered. He noted the proposed location is the only flat area on the property that is high enough to accommodate the height requirements.

Bill Kostner, 10145 Cloman Path, stated if the tower was placed on the north side it would not cause any visual problems with his property. He opined that he does not want a sixty foot tower next to his property.

Motion by Piekarski Krech, second by Madden, to table item to July 11, 2011

Ayes: 3

Nays: 0 Motion carried.

C. LUTHER NISSAN KIA; Consider Resolution relating to a Conditional Use Permit Amendment to add a 20,000 Square Foot Building Addition and a 43,000 Square Foot Parking Lot Addition to the Existing Site for the Property Located at 1470 50th Street

Mayor Tourville stated the applicant requested that the item be tabled to the July 11th meeting.

Motion by Madden, second by Piekarski Krech, to table item to July 11, 2011

Ayes: 3

Nays: 0 Motion carried.

D. KAY DICKISON; Consider the following actions for property located at 7521 River Road:

- i) A Variance from the bluffline setback to construct a 160 square foot structure in the bluffline whereas 40 feet is required
- ii) A Variance from the front yard setback for an accessory structure to be located 20 feet from the front property line

Mr. Link explained this request was brought in front of the City Council last fall and the applicant requested the item be tabled until such time that the variance criteria was changed. He stated the request has since been modified as the applicant is no longer requesting a variance related to the number of accessory buildings. The current request is related to setback variances to construct an accessory building on the property abutting the river. He explained the request was reviewed against the new variance criteria and the two setback variances would be in accord with the general intent and purpose of the city code, consistent with the comprehensive plan, and there are practical difficulties in complying with official control. He noted the property is unique in that it is one tax parcel divided by road and railroad right-of-way, limiting the buildable area adjacent to the river. He stated the surrounding properties would not be negatively impacted and the location of the accessory structure would be located in an area that would have a minimal impact to the bluffline and right-of-way setback. He added that properties to the north and south of the parcel have homes located at about the same setback as the proposed accessory building. He noted the accessory building would not have any utilities. He stated both Planning staff and the Planning Commission recommended approval of the request.

Motion by Madden, second by Piekarski Krech, to adopt Resolution No. 11-110 approving a Variance from the Bluffline Setback to Construct a 160 Square Foot Structure in the Bluffline whereas 40 feet is required and a Variance from the Front Yard Setback for an Accessory Structure to be located 20 Feet from the Front Property Line

Ayes: 3

Nays: 0 Motion carried.

PUBLIC WORKS:**E. CITY OF INVER GROVE HEIGHTS;** Adopt Resolution Authorizing City to send Default Notification Letter on Concord Hills Development with a 60-Day Cure Timeframe

Mr. Kaldunski explained the City and the Danner Family Partnership entered into a Development Agreement for the development of Concord Hills in 2006 and the original agreement required completion of the developer-installed improvements by October 15, 2009. He stated in the fall of 2009 an amendment to the Development Agreement was entered into which extended the completion date to July 15, 2010. He noted that a number of conditions were included with the extension as recommended by the City Engineer. In July of 2010, the City received another request for an extension from the developer and the Council approved the request, thereby extending the completion date to July 15, 2011 with the final wear course to be placed by June 30, 2011. He explained after numerous letters to the developer prompting completion of the project, the City received another extension request for the period of two years. He stated the current letter of credit will expire on April 17, 2012 and the developer cited the slow housing market as reason for the housing inactivity in the development. He noted the developer has completed some of the improvements as required by the extension amendment, but many improvements (67 items) remain incomplete. He stated the project was reviewed by the City Engineer, Director of Public Works and the City Attorney and a resolution authorizing the issuance of a Default Notice as per the Development Agreement was prepared. He noted the Development Agreement provides the developer with 30 days to comply with the requirements of the Agreement. He explained if the developer does not cover the defaults in the allotted timeframe, staff will report back to the City Council prior to any action being taken to draw against the letter of credit. He stated staff recommended moving forward with the default notification letter in an effort to get the project completed.

Marley Danner, 8314 Delaney Circle, stated he would like to see the punch list of items yet to be completed. He explained all of the plans and as-builts were submitted to the City for review. He opined that one lift of blacktop still needs to be completed and expressed concern with laying it prior to the development being finished because the truck traffic that will travel in and out of the development will damage the road. He referenced other projects in the City that are not finished and commented that it is a reflection of the current state of the housing market.

Mayor Tourville stated there are more items to be completed than just one lift of blacktop, identifying items such as erosion control and inoperable street lights. He suggested that staff and Mr. Danner meet within the next two weeks to review the punch list of outstanding items and come back to the Council with a status update.

Mr. Kaldunski reiterated that staff is trying to get the developer to complete the work in a timely fashion. He noted that even if the default notice was sent the developer would have a 30-day cure period.

Mayor Tourville asked Mr. Kaldunski to meet with Mr. Danner on-site to review the punch list and figure out a solution.

Councilmember Madden asked Mr. Danner if some of the more pressing items, such as erosion control, could be dealt with in a timely fashion to avoid further problems.

Mr. Danner responded in the affirmative.

Mayor Tourville questioned if the June 30th date should be extended.

Mr. Kuntz indicated that the June 30th date should not be extended as the item will be addressed on July 11th.

Motion by Piekarski Krech, second by Madden, to table item to July 11, 2011

Ayes: 3

Nays: 0 Motion carried.

ADMINISTRATION:**F. CITY OF INVER GROVE HEIGHTS;** Change Order No. 24 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation

Ms. Teppen stated the change order was comprised of 14 items totaling \$26,530. She noted the revised contract total was \$12,038,871.10 and the project contingency balance was \$49,919.90.

Motion by Madden, second by Piekarski Krech, to approve Change Order No. 24 in the amount of \$26,530 for City Project No. 2008-18, Public Safety Addition/City Hall Renovation

Ayes: 3

Nays: 0 Motion carried.

G. CITY OF INVER GROVE HEIGHTS; Consider Recommendation to Appoint Lt. Larry Stanger as Interim Police Chief

Mayor Tourville referred to the memo provided by Mr. Lynch which suggested an interim appointment for a six month period. He stated at the conclusion of six months the City Administrator would provide a recommendation for the position going forward.

Mr. Lynch noted the City will not backfill the vacant Lieutenant position until a determination is made regarding the Chief's position. He stated over the course of the six-month period he will seek feedback from the Council, officers in the department, and the public to formulate his recommendation for the position.

Motion by Piekarski Krech, second by Madden, to appoint Lt. Larry Stanger as Interim Police Chief

Ayes: 3

Nays: 0 Motion carried.

8. MAYOR & COUNCIL COMMENTS:

9. ADJOURN: Motion by Piekarski Krech, second by Madden, to adjourn. The meeting was adjourned by a unanimous vote at 11:15 p.m.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Meeting Date: July 11, 2011
 Item Type: Consent
 Contact: Cathy Shea 651-450-2521
 Prepared by: Cathy Shea Asst. Finance Director
 Reviewed by: N/A

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input checked="" type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Approve the attached resolution approving disbursements for the period of June 23, 2011 to July 6, 2011.

SUMMARY

Shown below is a listing of the disbursements for the various funds for the period ending July 6, 2011. The detail of these disbursements is attached to this memo.

General & Special Revenue	\$93,941.17
Debt Service & Capital Projects	18,373.96
Enterprise & Internal Service	39,149.25
Escrows	4,230.40
	<hr/>
Grand Total for All Funds	<u><u>\$155,694.78</u></u>

If you have any questions about any of the disbursements on the list, please call Shannon Battles, Accountant at 651-450-2488 or Cathy Shea, Asst. Finance Director at 651-450-2521.

Attached to this summary for your action is a resolution approving the disbursements for the period June 23, 2011 to July 6, 2011 and the listing of disbursements requested for approval.

DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

**RESOLUTION APPROVING DISBURSEMENTS FOR THE
PERIOD ENDING JULY 6, 2011**

WHEREAS, a list of disbursements for the period ending July 6, 2011 was presented to the City Council for approval;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS: that payment of the list of disbursements of the following funds is approved:

General & Special Revenue	\$93,941.17
Debt Service & Capital Projects	18,373.96
Enterprise & Internal Service	39,149.25
Escrows	4,230.40
Grand Total for All Funds	<u><u>\$155,694.78</u></u>

Adopted by the City Council of Inver Grove Heights this 11th day of July, 2011.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy City Clerk

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107201	ABRAMS & SCHMIDT LLC	LT SEAN FOLMAR	101-4000-421.50-80		6/2011	165.00
						* Total	165.00
06/29/2011	107202	ACE PAINT & HARDWARE	CUST#501126	101-4200-423.60-40		6/2011	36.44
			CUST#501126	101-4200-423.60-40		6/2011	7.46
						* Total	43.90
06/29/2011	107203	AFSCME COUNCIL 5	PAYROLL 7/1/2011	101-0000-203.10-00		6/2011	841.29
						* Total	841.29
06/29/2011	107204	AMERICAN PLANNING ASSOC	125674	101-3200-419.50-70		6/2011	275.00
						* Total	275.00
06/29/2011	107206	ARAMARK UNIFORM SERVICE	CUST#15353001	101-5200-443.60-45		6/2011	12.86
			CUST#15353001	101-6000-451.60-45		6/2011	23.32
						* Total	36.18
06/29/2011	107207	ASPEN MILLS	CUST ID 55077I	101-4200-423.60-45		6/2011	94.90
						* Total	94.90
06/29/2011	107208	AVR, INC.	CUST#4753	101-6000-451.60-16		6/2011	701.90
						* Total	701.90
06/29/2011	107209	BARTON SAND & GRAVEL CO	CUST#IN858	101-5200-443.60-16		6/2011	973.13
						* Total	973.13
06/29/2011	107210	BATTERIES PLUS	CUST#1034	101-4000-421.60-65		6/2011	76.89
						* Total	76.89
06/29/2011	107211	BELLEISLE, MONICA	5/16-6/20/2011	101-4200-423.50-65		6/2011	34.68
						* Total	34.68
06/29/2011	107212	BENFER EQUIPMENT & SUPP	ORDER#3076	101-4200-423.40-42		6/2011	12.87
						* Total	12.87
06/29/2011	107213	BLOOMINGTON SECURITY SO	SKYVIEW PARKS	101-6000-451.40-40		6/2011	125.00
						* Total	125.00
06/29/2011	107226	CONTRACTORS & SURVEYORS	ENGINEERING	101-5100-442.60-65		6/2011	73.00
						* Total	73.00
06/29/2011	107234	ELECTRIC FIRE & SECURIT	JOB #112324	101-6000-451.50-55		6/2011	530.10
						* Total	530.10
06/29/2011	107237	EMMONS & OLIVIER RESOUR	JOB 00095-0032	101-5100-442.30-30		6/2011	378.25
						* Total	378.25
06/29/2011	107240	ENTENMANN-ROVIN CO.	ACCT#0011490	101-4000-421.60-45		6/2011	215.84
						* Total	215.84
06/29/2011	107241	ETHICAL LEADERS IN ACTI	IGH FIRE DEPT	101-4200-423.30-70		6/2011	7,500.00
						* Total	7,500.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107247	GERTEN'S LANDSCAPING	CUST#103566 STREETS	101-6000-451.40-25 101-5200-443.60-16		6/2011 6/2011 * Total	180.00 218.54 398.54
06/29/2011	107253	HANCE UTILITY SERVICES	PO SWINGBRIDGE	101-6000-451.30-70		6/2011 * Total	172.25 172.25
06/29/2011	107256	HEIKES FARMS	SKYVIEW PARK	101-6000-451.30-70		6/2011 * Total	750.00 750.00
06/29/2011	107257	HOME DEPOT CREDIT SERVI	6035322502554813	101-4200-423.40-40		6/2011 * Total	55.79 55.79
06/29/2011	107258	HOME DEPOT CREDIT SERVI	XXXXXXXX02061959 XXXXXXXX02061959	101-5200-443.60-16 101-5200-443.60-16		6/2011 6/2011 * Total	20.00 266.96 286.96
06/29/2011	107264	INVER GROVE FORD	IGH POLICE DEPT IGH POLICE DEPT	101-4000-421.70-30 101-4000-421.70-30		6/2011 6/2011 * Total	266.88 537.76 804.64
06/29/2011	107266	IUOE	UNION DUES	101-0000-203.10-00		6/2011 * Total	1,499.70 1,499.70
06/29/2011	107270	KERAN HOME SERVICES	5890 BRYANT	101-5200-443.40-46		6/2011 * Total	1,378.00 1,378.00
06/29/2011	107274	LELS	UNION DUES	101-0000-203.10-00		6/2011 * Total	1,170.00 1,170.00
06/29/2011	107275	LELS SERGEANTS	UNION DUES	101-0000-203.10-00		6/2011 * Total	168.00 168.00
06/29/2011	107277	LYNCH, JOE	6/17-25/2011 6/17-25/2011 6/17-25/2011	101-1100-413.50-80 101-1100-413.60-70 101-1100-413.60-71		6/2011 6/2011 6/2011 * Total	149.00 42.84 32.29 224.13
06/29/2011	107278	M & J SERVICES, LLC	PUBLIC WORKS PUBLIC WORKS	101-5200-443.40-66 101-5200-443.40-66		6/2011 6/2011 * Total	280.00 3,170.00 3,450.00
06/29/2011	107280	MENARDS - WEST ST. PAUL	ACCT#30170270	101-6000-451.60-16		6/2011 * Total	18.30 18.30
06/29/2011	107282	MN DNR	LIONS PARK/LAKE AQUATIC	101-6000-451.50-70		6/2011 * Total	35.00 35.00
06/29/2011	107283	MN FIRE SERVICE CERT BO	IGH FIRE DEPT	101-4200-423.30-70		6/2011 * Total	300.00 300.00
06/29/2011	107284	MN GLOVE & SAFETY, INC.	PARKS DEPT ENGINEERING DEPT	101-6000-451.60-45 101-5100-442.60-45		6/2011 6/2011	45.91 51.09

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
						* Total	97.00
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	101-0000-203.09-00		6/2011	1,831.28
			POLICY#0027324	101-1100-413.20-62		6/2011	75.50
			POLICY#0027324	101-2000-415.20-62		6/2011	78.97
			POLICY#0027324	101-3000-419.20-62		6/2011	30.16
			POLICY#0027324	101-3200-419.20-62		6/2011	30.53
			POLICY#0027324	101-3300-419.20-62		6/2011	59.40
			POLICY#0027324	101-4000-421.20-62		6/2011	489.19
			POLICY#0027324	101-4200-423.20-62		6/2011	41.08
			POLICY#0027324	101-5000-441.20-62		6/2011	21.61
			POLICY#0027324	101-5100-442.20-62		6/2011	123.04
			POLICY#0027324	101-5200-443.20-62		6/2011	70.28
			POLICY#0027324	101-6000-451.20-62		6/2011	94.29
						* Total	2,945.33
06/29/2011	107288	MN NCPERS LIFE INSURANC	PREMIUM 7/2011	101-0000-203.16-00		6/2011	384.00
						* Total	384.00
06/29/2011	107290	NEWMAN SIGNS INC	CUST#INV001	101-5200-443.60-16		6/2011	5,683.69
						* Total	5,683.69
06/29/2011	107291	NORTH COUNTRY INTERIORS	3915 66TH ST 3280 74TH ST	101-3000-419.30-70 101-3000-419.30-70		6/2011 6/2011	225.00 1,239.49
						* Total	1,464.49
06/29/2011	107295	PETTY CASH	DAVID NEAMEYER NDCBOM ICE/WATER FOR COUNCIL MNGFOA LUNCHEON ICE FOR SETTING SIGNS	101-3300-419.60-40 101-3300-419.50-80 101-1000-413.50-75 101-2000-415.50-75 101-6000-451.60-16		6/2011 6/2011 6/2011 6/2011 6/2011	13.81 24.00 7.48 30.00 6.19
						* Total	81.48
06/29/2011	107296	PINKY'S SEWER SERVICE I	RICH VALLEY PARK	101-6000-451.40-40		6/2011	1,300.00
						* Total	1,300.00
06/29/2011	107301	QWEST	ACCT#6510552-0672	101-6000-451.50-20		6/2011	41.61
						* Total	41.61
06/29/2011	107302	QWEST	ACCT#651-453-0219	101-6000-451.50-20		6/2011	41.59
						* Total	41.59
06/29/2011	107303	QWEST	ACCT#651-455-9072	101-4200-423.50-20		6/2011	40.11
						* Total	40.11
06/29/2011	107304	RCM SPECIALTIES, INC.	PATCHING	101-5200-443.40-46		6/2011	5,934.00
						* Total	5,934.00
06/29/2011	107308	SAM'S CLUB	IGH FIRE DEPT	101-4200-423.40-42		6/2011	106.91
						* Total	106.91
06/29/2011	107309	SAM'S CLUB	ACCT#7715090061845624	101-5200-443.60-16		6/2011	181.57
						* Total	181.57

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107312	SIGN WAREHOUSE.COM	CUST#06212011	101-5200-443.60-16		6/2011 * Total	427.80 427.80
06/29/2011	107313	SOUTH EAST TOWING	10 HARLEY	101-4000-421.60-65		6/2011 * Total	106.88 106.88
06/29/2011	107314	SPRINT	ACCT#266183728	101-4200-423.50-20		6/2011 * Total	541.79 541.79
06/29/2011	107315	SPRINT	ACCT#641378810	101-4200-423.50-20		6/2011 * Total	39.99 39.99
06/29/2011	107318	SPRINT	ACCT#487383319	101-6000-451.50-20		6/2011 * Total	408.84 408.84
06/29/2011	107319	SPRINT	ACCT#573073317	101-1100-413.50-20		6/2011 * Total	38.13 38.13
06/29/2011	107320	ST CROIX TREE SERVICE	ASH TREE REMOVAL	101-5200-443.40-46		6/2011 * Total	3,051.28 3,051.28
06/29/2011	107321	STEENBERG, LUKE	EXPENSES	101-4200-423.50-65		6/2011 * Total	20.40 20.40
06/29/2011	107323	STRAIGHT RIVER MEDIA	JUL/AUG 2011 NEWSLETTER	101-1100-413.50-32		6/2011 * Total	900.00 900.00
06/29/2011	107324	T MOBILE	ACCT#494910368	101-5100-442.50-20		6/2011 * Total	49.99 49.99
06/29/2011	107326	TOTAL CONSTRUCTION & EQ	CUST#CIT001 CUST#CIT001	101-6000-451.40-40 101-6000-451.40-40		6/2011 6/2011 * Total	800.71 91.27 891.98
06/29/2011	107329	TWIN CITIES OCCUPATIONA	ACCT#N26-1251001589	101-1100-413.30-50		6/2011 * Total	100.00 100.00
06/29/2011	107332	UNIFORMS UNLIMITED	ACCT#I4866	101-4000-421.60-45		6/2011 * Total	68.19 68.19
06/29/2011	107333	UNITED WAY	7/1/2011 PAYROLL	101-0000-203.13-00		6/2011 * Total	230.00 230.00
06/29/2011	107334	USA MOBILITY WIRELESS I	ACCT#6119266-2	101-4000-421.50-20		6/2011 * Total	15.69 15.69
06/29/2011	107336	VICS CRANE & HEAVY HAUL	RICH VALLEY	101-6000-451.40-50		6/2011 * Total	525.00 525.00
06/29/2011	107337	VIKING PAINTS, INC.	CIG50	101-6000-451.60-16		6/2011 * Total	603.25 603.25
06/29/2011	107338	WAL-MART BUSINESS	ACCT#6032202530257113	101-4000-421.60-65		6/2011	4.54

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107338	WAL-MART BUSINESS	ACCT#6032202530257113 ACCT#6032202530257113	101-4000-421.60-65 101-4000-421.60-65		6/2011 6/2011 * Total	19.27 43.51 67.32
06/29/2011	107339	WALKER LAWN CARE, INC.	1433	101-3000-419.30-70		6/2011 * Total	139.80 139.80
06/29/2011	107342	WESTERN PETROLEUM COMPA	CUST#42140	101-6000-451.60-16		6/2011 * Total	66.09 66.09
06/29/2011	107343	XCEL ENERGY	ACCT#51-4779167-3 ACCT#51-4779167-3	101-6000-451.40-10 101-6000-451.40-20		6/2011 6/2011 * Total	126.99 599.22 726.21
06/29/2011	107344	XCEL ENERGY	ACCT#51-9359857-3	101-5400-445.40-20		6/2011 * Total	296.38 296.38
06/29/2011	107345	XCEL ENERGY	ACCT#51-7094669-1	101-5400-445.40-20		6/2011 * Total	38.96 38.96
06/29/2011	107346	XCEL ENERGY	ACCT#51-8394358-2	101-5400-445.40-20		6/2011 * Total	36.79 36.79
06/29/2011	107348	YAGGY COLBY ASSOCIATES	BOUNDARY SURVEY	101-6000-451.30-70		6/2011 * Total	16,415.45 16,415.45
06/30/2011	107351	FARIBAULT HARLEY-DAVIDS	cust #30355 cust #30355 cust #30355	101-4000-421.60-40 101-4000-421.70-30 101-4000-421.60-40		6/2011 6/2011 6/2011 * Total	2,040.00 6,720.00 760.00 9,520.00
				71 Checks	** Fund Total		76,417.23
06/29/2011	107238	ENDORSE COMMUNICATIONS	10 HRS DEV/MAINTENANCE	201-1600-465.30-70		6/2011 * Total	750.00 750.00
06/29/2011	107239	ENSEMBLE CREATIVE & MAR	JUNE 2011 MO INSTALLMENT	201-1600-465.50-25		6/2011 * Total	3,098.00 3,098.00
06/29/2011	107276	LONE OAK COMPANIES	GUIDES	201-1600-465.50-35		6/2011 * Total	53.23 53.23
				3 Checks	** Fund Total		3,901.23
06/29/2011	107216	BRAUN INTERTEC CORPORAT	CLIENT#I09213	402-6000-451.30-70		6/2011 * Total	175.20 175.20
				1 Checks	** Fund Total		175.20
06/29/2011	107331	ULTIMATE EVENTS, INC	CUST#AR-4923	429-5924-729.70-60	0924	6/2011 * Total	2,276.06 2,276.06
06/29/2011	107340	WAUSAU TILE INC	CUST#1 28008231	429-5924-729.70-60	0924	6/2011	3,190.30

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
						* Total	3,190.30
				2 Checks	** Fund Total		5,466.36
06/29/2011	107311	SHORT ELLIOTT HENDRICKS	PROJECT 2011-08	431-5908-731.30-30	1108	6/2011	7,759.00
						* Total	7,759.00
				1 Checks	** Fund Total		7,759.00
06/29/2011	107265	INVERCITY PRINTING INC	CPN2011-09A CRACKSEALING	440-5900-740.50-25	1109A	6/2011	85.99
						* Total	85.99
06/29/2011	107326	TOTAL CONSTRUCTION & EQ	12/15/10-6/30/2011	440-5900-740.70-50	1009D	6/2011	2,975.00
						* Total	2,975.00
				2 Checks	** Fund Total		3,060.99
06/29/2011	107320	ST CROIX TREE SERVICE	OAKWOODS PARK	443-5900-743.60-16		6/2011	849.66
						* Total	849.66
				1 Checks	** Fund Total		849.66
06/29/2011	107214	BOLTON & MENK, INC.	PROJ#T16.021855	446-5915-746.30-30	0315	6/2011	1,062.75
						* Total	1,062.75
				1 Checks	** Fund Total		1,062.75
06/29/2011	107202	ACE PAINT & HARDWARE	CUST#501126	501-7100-512.60-16		6/2011	7.46
						* Total	7.46
06/29/2011	107230	DALCO CORPORATION	CUST#0001020261	501-7100-512.60-11		6/2011	39.58
						* Total	39.58
06/29/2011	107248	GERTENS	CUST#103566	501-7100-512.60-16		6/2011	240.20
						* Total	240.20
06/29/2011	107254	HAWKINS, INC.	108816	501-7100-512.60-19		6/2011	6,346.33
			CUST#108816	501-7100-512.60-19		6/2011	570.31
						* Total	6,916.64
06/29/2011	107259	HOME DEPOT CREDIT SERVI	XXXXXXXXX02691268	501-7100-512.60-16		6/2011	33.97
			XXXXXXXXX02691268	501-7100-512.60-16		6/2011	17.11
			XXXXXXXXX02691268	501-7100-512.60-16		6/2011	19.12
			XXXXXXXXX02691268	501-7100-512.60-16		6/2011	77.45
			XXXXXXXXX02691268	501-7100-512.60-16		6/2011	191.64
			XXXXXXXXX02691268	501-7100-512.60-16		6/2011	107.60
						* Total	408.65
06/29/2011	107272	KLM ENGINEERING INC	ANTENNA REVIEW	501-7100-512.30-70		6/2011	1,500.00
						* Total	1,500.00
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	501-7100-512.20-62		6/2011	55.67
						* Total	55.67

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107316	SPRINT	ACCT#842483314	501-7100-512.50-20		6/2011	334.79
						* Total	334.79
06/29/2011	107326	TOTAL CONSTRUCTION & EQ	CUST#CIT001	501-7100-512.40-42		6/2011	530.07
						* Total	530.07
06/29/2011	107328	TRACTOR SUPPLY CREDIT P	ACCT#1844	501-7100-512.60-16		6/2011	48.20
						* Total	48.20
				10 Checks	** Fund Total		10,081.26
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	502-7200-514.20-62		6/2011	35.99
						* Total	35.99
06/29/2011	107335	VALLEY-RICH CO, INC	JOB#R11418 06/17	502-7200-514.40-43		6/2011	5,192.55
						* Total	5,192.55
				2 Checks	** Fund Total		5,228.54
06/29/2011	107202	ACE PAINT & HARDWARE	CUST#501126	503-8600-527.60-11		6/2011	5.32
						* Total	5.32
06/29/2011	107224	CITY PAGES	INVER WOOD GOLF COURSE	503-8500-526.50-25		6/2011	630.00
						* Total	630.00
06/29/2011	107231	DEX MEDIA EAST	ACCT#110360619	503-8500-526.50-25		6/2011	102.25
						* Total	102.25
06/29/2011	107244	G & K SERVICES	INVER WOOD GOLF COURSE	503-8600-527.60-45		6/2011	102.38
						* Total	102.38
06/29/2011	107245	GEMPLER'S INC.	INVER WOOD GOLF COURSE	503-8600-527.60-65		6/2011	131.83
						* Total	131.83
06/29/2011	107250	GREAT NORTHERN BUILDERS	NETTING/RANGE	503-8100-522.40-45		6/2011	500.00
			NETTING/RANGE	503-8600-527.80-20		6/2011	1,650.00
						* Total	2,150.00
06/29/2011	107268	JOHN DEERE LANDSCAPES/L	CUST#269520	503-8600-527.40-42		6/2011	26.72
			CUST#269520	503-8600-527.60-50		6/2011	133.59
						* Total	160.31
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	503-8000-521.20-62		6/2011	46.26
			POLICY#0027324	503-8500-526.20-62		6/2011	25.53
			POLICY#0027324	503-8600-527.20-62		6/2011	43.30
						* Total	115.09
06/29/2011	107305	REINDERS, INC.	CUST#326799	503-8600-527.60-50		6/2011	543.82
						* Total	543.82
06/29/2011	107327	TOUR EDGE GOLF MFG., IN	CUST#000717-0001	503-8200-523.76-25		6/2011	100.73
						* Total	100.73

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107347	XCEL ENERGY	ACCT#51-5877511-0	503-8600-527.40-20		6/2011	26.24
						* Total	26.24
06/29/2011	107349	YAMAHA GOLF & UTILITY,	CUST ID#INVERWOOD	503-8400-525.40-41		6/2011	235.68
			CUST ID#INVERWOOD	503-8400-525.40-41		6/2011	81.31
			CUST ID#INVERWOOD	503-8400-525.40-41		6/2011	57.65
			CUST ID#INVERWOOD	503-8400-525.40-41		6/2011	53.08
						* Total	427.72
				12 Checks	** Fund Total		4,495.69
06/29/2011	107217	BUDGET SIGN AND GRAPHIC	VMCC	504-6100-452.60-09	R30720	6/2011	196.65
						* Total	196.65
06/29/2011	107227	CRESTLINE SPECIALTIES C	ACCT#5403662	504-6100-452.60-40	R90100	6/2011	2,278.26
						* Total	2,278.26
06/29/2011	107243	FIRST IMPRESSION GROUP,	JOB #45040	504-6100-452.50-30	R90100	6/2011	385.00
						* Total	385.00
06/29/2011	107251	GRODE, RANDALL	REFUND	504-0000-347.00-00	R41050	6/2011	79.00
						* Total	79.00
06/29/2011	107252	GROVER, TARA	REFUND/SHELTER RENTAL	504-0000-347.00-00	R60400	6/2011	122.00
						* Total	122.00
06/29/2011	107267	JESSEN, JEREMY	CANCELLED SHELTER RENTAL	504-0000-207.03-00		6/2011	3.32
			CANCELLED SHELTER RENTAL	504-0000-347.00-00	R60400	6/2011	46.68
						* Total	50.00
06/29/2011	107279	MAYER ARTS INC	ROCKSTAR 5/14	504-6100-452.30-70	R20920	6/2011	20.00
						* Total	20.00
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	504-6100-452.20-62	R90100	6/2011	72.11
						* Total	72.11
06/29/2011	107292	OFFICE DEPOT	ACCT#6011568510088883	504-6100-452.60-40	R90100	6/2011	25.03
						* Total	25.03
06/29/2011	107293	OLD WORLD PIZZA	IGH	504-6100-452.60-09	R20900	6/2011	107.42
						* Total	107.42
06/29/2011	107295	PETTY CASH	FISHING DERBY SUPPLIES	504-6100-452.60-09	R30720	6/2011	4.21
			SUPPLIES-FISHING DERBY	504-6100-452.60-09	R30720	6/2011	4.95
						* Total	9.16
06/29/2011	107307	S & S WORLDWIDE	PO#060311	504-6100-452.60-09	R40950	6/2011	58.02
						* Total	58.02
06/29/2011	107317	SPRINT	ACCT#302193319	504-6100-452.50-20	R90100	6/2011	90.73
						* Total	90.73
06/29/2011	107322	STICKS AND TONES BAND	CONCERT 7/16/2011	504-6100-452.30-70	R30720	6/2011	225.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
						* Total	225.00
06/29/2011	107325	TAHO SPORTSWEAR	PARKS & REC	504-6100-452.60-45	R40900	6/2011	50.91
						* Total	50.91
06/29/2011	107341	WEBBER, MICHELLE	CANCELLED PROGRAM	504-0000-347.00-00	R20120	6/2011	80.00
						* Total	80.00
				16 Checks	** Fund Total		3,849.29
06/29/2011	107202	ACE PAINT & HARDWARE	CUST#501126	505-6200-453.60-16	C25000	6/2011	18.10
			CUST#501126	505-6200-453.60-16	C25000	6/2011	44.87
						* Total	62.97
06/29/2011	107222	CHADALAWADE, SUDHA	CANCELLED	505-0000-352.35-00	C51000	6/2011	128.00
						* Total	128.00
06/29/2011	107225	COMCAST	ACCT#8772105910127188	505-6200-453.50-70	C10000	6/2011	261.64
						* Total	261.64
06/29/2011	107232	DISCOUNT SCHOOL SUPPLY	PARKS & REC	505-6200-453.60-65	C65100	6/2011	125.79
						* Total	125.79
06/29/2011	107233	DUNSE, BRAD	PERFORMANCE-FARMERS MKT	505-6200-453.30-70	C15500	6/2011	150.00
						* Total	150.00
06/29/2011	107236	EMKOVIK, JOHN	REFUND/MBSHIP OVERPAYMENT	505-0000-207.03-00		6/2011	3.53
			REFUND/MBSHIP OVERPAYMENT	505-0000-352.01-00	C10100	6/2011	49.48
						* Total	53.01
06/29/2011	107246	GENERAL REPAIR SERVICE	ORDER#00126074	505-6200-453.40-40	C25000	6/2011	970.45
						* Total	970.45
06/29/2011	107249	GRAINGER	ACCT#806460150	505-6200-453.60-16	C25000	6/2011	99.44
			ACCT#806460150	505-6200-453.60-16	C25000	6/2011	31.65-
			ACCT#806460150	505-6200-453.60-16	C25000	6/2011	37.30
			ACCT#806460150	505-6200-453.60-16	C25000	6/2011	17.23-
			ACCT#806460150	505-6200-453.60-16	C25000	6/2011	97.30
			ACCT#806460150	505-6200-453.60-16	C25000	6/2011	65.09
			ACCT#806460150	505-6200-453.40-40	C25000	6/2011	141.76
						* Total	392.01
06/29/2011	107254	HAWKINS, INC.	SALES#1482237	505-6200-453.60-15	C25000	6/2011	119.81
						* Total	119.81
06/29/2011	107255	HEATON, LISA	CXL BIRTHDAY PARTY	505-0000-207.03-00		6/2011	7.38
			CXL BIRTHDAY PARTY	505-0000-352.29-00	C16000	6/2011	103.54
						* Total	110.92
06/29/2011	107269	JOHNSON CONTROLS	CUST#1295202	505-6200-453.40-40	C25000	6/2011	858.00
						* Total	858.00
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	505-6200-453.20-62	C70000	6/2011	116.73

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
						* Total	116.73
06/29/2011	107289	MONEY MAILER OF THE TWI	JUNE 8 MAILING	505-6200-453.50-25	C91000	6/2011	400.00
						* Total	400.00
06/29/2011	107292	OFFICE DEPOT	ACCT#6011568510088883	505-6200-453.60-40	C30400	6/2011	107.11
						* Total	107.11
06/29/2011	107293	OLD WORLD PIZZA	IGH	505-6200-453.60-65	C50000	6/2011	25.43
			IGH	505-6200-453.76-05	C16000	6/2011	87.93
						* Total	113.36
06/29/2011	107294	ORIENTAL TRADING COMPAN	ACCT#20867186	505-6200-453.60-65	C50000	6/2011	179.99
						* Total	179.99
06/29/2011	107295	PETTY CASH	POP FOR BIRTHDAY PARTY	505-6200-453.76-10	C16000	6/2011	12.78
						* Total	12.78
06/29/2011	107298	PREMIER ELECTRICAL CORP	JOB#70820	505-6200-453.40-40	C25000	6/2011	2,363.00
			JOB#70859	505-6200-453.40-40	C25000	6/2011	1,794.00
						* Total	4,157.00
06/29/2011	107299	PUMP IT UP	4198272/4198276	505-6200-453.50-90	C65100	6/2011	449.93
						* Total	449.93
06/29/2011	107300	PUSH PEDAL PULL	IGH PARKS/REC	505-6200-453.60-40	C70000	6/2011	195.58
						* Total	195.58
06/29/2011	107306	ROACH, RICK	6/5-24/2011 EXPENSES	505-6200-453.50-65	C25000	6/2011	32.64
						* Total	32.64
06/29/2011	107307	S & S WORLDWIDE	PO#060311	505-6200-453.60-65	C65100	6/2011	59.99
			ACCT#11238381	505-6200-453.60-65	C65100	6/2011	116.50
						* Total	176.49
06/29/2011	107310	SAUNATEC INC	ACCT#3CIT300	505-6200-453.60-16	C25000	6/2011	82.56
						* Total	82.56
06/29/2011	107319	SPRINT	ACCT#573073317	505-6200-453.50-20	C25000	6/2011	378.49
						* Total	378.49
06/29/2011	107325	TAHO SPORTSWEAR	PARKS & REC	505-6200-453.60-45	C81000	6/2011	62.16
						* Total	62.16
06/30/2011	107350	CHURCH OF ST AMBROSE OF	REFUND OVERPAYMENT POOL	505-0000-352.27-00	C55000	6/2011	76.00
						* Total	76.00
					26 Checks	** Fund Total	9,773.42
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	602-2100-415.20-62		6/2011	2.14
						* Total	2.14
					1 Checks	** Fund Total	2.14

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107202	ACE PAINT & HARDWARE	CUST#501126	603-5300-444.40-41		6/2011	25.11
			CUST#501126	603-5300-444.40-41		6/2011	22.82
			CUST#501126	603-5300-444.60-12		6/2011	14.94
						* Total	62.87
06/29/2011	107206	ARAMARK UNIFORM SERVICE	CUST#15353001	603-5300-444.40-65		6/2011	32.95
			CUST#15353001	603-5300-444.60-45		6/2011	22.39
						* Total	55.34
06/29/2011	107215	BOYER TRUCKS - PARTS DI	ORDER#JAY	603-5300-444.40-41		6/2011	99.81
						* Total	99.81
06/29/2011	107218	C.J. SPRAY, INC.	STREETS	603-5300-444.40-41		6/2011	239.03
						* Total	239.03
06/29/2011	107220	CARQUEST AUTO PARTS STO	CUST#614420	603-5300-444.40-41		6/2011	438.34
			CUST#614420	603-5300-444.40-41		6/2011	104.63
			CUST#614420	603-5300-444.40-41		6/2011	171.73
			CUST#614420	603-5300-444.40-41		6/2011	77.50
			CUST#614420	603-5300-444.40-41		6/2011	47.72
			CUST#614420	603-5300-444.40-41		6/2011	62.29
			CUST#614420	603-0000-145.50-00		6/2011	29.31
			CUST#614420	603-5300-444.40-41		6/2011	8.03
			CUST#614420	603-5300-444.60-12		6/2011	35.87
			CUST#614420	603-5300-444.40-41		6/2011	85.52
			CUST#614420	603-0000-145.50-00		6/2011	96.85
			CUST#614420	603-0000-145.50-00		6/2011	48.43
			CUST#614420	603-0000-145.50-00		6/2011	7.52
						* Total	947.26
06/29/2011	107221	CENTENNIAL GLASS	WO#W00001987	603-5300-444.40-41		6/2011	264.77
						* Total	264.77
06/29/2011	107235	EMERGENCY APPARATUS MAI	ENGINE 3681 (E-11)	603-5300-444.40-41		6/2011	880.48
						* Total	880.48
06/29/2011	107260	HOSE / CONVEYORS INC	CUST#CIT300	603-5300-444.40-41		6/2011	18.98
						* Total	18.98
06/29/2011	107262	I-STATE TRUCK CENTER	ACCT#13468	603-5300-444.40-41		6/2011	30.02
			ACCT#13468	603-5300-444.40-41		6/2011	29.73
			ACCT#13468	603-5300-444.40-41		6/2011	47.90
						* Total	107.65
06/29/2011	107271	KIMBALL MIDWEST	ACCT#222006	603-5300-444.60-12		6/2011	108.88
						* Total	108.88
06/29/2011	107273	KREMER SERVICES LLC	WO#13982	603-5300-444.40-41		6/2011	145.54
						* Total	145.54
06/29/2011	107281	MH CONSTRUCTION	MAINTENANCE BLDG	603-5300-444.40-40		6/2011	2,900.00
						* Total	2,900.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	603-5300-444.20-62		6/2011	20.54
						* Total	20.54
06/29/2011	107297	POMP'S TIRE SERVICE, IN	CUST#4502557	603-5300-444.40-41		6/2011	1,336.32
						* Total	1,336.32
06/29/2011	107309	SAM'S CLUB	ACCT#7715090061845624	603-5300-444.60-40		6/2011	64.09
						* Total	64.09
06/29/2011	107313	SOUTH EAST TOWING	IGH FIRE DEPT	603-5300-444.40-41		6/2011	181.69
						* Total	181.69
				16 Checks	** Fund Total		7,433.25
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	604-2200-416.20-62		6/2011	.98-
						* Total	.98-
06/29/2011	107292	OFFICE DEPOT	ACCT#6011568510088883	604-2200-416.60-05		6/2011	237.74
			ACCT#6011568510088883	604-2200-416.60-10		6/2011	22.49
						* Total	260.23
				2 Checks	** Fund Total		259.25
06/24/2011	107198	US POSTMASTER	UTILITY BILLS	605-3100-419.50-35		6/2011	1,090.48
						* Total	1,090.48
06/24/2011	107199	US POSTMASTER	UTILITY BILLS	605-3100-419.50-35		6/2011	252.54
						* Total	252.54
06/28/2011	107200	US POSTMASTER	POSTAGE	605-3100-419.50-35		6/2011	180.68
						* Total	180.68
06/29/2011	107261	HUEBSCH SERVICES	CUST#100075	605-3100-419.40-65		6/2011	61.68
						* Total	61.68
06/29/2011	107263	INTEGRA TELECOM	ACCT#645862	605-3100-419.50-20		6/2011	139.35
						* Total	139.35
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	605-3100-419.20-62		6/2011	8.33
						* Total	8.33
				6 Checks	** Fund Total		1,733.06
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	606-1400-413.20-62		6/2011	9.81
						* Total	9.81
06/29/2011	107330	TYLER TECHNOLOGIES, INC	CUST#41443	606-1400-413.80-62		6/2011	9,906.25
						* Total	9,906.25
				2 Checks	** Fund Total		9,916.06
06/29/2011	107205	ARAMARK REFRESHMENT SER	CUST#39398	702-0000-228.65-00		6/2011	95.16
						* Total	95.16

CHECK DATE	CHECK NUMBER	VENDOR NAME	INVOICE# / DESCRIPTION	G/L NUMBER	PROJECT	PERIOD/ YEAR	AMOUNT
06/29/2011	107228	CULLIGAN	ACCT#157-98503022-8	702-0000-228.63-00		6/2011	65.40
						* Total	65.40
06/29/2011	107229	DAKOTA CTY SHERIFF'S DE	SERAFINA ISABELLA BLACK	702-0000-229.10-00		6/2011	180.00
						* Total	180.00
06/29/2011	107237	EMMONS & OLIVIER RESOUR	JOB 00095-0032	702-0000-228.21-00		6/2011	378.25
			JOB 00095-0032	702-0000-228.46-00		6/2011	378.25
			JOB 00095-0033	702-0000-228.46-00		6/2011	2,689.11
			JOB 00095-0033	702-0000-229.21-00		6/2011	416.50
						* Total	3,862.11
06/29/2011	107242	FEDEX	ACCT#1101-2523-2	702-0000-228.46-00		6/2011	25.46
						* Total	25.46
				5 Checks	** Fund Total		4,228.13
06/29/2011	107287	MN LIFE INSURANCE CO	POLICY#0027324	703-5500-446.20-62		6/2011	2.27
						* Total	2.27
				1 Checks	** Fund Total		2.27
				181 Checks	*** Bank Total		155,694.78
				181 Checks	*** Grand Total		155,694.78

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Pay Voucher No. 25 for City Project No. 2008-18 – Public Safety Addition/City Hall Renovation

Meeting Date: July 11, 2011
Item Type: Consent
Contact: Jenelle Teppen, Asst City Admin
Prepared by:
Reviewed by:

g

	Fiscal/FTE Impact:
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Project Fund

PURPOSE/ACTION REQUESTED Consider Pay Voucher No. 25 for City Project No. 2008-18 – Public Safety Addition/City Hall Renovation.

SUMMARY The contract was awarded in an amount of \$11,501,900 to Shaw Lundquist Associates on April 27, 2009 for the project identified above. It has been subsequently amended with 24 change orders for a total contract amount now of \$12,038,871.10.

The contractor has completed the work through June 30, 2011 in accordance with the contract plans and specifications.

A 5% retainage on work will be maintained until the project is completed.

Staff recommends approval of Pay Voucher No. 25 in the amount of \$151,593.02 to Shaw Lundquist Associates for work on City Project No. 2008-18 – Public Safety Addition/City Hall Renovation.

Attachment: Pay Voucher No. 25

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE ONE OF 11 PAGES

TO OWNER: City of Inver Grove Heights
 8150 Barbara Avenue
 Inver Grove Heights, MN 55077

PROJECT: Public Safety Addition
 and City Hall Remodel
 8150 Barbara Ave.
 Inver Grove Hts, MN
 Minneapolis, MN 55401

FROM CONTRACTOR:
 Shaw-Lundquist Associates, Inc. (09477)
 Remit to: SDS 12-0699 Box 86
 Minneapolis, MN 55486

VIA ARCHITECT: BKV Group, Inc.
 222 North Second Street
 Minneapolis, MN 55401

CONTRACT FOR: General Construction

APPLICATION NO: 30
 APPLICATION DATE: June 27, 2011
 PERIOD TO: June 30, 2011
 PROJECT NOS: #1643.01
 CONTRACT DATE: May 19, 2009

Distribution to:
 OWNER
 ARCHITECT
 CONTRACTOR

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
 Continuation Sheet, AIA Document G703, is attached.

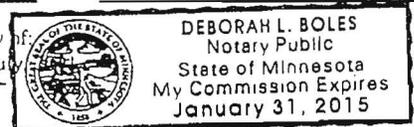
The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

- 1. ORIGINAL CONTRACT SUM \$ 11,501,900.00
- 2. Net change by Change Orders \$ 536,971.10
- 3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 12,038,871.10
- 4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 11,660,800.00
- 5. RETAINAGE:
 - a. % of Completed Work \$ 282,140.45
(Column I on G703)
 - b. % of Stored Material \$ 0.00
(Column F on G703)
 - Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$ 282,140.45
- 6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) \$ 11,378,659.55
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 11,227,066.53
- 8. CURRENT PAYMENT DUE \$ 151,593.02
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 660,211.55

CONTRACTOR: SHAW-LUNDQUIST ASSOCIATES, INC.

By: [Signature] Date: July 6, 2011

Hoyt Hsiao - President
 State of: Minnesota County of: _____
 Subscribed and sworn to before me this 6th day of July
 Notary Public: [Signature]
 My Commission expires: 4/31/15



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED . . . \$ _____

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
 ARCHITECT: _____

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$517,549.10	
Total approved this Month	\$26,530.00	(\$7,108.00)
TOTALS	\$544,079.10	(\$7,108.00)
NET CHANGES by Change Order	\$536,971.10	

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Change Order No. 1 for City Project No. 2011-09B – Sealcoating

Meeting Date: July 11, 2011
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Thomas J. Kaldunski, City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

SAT CS

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Fund

PURPOSE/ACTION REQUESTED

Consider Change Order No. 1 for City Project No. 2011-09B – Sealcoating.

SUMMARY

The improvements were ordered as part of the 2011 Pavement Management Program. The contract was awarded in the amount of \$255,617.59 to Pearson Brothers on June 13, 2011 for City Project No. 2011-09B – Sealcoating.

Change Order No. 1, in the amount of \$20,428.70, is for additional sealcoating on Upper 55th Street from Babcock Trail to the Highway 52 Bridge. This change order is to be funded from the Pavement Management Fund. This change order will place sealcoating over the flex patch area approved for project 2011-09A by the City Council. The total budget for cracksealing and sealcoating will remain within the annual pavement management program budget for these activities.

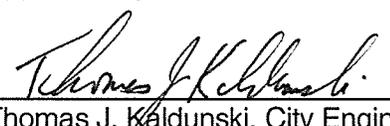
I recommend approval of Change Order No. 1 in the amount of \$20,428.70 (for a revised contract amount of \$276,046.29), for City Project No. 2011-09B – Sealcoating.

