



PLANNING COMMISSION AGENDA

COUNCIL CHAMBERS

MONDAY, OCTOBER 16, 2023

6:00 PM

1. Call to Order
2. Approval of the Minutes
3. Public Hearings
 - A. Amendment to Resolution 2010-122 for Final Plat approval of Lyndale Commons and any other documents and agreements related to access easements and shared private drives associated with 2055 Lyndale Avenue N (PID # 18.24.4.52.001); 1500 Lyndale Court (PID # 18.24.4.52.002) and 1500 20th Street NW (PID # 18.25.1.25.002).
4. Board & Commissions Updates & Reports
5. Adjournment

Please contact the Departments of Community & Economic Development at 507-334-0100 if you need special accommodations to participate in this meeting.



PLANNING COMMISSION MINUTES

COUNCIL CHAMBERS

MONDAY, AUGUST 7, 2023

6:00 PM

Meeting Items

1. Call to Order
The regular meeting of the Planning Commission was called to order by Vice Chair Samuel Temple at 6:00 pm. Commissioners Chuck Ackman, Eric Delgado, Barton Jackson and Vice Chair Temple were present. Also present were David Wanberg, Peter Waldock and Kari Casper.
2. Approval of the Minutes - July 17, 2023 Regular Meeting
Barton Jackson made a motion to approve the minutes, seconded by Eric Delgado. The motion passed on a 4/0 vote.
3. Public Hearings
 - A. Application for Zoning Text Amendments to allow Recycling Collection Centers with a Conditional Use Permit in the Certain Commercial Districts
Mr. Waldock began his presentation by combining the E-Waste Recycling and the Zoning Text Amendment application and then discussing the application for the Conditional Use Permit. He made it very clear that the use for this was only for collection, not processing the recycling. This is on a small scale. Here, the company will be collecting the fee for moving the materials on to the recycling center. The only place today that a recycling center can be in is the Industrial District. The staff recommend the C-2 and C-3. There is a difference between E-Waste and Commercial Recycling. Waldock listed the types of items that the center will be taking and not taking. They will not be accepting refrigerators and freezers. The materials must be completely enclosed, not outside storage in the commercial districts. No trailers or storage containers are allowed either. The staff is recommending approval of the ZTA. After Waldock's presentation, Vice Chair Temple brought the matter up for discussion. Ackman has a couple of questions about the definition as presented and Waldock had discussed this earlier with Wanberg and felt that it was such a small use and not a primary use and is okay with the language. Ackman also asked about the rail line and if they might use it in the future. Waldock stated that they do not have a side spur to do that and would not be able to. Jackson asked about the lithium batteries and the potential for fire due to potential damage. He did not feel that it would be safe to put this type of business in a mall setting, considering it to be a potential hazard. Vice Chair Temple then opened the matter up for a public hearing at 6:29 p.m. and Ryan Miryala, the applicant, came forward to answer questions. Mr. Miryala stated that they do inspect the batteries that come in and are trained in identifying potential risks and federal law states how to properly handle these types of situations. He stated that they are here for the community to be able to get rid of these types of materials. Vice Chair Temple closed the public hearing at 6:39 p.m. A motion was made by Chuck Ackman, seconded by Barton Jackson to approve the Zoning Text Amendment having met all the required findings as presented. The motion passed unanimously.
 - B. Application for Conditional Use Permit for a Recycling Collection Center in the C-2 District at 1001 Division St. W.

Vice Chair Temple then asked for a motion to approve the Conditional Use Permit as presented. A motion was made by Barton Jackson, seconded by Eric Delgado to approve the Conditional Use Permit as having met all the findings for this action as well. The motion passed unanimously.

4. Board and Commission Reports, Announcements and Updates

There was nothing really to update.

5. Adjournment

Motion by Barton Jackson, seconded by Chuck Ackman to adjourn the meeting at 6:43 p.m. The motion passed unanimously.

Respectfully submitted,

By: 
Kari Casper, Recording Secretary

3.A



REQUEST FOR PLANNING COMMISSION ACTION

TO: Planning Commission
THROUGH: David Wanberg, Community and Economic Development Director
FROM: Peter Waldock, Planning and Zoning Coordinator
MEETING DATE: October 16, 2023
SUBJECT: Amendment to Resolution 2010-122 for Final Plat approval of Lyndale Commons and any other documents and agreements related to access easements and shared private drives associated with 2055 Lyndale Avenue N (PID # 18.24.4.52.001); 1500 Lyndale Court (PID # 18.24.4.52.002) and 1500 20th Street NW (PID # 18.25.1.25.002).
MATTER TO BE CONTINUED TO NOVEMBER 6, 2023.

Background:

ABC Faribault Storage LLC and GSES of Faribault LLC (the "owners") have requested that the City remove a requirement for construction of an access drive and associated easement that was a condition of approval for the final plat for the Lyndale Commons subdivision and was included in the development agreement for the GrandStay Hotel. site. This requirement was intended to provide vehicle access to and from Highway 3 and provide a secondary outlet and access to the north, for the GrandStay site. The owners have no need for access to Highway 3 and the operators of the GrandStay Hotel prefer not to have this driveway built through the property to serve the adjoining commercial lots to the north.

