



EDEN PRAIRIE SCHOOLS

Inspiring each student every day

SCHOOL BOARD Brief Business Meeting

Monday, March 9, 2020

6:00 PM

MEETING AGENDA

*The mission of Eden Prairie Schools is to inspire each student to learn continuously so they are empowered
To reach personal fulfillment and contribute purposefully to our ever-changing world.*

1. **Convene - 6:00 p.m.**

Call to Order, School Board Roll Call

Aaron Casper, Debjyoti "DD" Dwivedy, Elaine Larabee, Holly Link, Adam Seidel, Veronica Stoltz,
Terri Swartout

2. **Agenda Review and Approval - 6:02 p.m.**

(Action)

RESOLVE to approve the agenda for the March 9, 2020 Brief Business Meeting of the School Board of Independent
School District 272, Eden Prairie Schools.

Motion _____ Seconded _____

3. **Superintendent Consent Agenda - 6:03 p.m.**

(Action)

*Management items the Board would not act upon in Policy Governance, but require Board approval from outside
entities.*

Motion _____ Seconded _____

A. Development Agreement - Central Middle School (CMS)

1) Executive Summary

2

2) Agreement

3

B. Human Resource Report

50

4. **Adjournment:**

(Action)

MOTION to adjourn the Monday, March 9, 2020 Brief Business Meeting of the Eden Prairie School Board #272 at
_____ p.m.

Motion _____ Seconded _____



March 9, 2020

To: Dr. Josh Swanson
From: Business Office
Re: Development Agreement for CMS Additions and Remodel

The District is seeking approval of a Development Agreement related to the Designing Pathways Central Middle School (CMS) Additions and Remodel project. The agreement is a required step for the City of Eden Prairie to allow the District to move forward with the project.

District staff have been meeting regularly with City staff since August 2019 to finalize design plans and ensure compliance with City codes and requirements. This agreement is a culmination of that work and summarizes the expectations for this project.

We did engage the District's attorney to review the agreement, those recommended changes were addressed. Additionally, there are some items which obligate the District financially, those items were anticipated and planned for within the project.

We recommend the School Board approve the Development Agreement as presented.

DEVELOPMENT AGREEMENT

Central Middle School Building Additions and Remodel

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into as of _____, 2020, by Independent School District No. 272, a public school organized under the laws of Minnesota, hereinafter referred to as “Developer,” its successors and assigns, and the **CITY OF EDEN PRAIRIE**, a municipal corporation, hereinafter referred to as “City”:

WITNESSETH:

WHEREAS, Developer has applied to City for Planned Unit Development Concept Review on 57.4 acres, Planned Unit Development District Review with waivers on 57.4 acres, Zoning District Change from Industrial, Rural and R1-22 to Public Zoning District on 57.4 acres, Site Plan Review on 57.4 acres, and Preliminary Plat of 57.4 acres into one lot (the “Applications”), for the real property legally described on Exhibit A (the “Property”).

NOW, THEREFORE, in consideration of the City adopting Resolution No. _____ for Planned Unit Development Concept Review, Ordinance No. _____ for Planned Unit Development District Review with waivers and Zoning District Change from Industrial, Rural and R1-22 to Public on 57.4 acres, Resolution No. _____ for Site Plan Review, and Resolution No. _____ for Preliminary Plat, Developer agrees to construct, develop and maintain the Property as follows:

1. **PLANS:** Developer shall develop the Property in conformance with the materials revised and stamp dated _____, reviewed and approved by the City Council on _____, (hereinafter the “Plans”) and identified on Exhibit B, subject to such changes and modifications as provided herein.

2. **EXHIBIT C:** Developer agrees to the terms, covenants, agreements, and conditions set forth in Exhibit C.
3. **BID ALTERNATES:** Developer is required to solicit sealed bids for the project in accordance with Minn. Stat. § 471.345. The bidding process may necessitate bid alternates and changes to the Plans. In the event that there are bid alternates, Developer agrees to coordinate with and inform the City of any proposed alternates so the City can review the changes for general compliance with the spirit and intent of City code and City Council approvals. If bid alternates are not compliant, additional review process may be required. The City may require that changes to the Plans necessitated by approved bid alternates be reflected in an amendment to this Agreement.
4. **DEVELOPER'S RESPONSIBILITY FOR CODE VIOLATIONS:** In the event of a violation of City Code relating to use of the Property, construction thereon, or failure to fulfill an obligation imposed upon the Developer pursuant to this Agreement, City shall give 24 hour notice of such violation in order to allow a cure of such violation, provided however, City need not issue a building or occupancy permit for construction or occupancy on the Property while such a violation is continuing, unless waived by City.

The existence of a violation of City Code or the failure to perform or fulfill an obligation required by this Agreement shall be determined solely and conclusively by the City Manager of the City or a designee.

5. **DEVELOPER'S RESPONSIBILITY FOR ITS CONTRACTORS:** Developer shall release, defend and indemnify City, its elected and appointed officials, employees and agents from and against any and all claims, demands, lawsuits, complaints, loss, costs (including attorneys' fees), damages and injunctions relating to any acts, failures to act, errors, omissions of Developer or Developer's consultants, contractors, subcontractors, suppliers and agents. Developer shall not be released from its responsibilities to release, defend and indemnify because of any inspection, review or approval by City.
6. **ELECTRIC VEHICLE (EV) CHARGING STATION:** Developer shall install and provide at all times an electric vehicle charging station in the west parking lot in accordance with the Exhibit B Plans. The EV Charging Station shall be installed and operational prior to the issuance of a Certificate of Occupancy.
7. **EXTERIOR MATERIALS:** Prior to building permit issuance, Developer shall submit to the City Planner, and receive the City Planner's written approval of a plan depicting exterior materials and colors to be used on the buildings on the Property.

Prior to issuance of any occupancy permit for the Property, Developer shall complete implementation of the approved exterior materials and colors plan in accordance with the terms and conditions of Exhibit C, attached hereto.

8. **FINAL ORDER NO. 92-005:** On May 14, 1992, Developer obtained approval from the

City Board of Appeals and Adjustments for a variance from City Code requirements within the R1-22, Public and Industrial Zoning Districts allowing 45% impervious surface on the Property as depicted in the 1992 Plans. This approval was granted through Final Order #92-005, attached hereto as Exhibit D (“Final Order No. 92-005”).

Final Order No. 92-005 shall continue to apply to the Property and Developer shall comply with all requirements of Final Order No. 92-005.

9. **FINAL PLAT:** The final plat of the Property shall be recorded with the Hennepin County Recorder and Registrar of Titles’ Office, as applicable, within 90 days of approval by the City Council or within 2 years of approval of the Preliminary Plat, whichever occurs first. If the final plat is not filed within the specified time, the City Council may, upon ten days written notice, to the Developer, consider a resolution revoking the approval.

10. **GRADING, DRAINAGE, AND STORMWATER POLLUTION PREVENTION PLANS:**

- A. **FINAL GRADING AND DRAINAGE PLAN:** Developer agrees that the grading and drainage plan contained in the Plans is conceptual. Prior to the release of a land alteration permit for the Property, Developer shall submit and obtain the City Engineer's written approval of a final grading and drainage plan for the Property. The final grading and drainage plan shall include all wetland information, including wetland boundaries, wetland buffer strips and wetland buffer monument locations; all Stormwater Facilities, such as water quality ponding areas, stormwater detention areas, and stormwater infiltration systems; and any other items required by the application for and release of a land alteration permit. All design calculations for storm water quality and quantity together with a drainage area map shall be submitted with the final grading and drainage plan. Developer shall furnish to the City Engineer and receive the City Engineers’ written approval of a security in the form of a bond, cash escrow, or letter of credit, equal to 125% of the cost of said improvements as required by City Code. Prior to release of the grading security, Developer shall certify to the City that the Stormwater Facilities conform to the final grading plan and that the Stormwater Facilities are functioning in accordance with the approved plans.

Developer shall employ the design professional who prepared the final grading plan. The design professional shall monitor critical phases of construction for conformance to the approved final grading plan and Stormwater Pollution Prevention Plan (SWPPP). The design professional shall provide a final report to the City certifying completion of the grading in conformance the approved final grading plan and SWPPP. In addition, the design professional retained by the Developer to perform the monitoring of the Project shall be responsible for all monitoring, data entry and reporting to the PermiTrack ESC web-based erosion and sediment permit tracking program utilized by the City.

