



## Request for City Council Committee Action from the Department of Community Planning & Economic Development

**Date:** July 11, 2006

**To:** Council Member Lisa Goodman, Community Development

**Subject:** Grain Belt Phase I Housing Project - Archaeological Discovery and Modified Development Timetable

**Recommendation:** 1) Approve a redevelopment contract amendment with a modified development timetable related to the impact of the unanticipated archaeological discovery described in this report; and 2) authorize a Right of Entry or short term lease to allow the developer to place a pre-sales marketing sign on the Phase I site.

**Previous Directives:** 1) In August 2000, the MCDA Board and City Council approved an amendment to the Grain Belt Development Objectives, a modification to the Grain Belt Redevelopment Plan, and an authorization to issue a housing RFP; 2) In February 2001, the MCDA Board selected the Sheridan Development Company (SDC) as the developer of the Grain Belt Housing Project over three other development proposals, and awarded it six-month development rights; 3) In July 2001, the Board approved a one-year extension of the development rights, and approved additional extensions in July 2002 and in February 2003; 4) On June 2003, the Board approved the finance plan and redevelopment contract terms for Phase I of Grain Belt; 5) On September 26, 2003, the Council adopted the Grain Belt TIF Plan and related Plan modifications; 6) On November 5, 2004, the Council approved an amendment to the redevelopment contract business terms for Phase I of the Grain Belt Housing Project; 7) On December 23, 2005, the Council approved an amendment to the redevelopment contract to extend certain performance deadlines; and 8) On May 26, 2006, the Council approved the sale of the Phase I site to the developer.

**Prepared by:** Jerry LePage, Sr. Project Coordinator

**Phone:** 5240

**Approved by:**

Chuck Lutz, Deputy Director CPED

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Elizabeth Ryan, Director of Housing Policy & Development

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**Permanent Review Committee (PRC)** Approval  Not Applicable

**Note:** To determine if applicable see <http://insite/finance/purchasing/permanent-review-committee-overview.asp>

**Presenter in Committee:** Jerry LePage, Sr. Project Coordinator

### Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the  Capital Budget or  Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan:  Action is within the plan.  Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

### Community Impact (use any categories that apply)

Neighborhood Notification: The Sheridan Neighborhood Organization (SNO) has been notified that this report will be presented to the City Council.

City Goals: Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.

Comprehensive Plan: Section 4.9: Minneapolis will grow by increasing its supply of housing. Section 4.10: Minneapolis will increase its housing that is affordable to low and moderate income households. Section 4.11: Minneapolis will improve the availability of housing options for its residents.

Zoning Code: On May 12, 2006, the City Council approved a re-zoning of the Phase I site to C1 (Neighborhood Commercial District) and R5 (Multifamily District).

Other: NA.

### Background/Supporting Information:

On May 16, 2006, staff presented a report to the City Council to request approval of the sale of the Grain Belt Phase I land to the Sheridan Development Company (SDC), pursuant to the development timetable calling for land conveyance to the developer and construction start by July 1, 2006. The site plan/elevations and Project Data Worksheet for the Phase I development that were provided with the land sale report are also attached to this report as **Exhibit 1 & Exhibit 2**.

In May, staff reported that SDC's archaeological consultant (Two Pines Resource Group) had begun pre-construction archaeological investigation of the Orth Brewery foundation ruins, as required by the Planning Commission, HPC, and SHPO. The approximate location of these foundation ruins were determined by Hemisphere Field Services back in March 2001. The Hemisphere report led to major changes in the Grain Belt Phase I site plan since SHPO required that these ruins be "preserved in place" or as-is.

Unfortunately, the recent excavation by Two Pines Resource Group has revealed that the foundation ruins are not where originally thought and that there are multiple buildings that made up the historic Orth Brewery with extant foundations. Under the terms of the City's Programmatic Agreement with SHPO for the Grain Belt project, this situation is considered an "unanticipated discovery." Under the terms of SDC's redevelopment contract with the City, this is an "unavoidable delay", which is neither the fault of the City or the developer. SDC has been performing on schedule pursuant to the timetable approved by the City Council last December, and has met a number of intermediate deadlines in the redevelopment contract, leading up to a closing on City land and a construction start by July 1, 2006.

