



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** July 20, 2005

**To:** Council President Paul Ostrow and Council Members

**Prepared by:** Michael Orange, Principal Planner, Department of Community Planning and Economic Development—Planning Division

**Approved by:** Barbara Sporlein, Director, Planning

**Subject:** Determination of the need for an Environmental Assessment Worksheet for the proposed Bassett Creek Woods Townhomes project at 908 Washburn Ave. N. by Brakins Homes in response to a petition signed by more than 25 individuals and filed with the Minnesota Environmental Quality Board (dated 7/13/05).

**Previous Directives:** None regarding the petition

**RECOMMENDATION:** The Department of Community Planning and Economic Development—Planning Division recommends that the City Council approve the attached findings and deny the petition for an Environmental Assessment Worksheet (EAW) for the Bassett Creek Woods Townhomes project at 908 Washburn Ave. N. by Brakins Homes (Project) because the evidence presented by the petitioners fails to demonstrate the Project may have the potential for significant environmental effects.

**Financial Impact:** Not applicable

**Community Impact:** The substance of the petition concerns the stormwater impacts of the project. The following summarizes the conclusions of the Public Works staff in response to the assertions of the Petitioners:

- The project site clearly does not lie within the 100-year flood plain. Although a portion of the site does lie within the 500-year flood plain, there are no restrictions or permits associated with filling within the 500-year flood plain.
- None of the typical characteristics of wetlands are visibly apparent at 908 Washburn.
- There is no evidence that the Project will increase the susceptibility of any adjacent properties to flood damage.

**Ward:** 5

**Neighborhood Notification:** None needed for this decision which is mandated by Minnesota Environmental Quality Board (EQB) Rules. The Project has been the subject of a public hearing before the Planning Commission (which approved the Project on 5/9/05) and two hearings before

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the Zoning and Planning Committee of the City Council (which denied the appeal and thereby approved the Project on 6/9/05 and again on 7/14/05). There is considerable neighborhood opposition to the Project including a letter in opposition from the Northside Residents Redevelopment Council (letter dated 4/19/05).

**City Goals:** Not applicable, this procedural decision was initiated and is mandated by the EQB rules.

**Comprehensive Plan:** Not applicable

**Zoning Code:** Not applicable

**Living Wage/Job Linkage:** Not applicable

**End of 60/120 Day Decision Period:** Not applicable

**Other:** Not applicable

### **Background and Supporting Information:**

The Minnesota Environmental Quality Board (EQB) has received a petition signed by more than 25 individuals and has determined the City is the appropriate governmental unit to decide the need for an EAW on this project (refer to Attachment C which includes the letter from the EQB dated July 18, 2005 and the submission by the petitioners (Petitioners) received by the EQB).

#### **A. Project Description**

**Cluster development:** The Zoning Code classifies the Project as a seven-unit cluster development (Attachments A and B include additional information, photos, and project drawings).

**Prior City decisions:** On 6/21/04, the Planning Commission considered the applicant's first proposal for this site. The applicant sought to rezone it from R1 to R4 for a 25-unit, three-story residential development. The Planning Division recommended denial but, in lieu thereof, approval of rezoning to R3, Multiple-Family District; however, the Commission and the City Council and Mayor denied the rezoning. On 9/27/04, the Planning Commission approved the applicant's second proposal for the site; namely, to replat the site to accommodate 4 single family homes. The applicant states that he could not economically develop the site with only 4 homes and so he is reapplied for an 8-unit development.

The Planning Commission approved the Project on 5/9/05, and the Zoning and Planning Committee of the City Council denied an appeal of the Planning Commission's decision and thereby approved the Project on 6/9/05 and again on 7/14/05. The matter is before the full Council at its regularly scheduled meeting on 7/22/05.

**Prior development:** Staff could find no City record of prior development on the site and a neighbor said there was no development there when he moved to the neighborhood in 1953. The lack of development is due to the fact that the site has unstable soil conditions which will require pilings for any development of the property. This will increase development costs substantially.