TJK/kf
Attachments: Change Order No. 1

CHANGE ORDER NO. 1

**2011 PAVEMENT MANAGEMENT PROGRAM
CITY PROJECT NO. 2011-09B
SEALCOATING**

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: July 1, 2011
Contractor: Pearson Brothers 11079 Lamont Avenue N.E. Hanover, MN 55341	Engineer: City Engineer
<p><u>PURPOSE OF CHANGE ORDER</u></p> <p>See attached.</p>	
CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Contract Price: \$255,617.59	Original Contract Time:
Previous Change Orders \$0.00	Net Change from Previous Change Orders
Contract Price Prior to this Change Order \$255,617.59	Contract Time Prior to this Change Order
Net Increase of this Change Order \$20,428.70	Net Increase (Decrease) of Change Order
Contract Price with all Approved Change Orders \$276,046.29	Contract Time with Approved Change
Recommended By:  John Schmeling, Engineering Technician	Approved By: _____ Pearson Brothers

Approved By: 
Thomas J. Kaldunski, City Engineer

Approved By: _____
George Tourville, Mayor

Date of Council Action:
July 11, 2011

ATTACHMENT TO CHANGE ORDER NO. 1

CITY PROJECT NO. 2011-09B – SEALCOATING

Description of Changes:

The section of Upper 55th Street from Babcock Trail to the Highway 52 Bridge was found to have larger cracks and many cupped joints. To extend the life of the road and repair the cupped joints it was determined that flex patching was needed in this area. To improve ride quality, improve aggregate embedment, and protect the flex patching, sealcoating is also proposed for this area. The Contractor agreed to unit prices for materials and installation as detailed in the following table:

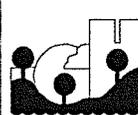
Upper 55th Street from Babcock Trail to Highway 52 Bridge

ITEM NO.	MN/DOT NO.	DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	AMOUNT
1	2123.610	STREET SWEEPING	HR	4	\$65.00	\$260.00
2	2356.602	SEAL COATING (FA-3 CLASS A)	SY	11,500	\$1.29	\$14,835.00
3	2582.501	PAVEMENT MESSAGE (LEFT ARROW) LATEX	EA	6	\$100.00	\$600.00
4	2582.501	PAVEMENT MESSAGE (RIGHT ARROW) LATEX	EA	3	\$100.00	\$300.00
5	2582.601	PAVEMENT MESSAGE (STOP) LATEX	EA	2	\$100.00	\$200.00
6	2582.601	PAVEMENT MESSAGE (AHEAD) LATEX	EA	2	\$100.00	\$200.00
7	2582.502	LINEAR MARKINGS 4" WIDTH LATEX SOLID WHITE	LF	1,030	\$0.11	\$113.30
8	2582.502	LINEAR MARKINGS 4" WIDTH LATEX BROKEN WHITE	LF	660	\$0.15	\$99.00
9	2582.502	LINEAR MARKINGS 24" WIDTH LATEX SOLID WHITE	LF	210	\$3.00	\$630.00
10	2582.502	LINEAR MARKINGS 24" WIDTH LATEX SOLID YELLOW	LF	100	\$3.00	\$300.00
11	2582.502	LINEAR MARKINGS 4" LATEX SOLID DOUBLE YELLOW	LF	910	\$0.22	\$200.20
12	2582.503	CROSSWALK MARKING - PAINT	SF	288	\$2.40	\$691.20
13	2563.601	TRAFFIC CONTROL	LS	1	\$2,000.00	\$2,000.00
TOTAL:						\$20,428.70

Total Seal Coat and Striping on Upper 55th Street = \$20,428.70

55TH ST E

CENEX DR



City of
Inver Grove Heights
Added Seal Coat Area
Overview Map



0 70 140 280 420 560 Feet

PROJECT LIMITS

PROJECT LIMITS

PROJECT LIMITS

PROJECT LIMITS

BABCOCK TRLE

UPPER 55TH ST E

HWY 52

88

64

125

2060

58TH ST E

BACON AVE E

UPPER 55TH ST E LOOP

HWY 52 RAMP

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Final Compensating Change Order No. 1, Final Pay Voucher No. 2, Engineer's Final Report, and Resolution Accepting Work for City Project No. 2010-09C – Blaine Avenue Mill and Overlay

Meeting Date: July 11, 2011
 Item Type: Consent
 Contact: Thomas J. Kaldunski, 651.450.2572
 Prepared by: Thomas J. Kaldunski, City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director

TJK
 SDT S

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other: Pavement Management Fund, Special Assessments

PURPOSE/ACTION REQUESTED

Consider Final Compensating Change Order No. 1, Final Pay Voucher No. 2, Engineer's Final Report, and Resolution Accepting Work for City Project No. 2010-09C – Blaine Avenue Mill and Overlay.

SUMMARY

The improvements were included as part of the 2010 Pavement Management Program. The contract was awarded in an amount of \$167,839.05 to Northwest Asphalt, Inc. on September 27, 2010.

The contractor has completed the work through June 30, 2011 in accordance with the contract plans and specifications. The Final Compensating Change Order, in the amount of -\$43,760.51 is to balance the final contract amount with the final work completed to date.

I recommend approval of the Final Compensating Change Order in the amount of -\$43,760.51 (for a final contract amount of \$124,078.54), Final Pay Voucher No. 2 in the amount of \$6,789.43, acceptance of the Engineer's Final Report, and approval of the Resolution Accepting Work for City Project No. 2010-09C – Blaine Avenue Mill and Overlay.

TJK/kf
 Attachments: Final Pay Voucher No. 2
 Final Compensating Change Order No. 1
 Engineer's Final Report
 Resolution Accepting Work

CONSTRUCTION PAY VOUCHER

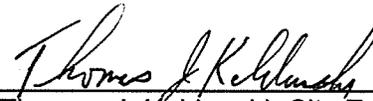
ESTIMATE NO: 2 (Two) FINAL
DATE: July 1, 2011
PERIOD ENDING: June 30, 2011
CONTRACT: 2010 Pavement Management Program
PROJECT NO: 2010-09C – Blaine Avenue Mill and Overlay

TO: Northwest Asphalt, Inc.
1451 Stagecoach Road
Shakopee, MN 55379

Original Contract Amount.....\$167,839.05
Total Addition..... \$0.00
Total Deduction (Final Compensating Change Order No. 1) (\$43,760.51)
Total Contract Amount.....\$124,078.54
Total Value of Work to Date.....\$124,078.54
Less Retained (0%) \$0.00
Less Previous Payment\$117,289.11
Total Approved for Payment this Voucher..... \$6,789.43
Total Payments including this Voucher\$124,078.54

Approvals:

Pursuant to our field observation, I hereby recommend for payment the above stated amount for work performed through June 30, 2011.

Signed by:  July 5, 2011
Thomas J. Kaldunski, City Engineer

Signed by: _____
Northwest Asphalt, Inc. Date

Signed by: _____
George Tourville, Mayor July 11, 2011

**2010 PAVEMENT MANAGEMENT PROGRAM
2010-09C BLAINE AVENUE MILL AND OVERLAY
PAY ESTIMATE 2**

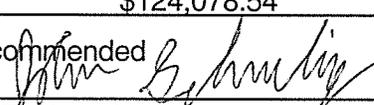
ITEM NO.	MN/DOT NO.	DESCRIPTION	UNITS	CONTRACT QUANTITY	QUANTITY TO DATE	UNIT PRICE	CONTRACT AMOUNT	AMOUNT TO DATE
1	2021.501	Mobilization	LS	1	1	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
2	2104.501	Remove Curb & Gutter	LF	530	462	\$ 6.50	\$ 3,445.00	\$ 3,003.00
3	2104.505	Remove Concrete Sidewalk	SY	300	72.2	\$ 1.00	\$ 300.00	\$ 72.20
4	2105.526	Select Topsoil Borrow (LV)	CY	20	19	\$ 25.00	\$ 500.00	\$ 475.00
5	2105.601	Subgrade Correction	CY	150	0	\$ 26.75	\$ 4,012.50	\$ -
6	2123.601	Street Sweeper With Pickup Broom	HR	5	2	\$ 100.00	\$ 500.00	\$ 200.00
7	2232.501	Mill Bituminous Surface (2.5")	SY	10,569	10,569	\$ 0.85	\$ 8,983.65	\$ 8,983.65
8	2357.502	Bituminous Material for Tack Coat	GAL	528	550	\$ 2.50	\$ 1,320.00	\$ 1,375.00
9	2360.501	Type SP 12.5 Wearing Course Mixture (3,B)	TON	1598	1413.42	\$ 53.15	\$ 84,933.70	\$ 75,123.27
10	2360.602	Crack Patching along Curb	LF	660	551	\$ 6.00	\$ 3,960.00	\$ 3,306.00
11	2360.604	Miscellaneous Patching	SY	500	0	\$ 33.00	\$ 16,500.00	\$ -
12	2503.602	Furnish & Install External Chimney Seal	EA	6	9	\$ 200.00	\$ 1,200.00	\$ 1,800.00
13	2506.522	Adjust Frame & Ring Casting (New Rings)	EA	19	17	\$ 275.00	\$ 5,225.00	\$ 4,675.00
14	2521.501	4" Concrete Walk	SF	1580	650	\$ 5.35	\$ 8,453.00	\$ 3,477.50
15	2531.501	Concrete Curb & Gutter Design B618 (Hand Pour)	LF	530	462	\$ 17.50	\$ 9,275.00	\$ 8,085.00
16	2531.602	Pedestrian Curb Ramp with Truncated Domes	EA	2	2	\$ 525.00	\$ 1,050.00	\$ 1,050.00
17	2563.602	Traffic Control	LS	1	1	\$ 2,750.00	\$ 2,750.00	\$ 2,750.00
18	2575.505	Terraseeding	SY	100	115.6	\$ 20.00	\$ 2,000.00	\$ 2,312.00
19	2582.502	Linear Markings - 4" Width Latex Solid White	LF	3990	4145	\$ 0.28	\$ 1,117.20	\$ 1,160.60
20	2582.502	Linear Markings - 4" Latex Solid Double Yellow	LF	2035	2035	\$ 0.40	\$ 814.00	\$ 814.00
21	SPECIAL	Irrigation Allowance	LS	1	0.0559966	\$ 6,000.00	\$ 6,000.00	\$ 335.98
22	SPECIAL	Water Usage Allowance	LS	1	0.16068	\$ 500.00	\$ 500.00	\$ 80.34

CONTRACT AMOUNT:	\$ 167,839.05
FINAL COMPENSATING CHANGE ORDER:	\$ (43,760.51)
FINAL CONTRACT AMOUNT:	\$ 124,078.54

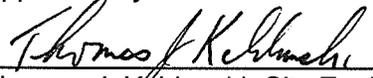
TOTAL AMOUNT TO DATE:	\$ 124,078.54
0% RETAINAGE:	\$ -
PREVIOUS PAYMENTS:	\$ 117,289.11
PAYMENT 2 (FINAL) TOTAL:	\$ 6,789.43

FINAL COMPENSATING CHANGE ORDER No. 1

**2010 IMPROVEMENT PROGRAM
CITY PROJECT NO. 2010-09C
MILL AND OVERLAY**

Owner: City of Inver Grove Heights 8150 Barbara Avenue Inver Grove Heights, MN 55077	Date of Issuance: July 5, 2011
Contractor: Northwest Asphalt, Inc. 1451 Stagecoach Road Shakopee, MN 55379	Engineer: City Engineer
<p><u>Purpose of Change Order</u></p> <p>The contract has been modified to include the following:</p> <p>See attached explanation sheet.</p>	
CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Contract Price: \$167,839.05	Original Contract Time:
Previous Change Orders \$0.00	Net Change from Previous Change Orders
Contract Price Prior to this Change Order \$167,839.05	Contract Time Prior to this Change Order
Net Decrease of this Change Order (\$43,760.51)	Net Increase (Decrease) of Change Order
Contract Price with all Approved Change Orders \$124,078.54	Contract Time with Approved Change Orders
Recommended By:  Engineering Technician	Approved By: _____ Northwest Asphalt, Inc.

Approved By:


Thomas J. Kaldunski, City Engineer

Approved By:

George Tourville, Mayor

Date of Council Action:

ATTACHMENT TO FINAL COMPENSATING CHANGE ORDER No. 1

Final compensating amount to balance value of work completed and total payments made to Contractor. Accounts for miscellaneous increases and decreases in contract quantities listed in Final Payment Voucher form. The amount is calculated as follows:

Total Value of work completed to date	\$ 124,078.54
Contract amount to date	\$ 167,839.05
Compensating Change Order Amount	-\$43,760.51

Total of Change Order Number 1 - \$43,760.51

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

ENGINEER'S REPORT OF FINAL ACCEPTANCE

**CITY PROJECT NO. 2010-09C
MILL AND OVERLAY**

July 11, 2011

TO THE CITY COUNCIL
INVER GROVE HEIGHTS, MINNESOTA

HONORABLE MAYOR AND CITY COUNCIL MEMBERS:

This is to advise you that I have received the work under contract to Northwest Asphalt, Inc. The work consisted of bituminous mill and overlay.

The contractor has completed the project in accordance with the contract.

It is recommended, herewith, that final payment be made for said improvements to the contractor in the amount as follows:

ORIGINAL CONTRACT PRICE	\$167,839.05
CHANGE ORDER (Deduction)	(\$43,760.51)
FINAL CONTRACT AMOUNT	\$124,078.54
FINAL VALUE OF WORK	\$124,078.54
PREVIOUS PAYMENTS	\$117,289.11
BALANCE DUE	\$6,789.43

Sincerely,



Thomas J. Kaldunski, P.E.
City Engineer

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION ACCEPTING WORK OF NORTHWEST ASPHALT, INC. AND AUTHORIZING
FINAL PAYMENT IN THE AMOUNT OF \$6,789.43**

**2010 PAVEMENT MANAGEMENT PROGRAM
CITY PROJECT NO. 2010-09C – MILL AND OVERLAY**

RESOLUTION NO. _____

WHEREAS, pursuant to a written contract with the City of Inver Grove Heights dated September 27, 2010, Northwest Asphalt, Inc., satisfactorily completed improvements and appurtenances for the 2010 Pavement Management Program, City Project No. 2010-09C – Mill and Overlay.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS: That the work completed under this contract is hereby accepted and approved, and

BE IT FURTHER RESOLVED: That the Mayor and the City Clerk are hereby directed to issue a proper order for final payment on such contract, taking the contractor's receipt in full.

Adopted by the City Council of Inver Grove Heights this 11th day of July 2011.

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheume, Deputy Clerk

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CONSIDER APPROVAL OF THE 2011/2012 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF INVER GROVE HEIGHTS AND LAW ENFORCEMENT LABOR SERVICES (LELS), LOCAL 84

Meeting Date: July 11, 2011
Item Type: Consent
Contact: JTeppen, Asst. City Admin.
Prepared by:
Reviewed by:

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input checked="" type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED Consider approval of the proposed 2011/2012 labor agreement between the City of Inver Grove Heights and LELS, Local 84 effective January 1, 2011, through December 31, 2012.

SUMMARY The City of Inver Grove Heights maintains a labor agreement with LELS, Local 84 which represents the City’s Police Officers. When reviewing conditions of employment and economic feasibility, the City compares wages, and benefits to those of similar communities.

The City and LELS, Local 84 were able to reach agreement on the terms and conditions of this agreement through negotiations and an across the board increase of 1% in 2011 and 1% in 2012 were agreed to. The City also agreed to a one-time lump sum payment of \$250 to each employee in the bargaining unit to help offset the increase in health insurance premiums in 2012.

There were additional provisions proposed by both parties where we did not reach agreement. This agreement represents an equitable conclusion of bargaining to meet the needs of both parties. The Police Officer group voted to ratify the proposed agreement on Thursday, June 23rd.

Staff proposes that the funds for the 2011 wages come from contingency which has a balance of \$145,000; the 2012 wage increase will be calculated into the 2012 budget.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Approve Easement Encroachment Agreement with Cahill Investments, LLC

Meeting Date: July 11, 2011
 Item Type: Consent
 Contact: Steve W. Dodge, 651.450.2541 *SWD*
 Prepared by: Steve W. Dodge, Asst. City Engineer
 Reviewed by: Scott D. Thureen, Public Works Director *SA*

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other:

PURPOSE/ACTION REQUESTED

Approve the execution of an agreement related to a business owner's retaining wall and appurtenant landscaping encroaching within a drainage and utility easement along the Cahill business district.

SUMMARY

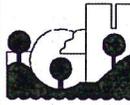
The City has been coordinating with Steve Machacek of Cahill Investments, LLC, owner of the Cahill laundry business at 6575 Cahill Avenue, who requested to install a retaining wall and appurtenant landscaping along the parking lot adjacent to Cahill Avenue in order to provide enhancements to the Cahill business district. The City has prepared an encroachment agreement, drafted by the City Attorney, related to placing a retaining wall, landscaping rock, and plants within a drainage and utility easement between the sidewalk and existing parking lot. The business owner has executed an encroachment agreement outlining the terms associated with the improvements.

Mr. Machacek has been in discussions with City staff, executed the agreement, and provided a \$500 cash escrow for attorneys fees, staff time, and to ensure erosion control compliance. Recently, Mr. Machacek capitalized on a timely opportunity to construct the retaining wall, which is now fully installed. The attached agreement, entitled Agreement Relating to Landowner Improvements within City Easement, will be recorded against the property. This agreement confirms the rights of the business owner to place the retaining wall and appurtenant landscaping within the City drainage and utility easement area, subject to the terms and conditions of the agreement and consistent with the City's Obstruction Policy. An exhibit depicting the location of existing storm sewer and proposed improvements is attached.

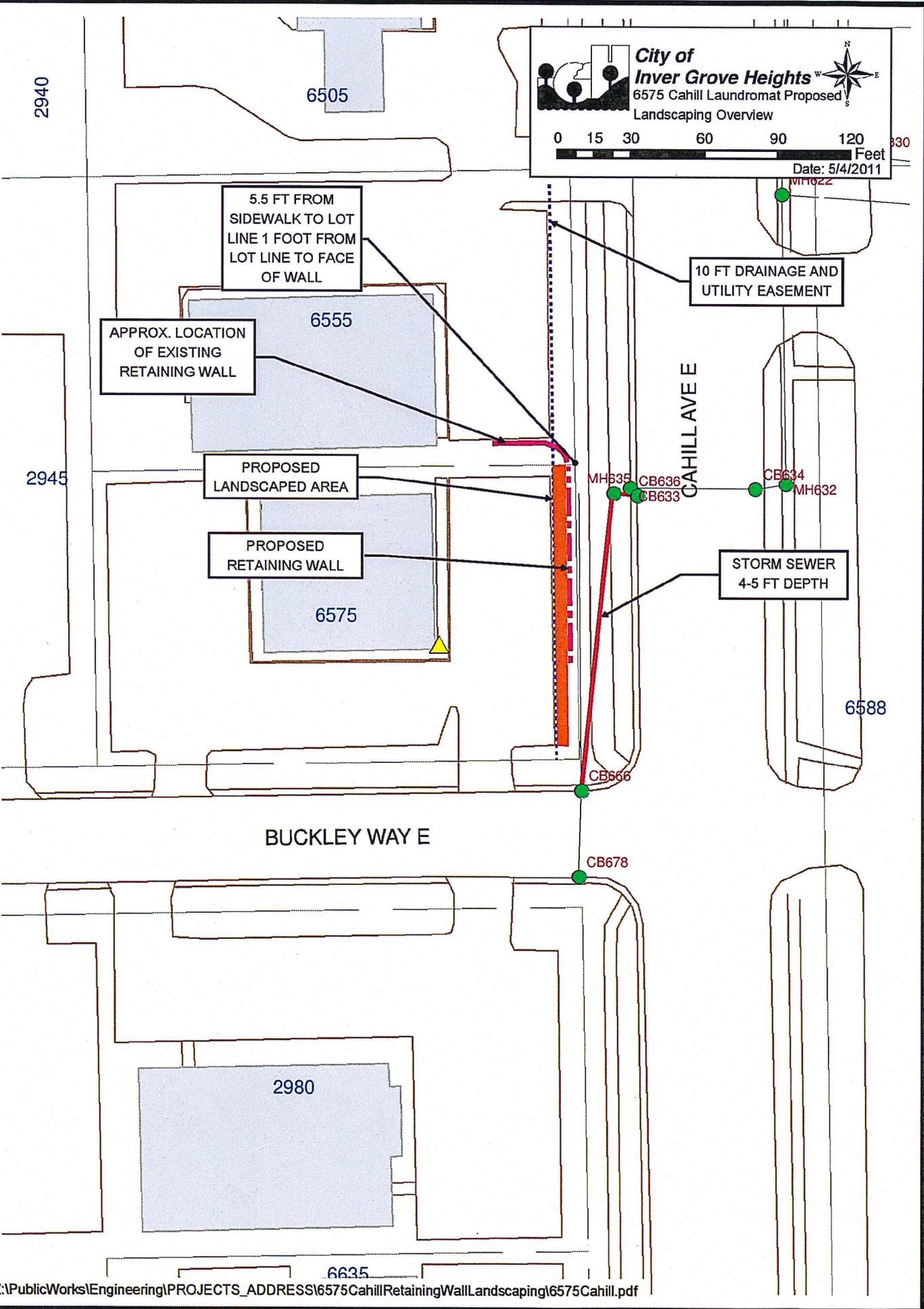
It is recommended that the City Council authorize the execution of the agreement as outlined in the memo.

SWD/kf

Attachments: Exhibit
 Agreement


City of Inver Grove Heights
 6575 Cahill Laundromat Proposed
 Landscaping Overview

0 15 30 60 90 120 150 Feet
 Date: 5/4/2011



**AGREEMENT RELATING TO
LANDOWNER IMPROVEMENTS
WITHIN CITY EASEMENT ON
LOT 5, BLOCK 1, VALLEY VIEW ADDITION,
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA**

**AGREEMENT RELATING TO LANDOWNER
IMPROVEMENTS WITHIN CITY EASEMENT ON
LOT 5, BLOCK 1, VALLEY VIEW ADDITION,
IN THE CITY OF INVER GROVE HEIGHTS,
DAKOTA COUNTY, MINNESOTA**

THIS AGREEMENT, made this 11th day of July, 2011, by and between the City of Inver Grove Heights (hereafter referred to as “City”), a Minnesota municipal corporation, and Cahill Investments, LLC, a Minnesota limited liability company, (hereafter referred to as “Landowner”). Based on the covenants, agreements, representations and recitals herein contained, the parties agree as follows:

ARTICLE 1
TERMS

1.1 Terms. Unless specifically defined elsewhere in this Agreement, the following terms shall have the following meanings.

1.2 City. “City” means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 Subject Lot. “Subject Lot” means Lot 5, Block 1, Valley View Addition, according to the plat thereof on file and of record in the office of the Dakota County Recorder, Dakota County, Minnesota. The Subject Lot is located in the City of Inver Grove Heights, Dakota County, Minnesota.

1.4 City Easement. “City Easement” means, individually and collectively, the following easements on the Subject Lot:

The permanent drainage and utility easement on the Subject Lot dedicated on the recorded plat of Valley View Addition, Dakota County, Minnesota.

1.5 Landowner. “Landowner” means Cahill Investments, LLC, a Minnesota limited liability company; and its assigns and successors in interest with respect to the Subject Lot.

1.6 Formal Notice. “Formal Notice” means notice given by one party to the other if in writing and if and when delivered or tendered either in person or by depositing it in the United States mail in a sealed envelope, by certified mail, return receipt requested, with postage prepaid, addressed as follows:

IF TO CITY:

City of Inver Grove Heights
Attention: Director of Public Works
8150 Barbara Avenue
Inver Grove Heights, MN 55077

IF TO LANDOWNER

Cahill Investments, LLC
1499 Pinetree Trail
Eagan, MN 55122

or to such other address as the party addressed shall have previously designated by notice given in accordance with this Section. Notices shall be deemed to have been duly given on the date

of service if served personally on the party to whom notice is to be given, or on the third day after mailing if mailed as provided above, provided, that a notice not given as above shall, if it is in writing, be deemed given if and when actually received by a party.

1.7 Landowner Improvements. “Landowner Improvements” means the retaining wall and associated landscaping.

1.8 City Easement Improvements. “City Easement Improvements” means all existing and future sanitary sewer, municipal water and storm water pipes, conduits, culverts, ditches, ponds, catch basins, water collection mechanisms, drainage facilities, maintenance access routes and other utility appurtenances lying within the City Easement now or in the future.

1.9 Construction Plan. “Construction Plan” means the attached sketch which identifies the location of the Landowner Improvements. The Construction Plan is on file with the City.

1.10 City Utility Costs. “City Utility Costs” means all costs incurred by the City, (whether performed by the City or its agents or contractors), for the inspection of and access to and repair, maintenance and replacement of the City’s Easement Improvements located in the City Easement and the placement of additional City Easement Improvements in the City Easement. City Utility Costs, include, without limitation: excavation costs, labor costs, costs of removing fill, costs of re-burying the City Easement Improvements, re-compacting the soils over the City Easement Improvements, restoring the City Easement area, and all engineering and attorneys’ fees incurred in connection therewith. City Utility Costs also include the costs of temporarily removing the Landowner Improvements and subsequently replacing the Landowner Improvements in the City Easement, if such costs have not already been paid by the Landowners.

1.11 Pre-Encroachment Costs. “Pre-Encroachment Costs” means a reasonable estimate by the City of the costs the City would have incurred for City Utility Costs if the Landowner Improvements did not exist.

1.12 Cost Differential. “Cost Differential” means the difference between the Pre-Encroachment Costs and the City Utility Costs caused by the existence of the Landowner Improvements. The City’s reasonable determination of the amount of the Cost Differential shall be binding on the Landowners. The City’s reasonable determination shall be appropriately supported by cost estimates obtained from independent contractors or engineers.

ARTICLE 2 **RECITALS**

Recital No. 1. The undersigned Landowner has an ownership interest in the Subject Lot located in Inver Grove Heights, Dakota County, Minnesota.

Recital No. 2 The City Easement is on the Subject Lot. The City owns the City Easement. The City Easement Improvements are within the City Easement and future City Easement Improvements may be located within the City Easement.

Recital No. 3. Landowner has requested permission from the City to place Landowner Improvements within the City Easement for the benefit of the Subject Lot.

Recital No. 4. Subject to the terms of this Agreement, the City is willing to allow the Landowner Improvements to be placed within the within the City Easement if the following conditions are met:

- a.) The Landowner maintains the Landowner Improvements;
- b.) The Landowner agrees to pay the City any Cost Differential relating to inspections, access, repair, maintenance and replacement of the existing City Easement Improvements and the placement of any future City Easement Improvements in the City Easement.
- c.) The Landowner agrees to temporarily remove the Landowner Improvements in the event the City has need to access the area where the Landowner Improvements exist in order for the City to inspect, repair, maintain, and replace the existing City Easement Improvements or construct future City Easement Improvements in the Easement Area.
- d.) The Landowner agrees to modify the Landowner Improvements if the Landowner Improvements interfere with the City Easement Improvements or reduce the capacity of the City Easement for storm water retention.

NOW, THEREFORE, THE CITY OF INVER GROVE HEIGHTS AND THE UNDERSIGNED LANDOWNER, FOR ITSELF, AND ITS SUCCESSORS AND ASSIGNS DOES HEREBY AGREE:

ARTICLE 3 **AGREEMENTS**

3.1 Construction And Maintenance Of Landowner Improvements. Under the terms and conditions stated herein, the Landowner, at its own cost, is hereby authorized by the City to make the Landowner Improvements within the City Easement. The Landowner Improvements shall only be placed at the locations specified in the Construction Plan. The Landowner Improvements must be constructed according to the Construction Plan.

The Landowner shall not place any other structures, irrigation systems, buildings, fences, landscaping, trees or shrubs within the City Easement, except for the Landowner Improvements. After construction, the Landowner, at its expense, shall maintain and repair the Landowner Improvements.

3.2 City Not Responsible For Landowner Improvements. Nothing contained herein shall be deemed an assumption by the City of any responsibility for construction, maintenance, replacement or repair of the Landowner Improvements.

3.3 Continuing Right To City Easement. Nothing contained herein shall be deemed a waiver or abandonment or transfer of the right, title and interest that the City holds to the City Easement.

3.4 Subordinate Position Of Landowner Improvements. The Landowner Improvements are subordinate to the rights of the City in the City Easement and in the City Easement Improvements.

3.5 Risk Of Loss. The Landowner understands and agrees that the Landowner Improvements within the City Easement may be adversely affected by use of the City Easement. The parties agree that the City is not responsible for such events; the City shall

have no liability to the Landowner for such events. The Landowner assumes the risk of installing the Landowner Improvements in the City Easement area.

3.6 Landowner To Bear Cost Of Relocating Landowner Improvements. The City is responsible for the repair and maintenance of the City Easement Improvements in the City Easement.

The City may require the Landowner to temporarily remove and subsequently replace the Landowner Improvements in the City Easement in order for the City to gain access to the City Easement Improvements for the purpose of inspecting, repairing, maintaining, or replacing, the City Improvements or adding future City Easement Improvements.

If the Landowner does not perform such tasks, the City may perform such tasks and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such tasks, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to perform the tasks. If the Landowner has not completed the work within the twenty (20) days, then the City may proceed to perform the tasks. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility billings within the City.

3.7 Emergency. Notwithstanding the requirements contained in Sections 3.6 relating to a twenty (20) day Formal Notice to the Landowner to perform its obligations under Sections 3.6, the City shall not be required to give such Formal Notice if the City's engineer determines that an emergency exists. In such instance, the City, without giving Formal Notice to the Landowner may perform the work and in such case the Landowner shall reimburse the City for the costs and expenses relating to the work. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work. Bills not paid shall incur the standard penalty and interest established by the City for utility bills within the City.

3.8 Cost Differential. If a Cost Differential occurs relating to the access to or inspection, maintenance, repair or replacement of the City Easement Improvements or relating to construction of new City Easement Improvements in the future, then the Landowner shall pay the Cost Differential to the City. The Landowner must make payment for the Cost Differential within 30 days after the City has sent a written invoice for the Cost Differential to the Landowner.

3.9 Modifications To Landowner Improvements. If in the future the City reasonably determines that the Landowner Improvements interfere with access for inspection or with repair, maintenance, reconstruction, or replacement of City Easement Improvements or with ponding and drainage or if the City reasonably determines that the Landowner Improvements have lessened the capacity of the City Easement for storm water retention, then the Landowner, at its own expense, shall make such modifications to the Landowner Improvements as directed by the City. Such modifications may include, but are not limited to, reconfiguration, removal and relocation of the Landowner Improvements.

If Landowner does not make the modifications, the City may make the modifications and in such case the Landowner shall reimburse the City for the City's costs and expenses. Prior to commencing such modifications, the City shall send Formal Notice to the Landowner and allow the Landowner twenty (20) days from the date of the Formal Notice to make the modifications. If Landowner does not completely make the modifications, the City may proceed to make the modifications. Once the City's costs and expenses have been determined by the City, the City shall send an invoice for such costs and expenses to the Landowner. The Landowner must pay the invoice within thirty (30) days after the date of the invoice. Such costs and expenses include, but are not limited to, costs charged the City by third parties such as contractors as well as the costs for City personnel that may have performed the work relating to the modifications.

3.10 Remedies. If the Landowner fails to perform their obligations under this Agreement, then the City may avail itself of any remedy afforded by law or in equity and any of the following non-exclusive remedies:

- a.) The City may specifically enforce this Agreement.
- b.) If the Landowner fails to make payments under Section 3.6, 3.7, 3.8 or 3.9, then the City may certify to Dakota County the amounts due as payable with the real estate taxes for the Subject Lot in the next calendar year; such certifications may be made under Minnesota Statutes, Chapter 444 in a manner similar to certifications for unpaid utility bills. The Landowner waives any and all procedural and substantive objections to the imposition of such usual and customary charges on the Subject Lot.

Further, as an alternate means of collection, if the written billing is not paid by the Landowner, the City, without notice and without hearing, may specially assess the Subject Lot for the costs and expenses incurred by the City. The Landowner hereby waives any and all procedural and substantive objections to special assessments for the costs including, but not limited to, notice and hearing requirements and any claims that the charges or special assessments exceed the benefit to the Subject Lot. The Landowner waives any appeal rights otherwise available pursuant to Minnesota Statute § 429.081. The Landowner acknowledges that the benefit from the performance of tasks by the City equals or exceeds the amount of the charges and assessments for the costs that are being imposed hereunder upon the Subject Lot.

No remedy herein conferred upon or reserved to the City shall be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

3.11 Indemnification. The Landowner shall indemnify, defend and hold the City, its council, agents, consultants, attorneys, employees and representatives harmless against and in respect of any and all claims, demands, actions, suits, proceedings, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies including interest, penalties and attorneys' fees, that the City incurs or suffers, which arise out of, result from or relate to any of the following:

- a.) The Landowner Improvements;

- b.) Installation and maintenance of the Landowners Improvements;
- c.) Failure by the Landowner to observe or perform any covenant, condition, obligation or agreement on their part to be observed or performed under this Agreement; and
- d.) Use of the City Easement for Landowner Improvements.

3.12 City Duties. Nothing contained in this Agreement shall be considered an affirmative duty upon the City to perform the Landowner's obligations contained in Article 3 if the Landowner does not perform such obligations.

3.13 No Third Party Recourse. Third parties shall have no recourse against the City under this Agreement.

3.14 Recording. The City may record this Agreement with the Dakota County Recorder.

3.15 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Subject Lot and shall be binding upon the heirs, successors, administrators and assigns of the parties.

This Agreement shall also be binding upon all after-acquired rights, interests and title of the parties that may be acquired from and after the date of this Agreement.

3.16 Amendment And Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement and performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

3.17 Governing Law. This Agreement shall be governed by and construed in accord with the laws of the State of Minnesota.

3.18 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

3.19 Headings. The subject headings of the sections this Agreement are included for purposes of convenience only, and shall not affect the construction of interpretation of any of its provisions.

IN WITNESS WHEREOF, the parties have executed this Agreement the year and day first set forth above.

CITY OF INVER GROVE HEIGHTS

By: _____
George Tourville, Mayor

ATTEST:

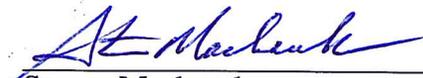
By: _____
Melissa Rheaume, Deputy City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this 11th day of July, 2011, before me a Notary Public within and for said County, personally appeared George Tourville and Melissa Rheaume, to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and Deputy City Clerk of the City of Inver Grove Heights, the municipality named in the foregoing instrument, and that the seal affixed to said instrument was signed and sealed in behalf of said municipality by authority of its City Council and said Mayor and Deputy City Clerk acknowledged said instrument to be the free act and deed of said municipality.

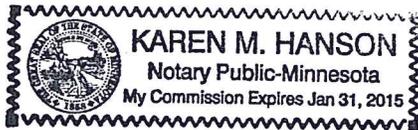
Notary Public

**LANDOWNER:
CAHILL INVESTMENTS, LLC**

By: 
Steven Machacek
Its: Chief Manager

STATE OF MINNESOTA)
)
COUNTY OF DAKOTA) ss.

On this 24th day of June, 2011, before me a Notary Public within and for said County, personally appeared Steven Machacek to me personally known, who being by me duly sworn, did say that he is the Chief Manger of Cahill Investments, LLC, a Minnesota limited liability company, the company named in the foregoing instrument, and that said instrument was signed on behalf of said limited liability company by authority of its Board of Governors and said Steven Machacek acknowledged said instrument to be the free act and deed of the limited liability company.

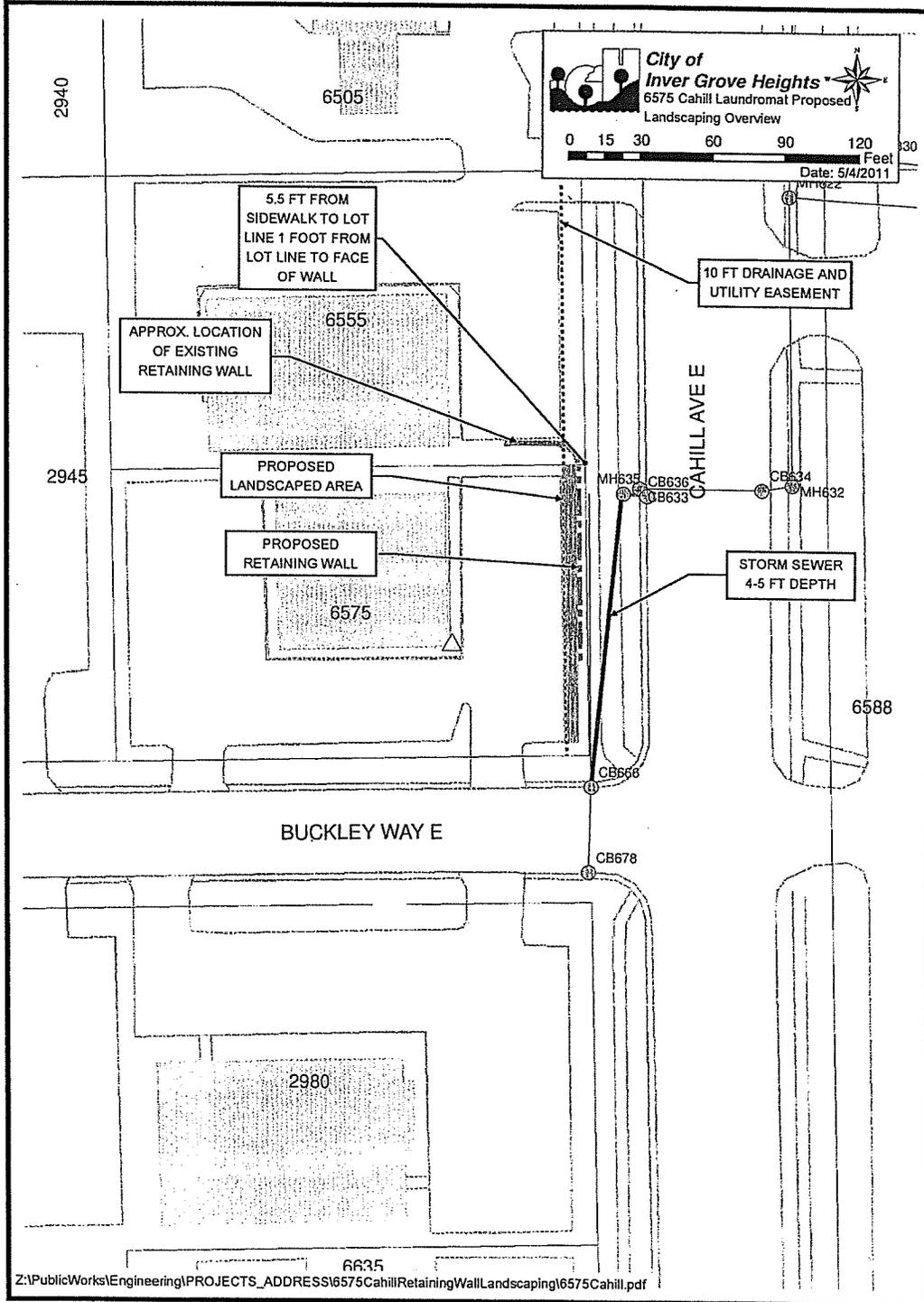



Notary Public

THIS INSTRUMENT DRAFTED
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

**AFTER RECORDING, PLEASE
BY RETURN THIS INSTRUMENT TO**
Timothy J. Kuntz
LeVander, Gillen & Miller, P.A.
633 South Concord Street, Suite 400
South St. Paul, MN 55075
(651) 451-1831

EXHIBIT A
CONSTRUCTION PLAN



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Accepting Proposal from Barr Engineering Co. for Engineering Services to Review Gerten's Greenhouse Plan Submittal Compliance with Storm Water Model

Meeting Date: July 11, 2011
Item Type: Consent
Contact: Thomas J. Kaldunski, 651.450.2572
Prepared by: Thomas J. Kaldunski, City Engineer
Reviewed by: Scott D. Thureen, Public Works Director

SAT

Fiscal/FTE Impact:
 None
 Amount included in current budget
 Budget amendment requested
 FTE included in current complement
 New FTE requested – N/A
 Other: Development Agreement

PURPOSE/ACTION REQUESTED

Consider a resolution accepting proposal from Barr Engineering for engineering services for reviewing the plans submitted for Phase I of Gerten's Greenhouse expansion to ensure compliance with storm water model.

SUMMARY

The July 5, 2011 proposal includes the engineering services that Barr proposes to provide on Gerten's project (attached). Barr was involved in the storm water modeling done for Gerten's CUP approval. This proposal will have Barr reviewing the Phase I Gerten's Greenhouse plans for consistency with the previous storm water modeling. Gerten's Phase I plan includes the site preparation work and part of the large greenhouse as illustrated on Sheet C3-1 of the June 15, 2011 plans.

The engineering services provided by Barr include reviewing the updated XP-SWMM model in the area. This model had been revised recently with the proposed expansion of the Gerten's Greenhouse. Other services and deliverables are outlined in the proposal. The cost of these services is \$2,000. Completion of this review will allow the City the ability to approve plans for Phase I of Gerten's Greenhouse expansion and ensure compliance with the storm water management plan.

Staff selected this consultant from our 2011 engineering pool. Barr was selected because of their knowledge, experience and hydraulic modeling that has been done in the area. I have reviewed the proposal and recommend approval of the resolution which authorizes execution of the proposal, dated July 5, 2011 in the amount of \$2,000, for Barr to provide these services.

TJK/kf

Attachments: Resolution
Proposal dated July 5, 2011
Sheet C3-1

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY**

**RESOLUTION APPROVING PROPOSAL FROM BARR ENGINEERING FOR ENGINEERING
SERVICES FOR PHASE I – GERTEN’S GREENHOUSE EXPANSION – COMPLIANCE WITH
STORM WATER MANAGEMENT PLAN**

RESOLUTION NO. _____

WHEREAS, Barr Engineering has submitted a proposal for engineering services to ensure the proposed expansion complies with storm water modeling, as requested by the City of Inver Grove Heights; and

WHEREAS, Barr Engineering is in the City’s Consultant Pool and familiar with the XP-SWMM model for this drainage area.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA THAT:

1. The proposal dated July 5, 2011 with Barr Engineering for the following work is hereby approved.

Tasks include:
 - (a) Review the updated XP-SWMM model and ensure the June 15, 2011 Phase I plans comply with the requirements.
 - (b) Summarize model compliance results and share with City of Inver Grove Heights.
 - (c) Attend various meetings.

2. Funding for this work, \$2,000, shall come from the Capital Improvement Revolving Fund and be reimbursed by the Developer (Gertens).

Adopted by the City Council of Inver Grove Heights, Minnesota this 11th day of July 2011.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk



July 5, 2011

Mr. Tom Kaldunski, P.E.
City Engineer
City of Inver Grove Heights

Re: Gertens Review

Dear Mr. Kaldunski:

Thank you for your request for a proposal regarding the review of the Gertens submittal. This letter outlines the scope and cost estimate for performing a cursory review of the submittal to ensure that it complies with our earlier modeling efforts.

Because of the extensive review and coordination between the City and Gertens that occurred previous to this submittal, we are expecting that the submittal will comply with our modeling efforts. Therefore, we propose to perform only a cursory review of their plans. As part of our work, we would cross-check their plans with the XP-SWMM models we ran. Our work would also include an email to city staff summarizing the results of our review. We also anticipate additional communications with the Gertens engineer and city staff as part of the cursory review. Our scope assumes that there would not be any meetings between city staff, Gertens and/or MnDOT.

The total cost for this cursory review is \$2,000.

If our review finds discrepancies or there are questions that come up that would require us to perform additional modeling, we will outline these items in our summary review email. If requested by city staff, we will follow up the email with a cost estimate to perform the extra work. The additional modeling would likely lead to a significant amount of communications, such as meetings to present results, attend meetings with MnDOT, communications with city staff and communications with the Gertens engineer.

We can start work upon your notice to proceed. Please contact me (email kchandler@barr.com, phone 952-832-2813) with the notice to proceed or if you have questions on this scope of services.

Sincerely,

A handwritten signature in black ink that reads "Karen L. Chandler".

Karen Chandler, P.E.
Senior Project Manager
Barr Engineering Company

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

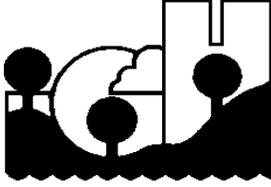
PERSONNEL ACTIONS

Meeting Date: July 11, 2011
Item Type: Consent
Contact: Jenelle Teppen, Asst. City Admin
Prepared by: Amy Brinkman, H.R. Coordinator
Reviewed by: n/a

Fiscal/FTE Impact:	
<input type="checkbox"/>	None
<input checked="" type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED Staff requests that the Council approve the personnel actions listed below:

Please confirm the seasonal/temporary employment of: Ellen Ryan



CITY OF INVER GROVE HEIGHTS

MEMORANDUM

TO: Mayor & City Council

FROM: Joe Lynch, City Administrator

SUBJECT: TIF Spending Plan and Contract for Private Development

DATE: June 30, 2011

Background:

On June 27th the Council held a Public Hearing on the proposal to amend the TIF Spending Plan for TIF District 4-1 and a Contract for Private Development with IGH Investments, LLC. Council heard from Steve Apfelbacher of Ehlers & Associates and Steve Bubul, Bond Counsel, of Kennedy & Graven on both of the above mentioned items. In order to assist with the completion of the public process, I would like to summarize the salient point made during the presentation and discussion that took place that night. Council tabled any action until your meeting on July 11th and left the Public portion of the meeting open so it could take any additional comment or testimony.

- State Law allows the City to consider using funds from one TIF District in another area for economic development and job creation
- Argenta Hills Development is not in bankruptcy, is not behind on any taxes or assessment payment and is not in foreclosure
- TIF District 4-1 has a fund balance of approximately \$3 million and with the use of the proposed amount, \$1.25 million, it will have a fund balance of \$1.2 million at the end of the year with all debt service payments being made
- The use of the funds would be in the form of a forgivable loan to IGH Investments, LLC
- Private improvements would have to be completed by a date certain and proof of payment for those improvements, in an amount up to \$549,000, would be made by IGH Investments, LLC for payment by the City to an escrow account that would not be available to them until or unless a Target Store opened by December 1, 2012
- An amount of \$701,000 would be made into an escrow account upon proof of construction of a Target store by Feb 15, 2012 and held there until the store opens by December 1, 2012
- If IGH Investments, LLC fails to make the private improvements or provide proof of payment and/or the Target store fails to start construction by the

date specified or fails to open by the date specified, the escrow funds are returned to the City

- The Target store must remain open for business, as defined in the C.P.D., for five (5) years and if it does not IGH Investments, LLC must repay the City a prorated amount of the total (\$1.25 million) based on the number of months remaining compared to the original 60 months.
- A clarification needs to be made on the numbers that were discussed about what share of the \$1.25 million in T.I.F. is from the City compared to the amount of taxes, city share only, that would be generated by the new development – Of the new taxes generated from the Argenta Hills Development, approximately 28% is from the City tax rate. This means that of the \$488,000 amount generated, \$77,000 would be for the City of IGH. This compares to the City's share of \$543,500 of the \$1.25 million of the TIF from District 4-1. This means there would be a payback of seven (7) years as opposed to the sixteen (16) years that were mentioned
- The decision to move forward with adoption of the enclosed Resolution Amending the TIF Spending Plan and Resolution adopting the Contract for Private Development takes a simple majority of the Council

Recommendation:

I recommend approval of the Resolution adopting the Amendment to the TIF Spending Plan for TIF District 4-1 and adoption of the Resolution approving the Contract for Private Development with IGH Investments, LLC.



