AGENDA
Committee on Development and Planning
Thursday, August 25, 2016 @ 10:00 a.m.
10th Floor Conference Room, City Hall
UPDATED 8/23/2016 p.m.

Councilmember Jody Washington, Chair
Councilmember Jessica Yorko, Vice Chair
Councilmember Judi Brown Clarke, Member

1. **Call to Order**

2. **Public Comment on Agenda Items**

3. **Minutes:** August 11, 2016

4. **Discussion/Action:**

   A.) RESOLUTION – ACT-1-2016; Grand Haven Manor; Farrell Drain Easement Reduction; 3215 W. Mt. Hope

   B.) DISCUSSION – Ordinance; Section 206.25; Transparency in Bidding

   C.) DISCUSSION – SkyVue Development Questions and Answers

5) **Place on File**

6) **Other**

7) **Adjourn**

COMMITTEE on Development & Planning DATE 8-25-16

Please print

NAME	ADDRESS	EMAIL	Representing	PHONE
KATHY MILES			PSL	
Shirley Woodruff			Grandhaven Manor Reenders Inc.	616-842-2425
MACKIE WOODRUFF			REENDERS INC	616-842-2425
Price Dobernick			UA 333	517-393-5480
Mark Mello			sheetmetal #7	517-214-0804
Kim Sakowski			DEQ	517-284-5145
Janet Michaluk		michalukj@michigan.gov	DEQ	517-643-0314
Bret Stuntz			SkyVue	248-302-1398
Jeff Hukill		hukillj@michigan.gov	DEQ	517 284-5113
Matt Marshall			Rise	772.643.5798
JAMERSON M. RIES		jriese wolvgroup.com	WOLVERINE BUILDING GROUP	616 281 6177
Steve Willobee			LEAP	(517) 388-1947
BILL RIESKE			PLANNING	4091

DRAFT

MINUTES
Committee on Development and Planning
Thursday, August 11, 2016 @ 10:00 a.m.
10th Floor Conference Room, City Hall

CALL TO ORDER
The meeting was called to order at 10:00 a.m.

ROLL CALL
Council Member Jody Washington, Chair
Council Member Jessica Yorko, Vice Chair-excused
Councilmember Judi Brown Clarke, Member

OTHERS PRESENT
Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Mark Dotson, Deputy City Attorney
Brett Kaschinske
Mark Mello
Price Dobernick
Steve Japinga, Lansing Regional Chamber of Commerce
Council Member Wood

PUBLIC COMMENT
Council Member Washington stated all comments will be taken at the agenda item.

MINUTES
MOTION BY COUNCIL MEMBER BROWN CLARKE TO APPROVE THE MINUTES FROM JULY 14, 2016 AS PRESENTED. MOTION CARRIED 2-0.

MOTION BY COUNCIL MEMBER BROWN CLARKE TO APPROVE THE MINUTES FROM JULY 28, 2016 AS PRESENTED. MOTION CARRIED 2-0.

DISCUSSION/ACTION:
RESOLUTION – License Agreement for Zip line at Riverfront Park; Zip the Grand Inc.
Mr. Dotson distributed a copy of the lease, an aerial photo and the release of liability form. Council Member Washington began by asking Mr. Kaschinske why the applicant was not able to secure a site in Grand Rapids. Mr. Kaschinske stated that the applicant has stated that Grand Rapids wanted an exchange of land, they want Zip the Grand to buy land along the Grand River and make it park land. Council Member Wood stated she heard the applicant was not able to

secure enough resources. Mr. Kaschinske did acknowledge that the City of Grand Rapids stated the applicant did have financial issues, therefore the Lansing lease has added items. One item added is a restoration condition if the business fails. The applicant cannot secure financing until they get approval from the City. Council Member Brown Clarke pointed out that if this in the business they are in, they should be able to show a level of financial capacity. Mr. Kaschinske acknowledged they have received a business plan with a funding model.

Council Member Wood voiced her concerns with the license agreement, the annual fee costs in comparison to the current draft Medical Marihuana Ordinance the Committee on Public Safety is reviewing. She encouraged similar costs of $10,000 annual fees and $5,000 application fees. Council Member Washington was not opposed to the proposed $6,000 up front fee, and did not agree to compare zip lines with medical marihuana standards and requirements or licensing. Council Member Wood clarified she was encouraging that there be a model for licensing with certain requirements for all licenses. Council Member Washington again agreed on licensing, however did not agree to compare this application with medical marihuana. Mr. Dotson explained that the licensing fees in this lease are representative of the fair market value of the land as it is being used. The costs that were just compared are different and not parallel in anyway. Council Member Brown Clarke asked if the long 10 year lease is standard or was it agreed upon already. Mr. Smiertka pointed out that this is park land, and the use is consistent with parks and recreation. This structure is not something that gets picked up at the end of summer, so this allows the person viability to operate in the long term. The needs match up with the investment. Mr. Kaschinske added that the 10 years lease was negotiated along with the size and scope of the structure. He added that the applicant is also looking to at an area at Center Street to purchase for their restrooms, parking, operations, and sales. Mr. Dotson did point out to the Committee that there is a clause for the council to get out of the lease, Section 3.2.