**Neighboring uses:** The predominant use in the surrounding neighborhood is relatively new single-family homes, several on large lots, consistent with the R1 and R1A zoning. To the west

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of the site across Washburn Ave. is a large triangular property owned by the Hennepin County Regional Railroad Authority. This site is zoned R4. According to County staff, the Authority purchased this site, known as Washburn Gardens, in anticipation of needing it in the event it purchases the railroad right-of-way for transit purposes. The Authority purchased 10-12 similar sites for future station and park-and-ride needs. The Authority's policy is to retain all of these properties. West of the County property is the City boundary and Theodore Wirth Park.

### **B. The Arguments of the Petition**

The Petitioners make the following arguments in support of requiring an EAW and potentially an EIS prior to the City's final decision to build the Project (refer to Attachment C for the complete petition):

1. The Project "is building under the legal flood plane elevation of 826 feet and plans to raise this elevation with backfill."
2. The Project "is on a wetland as defined by the wetland conservation act."
3. "Because of 1 and 2, the proposed development will prevent the stormwater in the immediate area from absorbing into the ground and displace it into neighboring properties due to the insufficient storm sewer system in the surrounding area."

### **C. The Findings Required by the Rules of the EQB**

The EQB Rules require the City to order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the City demonstrates that, because of the nature or location of the proposed Project, the Project may have the potential for significant environmental effects. The Rules require the City to deny the petition if the evidence presented fails to demonstrate the Project may have the potential for significant environmental effects. In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

#### **1. Type, extent, and reversibility of environmental effects:**

The following are responses from the Public Works Department to the Petitioners' assertions:

**Assertion:** The Project "is building under the legal flood plane elevation of 826 feet and plans to raise this elevation with backfill."

**Response:** As shown in Federal Emergency Management Agency (FEMA) Map Number 27053C0352E, 908 Washburn clearly does not lie within the 100-year flood plain. A portion of this proposed development does lie within the 500-year flood plain. There are no restrictions and or permits associated with filling within the 500-year flood plain.

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**Assertion:** The Project “is on a wetland as defined by the wetland conservation act.”

**Response:** A cursory review of the 908 Washburn site was performed by the Public Works Department and this site does not at first glance appear to meet the definition of a wetland. The following sources were used in this determination:

- Aerial photographs
- Existing topography maps
- One foot contour maps, along with recent digital photographs of the site
- Defined wetlands map

In general, wetlands are areas where the following hold true:

- Mostly hydric soils
- They are wet within 1 ft of the surface during all or part of the growing season
- They support vegetation adapted to wet soils

None of the three above characteristics of wetlands are visibly apparent at 908 Washburn. However, in the Planning Division’s report to the Planning Committee on May 31, 2005 there are both residents and Planning Commissioners who make anecdotal comments with respect to the following characteristics of this site:

- High water table and many homes with wet basements
- A subsurface river passes under this site
- This site was once a swamp that has been filled over time

Based on the anecdotal information supplied by the residents and Planning Commissioners, Public Works recommends that a consultant who specializes in the delineation of wetlands be retained to assist Public Works to determine whether or not this site is a wetland as delineated by the Corp of Engineers Wetland Delineation Manual. Completion of this task is contingent on first obtaining permission from the property owner to access the site.

**Assertion:** “Because of 1 and 2, the proposed development will prevent the stormwater in the immediate area from absorbing into the ground and displace it into neighboring properties due to the insufficient storm sewer system in the surrounding area.”

**Response:**

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**Background:** To determine the impact of the development of 908 Washburn with respect to stormwater management, a hydraulic and hydrologic XPSWMM model was developed to identify the causes and locations of the flooding problems within this storm-sewer shed, and to provide recommendations and alternatives aimed to reduce the extent and duration of flooding.

