

C Community Development Committee
For the Metropolitan Council meeting of February 13, 2008

ADVISORY INFORMATION

Date Prepared: January 24, 2008

Subject: Tax Base Revitalization Account Funding Recommendation for Hopkins Town & Country Dodge Project

Proposed Action:

That the Metropolitan Council not award a Tax Base Revitalization Account (TBRA) grant to the Hopkins Town & Country Dodge project.

Summary of Committee Discussion / Questions:

Following the staff presentation, Hopkins Mayor Maxwell spoke in support of the proposed redevelopment of the former Town and Country Dodge site and the developer and his representative spoke about the proposed benefits of the redevelopment, enforcement action issued by the Minnesota Pollution Control Agency regarding the asbestos abatement, the need for funding, the financing of the project as well as the issue of grants for projects with costs incurred before applying for funding.

Council's legal counsel commented on the importance of preserving the integrity of the application process and precedent potentially set by accepting new information after a funding recommendation is made to the Committee.

Staff responded to several questions raised by the Committee including the eligibility of costs already incurred by the project and the application review process for these situations.

The proposed action not to award a TBRA for the Hopkins Town and Country Dodge project was approved.



Community Development Committee

Business Item

Item: 2008-7

Meeting date: January 22, 2008

ADVISORY INFORMATION	
Date:	January 17, 2008
Subject:	Tax Base Revitalization Account Funding Recommendation for Hopkins Town & Country Dodge Project
District(s), Member(s):	3, Mary Hill Smith
Policy/Legal Reference:	Livable Communities Act, Minnesota Statutes § 473.25
Staff Prepared/Presented:	Marcus Martin, Senior Planner, 651/602-1054 Jan Gustafson, Manager, 651/602-1384 Guy D. Peterson, Director, Housing & Livable Communities, 651/602-1418
Division/Department:	Housing & Livable Communities/Community Development

Proposed Action

That the Metropolitan Council not award a Tax Base Revitalization Account (TBRA) grant to the Hopkins Town & Country Dodge project.

Background

The Tax Base Revitalization Account (TBRA) awards grants for the cleanup of contaminated land and buildings to prepare sites for redevelopment twice annually. Awards for the second funding cycle in 2007 totaling \$2,385,900 were made by the Council on January 9, 2008. The Community Development Committee delayed consideration of the Hopkins Town and Country Dodge project until the January 22, 2008 committee meeting.

Rationale

The applicant has not demonstrated sufficient need for Council funding. The majority of the requested cleanup was completed prior to applying for Council funding. Prior to applying for Council funding for the project a private loan was obtained to pay for the activities requested

Funding

Funding for TBRA grants comes from an annual levy capped at \$5,000,000. The amount of money available is awarded in two funding cycles each year and is generally somewhat larger than the levy amount. The additional funds come from two sources: 1) balances from grant projects either completed under budget or, occasionally, relinquished by grantees whose projects were unable to proceed; and 2) interest credited to the account during the previous year. In the fall 2007 TBRA funding cycle, a total of \$3,330,000 was available for grants and awards totaling \$2,385,900 were made on January 9, 2008. The available balance is \$944,100.

Known Support / Opposition

A resolution endorsing the Hopkins applications submitted was received from the city. No documented opposition to the proposed project was presented to staff during the application review process.

Review Record

Fall 2007 Funding Process

Fall 2007 TBRA Program

The Council issued a notice that grant funds were available and held an applicant workshop collaboratively with the Department of Employment and Economic Development (DEED), Minnesota Pollution Control Agency (MPCA), Hennepin County, Ramsey County, Department of Agriculture and the Department of Commerce in August. Funding of \$3,330,000 was available for the fall 2007 cycle. Fourteen of the sixteen applications submitted this fall were awarded funding totaling \$2,385,900. The award balance available is \$944,100. The TBRA request from the City of Hopkins for the Town and Country Dodge project in their application is \$81,250. A revised request for \$500,000 has been submitted by the City of Hopkins in a letter dated January 16, 2008.