Council Member Washington asked what the 2.5% gross gate admissions will be used for by the Parks and Recreation Department. Mr. Kaschinske confirmed it will be considered revenue like all other general fund. Council Member Wood asked Mr. Kaschinske for the business plan from the applicant that reflects this, which Mr. Kaschinske state he could forward from their original submission.

Council Member Washington asked if the lease can be changed to request the $6,000 up front not a monthly payment to equal $6,000. Mr. Smiertka stated he could change the lease to ask that, however it was already negotiated. Mr. Kaschinske pointed out to the Committee that there is a $20,000 security deposit in the first year; they then will pay for the survey which is about $5,000. They will be billed monthly by the City for the $6,000 annual fee. He acknowledged he could approach the applicant about the $6,000 up front instead of a monthly fee.

The Committee discussed the liability of the structure, the liability once the users finish the ride, or choose not to return to the starting tower. Mr. Dotson noted that once a user is physically on their property their liability insurance covers. Council Member Brown Clarke asked about if a user were to fall on City property or the water, if it would be City liability. Mr. Dotson stated if an injury results from the event it is their liability, noting that the sidewalk is City property and did not want to comment further. Mr. Smiertka continued the explanation stating that the City has government immunity. It does not apply if they are engaged in a property function, events. Now there is a potential someone will sue and try to get at the City, and try to claim that because of license and lease the City has engaged in is a partnership. That is what Law is looking at not to happen. The agreement has an assumption of risk form and a waiver. Council Member Brown

Clarke asked what the "users" are when they sign, and is that embedded in that language. Mr. Smiertka that interpretation if a case is filed will be up to the judge. Mr. Kaschinske informed the Committee that the language in the lease was provided by the applicant and covers the things the City wanted covered. Mr. Dotson stated the liability concerns can be address in the release form in case the user does not want to take the zip line back across the river and chooses to come down walk back. Council Member Brown Clarke also asked that the documents address the operator on the second tower have the ability and experience to end the ride if the user is not compiling with the rules or is in unable to return to the start tower.

Council Member Wood asked for details to be added that address repair, maintenance and annual inspections. The document should also include the legal age of the operator. Mr. Kaschinske referenced 9.4 in the lease which states they must follow all local, State and Federal regulations. Council Member Wood requested specific language, so Council Member Washington asked law to spell out that the annual inspection is required and cite the Michigan law.

Mr. Kaschinske reiterated everything the Committee was looking for, which includes the business plan, the $6,000 yearly fee be paid up front not over a monthly billing, the waiver and release include language on removal from the ride if not following directions, include a legal age of operations, and add the inspection process.

Council Member Washington reminded the group that they could have all the safety measures in place, and it could still not be enough. If the group continues to consider everything that could go wrong, nothing will happen with the site and business at all.

Council Member Wood asked for security cameras on the site, with consideration of a feed to allow the Police to review. Mr. Kaschinske stated they would have security on site, not the City.

DISCUSSION – Responsible Bidding Ordinance

Mr. Japinga acknowledged the Committee on their work and the invitation to participate in the discussion. He confirmed the understanding that the Chamber is strong supporters of buy local and local workers.

Mr. Smiertka began by stating he did not have an issue with the original regulatory concept; however his proposed draft from August 10, 2016 is similar to incentive agreements developers are familiar with. The regulatory ordinance has concerns such as sunset provisions, and could affect relationships and open up third parties to sue, and use a cause of action, claiming there is an ordinance or local law. He noted that the word "reasonable" in the original is an open word and the plaintiff will claim injunction and create work delays. Developers that do incentives are used to an agreement where they promise things or lose the tax incentive. So Mr. Smiertka then rather than propose a regulatory ordinance as was first proposed, he chose to draft another ordinance with similar to the incentives with features from the original. Listed on page 2 and 3 , (9) Transparent and Fair Bidding Process outlined openness, public advertisements, solicitation for bids, public disclosure, sufficient time to respond, and notification to bidders who did not win the bid. Summarized this means when this agreed upon before a signed agreement, if they violate Council can revoke the incentive. The project labor agreement proposed in the original ordinance is still in the law draft. Mr. Smiertka did remind the Committee that if the City of Lansing has a regulatory ordinance that developers are not used to, they could consider developing in an adjoining community that does not have, which could put Lansing at a disadvantage.

Council Member Wood asked Law to if they will define what “local labor” is in the agreement, and who will provide enforcement if there is a complaint. Mr. Smiertka noted the ordinance is broad that does require the developer to put the plan in front of Council, so Council can ask for specifics and it allows Council flexibility. Enforcement can be done by anyone, but can put in the City Attorney office. Council Member Brown Clarke asked for it to be in the structure of the language, because it becomes too flexible on who is in leadership. With Law and Council reviewing, there will be checks and balances.