Each of the modeling conditions were evaluated for the 100-year (5.9 inch), NRCS, 24-hour Type II rainfall events to determine the number of properties susceptible to damage. Drainage areas were delineated to each intersection or low point. Hydrological parameters such as sub-basin drainage area, time of concentration, and curve number were determined for each sub-basin within the entire watershed area. Plat drawings were used to determine existing pipe sizes, locations, and depths. A Minneapolis one-foot contour map was used to identify watershed areas and to route overland flows. All of this information was used to develop the system network within XPSWMM.

**Existing Conditions:** There was only one area identified within this storm-sewer shed where flooding occurrence could impact properties during the 100-year rainfall event. This area is located adjacent to the intersection of Farwell N. and Upton Ave. S. Two homes are susceptible to flooding during the 100-year rainfall event at this location. An outflow routing curve for the outlet to the Bassett Creek could not be attained in time for this report, so it is assumed that no tail water conditions exist at this location.

The hydraulic and hydrologic modeling does not support the purported street flooding and ponding within the intersection of Washburn Ave. N. and Oak Park N. Analysis does indicate that there is a significant amount of overland flow directed to this intersection. During a 100-year event, the following overland flows (in cubic feet per second (cfs)) are directed as follows:

- 18-cfs of overland flow north on Washburn to the intersection of Washburn Ave. N. and Oak Park N.
- 12-cfs of overland flow south on Washburn to the intersection of Washburn Ave. N. and Oak Park N.
- 5-cfs of overland flow west on Oak Park N. to the intersection of Washburn Ave. N. and Oak Park N.
- 8-cfs of overland flow east on Oak Park N. to the intersection of Washburn Ave. N. and Oak Park N.

One possible cause for this discrepancy is that the XPSWMM software assigns unlimited capacity to nodes or inflow points.

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**Calibration:** In an attempt to calibrate the model to Mr. MacIntyre's photographs, the inlet capacity within the intersection of Washburn Ave. N. and Oak Park N. was reduced down to roughly 10 percent of the theoretical capacity and then the high water elevations began to match the anecdotal high water elevation evidence. With restricted inlet capacity the 100-yr high water elevation (HWL) at Washburn Ave. N. and Oak Park N. is 824.5 ft.

Based on these results, a comprehensive analysis of inlet capacity should be performed prior to the completion of the proposed construction of 908 Washburn.

**Proposed Conditions:** The developer's preliminary "CIC Plat & Grading Plan" dated June 13, 2005 was superimposed onto the City's electronic topographic maps. The proposed development sub-basin parameters were then recalibrated and a new XPSWMM model was created to analyze the proposed post-development condition. With restricted inlet capacity, the 100-yr high water elevation (HWL) at Washburn Ave. N. and Oak Park N. becomes 825.

**Conclusions:** The resulting proposed HWL of 825 at Washburn Ave. N. and Oak Park N. should not increase the susceptibility of any adjacent properties to flood damage.

**Standard of Care:** The conclusions and recommendations contained in this report were arrived at in accordance with generally accepted professional engineering practice at this time and location. Other than this, no warranty is implied or intended.

### **2. Cumulative potential effects of related or anticipated future projects:**

No future associated projects are anticipated. The Project represents the maximum possible build-out of the site consistent with City codes and regulations.

### **3. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority:**

The process by which the City will review and approve the Project, including the Project's stormwater management plan, is comprehensive and competently administered by the professional staff of the City.

### **4. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs:**

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Projects of this type in locations of this nature are neither unique nor unanticipated. Based on this experience and the analyses completed and yet to be completed for the Project, staff conclude that the potential environmental effects of the Project can be anticipated and controlled.

### **D. Staff Recommendation**

The Department of Community Planning and Economic Development—Planning Division recommends that the Committee and the City Council approve the attached findings and deny the petition for an Environmental Assessment Worksheet (EAW) for the Bassett Creek Woods Townhomes project at 908 Washburn Ave. N. by Brakins Homes (Project) because the evidence presented by the petitioners fails to demonstrate the Project may have the potential for significant environmental effects.

#### **Attachments:**

- A. Site photos
- B. Project description
- C. Petition