Summary of the Town & Country Dodge

Staff met with the developer's representative, environmental consultant and a representative from the Department of Employment and Economic Development on October 24, 2007, approximately one week prior to the application deadline, to discuss the application by the Town and Country Dodge redevelopment to the cleanup grant programs at DEED and the Metropolitan Council. At that meeting, it was learned that the building demolition and the asbestos abatement had already been completed. Staff indicated to the attendees that the completion of the work presented a "significant challenge" to demonstrating the need for TBRA funding.

The prior staff recommendation dated 12/10/07 and presented at the Community Development Committee meeting on 12/17/07 did not rank the Hopkins Town & Country Dodge project because the project was under the review of the MPCA for being conducted improperly. Additional information regarding the scope of the abatement conducted improperly was not available from the MPCA or the Attorney General's office due to the active investigation. Staff did not consider it appropriate to reimburse an applicant for improperly performed clean up work and was not able to determine how much of the asbestos abatement costs were being challenged. Staff therefore, considered all the asbestos abatement work ineligible. The remaining eligible remediation costs were one-percent of the total project costs. When the eligible clean up costs are one percent or less of the total project costs, TBRA guidelines indicate that it is expected that the clean up cost can be reasonably absorbed in the project costs without Council assistance.

This analysis of the need for funding commonly referred to as a "but for" test have been presented to the Community Development committee as an eligibility requirement in TBRA funding recommendations since 1999. Examples of previous applicants that did not demonstrate sufficient need for funds and were subsequently not recommended for TBRA funding include: Best Buy redevelopment (Richfield), Electronic Industries (New Hope), Canterra Woods (Minnetonka), Stone Creek Village (Plymouth), Blue Gentian (Eagan), Moon Valley Gun Range (Chanhassen).

After the December 10, 2007 staff recommendation memo was prepared and distributed, an agreement between the developer and the MPCA was reached on 12/17/07, the day of the Community Development Committee meeting, imposing a \$5,000 fine for improper handling of the asbestos containing materials. As knowledge of this MPCA action became public on the 17th, the Community Development Committee delayed consideration of the Hopkins Town and Country Dodge project until the January 22, 2008 committee meeting and directed staff to score the project prior to that time.

The TBRA uses an open application process. Applicants are required to submit an application and support documentation including supporting documentation such as a response action plan detailing the extent of the

contamination and the proposed remedy, documents approving the cleanup plan from the MPCA, hazardous materials or asbestos survey and a resolution of support from the applicant by the application deadline. Follow-up requests are made to the applicants and project representatives for missing or incomplete information. Comments are also solicited from Council staff (i.e., transit, environmental services, local planning assistance, and parks and open space) and other agencies (i.e., technical review by MPCA staff) and information about the TBRA request is shared with funding partners (e.g., DEED, Hennepin County). Additional requests for clarification are made, as needed. Once the final recommendation is prepared and a memorandum is sent to the Community Development Committee for review and consideration prior to the Committee meeting, no additional information is considered.

Such was the case with the Hopkins Town and Country Dodge application and staff review. Staff has reservations about establishing a precedent of allowing additional information to be considered after it's evaluation of the project and grant application and has submitted its recommendation to the Community Development Committee. Concern exists about the precedent that may be established if an applicant is permitted to submit new information about its proposal after staff has made its recommendation to the Committee.

However, as the Committee requested, staff has scored the application. Based on the request of \$81,250 included in the application the Hopkins project would have scored 79 points and would have been tied with the Sholom Home redevelopment as the second-ranked (2nd) project in the fall 2007 funding cycle. Since the evaluation process takes into account the benefits provided for the costs incurred, a higher funding request would lower the project ranking accordingly. Based on an amended request for \$500,000 of which \$404,500 is eligible, the project would have scored 62 points and been tied with Spirit on Lake redevelopment as the sixth-ranked (6th) project in the fall 2007 funding cycle. A project summary is provided on page 3.