Mr. Dobernick informed the Committee he has already routed the draft ordinance to some surrounding communities and they are in favor of the same process.

Council Member Brown Clarke asked for clarification on a condition she saw in an earlier version that stated there was a sliding scale based on the size of the project, and if it is over a certain threshold there was a local labor exception. Council Member Wood stated it was in the original ordinance, but Mr. Smiertka stated he was not comfortable with the scale of $10,000 so took it out of his version. Mr. Dobernick then asked where the condition was that if there where violations, the developers would not get future incentives and projects. Mr. Smiertka state due was not in favor of a barred bidders list because they would not have done anything criminal. Council Member Wood asked it be disclosed on the application. Council Member Washington suggested considering an option to disclose it but not a mandate, and not ban for years, but put in as an option. She then noted she did not support putting in something that would put Lansing at a disadvantage to other areas. In regards to the earlier discussion on “local labor” she need note her understanding would be the tri-county area, and someone else may mean specifically the City of Lansing.

Law was asked to provide at the next meeting a template or sample of the standard agreement they are speaking about. Mr. Japinga asked the Committee to invite and encourage LEAP to attend the next meeting. Council Member Washington stated LEAP will be formally invited.

The Committee consensus was to proceed with the draft ordinance by the City Attorney office from August 10, 2016.

Council Member Washington asked Mr. Mello to return to a future meeting in September where she has invited Mr. Schrader to help the Committee understanding the environmental expectations and environmental clean-up, because of his past environmental experience.

Adjourn at 11:12 a.m.
Submitted by,
Sherrie Boak, Recording Secretary,
Lansing City Council
Approved by the Committee on_________________

OFFICE OF THE MAYOR
9th Floor, City Hall
124 W. Michigan Avenue
Lansing, Michigan 48933-1694
(517) 483-4141 (voice)
(517) 483-4479 (TDD)
(517) 483-6066 (Fax)

Virg Bernero, Mayor

TO: City Council President Judi Brown Clarke and Councilmembers

FROM: Mayor Virg Bernero

DATE: August 4, 2016

RE: Act-1-2016, Grandhaven Manor, Farrell Drain Easement Reduction

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The attached correspondence is forwarded for your review and appropriate action.

VB/rh
Attachment

Virg Bernero, Mayor

City of Lansing

Inter-Departmental Memorandum

WORKING TOWARD A CLEANER GREENER LANSING

To: Virg Bernero, Mayor

From: Susan Stachowiak, Zoning Administrator

Subject: CITY COUNCIL AGENDA ITEM
Act-1-2016, Grandhaven Manor, Farrell Drain Easement Reduction

Date: July 26, 2016

The Planning Board, at its June 7, 2016 meeting, voted unanimously (6-0) to recommend approval of Act-1-2016. This is a request by Grandhaven Manor Limited Dividend Housing Association Limited Partnership to vacate the Farrell Drain in its entirety on the Grand Haven Manor properties except for a 30 foot drainage easement for the storm sewer in Deerfield Street, extended from the south property line to the manhole south of the detention pond. The purpose of the easement reduction is to permit additional development on the property at 3215 W. Mt. Hope Avenue.

Please forward this resolution to City Council for placement on the Agenda.

If you have any questions, or need additional information, please give me a call.

Attachments

RESOLUTION #__________

BY THE COMMITTEE ON DEVELOPMENT AND PLANNING

RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

Act-1-2016, 3215 W. Mt. Hope (PPN 33-01-01-30-126-021), Vacate Farrell Drain

WHEREAS, Grandhaven Manor Limited Dividend Housing Association Limited Partnership, 3215 W. Mt. Hope (PPN 33-01-01-30-126-021), requests a reduction in the size of the Farrell Drain easement to a width of thirty (30) feet; and

WHEREAS, the reduction of this easement will provide additional space for development; and

WHEREAS, record review and field investigations by the Lansing Public Service Department have determined that the Farrell Drain east of the Grandhaven Manor properties no longer exists, and the area that was drained by the Farrell Drain east of Grand Haven Manor properties are now drained by street drainage; and

WHEREAS, at its meeting on June 7, 2016, the Planning Board found, based on a review of the location, character, and extent of the Act-1-2016 proposal, that:

- the section of the Farrell Drain on the Grand Haven Manor properties only services the Grand Haven Manor properties and does not provide benefit to other properties within the City,
- the pipe connection between the terminal drainage structure of the Farrell Drain and the 72” storm sewer in Glasgow Street runs down the Deerfield Street right-of-way (as extended), and appears to be a public storm sewer,
- this outlet pipe is within the current Farrell Drain easement; and