The City Planning Staff, Fire Chief, and City Engineer have no objection to this request. Access to Lyndale Commons is provided from Lyndale Court at the north end of the subdivision. Lyndale Court and Park Avenue share an intersection with Highway 21 that allows turn movements for north and southbound traffic into the site. City Staff has prepared

The Planning Commission is asked to open a public hearing on this matter and

3.A

continue the hearing and consideration of the application to the next meeting scheduled for November 6, 2023. The continuance is necessary to provide the required notice period for the subdivision plat amendment.

Recommendation:

Open the public hearing and continue it to the November 6, 2023 Planning Commission meeting date.

Attachments:

1. Draft Resolution to Repeal and Replace Res. 2010-122
2. Resolution 2010-122 Approval Preliminary and Final Plat
3. 2008 GSES Agreement

CITY OF FARIBAULT

RESOLUTION #2023- ____

REPEALING AND REPLACING RESOLUTION 2010-122 FOR THE APPROVAL OF LYNDAL COMMONS SUBDIVISION PLAT

WHEREAS, ABC Faribault LLC and GSES of Faribault LLC, (the "Owners") have requested amendments to provisions of final plat approval of the Lyndale Commons subdivision (the "Plat") documented in Resolution 2010-122, adopted July 27, 2010, Attached as Exhibit A of this resolution; and

WHEREAS, the legal description of the site of the Plat is

Lot 1 and Lot 2, Block 1, Lyndale Commons, City of
Faribault, County of Rice, State of Minnesota

;and

WHEREAS, the Owners are seeking to remove the requirement for an access easement and construction of a driveway to the property adjoining and to the south of the Plat site; and

WHEREAS, the Owners are also seeking to amend a provision of the Plat approval that requires landscaping along the common lot line between Lots 1 and 2 to be completed prior to construction on Lot 1 of the Plat; and

WHEREAS, GSES of Faribault LLC, the owner of the adjoining parcel south of the Plat site and operator of the GrandStay Hotel on that site, is seeking a related amendment to their development agreement with the City that requires an access easement across that site; and

WHEREAS, the following changes to the provisions of Resolution 2010-122 are proposed with strike-through lines indicating text to be removed and underlined text to be added as follows:

- ~~1. The owner of Lot 1 and Lot 2, Block 1, shall grant an access easement in favor of the property to the south, and shall construct~~

~~such access to the common property line within one year of the effective date of the plat.~~

8. Landscaping shall be required provided along the west east line of Lot 2-1, Block 1, when this lot is developed, in accordance with City site plan approval and City ordinances in effect at the time of development. ~~according to the landscaping plan labeled as L1.11 and dated July 9, 2010 (attached hereto as Exhibit D). Such landscaping shall be completed no later than October 31, 2010.~~

New Provision to be added with this resolution.

The City Administrator and City Attorney are authorized to have final revisions made to the plat and development agreement necessary to carry out City Council intent with this approval resolution.

;and

WHEREAS, City Staff has completed a review of said requests and made a report to the Planning Commission, a copy of which has been presented to the City Council; and

WHEREAS, the Planning Commission, on the 6th day of November 2023, following proper notice, held a public hearing regarding the applications and following said public hearing made findings and recommended approval of the requests; and

WHEREAS, the provisions for preliminary and final plat approval listed in Section 1 of Resolution 2010-122 (attached hereto as Exhibit A) are hereby repealed in their entirety and replaced with the conditions of approval stated in this resolution; and

WHEREAS, the City Council, on the ____ day of _____ 2023, at a public meeting considered the requests; and

WHEREAS, based upon the said report, hearing, and recommendation, the City Council hereby finds that approval of requested amendments to the provision of preliminary and final plat approval for Lyndale Commons as requested is appropriate, with the following findings related to the final plat as required by Section 15-210 of the City's Unified Development Ordinance:

- 1. Criteria: The final plat substantially conforms to the approved preliminary plat.**

Finding: The Owner has requested amendments to the provisions for the final plat approval that are substantially consistent with the preliminary plat.

2. Criteria: The plat conforms to all applicable requirements of the Unified Development Ordinance, subject only to approved rule exceptions.

Finding: The final plat remains in conformance with all applicable requirements of the City's Unified Development Ordinance.

3. All submission requirements have been satisfied.

Finding: The proposed request adequately addresses the submission requirements as outlined in the City's Unified Development Ordinance.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Faribault hereby approves the final plat of Lyndale Commons, subject to the following conditions:

1. The existing structure in the proposed right of way shall be removed prior to recording of the plat. Such removal shall comply with all city codes and requirements and shall require proper permitting.
2. Documentation of permitting from the DNR for filling of the wetland shall be provided prior to recording of the plat.
3. A drainage and utility easement shall be provided for the storm sewer outlet structure to the north of Lyndale Court prior to recording of the plat.
4. A public drainage, utility, and access easement shall be provided over the entire width and length of the private access road prior to recording of the plat.
5. There shall be no parkland dedication for the property which is currently developed.
6. Any additional development on either parcel shall require updates to site and landscape elements consistent with code requirements in affect at that time, and shall be subject to formal site plan review and approval.