Applicants may request matching and additional non-matching TBRA funds when applying to both DEED and the Metropolitan Council. The DEED program funds a maximum of 75% of a project's clean up costs with the applicant expected to cover the other 25%. The TBRA legislation allows for TBRA funds to be used as up to 13% of the total project cleanup costs to help cover a portion of the 25% local match requirement.

The Hopkins Town and Country Dodge project submitted a joint application to DEED and the TBRA for a total of \$650,000. DEED has awarded \$112,500 for the following grant activities listed in the cleanup budget provided in the application: RAP development, field engineering, hazardous soil removal and [installation of a] building vapor barrier). Other activities (i.e., asbestos abatement and building demolition) were determined to be ineligible for funding from DEED.

The Council has the discretion to make up for shortfalls from funding partners using Council criteria limiting awards to eligible cleanup expenses. The TBRA recommendations take into consideration the funding recommendations by the partners but the TBRA recommendations are not dependent on the decisions of the other funding partners.

Despite the agreement reached with the MPCA on the enforcement action, the project does not demonstrate sufficient need for Council funding. A significant portion of the requested cleanup (85% of the costs i.e., \$25,000 for RAP development, \$400,000 for asbestos abatement, \$100,000 for demolition and a portion of the \$50,000 indicated for removal of contaminated soil according to the application) was completed prior to applying for Council funding. A private loan was obtained to pay for the activities requested prior to applying for Council funding for the project. Other public funding (\$112,500) has been obtained from DEED for activities that were identified not being completed at the time of application (i.e., field engineering, [remaining] hazardous soil removal and [installation of a] building vapor barrier). Since a private source of capital was found to pay for the cleanup work, and nearly all work had been completed, it is very difficult to support the position that a demonstrated need exists in this situation and that the project can not proceed without the TBRA funding for the cleanup. The cleanup is done and the site is likely ready for development.

The only situation where TBRA funds have been granted for work completed prior to the application date are those in which TBRA funds have been used for environmental investigation expenses or in situation where an applicant having already received a prior TBRA grant for the project, seeks reimbursement of additional eligible costs to supplement the already awarded funds because of more extensive or different types of contamination not previously identified in the approved RAP for the site.

Hopkins – Town and Country Dodge

Location:	1710 Highway 7 Hopkins, MN 55343-6901
Council District:	3 – Mary Hill Smith
Acres:	6.45 acres
Estimated Cleanup Cost:	\$650,000 for environmental investigation, asbestos abatement and soil remediation. Upon review with the additional information submitted regarding the handling of the asbestos abatement and additional public funding awarded, \$404,500 of the costs for completed work are eligible for reimbursement.
Private Investment:	\$13,000,000
Expected Annual Increase in Net Tax Capacity:	\$194,500
Jobs:	104 FTE (91 at a living wage) (Job creation estimates were reduced by 1/3 based on job estimates for fitness centers of a comparable size.)
Affordable Housing Units:	NA
Project Summary	The applicant is requesting \$81,250 in matching TBRA funds for asbestos abatement and soil remediation to a \$487,500 request from DEED for a 6.45-acre site formerly used for farm implement sales, light assembly and most recently, as auto sales, repair and washing. Hennepin County previously awarded \$15,000 for environmental investigation for this project. DEED awarded \$112,500 for RAP development, field engineering, hazardous soil removal and [installation of a] building vapor barrier. The expected benefits include the development of a 34,000 sq. ft. fitness center with a project increase of \$194,500 in annual net tax capacity and \$13M of private investment.
Funding request:	\$81,250 would result in 79 points / rank 2. \$404,500 would result in 62 points / rank 6.

Photo Log
Former Town and Country Dodge
1710 Highway 7
Hopkins, Minnesota



View from eastern portion of Property looking northwest at future location of building



View from south-central portion of Property looking north at future building location



View from northwest portion of Property looking east across northern parking lot/driveway area



View from northwest portion of Property looking southeast across parking lot area



View from north-central portion of Property looking west at parking lot and storm-water pond