



Community Development Committee

Business Item

Item: 2008-146

Meeting date: June 16, 2008

ADVISORY INFORMATION	
Date:	June 10, 2008
Subject:	City of Apple Valley Request to Amend Project, Livable Communities Demonstration Account (LCDA) Grant #SG004-127, Harmony Commons
District(s), Member(s):	District 16, Brian McDaniel
Policy/Legal Reference:	473.253 Livable Communities Demonstration Account
Staff Prepared/Presented:	Paul Burns, Manager, 651/602-1106 Guy D. Peterson, Director, Housing & Livable Communities
Division/Department:	Housing and Livable Communities/Community Development

Proposed Action

That the Community Development Committee direct staff to amend the project description shown as Attachment A of Livable Communities Demonstration Account (LCDA) Grant #SG004-127 to incorporate the City of Apple Valley’s requested change to the project.

Background

The Council received a letter from the City of Apple Valley dated May 12, 2008 requesting a change to the end use to the Harmony Commons LCDA development project which was awarded funding in February of 2005. The proposed change is a shift in the nature of the components of the mixed-use project. The number of housing units, all market-rate housing, is proposed to be increased, but changed from ownership to rental. The amount of ground level commercial space is proposed to be reduced by about 41 per cent, and the hotel originally proposed to be part of the grant-funded project has been built across the street. The City is also requesting a one-year administrative extension to the grant agreement. The grant funds were proposed to be used to help construct an underground parking garage. The current request does not change the purpose for the grant funds, but the number of stalls in the underground garage has been reduced and the amount of surface parking in the related development has increased

Rationale

As prescribed by the procedures, CDC Chair Natalie Steffen appointed a Review Panel consisting of Chair Steffen, Council Member Georgie Hilker and Council Member Brian McDaniel to meet on Monday June 9, to consider the city’s request.

Paul Burns, Manager of the Livable Communities program summarized the request, and the staff review of the request. He went over how the proposed change is different from what was in the grant award and how the proposed change conforms to the criteria in the three-step process for considering requests for changes to end projects. That staff analysis is described in the attached memo to the Review Panel.

Apple Valley Mayor Mary Hamann-Roland then thanked the review panel for the opportunity to present the city’s request for a change in the end use of the project, and went on to describe the public improvements and developments that have been constructed in the immediate vicinity of the grant-funded project area. She introduced Margaret Dykes, project administrator for the city and Randall Pederson, of New Century, Incorporated, a Minnesota-based contractor and Ward Phifer, of Regency Commercial Services, both representing the developer’s interest in the development.

Ms. Dykes gave a presentation describing the nature of the requested change and the market and economic forces driving the change. Chair Steffen asked questions about the amount and mix of parking and whether there would be adequate parking for the increased number of housing units as well as the commercial space. Ms. Dykes responded that the amount of parking does conform with city standards, which are based on the number of bedrooms. Chair Steffen also asked how far the development is from a new park Mayor Hamann-Roland had pointed out. Ms. Dykes responded that it was a short distance away. Council member Hilker asked how far the park and ride transit facility was from the project. Ms. Dykes indicated it was about a third of a mile away. Ms. Dykes also indicated the parking facility to be paid for by grant funds is expected to be completed in the Spring of 2009 and the full project is expected to be completed in October 2009.

After discussion, Brian McDaniel moved, seconded by Georgie Hilker to recommend to the Community Development Committee that staff be directed to amend the project description shown as Attachment A of Livable Communities Demonstration Account (LCDA) Grant #SG004-127 to incorporate the City of Apple Valley's requested change to the project

Funding

The 2005 grant amount was \$2,300,000. The requested change to the end project envisions keeping the grant amount the same.

Known Support / Opposition

The City and the developer support the proposal. Staff is not aware of any opposition.

DATE: June 4, 2008

TO: Community Development Committee Review Panel

FROM: Guy Peterson, Director, Community Development Division 651-602-1418
Paul Burns, Manager, Livable Communities Program 651-602-1106

SUBJECT: City of Apple Valley Request to Amend the LCDA End Project for Harmony Commons (SG004-127)

Summary

The Council received a letter from the City of Apple Valley dated May 12, 2008 requesting a second one year extension, but also indicating a proposed change in the end use to the Harmony Commons LCDA development project which was awarded funding in February of 2005. The proposed change is a shift in the nature of the components of the mixed-use project. The number of housing units, all market-rate housing, is proposed to be increased, but changed from ownership to rental. The amount of ground level commercial space is proposed to be reduced by about 41 per cent, and the hotel originally proposed to be part of the grant-funded project has been built across the street.