Memo

To: Inver Grove Heights Mayor and Councilmembers
Joe Lynch, City Administrator

From: Steve Apfelbacher, Financial Advisor
Jessica Cook, Financial Advisor

Date: May 19, 2011

Subject: TIF District 4-1 Spending Plan and Business Subsidy Agreement – Call for Public Hearing

The purpose of this memo is to summarize the proposed terms of a Contract for Private Development (the “Contract”) between IGH Investment, LLC (the “Developer”) and the City of Inver Grove Heights. The agreement was drafted by the Kennedy and Graven, the City’s bond counsel, and has been reviewed by the City Attorney.

Generally, the proposed Contract calls for the Developer to construct a 135,000 square foot Target Store and 15,000 square feet of “Main Street” and be open for business by December 1, 2012. The City will assist the project with a forgivable loan of up to \$1,250,000.

The following chart sets forth the time frames spelled out in the Contract. These terms were established to reduce risk for the City and ensure the project is completed in a timely fashion. The Developer will only receive assistance if the project is completed by December 1, 2012 and achieves certain benchmarks along the way.

Date	Developer Action	City Action	Recourse
By September 1, 2011	Developer commences construction of public improvements.	City signs Certificate of Commencement.	Contract is terminated if construction does not start by September 1, 2011.
Estimated Fall, 2011	Developer proves it has spent \$549,000 in public improvement costs and requests reimbursement.	City places up to \$549,000 from TIF 4-1 into an escrow held by a title company. Developer may not receive the escrowed funds until project is completed.	The escrow is returned to City if conditions for release of escrow are not met by December 1, 2012.
By February 15, 2012	Construction on Target building commences.	Verify construction progress.	If Target construction has not begun by Feb. 15, 2012 the Contract is terminated and escrowed funds are returned to City.
By December	Target and other retail	City disburses second	If not completed and open for

1, 2012	is completed and Target is open for business; and Developer certifies creation of construction jobs.	installment of up to \$701,000 to the Developer and releases \$549,000 escrowed funds.	business, the Contract is terminated, second disbursement \$701,000 is not made, \$549,000 escrow returned to City.
Five years after completion	The Developer will maintain operations of the Target Store and other retail to meet business subsidy criteria.	City will file annual reports with the Minnesota Department of Employment and Economic Development.	If the Developer fails to maintain operations for five years, the forgivable loan must be repaid, on a pro-rata basis. The loan is forgiven in full after five years.

CITY OF INVER GROVE HEIGHTS
SPENDING PLAN
FOR TAX INCREMENT FINANCING DISTRICT NO. 4-1
(TEMPORARY TIF AUTHORITY UNDER MINN. STATS., SECTION 469.176, SUBD. 4M)

ADOPTED BY CITY COUNCIL _____, 2011

SPENDING PLAN
FOR TAX INCREMENT FINANCING DISTRICT NO. 4-1
(TEMPORARY TIF AUTHORITY UNDER MINN. STATS., SECTION 469.176, SUBD. 4M)

I. PURPOSE

The City of Inver Grove Heights (the “City”) proposes to adopt a spending plan (the “Spending Plan”) for Tax Increment Financing District No. 4-1 (the “TIF District”) in accordance with Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the “Temporary TIF Authority Act”).

Under the Temporary TIF Authority Act, the City is authorized to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:

- (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
- (2) Construction commences before July 1, 2012 (or in the case of market rate housing, commences before January 1, 2012; or in the case of low/moderate income housing commences before July 1, 2011);
- (3) The construction would not have commenced before that date without the assistance;
- (4) The City Council approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the City to take such actions; and
- (5) The tax increments authorized under the Spending Plan are spent by December 31, 2012 (or in the case of market rate housing are spent by July 1, 2012, or in the case of low/moderate income housing are spent by December 31, 2011).

The City has determined to authorize expenditures of tax increment from the TIF District under the Temporary TIF Authority Act as further described in this Spending Plan.

II. SPENDING PLAN

The City is authorized as follows:

- (a) The City may use any available tax increments from the TIF District received through December 31, 2012 and not otherwise pledged to any outstanding contract or obligation (referred to as “Available Spending Plan Increment”), to provide improvements, loans, interest rate subsidies, or assistance in any form to private development occurring anywhere within the City that meets the requirements of the Temporary TIF Authority Act described above (subject to the separate time limits for any housing developments).

(b) The assistance authorized under this Spending Plan expressly includes, but is not limited to, assistance to Inver Grove Heights Investment, LLC (the “Developer”) in the amount of not more than \$1,250,000 to finance certain commercial developments in the area known as Argenta Hills. That development will include completion of an approximately 135,000 square-foot retail anchor store (for which construction was previously commenced but abandoned due to economic circumstances) together with approximately 15,000 square feet of additional commercial space (together referred to as the “Argenta Hills Commercial Improvements”). In connection with such assistance, the City expressly finds that:

1. Construction of the Argenta Hills Commercial Improvements will create or retain at least 14 new full-time equivalent construction jobs at the Argenta Hills site (representing jobs that would not otherwise exist elsewhere in Minnesota, or would not be retained in Minnesota), based on estimates provided by the Developer.
2. The Developer will be required to commence construction of the Argenta Hills Commercial Improvements by no later than September 1, 2011. Construction the Argenta Hills Commercial Improvements would not have commenced before September 1, 2011 without the assistance under this Spending Plan, because such development was previously abandoned and Developer had no plans to complete such development for several years absent the assistance under this Spending Plan.

In addition to the assistance for the Argenta Hills Commercial Improvements described above, the City is authorized to spend Available Spending Plan Increment for any other private development in the City for which the City finds that the private development will create or retain jobs in the State (including construction jobs); that the private development will commence before the required date (depending on the type of development); and that such construction would not have commenced before the required date without the assistance under this Spending Plan. The City must document its findings under this section at the time of approval of assistance to each development.

(d) In accordance with the Temporary TIF Authority Act, the City may implement this Spending Plan by making an equity or similar investment in a corporation, partnership or limited liability that the City determines is necessary to make construction that meets the requirements of paragraph (c) financially feasible.

(e) This Spending Plan authorizes, but does not obligate, the City to spend Available Spending Plan Increment. Any obligation to provide assistance under this Spending Plan must be evidenced by a contact approved by the City Council, entered into with a private party who otherwise meets the requirements of this Spending Plan and the Temporary TIF Authority Act.

(f) In accordance with the Temporary TIF Authority Act, the authority to spend Available Spending Plan Increment under this Spending Plan expires on December 3,1 2012 (subject to the earlier expiration dates for market rate and low/moderate income housing referenced above). No Available Spending Plan Increment may be spent under this Spending

Plan after December 31, 2012 unless such expenditure is otherwise authorized by law without regard to the Temporary TIF Authority Act.

(g) The City acknowledges that assistance provided pursuant to this Spending Plan will be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the “Business Subsidy Act”), unless the assistance provided to a specified recipient is exempt from the Business Subsidy Act under the terms of that statute.

(h) The City may amend this Spending Plan at any time in accordance with the procedures for approval of the Spending Plan under the Temporary TIF Authority Act.

(i) City staff are authorized and directed to maintain a copy of this Spending Plan with the City’s records for the TIF District, and to file a copy of the Spending Plan with the Office of the State Auditor (as requested by the State Auditor in the August, 2010 TIF Division Newsletter).

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY
STATE OF MINNESOTA

RESOLUTION NO. _____

**RESOLUTION APPROVING A SPENDING PLAN FOR TAX INCREMENT
DISTRICT 4-1**

BE IT RESOLVED by the City Council (the "City Council") of the City of Inver Grove Heights (the "City"), Dakota County, Minnesota as follows:

Section 1. Background; Findings.

(a) The City has previously established Tax Increment Financing District 4-1 (the "TIF District") and adopted the tax increment financing plan therefor (the "TIF Plan") pursuant to Minnesota Statutes, Sections 469.174 to 469.1799 (the "TIF Act") and certain special legislation.

(b) Section 469.176 Subd. 4m of the TIF Act (referred to as "Temporary Authority") authorizes the City to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if certain terms and conditions are met.

(c) In accordance with the Temporary Authority, the City has caused to be prepared a spending plan (the "Spending Plan") authorizing the City to use existing tax increment revenues from the TIF District in order to stimulate construction or rehabilitation of private development in a way that will also create or retain jobs in the development known as Argenta Hills.

(d) The City has performed all actions required by law to be performed prior to the approval of the Spending Plan, including, but not limited to, causing notice of a public hearing to be published and holding a public hearing regarding Spending Plan held on June 27, 2011 and continued to this date.

Section 2. Approval of the Spending Plan and Business Subsidy Agreement.

(a) The Spending Plan is hereby approved in substantially the form on file in City Hall.

(b) The City makes all the findings set forth in the Spending Plan, which are incorporated herein by reference.

(c) City staff and consultants are hereby authorized to take actions necessary to carry out the terms of the Spending Plan.

Dated: July 11, 2011

Adopted:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy City Clerk

Fifth Draft June 22, 2011

CONTRACT
FOR
PRIVATE DEVELOPMENT
By and Between
CITY OF INVER GROVE HEIGHTS
and
IGH INVESTMENT, LLC
Dated as of: June ____, 2011

This document was drafted by:

KENNEDY & GRAVEN, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: (612) 337-9300

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CONTRACT FOR PRIVATE DEVELOPMENT

THIS AGREEMENT, made on or as of the _____ day of June, 2011, by and between THE CITY OF INVER GROVE HEIGHTS, a Minnesota municipal corporation (the “City”), and IGH INVESTMENT, LLC, a Minnesota limited liability company (the “Developer”).

WITNESSETH:

WHEREAS, the City has undertaken a program to promote economic development and job opportunities, promote the development and redevelopment of land which is underutilized within the City, and in this connection created a development district known as Development District No. 4, and within the area established Tax Increment Financing District No. 4-1 (the “TIF District”), all pursuant to Minnesota Statutes, Sections 469.124 to 469.134 (the “Development District Act”), Sections 469.174 to 469.179 (the “TIF Act”), and Laws of Minnesota, 1988, Chapter 712; Article 12, Section 29(a); Laws of Minnesota Special Session 1989, Article 14, Section 18, Subdivision 1, and Laws of Minnesota, 1990, Chapter 604, Article 7, Section 30, Subd. 3; and

WHEREAS, Section 469.176 Subd. 4m of the TIF Act (referred to as “Temporary Authority”) authorizes the City to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if certain terms and conditions are met; and

WHEREAS, the City has adopted a spending plan (the “Spending Plan”) that authorizes expenditure of Tax Increments from the TIF District for certain purposes in accordance with the Temporary Authority; and

WHEREAS, the Developer has proposed certain commercial improvements (the “Minimum Improvements”) on certain property (the “Development Property”) in the City, the construction of which Minimum Improvements would not commence before September 1, 2011 without assistance under the Spending Plan; and

WHEREAS, the City believes that the development of the Minimum Improvements pursuant to this Agreement, and fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State and local laws and requirements;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

(The remainder of this page is intentionally left blank.)

ARTICLE I

Definitions

Section 1.1. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

“Additional Commercial Improvements” means the construction on Lot 3, Block 1, and Lots 1 and 2, Block 2 of the Development Property, of three commercial buildings with a combined gross area of at least 15,000 square feet, all substantially in accordance with the site plans and planned unit development approved by the City Planning Resolution; provided that if the location or configuration of the commercial improvements is modified in any amendment to the City Planning Resolution, such modification is incorporated herein by reference.

“Affiliate” means with respect to the Developer (a) any corporation, partnership, or other business entity or person controlling, controlled by or under common control with the Developer, and (b) any successor to such party by merger, acquisition, reorganization or similar transaction involving all or substantially all of the assets of such party (or such Affiliate). For the purpose hereof the words “controlling”, “controlled by” and “under common control with” shall mean, with respect to any corporation, partnership, corporation or other business entity, the ownership of fifty percent or more of the voting interests in such entity, possession, directly or indirectly, or the power to direct or cause the direction of management policies of such entity, whether ownership of voting securities or by contract or otherwise.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Business Day” means any day except a Saturday, Sunday, legal holiday, a day on which the City is closed for business, or a day on which banking institutions in the City are authorized by law or executive order to close.

“Business Subsidy Act” means Minnesota Statutes, Sections 116J.993 to 116J.995, as amended.

“Certificate of Completion” means the certification provided to the Developer pursuant to Section 4.4 of this Agreement.

“City” means the City of Inver Grove Heights, Minnesota.

“City Planning Resolution” means Resolution No. 08-87 approved April 28, 2008, as amended by Resolution No. 09-92 approved May 11, 2009, approving the plat of Argenta Hills and the planned unit development for the Development Property.

“City Representative” means the City Deputy Clerk, or any person designated by the City Administrator to act as the City Representative for the purposes of this Agreement.

“Compliance Period” has the meaning provided in Section 3.6(a)(6).

“Construction Plans” means the plans, specifications, drawings and related documents on the construction work to be performed on the Development Property which are required to be submitted to the appropriate building officials of the City in accordance with City ordinances and procedures.

“Consulting Advisors” means Kennedy & Graven, Levander, Gillen & Miller, and Ehlers.

“County” means the County of Dakota, Minnesota.

“Developer” means IGH Investment, LLC or its permitted successors and assigns.

“Developer-Owned Parcels” has the meaning provided in Section 3.1.

“Development Contract” means the Development Contract for Plat of Argenta Hills between the City and Developer dated as of March 30, 2008, as amended or extended from time to time.

“Development Property” means the property described on Schedule A.

“Event of Default” means an action by a party described in Section 9.1 of this Agreement.

“Existing Improvements” means foundations for a commercial retail facility, located on Lot 1, Block 1 of the Development Property as of the date of this Agreement.

“Holder” means the owner or mortgagee of a Mortgage.

“Job Covenant” has the meaning provided in Section 3.5.

“Loan Closing Date” has the meaning provided in Section 3.3(a).

“Minimum Improvements” means the Target Facility and the Additional Commercial Improvements; and includes all Site Improvements unless the context clearly requires otherwise.

“Mortgage” means any mortgage made by the Developer which is secured, in whole or in part, with the Development Property.

“Qualified Construction Job” means a construction job (or any number of part-time jobs in combination) lasting at least one 35-hour week during construction of the Minimum Improvements.

“Reimbursement Agreement” means the Reimbursement Agreement between the City and Developer dated as of May 2, 2011.

“Site Improvements” means the following improvements to be constructed by Developer in connection with construction of the Minimum Improvements: any improvements defined as “Developer Improvements” under the Development Contract; together with any other site improvements to the Development Property or improvements adjacent to and serving the Development Property, including without limitation grading, utilities, parking, and landscaping, and any improvements to Amana Trail from Trunk Highway No. 3 to Argenta Trail and the pedestrian/bicycle trail north of Amana Trail, and any work needed to prepare for construction of the Target Facility or Additional Commercial Improvements (including without limitation excavation and footings for foundations).

“Spending Plan” means the Spending Plan adopted by the City Council on June 27, 2011, authorizing expenditures of Tax Increment from the TIF Districts in accordance with the Temporary Authority.

“State” means the State of Minnesota.

“Target” means Target Corporation, a Minnesota corporation.

“Target Facility” means construction of an approximately 135,000 square foot Target store on Lot 1, Block 1 of the Development Property substantially, in accordance with the site plans and planned unit development approved by the City Planning Resolution.

“Tax Increment” means that portion of the real property taxes which is paid with respect to the TIF District and which is remitted to the City as tax increment pursuant to the Tax Increment Act.

“Tax Increment Act” or “TIF Act” means the Tax Increment Financing Act, Minnesota Statutes, Sections 469.174 to 469.1799, as amended.

“Tax Increment District” or “TIF District” means the City’s Tax Increment Financing District No. 4-1.

“Tax Official” means any County assessor; County auditor; County or State board of equalization, the commissioner of revenue of the State, or any State or federal court including the tax court of the State.

“Temporary Authority” means Minnesota Statutes, Section 469.176, subd. 4m.

“Termination Date” means the end of the Compliance Period.

“Title” means First American Title Insurance Company.

“TIF Loan” has the meaning provided in Section 3.3(b) hereof.

“Transfer” has the meaning set forth in Section 8.2(a).

“Unavoidable Delays” means delays beyond the reasonable control of the party seeking to be excused as a result thereof which are the direct result of war, terrorism, strikes, other labor troubles, fire or other casualty to the Minimum Improvements, litigation commenced by third parties which, by injunction or other similar judicial action, directly results in delays, or acts of any federal, state or local governmental unit (other than the City in exercising its rights under this Agreement) which directly result in delays. Unavoidable Delays shall not include delays in the Developer’s obtaining of permits or governmental approvals necessary to enable construction of the Minimum Improvements by the dates such construction is required under Section 4.3 of this Agreement, unless (a) Developer has timely filed any application and materials required by the City for such permit or approvals, and (b) the delay is beyond the reasonable control of the Developer.

(The remainder of this page is intentionally left blank.)

ARTICLE II

Representations and Warranties

Section 2.1. Representations and Covenants by the City. The City represents and warrants that:

(a) The City is a statutory city duly organized and existing under the laws of the State. Under the provisions of the TIF Act and the Temporary Authority, the City has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The City will use its best efforts to facilitate development of the Minimum Improvements, including but not limited to cooperating with the Developer in obtaining necessary administrative and land use approvals.

(c) The activities of the City are undertaken for the purpose of fostering private development consisting of construction of buildings and ancillary facilities, all in accordance with the Temporary Authority.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any statutory limitation or any indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(e) The City shall promptly advise Developer in writing of all litigation or claims affecting any part of the Minimum Improvements.

(f) The City has duly authorized the execution, delivery and performance of this Agreement by all proper action.

Section 2.2. Representations and Warranties by Developer. Developer represents and warrants that:

(a) Developer is a limited liability company organized and in good standing under the laws of the State of Minnesota, is not in violation of any provisions of its member control agreement, operating agreement, articles of organization or the laws of the State, is duly authorized to transact business within the State, has power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its chief manager and board of governors.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of,

the terms, conditions or provisions of any limited liability company restriction or any evidences of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(c) Developer shall promptly advise the City in writing of all filed and pending litigation or claims affecting any part of the Minimum Improvements and all written complaints and charges made by any governmental authority materially and adversely affecting the Minimum Improvements or materially and adversely affecting Developer or its business, which may delay or require changes in construction of the Minimum Improvements.

(d) The Developer would not commence or cause commencement of construction of the Minimum Improvements by September 1, 2011 without the assistance provided under this Agreement and the Spending Plan.

(The remainder of this page is intentionally left blank.)

ARTICLE III

Tax Increment Assistance

Section 3.1. Status of the Development Property. As of the date of this Agreement, Developer owns the portion of the Development Property described as Lots 2, 3 and 4, Block 1, and Lots 1, 2 and 3, Block 2, and Outlots A, B, C and D, in the plat of Argenta Hills (referred to as the “Developer-Owned Parcels”); and Target owns the portion of the Development Property described as Lot 1, Block 1, in the plat of Argenta Hills, all as described in Schedule A hereto. The City has no obligation to acquire the Development Property or any portion thereof.

Section 3.2. Environmental Conditions. (a) Developer acknowledges that the City makes no representations or warranties as to the condition of the Development Property or the Existing Improvements or the fitness of the Development Property or Existing Improvements for construction of the Minimum Improvements or any other purpose for which the Developer may make use of such property, and that the assistance provided to Developer under this Agreement neither implies any responsibility by the City for any contamination of the Development Property or poor soil conditions, nor imposes any obligation on such parties to participate in any cleanup of the Development Property or correction of any soil problems.

(b) Without limiting its obligations under Section 8.4 of this Agreement Developer further agrees that it will indemnify, defend, and hold harmless the Indemnified Parties (as defined in Section 8.4(b) hereof) from any claims or actions arising out of the presence, if any, of hazardous wastes or pollutants on the Development Property as a result of the actions or omissions of the Developer, unless and to the extent that such hazardous wastes or pollutants are present as a result of the actions or omissions of the Indemnified Parties. Nothing in this section will be construed to limit or affect any limitations on liability of the City under State or federal law, including without limitation Minnesota Statutes Sections 466.04 and 604.02.

Section 3.3. Tax Increment Assistance. (a) *Generally.* In order to make development of the Minimum Improvements financially feasible, the City will make a grant to Developer in the amount of \$1,250,000, subject to all the terms and conditions of this Agreement, including without limitation the business subsidy provisions described in Section 3.6. The parties acknowledge that the Business Subsidy Act requires that any subsidy intended as a grant must be structured as a forgivable loan (in light of the potential for repayment if specified goals are not met). Therefore, the grant of assistance under this Agreement is treated as a loan, and is referred to as the “TIF Loan.” The TIF Loan shall be evidenced by a promissory note (“Note”) payable by the Developer to the City substantially in the form of Schedule D attached to this Agreement. Proceeds of the TIF Loan shall be delivered in two disbursements, in accordance with paragraphs (b) and (c) of this Section, and the Note shall be dated, and delivered by Developer to City, as of the first disbursement under paragraph (b) (also referred to as the “Loan Closing Date”).

(b) *First Disbursement of Loan Proceeds.* The first disbursement of TIF Loan proceeds shall be in the amount of \$549,000, and shall be disbursed by the City to the Developer

upon satisfaction of the following conditions, all of which must be satisfied by December 1, 2011:

(i) The Developer having executed and delivered to the City the executed the Note;

(ii) Developer having delivered evidence of required insurance in accordance with Article V hereof;

(iii) Developer, Developer's contractors and the City Representative having executed the Commencement Certificate in accordance with Section 4.3 hereof;

(iv) Developer having delivered to the City one or more draw requests approved by Title together with invoices or other written evidence reasonably satisfactory to the City showing that Developer has incurred and paid costs of Site Improvements (including descriptions of the Site Improvements being reimbursed) in the amount of at least \$549,000 (or showing that such amount is then due and owing to a contractor and Title has approved such draw for payment);

(v) Developer having executed an Escrow Agreement and satisfied the City as to sufficient funding for the TIF Loan Escrow, all in accordance with Section 3.4 hereof; and

(vi) There being no uncured Event of Default under this Agreement or the Development Contract.

(c) *Second Disbursement of Loan Proceeds.* The second disbursement of TIF Loan proceeds shall be in the maximum amount of \$701,000, and shall be disbursed by the City to the Developer upon completion of the Minimum Improvements and opening of the Target Facility in accordance with Section 4.3 hereof, and satisfaction of the following conditions (all of which must be satisfied by December 1, 2012):

(i) all the conditions for the first disbursement were met;

(ii) Developer having delivered to the City one or more draw requests approved by Title together with invoices or other written evidence reasonably satisfactory to the City showing that Developer has incurred and paid costs of Site Improvements (including descriptions of the Site Improvements being reimbursed, which Site Improvements were not reimbursed in by the first disbursement hereunder) in at least the amount of the disbursement (or showing that such amounts are then due and owing to a contractor and Title has approved such draw for payment); and

(iii) Developer has timely satisfied the Jobs Covenant in accordance with Section 3.5 hereof;

(iv) Developer has provided all information required for the City to execute the Certificate of Completion, and the City has executed such certificate; and

(v) There being no uncured Event of Default under this Agreement or the Development Contract.

The parties agree and understand that if Developer fails to cause timely commencement of the Target Facility by February 15, 2012 in accordance with Section 4.3(b), the City has no obligation to make the second disbursement, and Developer's right, title and interest in all proceeds of the TIF Loan terminates. In that event, proceeds of the first disbursement held in the TIF Escrow under Section 3.4 are released to the City as described in that Section.

(d) *Repayment of TIF Loan.* The TIF Loan shall be repaid as follows:

(i) Interest at the rate of 1.7% (the required rate under Section 116J.994, subd. 6 of the Business Subsidy Act) shall accrue on the amount of principal advanced, from the date of each disbursement under this Section, until the Note is repaid or forgiven as provided in this Section.

(ii) The principal amount of the Note (or whatever amount has actually been disbursed), and accrued interest thereon, shall be due and payable if Developer fails to (1) timely satisfy the Job Covenant under Section 3.5, (2) timely commence construction of the Target Facility under Section 4.3(b), or (3) timely complete the Minimum Improvements and cause the Target Facility to open under Section 4.3(c). Such repayment is accomplished by release of the TIF Escrow under Section 3.4, it being understood that if such events occur, only the first \$549,000 in principal amount will have been disbursed.

(iii) Further, a Pro Rata Portion (as defined in Section 3.6(b) hereof) of the principal and interest on the Note shall be due and payable if Developer fails to cause the Target Facility to remain open for five years in accordance with Section 3.6 (a)(6) hereof. Notwithstanding anything to the contrary in Sections 9.1 and 9.2 hereof, such repayment is due within 10 Business Days after the date of a written notice from the City regarding such five-year covenant.

(iv) If none of the events in clauses (ii) and (iii) of this paragraph (d) occur, then the entire principal and interest on the TIF Loan is forgiven. If no repayment has been demanded as of the end of the Compliance Period under Section 3.6, then the entire principal and accrued interest on the Note is forgiven, the Note is deemed terminated and the City will return the Note to the Developer marked "PAID IN FULL".

Section 3.4. Escrow Provisions. As security for the first disbursement of the TIF Loan under Section 3.3(b), Developer shall, at the time of such first disbursement, deposit with Title funds in the amount of \$549,000 (the "TIF Loan Escrow"). City, Developer, and Title shall execute an escrow agreement the ("Escrow Agreement") mutually satisfactory to those parties,

under which the escrowed funds will be released as follows: on the date the Minimum Improvements are completed and the Target Facility is opened (as evidenced by execution of a Certificate of Completion), the escrowed funds shall be released and paid to Developer. If Developer fails to cause commencement of the Target Facility by February 15, 2012 under Section 4.3(b), fails to cause completion of the Minimum Improvements and opening of the Target Facility by December 1, 2012 in accordance with Section 4.3 hereof, or fails to timely meet the Job Covenant in accordance with Section 3.5, then notwithstanding anything to the contrary in Sections 9.1 and 9.2 hereof, the escrowed funds shall be released to the City within 3 Business Days after the date of the City's written notice to that effect under Section 3.3(d)(ii). Any interest earnings on escrowed funds shall be credited to the escrow account and included in the release of principal to the Developer or the City, as the case may be.

Section 3.5. Job Covenant. Developer shall cause the creation or retention of at least 14 Qualified Construction Jobs engaged in construction of the Minimum Improvements (including without limitation the Site Improvements). By no later than the required date for completion of the Minimum Improvements (and as a condition for execution of a Certificate of Completion), Developer shall deliver to the City a written certification that the required number of Qualified Construction Jobs were created, and that such jobs represented a net increase in the State (i.e., because they were hired for this construction project) or a net retention of jobs in the State (because absent this construction project such jobs would have been eliminated). Upon request by the City, Developer shall provide to the City any evidence reasonably requested by the City to document Developer's certification.

Section 3.6. Business Subsidy. The provisions of this Section constitute the "business subsidy agreement" for the purposes of the Business Subsidy Act.

(a) *General Terms*. The parties agree and represent to each other as follows:

(1) The subsidy provided to the Developer consists of the principal amount of the TIF Loan under Section 3.3 of this Agreement. The City expects to fund the TIF Loan from a portion of the Tax Increment from the TIF District. The TIF District is a redevelopment district under the TIF Act. The subsidy provided under this Agreement is a forgivable loan which may be funded from revenues of the TIF District, which revenues the City represents it is authorized to spend for these purposes under the Temporary Authority and the Spending Plan.

(2) The primary public purpose of the subsidy is to remedy the impediment to development created by the uncompleted Existing Improvements on the Development Property. The City has determined that, absent the assistance described in this Agreement, the Existing Improvements will remain in a state of stalled construction for several years to come, which will impair the marketability of the remaining property in the immediate vicinity. Further, given the prominence of this site (at a key intersection), failure to complete the Existing Improvements could result in delay of development in the entire northwest area of the City, which in turn jeopardizes the City's ability to finance infrastructure in that area. The existence of a long-term stalled construction

project creates a deteriorating influence that can only be remedied by completion of commercial improvements of some type at this site.

(3) The City has determined that, other than creation of construction jobs described in the Job Covenant under Section 3.5, the City's goal for the subsidy is not creation of new permanent jobs, but rather carrying out the public purpose described in clause (2) above. Therefore, after public hearing, the City has set the permanent job creation or retention goal as zero, and instead determines that the tangible goals are: to secure completion of the Minimum Improvements and opening of the Target Facility in accordance with Section 4.3; and operation of the Target Facility as a retail store for at least the Compliance Period as defined in clause (6) below. The City may, after a public hearing, extend the deadlines for these respective goals by up to one year, provided that nothing in this section will be construed to limit the City's legislative discretion regarding this matter.

(4) If the goals described in clause (3) are not met, the Developer must repay the TIF Loan, as described in Section 3.6(c) and 3.3(d).

(5) The subsidy is needed because construction of the Minimum Improvements is not financially feasible at the current time without public assistance, and absent the subsidy such construction may be delayed for several years, which in turn impairs the City's ability to secure revenues needed to pay for infrastructure serving the entire northwest area of the City.

(6) Subject to the terms of Section 5.1(d) hereof, the Developer or its permitted successors and assigns must cause the Target Facility to remain open as a retail store for at least five years after the Benefit Date. The "Benefit Date" is the earlier of (i) the date the Target Facility is open for public business in accordance with Section 4.3(c), or (ii) the date of substantial completion of the Target Facility in accordance with Section 4.3(c). Such five-year period after the Benefit Date is referred to as the "Compliance Period." The Target Facility will be deemed no longer "open" in the first calendar month in which the Target Facility has, for at least five consecutive calendar days, failed to be open for business to the general public with business hours substantially consistent with other Target stores in the Minneapolis/St. Paul metropolitan area.

(7) The Developer does not have a parent corporation.

(b) *Remedies.* If the Developer fails to meet the goals described in Section 3.6(a)(3), the Developer shall repay the TIF Loan (or portion thereof) as follows:

(1) If Developer fails to timely complete the Minimum Improvements or timely cause the Target Facility to open, Developer shall, upon written notice from the City (in accordance with Section 3.4 hereof) repay the \$549,000 portion of the TIF Loan previously advanced, which repayment is accomplished by release of the TIF Loan Escrow; provided that if the interest earnings on the escrowed funds are less than the amount that would be earned if invested at the rate of 1.7% (the interest rate on the TIF

Loan, which is also the required interest rate under the Business Subsidy Act), then Developer shall also pay to the City any such interest earnings shortfall.

(2) If the TIF Loan Escrow was released to Developer under Section 3.4 but Developer fails to continue to cause the Target Facility to remain open through the Compliance Period, Developer shall repay a Pro Rata Share of the principal and interest on the TIF Loan. "Pro Rata Portion" means the number of calendar months remaining in the Compliance Period after the date of a written demand for repayment resulting from the event under this clause (starting with the first calendar month after the date of the demand), divided by 60. Such repayment is due as described in Section 3.3(d)(iii).

Nothing in this Section shall be construed to limit the City's remedies under Article IX hereof. In addition to the remedy described in this Section and any other remedy available to the City for failure to meet the goals stated in Section 3.6(a)(3), the Developer agrees and understands that it may not receive a business subsidy from the City or any grantor (as defined in the Business Subsidy Act) for a period of five years from the date of the failure or until the Developer satisfies its repayment obligation under this Section, whichever occurs first.

(d) *Reports.* The Developer must submit to the City a written report regarding business subsidy goals and results by no later than March 1 of each year, commencing March 1, 2012 and continuing until the later of (i) the date the goals stated Section 3.6(a)(3) are met; (ii) thirty (30) days after expiration of the Compliance Period, or (iii) if the goals are not met, the date the subsidy is repaid in accordance with Section 3.6(c). The report must comply with Section 116J.994, subdivision 7 of the Business Subsidy Act. The City will provide information to the Developer regarding the required forms. If the Developer fails to timely file any report required under this Section, the City will mail the Developer a warning within one week after the required filing date. If, after fourteen (14) days of the postmarked date of the warning, the Developer fails to provide a report, the Developer must pay to the City a penalty of \$100 for each subsequent day until the report is filed. The maximum aggregate penalty payable under this Section is \$1,000. Such penalty for failure to file reports is in addition to any other remedy for an Event of Default under this Agreement.

Section 3.7. Payment of Administrative Costs. (a) Developer is responsible, through the Termination Date, to pay "Administrative Costs," which term means out-of-pocket costs incurred by the City attributable or incurred in connection with the following:

- (1) Negotiation and preparation of this Agreement and any related agreements;
- (2) The services of Consulting Advisors related to negotiation, drafting and ongoing management of this Agreement any related agreements;
- (3) Costs of publication and costs of public hearings;

(4) Any work by Consulting Advisors related to the Spending Plan or otherwise related to actions needed to permit the financial assistance described in this Agreement;

(5) Cost of services by any Consulting Advisors to review, analyze, negotiate, and study financial assistance as described in this Agreement.

The cost of any service provided by Consulting Advisors shall be at the usual and customary rates charged for such work.

(b) The parties agree and understand that Developer delivered \$15,000 in funds to the City as security for its obligations under the Reimbursement Agreement. Developer shall continue to maintain such cash deposit at the level of \$10,000 through issuance of the Certificate of Completion. If the amounts in such deposit drop to \$5,000 or less, Developer shall within 10 days after written request by the City make an additional cash deposit with the City in the amount needed to bring the cash deposit to \$10,000.

(c) If any balance remains in the cash deposit upon issuance of the Certificate of Completion for the Minimum Improvements, then the City shall remit such balance to Developer within 30 days thereafter.

(d) Notwithstanding release of the cash deposit under paragraph (c), Developer remains obligated to pay any continuing Administrative Costs incurred through the Termination Date. Developer shall pay any such costs within 10 days after receiving a written request from the City including reasonable description of the nature of the Administrative Costs.

(e) This Section replaces and supersedes the Reimbursement Agreement in all respects.

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ARTICLE IV

Construction of Minimum Improvements

Section 4.1. Construction of Minimum Improvements. (a) Developer will construct the Minimum Improvements in accordance with the terms of this Agreement and all applicable local, state and federal laws and regulations (including, but not limited to, environmental, zoning, building code and public health laws and regulations). For purposes of this Agreement, the term “construct” means the Developer is required to cause such construction, whether or not Developer actually undertakes such work directly.

(b) Developer will obtain (or cause to be obtained), in a timely manner, all required permits, licenses and approvals, and will meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

(c) Through the Termination Date, Developer will maintain in good repair and condition, in accordance with all laws and ordinances, any portion of the Development Property owned by Developer (during the period of such ownership), and any portion of the Minimum Improvements owned by Developer (during the period of such ownership).

Section 4.2. Construction Plans. Before commencing construction of the Minimum Improvements, Developer shall submit to the City Construction Plans for the Minimum Improvements in accordance with City ordinances and procedures. The Construction Plans shall provide for the construction of the Minimum Improvements and shall be in conformity with this Agreement, the City Planning Resolution, the Development Contract and all applicable State and local laws and regulations.

Section 4.3. Commencement and Completion of Construction.

(a) By no later than September 1, 2011, Developer must commence construction of some portion of the Minimum Improvements (which may include any portion of the Site Improvements). Construction is considered to be “commenced” upon any physical alteration of the Development Property, or any physical alteration that is part of the Site Improvements (including portions located outside the Development Property, such as work on Amana Trail), all as reasonably determined by the City. Commencement of construction of the Minimum Improvements will be confirmed by a Certificate of Commencement in substantially the form attached as Schedule B, executed by Developer and the City Representative.

(b) Notwithstanding the commencement of some portion of the Minimum Improvements as required under paragraph (a), Developer must commence construction of the Target Facility by February 15, 2012. Construction of the Target Facility is considered to be “commenced” upon visible improvements to the Target Facility, including without limitation visible alterations or additions to the Existing Improvements, all as reasonably determined by the City. Commencement of construction of the Target Facility will be confirmed by a Certificate of

Commencement in substantially the form attached as Schedule B, executed by Developer and the City Representative.

(c) Subject to Unavoidable Delays, Developer must (i) substantially complete construction of the Target Facility *and* open the Target Facility by December 1, 2012; and (ii) must complete the Additional Commercial Improvements and all Site Improvements by December 1, 2012. The Target Facility will be considered substantially complete upon issuance of a certificate of occupancy by the City; and will be considered “open” on the first date the entire Target Facility is open for business to the general public with business hours substantially consistent with other Target stores in the Minneapolis/St. Paul metropolitan area. The Additional Commercial Improvements will be considered substantially complete upon determination by the City Chief Building Official that the building shell for all the Additional Commercial Improvements is substantially complete. The Site Improvements will be will considered substantially complete upon determination by the City Representative.

(d) All work with respect to the Minimum Improvements to be constructed or provided by Developer shall be in substantial conformity with the Construction Plans as submitted by Developer and approved by the City. Developer agrees for itself, its successors and assigns, and every successor in interest to the Existing Improvements, or any part thereof, that Developer, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Development Property through the construction of the Minimum Improvements thereon, and that such construction shall in any event be commenced and completed within the period specified in this Section 4.3 of this Agreement. Until construction of the Minimum Improvements has been completed, Developer shall make reports, in such detail and at such times as may reasonably be requested by the City, setting forth the actual progress of Developer with respect to the construction of the Minimum Improvements.

Section 4.4. Certificate of Completion.

(a) Promptly after substantial completion of the Minimum Improvements (and opening of the Target Facility) in accordance with those provisions of the Agreement relating solely to the obligations of Developer to construct the Minimum Improvements and open the Target Facility (including the date for completion thereof), the City will furnish Developer with a Certificate of Completion in substantially the form attached as Schedule C. Such certification by the City shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement with respect to the obligations of Developer, and its successors and assigns, to timely construct the Minimum Improvements, open the Target Facility and meet the Job Covenant. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any Holder of a Mortgage, or any insurer of a Mortgage, securing money loaned to finance the Minimum Improvements, or any part thereof.

(b) The Certificate of Completion provided for in this Section 4.4 of this Agreement shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property. If the City shall refuse or fail to provide any certification in accordance with the provisions of this Section 4.4 of this

Agreement, the City shall, within thirty (30) days after written request by Developer, provide Developer with a written statement, indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the reasonable opinion of the City, for Developer to take or perform in order to obtain such certification.

Section 4.5. Records. The City, the Legislative Auditor, and the State Auditor's office, through any authorized representatives, shall have the right after reasonable notice to inspect, examine and copy all books and records of the Developer relating to the construction of the Minimum Improvements. Developer shall maintain such records and provide such rights of inspection through the Termination Date.

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ARTICLE V

Insurance

Section 5.1. Insurance.

(a) Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements an All Risk Broad Form Basis Insurance Policy and, from time to time during that period, at the request of the City, furnish the City with proof of payment of premiums on policies covering the following:

(i) Builder's risk insurance, written on the so-called "Builder's Risk – Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting form on the so-called "all risk" form of policy. The interest of the City shall be protected in accordance with a clause in form and content satisfactory to the City;

(ii) Commercial general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations and contractual liability insurance) together with an Owner's Contractor's Policy with limits against bodily injury and property damage of not less than \$2,000,000 for each occurrence, and shall be endorsed to show the City as additional insured (to accomplish the above-required limits, an umbrella excess liability policy may be used); and

(iii) Workers' compensation insurance, with statutory coverage.

(b) Upon completion of construction of the Minimum Improvements and prior to the Termination Date, Developer shall maintain, or cause to be maintained, at its cost and expense, and from time to time at the request of the City shall furnish proof of the payment of premiums on, insurance as follows:

(i) Insurance (or, the case of the Target Facility, confirmation of self-insurance by Target Corporation) against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses.

(ii) Commercial general public liability insurance, including personal injury liability, against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000 and shall be endorsed to show the City as additional insured.

(iii) Such other insurance, including workers' compensation insurance respecting all employees of Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.

(c) All insurance required in Article V of this Agreement shall be taken out and maintained in responsible insurance companies selected by Developer that are authorized under the laws of the State to assume the risks covered thereby. Upon request, Developer will deposit annually with the City a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V of this Agreement each policy shall contain a provision that the insurer shall not cancel nor modify it in such a way as to reduce the coverage provided below the amounts required herein without giving written notice to Developer and the City at least 30 days before the cancellation or modification becomes effective. In lieu of separate policies, Developer may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

(d) Developer agrees to notify the City immediately in the case of damage exceeding \$100,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. If such an event occurs with respect to the Target Facility during the Compliance Period, Developer shall either (i) cause the owner of the Target Facility to repair, reconstruct, and restore the Target Facility to substantially the same or an improved condition as it existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, cause the application of net proceeds of any insurance relating to such damage to the payment or reimbursement of the costs thereof or (ii) repay a Pro Rata Portion of the TIF Loan as provided in Section 3.6(b).

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ARTICLE VI

Tax Increment; Taxes

Section 6.1. Right to Collect Delinquent Taxes. Developer acknowledges that the City is providing substantial aid and assistance in furtherance of the development described in this Agreement. Developer understands that, while the Development Property itself is not located within a tax increment financing district, one purpose of the assistance under this Agreement is to increase the property tax base of the City. To that end, Developer agrees for itself, its successors and assigns, in addition to the obligation pursuant to statute to pay real estate taxes, that it is also obligated by reason of this Agreement to pay (or cause to be paid) before delinquency all real estate taxes assessed against the Developer-Owned Parcels. Developer acknowledges that this obligation creates a contractual right on behalf of the City through the Termination Date to declare an Event of Default or sue Developer or its successors and assigns to collect delinquent real estate taxes and any penalty or interest thereon and to pay over the same as a tax payment to the county auditor if such amounts are not paid within 60 days of written notice from the City to Developer that any such amount has not been paid when due. If such 60 days' notice has been given, no additional notice shall be required pursuant to Section 9.1. In any such suit, the City shall also be entitled to recover its costs, expenses and reasonable attorney fees.

Section 6.2. Review of Taxes. Developer agrees that prior to the Termination Date, it will not cause a reduction in the real property taxes paid in respect of the Developer-Owned Parcels through: (A) willful destruction of the such property or any part thereof; or (B) willful refusal to reconstruct damaged or destroyed property pursuant to Section 5.1 of this Agreement. Developer also agrees that it will not, prior to the Termination Date, apply for a deferral of property tax on the Developer-Owned Parcels pursuant to any law, or transfer or permit transfer of the Developer-Owned Parcels to any entity whose ownership or operation of the property would result in the Development Property being exempt from real estate taxes under State law (other than any portion thereof dedicated or conveyed to the City in accordance with this Agreement or the Development Contract).

Section 6.3. Use of Tax Increment. The parties agree and understand that the City expects to finance the TIF Loan under Section 3.3 from Tax Increments generated from the TIF District. However, the City may use any funds available to the City to fund the TIF Loan, and may also, in its discretion, approve an interfund loan to apply Tax Increments toward repayment of other funds used for those purposes. The Developer has no right, title or interest in Tax Increments, except to the extent the City elects to use Tax Increment to fund the TIF Loan.

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ARTICLE VII

[Intentionally Omitted]

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ARTICLE VIII

Prohibitions Against Assignment and Transfer; Indemnification

Section 8.1. Representation as to Redevelopment. Developer represents and agrees that its undertakings pursuant to this Agreement, are, and will be used, for the purpose of improvement of the Existing Improvements by the Developer and not for speculation in land holding.

Section 8.2. Prohibition Against Transfer of Property and Assignment of Agreement. Developer represents and agrees that until completion of the Minimum Improvements and opening of the Target Facility (as evidenced by the Certificate of Completion):

(a) Developer has not made or created and will not make or create or suffer to be made or created any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Minimum Improvements or any part thereof or any interest therein, or any contract or agreement to do any of the same, to any person or entity (collectively, a “Transfer”), without the prior written approval of the City Council, which approval will not be unreasonably withheld, conditioned or delayed. The term “Transfer” does not include (i) encumbrances made or granted by way of security for, and only for, the purpose of obtaining construction, interim or permanent financing necessary to enable Developer or any successor in interest to the Development Property or to construct the Minimum Improvements or component thereof; (ii) any lease, license, easement or similar arrangement entered into in the ordinary course of business related to operation of the Minimum Improvements).

(b) If Developer seeks to effect a Transfer, the City, acting reasonably, shall be entitled to require as conditions to such Transfer that:

(1) Any proposed transferee shall have the qualifications and financial responsibility, in the reasonable judgment of the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by Developer as to the portion of the Existing Improvements to be transferred; and

(2) Any proposed transferee, by instrument in writing reasonably satisfactory to the City and in form recordable in the public land records of Dakota County, Minnesota, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of Developer under this Agreement as to the portion of the Development Property to be transferred and agreed to be subject to all the conditions and restrictions to which Developer is subject as to such portion; provided, however, that the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall not, for whatever reason, have assumed such obligations or so agreed, and shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) deprive the City of any rights or remedies or controls with respect to

the Development Property, the Minimum Improvements or any part thereof or the construction of the Minimum Improvements; it being the intent of the parties as expressed in this Agreement that (to the fullest extent permitted at law and in equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally, or practically, to deprive or limit the City of or with respect to any rights or remedies on controls provided in or resulting from this Agreement with respect to the Development Property that the City would have had, had there been no such transfer or change. In the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve Developer, or any other party bound in any way by this Agreement or otherwise with respect to the Development Property, from any of its obligations with respect thereto.

(3) Any and all instruments and other legal documents involved in effecting the transfer of any interest in this Agreement or the Development Property governed by this Article VIII, shall be in a form reasonably satisfactory to the City.

(c) If the conditions described in paragraph (b) are satisfied, then the Transfer will be approved and Developer shall be released from its obligation under this Agreement, as to the portion of the Development Property that is transferred, assigned, or otherwise conveyed, unless the parties mutually agree otherwise. Notwithstanding anything to the contrary herein, any Transfer that releases Developer from its obligations under this Agreement (or any portion thereof), shall be approved by the City Council, which approval will not be unreasonably withheld, conditioned or delayed. If Developer remains fully bound under this Agreement notwithstanding the Transfer, as documented in the transfer instrument, the Transfer may be approved by the City Representative. The provisions of this paragraph (c) apply to all subsequent transferors.

(d) Notwithstanding anything to the contrary herein, Developer may Transfer the Development Property and its rights and obligations under this Agreement to an Affiliate, without prior approval by the City, provided such Transfer must be effected by a written assignment and assumption between Developer and the assignee and delivered to the City.

Section 8.3. No Release of Target Facility Covenant. Notwithstanding anything to the contrary in this Article no Transfer of any rights or obligations to another entity prior to the Compliance Date (whether or not such Transfer is approved by the City), shall relieve the Developer's obligations under Section 3.6(a)(6) of this Agreement, including all repayment obligations with respect to such covenant under Section 3.6(b)(2) and 3.3(d)(iii) hereof, unless the City specifically approves such release by action of the City Council of the City.

Section 8.4. Release and Indemnification Covenants.

(a) Developer releases from and covenants and agrees that the City and the governing body members, officers, agents, servants and employees thereof shall not be liable for and agrees

to indemnify and hold harmless the City and the governing body members, officers, agents, servants and employees thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements.

(b) Except for willful or negligent misrepresentation, misconduct or negligence of the Indemnified Parties (as hereafter defined), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, Developer agrees to protect and defend the City and the governing body members, officers, agents, servants and employees thereof (the "Indemnified Parties"), now or forever, and further agrees to hold the Indemnified Parties harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from this Agreement, or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Minimum Improvements.

(c) Except for any negligence of the Indemnified Parties (as defined in clause (b) above), and except for any breach by any of the Indemnified Parties of their obligations under this Agreement, the Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer or its officers, agents, servants or employees or any other person who may be about the Minimum Improvements due to any act of negligence of any person.