- B. **STORMWATER FACILITY CONSTRUCTION:** Stormwater Facilities, including detention basins, retention basins, “Stormwater Infiltration” or “Filtration Systems” (such as rainwater gardens, vegetated swales, infiltration basins, vegetated filters, filter strips, curbless parking lot islands, parking lot islands with curb-cuts, traffic islands, tree box filters, bioretention systems or infiltration trenches) or “Underground Systems” (such as media filters, underground sand filters, underground vaults, sedimentation chambers, underground infiltration systems, pre-manufactured pipes, modular structures or hydrodynamic separators) shall be maintained by the Developer during construction and for a minimum of two (2) full growing seasons after completion of the development to ensure that soil compaction, erosion, clogging, vegetation loss, channelization of flow or accumulation of sediment are not occurring, and thereafter by the Owner of the Property. Planting and Maintenance Plans for the Stormwater Facilities (where appropriate) to ensure that the Stormwater Facilities continue to function as designed in perpetuity must be submitted prior to release of the first building permit for the Development

Developer shall employ the design professional who prepared the final grading plan to monitor construction of the Stormwater Facilities for conformance to the Minnesota Pollution Control Agency publication entitled “State of Minnesota Storm Water Manual” current edition, the approved final grading plan and the requirements listed herein.

Entering all inspection and/or maintenance activities into the City’s web-based erosion and sediment control permit tracking program (currently PermiTrack ESC) will be required during construction. The design professional retained by the Developer to develop the SWPPP and/or perform inspections for the Project will be required to enter this data.

Maintenance techniques must be used during construction to protect the infiltration capacity of all Stormwater Infiltration Systems by limiting soil compaction to the greatest extent possible. This must include delineation of the proposed infiltration system with erosion control fencing prior to construction; installation of the infiltration system using low-impact earth moving equipment; and not allowing equipment, vehicles, supplies or other materials to be stored or allowed in the areas designated for stormwater infiltration during construction.

In areas of structural infiltration Developer shall prior to construction of the infiltration system provide a plan that addresses: (i) construction management practices to assure the infiltration system will be functional; (ii), erosion control measures; (iii) infiltration capacity; (iv) performance specifications that the completed infiltration system must meet to be considered functional by City and (v) corrective actions that will be taken if the infiltration system does not meet the performance specification.

All Stormwater Infiltration Systems must be inspected prior to final grading to ensure that the area is infiltrating as proposed and to determine if corrective measures are required to allow infiltration as proposed.

Field verification of post-construction infiltration rates must be provided to the City within 30 days after the first rainfall event of ½ inch or greater after the Stormwater Infiltration Systems become operational. If infiltration rates are reduced a plan to restore adequate infiltration must be provided within 90-days of the field verification test. The work required to bring the Stormwater Infiltration System back into compliance be implemented within 60 days of City approval of the plan. Pervious surfaces shall be stabilized with seed and mulch or sod and all impervious surfaces must be completed prior to final grading and planting of the Stormwater Infiltration Systems.

- C. **STORMWATER FACILITY INSPECTION AND MAINTENANCE:** A Stormwater Maintenance Plan must be provided for operation and maintenance of all Stormwater Facilities to ensure they continue to function as designed in perpetuity prior to issuance of the Land Alteration Permit. The Stormwater Maintenance Plan must identify and protect the design, capacity and functionality of all Stormwater Facilities. The Maintenance Plan must contain at a minimum: the party(s) responsible for maintenance; access plans; inspection frequency; methods used for field verification of infiltration for Stormwater Infiltration Systems; routine and non-routine inspection procedures; sweeping frequency for all parking and road surfaces; plans for restoration of reduced infiltration for Stormwater Infiltration Systems; and plans for replacement of failed systems, all pursuant to and in accordance with Eden Prairie City Code Section 11.55, Subd. 8.

During construction and for two years following completion of construction, all Stormwater Facilities shall be inspected at a minimum of once annually to determine if the Stormwater Facility(s) is treating stormwater as designed and should occur within 72-hours after a rainfall event of one-inch or greater to verify infiltration. All Stormwater Facilities shall be kept free of debris, litter, invasive plants and sediment. Erosion impairing the function or integrity of the Stormwater Facilities, if any, must be corrected and any structural damage impairing or threatening to impair the function of the Stormwater Facilities must be repaired. The following criteria must be included in the inspection:

- A storage treatment basin (including retention and detention basins) shall be considered inadequate if sediment has decreased the wet storage volume by 50 percent or dry storage volume by 25 percent of its original design volume.
- A Stormwater Infiltration System shall be considered inadequate if sediment has accumulated that impairs or has the potential to impair infiltration of stormwater.

- An underground storage chamber shall be considered inadequate if sediment has decreased the storage volume by 50 percent of its original design volume.

Based on this inspection, if a Stormwater Facility requires cleanout, the Stormwater Facility shall be restored to its original design and/or the infiltration capacity of the underlying soils must be restored and any surface disturbance must be stabilized within one year of the inspection date.

Sediment, debris, litter or vegetation removal in Stormwater Infiltration Systems shall to the extent practical be removed by hand during dry periods. Only enough sediment shall be removed as needed to restore hydraulic capacity, leaving as much of the vegetation in place as possible. Any damaged turf or vegetation shall be reseeded or replaced. For any situations in which hand removal is not practical, Developer shall identify in the Stormwater Maintenance Plan procedures that will be implemented to protect functionality of the Stormwater Infiltration Systems.

After the two year period of maintenance, the Owner of the Property shall continue to be responsible for maintenance of the Stormwater Facilities. This shall include inspections at a minimum of once per every five years. Regular maintenance shall be conducted and must include regular sweeping of private streets, parking lots or drive aisles at a minimum of once per year; debris and litter removal; removal of noxious and invasive plants; removal of dead and diseased plants; maintenance of approved vegetation; re-mulching of void areas; replanting or reseeding areas where dead or diseased plants were removed; and removal of sediment build-up. Sediment build-up in above-ground Stormwater Infiltration or Filtration Systems shall to the extent practical be removed by hand. For any situations in which hand removal is not practical, Developer shall identify in the Stormwater Maintenance Plan procedures that will be implemented to protect functionality of the Stormwater Infiltration Systems. Areas above Underground Systems shall be kept free of structures that would limit access to the System for inspections, maintenance or replacement.

- D. **STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** Prior to issuance of a land alteration permit, Developer shall submit to the City Engineer and obtain City Engineer's written approval of Stormwater Pollution Prevention Plan (SWPPP) for the Property. The SWPPP shall include all boundary erosion control features, temporary stockpile locations, turf restoration procedures, concrete truck washout areas and any other best management practices to be utilized within the Project. Prior to release of the grading bond, Developer shall complete implementation of the approved SWPPP.

11. **IRRIGATION PLAN:** Developer shall submit to the City Planner and receive the City Planner's written approval of a plan for irrigation of the landscaped areas on the Property. The irrigation plan shall be designed so that water is not directed on or over public trails and sidewalks.

Developer shall complete implementation of the approved irrigation plan in accordance with the terms and conditions of Exhibit C prior to issuance of any occupancy permit for the Property.

12. **LANDSCAPE & TREE REPLACEMENT PLAN:** Prior to building permit issuance, the Developer shall submit to the City Planner and receive the City Planner's written approval of an executed landscape agreement and a final landscape and tree replacement plan for the Property including all proposed trees, shrubs, perennials, and grasses as depicted on the Exhibit B Plans.

Prior to building permit issuance, Developer shall also submit to the City Planner and receive the City Planner's written approval of a security in the form of a cash escrow or letter of credit, equal to 150% of the cost of said improvements including all proposed trees, shrubs, perennials, and grasses as depicted on the landscape and tree replacement plan on the Exhibit B Plans.

The approved landscape and tree replacement plan shall be consistent with the quantity, type, and size of all plant materials shown on the landscape plan on the Exhibit B Plans. The approved landscape plan shall include replacement trees of a 2.5-inch diameter minimum size for a shade tree and a 6-foot minimum height for conifer trees. The approved landscape plan shall also provide that, should actual tree loss exceed that calculated herein, Developer shall provide tree replacement on a caliper inch per caliper inch basis for such excess loss.

The installation shall conform to the approved landscape and tree replacement plan including but not limited to the size, species and location as depicted on the Exhibit B Plans. Any changes, including but not limited to removal and relocation, to the landscape plan or landscaping installed on the Property shall be reviewed and approved by the City prior to implementing said changes. Developer shall complete implementation of the approved landscape plan as depicted on the Exhibit B Plans and in accordance with the terms and conditions of Exhibit C of this Development Agreement.

13. **MECHANICAL EQUIPMENT SCREENING:** Developer shall submit to the City Planner, and receive the City Planner's written approval of a plan for screening of mechanical equipment on the Property. For purposes of this paragraph, "mechanical equipment" includes gas meters, electrical conduit, water meters, and standard heating, ventilating, and air-conditioning units. Security to guarantee construction of said screening shall be included with that provided for landscaping on the Property, in accordance with City Code requirements. Developer shall complete implementation of the approved plan prior to issuance of any occupancy permit for the Property.