The grant funds were proposed to be used to help construct an underground parking garage. The current request does not change the purpose for the grant funds, but the number of stalls in the underground garage has been reduced and the amount of surface parking in the related development has increased.

Background

On September 26, 2007 the Metropolitan Council directed staff to implement proposed grant administration procedures to address requests for revisions to end projects originally proposed as the development or redevelopment outcome in proposals assisted by the Livable Communities grant awards. The procedures establish a three-step process to be used by the Community Development Committee to determine whether to approve such requests. This memo applies those procedures to the Apple Valley request.

Funding History

The Harmony Commons development has received an LCDA Grant. The project description is listed below:

Year	LCA Fund Account	Project Name	Amount Awarded
2005	Livable Communities Demonstration Account (LCDA)	Harmony Commons	\$2,356,244

The Central Village project, which includes the Harmony Commons Landmark Corner, represents the next step in the evolution of downtown Apple Valley through the creation of a compact mixed-use development that will provide multi-story, multi-use buildings with minimal setbacks and street orientation. Central Village will complement, as well as supplement, the existing downtown Apple Valley by providing another commercial and residential component to an already vibrant and successful area by incorporating the following components: Construction of a variety of multi-housing products; creating a walkable neighborhood environment; use of urban design techniques; use of innovative storm water practices; network green spaces and recreational resources; and develop cost-effective parking strategies. Funds will be used for construction of a below-grade parking structure.

Description of the scoring process and salient characteristics of the Harmony Commons project

Original Development Proposal in 2005	Revised Development Proposal	Change
46 market rate ownership housing units	129 market-rate rental housing units	83 unit increase in housing units, but shift from ownership to rental
68,000 sq. ft. commercial space	40,000sq. ft. retail space	28,000 sq. ft. reduction in commercial space
0 affordable housing units	0 affordable housing units	no change
1,200 new full-time equivalent jobs	950 new full-time equivalent jobs	250 fewer new FTE jobs
301 underground parking stalls (the LCDA grant was to pay for an unspecified portion of the cost of those stalls)	204 underground parking stalls (all to be paid for by LCDA funds)	97 fewer underground stalls *
67 Surface parking stalls	169 Surface parking stalls	102 More surface parking stalls
\$40M in Private Investment	\$30M Private Investment	-\$10M Private Investment

*The original grant request was for \$3.2 million, to pay for 237 stalls. The awarded LCDA grant was \$2,356,244 to help pay for the underground parking garage, but not for a specific number of stalls.

**The relative limited amount of the site devoted to surface parking was highlighted by the LCAC when they reviewed the original proposal. The revised proposal has an increased amount of surface parking. Some of the underground stalls were no longer needed when the hotel originally proposed for the LCDA grant-funded project was built across the street instead.

Application of Amendment Procedures

The Council's process for amending LCA grants to change end development/redevelopment projects (Attachment B) involves three steps, as follows:

Step One – Determine whether the requested amendment is a significant change. Below is language excerpted from the grant administration procedures document, with the pertinent criteria identified, along with the aspect of the proposed change that applies to that criteria described.

For the **Livable Communities Demonstration Account**, a proposed change will be considered significant if the change:

1. Proposes to substantially change the mix and type of land uses originally proposed in a way inconsistent with program objectives, or substantially change the nature of the project originally proposed. (in this case, the proposed change will change the mix of uses and will change the proportion of underground and surface parking)

The determination that the proposed changes are significant moves the consideration of the grant to Step Two.

Step Two – Evaluate the proposed amendment

The procedures state that the CDC may authorize an amendment to the project description included in the grant agreement provided that the end project, as revised, will produce the intended results described in the Livable Communities Act (in italics) and meets additional account-specific conditions. An assessment was made of the grant for which the amendment was requested. The aspects of the proposed changes, relative to the intended results, are explained.

A review of the proposed revision to the end development/redevelopment project indicates that the revised project:

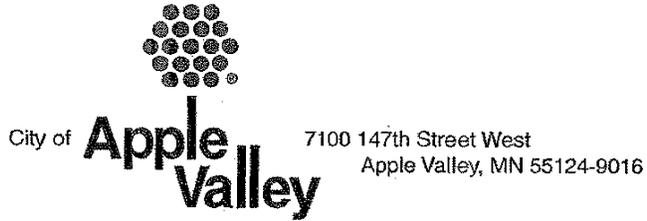
- 1) meets the requirements of the Livable Communities Act by conforming to the following LCDA intended results: *intensify land use that leads to more compact development or redevelopment; involve development or redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income area to achieve a mix of housing opportunities;*
- 2) will meet LCDA eligibility criteria;
- 3) remains consistent with the majority of the LCAC's evaluation of land use innovation and demonstration elements: It makes cost-effective use of infrastructure and increases density; converts underutilized lands to accommodate growth forecasts; city is locating the development in an area well-served by major roadways; and will build connections between workplaces, residences, retail and services. One area where the current proposal deviates from a feature highlighted by the LCAC in its' evaluation is the relative amounts of underground versus surface parking. The LCAC stated in its evaluation comments that the project would "minimize surface parking," and the proposed amendment is inconsistent with this point due to the significant increase in surface parking from 67 to 169 spaces, owing in part at least to the decrease in the number of underground parking stalls in the proposed amendment from 301 to 204. This shift – 152 percent more surface parking spaces, 32 percent fewer underground parking spaces – is a particularly significant change. However, the LCAC commented in its evaluation that structured parking is a key development strategy for projects like Harmony Commons and this end-project change will retain much of the structured parking to support the residential and retail components of the project;
- 4) was originally reviewed prior to the scoring system established in 2006, and as a result the scoring criteria isn't relevant to this proposed change.

Given that it meets the account-specific conditions, pursuant to the *Procedures*, a CDC Review Panel is to be convened to hear these findings and consider the request to revise the end project.

Step Three – Convene the CDC Review Panel

As required by the amendment procedures, a Community Development Committee (CDC) Review Panel has been appointed to consider the request to revise the City of Apple Valley Harmony Commons project. The panel will take into account the information provided by the representatives of the City of Apple Valley and the staff assessment included in this memorandum to prepare a recommendation for action by the CDC during its June 16 meeting.

The committee's action will occur within 45 days of receipt of the City of Apple Valley letter requesting the amendments.



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May 12, 2008

Mr. Paul Burns
Manager – Livable Communities Program
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101

RE: Livable Communities Grant Extension – City of Apple Valley

Dear Mr. Burns:

On behalf of our Mayor and City Council, please accept this letter as our official request for an additional one year extension for our current \$2,356,244 LCDA grant. This one year extension is intended to run through June 30, 2009.

Given current market conditions, the pace of development in the City's Central Village area has slowed to the point where the developer will need an additional 12 months in order to complete the next phase of the project—the addition of underground parking on the Village site of Founder's Circle.

We believe the City and the Metropolitan Council continue to share a vision of developing compact, higher density, walkable, livable places such as Founder's Circle. Although revised to reflect the current market, the Founder's Circle element of the Central Village development remains consistent with the vision shared by the City and the Metropolitan Council. In fact, the Apple Valley City Council voted unanimously at their May 8th meeting to support the project. We sincerely hope the Metropolitan Council will offer its support as well.

Please feel free to contact me at 952-953-2578 or Associate City Planner Margaret Dykes at 952-953-2569 should you need additional information.

Sincerely,

CITY OF APPLE VALLEY

Tom Lawell
City Administrator

**City of Apple Valley
LCDA Grant Extension
Background Material**

Background

In 2005, the City was awarded an LCDA Grant in the amount of \$2,356,244 for the construction of a below-grade parking structure at the Landmark Corner of the Harmony Commons development. The City's application requested \$3.2 million for 237 parking spaces in the garage. The site is located in the Apple Valley Central Village, which is an approximately 65 acre development using mixed-use development and increased residential density to create a vibrant, livable pedestrian-oriented urban area adjacent to the City's Downtown near the intersection of Cedar Avenue and Dakota County Road #42. The Central Village is slated to have over 1,400 housing units, and approximately 300,000 sq. ft. of commercial uses, and is the first transit-oriented development to come on line to coincide with the Cedar Corridor BRT, which becomes operational in September 2009. The Apple Valley Transit station is approximately 1/3 mile away - a 5 to 10 minute walk or a 2 to 5 minute bike ride.

2004 Grant-Approved Project

The Landmark Corner building was located on a 3.5-acre lot southwest of the intersection of Galaxie Avenue and 153rd Street W. The site plan showed a 77-room hotel, approximately 50,000 sq. ft. of commercial, 46 residential units, and 325 underground parking spaces, with another 27 spaces on the surface of the parking lot. The underground parking lot was to be constructed under the entire triangle-shaped parcel. Again, the LCDA grant was awarded for the construction of 237 parking spaces in the underground garage.

The Landmark Corner was determined to be a catalyst for the Central Village development, and as such, was critical to the completion of the Central Village. The developer of the property was listed as New Century Inc., and the developer intended to have the underground garage completed by the end of 2005 or beginning of 2006.