7. Landscaping shall be provided along the east line of Lot 1, Block 1, when this lot is developed, in accordance with City site plan approval and City ordinances in effect at the time of development.
8. Temporary and permanent erosion and sediment control plans must be prepared and implemented in accordance with Minnesota Pollution Control Agency requirements, upon development of the site.
9. The final plat shall be recorded with the Rice County Recorder's Office by the City of Faribault within one year of the effective date of the approving resolution or the plat shall be come null and void. All associated recording costs shall be paid by the property owner,
10. All subdivision monumentation (permanent) shall be installed within one year from the date of recording of the plat, or the monumentation shall be installed on a per-lot basis at the time a building permit for the subject lot is issued, whichever occurs first. By the end of the one-year period, the Developer shall submit to the City written verification by a registered land surveyor that the required monuments have been installed throughout the plat. Further, each monument shall be marked by the setting of either a steel or fiberglass post. The city shall verify the monumentation.
11. The developer/property owner shall enter into the City's subdivision agreement and shall comply with all requirements set forth in the subdivision agreement, which shall be recorded with the plat.
12. The developer/property owner shall comply with all requirements set forth in the City's plat opinion and shall make any necessary corrections concerning the title to the property constituting the plat and any necessary revisions to the plat, all as required by the City.
13. The City Administrator and City Attorney are authorized to have final revisions made to the plat and development agreement necessary to carry out City Council intent with this approval resolution.

Date Adopted: _____, 2023

[This space was intentionally left blank]

Faribault City Council

Kevin F. Voracek, Mayor

ATTEST:

Timothy C. Murray, City Administrator

Exhibit A

② C
City of Faribault

631014

plat

State of Minnesota
County of Rice

CITY OF FARIBAULT

RESOLUTION 2010-122

APPROVE PRELIMINARY AND FINAL PLAT *Lyndale Commons*

WHEREAS, the preliminary and final plat of Lyndale Commons has been submitted to the City for review and approval; and

WHEREAS, the property is described in the attached **Exhibit A**; and

WHEREAS, City staff has completed a review of the preliminary and final plats and made a report pertaining to said plats (PP-27-10 and FP-28-10), a copy of which has been presented to the City Council; and

WHEREAS, the Planning Commission, on the 20th day of July 2010, following proper notice, held a public hearing regarding the request, and following said public hearing, adopted a recommendation that the preliminary and final plats be approved; and

WHEREAS, the City Council, on the 27th day of July, 2010, following proper notice, held a public hearing to consider the proposed preliminary and final plats and all interested persons were provided with an opportunity to comment.

NOW, THEREFORE, THE CITY COUNCIL RESOLVES:

Section 1. The preliminary and final plats of Lyndale Commons, attached as **Exhibit B** and **Exhibit C** are hereby approved with the following provisions:

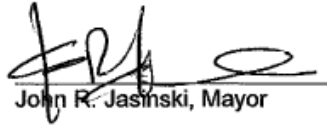
1. The owner of Lot 1 and Lot 2, Block 1, shall grant an access easement in favor of the property to the south, and shall construct such access to the common property line within one year of the effective date of the plat.
2. The existing structure in the proposed right of way shall be removed prior to recording of the plat. Such removal shall comply with all city codes and requirements and shall require proper permitting.
3. Documentation of permitting from the DNR for filling of the wetland shall be provided prior to recording of the plat.
4. A drainage and utility easement shall be provided for the storm sewer outlet structure to the north of Lyndale Court prior to recording of the plat.
5. A public drainage, utility, and access easement shall be provided over the entire width and length of the private access road prior to recording of the plat.
6. There shall be no parkland dedication for the property which is currently developed.

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7. Any additional development on either parcel shall require updates to site and landscape elements consistent with code requirements in affect at that time, and shall be subject to formal site plan review and approval.
8. Landscaping shall be required along the west line of Lot 2, Block 1, according to the landscaping plan labeled as L1.11 and dated July 9, 2010 (attached hereto as Exhibit D). Such landscaping shall be completed no later than October 31, 2010.
9. Temporary and permanent erosion and sediment control plans must be prepared and implemented in accordance with Minnesota Pollution Control Agency requirements, upon development of the site.
10. The final plat shall be recorded with the Rice County Recorder's Office by the City of Faribault within one year of the effective date of the approving resolution or the plat shall be come null and void. All associated recording costs shall be paid by the property owner,
11. All subdivision monumentation (permanent) shall be installed within one year from the date of recording of the plat, or the monumentation shall be installed on a per-lot basis at the time a building permit for the subject lot is issued, whichever occurs first. By the end of the one-year period, the Developer shall submit to the City written verification by a registered land surveyor that the required monuments have been installed throughout the plat. Further, each monument shall be marked by the setting of either a steel or fiberglass post. The city shall verify monumentation.
12. The developer/property owner shall enter into the City's subdivision agreement and shall comply with all requirements set forth in the subdivision agreement, which shall be recorded with the plat.
13. The developer / property owner shall comply with all requirements set forth in the City's plat opinion and shall make any necessary corrections concerning the title to the property constituting the plat and any necessary revisions to the plat, all as required by the City.

Adopted this 27th day of July, 2010.