(d) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.

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ARTICLE IX

Events of Default

Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events, after the non-defaulting party provides 30 days written notice to the defaulting party of the event, but only if the event has not been cured within said 30 days or, if the event is by its nature incurable within 30 days, the defaulting party does not, within such 30-day period, provide assurances reasonably satisfactory to the party providing notice of default that the event will be cured and will be cured as soon as reasonably possible:

(a) Failure by Developer or the City to observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

(b) Developer:

(i) files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act or under any similar federal or State law;

(ii) makes an assignment for benefit of its creditors;

(iii) admits in writing its inability to pay its debts generally as they become due; or

(iv) is adjudicated as bankrupt or insolvent.

Section 9.2. Remedies on Default. (a) Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs, the non-defaulting party may exercise its rights under this Section 9.2 after providing the thirty (30) days’ written notice required by Section 9.1 to the defaulting party of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days or, if the Event of Default is by its nature incurable within thirty (30) days, the defaulting party does not provide assurances reasonably satisfactory to the non-defaulting party that the Event of Default will be cured and will be cured as soon as reasonably possible.

(b) Upon an Event of Default by Developer, the City may (i) demand repayment of the outstanding principal and accrued interest on the TIF Loan, and (ii) take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement, or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

Section 9.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City or Developer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article IX.

Section 9.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 9.5. Attorney Fees. Whenever any Event of Default occurs (or any event occurs that results in Developer's obligation to repay the TIF Loan) and if the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Developer under this Agreement, the Developer agrees that it shall, within 10 days of written demand by the City, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City. If, however, the Developer prevails by a final court order in any litigation related to enforcement of Developer's obligations under this Agreement, the Developer shall not be required to pay such fees, and any previously paid fees shall be reimbursed by the City to the Developer within 30 days after issuance of such final court order.

(The remainder of this page is intentionally left blank.)

ARTICLE X

Additional Provisions

Section 10.1. Conflict of Interests; City Representatives Not Individually Liable. The City and Developer, to the best of their respective knowledge, represent and agree that no member, official, or employee of the City shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or County or for any amount which may become due to Developer or successor or on any obligations under the terms of the Agreement.

Section 10.2. Equal Employment Opportunity. Developer, for itself and its successors and assigns, agrees that during the construction of the Minimum Improvements provided for in the Agreement it will comply with all applicable federal, state and local equal employment and non-discrimination laws and regulations.

Section 10.3. Nondiscrimination. Developer agrees that until the Termination Date, Developer, and any authorized successors and assigns shall not discriminate upon the basis of race, color, creed, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Minimum Improvements, or any part thereof.

Section 10.4. Provisions Not Merged With Deed. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring any interest in the Development Property and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 10.5. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.6. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, overnight mail, or delivered personally; and

(a) in the case of Developer, is addressed to or delivered personally to Developer at IGH Investment, LLC, 2737 Fairview Avenue North, St. Paul, MN 55113.; a copy to any permitted assignee pursuant to an approved Transfer, at the address indicated in the Transfer approval; and

(b) in the case of the City, is addressed to or delivered personally at 8150 Barbra Ave., Inver Grove Heights, Minnesota, 55077 Attn: City Administrator;

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

Section 10.7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.8. Recording. The City may record this Agreement and any amendments thereto with the Dakota County recorder, provided that the Agreement shall be filed only against Lot 3, Block 1 and Lots 1 and 2, Block 2 of the Development Property. Developer shall pay all costs for recording.

Section 10.9. Amendment. This Agreement may be amended only by written agreement approved by the City and Developer.

Section 10.10. City Approvals. Unless otherwise specified, any approval required by the City under this Agreement may be given by the City Representative.

Section 10.11. Termination. This Agreement terminates on the Termination Date, except that termination of the Agreement does not terminate, limit or affect the rights of any party that arise before the Termination Date.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf and its seal to be hereunto duly affixed and Developer has caused this Agreement to be duly executed in its name and behalf on or as of the date first above written.

**THE CITY OF INVER GROVE HEIGHTS,
MINNESOTA**

By _____
Its Mayor

By _____
Its Deputy City Clerk

STATE OF MINNESOTA)
) SS.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this ____ day of June, 2011, by George Tourville and Melissa Rheaume, the Mayor and Deputy City Clerk, respectively, of the City of Inver Grove Heights, Minnesota, a Minnesota municipal corporation, on behalf of the City.

Notary Public

IGH INVESTMENT, LLC

By _____
Its _____

STATE OF MINNESOTA)
) SS.
COUNTY OF DAKOTA)

The foregoing instrument was acknowledged before me this _____ day of June, 2011 by _____, the _____ of IGH Investment, LLC, a Minnesota limited liability company, on behalf of the company.

Notary Public

SCHEDULE A

DESCRIPTION OF DEVELOPMENT PROPERTY

Lots 1, 2, 3 and 4, Block 1, and Lots 1, 2 and 3, Block 2, and Outlots A, B, C and D, Argenta Hills, according to the recorded plat thereof, Dakota County, Minnesota

SCHEDULE B

CERTIFICATE OF COMMENCEMENT

[Form A for Section 4.3(a); Form B for Section 4.3(b)]

A. AS TO MINIMUM IMPROVEMENTS—SEPTEMBER 1, 2011 COVENANT

The undersigned hereby certifies that it is the Developer under the Contract for Private Development dated June ____, 2011 by and between the City of Inver Grove Heights and Developer (the “Contract”); and that as the general contractor it commenced construction of some portion of the Minimum Improvements (within the meaning of Section 4.3(a) of the Contract), on _____, 2011. The portion of the Minimum Improvements commenced consists of the following:

[Insert description of activity commenced]

B. AS TO TARGET FACILITY—FEBRUARY 15, 2012 COVENANT

The undersigned hereby certifies that it is the Developer under the Contract for Private Development dated June ____, 2011 by and between the City of Inver Grove Heights and Developer (the “Contract”); and that it caused the commencement of construction of the Target Facility (within the meaning of Section 4.3(b) of the Contract) on _____, 20____.

Dated: _____, 20_____.

IGH INVESTMENT, LLC

By _____
Its _____

The City has reviewed the work on the [Minimum Improvements] [Target Facility] and accepts the above certification of Developer.

Dated: _____, 2011

CITY REPRESENTATIVE

By _____

SCHEDULE C

CERTIFICATE OF COMPLETION

The undersigned hereby certifies that, as required under Article IV of that document titled Contract for Private Development dated June ____, 2011 (the "Contract") by and between the City of Inver Grove Heights and IGH Investment, LLC ("Developer"):

- 1. As of _____, 2012, Developer caused completion of construction of the Target Facility within the meaning of Section 4.3(c) of the Contract;
- 2. As of _____, 2012, the Target Facility was open as defined in Section 4.3(c) of the Contract;
- 3. As of _____, 2012, Developer caused completion of the Additional Commercial Improvements within the meaning of Section 4.3(c) of the Contract; and
- 4. As of _____, 2012, Developer caused the creation of at least 14 Qualified Construction Jobs in accordance with Section 3.5 of the Contract.
- 5. As of _____, 2012, Developer caused completion of the Site Improvements within the meaning of Section 4.3(c) of the Contract; and

Consequently, Developer is released and forever discharged from its obligations to cause construct of the Minimum Improvements and opening of the Target Facility under Article IV of the Contract, and to create construction jobs under Section 3.5 of the Contract, but all other covenants under the Contract remain in full force and effect until the Termination Date.

Dated: _____, 20_____.

CITY OF INVER GROVE HEIGHTS

By _____
Its Mayor

By _____
Its Deputy City Clerk

STATE OF MINNESOTA)
) ss.
COUNTY OF DAKOTA)

On this ___ day of _____, 2011, before me, a Notary Public within and for said County, personally appeared _____, to me personally known, who, being by me duly sworn, did say that (s)he is the Mayor of the City named in the foregoing instrument; that the seal affixed to said instrument is the seal of said City; that said instrument was signed and sealed in behalf of said City by authority of its governing body; and said _____ acknowledged said instrument to be the free act and deed of said City.

Notary Public

SCHEDULE D

PROMISSORY NOTE

\$1,250,000

_____, 2011

IGH Investment, LLC, a Minnesota limited liability company (the "Maker"), for value received, hereby promises to pay to the City of Inver Grove Heights (the "City ") or its assigns (the City and any assigns are hereinafter referred to as the "Holder"), at its designated principal office or such other place as the Holder may designate in writing, the principal sum of one million two hundred and fifty thousand (\$1,250,000) or so much thereof as may be advanced under this Note, together with interest as hereinafter provided, in any coin or currency which at the time or times of payment is legal tender for the payment of private debts in the United States of America.

The principal of and interest on this Note are due and payable as follows:

1. Interest at the simple rate of one and seven-tenths percent (1.7 %) per annum shall accrue on the amount of principal advanced, from the date of each advance until the Loan is repaid in full or forgiven in accordance with its terms.

2. The principal amount of, and accrued interest on, the Note are payable, subject to prepayment in whole or in part, and subject to forgiveness in whole or in part, all in accordance with Sections 3.3 and 3.6 of the Contract for Private Development between the Holder and the Maker dated as of June ____, 2011 (the "Contract"), the terms of which are incorporated herein by reference.

3. The Maker shall have the right to fully or partially prepay this Note at any time without penalty. Any partial prepayment shall be applied first to any unpaid, accrued interest with the balance, if any, applied to principal.

4. This Note is given pursuant to the Contract, as the same may be amended from time to time. All of the agreements, conditions, covenants, provisions, and stipulations contained in the Contract are hereby made a part of this Note to the same extent and with the same force and effect as if they were fully set forth herein. It is agreed that time is of the essence of this Note.

5. The Holder of this Note shall not be deemed, by any act of omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Holder of this Note and then only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. This Note may not be amended, modified, or changed except only by an instrument in writing signed by the party against whom enforcement of any such amendment, modifications, or change is sought.

6. If any event occurs that requires repayment of the principal and interest on this Note, or any portion thereof, and if Holder engages legal counsel or others in connection with advice to

Holder or Holder's rights and remedies under the Contract or this Note, Maker shall pay all reasonable expenses incurred by Holder for such persons, irrespective of whether any suit or other proceeding has been or is filed or commenced. Any such expenses, costs and charges shall constitute additional principal, payable upon demand, and subject to this Note and the Contract.

7. Except as otherwise provided in this Note or in the Contract, Maker hereby (a) waives demand, presentment for payment, notice of nonpayment, protest, notice of protest, and all other notice; (b) agrees to any substitution, exchange, addition, or release of any party or person primarily or secondarily liable hereon; (c) agrees that Holder shall not be required first to institute any suit or to exhaust its remedies against Maker or any other person or party in order to enforce payment of this Note; (d) consents to any extension, rearrangement, renewal, or postponement of time or payment of this Note and to any other indulgence with respect hereto without notice, consent, or consideration to any of them.

8. If any term of this Note, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

9. It is intended that this Note is made with reference to and shall be construed as a Minnesota contract and governed by the laws thereof.

IT IS HEREBY CERTIFIED AND RECITED that all conditions, acts, and things required to exist, happen, and be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due form as required by law.

IN WITNESS WHEREOF, the Maker has caused this Note to be duly executed as of the _____ day of _____, 20_____.

IGH INVESTMENT, LLC

By _____
Its Chief Manager

CITY OF INVER GROVE HEIGHTS

RESOLUTION NO. _____

RESOLUTION APPROVING A CONTRACT FOR PRIVATE DEVELOPMENT BETWEEN THE CITY OF INVER GROVE HEIGHTS AND IGH INVESTMENT, LLC

BE IT RESOLVED by the City Council (the "Council") of the City of Inver Grove Heights, Minnesota as follows:

Section 1. Background.

- 1.01. The City has previously established Tax Increment Financing District No. 4-1 (the "TIF District") pursuant to Minnesota Statutes, Section 469.174 to 469.1799 (the "TIF Act") and certain special legislation.
- 1.02. Section 469.176 Subd. 4m of the TIF Act (referred to as "Temporary Authority") authorizes the City to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if certain terms and conditions are met.
- 1.03. The City has on this date, after duly noticed public hearing held on June 27, 2011 and continued to this date, adopted a spending plan (the "Spending Plan") that authorizes expenditure of Tax Increments from the TIF District for certain purposes in accordance with the Temporary Authority.
- 1.04. IGH Investment, LLC (the "Developer") has proposed certain commercial improvements in an area of the City known as Argenta Hills, the construction of which would not commence before September 1, 2011 without assistance under the Spending Plan; and
- 1.05. The Council has reviewed a proposed Contract for Private Development between the City and Developer (the "Contract") providing for certain assistance to Developer under the Spending Plan, and finds that the execution thereof by the City and performance of the City's obligations thereunder are in the best interest of the City and its residents.
- 1.06. The Council has also on June 27, 2011 and continued to this date, held a public hearing regarding the business subsidy provide in the Contract, pursuant to Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidy Act").

Section 2. Contract Approved.

- 2.01. The Contract, including the business subsidy agreement included therein, is approved in substantially the form on file in City Hall, subject to modifications that do not alter the substance of the transaction and are approved by the Mayor and City Administrator,

provided that execution of the document by the Mayor and Deputy Clerk will be conclusive evidence of approval.

- 2.02. The Mayor and Deputy City Clerk are authorized and directed to execute the Contract and any other documents or certificates necessary to carry out the transactions described in the Contract, including but not limited to other documents or agreements described in the Contract.

Adopted by the City Council of the City of Inver Grove Heights this 11th day of, July, 2011.

George Tourville, Mayor

ATTEST:

Deputy Clerk

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Resolution Approving Layout No. 1 of the T.H. 52 West Frontage Road from 0.35 Miles South of Concord Boulevard to 0.20 Miles North of Inver Grove Trail in the City of Inver Grove Heights as prepared by the Minnesota Department of Transportation

Meeting Date: July 11, 2011
 Item Type: Public Hearing
 Contact: Scott D. Thureen, 651.450.2571
 Prepared by: Scott D. Thureen, Public Works Director
 Reviewed by: *SDT*

	Fiscal/FTE Impact:
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other:

PURPOSE/ACTION REQUESTED

Consider resolution approving Layout No. 1 of the T.H. 52 West Frontage Road from 0.35 miles south of Concord Boulevard to 0.20 miles north of Inver Grove Trail in the City of Inver Grove Heights as prepared by the Minnesota Department of Transportation.

SUMMARY

The State of Minnesota Department of Transportation (Mn/DOT) has prepared the final layout known as Layout No. 1 for the T.H. 52 West Frontage Road from 0.35 miles south of Concord Boulevard to 0.20 miles north of Inver Grove Trail in the City of Inver Grove Heights. A public hearing is scheduled for July 11, 2011 to consider the proposed improvements. City Council is then requested to consider adopting a resolution approving the layout of this segment of the proposed West Frontage Road of T.H. 52. The layout has been previously viewed by staff and Council and no changes have been made. Public Works recommends adoption of the resolution approving Layout No. 1 of the T.H. 52 West Frontage Road.

SDT/kf

Attachments: Resolution
 Layout No. 1

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY**

**RESOLUTION APPROVING LAYOUT NO. 1 OF THE WEST FRONTAGE ROAD FROM 0.35 MILES
SOUTH OF CONCORD BOULEVARD TO 0.20 MILES NORTH OF INVER GROVE TRAIL IN THE
CITY OF INVER GROVE HEIGHTS AS PREPARED BY THE MINNESOTA DEPARTMENT OF
TRANSPORTATION**

RESOLUTION NO. _____

WHEREAS, the State of Minnesota Department of Transportation (Mn/DOT) has prepared a final layout known as Layout No. 1 for the T.H. 52 West Frontage Road from 0.35 miles south of Concord Boulevard to 0.20 miles north of Inver Grove Trail in the City of Inver Grove Heights; and

WHEREAS, said final layout is on file in the Minnesota Department of Transportation Metro District Office, Roseville, Minnesota, being marked, labeled and identified as Layout No. 1, T.H. 52 from 0.35 miles south of Concord Boulevard to 0.20 miles north of Inver Grove Trail, West Frontage Road Construction SP 1907-73; and

WHEREAS, improvements to the City via construction of frontage road and appurtenances have been included in the said final layouts; and

WHEREAS, a public hearing to consider the layout approval was held at the regular Inver Grove Heights' City Council meeting on July 11, 2011.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, MINNESOTA THAT:

The City of Inver Grove Heights hereby gives approval of Layout No. 1 for the T.H. 52 West Frontage Road in the City of Inver Grove Heights.

Adopted by the City Council of Inver Grove Heights, Minnesota this 11th day of July 2011.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk

STEPHEN WEBB
Supplemental Memo

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: July 11, 2011
Item Type: Regular Agenda
Contact: Allan Hunting 651.450.2554
Prepared by: Allan Hunting, City Planner
Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider the following actions for property located at 10115 Cloman Path:

- a) a Resolution relating to a **Conditional Use Permit** to allow an amateur radio tower in excess of height allowed in a residential zoning district.
 - Requires 4/5th's vote.
- b) a Resolution relating to a **Variance** to exceed structure height in the Critical Area Overlay District.
 - Requires 3/5th's vote.
 - 60-day deadline: September 4, 2011 (second 60-days)

SUMMARY

This item was discussed at the June 27 meeting. No action was taken because two council members were absent. At the meeting, the neighbor to the south spoke and inquired about the location of the tower. Staff met on site with the applicant and neighbor on Thursday afternoon, June 30, to discuss options for other possible locations. There was discussion on possible sites, but no alternative was unanimously agreed upon.

It was discovered that the septic system and reserve area are located in the northwest corner of the lot and therefore the tower cannot be relocated too much further north than proposed. The applicant did more detailed measuring to determine the approximate location and found the tower would be located approximately 90 feet from the west and south property lines in a natural clearing area on the lot. It was my understanding from the meeting that this general location could be acceptable to all parties. To provide room for the antenna on top of the tower, some trees may need to be removed or "topped" to allow the tower to rotate.

See the attached original memo for details of the request.

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW AN AMATEUR
RADIO TOWER OVER 35 FEET IN HEIGHT

(Stephen Webb)
Case No. 11-11C

WHEREAS, an application for a Conditional Use Permit has been submitted for the property legally described as:

Lot 3, Block 1, Leitch Estates, according to the recorded plat thereof, Dakota County,
Minnesota

WHEREAS, an application for a conditional use permit has been submitted to allow a radio tower 65 feet in height whereas 35 feet is the maximum structure height;

WHEREAS, the aforescribed property is zoned E-1, Estate Residential;

WHEREAS, the request has been reviewed against Title 10, Chapter 3, Article A, Section 10-3A-5 regarding the criterion for a Conditional Use Permit and meets the minimum standards; the request is consistent with the Comprehensive Plan and it does not have a negative impact on public health, safety or welfare;

WHEREAS, a public hearing concerning the conditional use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statute, Section 462.357, Subdivision 3 on June 7, 2011;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a Conditional Use Permit to allow an amateur radio tower 65 feet in height is hereby approved with the following conditions:

1. The radio tower shall be constructed on the property at least 70 feet from all property lines. Any alteration from the location shown on the site plan dated 5/6/11 shall require City approval prior to issuance of any building permits.
2. A building permit is required for the construction of the tower and shall be subject to the review and approval of the Chief Building Official.
3. The Conditional Use Permit shall expire if not used within two (2) years from the City Council approval date.

BE IT FURTHER RESOLVED that the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Adopted by the City Council of Inver Grove Heights this _____ day of _____, 2011.

AYES:

NAYS:

ATTEST:

George Tourville, Mayor

Melissa Rheaume, Deputy Clerk

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

RESOLUTION NO. _____

RESOLUTION APPROVING A VARIANCE TO EXCEED STRUCTURE HEIGHT IN
THE CRITICAL AREA OVERLAY DISTRICT TO ALLOW AN AMATEUR RADIO
TOWER OF MAXIMUM 65 FEET

CASE NO. 11-11C
(Stephen Webb)

Property located at 10115 Cloman Path and legally described as follows:

Lot 3, Block 1, Leitch Estates, according to the recorded plat thereof, Dakota County,
Minnesota

WHEREAS, an application has been received for a variance to allow an amateur radio tower a maximum of 65 feet tall whereas 35 feet is the maximum structure height in the Critical Area Overlay District;

WHEREAS, the afore described property is zoned E-1, Estate Residential;

WHEREAS, a Variance may be granted by the City Council from the strict application of the provisions of the City Code Title 10, Chapter 3-4 and conditions and safeguards imposed in the variance so granted where practical difficulties result from carrying out the strict letter of the regulations of the Zoning Code, as per City Code 10-3-4: D.;

WHEREAS, the City of Inver Grove Heights Planning Commission reviewed the request on June 7, 2011 in accordance with City Code 10-3-3: C.;

WHEREAS, the requested variance is in harmony with the general purposes and intent of the city ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. The proposed tower height would not have a negative impact on the surrounding properties. The

request the additional height appears to be reasonable given the heavy tree canopy and rolling terrain of the location. This request is not due to economic circumstances.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that the variance to construct a maximum 65 foot tall amateur radio tower is hereby approved with the following conditions:

1. The radio tower shall be constructed on the property at least 70 feet from all property lines. Any alteration from the location shown on the site plan dated 5/6/11 shall require City approval prior to issuance of any building permits.
2. A building permit is required for the construction of the tower and shall be subject to the review and approval of the Chief Building Official.

BE IT FURTHER RESOLVED that the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Adopted by the City Council of Inver Grove Heights this 5th day of July, 2011.

George Tourville, Mayor

Ayes:

Nays:

ATTEST:

Melissa Rheaume, Deputy Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights

FROM: Planning Commission

DATE: June 7, 2011

SUBJECT: STEPHEN WEBB – CASE NO. 11-11C

Reading of Notice

Commissioner Simon read the public hearing notice to consider a request for a conditional use permit to allow an amateur radio tower in excess of height allowed in a residential district, and a variance to exceed structure height in the Critical Area Overlay District, for the property located at 10115 Cloman Path. 12 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that the applicant has requested a CUP for a 65 foot tall amateur radio tower to be erected in the southwest corner of the 2.5 acre property. He advised that a variance is also being requested to exceed the 35 foot maximum structure height in the Critical Area Overlay District whereas 65 feet is being proposed. The applicant is proposing the tower to be setback 70 feet from west and south property lines. This would put the fall zone of the tower entirely on the subject property. Staff submitted an application to the DNR as a courtesy; their comment is not required. He advised that there is a high tree canopy in the area and the tower would not be visible from the river. In staff's opinion the request satisfies the variance criteria and they recommend approval of the request with the conditions listed in the report.

Chair Bartholomew referred to a previous request on Upper 55th Street where height was an issue and asked if the subject site was too far away from the airport for height to be a concern.

Mr. Hunting replied that the tower would have to be 200 feet above the airport elevation for it to become an issue.

Commissioner Simon asked if staff received any comments from the DNR, to which Mr. Hunting replied they had not.

Commissioner Simon asked if staff received any comments from the neighbors.

Mr. Hunting replied that he received one phone call with a general inquiry and another from the property owner just south of the subject property who raised some concerns about the height of the proposed tower.

Commissioner Wippermann referred to mention in the report of the potential for television interference and questioned why the tower was not moved further away from the house to the south.

Mr. Hunting recommended that the applicant answer the question about tower location. He noted that most people use cable so the impact on television reception was likely minimal and he added that the taller antennae would help minimize any television interference as well.

Opening of Public Hearing

The applicant, Stephen Webb, 10115 Cloman Avenue, advised he was available to answer any questions.

Chair Bartholomew asked if the applicant agreed with the three conditions listed in the report, to which Mr. Webb replied in the affirmative.

In response to Commissioner Wippermann's question regarding the location of the tower, Mr. Webb agreed that a better location might be further north while remaining 70 feet from the property lines. He stated his main concern was minimizing the antennae visibility from the property owner to the south, and he would like the flexibility to move the tower from the location shown on the site plan.

Commissioner Wippermann asked if the entire back of the lot was wooded, to which Mr. Webb replied in the affirmative.

Commissioner Elsmore asked if the applicant had ever installed a 35 foot or shorter tower on the property.

Mr. Webb stated he currently had a shorter temporary antennae set up for doing antennae tests, and distant stations were unable to hear him which is a result of antennae height. He advised that if 55 feet is adequate he will not add the extra ten feet. He advised that all receivers must be FCC compliant and with the improvements in receiver circuitry and with cable being the primary source of television and radio, there is virtually no problem with interference. He advised that raising the antennae height reduces any RF radiation as well.

Commissioner Schaeffer asked if the neighbors would potentially see any effects on their cell phone strength, to which Mr. Webb replied there would be no interference with phone service.

Commissioner Simon asked if Condition 1 could be reworded to allow the applicant the flexibility to move the tower a little further north while still maintaining a 70 foot setback, to which Mr. Hunting replied in the affirmative.

Planning Commission Discussion

Chair Bartholomew stated the language could be modified to read that 'prior to a building permit, the applicant has the option of moving the location of the tower providing it remains 70 feet from the property line'.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Elsmore, to approve the request for a conditional use permit to allow an amateur radio tower in excess of height allowed in a residential district, and a variance to exceed structure height in the Critical Area Overlay District, for the property located at 10115 Cloman Path, with the three conditions listed with the report with an amendment to Condition 1 to read "**The radio tower shall be constructed on the property at least 70 feet from all property lines. Any alteration from the location shown on the site plan dated 5/6/2011 shall require City approval prior to issuance of building permits.**"

Motion carried (8/0). This item goes to the City Council on June 27, 2011.

PLANNING REPORT CITY OF INVER GROVE HEIGHTS

REPORT DATE: June 2, 2011 **CASE NO:** 11-11C

HEARING DATE: June 7, 2011

APPLICANT/PROPERTY OWNER: Stephen Webb

REQUEST: Conditional Use Permit to exceed 35 foot maximum height and Variance to exceed 35 foot maximum height in Critical Area Overlay District.

LOCATION: 10115 Cloman Path

COMPREHENSIVE PLAN: Rural Density Residential

ZONING: E-1, Estate Residential
Critical Area Overlay District

REVIEWING DIVISIONS: Planning **PREPARED BY:** Allan Hunting
City Planner

BACKGROUND

The applicant has requested a CUP for a 65 foot tall amateur radio tower to be erected in the southwest corner of the property. The requested height includes the antenna. The property is 2.5 acres in size. The maximum height for structures in the ordinance is 35 feet. There is however, a clause in the ordinance that allows towers and antenna to exceed 35 feet with an approved conditional use permit (Title 10-5-8.B). The property also lies within the Critical Area Overlay District. All structures in this overlay are limited to a 35 foot height limit. Anything above 35 feet would require a variance. The applicant is requesting a variance to exceed 35 feet in the overlay district. The applicant is requesting additional height for reasonable radio reception and transmission of amateur radio signals due to the significant amount of mature trees in the area and the rolling topography.

In 2010, the Minnesota Supreme Court ruled that the criteria historically used by cities to determine hardships in variance requests were not consistent with the existing language in state statute. After this determination, cities were then obligated to follow the language of statute which essentially said that variances can only be granted when the property in question cannot be put to a reasonable use without varying from official controls. Since the Supreme Court Decision in early 2010, the legislature had been working on redrafting the variance statute language to give some reasonable flexibility back in the hands of cities. In May, 2011, the Governor signed in to law new variance language which now addresses practical difficulties when reviewing variances. A copy of the new state language is attached.

Planning Staff is in the process of preparing an ordinance amendment to address this new language to put into our city code. In the mean time, since variance language is governed by state statute, the new state language supersedes any local control language and thus the city may utilize this new language to review variances.

EVALUATION OF REQUEST:

Surrounding Uses: The subject site is located in rural section of the City and is surrounded large lot residential uses.

CONDITIONAL USE PERMIT REVIEW

The City Code does not provide specific criteria for tower or antenna height CUP's. The request is therefore reviewed against the general CUP criteria listed below.

The proposed radio tower would be a self supporting three sided lattice style tower for the personal use of the land owner. No guy wires are needed for stability. The maximum height of this tower design is 60 feet. The applicant is anticipating constructing a shorter tower at first, but is requesting the maximum height in case additional height is needed at a later date. The antenna array would be an additional five feet in height.

The applicant is proposing the tower to be setback 70 feet from west and south property lines. This would put the fall zone of the tower entirely on the subject property. Staff finds the location of the tower acceptable.

Staff has asked the applicant to provide some information on rationale for the requested height. The applicant has provided some information prepared by The American Radio Relay League (ARRL) on height. The ARRL has prepared a document entitled Antenna Height and Communications Effectiveness, a Guide for City Planners and Amateur Radio Operators. Based on physics of the earth's atmosphere and radio waves in the frequencies used for amateur radio, the taller the antenna, the better the performance. For example, an antenna at a height of 70 feet will provide greatly superior performance over the same antenna at 35 feet. The applicant's property is heavily wooded with mature trees that are probably 30-50+ feet tall. It would appear that to achieve a reasonable transmitting and receiving signal, a taller antenna is needed.

The report goes on to say that if the antenna height is restricted, in many cases, the operator must boost their transmitting power to compensate for the lower height. This increases the potential for interference to telephones, televisions, radios and other electronic equipment. The report also indicates that the higher the antenna, the less the possibility for significant RF exposure. Based on the information contained in the ARRL report, it would seem to be appropriate to allow for the proposed tower and antenna height.

There are federal regulations that prohibit state and local regulations from precluding amateur radio service communications. This comes from an opinion issued by the Federal

Communications Commission, known as PRB-1, which states that there may be local control over certain elements of amateur radio towers for public health and safety reasons, such as screening, placement and height restrictions. However, the regulations cannot prohibit amateur radio communications. Based on this ruling, our city code had been updated a number of years ago to allow additional height by CUP.

The topography of the area is rolling terrain. The ground elevation of the proposed tower appears to be at about 875 feet above sea level. The high point in the neighborhood is an elevation of 900 feet located south of this property. Elevations range from around 830 to 900 feet in the surrounding area.

General CUP Criteria

This section reviews the plans against the CUP criteria in the Zoning Ordinance (Section 10-3A).

1. *The use is consistent with the goals, policies and plans of the City Comprehensive Plan, including future land uses, utilities, streets and parks.*

The property is guided and zoned for residential use. An antenna or radio tower would be an accessory use to a residential use. There would be no impact to future land uses, utilities, streets or parks.

2. *The use is consistent with the City Code, especially the Zoning Ordinance and the intent of the specific Zoning District in which the use is located.*

The zoning ordinance allows for additional height in all districts by a conditional use permit. A tower and antenna would be a typical accessory use to the principal use of the property for residential purposes.

3. *The use would not be materially injurious to existing or planned properties or improvements in the vicinity.*

The setbacks for the tower are great enough such that if the tower were to fail at the ground, the full length of the tower and antenna would fall on the applicant's property. The closest home would be over 150 feet from the base of the proposed tower. The majority of the tower would be screened from view from abutting properties at least during leaf-on conditions. The request does not appear to be materially injurious to the surrounding properties.

4. *The use does not have an undue adverse impact on existing or planned City facilities and services, including streets, utilities, parks, police and fire, and the reasonable ability of the City to provide such services in an orderly, timely manner.*

The additional height would not have any impact on city facilities and services.

5. *The use is generally compatible with existing and future uses of surrounding properties, including:*
 - i. *Aesthetics/exterior appearance*
The majority of the tower would be screened from view from abutting properties at least during leaf-on conditions.
 - ii. *Noise*
There would be no impact to noise.
 - iii. *Fencing, landscaping and buffering*
No fencing or landscaping is required.

6. *The property is appropriate for the use considering: size and shape; topography, vegetation, and other natural and physical features; access, traffic volumes and flows; utilities; parking; setbacks; lot coverage and other zoning requirements; emergency access, fire lanes, hydrants, and other fire and building code requirements.*

The property is large enough to provide adequate setbacks for the tower and the significant tree mass would be adequate screening.

7. *The use does not have an undue adverse impact on the public health, safety or welfare.*

This use does not appear to have any negative effects on the public health, safety or welfare.

8. *The use does not have an undue adverse impact on the environment, including, but not limited to, surface water, groundwater and air quality.*

The additional tower height would not appear to have an undue adverse impact on the environment.

Variance

As indicated earlier, the applicant is requesting a variance to the maximum height requirement in the Critical Area Overlay District to exceed 35 feet in height. The application has been sent to the DNR for their records. The DNR may or may not have comment on the request.

The subject property is located approximately 2,500 feet from the Mississippi River. The water level at the river is approximately 690 feet. Due to the rolling terrain, distance from the river, and tree canopy, the tower would not be visible from the river

Mn Statutes Section 462.357, subdivision 6. **Variations**, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the official control (city ordinance) and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested

variances, State Statute identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

1. *The variance request is in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.*

One of the primary purposes of height restrictions is to limit the visual impact of structures from the river. In this case, the tower would not be visible from the river. The ordinance allows for additional height for towers and antennas. The request appears to be in harmony with the code and would be consistent with the comprehensive plan.

2. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.*

Additional height for towers and antenna are provided for in the ordinance. The request for the additional height appears to be reasonable given the heavy tree canopy and rolling terrain of the location which would dictate the need for a taller tower and antenna.

3. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The characteristics of the lay of the land are not created by the landowner and while the physical characteristic of the property may not be unique, the City must provide for a reasonable tower and antenna height.

4. *The variance will not alter the essential character of the locality.*

The tower height does not appear to have an impact on the character of the locality. The majority of the tower will be screened from view and the large lots provide ample separation from adjacent houses.

5. *Economic considerations alone do not constitute an undue hardship.*

This request is not due to economic circumstances.

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. **Approval.** If the Planning Commission favors the request, the Commission should recommend approval of the following requests:

- Approval of the Conditional Use Permit to allow a radio tower and antenna to a maximum height of 65 feet subject to the following conditions:

1. The radio tower shall be constructed on the property in substantial conformance to the site plan submitted May 6, 2011 and on file with the Planning Department.
 2. A building permit is required for the construction of the tower and shall be subject to the review and approval of the Chief Building Official.
 3. The Conditional Use Permit shall expire if not used within two (2) years from the City Council approval date.
- Approval of the Variance to allow a radio tower and antenna taller than 35 feet in the Critical Area Overlay District subject to the following condition:
 1. The Variance shall expire if not used within two (2) years from the City Council approval date.
- B. Denial** If the Planning Commission does not favor the proposed application the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

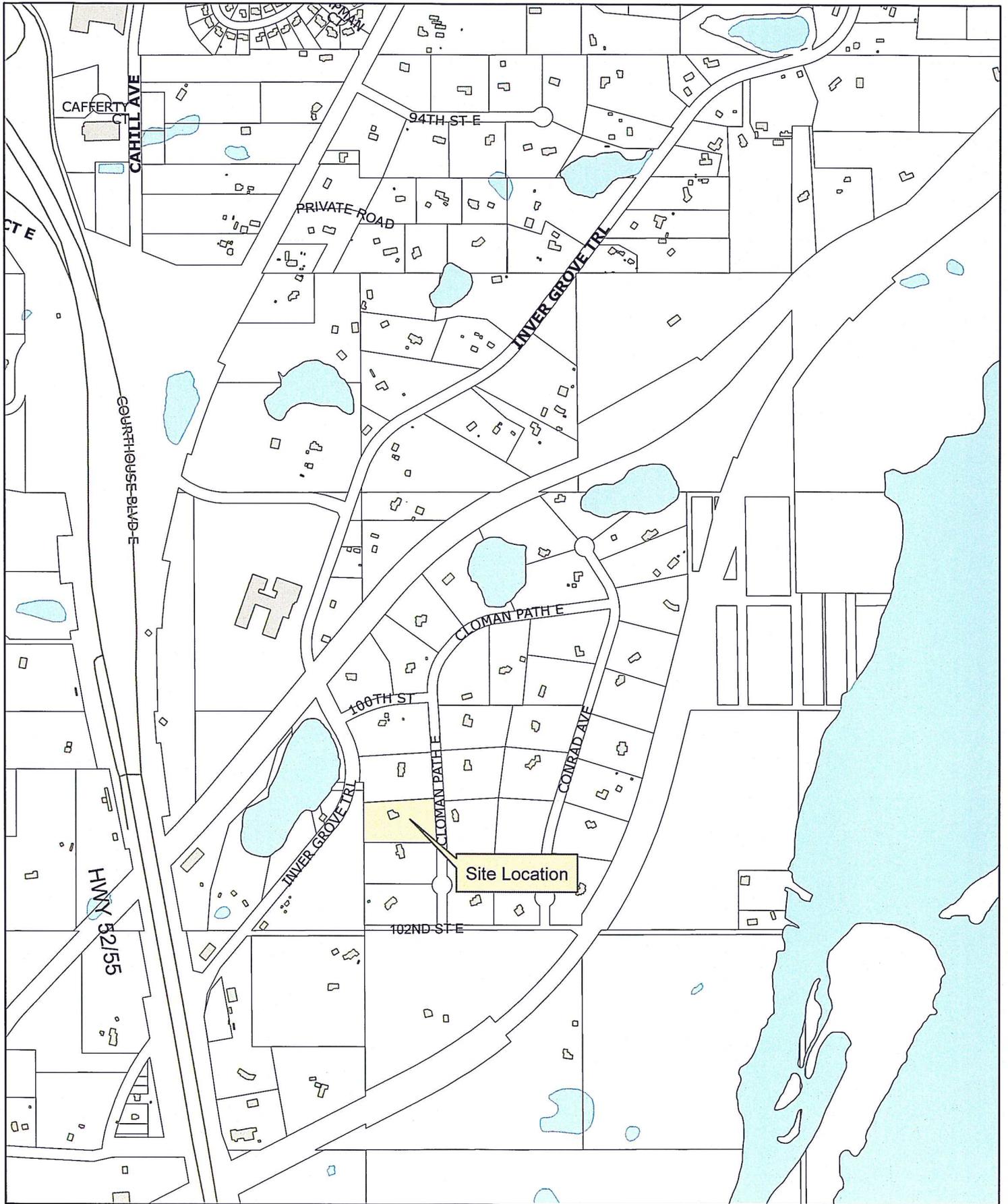
Staff recommends approval of the two requests as presented with the conditions listed in the report.

Attachments: Exhibit A - Location Map
Exhibit B - Applicant narrative
Exhibit C - Site Plan
Exhibit D - Drawing of Tower
Exhibit E - ARRL Antenna Height and Community Effectiveness Article
executive summary



Location Map

Case No. 11-11C

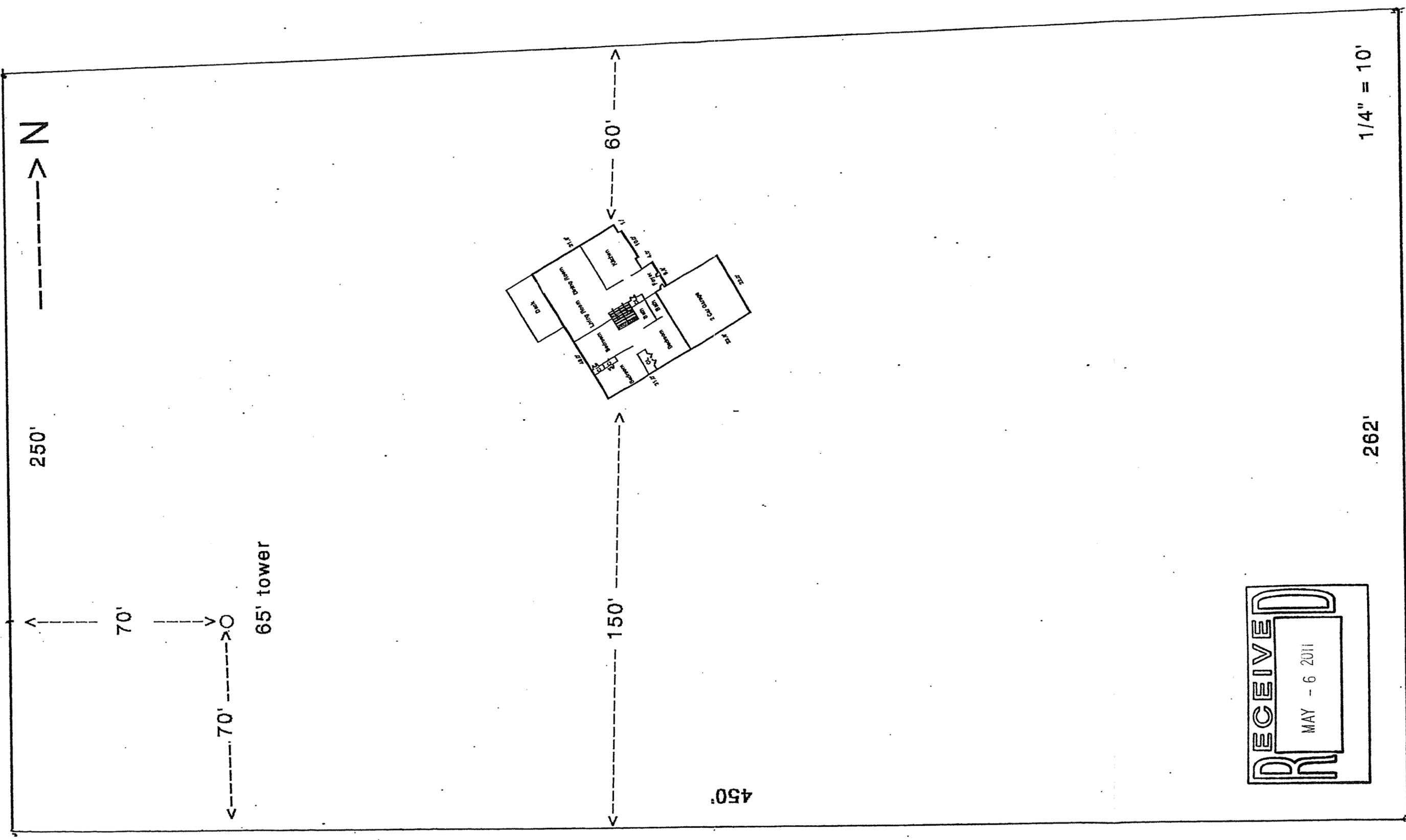


Request for Conditional Use Permit

Stephen L. Webb
10115 Cloman Path
Inver Grove Heights, MN 55076
Leitch Estates Block 1 Lot 3

The purpose of this request for Conditional Use Permit is to gain permission to erect an Amateur Radio antenna support tower above the height allowed by Inver Grove Heights code. The code currently restricts any structure of this type to 35 feet with another 50% to be allowed under conditional use for residential non commercial installations. In my case, the additional tower height is needed beyond this height so that I can get the antenna sufficiently above the surrounding terrain and structures for resonable reception and transmission of amateur radio signals. In order to comply and stay within my lot, I cannot put a shorter tower on the highest point of my lot. I am requesting a height of 65 feet which includes the tower and the antenna mounted at the top of the tower. This is the minimum height required for the lowest frequency I can use with this antenna. Antennas have the best effeciency at one wavelength above ground (lowest frequency for this antenna has a wavelength of 66 feet). Documentation supporting my request has been provided with this application in hard copy and on a CD. I understand that this application may raise many questions. Please contact me for clarification of any questions.

Steve Webb
651-451-0034
webbs1@comcast.net



10115 Cloman Path

Leitch Estates Block 1 Lot 3

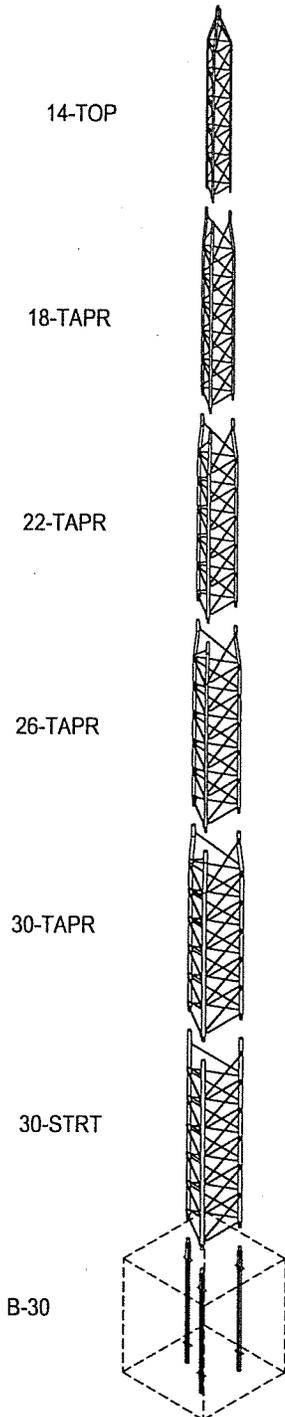
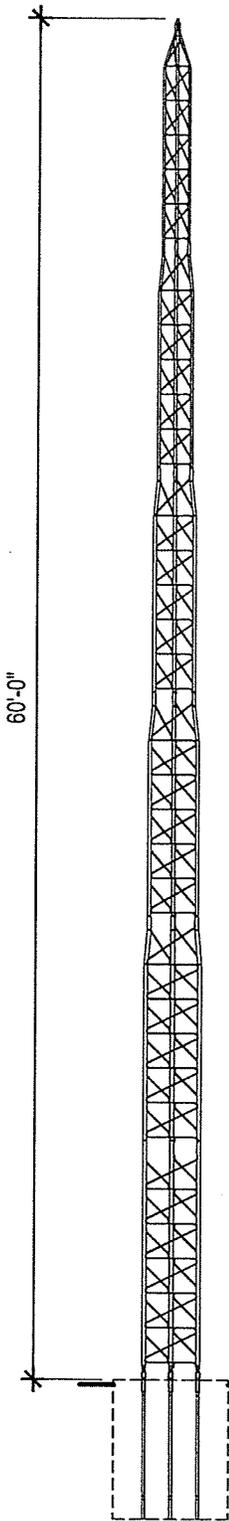
FREESTANDING ALUMINUM TOWER

MODEL #HD 21-60

TOTAL WEIGHT: 256 LBS.

WIND LOADING:
21.08 Sq. Ft.

Contact Universal Towers to confirm
geographical location of your tower and
all wind load implications



WARRANTY
UNIVERSAL TOWERS ARE WARRANTED AGAINST DEFECTIVE MATERIAL OR WORKMANSHIP AND ARE SUBJECT TO REPAIR OR TO MATERIAL REPLACEMENT ONLY IF FAILURE RESULTS FROM THESE FACTORS WITHIN ONE YEAR FROM PURCHASE BY USER. THIS WARRANTY DOES NOT EXTEND TO ANY OF OUR PRODUCTS WHICH HAVE BEEN SUBJECTED TO MISUSE, NEGLIGENCE, ACCIDENT, IMPROPER INSTALLATION OR APPLICATION, NOR SHALL IT EXTEND TO UNITS WHICH HAVE BEEN REPAIRED OR SUBSTANTIALLY ALTERED OUTSIDE OF OUR FACTORY. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED.

ELEVATION 2
SCALE: 3/16"=1'=0"

ISOMETRIC 1
SCALE: N.T.S.