2006 Plan Revision

In 2006, the developer submitted revisions to the master development plan and changed the name of the master development from Harmony Commons to Founders Circle. The City approved the plans in July 2006. The site plan for the Landmark Corner, now called the Village site, was modified so that the hotel was moved to a lot just north of the Village site, and the number of residential units increased to 197 units and the commercial increased to approximately 60,000 sq. ft. In February 2006, the City received a letter from Jan Gustafson of the Metropolitan Council stating that the proposed site changes did not affect the LCDA grant and no amendment of the grant award was necessary.

In April 2007, the City requested an extension of the End Date of the grant agreement from June 30, 2007, to June 30, 2008. This extension was granted.

**City of Apple Valley
LCDA Grant Extension
Background Material
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2008 Plan Revision

The developer has determined changes must be made to the plan for the Village site based on unforeseen changes to the residential market. The developer is now proposing 129 residential units on the site and approximately 40,000 sq. ft. of commercial uses. The plan shows 204 underground parking spaces which will be available to residents of the building and the general public. Please note that no changes have been made to the boundary of the project. There have not been any boundary changes to the Central Village, and the underground garage will be in the same location.

On May 8, 2008, the Apple Valley City Council **voted unanimously to approve** the revised site plan for the Village building, formerly the Landmark Corner, in the Founders Circle development. The revised site plan shows one vertically integrated mixed use building and one single-use commercial building on the 3.5 acre lot. The mixed-use building will have approximately 34,000 sq. ft. of commercial uses on the first floor and 129 residential units on floors 2-4 above the commercial. The other 6,000 sq. ft. commercial building is for a single-user, potentially a retail or office user. The site also allows for sustainable stormwater management improvements. The site has 373 on-site parking spaces, of which 204 are in an underground garage. The garage is for the residents of the Village building and the public.

The City is requesting the full LCDA grant be retained for the construction of the 204-space underground parking garage.

The developer has stated that if the grant is extended, the underground garage will begin Fall 2008, and be completed Spring 2009. The entire Founders Circle development is expected to be completed by 2015.

Other Central Village Projects

A number of sites in the Central Village have been developed by the private sector. These include Enjoy!, a 15,000 sq. ft. full-service restaurant; RE/Max Real Estate, a 16,000 sq. ft. office building; the Grandstay Hotel and shops, a 78-room hotel with 11,000 sq. ft. of commercial uses; and The Shops on Galaxie, a 44,000 sq. ft. mixed-use building with office and retail and 72-underground parking spaces. Also developed in the Central Village are the Legacy Square townhomes, a 105-unit owner-occupied development with 100 units affordable to residents at 80% of the median area income; and, the Haralson Apartments, a 36-unit apartment with half the units reserved for residents with a history of mental illnesses, and half for residents at or below 50% of the median area income.

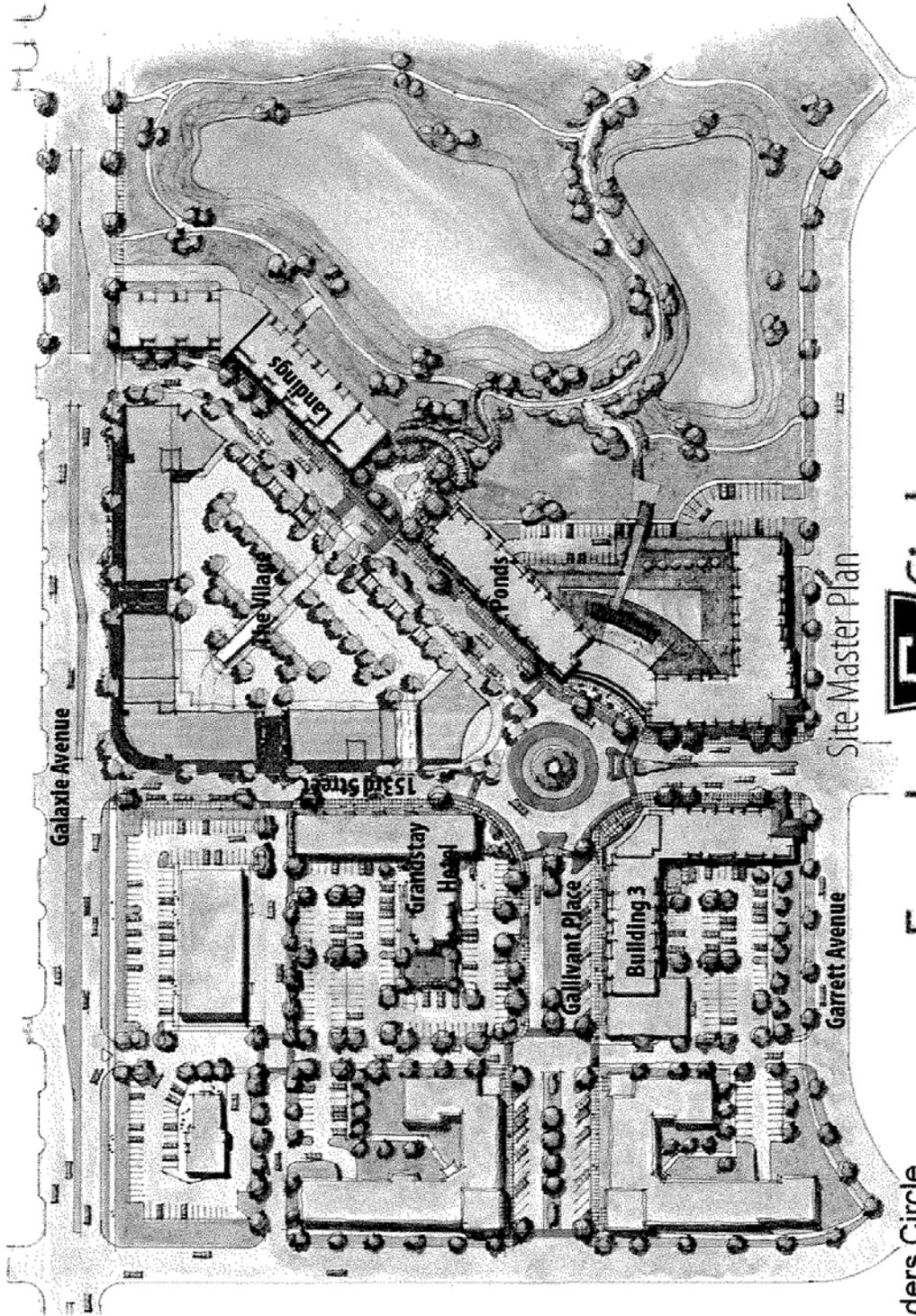
Additionally, the City has made substantial public investments in this area. These include Kelly Park, a 2.5-acre urban park costing \$1.1 million, with approximately an approximately \$425,000 grant from the Metropolitan Council; and the Legacy Park, a 2.6-acre park costing \$750,000 in public money. Park improvements are paid for by the City.

