

ITEM # 20
DATE 07/15/08

COUNCIL ACTION FORM

SUBJECT: EXTENSION TO NORTH GRAND MALL PARTNERS, LLC FOR PARKING LOT IMPROVEMENTS

BACKGROUND:

In July 2007, the City Council approved a final plat for Streets of North Grand. This was a three-lot commercial subdivision encompassing the North Grand Mall. The subdivision extends from 24th Street to 30th Street and from Grand Avenue to Ferndale Avenue. Lot 1 encompasses the southern part of the mall; Lot 2 extends from the former Sears northward; and Lot 3 is the site of the former Okoboji Grill. There is an island within Lot 1 that is not a part of the plat, as well as lots to the southwest and southeast that are also not a part of the plat. There is also a remnant Outlot lying west of Ferndale Avenue. The final plat for Streets of North Grand Mall was approved by the City Council on July 10, 2007 and recorded on July 18, 2007.

A development agreement was approved along with the final plat. That agreement creates certain responsibilities for the mall owner. Among these are reconfiguring the parking area on Lot 2 "to comply with the minimum off-street parking standards in the Ames Municipal Code in a manner consistent with an approved site plan and with the parking lots on Lots 1 and 3 not later than one year from the recording of the final plat." The agreement expects the mall to provide the number and size of parking spaces necessary to satisfy the requirements of the zoning ordinance.

A further responsibility requires the owner to make necessary improvements to bring the building up to fire code regarding fire resistance ratings. This involves the installation of a roll-up fire door (or similar fire resistant barrier) between the former Sears store and the rest of the mall building. This requirement was placed because the newly-platted mall resulted in property lines extending through buildings. This requires fire separation walls within the structure along the property lines. The improvements are to be completed by July 18, 2008.

The agreement identifies the remedies that the City can seek if the owner fails to make the necessary improvements. Until the parking lot improvements are made, the City can withhold occupancy permits for any construction within the subdivision, except for development on Lot 3 (the former Okoboji Grill) and except for any renovated spaces within the mall provided no new parking was required. The owner also provided a bond to the City in an amount to cover the parking lot reconfiguration and fire resistance improvements (\$478,638.00). The City has the option of drawing upon the bond and having the work done by the City.

The agreement allows for the owner, if he fails to provide the improvements, to ask for a one-year extension to reconfigure the parking lot "If, due to circumstances beyond the control of the Owner such reconfiguration cannot be completed in a timely fashion...."

The owner has made no progress on the parking lot configuration and is requesting the one-year extension (see attached letter).

The owner has also not brought the structures up to the fire rating resistance requirements by installing the rollup fire doors.

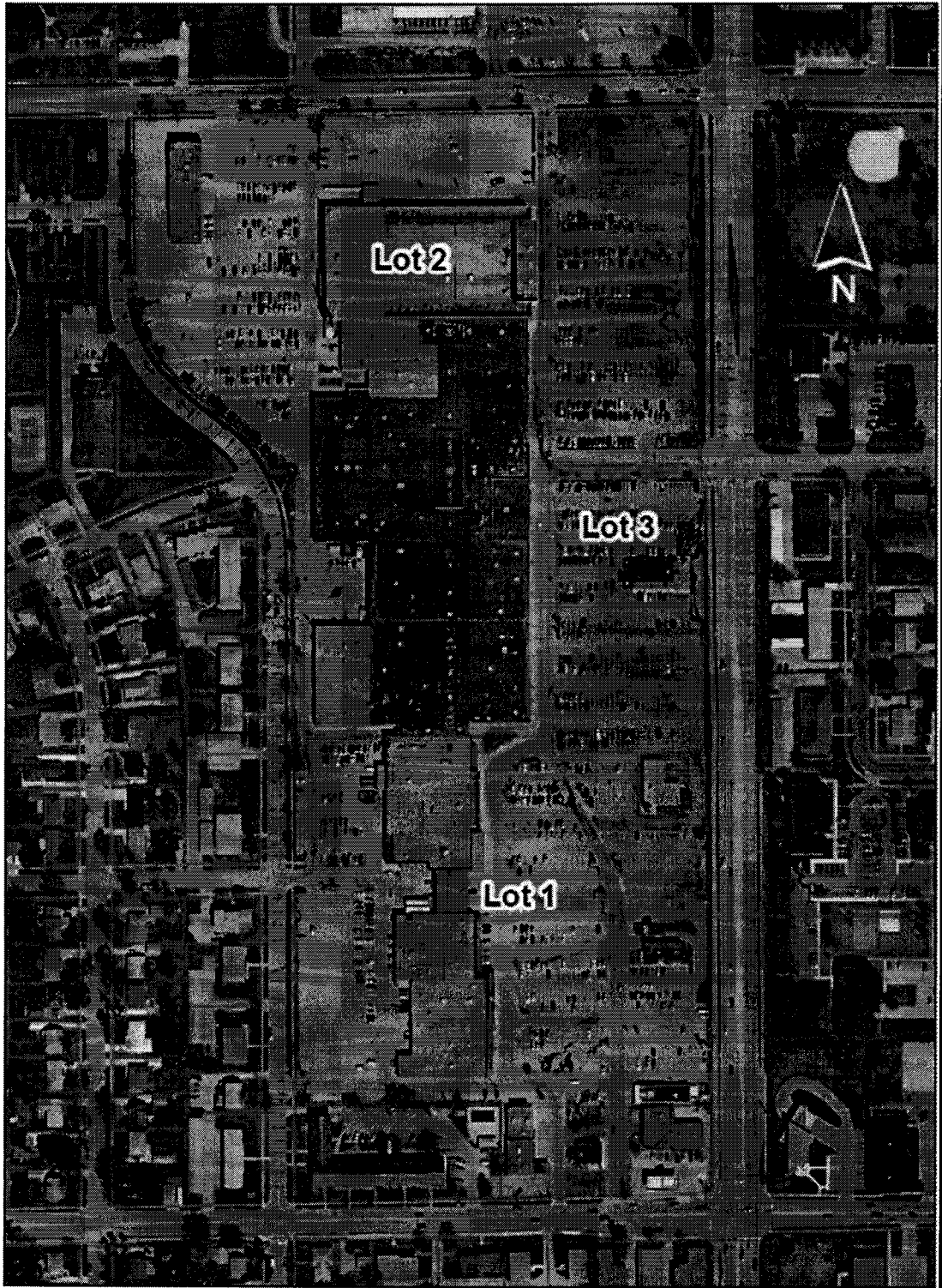
Staff reviewed the bond to see if the current bonded amount is sufficient to cover the costs of the improvements (parking lot reconfiguration and fire rated door) if the City were to do the work. The numbers submitted for the bond in 2007 were reviewed and the bond is found sufficient by the City public works department.