WHEREAS, the Planning Board voted unanimously (6-0) to recommend approval of Act-1-2016, to vacate the Farrell Drain in its entirety on the Grand Haven Manor properties except for a 30 foot drainage easement for the storm sewer in Deerfield Street, extended from the south property line to the manhole south of the detention pond; and

WHEREAS, the Committee on Development and Planning has reviewed the report and recommendation of the Planning Board and concurs therewith;

NOW THEREFORE BE IT RESOLVED, the Lansing City Council hereby approves Act-1-2016, and vacates the Farrell Drain on the subject Grandhaven Manor property except that part of the Farrell Drain Easement that is described as follows:

Commencing at the North ¼ corner of Section 30, Town 4 North, Range 2 West, City of Lansing, Ingham County, Michigan, thence S03°08’07”W 1464.22 feet, thence N87°00’38”W 180.07 feet along the south property line to the point of beginning, thence N02°59’22”E 60 feet, thence S87°00’38”E 30 feet, thence S02°59’22”W 60 feet, thence N87°00’38”W 30 feet back to the point of the beginning.

BE IT FINALLY RESOLVED, that the Mayor, on behalf of the City, is authorized to sign and execute all documents to complete this transaction, subject to prior approval as to content and form by the City Attorney.

Staff Report

Grandhaven Manor Limited Dividend Housing Association Limited Partnership, 3215 W. Mt. Hope (PPN 33-01-01-30-126-021), requests a reduction in the size of the Farrell Drain easement to a width of 30 feet. The split would be 10 feet north of center line on the side closest to the building, and 20 south of center line on the far side.

The reduction of this easement will provide additional space for development.

LAND USE: Subject Property: Multiple Family Residential
East: Institutional, Single-Family Residential
West: Multiple Family Residential
North: Single- and Multiple-Family Residential
South: Single-family Residential

ZONING:	Subject Property:	"DM-1" Multiple Family Residential, "A" Residential
	East and South:	"A" Single Family Residential
	North:	"A" Residential, "CUP" Community Unit Plan
	West:	"CUP", "F" Commercial, "A" Residential

AGENCY REFERRALS:

Public Service Department:

Public Service has reviewed the request to reduce the Farrell Drain easement from 100 feet to 30 feet wide and has the following comments. It is Public Service's recommendation to vacate the Farrell Drain in its entirety on the Grand Haven Manor properties and retain a drainage easement for the storm sewer in Deerfield extended.

- The Farrell Drain was constructed in a 100-foot wide easement by the Drain Commission in 1917.
- The Farrell Drain District was annexed into the City in 1955 and 1958.
- The Farrell Drain was turned over to the City in 1989.
- A 30-foot wide easement would be adequate to service the drain.
- Record review and field investigations by Public Service have determined that the Farrell Drain east of the Grand Haven Manor properties no longer exists. The area that was drained by the Farrell Drain east of Grand Haven Manor properties are now drained by street drainage.
- Field observations of the most upstream drainage structure remaining on the Farrell Drain shows no pipe entering from the east. This structure is located about 30 feet north of the dead end of Deerfield. There is an inlet to the north that provides an outlet to the east detention basin on the properties. There is an outlet to the south that drains

to the 72" storm sewer in the intersection of Deerfield and Glasgow. The remaining pipe in the structure goes to the west and is the Farrell Drain. This pipe is located higher than the other two pipes. It is supposed to drain to the west; it was observed on 1-21-16 to be draining into the structure.

- The 72" storm drain in Glasgow has, for the most part, captured the drainage that was using the Farrell Drain.
- A copy of the 1-21-2016 drain investigation has been attached.
- No other utilities are known to use this easement. There are separate easements for sanitary sewer and for water.

It is Public Service's recommendation that the Farrell Drain be vacated in its entirety on the Grand Haven Manor Properties. The Farrell Drain east of the property no longer exists and the drainage has been rerouted into street drainage. The properties along Glasgow, due to the 72" storm drain in Glasgow, do not need the Farrell Drain for their storm drainage. The section of the Farrell Drain on the Grand Haven Manor properties only services the Grand Haven Manor properties and does not provide benefit to other properties within the City.

The pipe connection between the terminal drainage structure of the Farrell Drain and the 72" storm sewer in Glasgow runs down the Deerfield right-of-way. This appears to be a public storm sewer and should be treated as such. A 30-foot easement center on this pipe should be retained by the City for public drainage purpose. This outlet pipe is within the current Farrell Drain easement.

STAFF RECOMMENDATION

Staff recommends the following finding and recommendation, as recommended by Public Service.

<u>Finding:</u>

- the section of the Farrell Drain on the Grand Haven Manor properties only services the Grand Haven Manor properties and does not provide benefit to other properties within the City.
- the pipe connection between the terminal drainage structure of the Farrell Drain and the 72" storm sewer in Glasgow runs down the Deerfield right-of-way (as extended), and appears to be a public storm sewer. This outlet pipe is within the current Farrell Drain easement.