**City of Apple Valley
LCDA Grant Extension
Background Material
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Other public infrastructure and street improvements include a planted median in Galaxie Avenue; construction of roadway improvements including a roundabout at 153rd Street and Founders Lane, on-street parking spaces along Galaxie Avenue, 153rd Street, Founders Lane, Gallivant Place, Galant Lane, Fontana Lane, Gabella Street, and Fortino Street. The City has also undertaken major reconstruction of a City stormwater pond to create a 2-cell system with walking paths that connects to the City's sidewalk and trail system. Total investments in public infrastructure and streets total more than \$8 million. Though the property owners in the Central Village have assumed responsibility for the majority of public street and infrastructure improvements in the area, the subsidy for the parking provided by the grant allows the project to be financially feasible and is necessary to offset this large commitment to public infrastructure.

It is critical that the full amount of the grant be retained because the Village site is the centerpiece development of the Central Village, an area destined over a 10- to 15-year period to become a fully built-out vibrant, urban-style neighborhood for living, working, shopping and recreation. The Central Village replaces what might have been low density, single story mid-sized boxes of commercial uses and warehouse space.

Additionally, the Village demonstrates that it is still possible to build a properly sized, mixed-use development in today's difficult economic environment in the Metropolitan area. The City supports the downsizing of the development because we are concerned that all development in the City be right sized, and financially feasible. Trade area and market place data secured by the developer reportedly helps to support their proposal, and shows that the project meets the "but for" test. Again, the grant is critical to the development of the site, and, ultimately, the Central Village.



Founders  Circle

Founders Circle
Development, LLC

2008 Approved Site Plan

Commitment for For-lease Housing + Retail with future conversion to condos.

- 129 luxury condos for lease
- 39,600 square feet of retail below
- Construction starting fall '08 with completion of garage spring '09 and housing + retail fall '09