Faribault City Council


John R. Jasinski, Mayor

ATTEST:

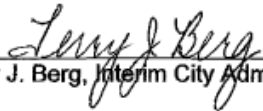

Terry J. Berg, Interim City Administrator

EXHIBIT A

The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 24, Township 110 North, Range 21 West of the Fifth Principal Meridian; subject to Minnesota Trunk Highway 65, over the westerly side thereof, according to the final certificate for said highway, dated April 17, 1961, and filed for record in the office of the Register of Deeds in and for Rice County, Minnesota; July 23, 1962, in Book 213 of Deeds on pages 383-418; together with an easement, for driveway purposes, over, under and across the most Southerly 40 feet of the West 38 rods of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section 24, Township 110, North, Range 21 West of the Fifth Principal Meridian, in the City of Fortbault, Rice County, Minnesota.

AND

All that part of Outlot A, DUBE FIRST SUBDIVISION, according to the recorded plat thereof, and that part of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter, Section 24, Township 110 North, Range 21 West, City of Fortbault, Rice County, Minnesota, described as follows:

Commencing at the southwest corner of the Southeast Quarter of said Section 24; thence North 00 degrees 19 minutes 55 seconds East (assumed bearing) on the west line of said Southeast Quarter, 655.98 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of said Southeast Quarter; thence North 89 degrees 48 minutes 01 seconds East on the north line of said Southwest Quarter of the Southwest Quarter of said Southeast Quarter, 33.00 feet to a point on the east right-of-way line of Park Avenue according to DUBE FIRST SUBDIVISION, said point being the point of beginning; thence North 00 degrees 19 minutes 55 seconds East on said east right-of-way line, 25.00 feet; thence North 89 degrees 48 minutes 01 seconds East, 228.91 feet; thence northeasterly and southeasterly 162.71 feet, not tangent to previous line, on a 60.00 foot radius curve to the right having a central angle of 155 degrees 22 minutes 32 seconds and a 117.24 foot chord that bears South 77 degrees 53 minutes 18 seconds East to a point on the north line of the Southwest Quarter of the Southwest Quarter of said Southeast Quarter; thence South 89 degrees 48 minutes 01 seconds West on said north line, not tangent to previous curve, 343.69 feet to the point of beginning.

