



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

Date: April 20, 2004

To: MCDA Board of Commissioners

Prepared by: Bill Koncak, Project Coordinator III, Phone 612-673- 5233

**Presenter in
Committee:** Bill Koncak, Project Coordinator III, Phone 612-673-5233

Approved by: Chuck Lutz, Deputy CPED Director _____

**Subject: Reimbursement for soil correction costs for the development of
4137 France Avenue South**

RECOMMENDATION: The Deputy Director requests an increase of no more than \$17,000 from the previous \$45,000 approved by the Board for soil correction costs.

Previous Directives: Board approved a sale of the property to Mr. Hossein Azhakh on March 6, 2000. On October 30, 2000, Board approved a report reimbursing the developer for soil correction not to exceed \$45,000.

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (Summarize below)

The sale of this property will eliminated future property management maintenance expenditures.

Ward: 13

Neighborhood Notification: The Linden Hills Neighborhood Council reviewed this proposal on February 8, 2000 and recommended it be approved.

City Goals: Consistent with Goals 1,2,3 and 5.

Comprehensive Plan: The new construction of a two family residence is consistent with the Comprehensive Plan as shown on the Land Use Map and in conformance with the Vacant Housing Recycling Program relating to this community.

Zoning Code: Conforms, zoned R-3, A variance was requested and approved for a two-unit dwelling.

Living Wage/Job Linkage: NA

Background/Supporting Information:

The neighbors of this property raised concerns to the Linden Hills neighborhood group and their council member regarding the drainage into this low elevation lot and the future use of this blighted structure. The owner, Ms. Elizabeth Cruden Lindquist was about to enter or had entered a nursing home. The adjacent property owners were extremely worried about the possible problems they might suffer and the negative effects that could result from the continued drainage from their properties to this lower elevation lot. Their council member requested that MCDA review the property for possible acquisition. Staff found upon inspection that the property appeared to have suffered severe structural damage, as shown by extensive cracks and displacement of the basement walls and concrete floor. The head of an existing piling was visible where it protruded through the concrete floor. This coupled with the negative elevation of the lot when compared with the adjacent properties, made repairs financially infeasible. Minneapolis Public Housing was consulted about possible interests in said property, but staff was told that they had already purchased a property on the block and could not be involved in this property.

This property was purchased by the MCDA from the owner's estate representative, Mr. David Cruden on October 7, 1999 for \$30,000 in federal funds. The federal funds used are designated for blight clearance and increase housing opportunities. CPED's staff believed that any development on this lot would require some soil correction work and some initial soil tests were done after the demolition of the existing structure. But, without knowing what future designs were planned, exact soil correction costs were not possible. When the MCDA advertised the lot for the then appraised value of \$30,000, these initial tests were shared with all interested parties.

The four complete proposals received by the advertising deadline were shared with Linden Hills Neighborhood Council. They reviewed the proposals without staff or the proposers in attendance. They felt Mr. Azhakh's and one other proposal had acceptable designs.

Therefore, these two proposals were brought to the Board of Commissioners on March 6, 2000 for their decision. Mr. Azhakh's proposal was selected because it was to be built and lived in by Mr. Azhakh's family. The Board of Commissioners approved Mr. Azhakh's proposal. Mr. Azhakh's purchased the lot on August 8, 2000 and the \$30,000

was escrowed pending the final determination of the final design and required soil corrections needed.

Initially, staff met with Mr. Azhakh's development team to further refine the plan and determine the necessary costs using the MCDA's initial soil tests. The MCDA's original test consultants estimated that the costs of the soil correction for Mr. Azhakh's initial design would cost \$34,800, which included additional testing and design work on their part. This soil correction amount did not include required construction changes that further increased the required amount. Staff on October 30, 2000 requested and received approval from the MCDA's Board of Commissioners to reimburse Mr. Azhakh for soil correction costs not to exceed \$45,000. The plan was to complete the necessary design work and begin construction in the spring of 2001. So, Mr. Azhakh's design team including the general contractor and the soil engineers began their final design work, including additional soil tests during the winter months of 2000.

Unfortunately, after additional design work, by the spring of 2001 it was apparent that the initial estimate of the required soil correction costs had increased and there was the need to control rainfall run off from this proposed development could affect the adjacent properties and severe structural problems could occur.

During the summer and fall of 2001, Mr. Azhakh's team including his general contractor, Parkos Construction worked with representatives of the Department of Public Works and CPED to design a new home that will be functional and economically feasible but still solve all the problems identified. The Department of Public Works agreed upon a design of two surface catch basins and drain line to be on the lot and to be attached to the public storm line under France Avenue. This drain system approval was a first, but would correct a very difficult situation for this structure and the adjacent structures. Mr. Azhakh's general contractor, Parkos Construction Company, then bid the cost soil correction and drain system at \$96,095 in February of 2002. In subsequent meetings and reviews of the house design, staff and the development team could not suggest any additional changes to reduce the cost of the soil corrections, but the cost of the soil corrections were now over twice the amount approved.