Goal for For-sale housing + Retail/Office

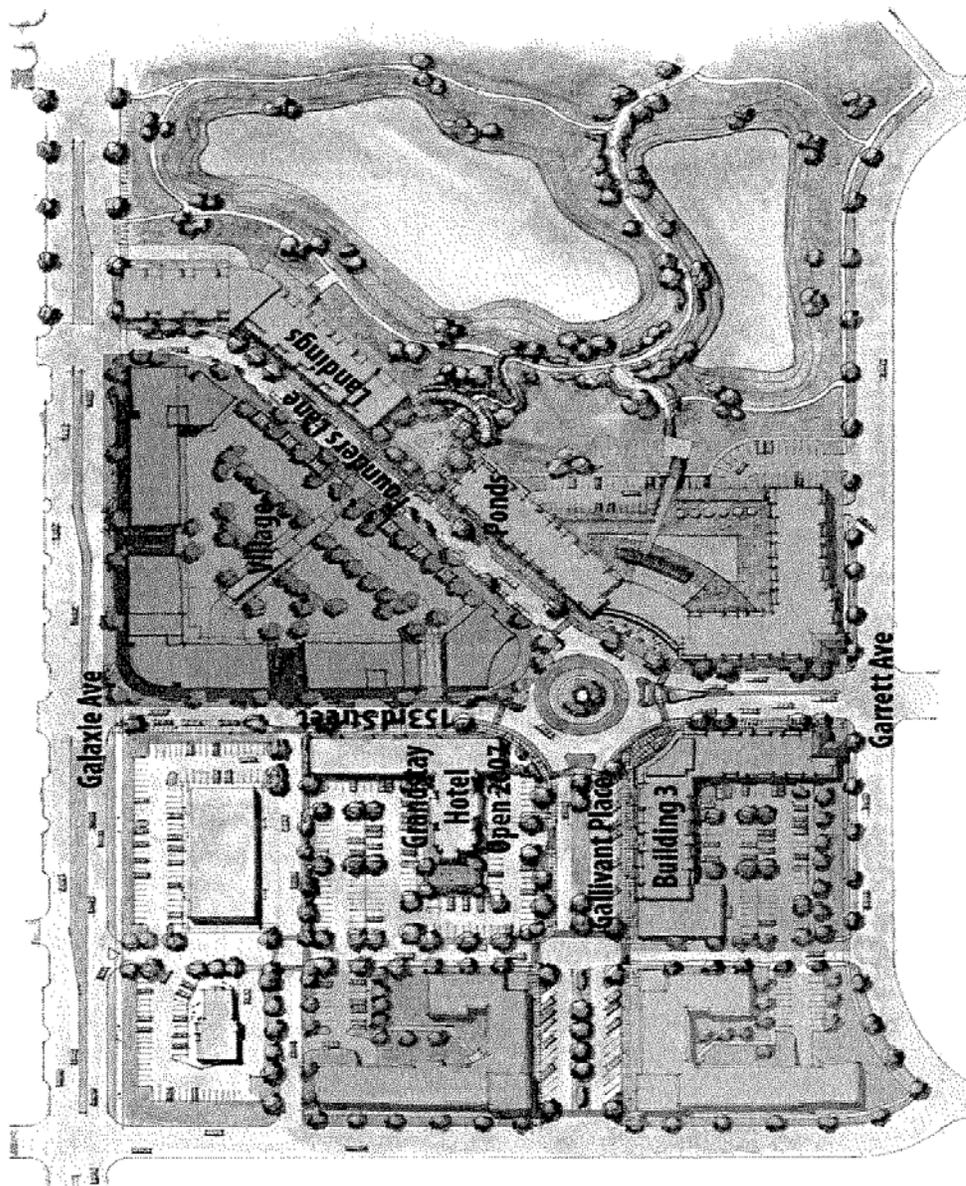
- 113 Condominium units
- 23,400 square feet of retail/office
- Construction starting 2009 with completion 2012

Goal for For-sale housing + Retail

- 137 Condominium units
- 37,947 square feet of retail
- Construction starting 2011 with completion 2013