If, after completion of construction of the mechanical equipment screening, it is determined by the City Planner, in his or her sole discretion, that the constructed screening does not meet the Code requirements to screen mechanical equipment from public streets and differing, adjacent land uses, then the City Planner shall notify Developer and Developer

shall take corrective action to reconstruct the mechanical equipment screening in order to cure the deficiencies identified by the City Planner. Developer agrees that the City will not release the security provided until Developer completes all such corrective measures.

14. **OTHER AGENCY APPROVALS:** The Developer shall be responsible for submitting to the City Engineer, copies of all necessary approvals issued by other agencies for the project. These submittals are required prior to issuance by the City of the corresponding City permit(s). The agencies issuing such approvals include, but are not necessarily limited to, the following: the Minnesota Pollution Control Agency, Metropolitan Commission Environmental Services, and Riley Purgatory Bluff Creek Watershed District.

The City Planner may determine that conditions of approval required by the Riley Purgatory Bluff Creek Watershed District require changes to the City approvals which may entail additional City review, including public hearing(s) for recommendation by the Planning Commission and approval by the City Council. Developer consents to such additional review as determined by the City Planner and agrees to an extension pursuant to Minn. Stat. Section 15.99 of an additional 60 days for the addition review.

15. **PERFORMANCE STANDARDS:** Developer agrees that the Property will be operated in a manner meeting all applicable noise, vibration, dust and dirt, smoke, odor and glare laws and regulations. Developer further agrees that the facility upon the Property shall be operated so noise, vibration, dust and dirt, smoke, odor and glare do not go beyond the Property boundary lines.
16. **PUBLIC USE OF STREETS:** All the private streets on the Property are and shall continue to be open to the use of the public as a matter of right for the purposes of vehicular traffic as defined in Minnesota Statutes Section 169.011, Subd. 81.
17. **PUD WAIVERS GRANTED:** The City hereby grants the following waivers to City Code requirements within the Public District through the Planned Unit Development District Review for the Property and incorporates said waivers as part of PUD (list PUD number):
- A. Building Height – City Code sets a maximum building height of 30 feet in the Public Zoning District. The waiver allows the fly loft in the theater to be 52 feet high, the building mass around the fly loft to be 39 feet, 4 inches high, and the new gymnasium to be 31 feet, 4 inches high.
 - B. Parking Lot Front Yard Setback – City Code requires parking stalls to meet the front yard setback of 50 feet. The waiver allows 28 parking stalls in the setback, which is the same number of stalls currently in the setback.
 - C. Façade Articulation – City Code requires façade articulation if a façade exceeds 40 feet in length. The waiver allows no façade articulation on the north side of the theater and the west façade of the gymnasium addition.
 - D. Building Material - City Code requires buildings in the Public Zoning District to

include at least three contrasting yet complimentary Class I materials such as glass, brick, and stone with one color variation therein. The waiver allows the use of only two Class I materials (brick and glass) on the south and east elevations of the building.

- E. Fence Height – City Code limits fence height to 7 feet. The waiver allows an 8-foot high chain link fence around the running track.
 - F. Parking Lot Islands in the Bus Drop Off Area – City Code requires islands in parking lots to break up large expanses of pavement and provide landscaping in the parking lot. The waiver allows for no islands in the bus drop off area to maintain maneuverability.
 - G. Signs - City Code allows 180 square feet of wall signage on the school building. The waiver would allow 349 square feet of wall signs on the school with the ability to redistribute the square footage through approval of a sign permit as long as the total amount of wall signage does not exceed 349 square feet. The waiver would also allow the new monument sign to be 71 square feet, which exceeds the allowable 36 square feet. The existing monument sign and the proposed monument sign together do not exceed the allowable 152 square feet of sign area for monument signs. There are three existing directional signs on the property. Each sign is 12 square feet in sign area, which exceeds the allowable 6 square foot area. Since these are existing signs, the waiver allows these three existing signs as shown on the Plans to be 12 square feet.
18. **RETAINING WALLS:** Prior to issuance by the City of any permit for grading or construction on the Property, Developer shall submit to the Chief Building Official, and obtain the Chief Building Official's written approval of detailed plans for any retaining walls greater than four feet in height.
- These plans shall include details with respect to the height, type of materials, and method of construction to be used for the retaining walls.
- Developer shall complete implementation of the approved retaining wall plan in accordance with the terms and conditions of Exhibit C, attached hereto, prior to issuance of any occupancy permit for the Property.
- All maintenance and repair of all retaining walls on the Property shall be the responsibility of the Developer, its successors and assigns.
19. **ROOFTOP SOLAR ARRAY:** A rooftop solar array shall be installed in a location to be specified by the Developer and approved by the City. Prior to commencing installation of the solar array, Developer shall submit to the City Engineer and obtain the City Engineer's written approval of all plans and specifications for the solar array. The solar array shall be installed prior to June 1, 2022.
20. **SIGNS:** Developer agrees that for each sign which requires a permit by Eden Prairie City Code, Section 11.70, Developer shall file with the City Planner and receive the City

Planner's written approval of an application for a sign permit. The application shall include a complete description of the sign and a sketch showing the size, location, the manner of construction, and other such information as necessary to inform the City of the kind, size, material construction, and location of any such sign, consistent with the sign plan shown on the Plans and in accordance with the requirements of City Code, Section 11.70, Subdivision 5a.

21. **SITE LIGHTING:** Prior to building permit issuance, Developer shall submit to the City Planner and receive the City Planner's written approval of a plan for site lighting on the Property. All pole lighting shall consist of downcast cut-off not to exceed 25 feet in height. Developer shall complete implementation of the approved lighting plan prior to issuance of any occupancy permit for the Property.
22. **SCENIC HEIGHTS ROAD IMPROVEMENTS AND INTERNAL TRAFFIC CIRCULATION:** Based on the Traffic Study prepared by Bolton & Menk, Inc. dated January 14, 2020, Developer and the City anticipate that improvements to Scenic Heights Road at its intersection with School Road will be necessary at some point in the future as a result of increased traffic associated with the school expansion project. These improvements are likely to be in the form of a round-about or mini round-about, but may include other improvements in addition to or as an alternative as identified in the traffic study (the "Improvements"). Declining traffic conditions at the Scenic Heights Road and School Road intersection, complaints arising from delays at this location, or safety concerns will be the basis for undertaking the Improvements. Following evaluation of these concerns and consultation with Developer, the City shall undertake and construct the mutually agreed upon Improvements. The City shall pay for design and construction management costs for the Improvements. Developer shall be responsible for up to \$800,000 of the construction costs of the Improvements, which amount shall be financed through a special assessment payable over a term of 10 years. Prior to the release of the final plat for the Property, Developer shall execute a special assessment agreement, in the form and substance attached hereto as Exhibit F, for Developer's contribution to the Improvements. Developer further agrees to provide, at no cost to the City, any and all necessary permanent and temporary easements for the construction and maintenance of the Improvements.

The City may require interim traffic circulation measures to mitigate traffic delays within the site prior to the completion of the Improvements. These interim measures may include the prohibition of southbound left turns from School Road during pick-up/drop-off times, the increased use of the north loop road to Wallace Road, or other measures identified in the traffic study or as recommended by the City Engineer. Developer shall comply with and implement any interim measures as directed by the City.

23. **STRUCTURE SETBACKS FROM 100 YEAR FLOOD ELEVATION:** All permanent structures which will abut existing wetlands or storm water pretreatment ponds must have a minimum setback of 30 feet from the 100-year flood elevation as shown on the Plans.

24. **VACATION OF RIGHT-OF-WAY AND DRAINAGE AND UTILITY EASEMENTS:** Prior to the issuance of a land alteration permit, building permit or release of a final plat for the Property (whichever occurs first), the Developer shall have applied for and the City Council shall have adopted a resolution vacating existing right-of-way and drainage and utility easements as identified in the Plans.

25. **WETLAND PLAN:**

Prior to release of the land alteration permit for any portion of the Property, Developer shall submit to the Environmental Coordinator and receive the Environmental Coordinator's approval of a Wetland Plan. The approved Wetland Plan shall be consistent with the materials and requirements shown on the Plans and as required by City Code. The Plan shall include the following elements.