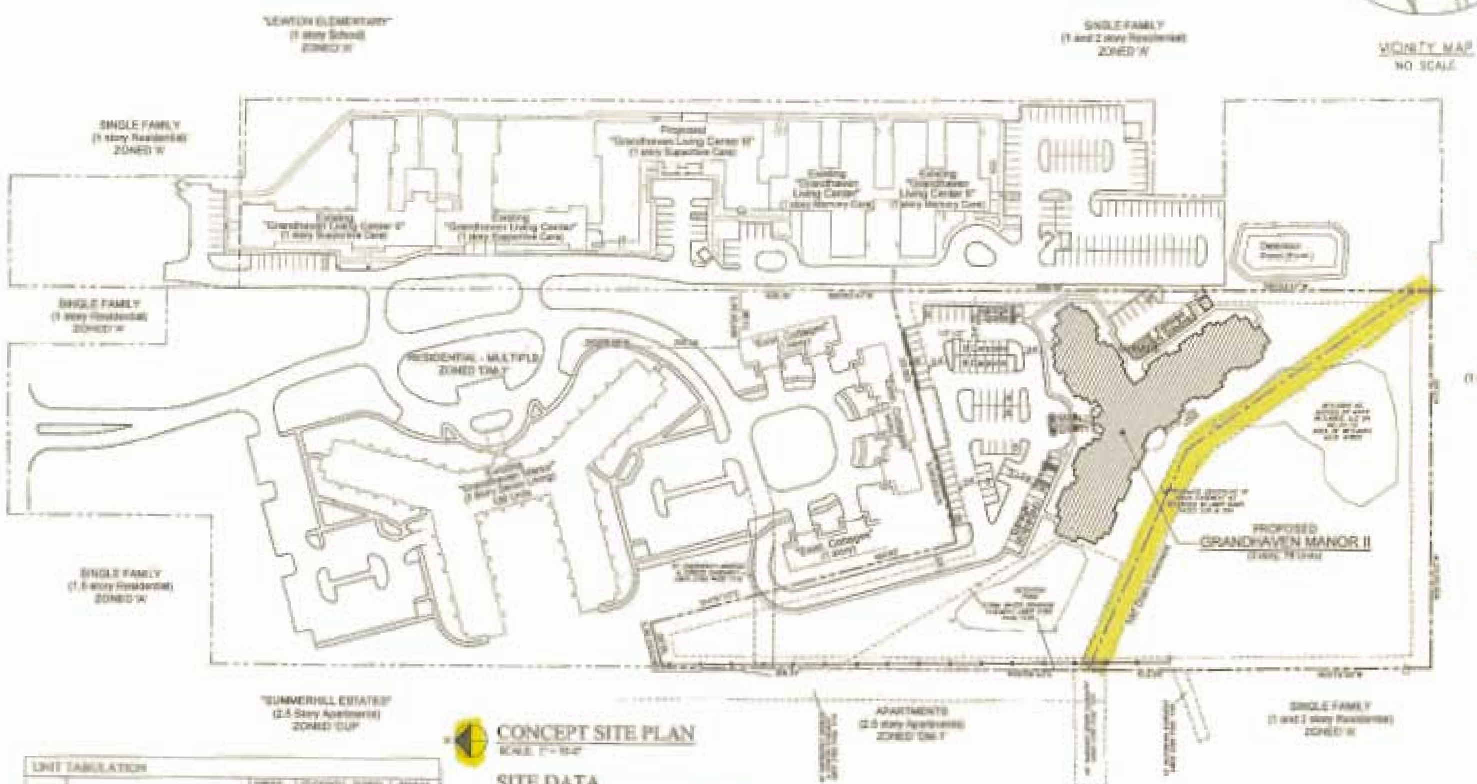
Recommendation:

Staff recommends that the City vacate the Farrell Drain in its entirety on the Grand Haven Manor properties except for a 30' drainage easement for the storm sewer in Deerfield extended (essentially, the manhole south of the detention pond, and south to the property line).

Progressive
Progressive Associates, Inc.
Architects

VICINITY MAP
NO SCALE

Issued For:
REVIEW
REVIEW
REVIEW
REVIEW



CONCEPT SITE PLAN
SCALE: 1" = 50'-0"

SITE DATA
EXISTING ZONING: DM-1 (RESIDENTIAL - MULTIPLE)

SITE AREA: 7.10 acres +/-

PROPOSED CONGREGATE BUILDING
BUILDING HT: 3 STORY
TOTAL # OF UNITS: 78
OF PARKING REQUIRED: 46 - 1 per 2 units (39) + 1 per employee (7)
OF PARKING PROVIDED: [illegible]
(24 Open Spaces, 20 Carports, 20 Garage Spaces)