Goal for senior housing

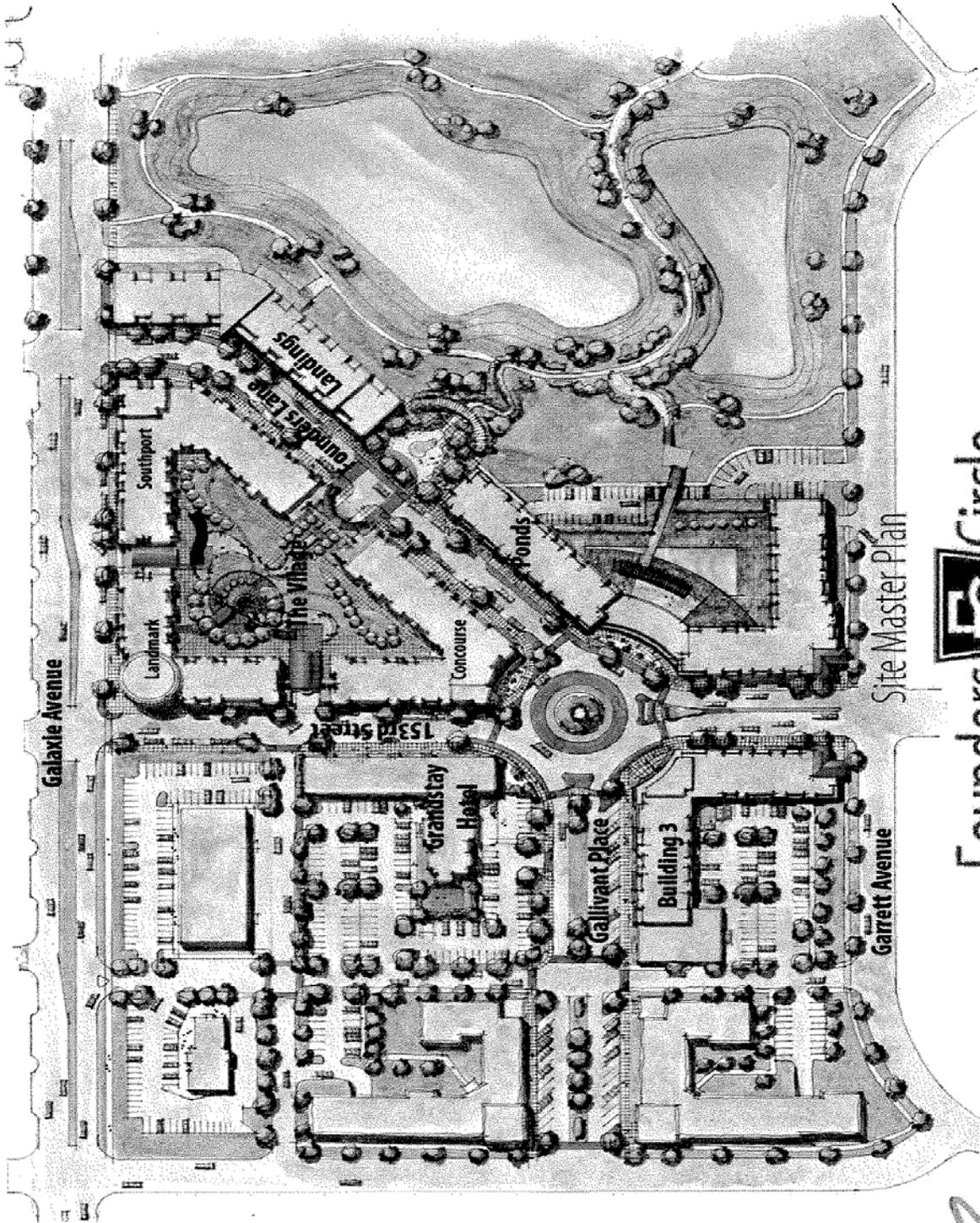
- 60 Senior housing units
- Construction starts 2011 with completion 2013



Site Plan - Phasing

Founders Circle Development, LLC





Site Master Plan

Founders **FC** Circle

2006 Approved Plan



PROPOSED REVISIONS TO THE GRANT ADMINISTRATION PROCEDURES

Process for Amending Livable Communities Grant Awards in Response to Requests for Changes to the End Development/Redevelopment Project

Grantees will be informed that **all requests to amend the end development project or redevelopment project as described in an LCA grant agreement must be made in writing.** Information provided must include:

- the proposed amendment(s)
- an explanation as to why the proposed change is necessary

Decisions regarding disposition of requests to amend end projects will be made through a three-step process summarized as follows and further defined below:

1. Determine whether the requested amendment to the end project is a significant change.
2. If the change is deemed to be significant, Livable Communities staff will A) review the request and prepare a report stating whether the project, as amended, meets specific conditions that would suggest that the Community Development Committee should approve the amendment and B) invite the grantee to present the proposed amendment to the Community Development Committee Review Panel.
3. Convene a three-member CDC Review Panel to consider the grantee's request and recommend action to the full Community Development Committee.

STEP ONE — DETERMINE WHETHER THE REQUESTED AMENDMENT IS A SIGNIFICANT CHANGE

Decisions as to whether or not proposed changes to end projects are **significant** will be based on consideration of the account-specific legislative outcomes and on the factors considered when the application for funding was scored. For example, some end project proposals do not include jobs...others do not include housing units. **Only the factors applicable to the end project as originally proposed will be evaluated.**

For the **Tax Base Revitalization Account**, a proposed change will be considered **significant** if the change:

- proposes to replace the end project as originally proposed with a completely different end project, or
- will result in a reduction of 20 percent or more of the total net tax capacity expected to be generated by the redevelopment as originally proposed, or
- proposes to reduce by 15 percent or more, or by 50 jobs, (whichever is higher) the total number of new or retained jobs, or
- proposes to reduce by 10 percent or more, or by 50 units, (whichever is higher) the total number of housing units, or
- proposes to reduce the total number of affordable housing units by 20 percent or more from the project as originally proposed.