- A. **Wetland Delineation and Wetland Buffer Strip Evaluation:** Developer shall submit to the City a Wetland Buffer Strip Evaluation Report ("Buffer Report") and Wetland Delineation Report in accordance with the Wetland Plan and City Code requirements. If the Delineation or Buffer Reports identify any unacceptable vegetation or other conditions, the wetland and/or wetland buffer strip shall be graded, treated, reseeded and/or replanted (thereon known as "Landscaping", or "Landscaped") by the Developer within 90 days of submission of the Buffer Report or within 90 days after receipt of a wetland permit for wetland alteration. If the Wetland Plan is submitted after September 30th, the Landscaping must be completed by June 30th of the following year. If Landscaping of the wetland and/or wetland buffer strip is required, the Developer shall submit a signed statement by a qualified wetland consultant, as determined by the City Manager, stating that the wetland and/or wetland buffer strip vegetation complies with all City requirements within 30 days of completion of the Landscaping of the wetland and/or wetland buffer strip.
- B. **Annual Wetland and Wetland Buffer Strip Evaluation:** Developer shall submit a signed contract with a qualified wetland consultant, as determined by the City Manager and/or designee, for preparation of an Annual Wetland and Wetland Buffer Strip Evaluation Report (Annual Buffer Report) that evaluates the condition of the wetland(s) and wetland buffer strip(s) and to determine if they are in compliance with all City requirements. The Annual Buffer Report shall provide both an action plan and proposed cost for correction of all problems identified within the wetland(s) and/or wetland buffer strip(s).

The first Annual Buffer Report shall be submitted no later than November 1 of the calendar year in which construction of the wetland and/or wetland buffer strip is commenced. Thereafter, this report shall be submitted annually until two full growing seasons following completion of the development have passed, at which point a final Annual Report shall be submitted. The final Annual Buffer Report shall evaluate the wetland(s) and wetland buffer strip(s) to determine if the wetland(s) and/or wetland buffer strip(s) remain in compliance with all City

requirements.

If any unacceptable conditions or vegetation are identified within the Annual Buffer Reports or final Annual Buffer Report, the Developer shall correct the area(s) identified within 90 days of submission of the Annual Buffer Report.

- C. **Conservation Easement:** Developer shall submit a Conservation Easement attached as Exhibit E, for review and written approval by the Environmental Coordinator, for the area(s) delineated on the Plans. After approval by the City, Developer shall file the Conservation Easement with the Hennepin County Registrar of Titles' Office as appropriate immediately after the recording of the final plat and prior to recording of any document affecting the property including but not limited to any mortgage granted by the Developer or owners, their successors and/or assigns.

Prior to the issuance of the first building permit for the Property, Developer shall submit to the Environmental Coordinator proof that the Conservation Easement has been recorded in the Hennepin County Registrar of Titles' Office.

- D. **Wetland Buffer Strip Monuments:** The Wetland Plan shall include a plan to install all wetland buffer strip monuments for the property prior to release of the first building permit for any portion of the Property. The Security referred to in paragraph 25.E below shall include the cost for location, including surveying, and installation of the monuments. Wetland buffer strip monument locations shall be shown on the final grading plan and final plat. The monument shall consist of a post and a wetland buffer strip sign. The post shall be a 1.12 to 2.0 pounds per foot (1.12 pounds per foot is preferred) green steel channel post or other material pre-approved in writing by the City Manager. The post shall be a minimum of 2.25 inches wide and 6 feet 6 inches long (2.25" x 6.5'). The sign shall have a minimum size of 3 inch by 8 inch (3" x 8"). The sign shall be mounted flush with the top of the post and shall include the statement "Conservation Easement: No Mowing Allowed - Wetlands and buffers filter pollutants, reduce flooding and provide habitat." The signs shall also include the City and Watershed District logos and website links. The post shall be mounted to a height of four feet above grade and set at least 2.5 feet in the ground. Removal of the wetland buffer strip monuments is prohibited.

- E. **Wetland Performance Bond:** Developer shall furnish to the Environmental Coordinator and receive the Environmental Coordinator's approval of a Wetland Plan performance bond, cash escrow, or letter of credit with a corporation approved by the City Manager or other guarantee acceptable to the City Manager (hereinafter referred to as the "Security") equal to 150% of the cost, as estimated by the City Manager, of completing said Wetland Plan requirements and/or Landscaping as depicted on the Plans and as required by City Code. Said Security shall cover costs associated with the Wetland Plan during development and for two full growing seasons following completion of the development.

If the Developer fails to implement the Wetland Plan in accordance with its terms, the City may draw upon the Security in whole or in part to pay the cost of implementation.

IN WITNESS WHEREOF, the parties to this Agreement have caused these presents to be executed as of the day and year aforesaid.

CITY OF EDEN PRAIRIE

By _____
Ronald A. Case
Its Mayor

By _____
Rick Getschow
Its City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020 by Ronald A. Case and Rick Getschow, respectively the Mayor and the City Manager of the City of Eden Prairie, a Minnesota municipal corporation, on behalf of said corporation.

Notary Public

Independent School District No. 272

By _____

Its _____

STATE OF MINNESOTA)
) ss.

COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, the _____, of Independent School District No. 272, a public school organized under the laws of Minnesota, on behalf of the school.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

City of Eden Prairie
8080 Mitchell Road
Eden Prairie, MN 55344

EXHIBIT A

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

Legal Description Before Final Plat

Per Doc. No. 5373157

That part of the West 1/2 of Northwest 1/4 of Section 16-116-22 lying East of the centerline of "town road" and North of a line parallel to and 250 feet South of the North line of the Southwest 1/4 of Northwest 1/4 of said Section 16-116-22, except road and except the South 27 feet of the North 250 feet of the Southwest 1/4 of the Northwest 1/4 lying Southerly of the Center line of town road of Section 16, Township 116, Range 22, the "town road" hereinbefore referred to is a public road or highway conveyed to town of Eden Prairie by that certain deed which was recorded in the office of the Register of Deeds of Hennepin County, Minnesota in Book 2027 of Deeds, on page 26 thereof.

Per Doc. No. 2506561

All of Tract A described below:

Lot 6, Block 1, Eden Prairie Industrial Center, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota; the tile thereto being registered as evidenced by Certificate of Title No. 781775.

Per Doc. No. 2654489

Lot 7, Block 1, Eden Prairie Industrial Center, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 674397.

Subject to utility easements as shown on plat.

Per Doc. No. 2600516

That part of Tract A described below:

Tract A. Lot 3, Block 1, Eden Prairie Industrial Center, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota; the title thereto being registered as evidenced by Certificate of Title No. 800544; which lies Westerly of Line 1 described below:

Line 1: Beginning at a point on the southwesterly line of said Lot 3 distant 115 feet southeasterly of the most westerly corner thereof; thence run northerly to a point on the northwesterly line of said Lot 3, distant 130 feet northeasterly of the westerly corner thereof and there terminating.

Per Certificate of Title No. 822318

Lots 4 and 5, Block 1, Eden Prairie Industrial Center, Hennepin County, Minnesota.

Subject to the utility easements as contained in the Dedication Clause and shown on said plat.

Per Doc. No. 2985602 & 6269625

The East 740 feet of that part of the SE 1/4 of NE 1/4 lying Southerly of Railroad right of way; also except road; also except highway, all in Section 17, Township 116, Range 22, Hennepin County, Minnesota.

Per Doc. No. 2944993, 2643046, 2643045, 2985602, 6297151, 3640260 & 6269625
The SW 1/4 of NW 1/4 of Section 16, Township 116, Range 22, except that part of North 223 feet thereof lying Easterly of School Road; also except road and Railroad right of way; also except highway, Section 16, Township 116, Range 22, Hennepin County, Minnesota.

Per Doc. No. 2917864
All that part of Lot 1, Section 16, Township 116, Range 22 lying North of the North line of State Highway Number 5, Hennepin County, Minnesota.

Per Doc. No. 6423385 & 6297151

All of Tract A described below:

Tract A. Lots 1 and 4, Block 3 and Lots 6 through 19 inclusive, Block 2, Eden School Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota;

together with that part of Tract B described below:

Tract B. Lots 1 through 8 Inclusive, Block 2 and Lots 2 and 3, Block 3, Eden School Addition, according to the plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota;

which lies southeasterly of Line 1 described below:

Line 1.

Commencing at the northwest corner of Section 16, Township 116 North, Range 22 West; thence run southerly along the west line of said Section 16 on an azimuth of 180 degrees 57 minutes 18 seconds 1321.63 feet; thence run easterly along the south line of the Northwest Quarter of the Northwest Quarter of said Section 16 on an azimuth of 88 degrees 34 minutes 22 seconds 611 feet to the point of beginning of Line 1 to be described; thence on an azimuth of 32 degrees 22 minutes 28 seconds 250.23 feet; thence deflect to the right on a tangential curve, having a radius of 1809.82 feet and a delta angle of 12 degrees 08 minutes 27 seconds for 383.5 feet to a point of compound curvature; thence deflect to the right on a curve having a radius of 1809.84 feet, a delta angle of 17 degrees 50 minutes 50 seconds and a chord azimuth of 57 degrees 15 minutes 49 seconds for 563.75 feet; thence on an azimuth of 66 degrees 11 minutes 15 seconds 131.75 feet; thence deflect to the right on a tangential curve, having a radius of 495 feet and a delta angle of 21 degrees 02 minutes 54 seconds 181.85 feet to a point of compound curvature; thence deflect to the right on a curve having a radius of 884.93 feet, a delta angle of 15 degrees 05 minutes 55 seconds and a chord azimuth of 94 degrees 47 minutes 06 seconds 233.2 feet and there terminating.