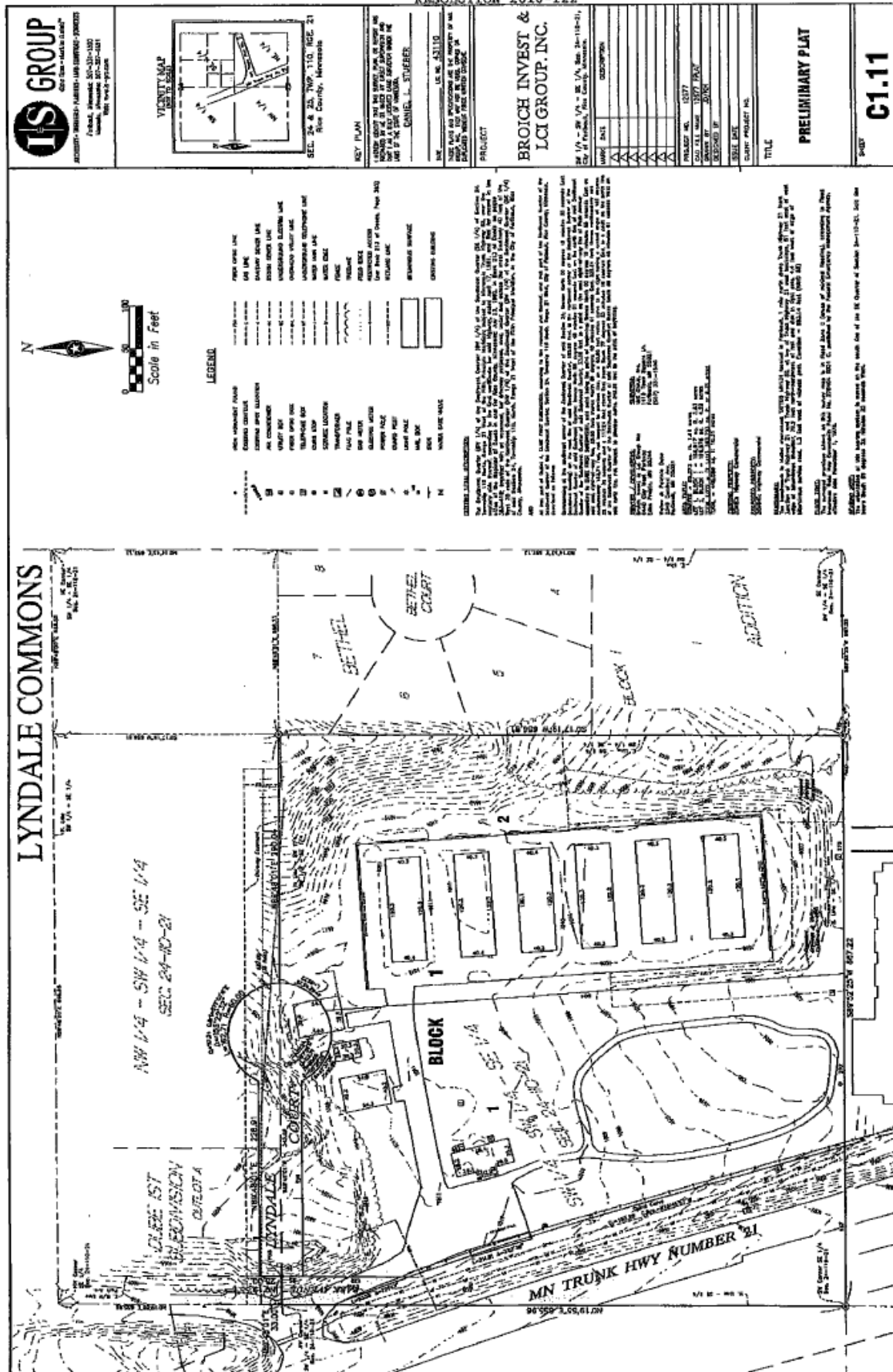
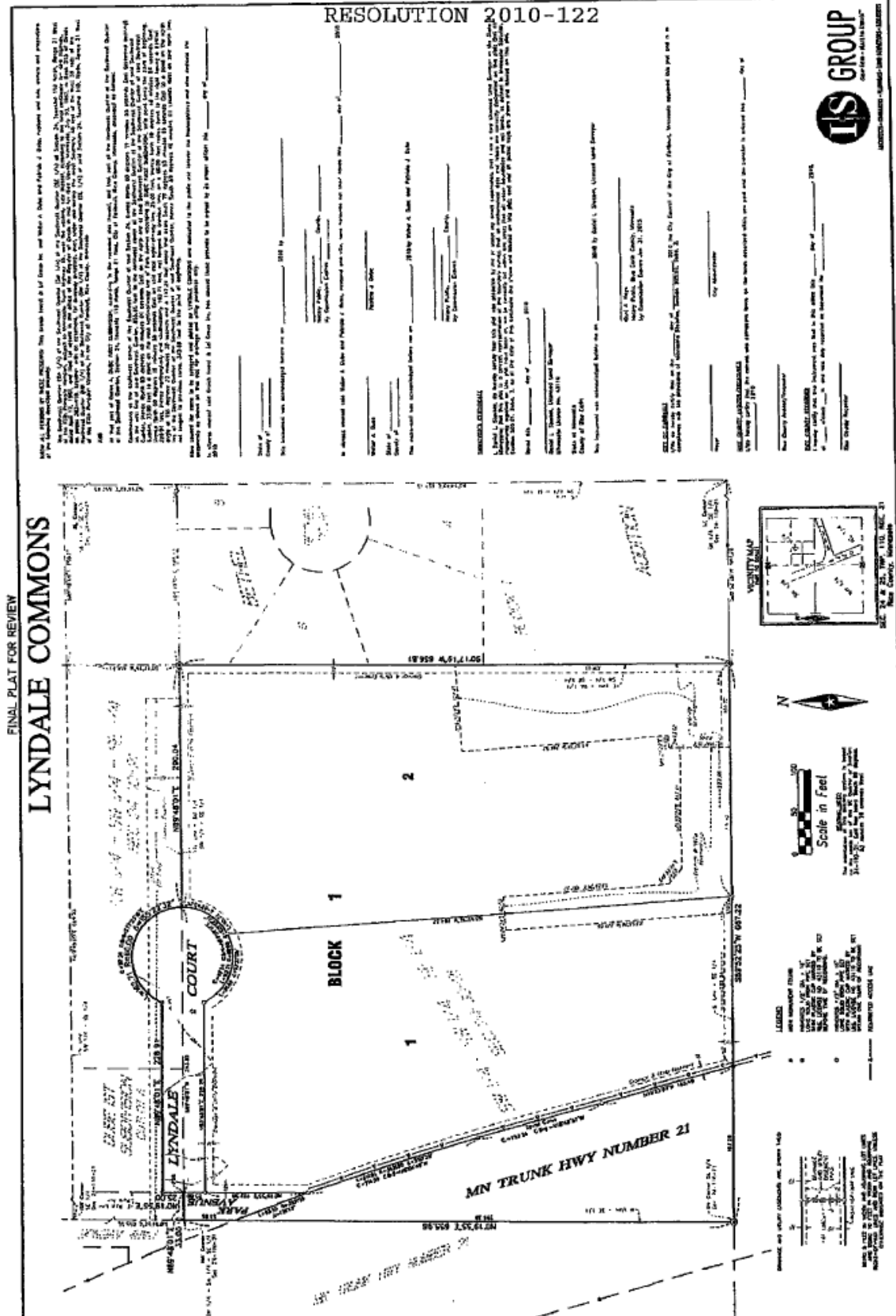


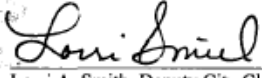
EXHIBIT C

RESOLUTION 2010-122



CERTIFICATION

I, Lorri A. Smith, Deputy City Clerk for City of Faribault, do hereby certify that the foregoing Resolution is a true and exact copy of Resolution 2010-122 as adopted by the Faribault City Council at a duly authorized meeting on July 27, 2010.