For the **Livable Communities Demonstration Account**, a proposed change will be considered **significant** if the change:

- proposes to replace the end project as originally proposed with a completely different end project, or
- proposes to substantially change the mix and type of land uses originally proposed in a way inconsistent with program objectives, or substantially change the nature of the project originally proposed, or
- will reduce the overall project density below the density guidelines for developments in the project location, or 20 percent below the density originally proposed (whichever is higher), or

ATTACHMENT B

- proposes to reduce by 10 percent or more, or by 50 units, (whichever is higher) the total number of housing units, or
- proposes to reduce the total number of affordable housing units by 20 percent or more from the project as originally proposed.

For the **Local Housing Incentives Account**, a proposed change will be considered **significant** if the change:

- proposes to replace the end project as originally proposed with a completely different end project, or
- proposes to reduce by 20 percent or more the total number of affordable housing units, or
- no longer meets Minnesota Housing funding requirements resulting in the withdrawal of Minnesota Housing funds from the project.

STEP TWO — EVALUATE THE PROPOSED AMENDMENT

If the purpose for which the funds were awarded remains the same, but the requested amendment proposes **significant changes to the end development or redevelopment project** as described in the grant as awarded by the Council's governing body (e.g. changing an LCDA or TBRA end project in its entirety from residential development to retail uses or— for LHIA grants—changing the end project from rental apartments to owner-occupied single-family homes), the Community Development Committee may authorize an amendment to the project description included in the grant agreement provided that the end project, as revised, will produce the intended results described in the Livable Communities Act (in italics) and meets additional account-specific conditions as follows:

Tax Base Revitalization Account—

- *provide the highest return in public benefits for the public costs incurred, encourage development that will lead to the preservation or growth of living-wage jobs or the production of affordable housing, and enhance the tax base of the recipient municipality, and,*
- meets the account eligibility criteria, and
- if the revised end project is acceptable to the Council's polluted site cleanup funding partners that have also granted funds to the project, and
- if the revised end development or development project would score similarly to the original end project (i.e., rank within the list of projects recommended for funding) in the jobs/housing and tax base increase categories;

Livable Communities Demonstration Account—

- *interrelate development or redevelopment and transit; interrelate affordable housing and employment growth areas; intensify land use that leads to more compact development or redevelopment; involve development or redevelopment that mixes incomes of residents in housing, including introducing or reintroducing higher value housing in lower income area to achieve a mix of housing opportunities; or encourage public infrastructure investments which connect urban neighborhoods and suburban communities, attract private sector redevelopment investment in commercial and residential properties adjacent to the public improvement, and provide project area residents with expanded opportunities for private sector employment, and*
- meets the account eligibility criteria, and
- if an examination of the record of review for the grant award indicates that the end development/redevelopment project, as amended, would still include the demonstration and innovation elements that contributed to the Livable Communities Advisory Committee's selection of the project for funding, and, in addition,
- (for projects awarded funds in 2006 or later) if the revised end development/redevelopment project would score similarly (i.e. would score at least 20 points [the threshold level] in the Step One evaluation) to the original end project in the staff technical evaluation.

Local Housing Incentives Account—

- *create incentives for developing communities to include a full range of housing opportunities; create incentives to preserve and rehabilitate affordable housing in the fully developed area,*

ATTACHMENT B

- meets the account eligibility criteria, and
- if the revised end development/redevelopment project is acceptable to the Council's Metropolitan Housing Implementation Group funding partners that have also granted funds to the project.

STEP THREE — CONVENE THE CDC REVIEW PANEL

Community Development Committee decisions regarding compliance with the above conditions will be made in the following manner:

- A Review Panel subcommittee of the Community Development Committee consisting of three committee members appointed by the committee chair will convene to consider requests for significant changes to end projects.
- Representatives of the grant award recipients will be asked to present to the Review Panel their requests for a change to the original end project and will be available to answer panel members' questions.
- Staff will provide the Review Panel with a memorandum assessing the proposed amendments' eligibility and compliance with additional account-specific criteria and reporting the results of the rescoring of end projects as amended.
- The Review Panel will consider the information provided and make recommendations to the Community Development Committee for a final decision regarding disposition of the requests for amendments.
- The Community Development Committee will endeavor to inform grantees of the committee's decision regarding requested amendments in writing within 45 days of receipt of the grantees written requests, subject to the committee's meeting schedule.

Implementation of the Livable Communities Act Program will continue to focus on partnering with communities to achieve local plans and objectives consistent with the Council's *2030 Regional Development Framework*. LCA staff will continue to hold grantees accountable for funded projects, monitoring progress and contacting communities to help resolve issues for funded projects on which progress is delayed.