UNIT TABULATION					
NAME	TYPE	FIRST FLOOR	SECOND FLOOR	THIRD FLOOR	TOTAL UNITS
'A'	1 BEDRM / 1 BATH	8	10	10	28
'AM'	1 BEDRM / 1 BATH (Barrier Free)	3	-	-	3
'AV'	1 BEDRM / 1 BATH (Hearing/Visual)	-	1	-	1
'A2'	1 BEDRM / 1 BATH w/ Laundry	1	1	1	3
'B'	2 BEDRM / 1.5 BATH	7	9	10	26
'BM'	2 BEDRM / 1.5 BATH (Barrier Free)	2	-	-	2
'BV'	2 BEDRM / 1.5 BATH (Hearing/Visual)	-	1	-	1
'B2'	2 BEDRM / 1.5 BATH w/ Laundry	1	1	1	3
'B3'	2 BEDRM / 1.5 BATH w/ Laundry	-	1	1	2
'B4'	2 BEDRM / 1.5 BATH w/ Laundry	-	-	1	1
'C'	2 BEDRM / 2 BATH	-	2	2	4
'C2'	2 BEDRM / 2 BATH w/ Laundry	1	1	1	3
'C3'	2 BEDRM / 2 BATH w/ Laundry	-	1	1	2
	TOTAL	23	29	26	78

Developer:
Reenders, Inc

Project:
GRANDHAVEN
MANOR II

Lansing, Michigan

Sheet Title:
SITE PLAN

Project Number: 15-151
Drawn:
Checked:
Date:
Sheet Number:
SP


DED
1-21-16
FARRELL
DRAIN
W
Flow
N
To Detention Basin
Flow
S
Flow
To Deerfield

City Attorney Draft One

ORDINANCE NO. ___________

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO ADD SECTION 206.25 TO CHAPTER 206 OF THE LANSING CODIFIED ORDINANCES BY REQUIRING TRANSPARENCY IN THE BIDDING AND OPENING OF BIDS FOR PROJECTS THAT RECEIVE CERTAIN ECONOMIC INCENTIVES APPROVED BY THE LANSING CITY COUNCIL.

THE CITY OF LANSING ORDAINS:

Section 1. That Section 206.25 be added to Chapter 206 of the Codified Ordinances of the City of Lansing, Michigan to read as follows:

(A) PURPOSE. THE PURPOSE OF THIS SECTION IS TO PROMOTE FAIRNESS IN BIDDING ON DEVELOPMENTS AND CONSTRUCTION PROJECTS THAT RECEIVE ECONOMIC INCENTIVES FROM THE CITY OF LANSING BY ENSURING TRANSPARENCY IN THE DISTRIBUTION, OPENING, AND AWARDING OF BIDS. THE ORDINANCE ADOPTING THIS SECTION CONSTITUTES A PUBLIC PURPOSE OF THE CITY OF LANSING

(B) DEFINITIONS. AS USED IN THIS SECTION:

(1) "APPLICANT" MEANS A PERSON, CORPORATION, PARTNERSHIP, OR OTHER ENTITY THAT HAS APPLIED FOR AND RECEIVED ECONOMIC INCENTIVES APPROVED BY LANSING CITY COUNCIL

(2) "BID" MEANS A SEALED OFFER TO PROVIDE SERVICES PURSUANT TO A SOLICITATION FOR BIDS.

(3) "BID QUOTE" MEANS THE TOTAL BID AMOUNT IN DOLLARS AS READ ALOUD AND RECORDED AT THE BID OPENING.

(4) "ECONOMIC INCENTIVE(S)" MEANS ANY OF THE FOLLOWING: PAYMENT IN LIEU OF TAXES (PILOT) LOW INCOME HOUSING TAX CREDITS (LIHTC); A TAX ABATEMENT ISSUED UNDER PUBLIC ACT 328 OF 1998; A BROWNFIELD APPROVED UNDER PUBLIC ACT 381 OF 1996; OR, AN OBSOLETE PROPERTY REHABILITATION ACT ABATEMENT ISSUED UNDER PUBLIC ACT 146 OF 2000.

(5) "PERMIT" MEANS A BUILDING PERMIT, MECHANICAL PERMIT, ELECTRICAL PERMIT, OR PLUMBING PERMIT, ISSUED BY THE LANSING BUILDING SAFETY OFFICE.

(6) "PROJECT" MEANS A REAL ESTATE DEVELOPMENT IN THE CITY OF LANSING WHICH IS RECEIVING AN ECONOMIC INCENTIVE AND THE CONSTRUCTION WORK THAT WILL BE DONE ON THE DEVELOPMENT PURSUANT TO A PERMIT.

(7) "PUBLICLY ACCESSIBLE LOCATION" MEANS ONE OF THE FOLLOWING LOCATIONS: LETTS COMMUNITY CENTER; ALFREDA SCHMIDT COMMUNITY CENTER, GIER COMMUNITY CENTER, FOSTER COMMUNITY CENTER, LANSING CITY HALL CITY COUNCIL CHAMBERS, OR A CITY-OWNED BUILDING DURING REGULAR BUSINESS HOURS.