Lorri A. Smith, Deputy City Clerk

July 29, 2010
Date

Document No.
631014



OFFICE OF COUNTY RECORDER
RICE COUNTY, MINN

No. of Pages 7

I hereby certify that the within instrument was filed in this office
for record on 12-13-2010 at 10:51 ☒ AM ☐ PM



Marsha DeGroot
Rice County Recorder

631014

② C
City of Faribault

631014

plat ✓

State of Minnesota
County of Rice

CITY OF FARIBAULT

RESOLUTION 2010-122

APPROVE PRELIMINARY AND FINAL PLAT Lyndale Commons

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WHEREAS, the property is described in the attached **Exhibit A**; and

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WHEREAS, the Planning Commission, on the 20th day of July 2010, following proper notice, held a public hearing regarding the request, and following said public hearing, adopted a recommendation that the preliminary and final plats be approved; and

WHEREAS, the City Council, on the 27th day of July, 2010, following proper notice, held a public hearing to consider the proposed preliminary and final plats and all interested persons were provided with an opportunity to comment.

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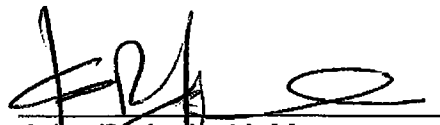
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R

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10. The final plat shall be recorded with the Rice County Recorder's Office by the City of Faribault within one year of the effective date of the approving resolution or the plat shall be come null and void. All associated recording costs shall be paid by the property owner,
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Adopted this 27th day of July, 2010.

Faribault City Council


John R. Jasinski, Mayor

ATTEST:

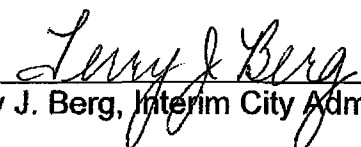

Terry J. Berg, Interim City Administrator

EXHIBIT A

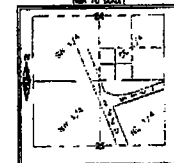
The Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of Section 24, Township 110 North, Range 21 West of the Fifth Principle Meridian; subject to Minnesota Trunk Highway 65, over the westerly side thereof, according to the final certificate for said highway, dated April 17, 1961, and filed for record in the office of the Register of Deeds in and for Rice County, Minnesota; July 23, 1962, in Book 213 of Deeds on pages 383-418; together with an easement, for driveway purposes, over, under and across the most Southerly 40 feet of the West 38 rods of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section 24, Township 110, North, Range 21 West of the Fifth Principal Meridian, in the City of Faribault, Rice County, Minnesota.

AND

All that part of Outlot A, DUBE FIRST SUBDIVISION, according to the recorded plat thereof, and that part of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter, Section 24, Township 110 North, Range 21 West, City of Faribault, Rice County, Minnesota, described as follows:

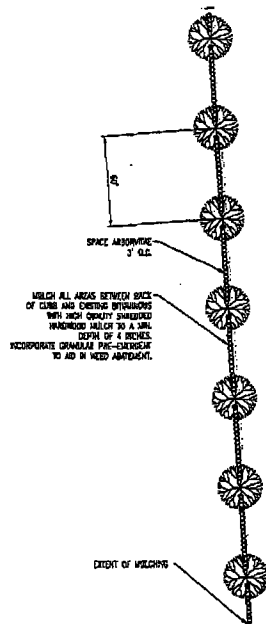
Commencing at the southwest corner of the Southeast Quarter of said Section 24; thence North 00 degrees 19 minutes 55 seconds East (assumed bearing) on the west line of said Southeast Quarter, 655.96 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of said Southeast Quarter; thence North 89 degrees 48 minutes 01 seconds East on the north line of said Southwest Quarter of the Southwest Quarter of said Southeast Quarter, 33.00 feet to a point on the east right-of-way line of Park Avenue according to DUBE FIRST SUBDIVISION, said point being the point of beginning; thence North 00 degrees 19 minutes 55 seconds East on said east right-of-way line, 25.00 feet; thence North 89 degrees 48 minutes 01 seconds East, 228.91 feet; thence northeasterly and southeasterly 162.71 feet, not tangent to previous line, on a 60.00 foot radius curve to the right having a central angle of 155 degrees 22 minutes 32 seconds and a 117.24 foot chord that bears South 77 degrees 53 minutes 16 seconds East to a point on the north line of the Southwest Quarter of the Southwest Quarter of said Southeast Quarter; thence South 89 degrees 48 minutes 01 seconds West on said north line, not tangent to previous curve, 343.69 feet to the point of beginning.

LYNDALE COMMONS



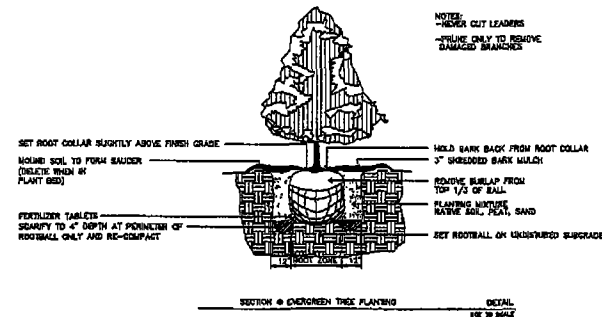
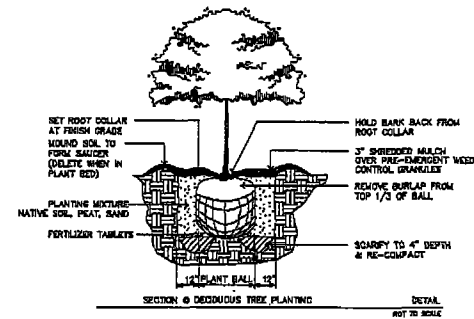
IS GROUP