Legal Description After Final Plat

Lot 1, Block 1, ISD 272 CMS Addition, Hennepin County, Minnesota

EXHIBIT B

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

Exhibit B

Site Reference Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall Removal Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Geometric Plan (West) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Geometric Plan (East) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Geometric Plan (North) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall Site Finishing Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Finishing Plan (West) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Finishing Plan (East) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Finishing Plan (North) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Finishing Callouts dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall Grading & Drainage Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Grading & Drainage Plan (West) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Grading & Drainage Plan (East) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Grading & Drainage Plan (North) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall Utility Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Utility Plan (West) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Utility Plan (East) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall SWPPP dated 12/30/19 by Anderson-Johnson Associates, Inc.
Overall Landscape Plan dated 12/30/19 by Anderson-Johnson Associates, Inc.
Landscape Plan (West) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Landscape Plan (East) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Landscape Plan (North) dated 12/30/19 by Anderson-Johnson Associates, Inc.
Landscape Callouts dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Details dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Details dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Details dated 12/30/19 by Anderson-Johnson Associates, Inc.
Site Details dated 12/30/19 by Anderson-Johnson Associates, Inc.

Certificate of Survey dated 12/30/19 by Design Tree
Certificate of Survey dated 12/30/19 by Design Tree
Certificate of Survey dated 12/30/19 by Design Tree
Tree Inventory dated 12/30/19 by Design Trees
Tree Inventory dated 12/30/19 by Design Trees
Tree Inventory dated 12/30/19 by Design Trees

Tree Inventory dated 12/30/19 by Design Trees

Preliminary Plat of ISD 272 CMS Addition dated 12/30/19 by Design Trees
Preliminary Plat of ISD 272 CMS Addition dated 12/30/19 by Design Trees
Preliminary Plat of ISD 272 CMS Addition dated 12/30/19 by Design Trees
Preliminary Plat of ISD 272 CMS Addition dated 12/30/19 by Design Trees
Preliminary Plat of ISD 272 CMS Addition dated 12/30/19 by Design Trees
Electrical Site Lighting Plan dated 12/30/19 by Hallberg Engineering
Electrical Photometric Plan dated 12/30/19 by Hallberg Engineering

Title Sheet dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group
Material Rendering dated 12/30/19 by DeVetter Design Group

Exterior Elevations dated 12/30/19 by DeVetter Design Group
Exterior Elevations dated 12/30/19 by DeVetter Design Group
Exterior Elevations dated 12/30/19 by DeVetter Design Group
Exterior Elevations dated 12/30/19 by DeVetter Design Group
Overall Birdseye Perspective A – East & West dated 12/30/19 by DeVetter Design Group
Overall Birdseye Perspective B – North & South Overall Birdseye Perspective A – East & West
Material % Check dated 12/30/19 by DeVetter Design Group

EXHIBIT C

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

- I. Prior to release of any building permit, Developer shall submit to the City Engineer for approval two copies of a development plan (1" =100' scale) showing existing and proposed contours, proposed streets, and lot arrangements and size, minimum floor elevations on each lot, preliminary alignment and grades for sanitary sewer, water main, and storm sewer, 100-year flood plain contours, ponding areas, tributary areas to catch basins, arrows showing direction of storm water flow on all lots, location of walks, trails, and any property deeded to the City.
- II. Developer shall submit detailed construction and storm sewer plans to the Watershed District for review and approval. Developer shall follow all rules and recommendations of said Watershed District.
- III. Developer shall pay cash park fees as to all of the Property required by City Code in effect as of the date of the issuance of each building permit for construction on the Property.
- IV. If Developer fails to proceed in accordance with this Agreement within twenty-four (24) months of the date hereof, Developer, for itself, its successors, and assigns, shall not oppose the City's reconsideration and rescission of any Rezoning, Site Plan review and/or Guide Plan review approved in connection with this Agreement, thus restoring the status of the Property before the Development Agreement and all approvals listed above were approved.
- V. Provisions of this Agreement shall be binding upon and enforceable against the Property and the Owners, their successors and assigns of the Property.
- VI. The Developer hereby irrevocably nominates, constitutes, and appoints and designates the City as its attorney-in-fact for the sole purpose and right to amend Exhibit A hereto to identify the legal description of the Property after platting thereof.
- VII. Developer represents that it has marketable fee title to the Property, except:

INSERT ANY NAME/COMPANY LISTED IN ANY OWNER'S SUPPLEMENT
TO THE DEVELOPER'S AGREEMENT)

With respect to any interest in all portions of the Property which Developer is required, pursuant to this Agreement, to dedicate or convey to the City (the "Dedicated Property"), Developer represents and warrants as follows now and at the time of dedication or conveyance:

- A. That Developer has marketable fee title free and clear of all mortgages, liens, and other encumbrances. Prior to final plat approval, Developer shall provide to the

City a current title insurance policy insuring such a condition of title.

- B. That Developer has not used, employed, deposited, stored, disposed of, placed or otherwise allowed to come in or on the Dedicated Property, any hazardous substance, hazardous waste, pollutant, or contaminant, including, but not limited to, those defined in or pursuant to 42 U.S.C. § 9601, et. seq., or Minn. Stat., Sec. 115B.01, et. seq. (such substances, wastes, pollutants, and contaminants hereafter referred to as "Hazardous Substances");
- C. That Developer has not allowed any other person to use, employ, deposit, store, dispose of, place or otherwise have, in or on the Property, any Hazardous Substances.
- D. That no previous owner, operator or possessor of the Property deposited, stored, disposed of, placed or otherwise allowed in or on the Property any hazardous substances.

Developer agrees to indemnify, defend and hold harmless City, its successors and assigns, against any and all loss, costs, damage and expense, including reasonable attorneys fees and costs that the City incurs because of the breach of any of the above representations or warranties and/or resulting from or due to the release or threatened release of Hazardous Substances which were, or are claimed or alleged to have been, used, employed, deposited, stored, disposed of, placed, or otherwise located or allowed to be located, in or on the Dedicated Property by Developer, its employees, agents, contractors or representatives.

- VIII. Developer acknowledges that Developer is familiar with the requirements of Chapter 11, Zoning, and Chapter 12, Subdivision Regulations, of the City Code and other applicable City ordinances affecting the development of the Property. Developer agrees to develop the Property in accordance with the requirements of all applicable City Code requirements and City Ordinances.
- IX. Prior to release of the final plat, Developer shall pay to City fees for the first three (3) years' street lighting on the public streets adjacent to the Property (including installation costs, if any, as determined by electrical power provider), engineering review, and street signs.
- X. Developer shall submit detailed water main, fire protection, and emergency vehicle access plans to the Fire Marshal for review and approval. Developer shall follow all the recommendations of the Fire Marshal.
- XI. Developer acknowledges that the rights of City performance of obligations of Developer contemplated in this agreement are special, unique, and of an extraordinary character, and that, in the event that Developer violates, or fails, or refuses to perform any covenant, condition, or provision made herein, City may be without an adequate remedy at law. Developer agrees, therefore, that in the event Developer violates, fails, or refuses to perform any covenant, condition, or provision made herein, City may, at its option, institute and prosecute an action to specifically enforce such covenant, withhold building permits

or rescind or revoke any approvals granted by the City. No remedy conferred in this agreement is intended to be exclusive and each shall be cumulative and shall be in addition to every other remedy. The election of anyone or more remedies shall not constitute a waiver of any other remedy.

- XII. Developer shall, prior to the commencement of any improvements, provide written notice to Comcast of the development contemplated by this Development Agreement. Notice shall be sent to Comcast Cable, 14404 Excelsior Blvd., Minnetonka, Minnesota 55305 or CenturyLink, 14200 Wayzata Blvd. Ste F., Minnetonka, MN 55305.
- XIII. Prior to building permit issuance, all fees associated with the building permit shall be paid to the Inspections Department, including; Building permit fee, plan check fee, State surcharge, metro system access charge (SAC), City SAC and City water access charge (WAC), and park dedication. Contact Metropolitan Waste Control to determine the number of SAC units.
- XIV. Prior to building permit issuance, except as otherwise authorized in the approved Plans, existing structures, wells and septic systems (if present) shall be properly abandoned or removed as required by City ordinance and all permits obtained through the Inspections Department.
- XV. Prior to building permit issuance, provide two copies of an approved survey or site plan (1" = 200 scale) showing proposed building location and all proposed streets, with approved street names, lot arrangements and property lines.
- XVI. The City shall not issue any building permit for the construction of any building, structure, or improvement on the Property until all requirements listed in this Exhibit C have been satisfactorily addressed by Developer.
- XVII. No failure of the City to comply with any term, condition, covenant or agreement herein shall subject the City to liability for any claim for damages, costs or other financial or pecuniary charges. No execution on any claim, demand, cause of action or judgment shall be levied upon or collected from the general credit, general fund or taxing powers of the City.
- XVIII. Prior to issuance of the first building permit for the Property, Developer shall permanently demarcate the location of the boundary of the conservation easement on each lot property line or corner with permanent four-foot tall posts. A 2 ½ by 6-inch sign or decal reading "Scenic/Conservation Easement Boundary, City of Eden Prairie", will be affixed to the top of the post.
- XIX. Within 10 days of the approval of the Development Agreement, the Developer shall record the Development Agreement at the County Recorder and / or Registrar of Titles. The final plat shall not be released until proof of filing of the Development Agreement is submitted to the City.