(8) "PUBLICLY ADVERTISED" MEANS:

(a) ADVERTISED AT A TIME AND LOCATION CUSTOMARY IN THE RELEVANT TRADE; AND,

(b) PUBLISHED ONCE IN A NEWSPAPER.

(9) "TRANSPARENT AND FAIR BIDDING PROCESS" MEANS: A BIDDING PROCESS THAT INCLUDES:

- OPENESS AND TRANSPARENCY;
- BID OPENINGS AT PUBLICLY ACCESSIBLE LOCATIONS;
- PUBLIC ADVERTISEMENTS OF BIDS WITH THE DATE, TIME, AND LOCATION FOR RESPONSE AND BID OPENING;
- SOLICITAION OF BIDS FROM A REASONABLE NUMBER OF SUPPLIERS REGARDLESS OF LABOR ORGANIZATION AFFILIATION;
- A REASONABLY SUFFICIENT TIME TO RESPOND FOR PROSPECTIVE BIDDERS;
- PUBLIC DISCLOSURE OF ALL BIDDERS AND BID AMOUNTS; AND
- NOTIFICATION TO BIDDERS NOT SELECTED OF THE BIDDER SELECTED AND THE AMOUNT OF THE SUCCESSFUL BID.

(C) REQUIREMENTS.

EVERY PROJECT SUBMITTED TO THE LANSING CITY COUNCIL FOR APPROVAL OF AN ECONOMIC INCENTIVE REQUESTED BY AN APPLICANT SHALL INCLUDE THE WRITTEN AGREEMENT OF THE APPLICANT CONSISTING OF, AND INCLUDING, THE FOLLOWING:

(1) THAT THE APPLICANT WILL ABIDE BY THE PRINCIPLES OF A TRANSPARENT AND FAIR BIDDING PROCESS AS DEFINED IN THIS SECTION; AND

(2) THAT ANY ECONOMIC INCENTIVES AWARDED TO THE APPLICANT'S PROJECT ARE SUBJECT TO REVOCATION OR OTHER PENALTIES OR

SANCTIONS ALLOWED BY THE AUTHORIZING STATUTE FOR THE PARTICULAR ECONOMIC INCENTIVE; AND

(3) A CERTIFICATION UNDER OATH BY THE APPLICANT THAT THE APPLICANT IS NOT IN FINANCIAL DEFAULT TO THE CITY OF LANSING RELATING TO TAXES, LICENSES, PERMITS, OR FEES; AND

(4) PROOF OF A VALID TAX IDENTIFICATION NUMBER, REQUIRED LICENSES, AND CERTIFICATES OF INSURANCE NECESSARY FOR THE PROJECT; AND

(5) THE SPECIFIC PLAN OF THE APPLICANT TO ABIDE BY THE PRINCIPLES OF A TRANSPARENT AND FAIR BIDDING PROCESS, INCLUDING ANY CONSTRUCTION WORK INCLUDED WITHIN THE RESPONSIBILITIES OF A GENERAL CONTRACTOR.

(D) APPLICATION. THIS SECTION SHALL ONLY APPLY TO A PROJECT FROM THE TIME THE ECONOMIC INCENTIVE IS APPROVED BY THE LANSING CITY COUNCIL UNTIL PROJECT COMPLETION AS DEFINED BY: A DEVELOPMENT AGREEMENT BETWEEN THE APPLICANT AND THE CITY OF LANSING; OR, IF NO AGREEMENT EXISTS, BY THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY BY THE CITY OF LANSING. THIS SECTION SHALL NOT APPLY TO ECONOMIC INCENTIVES INITIATED BY THE INGHAM COUNTY LAND BANK OR THE DEWITT CHARTER TWP. – CITY OF LANSING NEXT MICHIGAN DEVELOPMENT CORPORATION. THIS ORDINANCE SHALL NOT APPLY TO ANY ECONOMIC INCENTIVE OR PROJECT APPROVED PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE ADOPTING THIS SECTION.

(E) PROJECT LABOR AGREEMENTS. NOTHING IN THIS SECTION SHALL BE INTERPRETED TO PROHIBIT OR REQUIRE AN APPLICANT, OR ANY CONTRACTOR OR SUBCONTRACTOR OF AN APPLICANT, FROM REQUIRING IN BID SPECIFICATIONS THAT A SUCCESSFUL BIDDER ENTER INTO A PROJECT LABOR AGREEMENT OR OTHER COLLECTIVE BARGAINING AGREEMENT AS A CONDITION OF CONTRACT AWARD.

(F) WAIVER. CITY COUNCIL MAY WAIVE ANY REQUIREMENT OF THIS SECTION BY RESOLUTION IN ANY CASE WHERE IT FINDS THE APPLICANT WILL SUFFER UNDUE HARDSHIP OR PRACTICAL DIFFICULTIES COMPLYING WITH SUCH REQUIREMENT.