ALTERNATIVES:

1. The City Council can approve the resolution granting North Grand Mall Partners, LLC one year (until July 18, 2009) to reconfigure the parking lot on Lot 2 and install the fire rated door to comply with the terms of the development agreement of July 10, 2007. In this instance, the City will continue to withhold occupancy permits, subject to the exceptions in the current agreement, until the improvements are completed.
2. The City Council can deny the resolution granting North Grand Mall Partners, LLC an additional year to comply with the terms of the development agreement, in which case the City will continue to withhold occupancy permits for developments within the mall subject to the exceptions in the current agreement.
3. The City Council can deny the resolution granting North Grand Mall Partners, LLC an additional year to comply with the terms of the development agreement and direct staff to draw upon the bond and complete the improvements.
4. The City Council can refer this back to staff for additional analysis and options.

MANAGER'S RECOMMENDED ACTION:

It is the City Manager's recommendation that the City Council act in accordance with Alternative #1, granting North Grand Mall Partners, LLC an additional one-year (to July 18, 2009) to reconfigure the parking lot of Lot 2 and install the fire door to comply with the terms of the developer's agreement dated July 10, 2007.





DEVELOPMENT, INC.

July 10, 2008

City of Ames
515 Clark Avenue
Ames, IA 50010

RE: AN AGREEMENT PERTAINING TO THE SUBDIVISION PLATTING AND DEVELOPMENT OF THE LAND IN THE CITY OF AMES CALLED STREETS OF NORTH GRAND SUBDIVISION DATED JULY 10, 2007 BY AND BETWEEN THE CITY OF AMES, IOWA ("CITY") AND NORTH GRAND MALL PARTNERS, LLC, ("OWNER")

To Members of Council:

As you aware, the parking lot reconfiguration outlined in the captioned agreement was made in conjunction with the re-platting of the existing North Grand Mall which redistributed the number of parking spaces on each tax parcel.

Without reconfiguration, the re-platted Lot 2 is only short seven parking spaces.

When looked at as a whole, the overall number of parking spaces among the tax parcels far exceeds code requirements, 492 spaces to be exact. An existing cross easement agreement permits the free flow of traffic and parking throughout the shopping center.

Due to conditions beyond our control, Owner respectfully requests an extension of the reconfiguration of the parking lot in Lot 2 until July 18, 2009. The requested extension was anticipated in the agreement and would not burden the City or public in any manner whatsoever.

Sincerely,

NORTH GRAND MALL PARTNERS, LLC

A handwritten signature in black ink, appearing to read "Tzegiannakis", is written over a large, stylized flourish that resembles a large "T" or a similar symbol.

Ted Tzegiannakis
Agent for Owner

CAF APPROVAL

SS LL BK JK SL _____

DM JM JP JKP

To be sent to:

Ted Tzegiannakis
GK Development
303 East Main Street, Suite #201
Barrington, Illinois 60010