ALUMINUM TOWER

UNIVERSAL TOWERS
A DIVISION OF
UNIVERSAL MANUFACTURING CORP.
43900 GROESBECK HWY.
CLINTON TOWNSHIP, MI 48036
PH: (586) 463-2560
FAX: (586) 463-2964

JOB NO.:
COMPONENT:
HD 21-60

STEPHEN WEBB
10115 CLOMAN PATH
Case # 11-11C

Antenna Height and Communications Effectiveness

Second Edition

A Guide for City Planners and Amateur Radio Operators

By R. Dean Straw, N6BV, and Gerald L. Hall, K1TD
Senior Assistant Technical Editor and Retired Associate Technical Editor

Copyright ©1999
The American Radio Relay League, Inc.
225 Main Street
Newington, CT 06111



Executive Summary

Amateur radio operators, or “hams” as they are called, communicate with stations located all over the world. Some contacts may be local in nature, while others may be literally halfway around the world. Hams use a variety of internationally allocated frequencies to accomplish their communications.

Except for local contacts, which are primarily made on Very High and Ultra High Frequencies (VHF and UHF), communicating between any two points on the earth rely primarily on high-frequency (HF) signals propagating through the ionosphere. The earth’s ionosphere acts much like a mirror at heights of about 150 miles. The vertical angle of radiation of a signal launched from an antenna is one of the key factors determining effective communication distances. The ability to communicate over long distances generally requires a low radiation angle, meaning that an antenna must be placed high above the ground in terms of the wavelength of the radio wave being transmitted.

A beam type of antenna at a height of 70 feet or more will provide greatly superior performance over the same antenna at 35 feet, all other factors being equal. A height of 120 feet or even higher will provide even more advantages for long-distance communications. To a distant receiving station, a transmitting antenna at 120 feet will provide the effect of approximately 8 to 10 times more transmitting power than the same antenna at 35 feet. Depending on the level of noise and interference, this performance disparity is often enough to mean the difference between making distant radio contact with fairly reliable signals, and being unable to make distant contact at all.

Radio Amateurs have a well-deserved reputation for providing vital communications in emergency situations, such as in the aftermath of a severe icestorm, a hurricane or an earthquake. Short-range communications at VHF or UHF frequencies also require sufficient antenna heights above the local terrain to ensure that the antenna has a clear horizon.

In terms of safety and aesthetic considerations, it might seem intuitively reasonable for a planning board to want to restrict antenna installations to low heights. However, such height restrictions often prove very counterproductive and frustrating to all parties involved. If an amateur is restricted to low antenna heights, say 35 feet, he will suffer from poor transmission of his own signals as well as poor reception of distant signals. In an attempt to compensate on the transmitting side (he can’t do anything about the poor reception problem), he might boost his transmitted power, say from 150 watts to 1,500 watts, the maximum legal limit. This ten-fold increase in power will very significantly increase the *potential* for interference to telephones, televisions, VCRs and audio equipment in his neighborhood.

Instead, if the antenna can be moved farther away from neighboring electronic devices—putting it higher, in other words—this will greatly reduce the likelihood of interference, which decreases at the inverse square of the distance. For example, doubling the distance reduces the potential for interference by 75%. As a further benefit, a large antenna doesn’t look anywhere near as large at 120 feet as it does close-up at 35 feet.

As a not-so-inconsequential side benefit, moving an antenna higher will also greatly reduce the potential of exposure to electromagnetic fields for neighboring human and animals. Interference and RF exposure standards have been thoroughly covered in recently enacted Federal Regulations.

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

LUTHER NISSAN KIA - Case No. 11-12CA

Meeting Date: July 11, 2011
 Item Type: Regular
 Contact: Heather Botten 651.450.2569
 Prepared by: *HB* Heather Botten, Associate Planner
 Reviewed by: Planning

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a resolution relating to a **Conditional Use Permit Amendment** to add a 20,000 square foot building addition and a 43,000 square foot parking lot addition to the existing site along for the property located at 1470 50th Street.

- Requires a 4/5ths vote.
- 60-day deadline: September 6, 2011 (second 60-days)

SUMMARY

This item was tabled at the June 27, 2011 meeting due to the fact there were not enough Council members present to act on a conditional use permit.

The applicant is requesting a conditional use permit amendment to add a 20,200 square foot building addition and a 43,100 square foot parking lot addition to the existing car sales lot.

The proposed request meets the Conditional Use Permit criteria relating to the Comprehensive Plan and zoning consistency, land use impacts such as setbacks, landscaping, and aesthetics, environmental impacts, and public health and safety impacts. Access to the site is not changing. The applicant has been working with the Engineering Department to finalize stormwater and grading plans. The applicant is requesting two temporary sales trailers to be allowed during construction; the sales trailers would be located on either the north or south parcels owned by the Luther Company. Staff is in support of this request and addresses the trailers as a condition of approval.

Planning Staff: Based on the information provided staff recommends approval of the conditional use permit amendment to add an addition to the existing building and parking lot expansion with the conditions listed in the attached resolution.

Planning Commission: At the June 7, 2011 public hearing, the Planning Commission recommended approval of the request with the conditions listed in the attached resolution (8-0).

Attachments: CUP Resolution
 Planning Commission Recommendation
 Planning Staff Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO ADD AN
ADDITION TO THE EXISTING AUTO SALES BUILDING AND EXPANSION TO THE
PARKING LOT**

Luther Nissan Kia
Case No. 11-12CA

WHEREAS, an application for a Conditional Use Permit Amendment has been submitted for the property located at 1470 – 50th Street and legally described as:

See Attached

WHEREAS, an application for a conditional use permit amendment has been submitted in order to allow for a 20,200 square foot expansion of the existing building and 43,100 square foot parking lot expansion;

WHEREAS, the aforescribed property is zoned B-3, General Business;

WHEREAS, the request has been reviewed against Title 10, Chapter 3, Article A, Section 10-3A-5 regarding the criterion for a Conditional Use Permit and meets the minimum standards; the request is consistent with the Comprehensive Plan and it does not have a negative impact on public health, safety or welfare;

WHEREAS, a public hearing concerning the conditional use permit amendment was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statute, Section 462.357, Subdivision 3 on June 7, 2011;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a Conditional Use Permit Amendment to allow for an expansion of the existing building and parking lot expansion is hereby approved with the following conditions:

1. The site shall be developed in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Civil Plan Set	dated 05/27/11
Temporary Sales Trailers	dated 05/27/11

2. All parking lot lighting on site shall be a down cast "shoe-box" style and the bulb shall not be visible from property lines.
3. The City Code Enforcement Officer, or other designee, shall be granted right of access to the property at all reasonable times to ensure compliance with the conditions of this permit.
4. Any expansion of the use as shown on the site plan requires additional city approvals and is not part of this conditional use permit.
5. A storm water facility maintenance agreement shall be prepared by the City Attorney and executed by both the City and the property owner to ensure long term maintenance of the facilities. An operation and maintenance plan shall be prepared annually and sent to the City.
6. An access agreement to the large pond/wetland was provided in 2010 from 50th Street. The owner shall provide a drainage and utility easement over the large pond, an access easement from the HWL (953.7) to 20 feet upland to allow City Access during flood events.
7. Prior to the issuance of a building permit, an Engineering cash escrow and letter of credit shall be submitted to the City to ensure the proper construction of the improvements and to review the drainage modeling.
8. The developer shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence. Prior to commencement of any grading, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer.
9. All final development plans shall be subject to the review and approval of the City Fire Marshal.
10. The storm water pollution prevention plan (SWPPP) shall be followed.
11. No car display or employee parking shall be allowed on public streets, street boulevards, or landscaped areas on the dealership property.
12. No outside paging system shall be utilized.

13. All display pennants, flags, searchlights, balloons and other similar devices shall be limited to no more than 10-days per calendar year. Use of such devices require a sign permit.
14. Any new rooftop equipment shall be substantially screened from view as seen from a reasonable viewing perspective.
15. Two temporary sales trailers shall be allowed on either the north or south parcels owned by the Luther Company. These trailers shall be removed no later than _____ or when a Certificate of Occupancy is issued, whichever happens first.
16. Prior to commencing construction, the applicant shall obtain all necessary federal, state, and local permits including, but not limited to a MnDot drainage permit.
17. The owner shall secure a building permit for the retaining wall and meet all conditions required by the Chief Building Official.
18. The developer shall provide a hydraulic analysis of the proposed storm sewer facilities for the review and approval by the City.
19. The developer shall secure authorization from previous easement holders (ie MnDot, Xcel) for all work proposed in existing easements. Plans shall be sent to MnDot, Xcel, and DNR to seek comments and conditions. Proper separation between the overhead power lines and parking shall be maintained.
20. Resolution No. 04-90 shall become null and void and shall be replaced by the terms of this conditional use permit.

BE IT FURTHER RESOLVED that the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Adopted by the City Council of Inver Grove Heights this _____ day of _____, 2011.

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk

Legals

1470-50th Street East:

The southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of the Southwest quarter (SW 1/4) of section 29, Township 28, Range 22, except that part thereof shown as parcel 36H on the plat designated as Minnesota Department of Transportation Right of way Plat numbered 19-65 on file and of record in the office of Abstract Property

Northern lot:

1430 50th St. and NE 1/4 of SE 1/4 of SW 1/4 Ex W 210 ft of N 290 ft. and Ex W 240 ft of S. 365 ft. Also Ex com 387 ft. W of NE cor W 60 S 273 ft E 100 ft. NW 275 ft. to BEG Ex N 229.26 ft. of E 190 ft. & N 16 ft. of NW 1/4 of SE 1/4 of SW 1/4 Ex 1.05 ACS IN Parcel 36F of SEB R/W Plat 19-65

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: June 7, 2011
SUBJECT: Luther Nissan Kia

Reading of Request

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit amendment to add an addition to the existing auto sales building, increase the size of the parking lot, and allow two temporary sales trailers on the northern storage lot, for the property located at 1470 – 50th Street. 7 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting a conditional use permit amendment to add a 20,200 square foot building addition, a 43,100 square foot parking lot expansion, and a temporary location for two sales trailers to be located on the northern storage lot. Staff has not heard from any neighboring property owners. She advised that the proposed improvements meet or exceed all review criteria. Therefore, staff recommends approval of the request with the 20 conditions listed in the report.

Commissioner Simon asked if staff received any comments from the Fire Marshal, to which Ms. Botten replied they had not.

Commissioner Simon asked if there were any impacts to the shoreland due to the northeastern tip of the parking lot in the southern parcel being in the Shoreland Overlay District.

Ms. Botten replied that the parking lot was existing and the proposed addition would have no impact to that shoreland. The City's Engineering Department is working with the applicants to ensure that the stormwater runoff does not impact the MNDOT pond.

Opening of Public Hearing

Jonathan Baker, 150 S. 5th Street, the architect for the project, clarified that although the planning report states that no fencing was requested, the applicants intend to install a four foot chain link fence on the top of the proposed retaining wall in the southern portion of the site. He advised that the report states the two temporary trailers would be located on the northern portion of the site. The applicants, however, are considering placing one on the north lot and one on the south lot. He advised that the trailers will be exclusively for use during construction and will be removed once the building is completed.

Chair Bartholomew asked if the applicant was in agreement with the conditions listed in the report, in particular Condition 15 which requires that the temporary trailers be removed by June 1, 2012.

Ms. Botten advised that the date would be addressed during the development meeting and

would perhaps be modified.

Chair Bartholomew asked if the applicant was agreeable with Condition 19, to which Mr. Baker replied in the affirmative.

Chair Bartholomew asked if staff had any issue with the proposed fence or moving one of the temporary trailers from the north lot to the south lot, to which Ms. Botten replied they did not.

Chair Bartholomew asked if the expansion would include an increased labor force for the dealership.

Linda McGinty, Luther Companies, stated it could result in the hiring of 10-12 new employees.

Planning Commission Recommendation

Motion by Commissioner Schaeffer, second by Commissioner Scales, to approve the request for a conditional use permit amendment to add a 20,200 square foot building addition and a 43,100 square foot parking lot addition to the existing site along with two temporary sales trailers for the property located at 1470 – 50th Street.

Chair Bartholomew reiterated that he would like the removal date of the temporary trailers clarified.

Motion carried (8/0). This item goes to the City Council on June 27, 2011.

SITE PLAN REVIEW

Building Setbacks. The proposed building addition is located 45+ feet from the closest property line, exceeding setback requirements.

The two temporary sales trailers on the northern lot meet and exceed building setbacks.

Parking Lot. The proposed 43,000 square foot parking lot expansion meets setback and surfacing requirements. Overall, when considering the amount of parking spaces lost because of the building addition, the applicant is adding about 36 additional stalls.

Lot Coverage. Allowable impervious surface coverage in the B-3 district is 100%. The site currently contains approximately 33.6% impervious surface, the proposed impervious surface would be about 44.3%, which falls under the allowed maximum.

Access. Access to the site is not changing; there is one entrance off of 50th Street along the east side of the property.

Tree Preservation/Landscaping. Based on the tree protection and preservation ordinance, tree removal falls under the allowed removal threshold and therefore no reforestation would be required.

Landscaping requirements require a total of 36 overstory trees or the equivalent to be planted as part of the property improvements. The applicant has provided a landscape plan which shows 37 trees; a mix of overstory, ornamental, and shrubs. The proposed plan meets and exceeds the landscaping requirements.

Engineering. Engineering is reviewing the plans and has been working with the applicant on stormwater and grading requirements. The proposed site plan protects the existing pond and treats the stormwater runoff on site. Engineering has made some recommendations on conditions that should be added to the approval. These conditions are included in the list of conditions at the end of this report. The applicant shall continue to work with the City to secure final approval of the construction drawings.

Lighting. The applicant has submitted a lighting plan which illustrates the location of lighting in the parking lot. The proposed illumination pattern of the lights complies with the maximum foot candles at the center line of the street. All parking lot lighting shall be designed so as to deflect light away from any adjoining residential zones or from the public streets. The source of light shall be hooded, recessed, or controlled in some manner so as not to be visible from adjacent property or streets.

Roof top Screening. As a consistent policy of commercial development, any roof top equipment shall be screened from view from the street. If necessary, the form of screening will be reviewed at time of building permit. This condition would apply to all new roof top equipment.

Fire Marshal Review. All plans shall be subject to the review and approval of the City Fire Marshal for fire lane designation and the signage or marking of the fire lanes at time of building

GENERAL CONDITIONAL USE PERMIT REVIEW

This section reviews the plans against the CUP criteria in the Zoning Ordinance (Section 10-3A).

1. *The use is consistent with the goals, policies and plans of the City Comprehensive Plan, including future land uses, utilities, streets and parks.*

The use is consistent with the goals, policies, and plans of the Comprehensive Plan. The future land use of this parcel is Regional Commercial, automobile sales is consistent with the uses envisioned in this district.

2. *The use is consistent with the City Code, especially the Zoning Ordinance and the intent of the specific Zoning District in which the use is located.*

The applicant's property is zoned commercial. The land use of auto sales is consistent with the intent of the B-3 zoning district.

3. *The use would not be materially injurious to existing or planned properties or improvements in the vicinity.*

The proposed site improvements would not have a detrimental effect on public improvements in the vicinity of the property.

4. *The use does not have an undue adverse impact on existing or planned City facilities and services, including streets, utilities, parks, police and fire, and the reasonable ability of the City to provide such services in an orderly, timely manner.*

The property improvements do not appear to have any negative effects on City facilities or services.

5. *The use is generally compatible with existing and future uses of surrounding properties, including:*

- i. Aesthetics/exterior appearance*

The proposed building addition would be constructed with similar materials as the existing building.

- ii. Noise*

The proposed addition would not generate noises that are inconsistent with B-3 zoning

iii. Fencing, landscaping and buffering

No fencing is proposed and landscaping meets the City's requirements.

6. *The property is appropriate for the use considering: size and shape; topography, vegetation, and other natural and physical features; access, traffic volumes and flows; utilities; parking; setbacks; lot coverage and other zoning requirements; emergency access, fire lanes, hydrants, and other fire and building code requirements.*

Access to the site is not changing. The amount of traffic would not be out of the ordinary for a commercial area. Building and parking setbacks meet or exceed code requirements.

7. *The use does not have an undue adverse impact on the public health, safety or welfare.*

This use does not appear to have any negative effects on the public health, safety or welfare.

8. *The use does not have an undue adverse impact on the environment, including, but not limited to, surface water, groundwater and air quality.*

This use would not have an undue adverse impact on the environment. The applicant is working with the City Engineering Department creating a stormwater treatment plan, reducing the amount of runoff on the property.

ALTERNATIVES

The Planning Commission has the following actions available on the following requests:

- A. **Approval.** If the Planning Commission finds the application to be acceptable, the following action should be taken:
- Approval of a **Conditional Use Permit Amendment** for automobile and off highway vehicles sales to allow an addition to the existing building subject to the following conditions:
 1. The site shall be developed in substantial conformance with the following plans on file with the Planning Department except as may be modified by the conditions below.

Civil Plan Set

dated 05/27/11

Temporary Sales Trailers

dated 05/27/11

2. All parking lot lighting on site shall be a down cast “shoe-box” style and the bulb shall not be visible from property lines.
3. The City Code Enforcement Officer, or other designee, shall be granted right of access to the property at all reasonable times to ensure compliance with the conditions of this permit.
4. Any expansion of the use as shown on the site plan requires additional city approvals and is not part of this conditional use permit.
5. A storm water facility maintenance agreement shall be prepared by the City Attorney and executed by both the City and the property owner to ensure long term maintenance of the facilities. An operation and maintenance plan shall be prepared annually and sent to the City.
6. An access agreement to the large pond/wetland was provided in 2010 from 50th Street. The owner shall provide a drainage and utility easement over the large pond, an access easement from the HWL (953.7) to 20 feet upland to allow City Access during flood events.
7. Prior to the issuance of a building permit, an Engineering cash escrow and letter of credit shall be submitted to the City to ensure the proper construction of the improvements and to review the drainage modeling.
8. The developer shall meet all the conditions outlined in the City Engineers review letters and subsequent correspondence. Prior to commencement of any grading, the final grading, drainage and erosion control, and utility plans shall be approved by the City Engineer.
9. All final development plans shall be subject to the review and approval of the City Fire Marshal.
10. The storm water pollution prevention plan (SWPPP) shall be followed.
11. No car display or employee parking shall be allowed on public streets, street boulevards, or landscaped areas on the dealership property.
12. No outside paging system shall be utilized.
13. All display pennants, flags, searchlights, balloons and other similar devices shall be limited to no more than 10-days per calendar year. Use of such devices require a sign permit.

14. Any new rooftop equipment shall be substantially screened from view as seen from a reasonable viewing perspective.
15. Temporary sales trailers are allowed on the northern parcel owned by the Luther Company. These trailers shall be removed no later than June 1, 2012 or when a Certificate of Occupancy is issued, whichever happens first.
16. Prior to commencing construction, the applicant shall obtain all necessary federal, state, and local permits including, but not limited to a MnDot drainage permit.
17. The owner shall secure a building permit for the retaining wall and meet all conditions required by the Chief Building Official.
18. The developer shall provide a hydraulic analysis of the proposed storm sewer facilities for the review and approval by the City.
19. The developer shall secure authorization from previous easement holders (ie MnDot, Xcel) for all work proposed in existing easements. Plans shall be sent to MnDot, Xcel, and DNR to seek comments and conditions. Proper separation between the overhead power lines and parking shall be maintained.
20. Resolution No. 04-90 shall become null and void and shall be replaced by the terms of this conditional use permit.

B. Denial. If the Planning Commission does not favor the proposed application the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Based on the information in the preceding report and the conditions listed in Alternative A, staff is recommending approval of the request.

Attachments: Zoning/Location Map
Narrative
Site, Grading, Landscaping Plans
Elevations
Temporary Sales Trailer locations



Luther Nissan Kia CUP Amendment

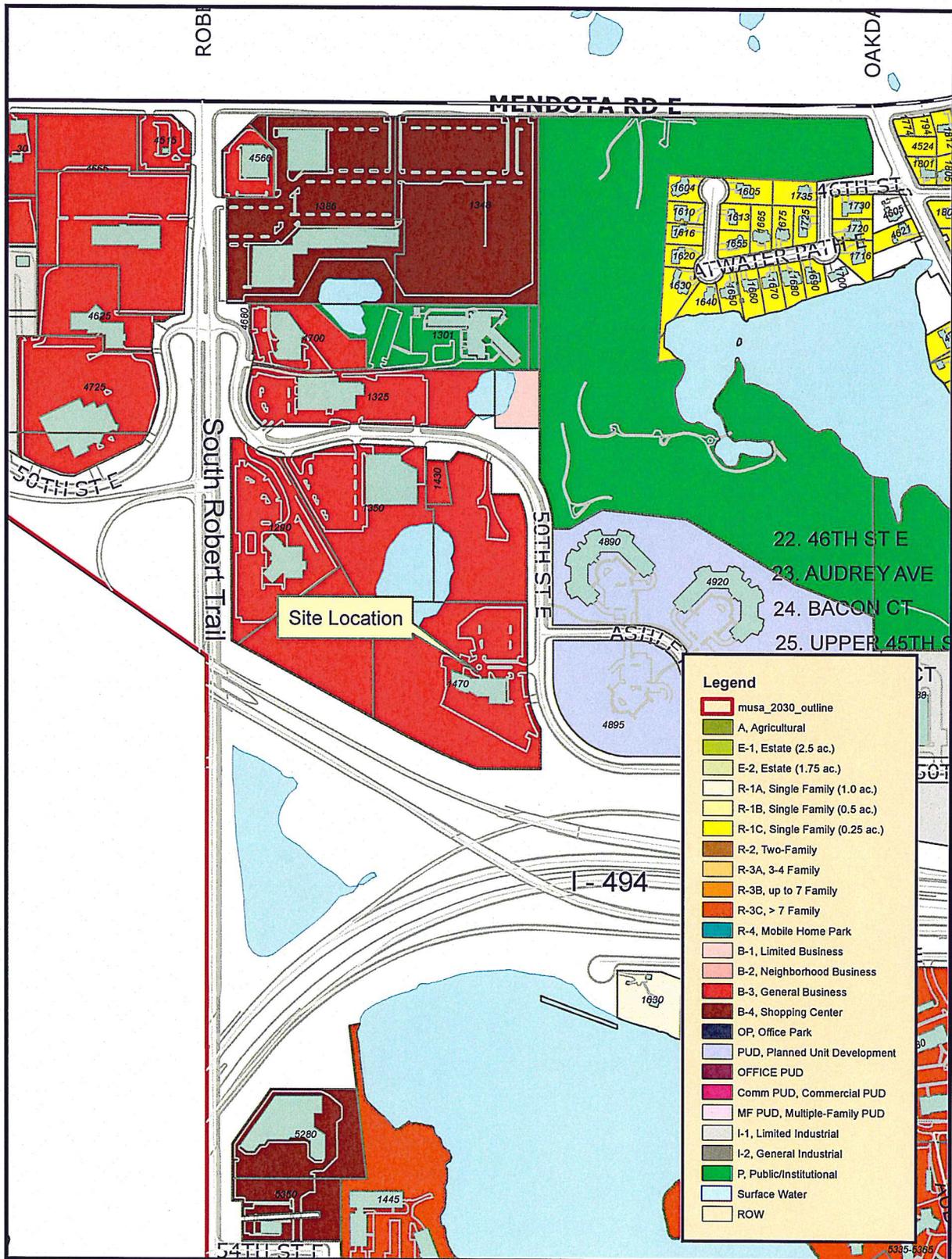


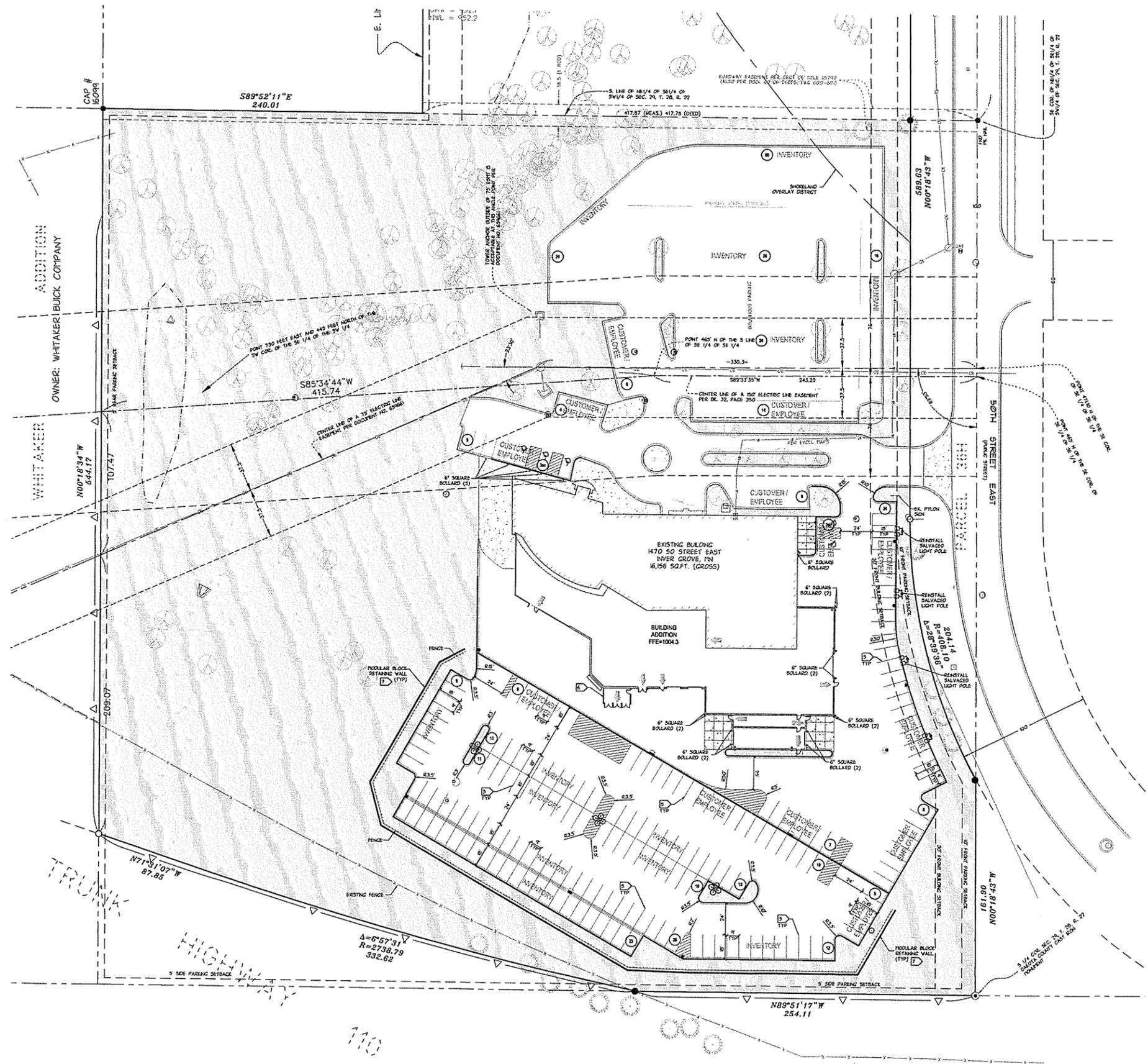
Exhibit A
Zoning and Location Map

Narrative
CUP Amendment
1470 50th Street East & 1430 50th St.

The Luther Company LLLP is planning to expand and update its Luther Nissan Kia operation located at 1470 50th Street East. The building expansion will add 15,400 square feet to the footprint plus an additional 4800 square feet to the second level. The parking lot expansion results in an approximate additional 43,100 square feet and 36 additional parking stalls.

The building expansion will affect most operations that occur on the main level. The showroom, offices, parts department, customer lounge, restrooms, service department and drive aisle will all increase in size. The existing car wash will be replaced with a drive-thru car wash attached to the south of the building. The car wash is for exclusive use of the dealership.

In order to maintain dealership operations during construction we are requesting permission to place up to 2 commercial trailers on our recently expanded parking lot located directly to the north (1430 50th St.). This is an interim use. The trailers will be removed when the remodel and expansion of the dealership is complete.



- SITE PLAN NOTES**
- OBTAIN ALL NECESSARY PERMITS FOR CONSTRUCTION WITHIN OR USE OF, PUBLIC RIGHT-OF-WAY.
 - THE DIGITAL FILE, WHICH CAN BE OBTAINED FROM THE ENGINEER, SHALL BE USED FOR STAKING. DISCREPANCIES BETWEEN THE DRAWINGS AND THE DIGITAL FILE SHALL BE REPORTED TO THE ENGINEER. THE BUILDING FOOTPRINT AS SHOWN ON THESE DRAWINGS AND THE DIGITAL FILE, SHALL BE COMPARED TO THE STRUCTURAL DRAWINGS PRIOR TO STAKING.
 - BUILDING LAYOUT ANGLES ARE PARALLEL WITH OR PERPENDICULAR TO THE PROPERTY LINE AT THE LOCATION INDICATED.
 - CRENSONS SHOWN ARE TO FACE OF CURB AND EXTERIOR FACE OF BUILDING UNLESS NOTED OTHERWISE.
 - DELINEATE PARKING STALLS WITH A 4-INCH WIDE WHITE PAINTED STRIP, DELINEATE ACCESS AISLES WITH 4-INCH WIDE WHITE PAINTED STRIPS 18 INCHES ON CENTER AND AT 45 DEGREE ANGLE TO DIRECTION OF TRAVEL.
 - TRASH/RECYCLING AREAS: SEE ARCHITECTURAL DRAWINGS.
 - STAKING WALL TYPE, SIZE, AND COLOR TO BE DETERMINED UPON RECEIPT OF GEOTECHNICAL INVESTIGATION AND DURING STRUCTURAL DESIGN PROCESS FOR BUILDING FOOTPRINT.
- GREEN SPACE (LANDSCAPE AREA)

PARKING SUMMARY

PROVIDED PARKING	STANDARD PARKING	ACCESSIBLE PARKING	TOTAL
1 MOTOR SERVICE STATION	3 SPACES, PLUS 2 SPACES FOR EACH SERVICE BAY	10 SERVICE BAYS	34 STALLS
OFFICE	1 SPACE FOR EACH 200 SF. OFFICE	46 STALLS	46 STALLS
AUTO SALES	1 SPACE FOR EACH 300 SF. SHOWROOM	8 STALLS	8 STALLS
WAREHOUSE (UNDER 10,000 SF.)	1 SPACE FOR EACH 500 SF. WAREHOUSE	14 STALLS	14 STALLS
TOTAL PARKING STALLS REQUIRED			107 STALLS
* THESE REQUIRED STALLS USED AS BASIS FOR REQUIRED NUMBER OF ACCESSIBLE PARKING STALLS			
PROVIDED PARKING:			
STANDARD STALLS (9'x18')	103 EA.		
INVENTORY STALLS (9'x18')	265 EA.		
ACCESSIBLE STALLS (9'x18')	5 EA.		
TOTAL PARKING STALLS PROVIDED			373 EA.

AREA SUMMARY

EXISTING OVERALL	PERVIOUS	PERVIOUS	TOTAL (8.75 AC.)
	750,941 SF.	66.4%	
	130,960 SF.	33.6%	
	881,901 SF.	100.0%	
PROPOSED OVERALL	PERVIOUS	PERVIOUS	TOTAL (8.75 AC.)
	217,054 SF.	55.7%	
	172,847 SF.	44.3%	
	389,901 SF.	100.0%	

ZONING AND SETBACKS SUMMARY

CURRENT ZONING: B3 - GENERAL BUSINESS

BUILDING SETBACKS:	PARKING SETBACKS:
FRONT= 30 FEET	FRONT= 10 FEET
SIDE= 10 FEET	REAR= 5 FEET
REAR= 30 FEET	SIDE= 5 FEET

SHORELAND OVERLAY DISTRICT

* PER HEATHER BOTTEN AT THE PLANNING DEPT. OF INVER GROVE HEIGHTS A PORTION OF THE NORTHEAST CORNER OF THIS PROPERTY LIES WITHIN A SHORELAND OVERLAY DISTRICT.

ALLOWABLE PREVIOUS AREA PER CITY OF INVER GROVE HEIGHTS PARTLY ALLOWABLE PREVIOUS AREA WITHIN SHORELAND OVERLAY DISTRICT IS 2%.

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ARCHITECTS

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FAX: 612.339.5088

Luther
Inver Grove Heights
Dealership
Inver Grove Heights, MN

Inver Grove Nissan Kia
CITY SUBMITTAL 5 MAY 2011
CITY SUBMITTAL 21 MAY 2011

CITY SUBMITTAL
MAY 27, 2011

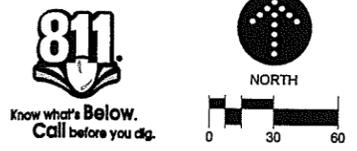
LANDFORM
From Site to Finish
105 South Fifth Avenue
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Minneapolis, MN 55401
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Web: landform.net

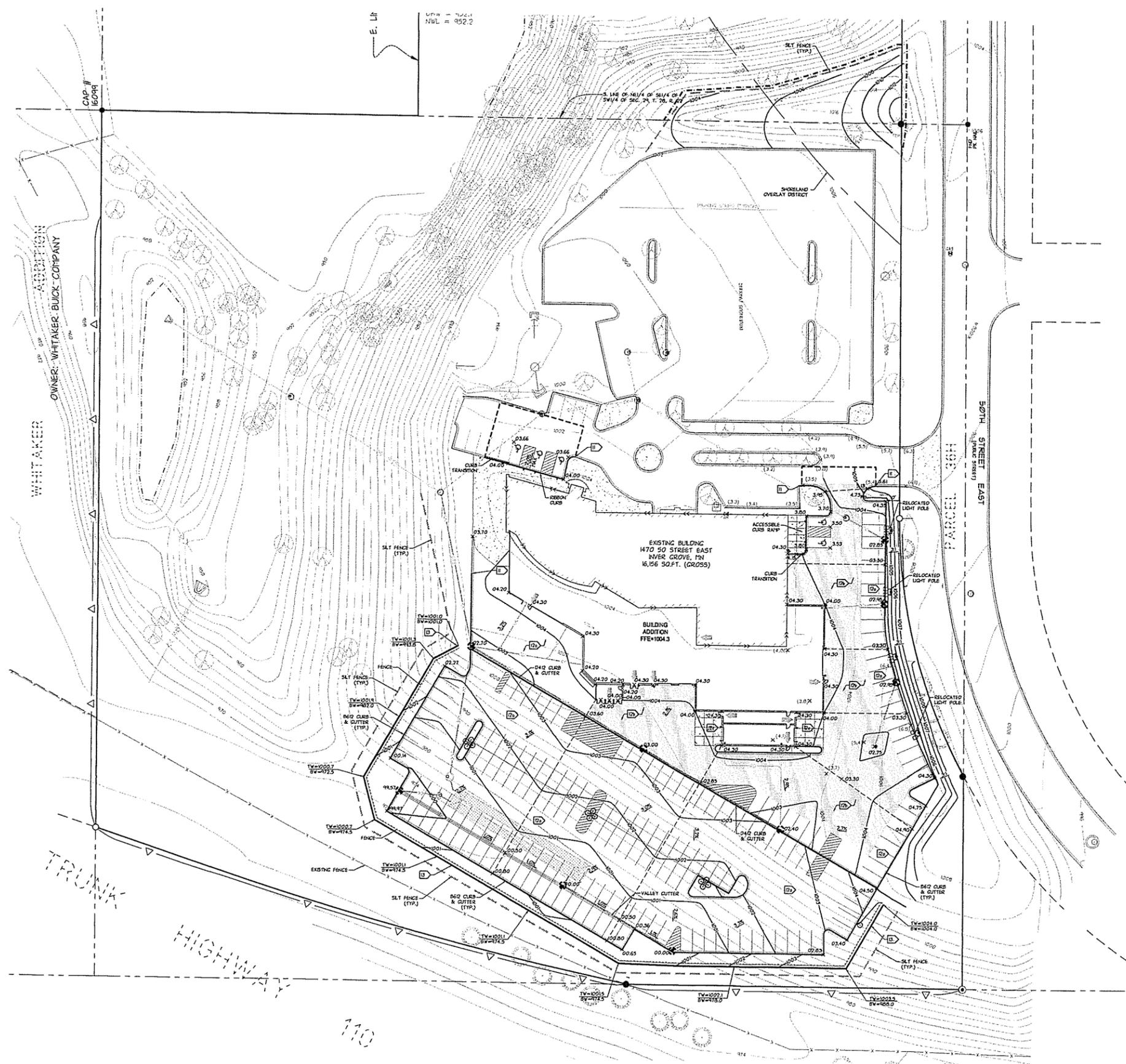
PROJECT MANAGER REVIEW
BY: GEB DATE: 05/27/2011

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CONSTRUCTION**

SHEET 110
SITE PLAN

Scale: 1" = 30'
Date: 05-27-11
Comm No: BAA00033
Sheet: 110 of 120
Draw Number: C-201





GRADING NOTES

1. CONTACT UTILITY SERVICE PROVIDERS FOR FIELD LOCATION OF SERVICES 72 HOURS PRIOR TO BEGINNING GRADING.
2. REFER TO THE GEOTECHNICAL REPORT FOR ADDITIONAL INFORMATION ON BACKFILL MATERIAL AND GEOSYNTHETIC CONDITIONS.
3. REMOVE TOPSOIL FROM GRADING AREAS AND STOCKPILE SUFFICIENT QUANTITY FOR REUSE.
4. REMOVE SURFACE AND GROUND WATER FROM EXCAVATIONS. PROVIDE METAL LIFTS OF STABLE EXCAVATION MATERIAL IF EXPOSED SOILS ARE WET AND UNSTABLE.
5. COORDINATE WITH ARCHITECTURAL DRAWINGS FOR HOLD DOWN INFORMATION FOR ROUGH GRADE BUILDING OF PAD.
6. REFER TO STRUCTURAL SPECIFICATIONS FOR EARTHWORK REQUIREMENTS FOR BRACING PADS.
7. AN INDEPENDENT TESTING FIRM SHALL VERIFY THE REMOVAL OF ORGANIC AND UNDESIRABLE SOILS, SOIL CORRECTION, AND COMPACTION AND PROVIDE PERIODIC REPORTS TO THE OWNER.
8. PLACE AND COMPACT FILL USING LIFT THICKNESSES MATCHED TO SOIL TYPE AND COMPACTION EQUIPMENT TO OBTAIN SPECIFIED COMPACTION THROUGHOUT THE LIFT.
9. COMPACT MATERIAL IN PAVED AREAS TO 10% OF MAXIMUM DRY DENSITY, STANDARD PROCTOR (ASTM D698) EXCEPT THE TOP 3 FEET WHICH SHALL BE COMPACTED TO 100%. COMPACT TO 95% DENSITY WHERE FILL DEPTH EXCEEDS 10 FEET.

PAVING NOTES

10. SPOT ELEVATIONS AT CURBLINE INDICATE FINISHING UNLESS NOTED OTHERWISE. SEE SHEET C-401 FOR RELEVATIONS OF CATCH BASINS.
11. PAVEMENT AND MATCH EXISTING CURB. PROVIDE 10 FOOT TRANSITION IF NECESSARY.
12. PAVING SECTIONS (REFER TO GEOTECHNICAL REPORT)
 - a. INTERIORS PAVING (LIGHT DUTY)
 - 1.5-INCH WEAR (PNDOT 2362)
 - TACK COAT
 - 1.5-INCH BASE (PNDOT 2362)
 - 6-INCH AGGREGATE BASE (PNDOT 3105, CLASS 5)
 - COMPACTED SUBSOIL
 - b. INTERIORS PAVING (HEAVY DUTY)
 - 1.5-INCH WEAR (PNDOT 2362)
 - TACK COAT
 - 2-INCH BASE (PNDOT 2362)
 - 8-INCH AGGREGATE BASE (PNDOT 3105, CLASS 5)
 - COMPACTED SUBSOIL
 - c. CONCRETE DRIVES, APPROX. AND EXTERIOR SLABS
 - 8-INCH CONCRETE W/¼ REBAR AT 18 INCHES OC
 - 6-INCH AGGREGATE BASE (PNDOT 3105, CLASS 5)
 - COMPACTED SUBSOIL

RETAINING WALL NOTES

13. PROVIDE STRUCTURAL DESIGN OF RETAINING WALLS, FOLLOWING LANDFORM RETAINING WALL SPECIFICATIONS FOR FINISH DESIGN AND PERFORMANCE. PROVIDE CONSTRUCTION OF WALLS IN ACCORDANCE WITH APPROVED STANDARDS.
14. CONFIRM ARCHITECTURAL REQUIREMENTS FOR WALL UNITS WITH OWNER.
15. SUBMIT DESIGN TO CITY FOR APPROVAL PRIOR TO BEGINNING CONSTRUCTION.
16. PROVIDE GUARANTEE AND ASSURANCE THAT RELATED WORK CONSTRUCTED WITHIN THE DEFACED EARTH ZONE, INCLUDING FENCES, LANDSCAPING UTILITIES, CURBED WALLS, REINFORCING ELEMENTS OF THE RETAINING WALL.

EROSION PREVENTION AND SEDIMENT CONTROL NOTES

17. INSTALL PERMITTED SEDIMENT CONTROLS PRIOR TO BEGINNING WORK AND MAINTAIN FOR DURATION OF CONSTRUCTION. REMOVE CONTROLS AND DISPOSE OF OFF-SITE AFTER AREAS CONTAINING EROSION ARE PERMANENTLY STABILIZED.
18. LIMIT SOIL DISTURBANCE TO THE GRADING LIFTS SHOWN SCHEDULE OPERATIONS TO MINIMIZE LENGTH OF EXPOSURE OF DISTURBED AREAS.
19. MAINTAIN PRACTICES SHOWN AND THE FINISH REQUIREMENT. INSTALL AND MAINTAIN ADDITIONAL CONTROLS AS WORK PROGRESSES TO PREVENT EROSION AND CONTROL SEDIMENT CARRIED BY WIND OR WATER.
20. RESTORE DISTURBED OPEN AREAS WITH TEMPORARY SEED OR SOO WITHIN 72 HOURS OF COMPLETING GRADING IN EACH AREA.
21. TEMPORARY SEED, SOO, FERTILIZER AND FERTILIZER SHALL MEET THE FOLLOWING SPECIFICATIONS, AS INDICATED:

ITEM	SEED	SEED SPECIFICATION NUMBER
1	TYPE 50 @ 40 LB/AC	PNDOT 3076
2	TYPE 100 @ 60 LB/AC	PNDOT 3076
3	FERTILIZER (TYPE 1, OSC ANCHORED)	PNDOT 3082
4	FERTILIZER	PNDOT 3081
5	GENERAL PLACEMENT	PNDOT 2275
22. SEE LANDSCAPING SHEETS FOR PERMANENT TURF ESTABLISHMENT.
23. SWEEP STREETS CLEAN DAILY.
24. FEDERAL WASHING OF TRUCKS AND OTHER CONSTRUCTION VEHICLES, INCLUDING CONCRETE WASHOUT, MUST BE LIMITED TO A DESIGNATED AREA OF THE SITE. WASHOFF MUST BE CONTAINED AND WASTE PROPERLY DISPOSED OF. NO ENGINE DRAINAGE IS ALLOWED ON SITE.
25. DEWATERING OR DRAINING ACTIVITIES OF TURBID OR SOLVENT LADEN WATER SHALL BE PROHIBITED TO A SEDIMENTATION BASIN OR TREATED WITH THE APPROPRIATE BMP PRIOR TO ENTERING THE SURFACE WATER. ENERGY DISSIPATION SHALL BE PROVIDED AT ALL DISCHARGE POINTS. DEWATERING OR BASH DRAINING ACTIVITIES SHALL NOT CAUSE NEARBY CONDITIONS, EROSION IN RECEIVING CHANNELS OR ON DOWN-SLOPE PROPERTIES, OR ADVERSELY IMPACT WETLANDS.

EARTHWORK QUANTITIES

NOTE: EARTHWORK QUANTITIES ARE BASED ON A 1" HOLD DOWN IN PAVEMENT AREAS

TOTAL CUT: 2,309 C.Y.

TOTAL FILL: 27,209 C.Y.

NET: 24,900 C.Y. FILL

LEGEND

- SLOPE FENCE
- - - PAVEMENT SAWCUT LINE
- - - LIFTS OF CONSTRUCTION
- SLOPE PROTECTION

NPDES AREA SUMMARY NORTH LOT

	EXISTING	PROPOSED	ULTIMATE
PERVIOUS	5.84 ACRES	4.90 ACRES	4.90 ACRES
IMPERVIOUS	3.01 ACRES	3.97 ACRES	3.97 ACRES
TOTAL	8.85 ACRES	8.85 ACRES	8.85 ACRES

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MINNEAPOLIS, MN 55402-1200
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Inver Grove Heights Dealership
Inver Grove Heights, MN

Inver Grove Nissan Kia

ISSUED: 9 MAY 2011
CITY SUBMITTAL
REVISED: 21 MAY 2011
CITY SUBMITTAL

CITY SUBMITTAL
MAY 27, 2011

LANDFORM
From Site to Finish

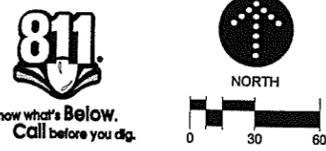
105 South Fifth Avenue
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Fax: 612.252.8077
Web: landform.net

PROJECT MANAGER REVIEW
BY: BEB DATE: 05/27/2011

PRELIMINARY
NOT FOR
CONSTRUCTION

Scale: 1" = 30'
Date: 05-21-11
Drawn By: BAA/10233
Sheet Number: C-301





Inver Grove Nissan Kia

City Submittal 3 MAY 2011
City Submittal 11 MAY 2011

PRELIMINARY PLANT SCHEDULE

SYMBOL	COMMON NAME	SCIENTIFIC NAME	PLANTING SIZE	ROOT COND.	NATURE SIZE	SPECIAL FEATURES
DECIDUOUS TREES						
	REGIONS LINDEN	TILIA AMERICANA 'REGIONS'	2 1/2" CAL.	B&B	50H x 30W	PYRAMIDAL FORM
CONIFEROUS TREES						
	AUSTRIAN PINE	PIUS NEEZA	6" HT.	B&B	50H x 10W	DENSE GROWTH
	COLORADO SPRUCE	PICEA PLANGENS	6" HT.	B&B	50H x 10W	PYRAMID FORM
ORNAMENTAL TREES						
	SPRING SNOW COLUMBINE	FALIS 'SPRING SNOW'	1 1/2" CAL.	B&B	20H x 15W	NO FOLIAGE
CONIFEROUS SHRUBS						
	BLUE CHIP JUNIPER	JUNIPERUS HORIZONTALIS 'BLUE CHIP'	8" SP.	POT	10H x 5W	EVERGREEN
DECIDUOUS TREES						
	ANTHONY WATERER SPIREA	SPIREA X BUXTALDIA 'ANTHONY WATERER'	2 1/4" HT.	POT	3H x 4W	FLOWERING

LANDSCAPE NOTES

- LANDSCAPE CONTRACTOR SHALL VISIT THE SITE PRIOR TO SUBMITTING A BID TO BECOME FAMILIAR WITH SITE CONDITIONS. THE LANDSCAPE CONTRACTOR SHALL HAVE ALL UNDERGROUND UTILITIES LOCATED PRIOR TO ANY DIGGING. THE LANDSCAPE CONTRACTOR SHALL COORDINATE INSTALLATION WITH GENERAL CONTRACTOR.
- ALL PLANT MATERIALS SHALL CONFORM WITH THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND SHALL BE OF HARDY STOCK, FREE FROM DISEASE, DAMAGE AND DISCOLORATION.
- ALL TREES NOT PLACED WITHIN A SHIELD PLANTING BED SHALL HAVE A FOUR (4) FOOT DIAMETER FELCH RING INSTALLED AROUND THE TREE. VINYL EDGING IS REQUIRED WITH TREES NOT LOCATED IN SHIELD BED AREAS.
- INSTALL 3-4 INCH DEPTH SHREDDED HARDWOOD BARK MULCH IN LANDSCAPE AREAS.
- SOO OR SEED ALL TURF AREAS DISTURBED BY CONSTRUCTION AS INDICATED ON PLAN.
- ALL NEWLY PLANTED TURF SEEDS AREAS SHALL BE IRRIGATED WITH AN UNDERGROUND IRRIGATION SYSTEM. THE SYSTEM SHALL BE DESIGNED BY THE IRRIGATION CONTRACTOR. THE IRRIGATION CONTRACTOR IS TO SUBMIT SHOP DRAWINGS OR IRRIGATION DESIGN AND CALCULATIONS FOR REVIEW BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. IRRIGATION CONTRACTOR IS TO MEET ALL CITY PLUMBING CODES AND REQUIREMENTS. PAVING ISLANDS WITHOUT SHIELDS NEED NOT BE IRRIGATED.
- PLANTING SOIL FOR BACK FILLING PLANTING PITS SHALL CONSIST OF TOPSOIL TO WHICH HAS BEEN ADDED THREE (3 LBS.) POUNDS OF COMMERCIAL FERTILIZER AND 1/2 YARD OF PEAT MULCH PER CUBIC YARD.
- THE LANDSCAPE CONTRACTOR IS TO FOLLOW ALL PLANTING INSTRUCTIONS AND EROSION CONTROL FEATURES FOR THE ESTABLISHMENT OF NATIVE SEED FEATURE AS SPECIFIED IN FINISH SPECIFICATION MANUAL 2003.
- ALL EXISTING DECIDUOUS/CONIFEROUS TREES ARE TO BE TRIMMED OF DEAD WOOD AND PRUNED TO A NATURAL UNIFORM SHAPE.
- QUANTITIES LISTED IN SCHEDULE ARE FOR REFERENCE ONLY. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING QUANTITIES ON PLAN PRIOR TO BID AND INSTALLATION.