(**J) VIOLATIONS.** IN THE EVENT AN APPLICANT VIOLATES THE REQUIREMENTS OF THIS ORDINANCE, THE CITY MAY TAKE WHATEVER ACTION LEGALLY PERMISSIBLE TO REVOKE ANY ECONOMIC INCENTIVE GRANTED.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council.

Approved as to form:

____

City Attorney

Dated: ______________________________

RISE

A REAL ESTATE COMPANY

July 26, 2016

Jody Washington
Chair Person of Development & Planning Committee
124 W Michigan Ave.
10th Floor City Hall
Lansing, MI 48933

RE: CITY OF LANSING – COMMITTEE ON DEVELOPMENT & PLANNING

Dear Jody Washington,

Recently, our firm was provided questions pertaining to our SkyVue real estate development located in Lansing, MI. We requested the questions in writing from the Committee on Development & Planning as representatives from our firm were unavailable to attend the July 28, 2016 meeting. We respect the committee's desire to learn more about the development and will continue to work with LEAP and the City of Lansing to address future concerns or questions. We have enjoyed our relationship with LEAP and the City of Lansing and feel grateful we had such a transparent and good working experience through the approval process of SkyVue.

Below I have listed each question and its corresponding answer. First, I would like to make a general comment on the questions. It appears the questions are concerned with the entire regulatory framework. The Michigan Department of Environmental Quality administers the Brownfield program. LEAP and our environmental consultant, AKT Peerless have worked tirelessly through the City of Lansing and the MDEQ processes providing all necessary documents, reporting and continue to be available for ongoing questions and concerns. We would encourage those questions pertaining to the overall process might be better directed to the MDEQ.

Our project is not a state-mandated cleanup project, but a redevelopment of a moderately contaminated brownfield site. Incentives through the State's Brownfield program extend far beyond the environmental and underutilized property.

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1. How was it determined how much clean-up was necessary?

   The state is not requiring clean-up on this site. The state requires that the owner/operator (SkyVue) exercise "due care" in redevelopment and future operation of the site. Due Care obligations determine what response activities will be required. Specifically, the DEQ's program of Due Care requires SkyVue to prevent "exacerbation" (e.g., to properly handle excavated contaminated soil during construction), prevent unacceptable human risk (e.g., install direct contact barriers in the new development), and take reasonable precautions against reasonably foreseeable actions and omissions of a third party (e.g., notify contractors of contamination so they can take proper precautions). It is these response activities that result in clean-up activities on the site.

2. How is the dollar amount and length of the brownfield determined?

   Brownfield costs consist of environmental activities (assessment, response activities, and insurance), demolition, site preparation, infrastructure improvements, preparation of brownfield applications, and interest. These costs are estimated and placed in a brownfield tax increment financing plan. The plan was approved by the Lansing Brownfield Redevelopment Authority, Lansing City Council, DEQ, and Michigan Strategic Fund. Reimbursement will occur when future taxes exceed the base tax level paid on the property prior to the brownfield plan. Reimbursement occurs until the actual incurred costs are fully reimbursed.

3. Who is notified when the cleanup is finished?

   The developer is undertaking voluntary response activities to comply with the state's due care requirements. SkyVue will notify LBRA of its completed response activities, since SkyVue will be submitting reimbursement requests for brownfield eligible activity costs which document the nature of response activities.

4. Who does an inspection to verify the cleanup is completed?

   SkyVue will prepare a Documentation of Due Care Compliance (DDCC) report, which describes site conditions after the response activities have been completed. SkyVue, in accordance with state law, must maintain this report.

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5. Is a report done regarding the entire process—beginning to end?

   The Baseline Environmental Assessment (BEA) report describes site conditions at the time of SkyVue's acquisition. The Act 381 Work Plan (brownfield application for the state) describes the proposed response activities. The DDCC will describe site conditions after completion of response activities. SkyVue's reimbursement requests will further detail the exact nature of performed response activities.

6. Where is the report of the completed cleanup kept?

   The cleanup occurs through performance of response activities necessary to comply with the state's due care obligations. A DDCC report must be kept by the owner/operator (SkyVue), and the DDCC describes site conditions post-completion of response activities.

7. How does an individual/group access that report to ensure that the cleanup was completed?

   Generally speaking, DDCC's are privately prepared documents that are not necessarily available for public inspection (again, this is not a state-mandated cleanup; it's a voluntary action to comply with due care, and the DDCC is how the owner/operator knows they're complying with their due care obligation). However, the DEQ may request to review a DDCC. This project is better understood as redevelopment of a moderately contaminated brownfield site and reuse of an underutilized property.

Ms. Washington, we hope these answers are satisfactory for the Committee on Development & Planning and anyone else who is inquiring. We pride ourselves in our ability to work with the communities we serve and will continue to serve Lansing to the best of our abilities.

Sincerely,

Matthew R. Marshall

Matthew R. Marshall
VP of Development