EXHIBIT C



PLANT SCHEDULE

KEY	QTY.	SPECIES / COMMON NAME	SIZE	NOTE
7		TELA AMERICANA 'WOLLENIAN' / NORWAY SPRUCE	2'-3" B&B	
115		TELA OCCIDENTALIS 'WOLLENIAN' / NORWAY SPRUCE	2'-3" B&B	CLONE VARIETY OF TELLA AMERICANA



B.M. ELEVATION=1019.60
TAKEN WEST SIDE OF PARK AVENUE 500' NORTH
OF TRUNK HIGHWAY 21 AND PARK AVENUE INTERSECTION

IS GROUP
Give them a hand to plant.
ARCHITECTS • ENGINEERS • PLANNERS • LAND SCAPERS • INTERIORS
Fellsmere, Minnesota 557-331-1660
Minneapolis, Minnesota 507-387-6531
Web: www.is-gp.com

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PROJECT

**BRIOCH INVEST & LCI
GROUP, INC.
LYNDALE COMMONS**

PARISBAULT MINNESOTA

MARK	DATE	DESCRIPTION
▲		
▲		
▲		
▲		
▲		

PROJECT NO.	10-12877
CAD FILE NAME	12877 LBASE
DESIGNED BY	TTT
DRAWN BY	TTT
REVIEWED BY	
ISSUE DATE	7-9-10
CLIENT PROJECT NO.	

TITLE

**LANDSCAPE
PLAN**

SHEET

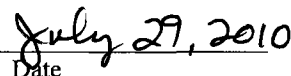
L1.11

CERTIFICATION

I, Lorri A. Smith, Deputy City Clerk for City of Faribault, do hereby certify that the foregoing Resolution is a true and exact copy of Resolution 2010-122 as adopted by the Faribault City Council at a duly authorized meeting on July 27, 2010.



Lorri A. Smith, Deputy City Clerk


Date

Document No.
631014



OFFICE OF COUNTY RECORDER
RICE COUNTY, MINN

No. of Pages 7

I hereby certify that the within instrument was filed in this office
for record on 12-13-2010 at 10:51 ☒ AM ☐ PM

12132010



Marsha DeGroot
Rice County Recorder

631014

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G. Petersm

606910

Document No.

606910



OFFICE OF COUNTY RECORDER

RICE COUNTY, MINN

No. of Pages 6

I hereby certify that the within instrument was filed in this office
for record on 11-20-2008 at 10:30 ☒ AM ☐ PM

11202008



Marsha DeGroot

Rice County Recorder

#8946

AGREEMENT

THIS AGREEMENT is made this 17~~th~~ day of November, 2008, by and between the City of Faribault, a Minnesota municipal corporation, ("City"), and GSES of Faribault, LLC, a Minnesota limited liability company ("Developer").

RECITALS

WHEREAS, the Developer applied to the City for a Building Permit in connection with Developer's construction of a hotel facility called the Grandstay Hotel ("**Project**"). Developer is the owner of the land on which the Project is to be constructed and is legally described in Exhibit A attached hereto ("**Property**").

WHEREAS, the City issued a grading permit to Developer on October 27, 2008 and approved Developer's site plan dated October 6, 2008. The grading permit and site plan are attached hereto as Exhibits B and C, respectively.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

1. Access Easement. At the time the property adjacent to and North of the Property ("**Adjacent Property**") is redeveloped, Developer agrees to grant the owner of the Adjacent Property an access easement across the Property granting the Adjacent Property access to Minnesota Trunk Highway Number 3 to be determined by the City and Developer in a mutually agreed location and in a manner which will not interfere with planned improvements on the property, at the earlier of: (i) redevelopment of Adjacent Property, or (ii) development of the Future Development Area (as hereinafter defined), which location is subject to the approval of the City. This grant of access easement shall be conditioned on the Adjacent Property owner simultaneously granting to Developer an access easement to Highway 21 through the adjacent property.

2. Street Improvements.

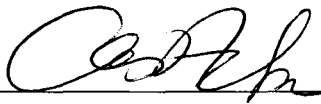
A. Curb Installation. Developer shall, at its sole expense, install a curb along the East side of the access drive on the Property depicted on Exhibit C attached hereto ("**Curb Installation**") at the earlier of: (i) the time that the portion of the Property East of the hotel and parking areas are developed ("**Future Development Area**") as depicted on Exhibit C attached hereto, or (ii) October 14, 2010.

B. Right Turn Lane Installation. The City shall install a right turn lane to access the Property from Minnesota Trunk Highway Number 3 ("**Right Turn Lane**") in the location depicted on Exhibit C attached hereto and Developer shall reimburse the City for all costs and expenses related to installation of the Right Turn Lane, which reimbursement shall not exceed Twenty-Five Thousand and no/100 dollars (\$25,000.00). Developer agrees to reimburse the City within thirty (30) days of the City's submission to Developer of all costs and expenses incurred in installing the Right Turn Lane.