## **Archaeological Discovery Impact on Development Plan/Timetable**

The major impacts of this archaeological discovery are as follows:

- 1) Part of the foundation ruins on the east (toward Main Street) encroaches on the construction boundary of one of SDC's buildings;
- 2) Part of the ruins encroaches on the onsite storm water retention area that the developer planned to locate on the western part of the site near Marshall Street; and
- 3) The foundation ruins throughout the site were shallower than thought and will require modification of the vertical elevation of the plaza.

On May 25<sup>th</sup> and June 8<sup>th</sup>, meetings were held at the Grain Belt site that included CPED staff, HPC staff, SHPO, and the developer and his team (architect, civil engineer, and archaeologist). Based on these meetings, it was apparent that moving the development back further from Marshall to completely avoid and to "preserve in place" the easternmost foundations would severely impact the development plan in terms of its underground parking structure, building spacing, setbacks, etc. Such changes would likely require a complete re-design of the project, which would be a lengthy and time consuming process. In light of these discoveries, there seemed to be general agreement by all parties that we should work through this situation without undue delay and that a mitigation plan involving the "removal and demolition" of the easternmost foundations should be prepared and considered. SHPO is currently reviewing the mitigation plan prepared by Two Pines Resource Group and will expedite its response to this plan.

In addition to SHPO review, HPC staff has indicated that they will need to review this mitigation plan, since earlier approval was based on "preservation in place" of all foundation ruins. CPED Planning staff has indicated that additional review by the Planning Commission should not be necessary as long as any changes made are consistent with City code and do not require variances or an amendment to the previously approved re-zoning action.

With regard to onsite storm water management, Sheridan Development Company is developing a plan to relocate some of these facilities to another part of the site that is unaffected by the foundation ruins. However, due to these site constraints, the developer may not be able to achieve 100% onsite capacity. Under the City's ordinance on Storm Water Management, developers can partially or fully "buy out" of the onsite storm water requirement, with the approval of the City Engineer, if they can demonstrate that a development site does not have sufficient space for the required storm water treatment structures. In lieu of 100% onsite treatment, developers must demonstrate that they have maximized onsite capacity and then must make a contribution to the construction of a regional storm water facility, based on the percentage of deficient capacity. SDC is currently discussing its revised storm water management plan with the Public Works Department and, if necessary, may pursue the partial offsite treatment option.

As far as the issue of vertical elevation, the developer is reviewing the archaeologist report with respect to the depth of the foundation ruins and will be modifying the elevation of the future Orth Plaza and working on its redesign in consultation with SHPO and the HPC.

### **Modified Development Timetable**

The complications caused by the unanticipated archaeological discoveries have created a 2-month delay in the development timetable. The table on the next page shows the current performance timetable (approved by the City Council in December 2005 in the form of an amendment to the redevelopment contract), and the modified timetable being recommended to compensate for this delay.

Activity	Current Timetable	Modified Timetable
Phase I: Developer closes on City land/start of construction activities	July 1, 2006	September 1, 2006
Phase I: completion	June 30, 2007	August 30, 2008
Phase II: execution of redevelopment contract *	July 1, 2007	September 1, 2007
Phase II: start of construction activities	July 1, 2008	September 1, 2008

\* Execution of a Phase II redevelopment contract will be dependent upon SDC's satisfactory performance on Phase I and the submission of an acceptable Phase II proposal that is approved by the City Council.

Staff is also requesting authorization for a Right of Entry (ROE) or short term lease that would run until the closing on the Phase I land to allow the developer to have a pre-sales marketing sign on the site. Under City policy, an ROE or lease for longer than 30 days requires Council approval. The developer has already constructed a marketing sign on the Phase I site under a 30-day Right of Entry with the City that will end in mid-July.