- XX. The City is hereby granted the option, but not the obligation, to complete or cause completion in whole or part of all of the Developer's obligations under this Agreement for which a bond, letter of credit, cash deposit or other security (hereinafter referred to as the "Security") is required if the Developer defaults with respect to any term or condition in this Agreement for which Security is required and fails to cure such default(s) within ten (10) days after receipt of written notice thereof from the City; provided however if the nature of the cure is such that it is not possible to complete the cure within ten (10) days, it shall be sufficient if the Developer has initiated and is diligently pursuing such cure. The Developer acknowledges that the City does not assume any obligations or duties of the Developer with respect to any such contract agreements unless the City shall agree in writing to do so.

The City may draw down on or make a claim against the Security, as appropriate, upon five (5) business days notice to the Developer, for any violation of the terms of this Agreement or if the Security is allowed to lapse prior to the end of the required term. If the obligations for which Security is required are not completed at least thirty (30) days prior to the expiration of the Security and if the Security has not then been renewed, replaced or otherwise extended beyond the expiration date, the City may also draw down or make a claim against the Security as appropriate. If the Security is drawn down on or a claim is made against the Security, the proceeds shall be used to cure the default(s) and to reimburse the City for all costs and expenses, including attorneys' fee, incurred by the City in enforcing this Agreement.

- XXI. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the Property to perform all work and inspections deemed appropriate by the City in conjunction with this Agreement.
- XXII. This Agreement is a contract agreement between the City and the Developer. No provision of this Agreement inures to the benefit of any third person, including the public at large, so as to constitute any such person as a third-party beneficiary of the Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.
- XXIII. Except as specifically authorized by the Director of Public Works, no permit shall be issued for the Property until the Developer has recorded the final plat with Hennepin County Recorder's Office/Registrar of Titles' Office.
- XVII. Developer shall pay upon demand to the City all costs incurred by the City in conjunction with the Applications. These costs include internal City administrative, planning and, engineering costs and consulting costs, including but not limited to legal, engineering, planning and financial, in review, investigation, administering and processing the Applications and implementation of the approvals granted by the City.

EXHIBIT D

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

CITY OF EDEN PRAIRIE
BOARD OF APPEALS AND ADJUSTMENTSFINAL ORDERRE: Petition of Independent School District #272ADDRESS: 8025 School RoadOTHER DESCRIPTION: N/AVARIANCE REQUEST: 45% impervious surface in Shoreland area

The Board of Appeals and Adjustments for the City of Eden Prairie at a regular meeting thereof duly considered the above petition and after hearing and examining all of the evidence presented and the file therein does hereby find and order as follows:

1. All procedural requirements necessary for the review of said variance have been met. (Yes X No).
2. There are circumstances unique to the property under consideration, and granting such variances does not violate the spirit and intent of the City's Zoning and Platting Code.
3. Variance Request #92-005 is herein Granted X, Denied .
4. Conditions to the granting X, denial , of said variance are as follows: As per the May 14, 1992 minutes.
5. A copy of this order shall be forwarded to the applicant by the City Clerk.
6. This order shall be effective May 14, 1992; however, this variance shall lapse and be of no effect unless the erection or alternatives permitted shall occur within one (1) year of the effective date unless said period of time is extended pursuant to the appropriate procedures prior to the expiration of one year from the effective date hereof.
7. All Board of Adjustments and Appeals actions are subject to City Council review.

N/A = Not Applicable

BOARD OF APPEALS AND ADJUSTMENTS

BY: *Frank Johnson*DATED: May 14, 1992

FO92005.JJ

UNAPPROVED MINUTES

BOARD OF APPEALS AND ADJUSTMENTS

THURSDAY, MAY 14, 1992

7:30 P.M. CITY HALL
Council Chambers, 7600
Executive Drive, Eden
Prairie, MN 55344

BOARD OF APPEALS MEMBERS:

Harvey (Chairman), Argue,
Freemyer, Wilkus, Weeks,
Anderson, Akemann

STAFF PRESENT:

Jean Johnson, Planning
Sharon Storholm, Secretary

BOARD MEMBERS ABSENT:

None

I. CALL TO ORDER--ROLL CALL--PLEDGE OF ALLEGIANCE

Chairman Harvey called the meeting to order at 7:30 P.M.. Roll call was taken as noted above. (Anderson arrived 7:40)

II. MINUTES OF MARCH 12, 1992 MEETING

MOTION: Argue moved that the Board accept the minutes of the March 12, 1992 meeting as presented. Wilkus seconded the motion and it passed unanimously.

III. VARIANCES

- A. Request #92-005 submitted by Independent School District #272 for property located at 8025 School Road for a Shoreland variance to allow 45% impervious surface. Variance from Chapter 11, Section 11.50, Subd. 7., C. which limits impervious surface to 30%.

Fred Hoisington, Planning Consultant who has been working with the school district came forward to present the variance request. He noted it was a difficult site, as MN DOT needs part of the land for Highway 212. He is working to develop a new site plan. He explained the existing conditions and said that they are planning to expand the Central Middle School by 60,000 square feet. Ordinance limits impervious surface to 30% and they are requesting 45% coverage. Hoisington showed the layout of the area on drawings and noted that the buildings will cover 37% of the area of the site. MN DOT will give some land that was indicated by Hoisington. It will be better situation in terms of land surface coverage--it will be reduced from 35 to 30%. Most of the new development does not drain to pond at all. He felt they were keeping the intent of the code because of drainage in

the opposite direction. There will be less contamination because of the septic tank removal. He had spoken with Allen Gray and the DNR, and they favor a sump manhole.

Johnson noted that in the packet is the staff report of March, 1992. It outlines the magnitude of the situation. There have been no changes in the proposal since then. The information shows the existing drainage and proposed drainage. The road will be further back from the pond. A variance is needed because of the amount of impervious surface within 1,000 feet of the lake, although it does not all drain towards the lake. There will be better systems built to deal with storm water and sanitary sewers. The school will be 150' from the pond. The Planning Commission reviewed and approved the request. The Council reviewed and approved it also. Some residents called, but after explanations, had no further concerns.

Harvey asked if the Planning Commission and Council approval were subject to the conditions in the staff report.

Johnson answered yes, and Engineering is reviewing an alternate proposal for a N.U.R.P pond .

Hoisington explained that a sump manhole is a catch basin that has a sump area below the outlet.

Harvey asked if it was 28% of the impervious surface that drained towards the pool and if there was an outlet to anywhere else.

Johnson answered that the figure was correct and she was unaware of any other outlet.

*Anderson arrived at 7:40.

Akemann asked if this was, in fact, a temporary hardship.

Hoisington answered that a good share of the site will continue to drain towards the left. The part that presently drains toward the pond will continue, plus part of the roof run off will drain towards the pond.

Johnson noted that 28% of the land within 1,000 feet is draining towards the lake.

Weeks asked if there are any other outlets into the school pond.

Johnson answered that there was road drainage and overland drainage.

Wilkus asked the difference between item 2 in each drawing in the packet.

Hoisington answered that area 2 only changes in a new portion of the school and in an area where there is more hard surface.

Kim Larson, who lives in the neighborhood, came forward and asked when this will begin if it is passed. How will it affect the neighborhood? She had been receiving notices.

Lynette Polari came forward to explain the phasing of the school: Phase 1 will start within one month (to realign School Road) and will be completed by August 28th. The second stage will be more substantial and will affect the east side (cafeteria, dock, media center). It will be a much safer situation. The east side will be the student entry and the other side (near School Road) will be Staff parking and a public entry.

Harvey explained to Larson that State law says that property owners within 500' must be notified.

MOTION: Freemyer moved that the Board approve variance request 92-005 because only 28% of the land within 1,000 feet of the high water mark drains toward School pond. The school is hooked up to sewer and water vs septic and drain fields. The Department of Transportation caused/aggravated the situation. Conditions shall include those outlined in the staff report, plus approval by the City Engineer and the storm water shall be routed through a ponding system. Wilkus seconded the motion passed 6-0 with Anderson abstaining.