OVERSTORY TREE REQUIREMENTS NORTH LOT

575 REQUIREMENTS GREATER OF:

- 1 TREE PER 1000 S.F. GROSS BUILDING FLOOR AREA
- PARKING REQUIREMENTS:
- 1 TREE PER 10 PARKING STALLS

6'-7" HT. SHIELD = 1 OVERSTORY TREE
 2'-1 1/2" DIAMETER ORNAMENTAL TREES = 1 OVERSTORY TREE
 1 1/2" CAL. DECIDUOUS OVERSTORY TREES
 1 1/2" CAL. CONIFEROUS OVERSTORY TREES
 1 EXISTING TREE = 1 PROPOSED TREE
 (EXISTING DECIDUOUS TREE = 1 1/2" DIAMETER O.D.M.
 EXISTING CONIFEROUS TREE = 1 1/2" CAL.)
 REQUIRED

20,200 NEW GFA ADDITION = 20 TREES
 160 NEW PARKING STALLS = 16 TREES
 TOTAL REQUIRED = 36 TREES

PROPOSED

PARKING LOT LANDSCAPING = 12 DECIDUOUS OVERSTORY TREES
 4 ORNAMENTAL TREES (7 EQUIVALENT OVERSTORY TREES)
 36 STALLS (6 EQUIVALENT OVERSTORY TREES)

TOTAL PARKING LOT TREES = 25 EQUIVALENT OVERSTORY TREES

SITE LANDSCAPING = 4 CONIFEROUS OVERSTORY TREES
 6 ORNAMENTAL TREES (6 EQUIVALENT OVERSTORY TREES)

TOTAL SITE TREES = 12 EQUIVALENT OVERSTORY TREES

TOTAL PROPOSED TREES = 37 EQUIVALENT OVERSTORY TREES

CITY SUBMITTAL
MAY 27, 2011



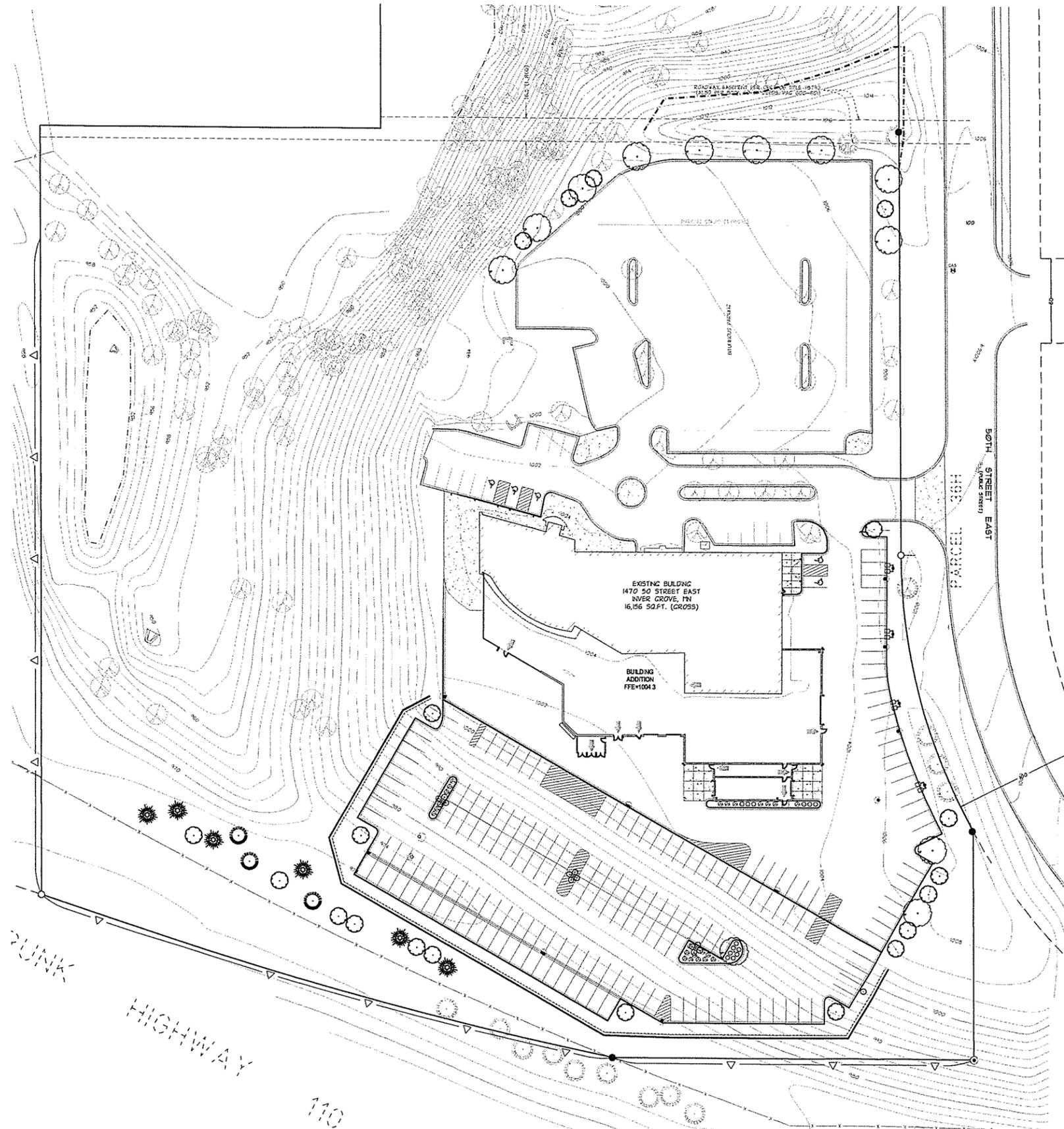
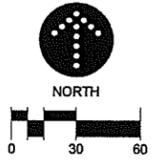
105 South 5th Avenue
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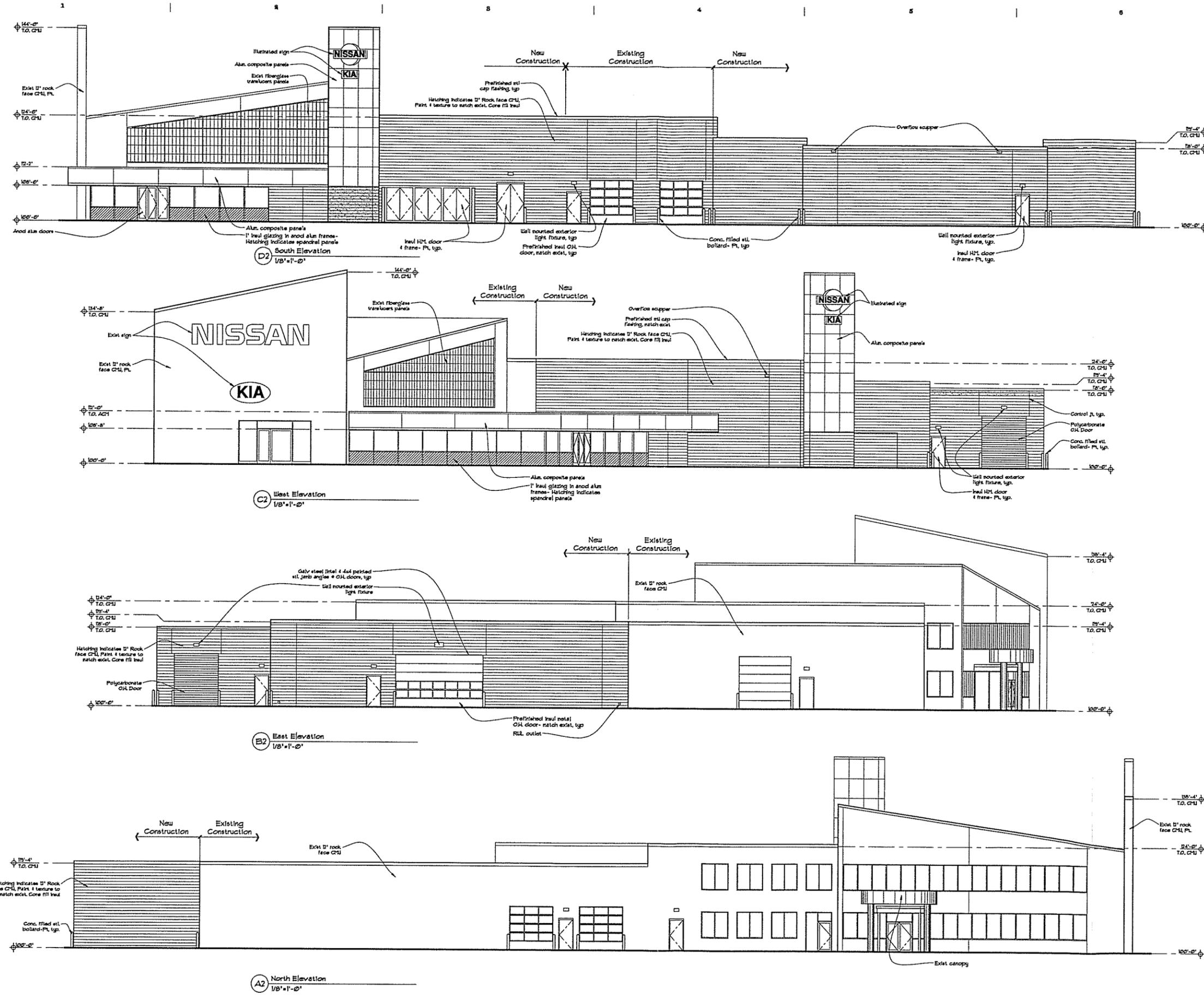
PROJECT MANAGER REVIEW
BY: BCB DATE: 05/27/2011

PRELIMINARY
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CONSTRUCTION

LANDSCAPE PLAN

Scale: 1" = 30'
Date: 05-27-11
Drawn by: BAA/0233
Sheet Number: L-201





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 FAX 612.559.8558

Luther Nissan Kia
 1470 E. 50th St.
 Roseville Heights, MN 55077

Building Additions

Issue:
 City Council 9 May 2011

I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed ARCHITECT under the laws of the State of MINNESOTA.
 Jonathan D. Bauer

Date: 05/05/2011
 Sheet No: 1029

Exterior Elevations

Scale: 1/8" = 1'-0"
 Date: 05/05/2011
 Sheet No: 1029
A-201
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XPAND, INC

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: July 11, 2011
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to an Interim Use Permit to allow an agricultural building in the Northwest Area Overlay District for property located at 1400 70th Street.

- Requires 4/5th's vote.
- 60-day deadline: August 5, 2011 (first 60-days)

SUMMARY

The applicant is proposing to construct a 1,728 square foot building to be used to store tractors associated with farming on the property. The building would be metal pole construction, dirt floor, no electricity or plumbing. The Northwest Area Overlay District allows agricultural buildings by interim use permit with a time frame or event by when the building must be removed.

ANALYSIS

An interim use permit agreement would be required to be signed by the landowner and recorded with the County before any structures could be built. Staff has identified some time frames by when the building must be removed. Staff is recommending the building be removed 3 years after either the subject property is platted or if the land within one quarter mile is platted. The character of the area would change from open agricultural to residential and the continuation of agricultural buildings is not consistent with the purpose and intent of the Northwest Area Overlay District. The City is in the process of discussing the collector roadway study for the Northwest Area. This property is in the vicinity of 70th and Argenta. Some realignment of the intersection would occur at some point. The location of the proposed building would be east of this new alignment and based on current information, would not impact road construction for a realigned Argenta Trail.

RECOMMENDATION

Planning Staff: Recommends approval of the request as presented with the conditions listed in the report.

Planning Commission: At the July 5, 2011 public hearing, the Planning Commission recommended approval of the request with the conditions listed in the attached resolution (7-0). There was general discussion on how long the agricultural building shall be allowed. The Planning Commission recommended the building be removed 3 years after either the subject property is platted or if the land within one quarter mile is platted.

Attachments: Interim Use Permit Resolution and Agreement
 Planning Commission Recommendation
 Planning Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**A RESOLUTION APPROVING AN INTERIM USE PERMIT TO ALLOW AN
AGRICULTURAL BUILDING IN THE NORTHWEST AREA OVERLAY DISTRICT**

**CASE NO. 11-16IUP
(Xpand)**

WHEREAS, an interim use permit application has been submitted to the City for property legally described as;

The West 435.16 feet of the East 994.89 feet of the North 500.50 feet of the Northwest ¼ of the Northeast ¼ subject to RD over the North 33 feet of Section 7, Township 27, Range 22.

WHEREAS, Chapter 13J (Northwest Area Overlay District) of the Zoning Ordinance allows agricultural buildings as an interim use;

WHEREAS, a public hearing concerning the interim use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statutes, Section 462.357, Subdivision 3 on July 5, 2011;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS that, an interim use permit is hereby approved subject to the following conditions:

1. The construction of the agricultural building shall consist of 36' x 48' post frame building with 4/12 roof pitch, cold storage, no heat or insulation, dirt floor, no plumbing or electricity and two – 12' doors. Sheet metal siding is an acceptable exterior material. Location of the structure on the property shall be in substantial conformance to the site plan dated June 3, 2011 and on file with the Planning Department.
2. The Chief Building Official shall determine if the structure requires a building permit.

3. The building shall be used for Agricultural purposes only and not for personal non-agricultural storage. The building shall not be used for commercial uses or storage related to a commercial use.
4. The building shall be removed from the property subject to the following events or time frame, whichever occurs first:
 - a) The building shall be removed no later than 3 years after the subject property or property owned by the landowner is platted or subdivision is approved by the City Council per the standards of the Northwest Area; or
 - b) The building shall be removed no later than 3 years after the property within a one quarter (1/4) mile radius is platted or a subdivision has been approved by the City Council per the standards of the Northwest Area; or
 - c) The building shall be removed no later than 3 years after the City Council approves a contract to extend the trunk sewer line to this property or property within a one quarter (1/4) mile radius; or
 - d) No later than 15 years after the approval of the Interim Use Permit, the building shall be removed from the property.
5. An interim use permit agreement shall be prepared by the City Attorney and shall be signed by the landowner and recorded with Dakota County prior to any construction of the agricultural building.

Passed this _____ day of _____, 2011.

AYES:

NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk

**INTERIM USE AGREEMENT BETWEEN
CITY OF INVER GROVE HEIGHTS AND GLEN L. SACHS**

THIS INTERIM USE AGREEMENT BETWEEN CITY OF INVER GROVE HEIGHTS AND GLEN SACHS (Agreement) is made, entered into and effective this 11th day of July, 2011, by and between the City of Inver Grove Heights, a Minnesota municipal corporation (hereafter referred to as City) and Glen L. Sachs a _____ person (hereafter referred to as Landowner). Subject to the terms and conditions hereafter stated and based on the representations, warranties, covenants, agreements and recitals of the parties herein contained, the parties do hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 **Terms.** The following terms, unless elsewhere specifically defined herein, shall have the following meanings as set forth below.

1.2 **City.** City means the City of Inver Grove Heights, a Minnesota municipal corporation.

1.3 **Landowner.** Landowner means Glen L. Sachs, a _____ person, and his successors and assigns.

1.4 **Landowner Property.** Landowner Property means the real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on Exhibit A attached hereto.

1.5 **Other Lands.** Other Lands means the real property located in the City of Inver Grove Heights, Dakota County, Minnesota legally described on Exhibit B attached hereto.

1.6 **Northwest Area Overlay Zoning District Ordinance.** Northwest Area Overlay Zoning District Ordinance means Title 10, Chapter 13, Article J of the Inver Grove Heights City Code.

ARTICLE 2
RECITALS

Recital No. 1. Landowner owns fee title to the Landowner Property.

Recital No. 2. Under City Planning Case No. 11-16 IUP, Landowner applied to the City for an interim use permit for an agricultural building on the Landowner Property.

Recital No. 3. The Landowner Property is zoned A – Agricultural District and is also zoned and subject to the Northwest Area Overlay Zoning District Ordinance.

Recital No. 4. Under the Northwest Area Overlay Zoning District Ordinance, an agricultural building on an agricultural zoned land is an interim use and requires an interim use permit.

Recital No. 5 Subject to the conditions hereafter stated in this Agreement, the City is willing to grant an interim use permit for an agricultural building on the Landowner Property.

Recital No. 6 Under Minnesota Statutes § 462.3597, Subd. 2, in order for the interim use permit to become effective, the Landowner must agree to the conditions that the City deems appropriate for the interim use permit. By this Agreement, the Landowner does agree to such conditions.

Recital No. 7 A public hearing concerning the interim use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statutes, Section 462.357, Subdivision 3 on July 5, 2011. The Planning Commission recommended approval of the interim use permit.

Recital No. 8 On July 11, 2011, the City Council granted the interim use permit, subject to the conditions imposed by the Council and subject to the requirement that this Agreement be executed and recorded.

Recital No. 9 The Landowner also has a real property interest in land lying to the south of the Landowner Property and in land on the west side of Argenta Trail lying east of the parcel that is south of the Landowner Property (all such lands being hereinafter defined as Other Lands).

ARTICLE 3
GRANT OF INTERIM USE PERMIT; IMPOSITION OF CONDITIONS

3.1 Grant of Interim Use Permit; Imposition of Conditions. The City hereby grants an interim use permit to construct an agricultural building on the Landowner Property subject to the following conditions:

1. The construction of the agricultural building shall consist of 36' x 48' post frame building with 4/12 roof pitch, cold storage, no heat or insulation, dirt floor, no plumbing or electricity and two – 12' doors. Sheet metal siding is an acceptable

exterior material. Location of the structure on the Landowner Property shall be in substantial conformance to the site plan dated June 3, 2011 and on file with the City's Planning Department.

2. The Chief Building Official shall determine if the structure requires a building permit.
3. The building shall be used for agricultural purposes only under the regulations of the City's agricultural zoning district and not for personal non-agricultural storage. The building shall not be used for commercial uses or storage related to a commercial use.
4. At the Landowner's expense, the building shall be removed from the Landowner Property upon any of the following events or times, whichever occurs first:
 - a) The building shall be removed no later than ___ years after the Landowner Property or Other Lands are platted or a subdivision thereof is approved by the City Council per the standards of the Northwest Area Overlay Zoning District Ordinance, or
 - b) The building shall be removed no later than ___ years after any land within a one quarter (1/4) mile radius of the Landowner Property is platted or a subdivision thereof has been approved by the City Council per the standards of the Northwest Area, or
 - c) The building shall be removed no later than ___ years after the City Council approves a construction contract to extend the trunk sewer line to the Landowner Property or land within a one quarter (1/4) mile radius of the Landowner Property, or
 - d) No later than July 11, 2026, the building shall be removed from the Landowner Property.

3.2 Landowner Acceptance of Conditions. The Landowner agrees to and accepts all the terms and conditions of the interim use permit as set forth in Section 3.1. The Landowner agrees to comply with all the terms and conditions of the interim use permit set forth in Section 3.1.

ARTICLE 4 **MISCELLANEOUS**

4.1 Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this recordable Agreement shall run with the Landowner Property and shall be binding upon the parties and the successors and assigns of the parties. This Agreement shall also be binding on and apply to any title, right and interest of the Landowner in the Landowner Property acquired by Landowner after the execution date of this Agreement or after the recording date of this Agreement.

4.2 Amendment and Waiver. The parties hereto may by mutual written agreement amend this Agreement in any respect. Any party hereto may extend the time for the performance of

any of the obligations of another, waive any inaccuracies in representations by another contained in this Agreement or in any document delivered pursuant hereto which inaccuracies would otherwise constitute a breach of this Agreement, waive compliance by another with any of the covenants contained in this Agreement, waive performance of any obligations by the other or waive the fulfillment of any condition that is precedent to the performance by the party so waiving of any of its obligations under this Agreement. Any agreement on the part of any party for any such amendment, extension or waiver must be in writing. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver.

4.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

4.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

4.5 Consent. Landowner consents to the recording of this Agreement.

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**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: July 5, 2011
SUBJECT: **XPAND IN – CASE NO. 11-16IUP**

Reading of Notice

Commissioner Simon read the public hearing notice to consider an interim use permit to construct an agricultural building on a residential lot in the Northwest Area for the property located at 1400 – 70th Street. 6 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the applicant is requesting to construct a 1,728 square foot agricultural building on his property which is in the Northwest Area (NWA). The NWA allows agricultural buildings via an Interim Use Permit (IUP). The intent of the IUP is to allow agricultural buildings but also to establish a time frame by which they must be removed as the NWA is expected to develop at urban density over the next 20 or more years. This is the first application for an IUP in the NWA and no policies or guidelines have been established so far to address the termination and removal of the building. She advised that the proposed structure has been purposely designed to be easily removed when development occurs. Staff recommends approval of the request with the conditions listed in the report, and they are asking for guidance from the Planning Commission regarding a time limit for removal of the structure for Condition 4.

Commissioner Simon asked if staff heard from any of the neighbors, to which Ms. Botten replied they did not.

Opening of Public Hearing

Jesse Moody, Shakopee, Minnesota, advised he was the contractor for the project and was available to answer any questions.

Chair Bartholomew asked what the property owner's thoughts were regarding when the building should be removed.

Mr. Moody stated he understood the property was located in the Northwest Area and was okay with the conditions with the understanding that he could come in for a one time extension if they so chose.

Commissioner Simon asked if the applicant would be charged fees if they applied for the one-time extension, to which Ms. Botten replied in the affirmative.

Commissioner Lissarrague asked how the IUP would be documented in the event of a transfer of ownership.

Ms. Botten replied that a new owner would be made aware of the IUP as it would be recorded

with the property.

Chair Bartholomew asked if the property owner was in agreement with the conditions listed in the report, to which Mr. Moody replied he believed he was.

Planning Commission Discussion

In regards to Condition 4, Chair Bartholomew recommended granting the applicant 15 years use total.

Commissioner Elsmore stated she would be inclined to make it a shorter period of time if there was a triggering event.

Chair Bartholomew recommended not filling in the blanks for Condition 4a, 4b, and 4c and instead allowing the property owner full use of his property for 15 years total.

Commissioner Hark asked what staff's recommendation of a 1-3 year timeframe for removal was based on.

Ms. Botten replied that staff felt 1-3 years would be an adequate amount of time for the property owner to prepare their site should one of the three events occur. She stated the City's ultimate goal is for this site to be low density urban development.

Commissioner Hark asked if the City had done any similar approvals in the past.

Ms. Botten advised that Sure Lock Storage on Highway 52 was given an IUP with similar criteria.

Commissioner Hark asked what those timeframes were.

Ms. Botten replied that she believed the timelines were similar to this request, with the total years before removal being 10 years.

Tom Link, Community Development Director, stated the intent of having a timeframe was to prevent conflicting land uses and to avoid hindering development.

Commissioner Hark stated the landowner was fully aware of the conditions and potential for development and would prefer a 3-4 year removal time after a triggering event.

Planning Commission Recommendation

Motion by Commissioner Hark, second by Commissioner Simon, to approve the request for an Interim Use Permit to construct an agricultural building on a residential lot in the Northwest Area **with the addition of a 3 year time limit on Conditions 4a, 4b, and 4c**, for the property located at 1400 – 70th Street.

Motion carried (7/0). This item goes to the City Council on July 11, 2011.

PLANNING REPORT CITY OF INVER GROVE HEIGHTS

REPORT DATE: June 27, 2011 **CASE NO:** 11-16IUP

HEARING DATE: July 5, 2011

APPLICANT/PROPERTY OWNER: Xpand Inc./Glen Sachs

REQUEST: Interim Use Permit for an Agricultural Building in the Northwest Overlay District

LOCATION: 1400 70th Street West

COMPREHENSIVE PLAN: Low Density Residential

ZONING: A, Agricultural
Northwest Area Overlay District

REVIEWING DIVISIONS: Planning

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

The applicant has requested an Interim Use Permit to construct a 1,728 square foot agricultural building to be used for agricultural purposes. The Northwest Area allows agricultural buildings by Interim Use Permit. The intent is to allow agricultural uses and buildings, but also establish a time frame by which they must be removed since the plan for the property and surrounding areas will be for sewer residential development.

In the 2007, the City Council adopted the Northwest Area Overlay District that directs planning in this portion of the City. The ordinance was established with a specific purpose and intent to regulate development. This section is recited below:

"Purpose and Intent. The Northwest Area Overlay District is established for the purpose of regulating development consistent with the City's Comprehensive Plan while creating cost-efficient storm sewer system. In accordance with the City's Comprehensive Plan and the Northwest Quadrant Study: City of Inver Grove Heights and South Robert Trail Neighborhood Association (prepared by Hoisington Koegler Group in 2001), the Northwest Area Overlay District will encourage development which provides:

- Diverse housing styles,
- Natural features as integral elements,
- Cluster development practices which preserve significant natural features,
- Pedestrian connections,
- Innovative storm water management practices,
- A reduction in impervious cover to maximize natural storm water infiltration,

- On-site retention of storm water, and
- Open space areas as development amenities.

EVALUATION OF REQUEST:

Surrounding Uses: The following land uses, zoning districts and comprehensive plan designations surround the subject property:

North Vacant/Ag land; zoned A; guided LDR and MDR

East Vacant/Ag land; zoned A; guided LDR

West Ag land; zoned A; guided LDR and MDR

South Ag land; zoned A; guided LDR

INTERIM USE PERMIT REVIEW

Specific interim uses are established in the Northwest Area Overlay District with purpose and intent defined as follows:

Interim Uses

“Purpose and Intent: The Northwest Areas Overlay District is envisioned to develop at urban development densities over the next 20 or more years. The premature development of this area in an estate type development pattern (large residential lots with sizes of 2.5 to 5.0 acres on private sanitary sewer systems and private wells) presents challenges to the efficiency and coherency of future development. In addition to rural development patterns, rural uses (boarding of horses, agricultural, etc.) that are incompatible with urban development will also pose challenges to the orderly development of the Northwest Area Planned Unit Development Overlay District. Consequently, it is the purpose of this subsection to establish interim uses that are appropriate to the Northwest Area Overlay District while preserving the reasonable use of private property.”

The uses that are allowed as interim uses include:

- Agricultural buildings
- Commercial greenhouses/nurseries
- Commercial horse stables
- Commercial kennels

General Interim Use Permit Criteria

The Zoning Ordinance provides four general criteria to review permit applications against:

1. *Determine that the use conforms to this section;*

The Northwest Area Overlay District establishes that agricultural buildings are allowed as an interim use. The applicant has indicated that the use of the building is to house tractors that are

used for farming their land. The land owner owns approximately 37 acres of land total. Some of the land is on either side of Argenta Trail to the west of where the ag building would be located. The owner also owns land to the south of the proposed location. The structure would be a simple pole construction with metal siding, dirt floor, no electricity or water. The structure would be 1,728 square feet in size. The size of the proposed building is not much larger than what could be obtained if the building was just a standard accessory structure. At this location zoning would allow an accessory structure of up to 1,600 square feet if it were used for personal non-ag storage with only a building permit. The structure proposed is purposely designed to be easily removed when development occurs. The building would be located near the vicinity of the existing house and meets setbacks. Its location would have minimal impact on development of the surrounding properties.

2. *Specify a date and/or event that will terminate the use;*

This is the first application for an interim use since adoption of the ordinance almost four years ago. Therefore, no policies or guidelines have been established to address termination of the use and removal of buildings. Because the event or time frame will occur sometime in the future, an interim use agreement will be drafted by the City Attorney to spell out the details of the permit. This document would be required to be signed by the landowner and would be recorded with the property prior to the construction of the building. Staff and the City Attorney discussed the event time frame and came up with some options that could be arranged in the document as a list of events that must occur to trigger the removal of the building. The building shall be removed from the property subject to the following events, whichever occurs first:

- a) The building shall be removed no later than ___ years after the subject property or property owned by the landowner is platted or subdivision is approved by the City Council per the standards of the Northwest Area, or
- b) The building shall be removed no later than ___ years after the property within a one quarter (1/4) mile radius is platted or a subdivision has been approved by the City Council per the standards of the Northwest Area, or
- c) The building shall be removed no later than ___ years after the City Council approves a contract to extend the trunk sewer line to this property or property within a one quarter (1/4) mile radius, or
- d) No later than 15 years after the approval of the Interim Use Permit, the building shall be removed from the property.

While there are no applications in at the present time for further development in the Northwest area, it is important to note that the City Council just recently approved a feasibility study that could extend city sewer along 70th Street on the west side of Hwy. 3 to some of the properties that are on the north side of 70th Street, opposite the subject property. We also have been talking from time to time, to other landowners in the area who are looking at development.

The agricultural building is allowed by interim use in the Northwest Area. These uses are seen as acceptable only while the character of the site and surrounding properties remains as open space or agricultural as they are today. Once sewer is extended and residential development begins, these agricultural uses and associated buildings will not be compatible in the future. We think the time frame criteria allows the building for a period of time, but also protects the City so we are not creating obstacles or incompatibilities for development of the subject property or surrounding properties.

3. *Determine that the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.*

The property owner has intentionally designed the building as a minimal improvement so it is easily removed. Due to the small size of the structure, limited improvements and location on the site, the building would not impose additional costs to the public when development occurs.

4. *Impose other appropriate conditions that the city council deems appropriate to regulate the use of the property without significant adverse impact to the surrounding properties.*

As the application goes through the public hearing process, there may be conditions that are appropriate to include with the permit to minimize impacts to surrounding properties. Staff suggests a condition is included to make clear the building is to be used only for agricultural purposes and not for personal storage or for any other business. The applicant must verify with the Building Official if the structure requires a building permit.

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. **Approval.** If the Planning Commission favors the request, the Commission should recommend approval of the following requests:

- Approval of the Interim Use Permit to allow an agricultural building in the Northwest Area Overlay District subject to the following conditions:
 1. The construction of the agricultural building shall consist of 36' x 48' post frame building with 4/12 roof pitch, cold storage, no heat or insulation, dirt floor, no plumbing or electricity and two - 12' doors. Sheet metal siding is an acceptable exterior material. Location of the structure on the property shall be in substantial conformance to the site plan dated June 3, 2011 and on file with the Planning Department.
 2. The Chief Building Official shall determine if the structure requires a building permit.

3. The building shall be used for Agricultural purposes only and not for personal non-agricultural storage. The building shall not be used for commercial uses or storage related to a commercial use.
 4. The building shall be removed from the property subject to the following events or time frame, whichever occurs first:
 - a) The building shall be removed no later than ___ years after the subject property or property owned by the landowner is platted or subdivision is approved by the City Council per the standards of the Northwest Area, or
 - b) The building shall be removed no later than ___ years after the property within a one quarter (1/4) mile radius is platted or a subdivision has been approved by the City Council per the standards of the Northwest Area, or
 - c) The building shall be removed no later than ___ years after the City Council approves a contract to extend the trunk sewer line to this property or property within a one quarter (1/4) mile radius, or
 - d) No later than 15 years after the approval of the Interim Use Permit, the building shall be removed from the property.
 5. An interim use permit agreement shall be prepared by the City Attorney and shall be signed by the landowner and recorded with Dakota County prior to any construction of the agricultural building.
- B. **Denial** If the Planning Commission does not favor the proposed application the above request should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Staff recommends approval of the request as presented with the conditions listed in the report. Since this is the first interim use permit in the Northwest Area Overlay District, the Planning Commission may chose to add additional conditions it finds necessary. If the Planning Commission agrees with the criteria found in condition #4, then a reasonable time frame should be given for the building to be removed after the specific event. One to three years may be some time frames to consider.

Attachments: Exhibit A – Location Map
Exhibit B – Site Plan
Exhibit C – ¼ Mile Spacing Map

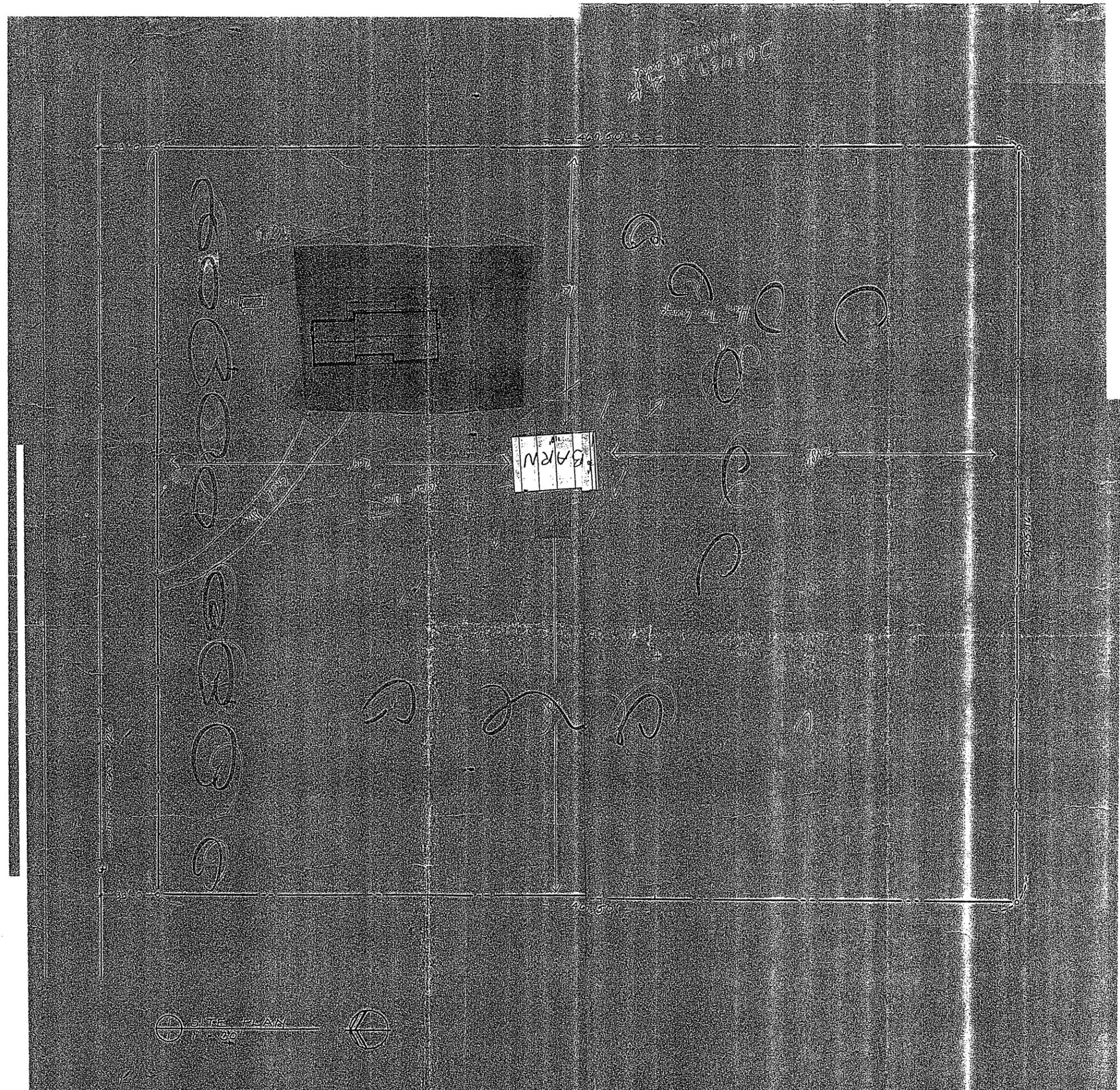


Location Map

Case No. 11-16IUP



720
117
95 18901
8 151720



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: July 11, 2011
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to an Ordinance Amendment to the City Code relating to the criteria for granting a Variance.

- Requires 3/5th's vote.

SUMMARY

In June 2010 the Minnesota Supreme Court issued a decision in a Minnetonka land use dispute that dramatically affected the ability of cities to issue zoning variances. That decision made it very difficult for local governments to find a hardship to approve a variance. Since the then existing state statute language was so restrictive, there was pressure put on the Legislature to amend the language to allow local governments some flexibility to grant variances.

In May of this year, the Governor signed into law revised variance language that now looks at "practical difficulties" rather than the old standard of "hardship".

ANALYSIS

The City attorney has prepared a proposed ordinance amendment to make the City's variance regulations consistent with State Statutes. The City Attorney has drafted a cover memo (attached to planning report) to help explain the differences.

RECOMMENDATION

Planning Staff: Due to the nature of the ordinance, staff is recommending Council waive the standard three readings and approve the Ordinance Amendment as presented on one reading.

Planning Commission: Planning Commission recommends approval of the request (9-0).

Attachments: Ordinance Amendment
 Planning Commission Recommendation
 Planning Report

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE TITLE 10, CHAPTER 3, ARTICLE 4 REGARDING VARIANCES FROM THE ZONING ORDINANCE; TITLE 10, CHAPTER 13, ARTICLE B, SUBPART 6, PROVISION D REGARDING VARIANCES IN THE SHORELAND MANAGEMENT OVERLAY DISTRICT; TITLE 10, CHAPTER 13, ARTICLE G, PROVISION D REGARDING VARIANCES IN THE SAND AND GRAVEL OVERLAY DISTRICT; TITLE 10, CHAPTER 15, ARTICLE J, SUBPART 5 REGARDING MINOR PROJECTS; TITLE 10, CHAPTER 16, ARTICLE 5, SUBPART A REGARDING ENLARGEMENT AND ALTERATIONS OF NONCONFORMITIES; AND TITLE 11, CHAPTER 1, ARTICLE 5 REGARDING SUBDIVISION REGULATION VARIANCES

The City Council of Inver Grove Heights does hereby ordain:

Section 1. Amendment. Title 10 Chapter 3, Article 4 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-3-4: VARIANCES:

A. Authority: Pursuant to Minnesota Statutes, Section 462.357, subd. 6, as it may be amended, the council may grant variances from the strict application of the provisions of this title and impose conditions on the variances so granted, where practical difficulties in complying with the zoning ordinance exist and where the standards contained in this chapter for granting a variance have been met. The authority to grant a variance also includes the authority to grant a variance from the restrictions placed on nonconformities..

B. Application And Procedure: Application for a variance shall be filed with the planning division for scheduling before the planning commission and city council. The council and planning commission may hold a public hearing on the variance request if they deem it necessary or advisable. Where the planning commission or city council shall determine that a public hearing is necessary or advisable, the application, public hearing, notice and procedure requirements for variances shall be the same as for amendments set forth in section 10-3-5 of this chapter. The city council shall act upon the application within the time limits established by Minnesota statutes section 15.99.

C. Referral To Planning Commission: Before authorization of any variances, the request therefor shall be referred to the planning commission for study concerning the effect of the proposed variance upon the comprehensive guide plan and on the character and development of the

neighborhood and for its recommendation to the council in connection with such request. The planning commission shall make its recommendation after the request is referred to it, and if no recommendation is made within that time, the council may act without the recommendation. The planning commission may recommend such conditions related to the variance regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable. (Ord. 1098, 11-8-2004)

D. Approval Or Denial Of Variance:

1. a. The planning commission may recommend to approve, approve with conditions, or deny a request for a variance. The city council may deny or approve such variances and impose conditions thereon.

b. Variances shall only be granted

(1) When they are in harmony with the general purposes and intent of the zoning and subdivision ordinances; and

(2) When the variances are consistent with the comprehensive plan.

c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

d. "Practical Difficulties," as used in connection with the granting of a variance, means that:

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

e. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes Section 216C.06, subd. 14, when in harmony with the zoning ordinance.

f. The council may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

g. The council may permit as a variance the temporary use of a one family dwelling as a two family dwelling.

h. The council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

i. Approval of a variance shall require a majority of the city council present. (Ord. 1221, 11-8-2010)

2. The council may deny variances, and such denial shall constitute a finding and determination that the conditions required for approval do not exist.

E. Violation; Termination Of Variance: A violation of any condition set forth in granting a variance shall be a violation of this title and also automatically terminates the variance.

F. Lapse Of Variance: A variance shall become void two (2) years after it was granted unless made use of within two (2) years or such longer period as the council, within two (2) years, may provide. The city council may grant a single one year extension, the request for which must be submitted to the city planning division at least sixty (60) days prior to the date upon which the variance would become void. (Ord. 1098, 11-8-2004)

Section 2. Amendment. Title 10 Chapter 13, Article B, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances:

1. Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

2. The city shall hear and decide requests for variances, including variances for sewage treatment systems in shoreland districts, in accordance with the rules that the city has adopted for consideration of variances in section 10-3-4 of this title. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection E of this section shall also include the summary of the public record/testimony and the findings of fact and conclusions, which supported the issuance of the variance.

3. For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. All variances granted shall require reconstruction of a nonconforming sewage treatment system.

Section 3. Amendment. Title 10, Chapter 13, Article G, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

Section 4. Amendment. Title 10, Chapter 16, Article 5, Subpart A of the Inver Grove Heights City Code is hereby amended to read as follows:

10-16-5: ENLARGEMENT; ALTERATIONS:

A. A lawfully existing nonconforming structure or structure containing a legally existing nonconforming use may expand its gross floor area by ten percent (10%) if the following criteria are satisfied:

1. A complete building permit application shall be submitted to the building inspections division, found satisfactory and issued prior to the commencement of any work on the expansion.
2. The structure expansion shall meet all of the bulk standards for the zoning district within which the structure is located. A variance may be applied for if the structure expansion could not meet the respective bulk standards. Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.
3. If an expansion is requested under this subsection, the city may impose standards and/or conditions upon the underlying nonconforming use or structure for purposes of health, safety or welfare.

Section 5. Amendment. Title 10, Chapter 15, Article J, Subpart 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-15J-5: MINOR PROJECTS:

B. Procedure: Administrative review approval of eligible site plans shall be subject to the following procedural requirements:

1. Plan review will be in accordance with established procedures including the coordinated review by other city departments and divisions as determined by the zoning administrator.
2. Site plans involving properties within approved planned unit developments shall be subject to applicable evaluation criteria in this article.
3. Any variance proposal will automatically require the entire application to be processed in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.
4. Administrative approval including all applicable conditions and requirements shall be made in writing by the zoning administrator. The applicant, in addition to all other applicable requirements, shall submit a written acknowledgment of that approval prior to the commencement of any development and prior to the issuance of any permits.

5. Any unresolved dispute as to administrative interpretation of this code, this title, or policy requirements may be formally appealed pursuant to this article.

6. Site plans involving conditionally permitted uses are subject to the review requirements found in chapter 3, article A of this title.

Section 6. Amendment. Title 11, Chapter 1, Article 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

A. Permitted Variances:

1. Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.. (Ord. 1038, 7-8-2002)

2. Large Scale Developments: The standards and requirements of this title may be modified by the city council in the case of a plan and program for a neighborhood unit which, in the judgment of the city council, will provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which will also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. 1038, 7-8-2002; amd. 2008 Code)

(Ord. 1038, 7-8-2002)

Section 6. Effective Date. This ordinance shall be in force and effect upon its adoption and publication according to law.

Passed this ____ day of _____, 2011.

George Tourville, Mayor

ATTEST:

Melissa Rheume, Deputy City Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: July 21, 2011
SUBJECT: City of Inver Grove Heights – Case No. 11-15ZA

Reading of Notice

Commissioner Simon read the public hearing notice to consider an ordinance amendment to Chapter 10-3-4 of the City Code (Zoning Ordinance) relating to criteria granting a variance. No notices were mailed.

Presentation of Request

Allan Hunting, City Planner, advised that Tim Kuntz would present a summary of the revised variance language which was recently signed into law.

Tim Kuntz, City Attorney, explained the request as detailed in the report. He advised that the Minnesota Legislature revised the variance language to allow a municipality to grant a variance when 'practical difficulties' exist in complying with the zoning ordinance as opposed to the old standard of 'undue hardship'. He advised that the County statute was changed as well to have relatively similar standards to that of municipalities. He advised that the new standards for granting a variance include: 1) The variance has to be in harmony with the general purpose and intent of the zoning ordinance, 2) The variance must be consistent with the Comprehensive Plan, 3) The applicant must show there are 'practical difficulties' in complying with the zoning ordinance, 4) The variance may not allow a use not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located, 5) the City may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance, and 6) The authority to grant a variance includes the authority to grant a variance from restrictions placed on non-conformities. He noted that the criteria for a 'practical difficulty' include: a) Property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance, b) The plight of the landowner is due to circumstances unique to the property not created by the owner, c) The variance will not alter the essential character of the locality, and d) Economic considerations alone do not constitute practical difficulties. He stated that the Commission will likely spend a great deal of time discussing what is 'reasonable', whether the circumstances are unique to the property, and the imposing of conditions which are directly related to and bear a rough proportionality to the impact created by the variance. Mr. Kuntz recommended approval of the ordinance amendment.

Commissioner Wippermann asked if the City had the ability to establish more or less restrictive standards than the State provision.

Mr. Kuntz replied that the general consensus is that the City's authority to grant a variance could not be more or less restrictive than State Statute.

Commissioner Wippermann stated he was concerned that the revised language would make the

process more subjective and that property owners could circumvent zoning requirements by requesting variances.

Mr. Kuntz replied that property owners would have the difficult task of proving uniqueness. He advised that if a situation arose where applications were continually being denied because of a specific zoning requirement there were other zoning tools they could use rather than the variance process (i.e. conditional use permit).

Chair Bartholomew stated he supported the request.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Scales, to approve the ordinance amendment to Chapter 10-3-4 of the City Code (Zoning Ordinance) relating to criteria granting a variance.

Motion carried (9/0). This item goes to the City Council on July 11, 2011.