Mr. Azhakh then suggested that he could build a duplex on the site, which he and family members would occupy and that he might then be able to justify some additional costs. Staff suggested that he work with his contractor on a duplex design and the necessary cost of soil corrections. Staff also suggested that they contact the Zoning Department regarding the necessary zoning change. The owner/developer applied for a variance for a duplex on the site, which was recently granted. The general contractor has agreed that the cost for the soil corrections on the lot for a duplex building will remain at \$96,095.00. This lot is on France Avenue, which is a major north-south traffic street, with public transportation to Hennepin-Lake area, downtown Minneapolis and Southdale area.

Since the soil correction costs significantly exceed the original purchase price of the lot, staff feels there are three options:

1. Agree to reimburse the buyer/general contractor for the total cost of the soil correction, presently estimated not to exceed \$96,095.00. Staff would review and approve all costs expended before any reimbursement.
2. Negotiate a lesser amount that CPED will reimburse for the soil correction costs. This amount would reflect the lot's present value of \$75,300 as a single family home site and \$100,000 as a duplex site, with the needed soil correction completed, but be offset by increased holding and development costs already expended by Mr. Azhakh.
3. Buy back the lot from Mr. Azhakh's for the original purchase price of \$30,000. This does not consider the additional money in excess of \$36,000 spent by the developer to date, plus time expended by the development team.

If the third option is selected, then the possible re-uses are:

- a. Because of the topography and the low elevation of this lot, it was suggested that Public Works may wish to own this lot for use as a small holding pond, help correct drainage problems in this area. Staff in consultation with Public Works staff found that the lot would be too small for a holding pond and the development costs are not available at this time from Public Works Department. So this option is not feasible.
- b. The lot could be sold to the two adjacent neighbors as two side yards. At this time both neighbors have or had their properties for sale and have not expressed any recent interest in the property; except for its effect on their attempted property sales have been very negative.
- c. Use as a neighborhood garden. This would require that fill be brought to the site, but this option may increase the neighbor's drainage problems. This option is questionable at best considering the existing drainage problem would still have to be corrected.
- d. Attempt to market and sell the lot to a new developer, but the soil correction would still be necessary.

Staff suggests that option 2 is the best possible option, considering the general increase in the neighborhood's property values and the increased density in a very desirable area, coupled with the property taxes to be paid in the future. Staff feels that the second option is also the fairest to both the owner/developer and CPED, considering the costs already incurred by the owner/developer's team are in excess of \$65,878.11 (letter of costs attached) to purchase the lot, maintenance, taxes, design costs and not counting personal time expended.

CPED staff in consultation with the city assessor's office has been told that the estimated property tax on the new duplex would be \$6660/year non-homesteaded and \$5328/year homesteaded. Of this amount 53% is paid to the City of Minneapolis. This translates to \$3528/year non-homesteaded or \$2824/year homesteaded. This tax is generated on an anticipated property value of \$360,000. The \$360,000 EMV is generated by a lot value of \$100,000 and a construction cost of \$300,000 which was provided by Mr. Azhakh. The above total is \$400,000, but the assessor stated that the EMV is never 100% of the total development cost, hence the 10% reduction. So if the total amount of taxes generated and paid to the City of Minneapolis were put towards

the payment for the maximum proposed soil correction cost reimbursement of \$64,000, the cost would be repaid in 22 years.

The City Attorney has reviewed the Land Sale Contract and the Real Estate Disposition Policy and has stated that there is no legal obligation for the MCDA/City to provide soil correction costs over and above that which has previously been approved.

Considering that Mr. Azhakh paid \$30,000 for the lot and will pay in excess of \$96,000 for the soil corrections, he will have expended over \$126,000 plus hundreds of hours of their development team's time, even before construction of the structure begins. As is customary, staff will review and agree to the work to be done before soil correction work begins and approve all costs upon completion of the work. In any case, the total amount to be reimbursed by CPED is not to exceed \$62,000.

A quick summary of this proposed solution are:

MCDA/CPED Original Expenses

Acquisition of original property	\$30,000.00
<u>Demolition of structure</u>	<u>9,653.00</u>
Total	\$39,653.00

Soil Corrections Expenses

Development costs spent by Mr. Azhakh to date	35,878.11
<u>Cost of soil correction</u>	<u>96,095.00</u>
Total costs expended before actual structure is begun	\$131,973.11
<u>Today's lot value less Mr. Azhakh's cost</u>	<u>70,000.00</u>
Grand Total needed to correct	61,973.11

Option 1	Option 2
We buy back the property from Mr. Azhakh for \$30,000.00 and spend an additional \$30,000.00 to stabilize the lot. By doing this we address the potential danger to the two (2) adjacent structures only, but still have an unbuildable parcel. Leaving us with an out of pocket expense of \$60,000.00.	We increase the amount to address soil corrections by 17,000.00. By doing so we address the soil corrections issue leaving the parcel buildable. Couple with that we also address the potential danger to the two (2) adjacent structures.
Total out of pocket expense: \$60,000.00	Total out of pocket expense: \$61,973.11

This report was prepared by Bill Koncak. For more information, call (612) 673-5233.