- B. Request #92-006 submitted by Wayne Matula requesting a sideyard variance to permit a house to be constructed 14 feet from the sideyards. Code minimum is 15 feet for one side and no less than 30 feet for both sides. (Chapter 11, Section 11.03, Subdivision 3., Table 1.

Wayne Matula appeared to present the variance request. He explained that he has been wanting to move to Eden Prairie for many years. This particular lot fulfills the requirements. There are two parents that will be staying with he and his wife and they need a level lot. The design of the home is 82' in length. He needs only one cement block on each end of the home in order for it to fit his needs.

Johnson said that the plan for the home seems wide, but it is not wide enough for the home Matula wishes to build. The house and garage set up could be redesigned to reduce the size or a detached garage could be built. There have been a few telephone calls to her office inquiring about the request and a letter was received today (May 15) from Nancy Souro and Linda Hoffer who object because of precedents that would be set regarding lot widths.

Weeks asked where Hoffer and Sauro lived from the property in question.

Johnson answered that they lived to the south on the same side of the street.

Weeks asked if the house was under construction.

Matula answered no it was not, and that he would be the general contractor. He stated that he was not here to exploit the system.

Weeks asked when the variance issue first arose.

Matula answered that he had put the cart before the horse and bought the lot first. He had the house configuration and had come to the City with it--at that point the variance issue came up. The floor plan is a colonial style and he has tried to conform to existing homes in the area. Inside the structure, there is no place to take away the two feet and keep satisfactory room sizes.

Weeks noted that the plans included a three car garage plus extra space for storage.

Matula answered that he has three cars, a 26' boat, snowmobile trailer, etc. He needs a large garage.

Weeks questioned Matula regarding the hardship.

Matula answered that there was no place to cut down the home size to get the extra 2 feet.

Weeks asked if Matula bought the lot to accommodate the 82' house.

Matula answered that he thought it would fit on the lot.

Weeks said that others lots were less in width. He said he did not feel he had enough information and he was concerned with setting a precedent.

Wilkus said he did not think more information would help him. People next door to the property would need to design a smaller home. The job of this Board is to find a hardship and he personally can't allow it.

Anderson said she understands, but shares Wilkus's perspective. She cannot see a hardship.

Akemann noted that there had been a similar request over a year ago. This Board's function is to reduce or eliminate the

variance. He cannot see a hardship. It can be reduced or eliminated.

Johnson suggested that Matula see if the owner of the land would sell 2 additional feet and replat.

Matula said that he had tried that unsuccessfully. This lot is just what he has been looking for.

Akemann said a house could be built that conforms to the setbacks requirements. A two car garage could be added now.

Freemyer noted the same concerns as the rest of the members.

Harvey said that there is an opportunity to prevent the variance from taking place.

Matula said he had already utilized the increased depth idea (making the garage deeper).

Harvey said the Board needs to look beyond Matula's personal desires. Strong grounds are needed to justify variances.

- Options are:
1. Withdraw
 2. Continuance
 3. Appeal to council
 4. Ask for a vote

Freemyer told Matula that the City Council feels that they look at variances with a different perspective. He could appeal to the Council.

Matula said he did not want to create disruption within the neighborhood. He said he would withdraw the request.

Harvey noted that variance request 92-006 had been withdrawn.

- C. Request #92-007 submitted by Jim and Karen Duncan for property located at 11228 Willowood. The request is for a Shoreland variance to allow enclosing of existing raised patio which is 86 feet from the Ordinary High Water Level. (City Code, Section 11.50, Subdivision 6., B. requires 100 foot setback.)

Robert Bottema, the builder for the Duncans, came forward to present the variance request. He noted that he was representing Karen and Jim Duncan. They were not aware of the infringement on the 100' setback until the time of application for a building permit. The Duncans want to have their patio enclosed (going parallel and enclosing it). The city had redone the surveys of the lakefront properties and found an infringement had been made on the property in the past. He has the original plans with him presently.

Johnson said that in 1983 the home was built. This property was before the Board in 1983 for a tennis court setback. There is swamp in between the home and the lake and there were mitigating factors when the tennis court was built. She presented pictures of the property for the Board's review. Mr. Duncan also owns three lots surrounding this parcel. There had been no questions from others.

Freemyer asked if the project was already under construction.

Johnson noted that it was and that the owner proceeded at his own risk. They were willing to take the risk because otherwise it would be too long without the use of their patio. Also, safety reasons were cited when having family and friends over.

Wilkus said he cannot understand why construction proceeded, especially when it was known it would come before the Board.

Akemann asked what the hardship was in this instance.

Bottema answered that the letter from the Duncans states the hardship. They worried about someone falling off the patio. Options would be to enclose the area or build a higher wall.

Akemann said it is difficult to approve something that has already been started.

Bottema noted that someone else created this infringement, not this owner. It was not shown in the survey when Duncan bought the property. Even the Duncans were surprised that this was not found when they bought the property. It was not caught by the City until now.

Johnson said it is hard to visualize the problem when the lake is 250' away that a variance problem could exist.

Weeks said he had no problem with the request, but with the process. Safety hazards are cited, but value is being created here.

Anderson said she agreed with Weeks, this is a non-conforming structure. She had questions on the process being used. It seems that this is a "done deal". She had two questions:

1. How did it get missed earlier?
2. Did someone really tell them they should go ahead and the variance would be granted?

Johnson answered that no assurance of a variance was given.

Anderson asked if anyone could go ahead and build a structure even if it is against code.

Johnson said no, that safety problems were involved here.

Anderson said that she felt that the issue of children's safety is a small issue here. She has as much concern for that as anyone else. Others get a cease order in these instances. Why some and not others?

Johnson noted that safety reasons were cited.

Anderson said she was in favor of the variance and not the process.

Harvey said that Johnson did call him regarding the request. She was told that this was a safety hazard and that the owner wanted to correct it. She told the builder that he was proceeding at his own risk. Harvey had told Johnson that the Board should be concerned before someone gets hurt. Harvey had told Johnson that these things should be corrected. He had understood that it was to be a sun room (an unobtrusive addition), and was surprised at this substantial addition. Johnson did not do this on her own.

Freemyer agreed with Weeks and Anderson by stating that he was not opposed to the variance, but to the process (leaning on the safety issue). The solution to this type of problem is to not start construction on something before approval. As far as the structure being built this way originally, it is easy to make these errors. He had a problem with the building permit when a variance needed to be granted first. This situation puts the Board in the "bad guy" position, if the variance should be denied after construction has started. He had no problem with the variance, but did have problems with the process. A roof will create a dramatic water run off. People should not be allowed to start "at their own risk". In the variance before this one, Matula could have started "at his own risk" too.

Harvey said that this owner did not cause this--it was represented as a genuine safety issue. That served as the basis for the decision.

Akemann felt there were other ways to do this without enclosing the whole thing.

Argue said he was in favor, but this leaves a lot of questions in his mind.

Anderson had questions about the letter from the Duncans.

Bottema said that the violation had been discovered in March.

Akemann felt that the Board had not been allowed to discuss options. This request has been presented as a safety issue and not a non-conforming structure issue. which is what it is.

MOTION: Wilkus moved that the Board approve Variance Request 92-007 for a variance from the ordinary high water level. The existing structure is non-conforming and the variance will allow for correction of a building code violation for the safety of the structure. Anderson seconded the motion and the motion passed 6-1 with Akemann opposed on the grounds that there were other ways to mitigate without enclosing the porch.

- D. Request #92-008 submitted by Northern Healthcare Associates for property located at 14400 Martin Drive, Eden Prairie, Minnesota. The request is to allow 90% of the building to be used for office and accessory uses. (City Code Chapter 11, Aection 11.30, Subdivision 3., C., limits office use in Industrial Districts to no more than 50%).

Michael Duffy appeared to present the request for Northern Health Care Associates. He explained that the hardship in this instance was that 90% of the building is used for office and accessory uses. If it were to be destroyed by fire, it could not be rebuilt for the same use. If it should be sold, it will not be in compliance with zoning.

Johnson noted that in early 1982, the City allowed permitted uses to include all public and quasi public uses. Treatment facilities were considered quasi public uses. Later, in 1982, the language was changed and this use became non-conforming. It did change owners in 1986, but it was the same type of facility. If the structure were to change uses now, it could be used for 50% office use. The building could be transferred into office/warehouse use. The variance is desired to make it a legal use. Several people had called, but none were opposed. No parking problems have been noticed to date. Exterior materials meet code.

Harvey asked Duffy why they were asking for the request. At this time, they are grandfathered in.

Duffy answered that he was aware of that, but if the building were ever to burn down, it could not be rebuilt. The problem would arise if it were to be sold.

Harvey asked if the variance request was for the building, rather than the user of the building.

Duffy answered that was correct.