**LEVANDER,
GILLEN &
MILLER, P.A.**

ATTORNEYS AT LAW

TIMOTHY J. KUNTZ
DANIEL J. BEESON
*KENNETH J. ROHLF
◊STEPHEN H. FOCHLER
✦JAY P. KARLOVICH
ANGELA M. LUTZ AMANN
*KORINE L. LAND
ANN C. O'REILLY
◻*DONALD L. HOEFT
DARCY M. ERICKSON
DAVID S. KENDALL
BRIDGET McCAULEY NASON
DAVID B. GATES
•
HAROLD LEVANDER
1910-1992
•
ARTHUR GILLEN
1919-2005
•
• ROGER C. MILLER
1924-2009

MEMO

*ALSO ADMITTED IN WISCONSIN
✦ALSO ADMITTED IN NORTH DAKOTA
◻ALSO ADMITTED IN MASSACHUSETTS
◻ALSO ADMITTED IN OKLAHOMA

TO: Inver Grove Heights Planning Commission
FROM: Timothy J. Kuntz
DATE: June 17, 2011
RE: Revised Variance Ordinance

Last fall, we met and discussed the revisions to be made to the City's variance ordinance in light of the Minnesota Supreme Court decision in the Krummenacher case. During the past legislative session, the Minnesota Legislature responded to the decision in that case, and enacted a law revising Minn. Stat. § 462.357, which now allows a municipality to grant a variance when "practical difficulties" exist in complying with the zoning ordinance. The attached draft ordinance will bring the City Code provisions related to variances in line with this new standard for granting a variance. The new standards for granting a variance are outlined below:

1. The variance must be in harmony with the general purposes and intent of the Zoning Ordinance.
2. The variance must be consistent with the Comprehensive Plan.
3. The applicant must show that there are "practical difficulties" in complying with the Zoning Ordinance:
 - a. Property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
 - b. The plight of the landowner is due to circumstances unique to the property not created by the owner.
 - c. The variance will not alter the essential character of the locality.
 - d. Economic considerations alone do not constitute practical difficulties.
4. The variance may not allow a use not allowed under the Zoning Ordinance for property in the zone where the affected person's land is located.
5. The City may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE TITLE 10, CHAPTER 3, ARTICLE 4 REGARDING VARIANCES FROM THE ZONING ORDINANCE; TITLE 10, CHAPTER 13, ARTICLE B, SUBPART 6, PROVISION D REGARDING VARIANCES IN THE SHORELAND MANAGEMENT OVERLAY DISTRICT; TITLE 10, CHAPTER 13, ARTICLE G, PROVISION D REGARDING VARIANCES IN THE SAND AND GRAVEL OVERLAY DISTRICT; TITLE 10, CHAPTER 15, ARTICLE J, SUBPART 5 REGARDING MINOR PROJECTS; TITLE 10, CHAPTER 16, ARTICLE 5, SUBPART A REGARDING ENLARGEMENT AND ALTERATIONS OF NONCONFORMITIES; AND TITLE 11, CHAPTER 1, ARTICLE 5 REGARDING SUBDIVISION REGULATION VARIANCES

The City Council of Inver Grove Heights does hereby ordain:

Section 1. Amendment. Title 10 Chapter 3, Article 4 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-3-4: VARIANCES:

A. Authority: Pursuant to Minnesota Statutes, Section 462.357, subd. 6, as it may be amended, the council may grant variances from the strict application of the provisions of this title and impose conditions on the variances so granted, where practical difficulties in complying with the zoning ordinance exist and where the standards contained in this chapter for granting a variance have been met. The authority to grant a variance also includes the authority to grant a variance from the restrictions placed on nonconformities.

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Deleted: and safeguards in

Deleted: where practical difficulties or undue hardships result from carrying out the strict letter of the regulations of this title

B. Application And Procedure: Application for a variance shall be filed with the planning division for scheduling before the planning commission and city council. The council and planning commission may hold a public hearing on the variance request if they deem it necessary or advisable. Where the planning commission or city council shall determine that a public hearing is necessary or advisable, the application, public hearing, notice and procedure requirements for variances shall be the same as for amendments set forth in section 10-3-5 of this chapter. The city council shall act upon the application within the time limits established by Minnesota statutes section 15.99.

C. Referral To Planning Commission: Before authorization of any variances, the request therefor shall be referred to the planning commission for study concerning the effect of the proposed variance upon the comprehensive guide plan and on the character and development of the

neighborhood and for its recommendation to the council in connection with such request. The planning commission shall make its recommendation after the request is referred to it, and if no recommendation is made within that time, the council may act without the recommendation. The planning commission may recommend such conditions related to the variance regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable. (Ord. 1098, 11-8-2004)

D. Approval Or Denial Of Variance:

1. a. The planning commission may recommend to approve, approve with conditions, or deny a request for a variance. The city council may deny or approve such variances and impose conditions thereon.

b. Variances shall only be granted

(1) When they are in harmony with the general purposes and intent of the zoning and subdivision ordinances; and

(2) When the variances are consistent with the comprehensive plan.

c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

d. "Practical Difficulties," as used in connection with the granting of a variance, means that:

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

e. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes Section 216C.06, subd. 14, when in harmony with the zoning ordinance.

f. The council may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

g. The council may permit as a variance the temporary use of a one family dwelling as a two family dwelling.

h. The council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

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Deleted: In making its recommendation, the planning commission shall consider the following factors and the city council, in acting upon a request for a variance, shall only grant a variance if the applicant demonstrates to the city council that the following factors have been met:

Deleted: That circumstances exist that are special and unique to the structure or land under consideration and such circumstances do not apply generally to other land or structures in the district in which the subject structure or land is located.

Deleted: That the granting of the application will not be contrary to the spirit and intent of this title and the comprehensive plan.

Deleted: (3) That the granting of such variance is necessary as a result of a demonstrated undue hardship and will not merely serve as a convenience to the applicant. Undue hardship means that all of the following circumstances exist:

Deleted: (A) The subject property cannot be put to a reasonable, beneficial use unless the variance is granted.¶

(B) The plight of the landowner is due to circumstances unique to the subject property not created by the landowner.¶

(C) The variance, if granted, will not alter the essential character of the locality.¶

(4) That economic considerations alone do not constitute an undue hardship if reasonable beneficial use for the subject property exists under the terms of this title. ¶

b. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.¶

c

Deleted: A variance shall be granted for earth shelter construction as defined in Minnesota statutes section 216C.06, subdivision 14 when such construction and variance are in harmony with this title.¶

d. A variance may not permit any use that is not permitted under this title for property in the zone where the affected person's land is located.¶

e. A variance may permit the temporary use of a one-family dwelling as a two-family dwelling.¶

f. The council may impose conditions in the granting of a variance to ensure compliance and to protect adjacent properties.

j. Approval of a variance shall require a majority of the city council present. (Ord. 1221, 11-8-2010)

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2. The council may deny variances, and such denial shall constitute a finding and determination that the conditions required for approval do not exist.

E. Violation; Termination Of Variance: A violation of any condition set forth in granting a variance shall be a violation of this title and also automatically terminates the variance.

F. Lapse Of Variance: A variance shall become void two (2) years after it was granted unless made use of within two (2) years or such longer period as the council, within two (2) years, may provide. The city council may grant a single one year extension, the request for which must be submitted to the city planning division at least sixty (60) days prior to the date upon which the variance would become void. (Ord. 1098, 11-8-2004)

Section 2. Amendment. Title 10 Chapter 13, Article B, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances:

1. Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

2. The city shall hear and decide requests for variances, including variances for sewage treatment systems in shoreland districts, in accordance with the rules that the city has adopted for consideration of variances in section 10-3-4 of this title. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection E of this section shall also include the summary of the public record/testimony and the findings of fact and conclusions, which supported the issuance of the variance.

3. For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. All variances granted shall require reconstruction of a nonconforming sewage treatment system.

Deleted: Variances may be granted only in accordance with Minnesota statutes chapter 462. A variance shall not circumvent the general purposes and intent of this article. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the city council will also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Section 3. Amendment. Title 10, Chapter 13, Article G, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

Section 4. Amendment. Title 10, Chapter 16, Article 5, Subpart A of the Inver Grove Heights City Code is hereby amended to read as follows:

Deleted: The council may grant variances to any provision of this article where the intent and purpose is being met and where compliance would cause an undue hardship. In the granting of said variance, the council may impose special conditions.

10-16-5: ENLARGEMENT; ALTERATIONS:

A. A lawfully existing nonconforming structure or structure containing a legally existing nonconforming use may expand its gross floor area by ten percent (10%) if the following criteria are satisfied:

1. A complete building permit application shall be submitted to the building inspections division, found satisfactory and issued prior to the commencement of any work on the expansion.

2. The structure expansion shall meet all of the bulk standards for the zoning district within which the structure is located. A variance may be applied for if the structure expansion could not meet the respective bulk standards. Variations may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

Deleted: The variance application and its review by the city shall be regulated according to section 10-3-4 of this title.

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3. If an expansion is requested under this subsection, the city may impose standards and/or conditions upon the underlying nonconforming use or structure for purposes of health, safety or welfare.

Section 5. Amendment. Title 10, Chapter 15, Article J, Subpart 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-15J-5: MINOR PROJECTS:

B. Procedure: Administrative review approval of eligible site plans shall be subject to the following procedural requirements:

1. Plan review will be in accordance with established procedures including the coordinated review by other city departments and divisions as determined by the zoning administrator.

2. Site plans involving properties within approved planned unit developments shall be subject to applicable evaluation criteria in this article.

3. Any variance proposal will automatically require the entire application to be processed, in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

Deleted: in accordance with the planning commission review and city council approval provisions of section 10-3-4 of this title.

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4. Administrative approval including all applicable conditions and requirements shall be made in writing by the zoning administrator. The applicant, in addition to all other applicable requirements, shall submit a written acknowledgment of that approval prior to the commencement of any development and prior to the issuance of any permits.

5. Any unresolved dispute as to administrative interpretation of this code, this title, or policy requirements may be formally appealed pursuant to this article.

6. Site plans involving conditionally permitted uses are subject to the review requirements found in chapter 3, article A of this title.

Section 6. Amendment. Title 11, Chapter 1, Article 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

A. Permitted Variances:

1. ~~Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.~~
(Ord. 1038, 7-8-2002)

Deleted: Hardship Cases

Deleted: The design standards in this title are to be followed unless the city council shall permit a variance

2. Large Scale Developments: The standards and requirements of this title may be modified by the city council in the case of a plan and program for a neighborhood unit which, in the judgment of the city council, will provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which will also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. 1038, 7-8-2002; amd. 2008 Code)

Deleted: because of unusual hardship due to the topography, placement of buildings or other factors making it reasonable to vary the standards set forth herein without nullifying the intent and purpose of the comprehensive plan or this title

(Ord. 1038, 7-8-2002)

Deleted: B. Conditions Of Variances: In granting variances and modifications, the city council may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified.

Section 6. Effective Date. This ordinance shall be in force and effect upon its adoption and publication according to law.

Passed this ____ day of _____, 2011.

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy City Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING INVER GROVE HEIGHTS CITY CODE TITLE 10,
CHAPTER 3, ARTICLE 4 REGARDING VARIANCES FROM THE ZONING
ORDINANCE; TITLE 10, CHAPTER 13, ARTICLE B, SUBPART 6, PROVISION D
REGARDING VARIANCES IN THE SHORELAND MANAGEMENT OVERLAY
DISTRICT; TITLE 10, CHAPTER 13, ARTICLE G, PROVISION D REGARDING
VARIANCES IN THE SAND AND GRAVEL OVERLAY DISTRICT; TITLE 10,
CHAPTER 15, ARTICLE J, SUBPART 5 REGARDING MINOR PROJECTS; TITLE 10,
CHAPTER 16, ARTICLE 5, SUBPART A REGARDING ENLARGEMENT AND
ALTERATIONS OF NONCONFORMITIES; AND TITLE 11, CHAPTER 1, ARTICLE 5
REGARDING SUBDIVISION REGULATION VARIANCES**

The City Council of Inver Grove Heights does hereby ordain:

Section 1. Amendment. Title 10 Chapter 3, Article 4 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-3-4: VARIANCES:

A. Authority: Pursuant to Minnesota Statutes, Section 462.357, subd. 6, as it may be amended, the council may grant variances from the strict application of the provisions of this title and impose conditions on the variances so granted, where practical difficulties in complying with the zoning ordinance exist and where the standards contained in this chapter for granting a variance have been met. The authority to grant a variance also includes the authority to grant a variance from the restrictions placed on nonconformities..

B. Application And Procedure: Application for a variance shall be filed with the planning division for scheduling before the planning commission and city council. The council and planning commission may hold a public hearing on the variance request if they deem it necessary or advisable. Where the planning commission or city council shall determine that a public hearing is necessary or advisable, the application, public hearing, notice and procedure requirements for variances shall be the same as for amendments set forth in section 10-3-5 of this chapter. The city council shall act upon the application within the time limits established by Minnesota statutes section 15.99.

C. Referral To Planning Commission: Before authorization of any variances, the request therefor shall be referred to the planning commission for study concerning the effect of the proposed variance upon the comprehensive guide plan and on the character and development of the

neighborhood and for its recommendation to the council in connection with such request. The planning commission shall make its recommendation after the request is referred to it, and if no recommendation is made within that time, the council may act without the recommendation. The planning commission may recommend such conditions related to the variance regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable. (Ord. 1098, 11-8-2004)

D. Approval Or Denial Of Variance:

1. a. The planning commission may recommend to approve, approve with conditions, or deny a request for a variance. The city council may deny or approve such variances and impose conditions thereon.

b. Variances shall only be granted

(1) When they are in harmony with the general purposes and intent of the zoning and subdivision ordinances; and

(2) When the variances are consistent with the comprehensive plan.

c. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

d. "Practical Difficulties," as used in connection with the granting of a variance, means that:

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

(3) The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

e. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes Section 216C.06, subd. 14, when in harmony with the zoning ordinance.

f. The council may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located.

g. The council may permit as a variance the temporary use of a one family dwelling as a two family dwelling.

h. The council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

i. Approval of a variance shall require a majority of the city council present. (Ord. 1221, 11-8-2010)

2. The council may deny variances, and such denial shall constitute a finding and determination that the conditions required for approval do not exist.

E. Violation; Termination Of Variance: A violation of any condition set forth in granting a variance shall be a violation of this title and also automatically terminates the variance.

F. Lapse Of Variance: A variance shall become void two (2) years after it was granted unless made use of within two (2) years or such longer period as the council, within two (2) years, may provide. The city council may grant a single one year extension, the request for which must be submitted to the city planning division at least sixty (60) days prior to the date upon which the variance would become void. (Ord. 1098, 11-8-2004)

Section 2. Amendment. Title 10 Chapter 13, Article B, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances:

1. Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

2. The city shall hear and decide requests for variances, including variances for sewage treatment systems in shoreland districts, in accordance with the rules that the city has adopted for consideration of variances in section 10-3-4 of this title. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection E of this section shall also include the summary of the public record/testimony and the findings of fact and conclusions, which supported the issuance of the variance.

3. For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. All variances granted shall require reconstruction of a nonconforming sewage treatment system.

Section 3. Amendment. Title 10, Chapter 13, Article G, Subpart 6, Provision D of the Inver Grove Heights City Code is hereby amended to read as follows:

D. Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.

Section 4. Amendment. Title 10, Chapter 16, Article 5, Subpart A of the Inver Grove Heights City Code is hereby amended to read as follows:

10-16-5: ENLARGEMENT; ALTERATIONS:

A. A lawfully existing nonconforming structure or structure containing a legally existing nonconforming use may expand its gross floor area by ten percent (10%) if the following criteria are satisfied:

1. A complete building permit application shall be submitted to the building inspections division, found satisfactory and issued prior to the commencement of any work on the expansion.
2. The structure expansion shall meet all of the bulk standards for the zoning district within which the structure is located. A variance may be applied for if the structure expansion could not meet the respective bulk standards. Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.
3. If an expansion is requested under this subsection, the city may impose standards and/or conditions upon the underlying nonconforming use or structure for purposes of health, safety or welfare.

Section 5. Amendment. Title 10, Chapter 15, Article J, Subpart 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

10-15J-5: MINOR PROJECTS:

B. Procedure: Administrative review approval of eligible site plans shall be subject to the following procedural requirements:

1. Plan review will be in accordance with established procedures including the coordinated review by other city departments and divisions as determined by the zoning administrator.
2. Site plans involving properties within approved planned unit developments shall be subject to applicable evaluation criteria in this article.
3. Any variance proposal will automatically require the entire application to be processed in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.
4. Administrative approval including all applicable conditions and requirements shall be made in writing by the zoning administrator. The applicant, in addition to all other applicable requirements, shall submit a written acknowledgment of that approval prior to the commencement of any development and prior to the issuance of any permits.

5. Any unresolved dispute as to administrative interpretation of this code, this title, or policy requirements may be formally appealed pursuant to this article.

6. Site plans involving conditionally permitted uses are subject to the review requirements found in chapter 3, article A of this title.

Section 6. Amendment. Title 11, Chapter 1, Article 5 of the Inver Grove Heights City Code is hereby amended to read as follows:

A. Permitted Variances:

1. Variances: Variances may be granted from the strict provisions of this article in the manner and subject to the standards provided for granting variances by section 10-3-4 of the City Code.. (Ord. 1038, 7-8-2002)

2. Large Scale Developments: The standards and requirements of this title may be modified by the city council in the case of a plan and program for a neighborhood unit which, in the judgment of the city council, will provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which will also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan. (Ord. 1038, 7-8-2002; amd. 2008 Code)

(Ord. 1038, 7-8-2002)

Section 6. Effective Date. This ordinance shall be in force and effect upon its adoption and publication according to law.

Passed this _____ day of _____, 2011.

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy City Clerk

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: July 11, 2011
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to an Ordinance Amendment to change the zoning of two city owned parcels from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District. Properties located at 8336 Babcock Trail and along 7400 block of River Road.

- Requires 3/5th's vote.

SUMMARY

Earlier this year, the Council approved an amendment to the Zoning Ordinance to allow outdoor storage on Public zoned property for local governmental use. The Council approved outdoor storage to be utilized on six sites that are either currently being used for storage or have been used in the past. These six sites have been used to store trees, brush, soil and some materials used for city projects over the years. Of the six sites identified, four were already zoned P, Institutional. The two sites being reviewed now are zoned Agricultural and Residential. Both sites are guided in the Comp Plan as Park or Public/Institutional. The City Council directed staff to hold a public hearing to rezone the two sites to P, Institutional.

The two sites in question are; Site 1) property at the end of Babcock Trail behind the Public Works Maintenance facility also known as the Kuchera Property and Site 2) the old waste water treatment plant property located between River Road and Dickman Trail at the 7400 block also known as the Gish Property.

ANALYSIS

The two properties are guided Public/Institutional and Park and the rezoning would be consistent with these two designations. The Gish property has been used for storage over many years and the Kuchera property would be a primary location for ash tree storage if needed.

RECOMMENDATION

Planning Staff: Recommends approval of the Rezoning as presented.

Planning Commission: Planning Commission recommends approval of the rezonings (7-2) but with the comment that the sites be reviewed by the City for possible clean up of old debris.

Attachments: Ordinance Amendment
 Planning Commission Recommendation
 Planning Report

CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 10, CHAPTER 4 (ZONING MAP) OF THE
INVER GROVE HEIGHTS CITY CODE

CASE NO. 11-14Z
(City of Inver Grove Heights)

The City Council of Inver Grove Heights ordains as follows:

SECTION I. Ordinance No. 1190 adopted July 27, 2009, entitled, "AN ORDINANCE ADOPTING THE RECODIFICATION OF THE INVER GROVE HEIGHTS CITY CODE INCLUDING THE CITY ZONING ORDINANCE, is hereby amended to rezone the following described properties located within the City of Inver Grove Heights from A, Agricultural District and R-1B, Single Family District to P, Institutional District , to wit:

Tax Parcel 20-01600-31-021

Pt of SW ¼ of NW ¼ Beginning W line 888.48 feet N of SW Corner E 415 feet S 242.48 feet W 415 ft N to Beginning. Also Pt of SE ¼ of NE ¼ Section 17-27-22 lying E of centerline of CR #73 and N of R/W STH 52/55 and S of N line of 1st Description Ex Par 204E STH R/W 19-111. Section 16, Range 22, Township 22

Tax Parcel 20-01100-25-030

N 2/3 of Lot 7 Ex 3.5 A RR EX N 1/3 of Lot 7 E of RR EX W of RR. Section 11, Range 22, Township 27

Tax Parcel 20-01100-25-041

S 1/3 of Lot 7 E of W line of G.T. RD #21 Ex S 40 feet W of W R/W Doane Trail and E of E R/W of Co Rd #77. Section 11, Range 22, Township 27

SECTION II. The Zoning Map of the City of Inver Grove Heights referred to and described in said Ordinance No. 1190 as that certain map entitled "Inver Grove Heights Zoning Map, June 24, 2002", together with all amendments thereto, hereinafter referred to as the "zoning map", shall not be republished to show the aforesaid rezoning, but the Clerk shall appropriately mark the said zoning map on file in the Clerk's Office for the purpose of indicating the rezoning hereinabove provided for in this ordinance and all of the notations, references and other information shown thereon are hereby incorporated by reference and made a part of this ordinance.

SECTION III. This Ordinance shall be in full force and effect from and after its publication according to law.

Enacted and ordained into an Ordinance this _____ day of _____, 2011.

Ayes:

Nays:

George Tourville, Mayor

ATTEST:

Melissa Rheume, Deputy Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights
FROM: Planning Commission
DATE: July 21, 2011
SUBJECT: City of Inver Grove Heights

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a rezoning from A, Agricultural District and R-1B, Single Family Residential District to P, Institutional District for the properties located at 8336 Babcock Trail and for the 7400 block of River Road. 14 notices were mailed.

Presentation of Request

Allan Hunting, City Planner, explained the request as detailed in the report. He advised that Council recently adopted an ordinance amendment to allow outdoor storage on Public zoned property for local governmental use. The Council approved outdoor storage to be utilized on six sites that have historically been used for outdoor storage such as trees, brush, and materials used for city projects. Of the six sites identified, four were already zoned P, Institutional and two were not. Council directed staff to initiate the rezoning of those parcels. The two sites in question are the property at the end of Babcock Trail (also known as the Kuchera property) and the old waste water treatment plant property located between River Road and Dickman Trail in the 7400 block (also known as the Gish property). Staff recommends approval of the request.

Commissioner Simon asked how long the trailer had been parked on the Kuchera property and what is being stored in it.

Mr. Hunting replied that he was unsure.

Commissioner Gooch asked if the six identified properties were cordoned off to discourage public trespassing and/or dumping.

Mr. Hunting stated there were some barricades on the River Road property but he was not sure on the other locations.

Commissioner Simon advised there was currently a couch left on the River Road property.

Chair Bartholomew asked if the City intended to have storage on the small piece of property along Dickman Trail, to which Mr. Hunting replied not that he was aware of.

Chair Bartholomew advised that some of the landowners in the area were concerned and requested that the City level and shape that area to make it easier to mow.

Mr. Hunting advised that if the storage on the identified sites were to be intensified the City would have to first come before the Council with their request and there would be a public discussion.

Opening of Public Hearing

Greg Sampson, 7540 River Road, asked how the City planned to access the River Road property, stating the only current access to the property was via the private driveway owned by the Plans and the railroad right-of-way. He advised there were no barricades to the property to prevent illegal dumping and there were numerous items such as broken PVC pipes, broken culverts, television sets, floor tiles, railroad ties, chain link fencing, etc. on the property. He displayed photographs of such items on the property and stated he had complained about this issue several years ago and it had not yet been resolved. He advised that he had addressed the issue of several existing wells on the property as well and was not sure if they had been capped or were still open.

Planning Commission Discussion

Chair Bartholomew asked how the City would access the property.

Mr. Hunting stated the site was rarely used and he was unsure how they would access it.

Commissioner Schaeffer asked what the procedure was for getting the City to clean up and maintain the subject properties.

Mr. Hunting replied that when an issue was brought to the attention of the City the Public Works Department staff was notified to pick up the debris.

Commissioner Schaefer asked if staff could notify the Public Works Department of the debris on the River Road property, to which Mr. Hunting replied in the affirmative.

Chair Bartholomew asked if staff had any history of complaints received on the River Road property regarding dumping.

Mr. Link replied that he did not. He noted there was previously a complaint of promiscuous dumping on the City's Blaine Avenue property. It was brought to the attention of City Council and Public Works staff then cleaned up the site and put a chain across the driveway to discourage future trespassing/dumping.

Chair Bartholomew stated he supported the rezoning but encouraged the City to be diligent in properly maintaining their property.

Commissioner Schaeffer asked what the definition was of acceptable material that could be stored on the properties in question.

Mr. Hunting replied that they intentionally used vague language; however, typical storage items would be storm debris and brush, mulch, dirt, etc. If the City wished to use the properties for anything different than what they're currently being used for they would need to bring the request before City Council.

Commissioner Schaeffer asked if such a request would go before the Planning Commission along with mailed notice to neighbors.

Recommendation to City Council

July 21, 2011

Page 3

Mr. Hunting stated it was his understanding that such a request would not have to go through the public hearing process.

Commissioner Lissarrague suggested tabling action on the River Road property until there was more understanding of how the City would resolve the debris issue.

Mr. Hunting stated the request was regarding land use only, however, he would notify the Public Works Department of the debris.

Commissioner Lissarrague stated he was concerned because Mr. Sampson stated that this issue was brought to the City's attention previously, however, the situation has not yet been resolved.

Mr. Hunting stated those issues should perhaps be dealt with at the City Council level.

Chair Bartholomew stated the issue at hand was land use and zoning.

Mr. Sampson stated that the City is responsible for some of the debris on the property, such as broken culverts. He questioned how long they could be stored there as many of the items have been there for years. He encouraged the Commission to table action on the River Road property.

Commissioner Elsmore asked if the requested zoning change would zone the property correctly for how the City is using it, to which Mr. Hunting replied in the affirmative.

Commissioner Elsmore asked how long the City had been using the properties, to which Mr. Hunting replied a number of years.

Commissioner Elsmore asked why the property wasn't rezoned earlier, to which Mr. Hunting replied he was unsure.

Commissioner Elsmore stated the first step in getting the property cleaned up and used appropriately is to have it zoned correctly.

Chair Bartholomew asked if the City was currently using the River Road property to store materials.

Mr. Link replied that his understanding was that it was being used minimally.

Chair Bartholomew asked if there any some City-owned materials on the site, to which Mr. Link replied in the affirmative.

Chair Bartholomew agreed with Commissioner Elsmore that if the property were zoned properly the City could then be held accountable for the materials stored there.

Commissioner Simon stated that unless they could separate the two properties she would vote no because she did not think a rezoning would resolve the on-going problem of debris on the River Road property.

Recommendation to City Council

July 21, 2011

Page 4

Commissioner Hark recommended they look at both properties together, stating the Commission's responsibility was to make a recommendation on the land use change rather than the debris issue.

Commissioner Wippermann asked if they could add a condition of approval that the property be cleaned up.

Mr. Hunting stated that typically conditions are not put on rezonings but the Commission could make a recommendation that the Council address the debris issue and that it be properly cleaned up.

Planning Commission Recommendation

Motion by Commissioner Gooch, second by Commissioner Elsmore, to approve the rezoning from A, Agricultural District and R -1B, Single Family Residential District to P, Institutional District for the property located at 8336 Babcock Trail and along the 7400 block of River Road, with a recommendation that the City review the debris on both sites and ensure that only appropriate items are stored there and that the property remain in proper order.

Motion carried (7/2 – Simon, Lissarrague). This item goes to the City Council on July 11, 2011.

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

REPORT DATE: June 13, 2011

CASE NO: 11-14Z

APPLICANT: City of Inver Grove Heights

PROPERTY OWNER: City of Inver Grove Heights

REQUEST: Rezoning

HEARING DATE: June 21, 2011

LOCATION: 7400 Block of River Road and 8336 Babcock Trail

COMPREHENSIVE PLAN: Park and Public/Institutional

ZONING: A, Agricultural and R-1B, Single Family Residential

REVIEWING DIVISIONS: Planning

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

Earlier this year, the Council approved an amendment to the Zoning Ordinance to allow outdoor storage on Public zoned property for local governmental use. The Council approved outdoor storage to be utilized on six sites that are either currently being used for storage or have been used in the past. These six sites have been used to store trees, brush, soil and some materials used for city projects over the years. Of the six sites identified, four were already zoned P, Institutional. The two sites being reviewed now are zoned Agricultural and Residential. Both sites are guided in the Comp Plan as Park or Public/Institutional. The City Council directed staff to hold a public hearing to rezone the two sites to P, Institutional.

The two sites in question are; Site 1) property at the end of Babcock Trail behind the Public Works Maintenance facility also known as the Kuchera Property and Site 2) the old waste water treatment plant property located between River Road and Dickman Trail at the 7400 block also known as the Gish Property.

EVALUATION OF THE REQUEST

The following land uses, zoning districts and comprehensive plan designations surround the subject property:

Site 1)

North: Single family residence; zoned A; guided Public/Institutional

East: Highway right-of-way

West: Highway right-of-way

South: Highway right-of-way

Site 2)

North: Single family residence; zoned R-1C; guided LDR

East: Mississippi River

West: Industrial properties; zoned I-1; guided Light Industrial

South: Single family residence; zoned R-1B; guided LDR

ANALYSIS

Site 1 is currently guided Public/Institutional as is the entire city owned property around the municipal building campus. A rezoning to Institutional would be consistent with the comp plan guiding as it would be used for governmental purposes. This is one of the sites that would most likely be used for the temporary storage/staging of ash trees if the emerald ash borer problem is found in the city. The property is approximately 2.0 acres in size.

Site 2 is currently not active. It has been used over the years for storage of city project materials and brush and debris. Only small areas of the property have ever been used for storage. Access to the site is from Dickman Trail but is currently barricaded to stop illegal dumping and trespassing. There are no current plans to utilize the site for any other purposes and the site is used infrequently and would not change with the rezoning. This site is currently guided Park. A rezoning to Institutional would also be consistent with the guiding as it would be used for governmental purposes. The property is approximately 6.9 acres in size.

ALTERNATIVES

The Planning Commission has the following actions available:

- A. **Approval.** If the Planning Commission finds the application to be acceptable, the following action should be taken:
 - o Approval of the **Rezoning** of the parcels to P, Institutional District.

- B. **Denial.** If the Planning Commission does not favor the proposed applications or portions thereof, the above request or requests should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

Staff recommends approval of the request to rezone the properties to P, Institutional District.

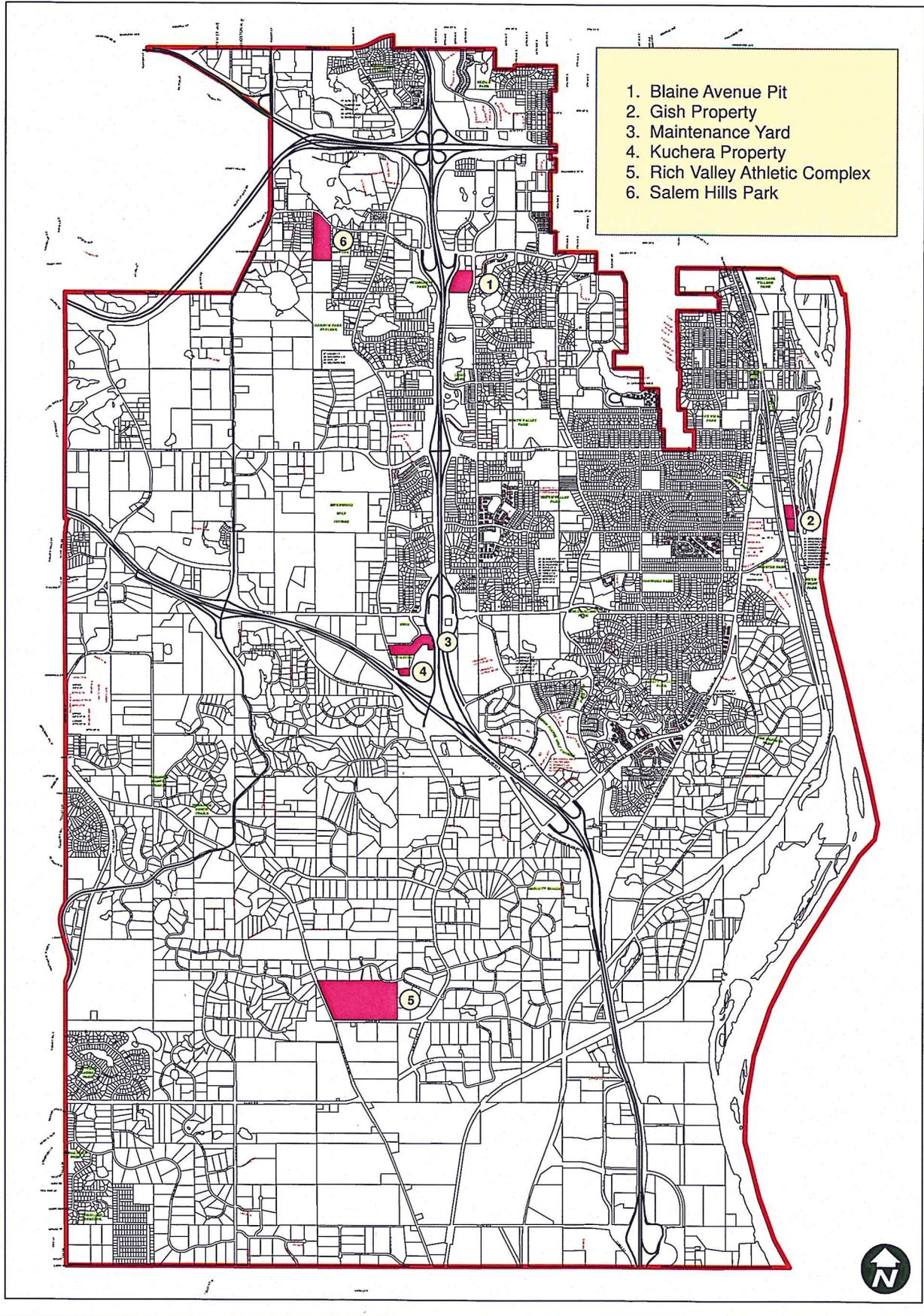
Attachments: Map showing approved areas designated for outdoor storage
Zoning and Comp Plan Map for Site 1
Zoning and Comp Plan Map for Site 2



Areas Designated for Outdoor Storage

areas identified by the Public Works and Parks and Recreation Departments

May 9, 2011





Current Zoning and Comp Plan Map

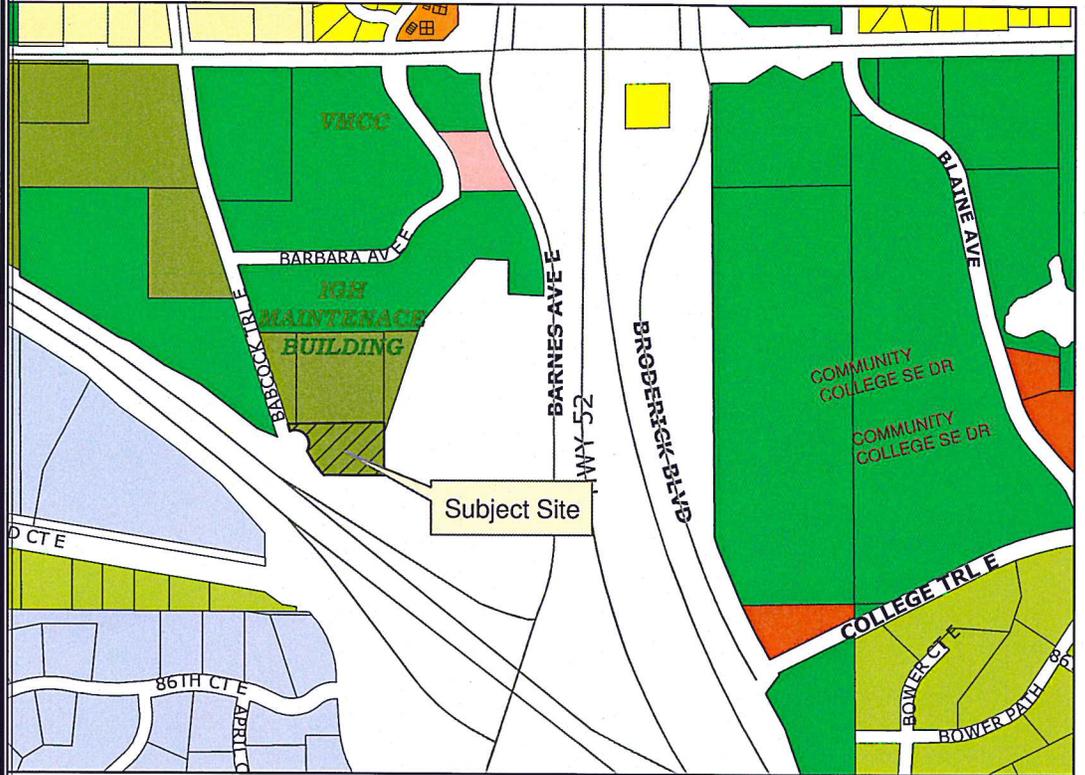


Site 1

Existing Zoning

Legend

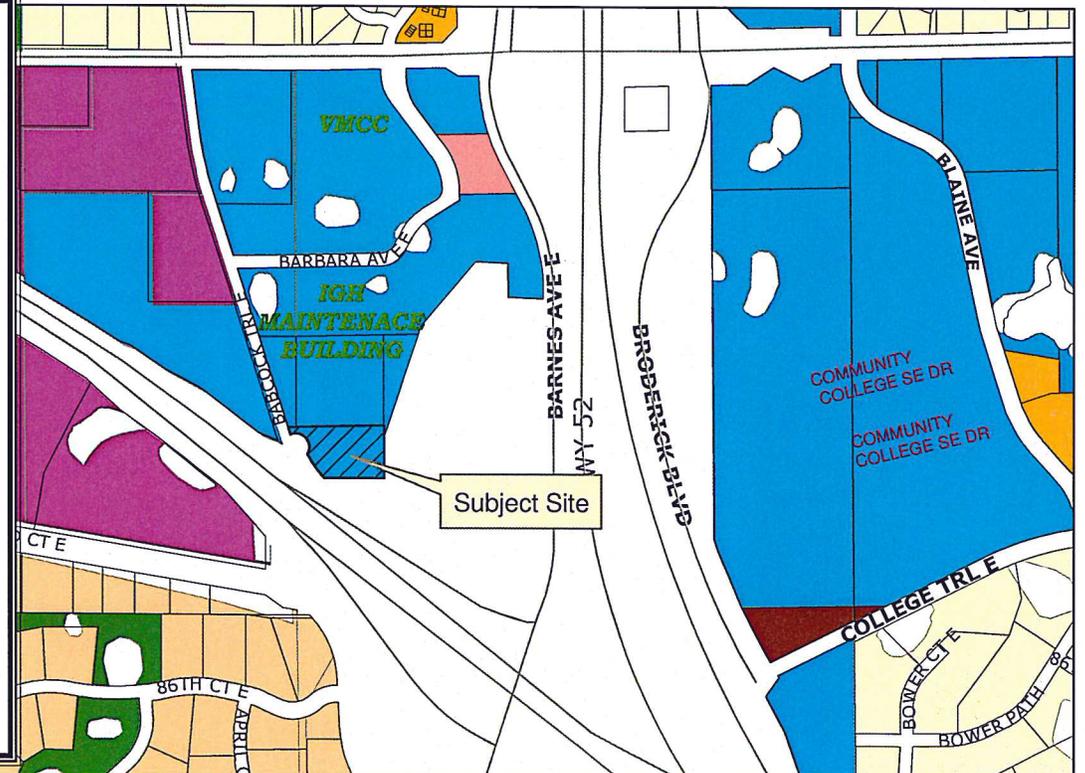
- par_own selection
- A, Agricultural
- E-1, Estate (2.5 ac.)
- E-2, Estate (1.75 ac.)
- R-1A, Single Family (1.0 ac.)
- R-1B, Single Family (0.5 ac.)
- R-1C, Single Family (0.25 ac.)
- R-2, Two-Family
- R-3A, 3-4 Family
- R-3B, up to 7 Family
- R-3C, > 7 Family
- R-4, Mobile Home Park
- B-1, Limited Business
- B-2, Neighborhood Business
- B-3, General Business
- B-4, Shopping Center
- OP, Office Park
- PUD, Planned Unit Development
- OFFICE PUD
- Comm PUD, Commercial PUD
- MF PUD, Multiple-Family PUD
- I-1, Limited Industrial
- I-2, General Industrial
- P, Public/Institutional
- Surface Water
- ROW



Existing Land Use Designation

Legend

- par_own selection
- 2030 Land Use Plan parcels_051208.PPLU_HKGi**
- Rural Density Residential
- Low Density Residential
- Low-Medium Density Residential
- Medium Density Residential
- High Density Residential
- Neighborhood Commercial
- Community Commercial
- Regional Commercial
- Mixed Use
- Office
- Industrial Office Park
- Light Industrial
- General Industrial
- Refinery Buffer Area
- Public / Institutional
- Public Open Space
- Private Open Space
- Rail Road
- Open Water / Wetlands

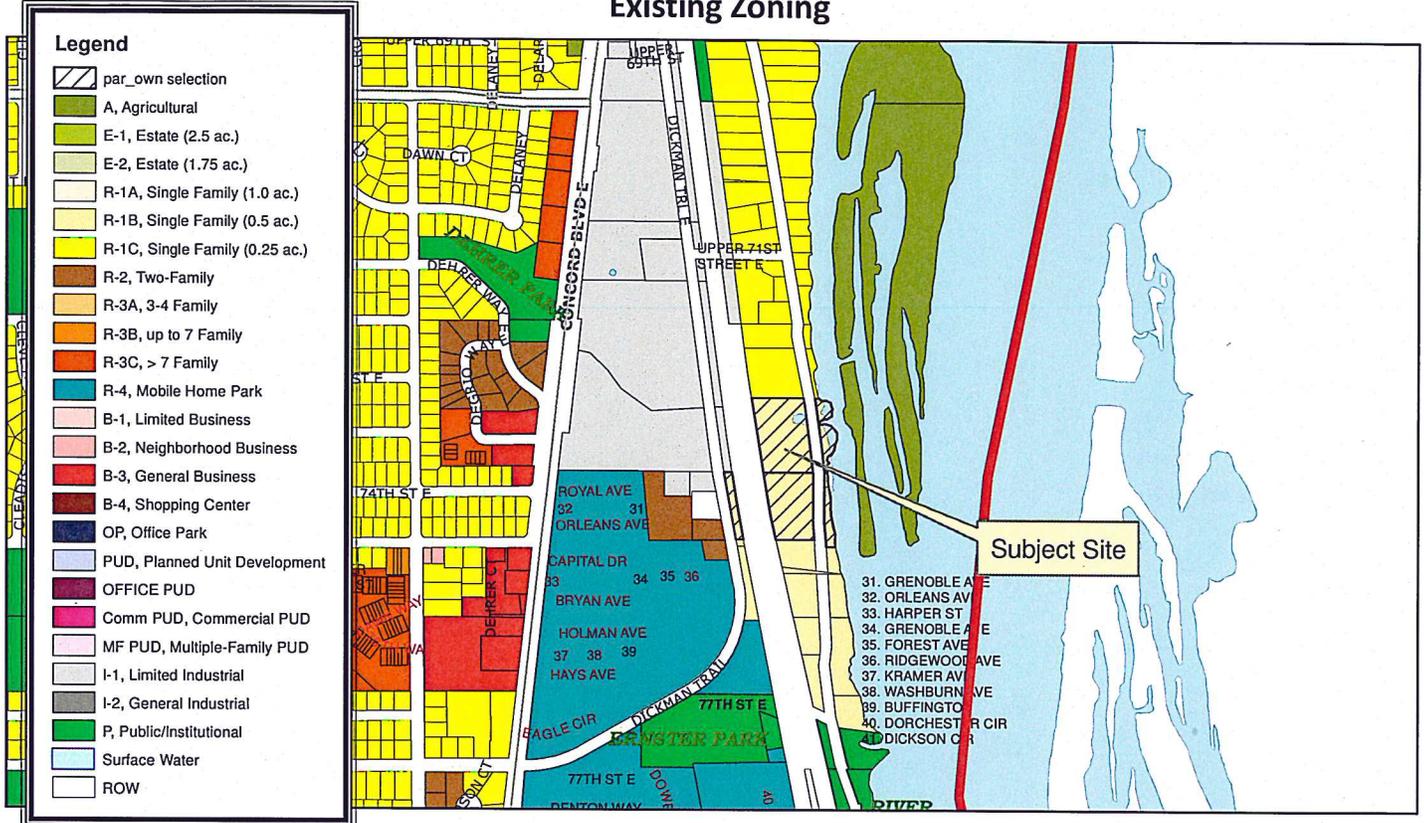




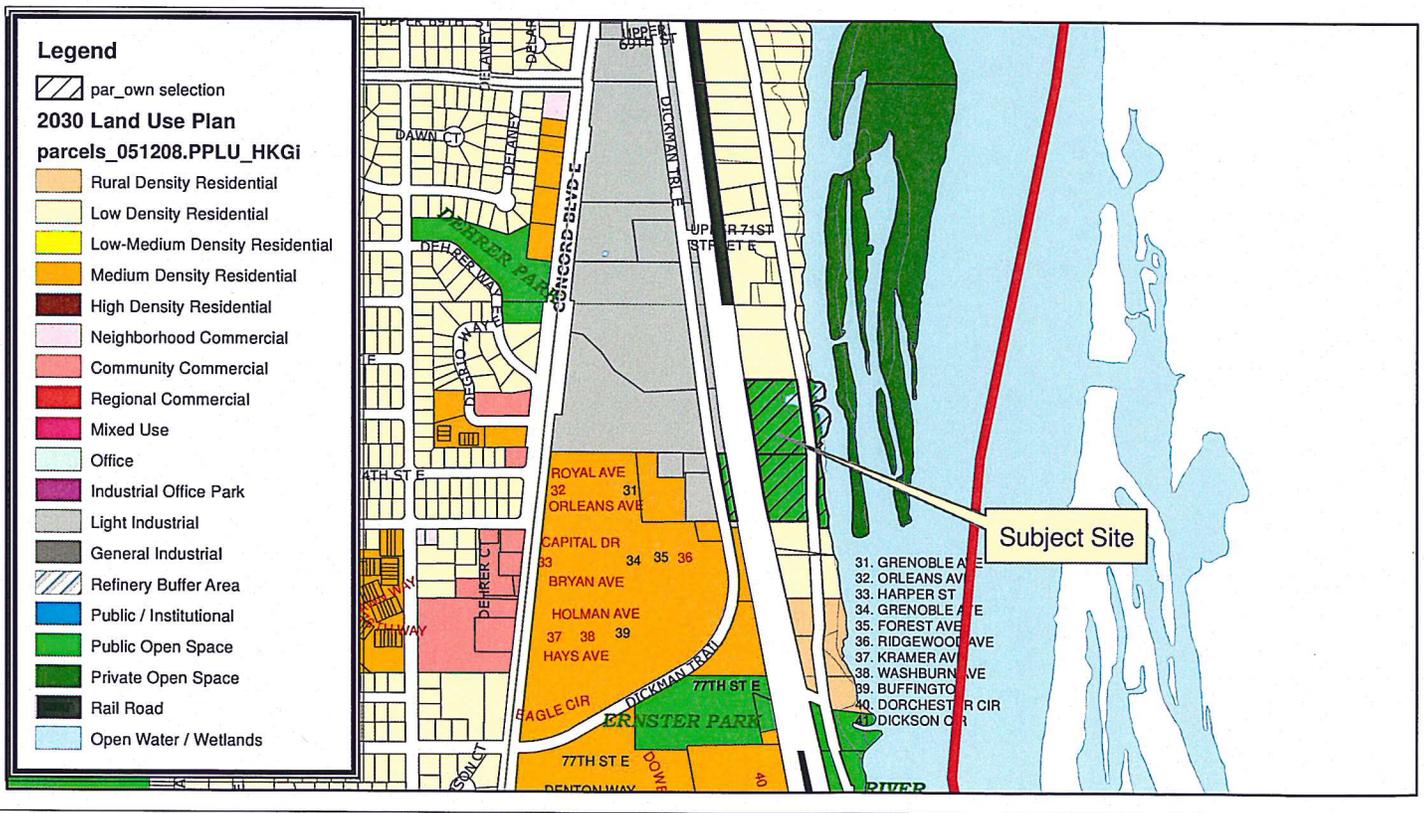
Current Zoning and Comp Plan Map

Site 2

Existing Zoning



Existing Land Use Designation



CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

CITY OF INVER GROVE HEIGHTS

Meeting Date: July 11, 2011
 Item Type: Regular Agenda
 Contact: Allan Hunting 651.450.2554
 Prepared by: Allan Hunting, City Planner
 Reviewed by:

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE included in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other

PURPOSE/ACTION REQUESTED

Consider a Resolution relating to a **Conditional Use Permit** to place over 1,000 cubic yards of fill on property located within the Flood Fringe District of the Floodplain for property located at 4301 63rd Street (McPhillips property).