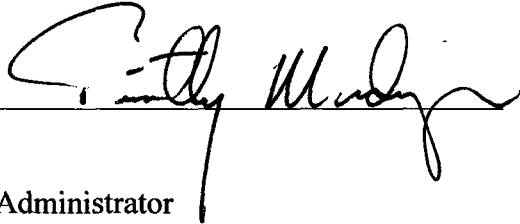
IN AGREEMENT, the City and Developer have executed this Agreement as of the date first written above.

CITY:

CITY OF FARIBAULT

By:  Date Signed: 11-17-08

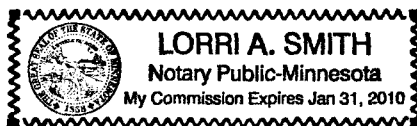
Its: Mayor

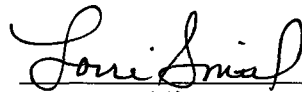
By:  Date Signed: 11-17-08

Its: Administrator

STATE OF MINNESOTA)
)ss.
COUNTY OF RICE)

The foregoing instrument was acknowledged before me this 17 day of November, 2008, by Charles Ackman and Timothy Madigan, the Mayor and the City Administrator, respectively, of the City of Faribault, a Minnesota municipal corporation, on behalf of said corporation.




Notary Public

DEVELOPER:

GSES OF FARIBAULT, LLC

By: _____

Date Signed: _____

Its: Chief Manager

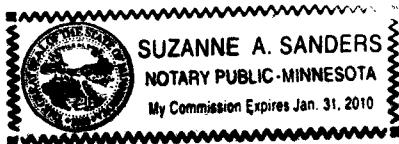
STATE OF MINNESOTA)

)ss.

COUNTY OF RICE)

The foregoing instrument was acknowledged before me this 11 day of November, 2008, by Vance Vinar, the Chief Manager, of GSES of Faribault, LLC, on behalf of said corporation.

Suzanne Sanders
Notary Public



THIS AGREEMENT DRAFTED BY:
Kennedy & Graven, Chartered
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9300

EXHIBIT A

18.25.1.25.002

That part of the Northeast Quarter of Section 25, Township 110 North, Range 21 West of the Fifth Principal Meridian, in the City of Faribault, Rice County, Minnesota, lying northerly from Minnesota Trunk Highway 21, described as follows: Beginning at a point in the North line of said Northeast Quarter (for purposes of this description bearing of said North line is assumed North 89°27'38" East), a distance of 187.25 feet easterly from the Northwest corner of said Northeast Quarter, said point being in the northeasterly right of way line of Minnesota Trunk Highway 165; thence North 89°27'38" East, along said North line, 620.25 feet; thence South 11°01'59" East, 222.87 feet to a point in the northerly right of way line of said Highway 21; thence westerly, along said Highway right of way lines to the point of beginning on the following courses; thence South 74°12'33" West, 162.30 feet; thence westerly, along a curve, concave northerly (curve data: radius equals 497.96 feet; delta angle equals 40°00'00"; chord bearing and distance equal North 85°47'29" West, 340.63 feet), an arc distance of 347.64 feet; thence North 65°47'29" West, 104.00 feet; thence northwesterly, along a curve concave northeasterly (curve data: radius equals 50.00 feet; delta angle equals 50°00'00"; chord bearing and distance equal North 40°47'29" West, 42.26 feet), an arc distance of 43.63 feet; thence North 15°47'29" West, 163.61 feet to said point of beginning; containing 3.500 acres, more or less.

~~605972~~

EXHIBIT B



City of Faribault
208 1st Ave NW
Faribault MN, 55021
Phone: (507) 334-2222
Fax: (507) 384-0508

GRADING Permit Application

Office Use Only

App. No. 2008-006Date: 10/16/08Tenant/Building Name (If Applicable): Grandway HotelSite Address: 1500 NW 20th Street

Subdivision and/or Addition

Block

Lot

Plat

Parcel

10.25.1.25.000Applicant is: ☒ Owner ☐ Contractor ☐ Other (describe)

Property Owner

Name: Vinar
Last

First

MI

Phone: (507) 334-0000

Address: 1505 3rd St NW

Fax #: () -

City: FaribaultState: MNZip Code: 55021

Contractor

Company: Executive Grading Inc.

Phone: (507) 241-0675

Name: DeGroot
Last

First

MI E.

Contr. No.

Address: 4780 Echo Court

Fax #: (507) 413-0545

City: FaribaultState: MNZip Code: 55021

Engineer/ Designer

Company: I & S Group

Phone: (507) 831-1500

Name: Duchene
Last

First

MI

Registration No. 46594
(State of MN)Address: 1415 Town Square LaneCity: FaribaultState: MNZip Code: 55021Description of Work: Grading and base construction for new 3 story hotel, and pond excavations.Approximate Start Date: 11/1/08Approximate End Date: 11/1/09No. of Cubic Yards: 5,000 yds

(Excavation or fill, whichever is greater)

Erosion Control Supervisor: Chuck Degrad
Executive Grading Inc.

I hereby apply for a grading permit, and I certify that the information above is complete and accurate. The work will be in conformance with applicable laws of the State of Minnesota and ordinances of the City of Faribault. I understand this is not a permit but only an application for a permit and work is not to start without a permit. I certify that the work will be in accordance with all permit conditions and approved plans (in the case of work which requires a review and approval of plans).

Applicant's Signature

Date

When validated by City Engineer, this is your permit.

City Engineer

Date

[illegible]