- Requires 4/5th's vote.

SUMMARY

The City recently purchased the McPhillips property and is now proposing to place fill over the property as part of the contaminated soils remediation. The City is proposing to place four feet of fill over the site and also on some adjacent city owned parcels in order to match grades in the area. The subject property is located within the Flood Fringe of the Floodplain. The fill material would come from excess material from this year's South Grove reconstruction project. The property lies within the Floodplain of the Mississippi River and fill projects in excess of 1,000 cubic yards require a conditional use permit.

The City hired Emmons and Olivier to create a grading plan for the fill project. The total amount of fill material would be between 20,000 and 22,000 cubic feet of soil. Engineering has reviewed and approved the grading plan. According to the master plan for Heritage Village Park, this area would contain some trails and open space.

RECOMMENDATION

Planning Staff: Both Planning and Engineering recommend approval of the Conditional Use Permit as presented.

Planning Commission: The Planning Commission was concerned about the runoff from the property adversely affecting the neighboring property owners, specifically Castaway's Marina. Staff followed up with the City Engineering Department; they stated the drainage impacts have been addressed. The runoff is directed to the street and diverted to the pond to the north. The Planning Commission also had concerns about dust control during the placement of fill. The Engineering Department has responded saying dust control is part of the agreement with the contractor and it typically involves spraying the material with water. If the neighboring property owners do not feel the dust is being managed they can call the City Engineer to make a complaint. Planning Commission recommended approval of the request (7-0).

Environmental Commission: The Environmental Commission reviewed the request on June 23, 2011 and they found no issues with the request and recommended approval (5-0).

Attachments: Resolution approving conditional use permit
 Planning Commission Recommendation
 Planning Report

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. _____

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO PLACE OVER 1,000
CUBIC YARDS OF FILL ON PROPERTY LOCATED WITHIN THE FLOOD FRINGE
DISTRICT OF THE FLOODPLAIN FOR PROPERTY LOCATED AT 4301 63RD STREET**

City of Inver Grove Heights
Case No. 11-08C

WHEREAS, an application for a Conditional Use Permit has been submitted for the property legally described as:

All of Lots 1-6, Block 30, Inver Grove Factory Addition, according to the recorded plat thereof, Dakota County, Minnesota

WHEREAS, an application for a conditional use permit has been submitted to allow fill in excess of 1,000 cubic yards in the Flood Fringe District;

WHEREAS, the aforescribed property is zoned I-1, Limited Industry;

WHEREAS, the request has been reviewed against Title 10, Chapter 3, Article A, Section 10-3A-5 regarding the criterion for a Conditional Use Permit and meets the minimum standards; the request is consistent with the Comprehensive Plan and it does not have a negative impact on public health, safety or welfare;

WHEREAS, a public hearing concerning the conditional use permit was held before the Inver Grove Heights Planning Commission in accordance with Minnesota Statute, Section 462.357, Subdivision 3 on July 5, 2011;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF INVER GROVE HEIGHTS, that a Conditional Use Permit to allow the placement of fill in excess of 1,000 cubic yards in the Flood Fringe District is hereby approved with the following condition:

1. The placement of fill shall be consistent with the Grading and Erosion Control Plan dated 9/29/10, on file with the Planning Department.
2. The grading on the property shall not adversely impact the neighboring properties.

BE IT FURTHER RESOLVED that the Deputy Clerk is hereby authorized and directed to record a certified copy of this Resolution at the Dakota County Recorder's Office.

Adopted by the City Council of Inver Grove Heights this _____ day of _____, 2011.

AYES:
NAYS:

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk

**RECOMMENDATION TO
CITY OF INVER GROVE HEIGHTS**

TO: Mayor and City Council of Inver Grove Heights

FROM: Planning Commission

DATE: July 5, 2011

SUBJECT: CITY OF INVER GROVE HEIGHTS – CASE NO. 11-14Z

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a conditional use permit to place over 1,000 cubic yards of fill on the property located within the Flood Fringe District of the Floodplain for environmental remediation for the property located at 4301 – 63rd Street. 5 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the City recently purchased this specific property, known as the McPhillips property, and as part of that purchase process the City hired a consultant to conduct soil sample studies. It was determined there was some contamination and therefore the City is proposing to follow MPCA guidelines by placing four feet of fill over the site and also on some adjacent City-owned parcels in order to match grades in the area. The subject property is located within the Flood Fringe of the Floodplain and therefore a conditional use permit is required. Staff recommends approval of the request with the condition listed in the report.

Steve Dodge, Assistant City Engineer, advised this is a continuation of the capping of contaminated soils in the future Heritage Village Park area. The clean fill material would come from the South Grove Reconstruction Project Area #6.

Chair Bartholomew asked where the fill came from for the capping project which occurred about a year ago for the property further to the north.

Mr. Dodge replied that it came from Bolander and Sons when they were working on the Eagan Post Office site. He stated that process was similar to this in that Braun Intertec would be required to observe the fill going in and probably test it as well to ensure it was clean fill.

Chair Bartholomew asked if there was a barrier installed between the existing soils and the capping material, to which Mr. Dodge replied there was not.

Commissioner Wippermann asked what the nature of the contamination was and if there were ever structures on the property.

Mr. Link replied that the soil borings showed that the actual soil contamination was minimal. The larger concern was the existing debris. He advised that the property used to be a salvage yard and the MPCA required four feet of fill primarily because of the considerable amount of debris (concrete, tires, etc.). As far as the previous use, there was a small house on the southern end of the property which burned down 5-10 years ago and was buried on site. Prior to that the property was used for a variety of commercial activities, including a garbage hauling

business and salvage yard. Since the house burned down it has been basically a vacant lot.

Commissioner Lissarrague asked if applying the four feet of topsoil would remediate the problem or if the contamination would have to be dealt with again at a later date.

Mr. Link replied that according to MPCA guidelines the addition of soil was all that was necessary. Once that was complete, as well as a couple other items on the site, the City would request a No Further Action letter from the MPCA declaring it a clean site. He noted that the City also needs to look for a possible abandoned well on the property and properly seal it if found, and also install a stormwater pipe in the ground connecting the two lowland areas.

Chair Bartholomew asked if the Environmental Commission had any specific concerns regarding the application.

Ms. Botten replied that they asked questions similar to those from the Planning Commission and did not add any additional conditions or modify the existing one.

Chair Bartholomew asked if there was any discussion regarding monitoring the site by installing test wells around the perimeter.

Mr. Dodge stated that monitoring wells were not an MPCA requirement. The MPCA requires that the property be capped or that the debris and contaminated material be removed. He advised that the capping could occur at little or no cost to the City whereas removal would be very costly and risky.

Chair Bartholomew asked if the proposed stormwater pipe would allow the current drainage to continue, to which Mr. Dodge replied in the affirmative.

Commissioner Hark stated he was concerned about the possibility of flooding the properties south of the subject site because of the additional four feet of soil.

Mr. Dodge replied that the area to be filled would not impact the overall flooding of the Mississippi River because the volume of fill was miniscule compared to the entire volume of the river in that cross section. He stated that to his knowledge the area had not flooded since 1965. The berm that was put in place after that would contain the 1965 flood.

Chair Bartholomew asked for clarification that if four feet of soil was placed on the subject site it would not increase flooding to the property south of it were the river rose to rise to the 1965 high water mark, to which Mr. Dodge replied in the affirmative.

Commissioner Simon pointed out an error in the Analysis section of the report which referred to 'cubic **feet**' rather than 'cubic **yards**' and questioned whether that error was carried over to the plans on file, to which Mr. Dodge replied that the plans correctly referred to 'cubic **yards**'.

Opening of Public Hearing

Tom Lind, Castaways Marina, 6140 Doffing Avenue, stated he adamantly opposed the hauling of any fill to this area. He advised that the dirt and dust from a previous project in the Heritage Village Park area covered the marina's canopies in dirt. He displayed photographs of the

canopies, stating that they spoke with the City's insurance company, the League of MN Cities, and were told the City was not negligent so they would not cover the damage. He stated that although the City may not have been negligent, they would like them to take care of the problem that they caused. He advised that they received a bid of \$8,100 to clean the canopies and they would like the City to bear that expense.

John Remington, Castaways Marina, 6140 Doffing Avenue, stated that although there may be debris in the southern end of the subject parcel, the northern portion adjacent to Castaways Marina was a nice area with grass and trees. Any filling would result in the loss of the existing trees and shrubs. He was also concerned that the additional fill would create a drainage problem, causing the stormwater to run into their parking lot rather than the pond. He stated there does not seem to be significant contamination on the subject property and he would prefer that it be removed rather than covered.

Chair Bartholomew asked what caused the damage to the marina slip covers, to which Mr. Lind replied the dust collecting on the canvas.

Mr. Remington advised that the analysis they had done determined that the material was soil and dirt; not residue from the refinery.

Chair Bartholomew asked who did the analysis, to which Mr. Remington replied that he did not recall the name of the firm.

Chair Bartholomew asked if they had shared the analysis results with the City.

Mr. Remington replied they had not, stating they filed a claim with the City, who then referred it to their insurer, the League of MN Cities. The insurer determined they were not negligent; however, Mr. Remington felt the dirt on the canopies was the issue rather than negligence.

Commissioner Lissarrague asked if this was an ongoing problem.

Mr. Lind replied that the canopies began gathering dirt as they were hauling the fill into the park site which caused clouds of dust to blow onto their property. He advised that the 17 year old canopies were recently replaced because they were wearing out; not because they were dirty. In 2-3 years the new canopies are now covered in dirt.

Commissioner Elsmore asked for clarification of whether the canopies were damaged or just dirty, to which Mr. Remington replied they were just dirty.

Commissioner Elsmore asked if the \$8,100 quote was for someone to clean the canopies covering all the marina slips, to which Mr. Lind replied in the affirmative.

Chair Bartholomew asked if they raised this issue at the Environmental Commission meeting, to which Mr. Remington replied they had not as they were not notified of that meeting and were not aware of the additional fill being proposed.

Commissioner Hark asked if the site would be designed in such a way as to continue the natural drainage to the pond rather than the marina parking lot.

Mr. Dodge stated he would have to research it further as he could not answer the question without looking at the grading beyond the boundary shown on the plan in the report.

Commissioner Hark stated it should be designed as such to continue the existing drainage pattern.

Commissioner Elsmore noted that Note 2 on the grading plan stated that 'grading shall progress so as to maintain drainage patterns at all times'.

Mr. Dodge stated he would have to review further where the drainage would go once it got to the edge of the site.

Commissioner Lissarrague asked if there was an alternative to capping the parcel.

Mr. Link replied that the City was required to do remediation because it was a contaminated site. The two options were to put four feet of fill on the site or to dig out the debris. Staff chose the first option as it was less expensive and would not disturb the contamination in existing soils. He noted that either option would generate dust.

Mr. Lind stated much of the property had no contamination and would not have to be filled in.

Commissioner Lissarrague asked if the marina would prefer that the City remove the debris rather than putting in additional fill.

Mr. Remington stated if the debris was only on the southern portion of the site the City could cap just that area and not the property directly west of the marina.

Mr. Link stated there were two properties being discussed tonight. One is the Henderson property which was determined to be a clean site with no environmental contamination. The investigation of the McPhillips property to the west, however, indicated contamination throughout the property therefore the entire parcel would need to be capped.

Chair Bartholomew asked if the Henderson property was required to be capped.

Mr. Link replied it was not, however, they would like to match the grades rather than having a four foot drop off.

Chair Bartholomew asked if the property could be graded so as to direct any drainage to the lake versus the marina parking lot.

Mr. Link replied in the affirmative. He added that the Brown Caulking property (south of the Henderson property) already had four feet of fill added to it because of soil contamination; the fill being proposed tonight would result in all three properties being at the same grade.

Commissioner Lissarrague asked if filling in the minimal amount necessary and helping the marina with some of the clean-up costs would cost less than removing the debris.

Mr. Link stated that the issue of the filling of the park site's impact on the marina canopies would be an appropriate issue for the City Council to consider.

Commissioner Elsmore asked if there would be dust and debris whether the City put fill in or took debris out, to which Mr. Link replied in the affirmative.

Commissioner Elsmore asked how quickly the vegetation would be replanted once the filling was complete.

Mr. Dodge replied that the current plan was to plant grass. No trees or shrubs would be planted until such time as the Heritage Village Park Master Plan got underway. He stated that neither he nor Tom Link were aware of the marina's claim to the League of MN Cities, but he cautioned against adding further conditions as apparently the situation had already been addressed with the insurer.

Ms. Botten advised that Castaways Marina removed several trees along the northeast side of the pond and expanded their parking area a few years back using Class 5-type dirt material.

Mr. Remington agreed that they had removed a number of trees; however, they replanted a number of trees as well. He stated they continue to have a problem with runoff and erosion on the north end of their property due to the City raising the level 3-4 feet and ending the fill at the marina property line.

Chair Bartholomew asked if the marina's claim with the League of MN Cities was still open, to which Mr. Lind replied that it was denied due to the absence of negligence. He then read the letter from the League explaining their findings.

Chair Bartholomew asked if the marina had any contact with the contractor, to which Mr. Lind and Mr. Remington replied they did not.

Mr. Remington stated they brought the claim informally to the City who then advised them to pursue the claim with the League.

Commissioner Elsmore asked when the letter from the League of MN Cities was dated, to which Mr. Lind replied October 13, 2010.

Planning Commission Discussion

Chair Bartholomew suggested adding a recommendation that the grading be designed as such to prevent runoff from being directed to the marina property.

Mr. Dodge suggested wording it to state that 'the grading activities will not adversely impact the Castaways Marina property'.

Chair Bartholomew stated the Planning Commission did not have the purview to address the marina's existing claim with the League.

Mr. Remington stated they were just concerned that it not happen again.

Chair Bartholomew stated he supported the request with a recommendation that the drainage be addressed and with an acknowledgment of the marina's concern regarding the dust and dirt.

Commissioner Scales questioned whether they could add conditions because the MPCA was requiring the City to either remove the debris or cap it.

Chair Bartholomew urged the marina representatives to attend the City Council meeting and address their concerns.

Commissioner Elsmore stated the letter from the League said one of their concerns was that the first time they heard of the dust issue it was too late. She advised Mr. Lind and Mr. Remington that in this case they will have the minutes from the Planning Commission and City Council meetings so they could show that they had come forward and stated there was an issue if there were to be further action.

Planning Commission Recommendation

Motion by Commissioner Simon to approve the request for a conditional use permit to allow filling within the Flood Fringe District of the Floodplain for environmental remediation, with the condition listed in the report and **an additional condition that grading does not adversely affect drainage to the Castaways Marina property**, for the property located at 4301 – 63rd Street.

Second by Commissioner Scales.

Motion carried (7/0). This item goes to the City Council on July 11, 2011.

P L A N N I N G R E P O R T
CITY OF INVER GROVE HEIGHTS

REPORT DATE: June 27, 2011

CASE NO: 11-08C

APPLICANT: City of Inver Grove Heights

PROPERTY OWNER: City of Inver Grove Heights

REQUEST: Conditional Use Permit to allow filling in the Floodplain

MEETING DATE: July 5, 2011

LOCATION: 4301 63rd Street

COMPREHENSIVE PLAN: Park

ZONING: I-1, Limited Industry

REVIEWING DIVISIONS: Planning
Engineering

PREPARED BY: Allan Hunting
City Planner

BACKGROUND

The City recently purchased the McPhillips property and is now proposing to place fill over the property as part of the contaminated soils remediation. As part of the purchase process, the city hired consultants to conduct soil sample studies to determine if there was any type of soil contamination on the site. It was determined that there was minimal soil spotting in the surface soils. Based on standard MPCA guidelines on soil contamination, remediation can consist of either removing all of the contaminated soils, or place a cap of four feet of fill over the subject area. The City is proposing to place four feet of fill over the site and also on some adjacent city owned parcels in order to match grades in the area. The subject property is located within the Flood Fringe of the Floodplain. Fill is allowed with an approved conditional use permit.

The City is requesting a Conditional Use Permit to allow the placement of fill in excess of 1,000 cubic yards, consistent with provisions in 10-13D-6-2.C of the Flood Fringe District of the Floodplain Management Rules. Filling is allowed provided the plan is prepared by a qualified professional and an erosion control plan is prepared.

EVALUATION OF THE REQUEST

The following land uses, zoning districts and comprehensive plan designations surround the subject property:

North: Heritage Village Park; zoned P; guided Park

East: Future Heritage Village Park; zoned I-1; guided Park

West: Heritage Village Park; zoned P; guided Park

South: Vacant; zoned I-1; guided Park

ANALYSIS

The City hired Emmons and Olivier to create a grading plan for the fill project. The total amount of fill material would be between 20,000 and 22,000 cubic feet of soil. The fill material would come from the South Grove reconstruction project area #6. Engineering has reviewed and approved the grading plan. According to the master plan for Heritage Village Park, this area would contain some trails and open space.

There are a number of trees on the perimeter of the McPhillips property but only a couple on the other properties that will be graded. The area would not be regulated under the Tree Preservation Ordinance as the property does not meet the technical definition of a woodland to trigger reforestation. Therefore, no reforestation is required. However, the landscape plan for Heritage Village Park shows a number of trees that will be planted throughout this area once it is improved and becomes part of the park.

Environmental Commission: The Environmental Commission met on June 23, 2011 to discuss the issue. General questions were asked about the environmental studies done in the area for Heritage Village Park. The City Engineer spoke to describe the details of the projects. No other issues were brought up and the Environmental Commission recommended approval of the conditional use permit (5-0).

ALTERNATIVES

The Planning Commission has the following actions available:

- A. **Approval.** If the Planning Commission finds the application to be acceptable, the following action should be taken:
 - o Approval of a **Conditional Use Permit** to allow the placement of fill in excess of 1,000 cubic yards, consistent with City Code provision 10-13D-6-2.C. Flood Fringe District of

the Flood Plain Management rules, for the purpose of grading and filling for soil mitigation on the McPhillips property subject to the following conditions:

1. The placement of fill shall be consistent with the following plans, on file with the Planning Department:

Grading and Erosion Control Plan dated 9/29/10

- B. Denial.** If the Planning Commission does not favor the proposed applications or portions thereof, the above request or requests should be recommended for denial. With a recommendation for denial, findings or the basis for the denial should be given.

RECOMMENDATION

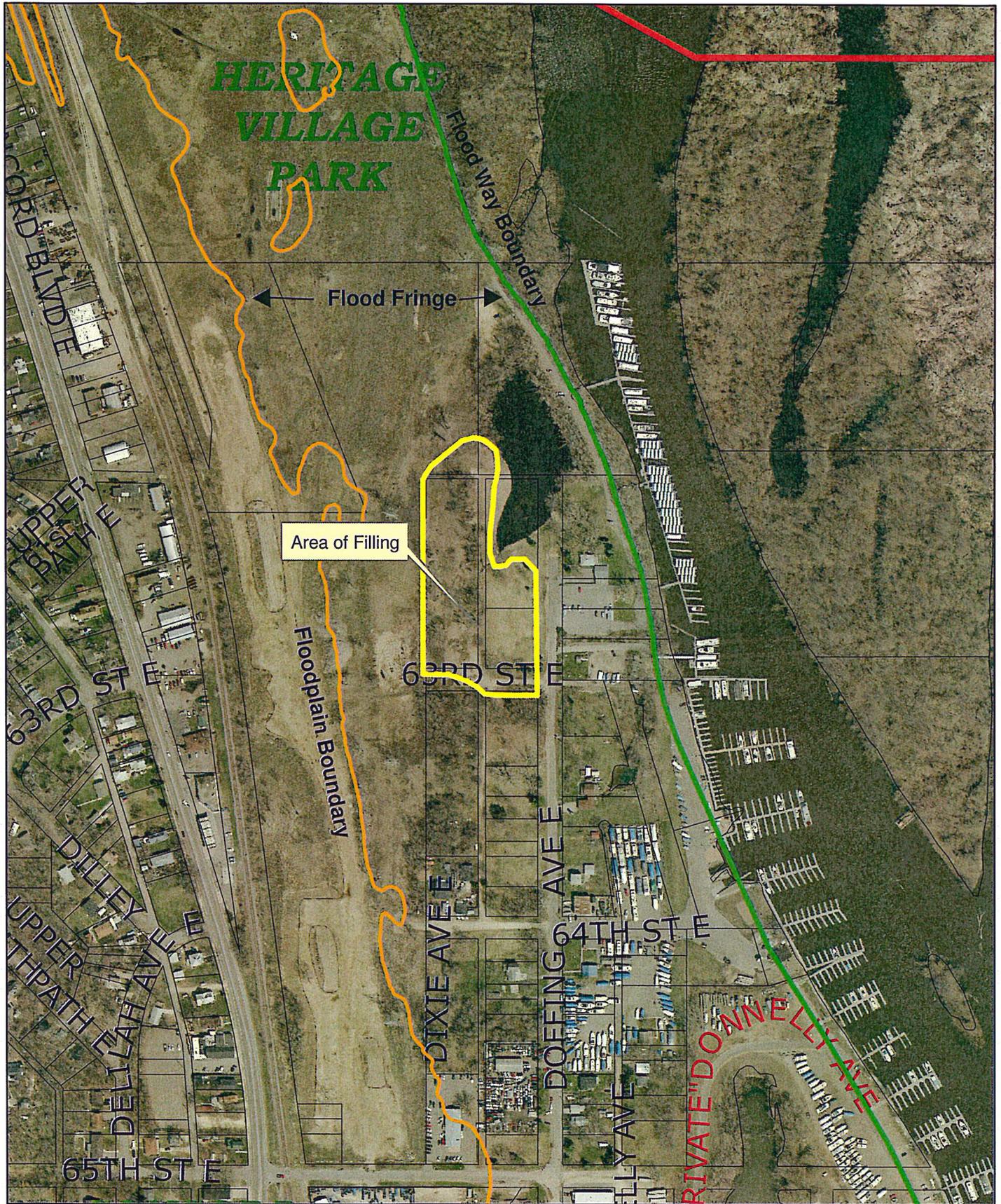
The review of the materials for this request is more of an engineering exercise, rather than a planning exercise, since the project is comprised of soil fill and grading. The plan being presented is the overall grading and filling plan. Engineering has reviewed the plan and finds that it consistent with city code standards. Based on the information provided, Planning recommends approval of the conditional use permit as presented.

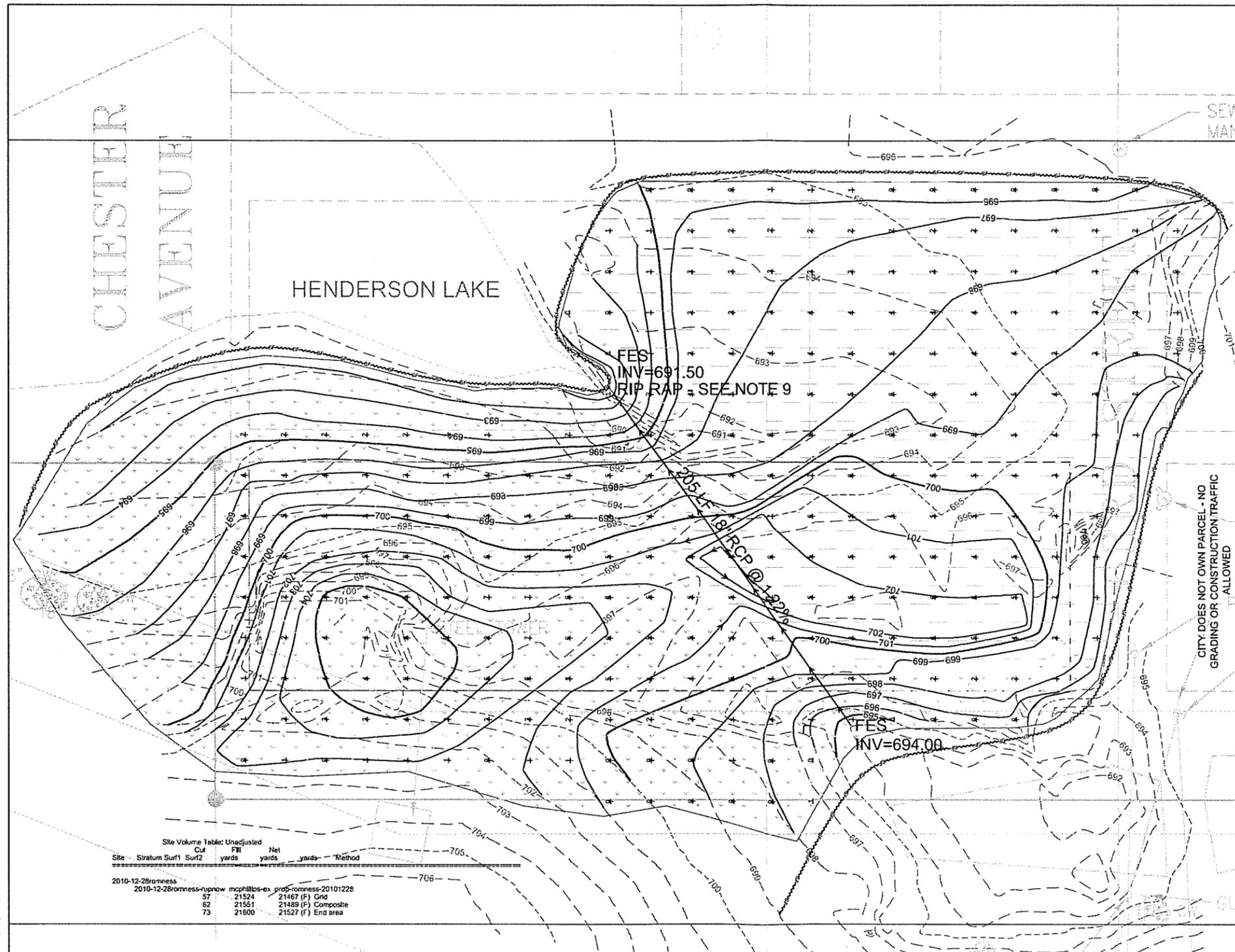
Attachments: Location Map
Grading and Erosion Control Plan
Plan of Heritage Village Park



Location Map

Case No. 11-08C



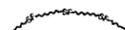


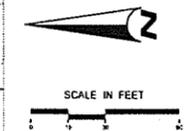
Site Volume Table: Unadjusted

Site	Stratum	Surf1	Surf2	Cut	Fill	Net	Method
				yards	yards	yards	
2010-12-28romness							
2010-12-28romness-rupnow	mcpPhillips-ex	prop/romness-20101228		57	21524	21467 (F) Ghd	
				62	21551	21489 (F) Composite	
				73	21600	21527 (F) End area	

NOTES:

1. MONITORING WELLS ON SITE SHALL BE PROTECTED. CONTACT JEREMY COUGHLIN, BRAUN INTERTEC (952 995-2446) PRIOR TO GRADING AROUND WELLS.
2. GRADING SHALL PROGRESS SO AS TO MAINTAIN DRAINAGE PATTERNS AT ALL TIMES.
3. NO MACHINE COMPACTION WILL BE ALLOWED. ALL HAUL ROADS AND ACCESS ROADS IN THE PARK SHALL BE SCARIFIED TO A DEPTH OF 12 INCHES PRIOR TO PLACEMENT OF TOPSOIL.
4. TREES SHALL BE CLEARED IN ALL AREAS WHERE FILL EXCEEDS 12 INCHES IN DEPTH. TREES SHALL BE CUT FLUSH WITH EXISTING GROUND.
5. ALL ROCK EXCEEDING 12 INCHES IN DIAMETER SHALL BE STOCKPILED IN AREAS SELECTED BY OWNER. STOCKPILE AREAS SHALL NOT EXCEED 200 FEET FROM CURRENT LOCATION OF ROCKS.
6. NO GRADING SHALL TAKE PLACE WITHIN 20 FEET OF POWER LINE TOWERS.
7. 4 INCHES OF TOPSOIL SHALL BE PLACED ON ALL GRADED AREAS. CONTOURS INDICATED FINISHED SURFACE PRIOR TO TOPSOIL PLACEMENT. TOPSOIL SHALL MEET MNDOT SPECIFICATION 3877.2A.
8. ALL FILL PLACED ON SITE SHALL BE TESTED AND PASSED FOR CONTAMINANTS BY BRAUN INTERTEC. CONTACT JEREMY COUGHLIN AT 952 995-2446.
9. FES TO RECEIVE RIP RAP PER CITY STANDARDS. THE LAST THREE PIPES TOGETHER PER INVER GROVE HEIGHTS CITY STANDARD.
10. SEED ALL DISTURBED AREAS PER PLAN, WITHIN 14 DAYS OF FINAL GRADING. SLOPES 3:1 OR GREATER TO RECEIVE WOOD FIBER BLANKET, TERRA SEEDING, OR APPROVED EQUAL.

-  MNDOT NATIVE SEED MIXTURE 350
-  MNDOT TURF SEED MIXTURE 260
-  SILTY FENCE

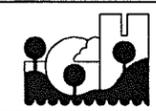


CITY DOES NOT OWN PARCEL - NO GRADING OR CONSTRUCTION TRAFFIC ALLOWED

NO	DATE	BY	REVISION
6			
5			
4			
3			
2			
1			

SUBMISSION DATE:
9-29-2010
DESIGN BY: BJA
DRAWN BY: BJA
EOR PROJECT NO.
00095-0025

Emmons & Olivier Resources, Inc.
651 Hale Avenue North
Oakdale, MN 55128
Tele: 651.770.8448
www.eorinc.com



McPHILLIPS PARCEL
INVER GROVE HEIGHTS, MINNESOTA

GRADING PLAN

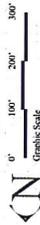
SHEET 01 OF 01 SHEETS



inver grove heights, mn
Heritage Village Park

ON THE MISSISSIPPI RIVER

B BRADLEY & ASSOCIATES, LTD.
 LAND USE PLANNING AND DESIGN
 7000 W. 13th Street
 Hopkins, MN 55343
 Tel: 952-236-0831
 Fax: 952-236-0833
 Project # 10-07
 Date: Dec. 1st, 2010



Interpretive Overlooks

Small overlooks to be placed along the trail throughout the park to make use of scenic views, provide seating areas, and to illustrate historical interpretive information.

History Mystery Node

Location for "clue" associated with a historical themed treasure hunt (typ)

Roundhouse Location

Rustic stone benches are placed along the edge of the roundhouse location for historical significance

Rod & Gun Club

Infiltration Basin (typ)

Use of basins and rain gardens to collect and pretreat stormwater before entering another water body

Natural Area

Enhance and restore native prairie and savanna areas of the park with appropriate plant species

Regional Trail

Connection to the North

Vegetative Buffers

Create vegetative buffers along the berm for additional screening and revegetation. Plantings shall be appropriate for savannas or hardwood forests

Pond Picnic Area
 Gazebo picnic shelter overlooks the pond and adjacent lawn space, with adjacent satellite restrooms and a small fishing pier on the pond

Community Space
 Open lawn space for various community events, informal sports, etc. with adjacent picnic shelter and parking lots

Improved Roadway
 Improve Doffing Ave. with designated turn lanes, adequate separation from adjacent businesses / residents, improved storm water collection, etc.



MATCH LINE

CITY OF INVER GROVE HEIGHTS

REQUEST FOR COUNCIL ACTION

Consider Resolution Concerning the Concord Hills Development

Meeting Date: July 11, 2011
Item Type: Regular
Contact: Thomas J. Kaldunski, 651-450-2572
Prepared by: Thomas J. Kaldunski, City Engineer
Reviewed by: Scott D. Thureen, Public Works Director

SAT

Fiscal/FTE Impact:	
<input checked="" type="checkbox"/>	None
<input type="checkbox"/>	Amount included in current budget
<input type="checkbox"/>	Budget amendment requested
<input type="checkbox"/>	FTE incl. in current complement
<input type="checkbox"/>	New FTE requested – N/A
<input type="checkbox"/>	Other:

PURPOSE/ACTION REQUESTED

Consider resolution concerning the Concord Hills Development.

SUMMARY

The City of Inver Grove Heights and the Danner Family Partnership entered into a Development Agreement for Concord Hills in 2006. The completion date has been extended several times as outlined in the June 27, 2011 Council packet. The current extension agreement required the final wear course was to be completed by June 30, 2011 and all other items on the punch list are to be completed by July 15, 2011. The current Letter of Credit is good until April 17, 2012.

The contractor has requested an extension to July 15, 2013. Staff does not recommend granting this extension. The project should be completed including the final lift of pavement. This would be similar to the adjacent Summit Pine development. Also note that the Park Point developer will be placing his final layer of bituminous on his private streets before his July deadline.

Staff has provided Mr. Danner with the updated punch list (see attached copy). Mr. Danner has been on the site pumping ponds to remove sediment. Our inspector has met with Mr. Danner's crews several times to go over the remaining work. An update of the punch list will be presented to the Council at the July 11, 2011 meeting. Mr. Danner appears willing to complete all work except the final lift of pavement. The City has received hard copy as-built plans for the project. Review of the record plans indicates that eight of the 19 plan sheets need modification to meet City requirements. Electronic as-builts are also required.

Currently, Concord Hills development is in default as of July 1, 2011 because the final lift has not been placed. The Council should provide direction in what the next action is. Three resolutions are provided. The first authorizes a Notice of Default for the incomplete punch list items and unfinished Development Contract items, except the bituminous wearing course, if they are not addressed by July 22, 2011. The second authorizes a Notice of Default if the bituminous wearing course is not installed by July 22, 2011. The third authorizes an extension for installation of the bituminous wearing course for one year to June 30, 2012.

TJK/kf
Attachments: Punch list – Exhibit A
Resolutions

Exhibit A

June 27, 2011

Attn: Marlon Danner
Danner Family Limited Partnership
843 Hardman Avenue S.
South St. Paul, MN 55075

SUBJECT: Punch list for Concord Hills Development (Revision2)

Mr. Danner:

An inspection was done on 6-27-11 for the Concord Hills Development. The following items need to be corrected/ completed prior to acceptance by the City.

Water

Retest Hydrant at 6+30 for conductivity- failed original test.

Storm Sewer

- CS 1- Install flex stake marking post
- MH 101- Place casting
- FES (by MH 301)- Remove sediment from pipe
 - Remove sediment from rip rap
 - Grade area to drain
 - Repair erosion in area
- MH 301- Place correct lid (should be storm has sanitary)
- CBMH 302- Remove sediment from pipe to MH 303
 - Grade area between MH 301-CBMH 302 and MH 303 correctly
- CB 304- Correctly grade around structure
- FES (by MH305)-Remove sediment from rip rap
 - Repair erosion in area
- MH 305- Grade around structure
 - Install flex stake marking post
- CS 2- Install flex stake marking post
- FES (by CBMH 308)-Remove sediment from structure
 - Remove sediment from rip rap
 - Remove sediment from pond and grade area to drain
 - Repair erosion in area
- CBMH 308- Repair erosion in area
 - Remove sediment from structure and pipe to FES
- CBMH 309- Repair erosion in area
- CB310- Grade area and establish ground cover

Grading

Grade area, establish ground cover and place scour stop as shown in plans on Lots 4 thru 7, Block 1

Grade area, repair erosion and establish ground cover as shown in plans on Outlot A, and Lots 1 and 2, Block 2

Basin 1- Stabilize and establish ground cover on access trail

- Remove sediment from pond

- Remove sediment from rip rap

- Repair erosion on side slopes (side slopes are heavily eroded and gullies must be filled and ground cover established)

- Establish ground cover with native grass and wildflower mix (sheet L2 of 2)

- Verify storage volume and EOF elevations

Basin 2-(Raingarden)- Infiltration basin does not function properly and needs to be ammended.

- Grade curb inlet areas

- Provide scour stop at curb inlets

- Repair erosion and establish ground cover up stream from basin

- Establish ground cover with Seed mix MnDOT 328 (sheet L2 of 2)

- Make sure rain garden inlets remain off line (sandbagged) until turf is established

Basin 3-(Raingarden)- Provide scour stop at curb inlets

- Grade curb inlet areas

- Provide scour stop at curb inlets

- Establish ground cover with Seed mix MnDOT 328 (sheet L2 of 2)

- Make sure rain garden inlets remain off line (sandbagged) until turf is established

Basin 4-Remove sediment from pond

- Remove sediment from rip rap

- Repair erosion on side slopes (side slopes are heavily eroded and gullies must be filled and ground cover established)

- Establish ground cover with native grass and wildflower mix (sheet L2 of 2)

- Verify storage volume and EOF elevations

Retaining Walls- Repair erosion at the ends of the retaining walls

- Establish ground cover above and below retaining walls

Repair erosion and establish ground cover on entire project.

All disturbed areas need to be established, especially the Lots 1-8 Block 2

Please note the seed mix requirements as shown on sheet L2 of 2

Developers engineer will certify the development grading is in accordance with the city approved plan dated 8-13-10

Street

Replace damaged curb prior to placing wear course.
Replace damaged castings to placing wear course
Pave wear course
Backfill curb and establish ground cover by cross gutter

Miscellaneous

Plant trees as shown on sheet L1 of 2
Once ground cover is established all erosion control measures must be removed.
Place conservation easement signs at locations shown on sheets G1 and G2 of 6
Remove all miscellaneous construction debris, wood and stockpiles from project.

The development contract requires that you provide the City with a complete set of “as-builts”. Pond and rain garden areas shall have enough shots on the pond bottom and on the side slopes to verify the volume of each pond. The as-built must also verify emergency overflow elevations and locations. We also must have random shots taken throughout the development to verify the development is graded in accordance with the approved grading plan with extra shots to verify swale elevations and locations. This grading plan shall be signed by a Registered Engineer or Land Surveyor certifying the site is graded in general conformance to the City approved grading plan. We require the “as-builts” and certified grading plan to be in Dakota County Coordinates in the following formats:

- 1) Autocad, in both paper and model space with a copy of the layer descriptions.
- 2) Scanned TIF images.

We recommend that you send a copy of the blueprints for approval prior to sending the electronic formats.

If you have any questions, please contact me at 651 450-2575.

Sincerely,

CITY OF INVER GROVE HEIGHTS

Michael Edwards
Engineering Division

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION AUTHORIZING NOTICE OF DEFAULT WITH RESPECT TO THE
DEVELOPMENT CONTRACT BETWEEN CITY OF INVER GROVE HEIGHTS AND DANNER
FAMILY LIMITED PARTNERSHIP FOR THE PLAT OF CONCORD HILLS**

RESOLUTION NO. _____

WHEREAS, Danner Family Limited Partnership (Danner) and the City of Inver Grove Heights (City) entered into a Development Contract on January 26, 2006, for the plat of Concord Hills (Development Contract).

WHEREAS, Danner and the City entered into an Agreement for Extension of Completion Dates for the Developer Improvements related to the plat of Concord Hills on November 9, 2009 (Amendment).

WHEREAS, Danner and the City entered into an Agreement for a Second Extension of the Completion Dates for the Developer Improvements related to the plat of Concord Hills on July 12, 2010 by passing Resolution No. 10-106.

WHEREAS, Danner has not complied with the following requirements of the Development Contract and Amendment:

REQUIRED

COMPLETION DATE

July 15, 2011

IMPROVEMENT

Items listed on Exhibit A as attached
(Punch list dated June 27, 2011, except the
paving of the wear course of bituminous on
the streets)

WHEREAS, Danner has not complied with the following requirements of the Development Contract and Amendment:

The following Developer Improvements must be completed on the site by July 22, 2011:

- a) All items on the attached Exhibit A – June 27, 2011 punch list except final wear course.

WHEREAS, Danner has not complied with the following requirements of the Development Contract and Amendment:

- a) As-built utility plans shall be updated in 2010 as necessary to reflect the 2010 construction in a form meeting City standards, and in an electronic format compatible with the City's GIS system.
- b) Clean-up construction debris and haul it off-site.
- c) Sweep streets.

WHEREAS, Danner has not complied with the following requirement of the Development Contract and Amendment:

- a) The applicable tree preservation requirements listed in paragraph 10 of Exhibit E of the Development Contract.

WHEREAS, if the above requirements are not completed by July 22, 2011, the failure to complete such requirements shall be a Developer Default under the Development Contract and Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS:

1. The City Council determines that if the above requirements are not completed by July 22, 2011, the failure to complete such requirements shall be a Developer Default under the Development Contract and Amendment.
2. If the above requirements are not completed by July 27, 2011, the City Administrator is directed and authorized to give Formal Notice to Danner, on behalf of the City, that the Developer Defaults have occurred and that Danner has until August 22, 2011, to cure all of the Developer Defaults. If Danner does not cure all of the Developer Defaults by August 22, 2011, the City Administrator, acting on behalf of the City, is authorized to commence and seek all remedies provided under law, in equity or in the Development Contract and Amendment, including, but not limited to, collection of the irrevocable letter of credit.

Passed this 11th day of July.

George Tourville, Mayor

ATTEST:

Melissa Rheume, Deputy Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION AUTHORIZING NOTICE OF DEFAULT WITH RESPECT TO THE
DEVELOPMENT CONTRACT BETWEEN CITY OF INVER GROVE HEIGHTS AND DANNER
FAMILY LIMITED PARTNERSHIP FOR THE PLAT OF CONCORD HILLS**

WHEREAS, Danner Family Limited Partnership (Danner) and the City of Inver Grove Heights (City) entered into a Development Contract on January 26, 2006, for the plat of Concord Hills (Development Contract).

WHEREAS, Danner and the City entered into an Agreement for Extension of Completion Dates for the Developer Improvements related to the plat of Concord Hills on November 9, 2009 (Amendment).

WHEREAS, Danner and the City entered into an Agreement for a Second Extension of the Completion Dates for the Developer Improvements related to the plat of Concord Hills on July 12, 2010 by passing Resolution No. 10-106.

WHEREAS, Danner has not complied with the following requirements of the Development Contract and Amendment:

REQUIRED

COMPLETION DATE

June 30, 2011

IMPROVEMENT

Placement of final bituminous wear course on the streets

WHEREAS, if the above requirement is not completed by July 22, 2011, the failure to complete such requirements shall be a Developer Default under the Development Contract and Amendment.

WHEREAS, with respect to the letter of credit required by the Development Contract and Amendment, Anchor Bank has extended the letter of credit to April 17, 2012.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS:

1. The City Council determines that if the above requirement is not completed by July 22, 2011, (the final wear course of bituminous pavement for public streets), the failure to complete such requirement shall be a Developer Default under the Development Contract and Amendment.
2. If the above requirement is not completed by July 22, 2010, the City Administrator is directed and authorized to give Formal Notice to Danner, on behalf of the City, that the Developer Defaults have occurred and that Danner has until August 22, 2011 to cure all of the Developer Defaults (the final wear course of bituminous pavement for public streets). If Danner does not cure all of the Developer Defaults by August 22, 2011, final wear course of bituminous pavement for public streets, the City Administrator, acting on behalf of the City, is authorized to commend and seek all remedies provided under law, in equity or in the Development Contract and Amendment, including, but not limited to, collection of the irrevocable letter of credit.

3. The City acknowledges that with respect to the letter of credit, Anchor Bank has extended the letter of credit to April 17, 2012.

Passed this 11th day of July 2011.

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk

**CITY OF INVER GROVE HEIGHTS
DAKOTA COUNTY, MINNESOTA**

**RESOLUTION APPROVING AGREEMENT FOR EXTENSION OF COMPLETION DATES FOR THE FINAL
BITUMINOUS WEAR COURSE ON STREETS IN THE PLAT OF CONCORD HILLS**

RESOLUTION NO. _____

WHEREAS, Danner Family Limited Partnership and the City entered into a Development Contract on January 26, 2006, for the plat of Concord Hills.

WHEREAS, Danner and the City entered into an Agreement for Extension of Completion Dates for the Developer Improvements related to the plat of Concord Hills on November 9, 2009 (Amendment).

WHEREAS, Danner and the City entered into an Agreement for a Second Extension of the Completion Dates for the Developer Improvements related to the plat of Concord Hills on July 12, 2010 by passing Resolution No. 10-106.

WHEREAS, the parties seek to extend the completed dates as shown in Exhibit C of the Development Contract for the final bituminous wear course on the streets.

WHEREAS, the Development Contract and subsequent amendments identifies conditions that must be satisfied prior to issuance of a Certificate of Occupancy and no later than June 30, 2011.

WHEREAS, the Developer will be required to adjust the existing utility casting to the base course level by July 22, 2011 and readjust them to the final wear course level prior to placing the final wear course.

WHEREAS, the parties seek to amend the Development Contract to allow an extension of the final completion of the bituminous wear course on streets to July 2012.

WHEREAS, Section 15.1 of the Development Contract identifies an expiration date of April 17, 2012, for the letter of credit to secure the installation of the Developer Improvements identified in the Development Contract.

WHEREAS, the parties seek to extend the expiration date for the letter of credit as shown in Section 15 of the Development Contract to December 31, 2014.

WHEREAS, the Developer has requested an extension of the time to complete the final wear course of bituminous pavement and the City Council is willing to grant this specific extension to June 30, 2012 (one-year).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INVER GROVE HEIGHTS:

1. The City Council hereby approves an Agreement for Extension of Completion Dates for the final bituminous wear course on the streets in the plat of Concord Hills to June 30, 2012 provided the Developer provides the City with a new letter of credit by July 31, 2011. The new letter of credit shall have an expiration date of December 31, 2014. Said Agreement to be drafted by the City Attorney following passage of the resolution.
2. The Mayor and Deputy Clerk are authorized to execute the Agreement for Extension of Completion Date to June 30, 2012, specifically for the placement of the final lift of bituminous wear course on the streets in the plat of Concord Hills.

Passed this 11th day of July 2011.

George Tourville, Mayor

ATTEST:

Melissa Rheaume, Deputy Clerk