Wilkus asked about the parking spaces at 90% office use,

Johnson answered that 77 stalls would be needed. This is adequate parking for this type of business. If another type of business should come in, it would not meet conditions.

Argue asked if this were approved, would a precedent be set?

Johnson answered that precedents have already been set. There are 5 or 6 buildings in Eden Prairie like this one.

Argue asked why the ordinance was established.

Johnson answered that it protects pure office space. This was a legal use at the time. It is now considered office and accessory.

Freemyer asked about people residing in the building--people come in from out of town with no cars. That may be why there is no parking problem now. He felt that since non-conforming use is now permitted, it should be left as it is. If a situation should come up in the future, then the variance should be requested. There are many unknowns with this request and he was not in favor of it. He noted that this request was for the variance to go with the property and not the tenant. He asked if this was a financing situation.

Duffy answered "not really." He said it had been foreclosed upon by a lending institution.

Freemyer felt there may be a parking situation in the future.

Johnson said that the city has control by issuing certificates of occupancy. Staff goes out and counts spots quite often in parking lots.

Akemann said he had a tough time with temporary office, I-2, and permitted non conforming use.

Johnson said it was a permitted use before. The City changed code. The applicant would like the variance to run with the property and not the tenant.

Duffy said that if the variance is not granted now, there is no assurance that the building could be rebuilt. There is no incentive to make improvements. If it were to be resold for the same purposes, the concern on the office space would not exist. Eventually (down the road) it may be resold.

Argue felt the problem should be dealt with when it arises.

Harvey added that it is difficult to understand Duffy's concern on the sale of the property. The variance is good for the present use.

Johnson said that if it burned down, a similar business could not be constructed.

Wilkus asked if the building were to burn down, wouldn't the land be useless if the building could not be rebuilt? Land is expensive in Eden Prairie.

Akemann asked if this was considered spot zoning.

Duffy said that each person at this meeting probably carries home insurance. The proponent is asking for some type of "insurance."

Johnson said it is difficult to get fire insurance if the property is non-conforming.

Freemyer said that possibly the insurance question could be an issue, since the issue tonight is hypothetical.

Harvey noted that the owner is not being denied the use of the property.

Wilkus asked if the right to rebuild was being denied.

Johnson said no, it could be rebuilt as industrial.

Wilkus said that the Board does not know the proponents intent.

Duffy said that there are two ways to look at the situation:

1. Future: the event has not occurred.
2. Present: Unmarketable, no assurance of variance.

Johnson said it has limited marketability because it is encumbered.

Duffy said if it were to be destroyed, there will be no assurance that a variance will be granted.

Freemyer asked how many other non-conforming there were? There must be a significant number.

Johnson said that possibly the unknown ones would be significant. The little red grocery store was another non conforming use.

Freemyer felt the proponent should come back and expand on the issues.

Wilkus said that the Board would be granting continued use of 90% office. The City can limit the parking to 62 stalls in the future.

Johnson said that the building could go to less than 90% office use, but never more.

Akemann was concerned about the parking spots.

Duffy said that presently, 50-60% is used for office.

Johnson said that 11,000 square feet could be used as office use.

Johnson suggested 60% office, 30% accessory and 10% gym.

Harvey asked if this was acceptable to Duffy.

Duffy asked for a continuance to next meeting.

MOTION: Weeks moved that the Board continue the request to the next meeting (May 20). Akemann seconded the motion and it passed unanimously.

IV. OLD BUSINESS

Discussion took place on the City meeting.

The Grossman Chevrolet request was discussed.

Harvey noted that the Board gave a lot of input.

V. NEW BUSINESS

Johnson noted that the next meeting would be next Wednesday evening.

Anderson asked who is allowed to present variances at special meetings. Why wasn't there a special meeting when the safety of children was involved? Some criteria is needed for special meetings.

Weeks said a process question had come up this evening. The building has an accepted non-conforming use. Can a request be made before a purchase?

VI ADJOURNMENT

MOTION: Argue moved that the Board adjourn. Wilkus seconded the motion and it passed unanimously. Meeting adjourned at 9:57 P.M.

UNAPPROVED MINUTES

BOARD OF APPEALS AND ADJUSTMENTS

THURSDAY, JUNE 11, 1992

7:30 P.M. CITY HALL
Council Chambers, 7600
Executive Drive, Eden
Prairie, MN 55344

BOARD OF APPEALS MEMBERS:

Harvey (Chairman), Argue,
Freemyer, Wilkus, Weeks,
Anderson, Akemann

STAFF PRESENT:

Jean Johnson, Planning
Sharon Storholm, Secretary

BOARD MEMBERS ABSENT:

Akemann, Argue

I. CALL TO ORDER--ROLL CALL--PLEDGE OF ALLEGIANCE

Chairman Harvey called the meeting to order at 7:32 P.M.. Roll call was taken as noted above.

II. MINUTES OF MAY 14, 1992 MEETING

MOTION: Wilkus moved that the Board accept the minutes of the May 14, 1992 meeting as presented. Anderson seconded the motion and it passed unanimously.

III. MINUTES OF MAY 20, 1992 MEETING

Weeks noted that under item II, the next regularly scheduled meeting will be on June 11, not June 20. Also, the roster of members in the heading should be corrected. On page 2, last paragraph, Mr Duffy has said he had not contacted the insurance company, but did not see a problem.

MOTION: Wilkus moved that the Board approve the minutes of the May 20, 1992 meeting as amended. Anderson seconded the motion and it passed unanimously with Harvey abstaining.

IV. VARIANCES

Chairman Harvey explained the order of the appeal process for the benefit of those in the audience.

- A. Request #92-011 by J.M.S. Development of 6625 Eden Prairie Road for platting of a single family lot 82 feet wide. City Code requires 100 foot width. Section 11.03, Subdivision 3., A.**

EXHIBIT E

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

CONSERVATION EASEMENT

THIS EASEMENT AGREEMENT is made this ____ day of _____, 2020 by and between _____, a Minnesota Company, hereinafter referred to as "Grantor," and the CITY OF EDEN PRAIRIE, a Minnesota municipal corporation, hereinafter referred to as "City";

WHEREAS, Grantor is the fee owner of land located in Hennepin County, Minnesota, more fully described in Exhibit A, attached hereto and made a part hereof, and said land hereinafter referred to as "the Property"; and,

WHEREAS, Grantor has marketable title to the Property, free and clear of all liens, mortgage, and encumbrances, except: _____

WHEREAS, Grantor and City wish to enter into an agreement which will grant to the City a conservancy/scenic easement for conservation and preservation of the terrain and vegetation, and to prohibit certain destructive acts thereon, over that portion of the Property as described in Exhibit B, hereinafter referred to as the "Easement Area", attached hereto;

NOW, THEREFORE, in consideration of the premises contained herein, it is agreed by the parties as follows:

1. Grantor hereby conveys to City and its successors and assigns a conservation and scenic easement in, under, on, and over the "Easement Area", and City hereby accepts such conveyance.
2. The following terms and conditions shall apply to the Easement Area:
 - A. The Easement Area shall be preserved predominantly in its natural condition. No trees, shrubs or other vegetation shall be planted or removed from the Easement Area without the prior written consent of the City. The City will consider removal of noxious weeds, as defined by Minnesota Statutes Sections 18.76-18.88, upon submission and approval of a Vegetation Management Plan. No vegetation cutting, fertilizer application or placement of turfgrass, such as Kentucky bluegrass, shall occur within

the Easement Area.

- B. No building, road, sign, billboard, utility, or other structures shall be placed in the Easement Area without the prior written consent of City.
- C. No trash, waste, or other offensive material, soil, or landfill shall be placed upon or within the Easement Area without the prior written consent of the City.
- D. No change in the general topography of the Easement Area landscape, including, but not limited, to excavation, dredging, movement, and removal or placement of soil, shall be allowed within the Easement Area without the prior written consent of the City.
- E. Grantor may, no more than once per calendar year, remove sediment caused by stormwater drainage into a stormwater wetland and/or stormwater pond. Any removal of sediment must be pre-approved in writing by the City and be in accordance with City and Wetland Conservation Act guidelines. Landscaping must be replaced in accordance with the requirements outlined in this Conservation Easement.

3. With respect to the Easement Area, Grantor represents and warrants as follows:

- A. That Grantor has marketable title free and clear of all liens, encumbrances and mortgages.
- B. That Grantor has not used, employed, deposited, stored, disposed of, placed or otherwise allowed to come in or on the Easement Area, any hazardous substance, hazardous waste, pollutant, or contaminant, including, but not limited to, those defined in or pursuant to 42 U.S.C. § 9601, et. seq., or Minn. Stat., Sec. 115B.01, et. seq. (such substances, wastes, pollutants, and contaminants hereafter referred to as "Hazardous Substances");
- C. That Grantor has not allowed any other person to use, employ, deposit, store, dispose of, place or otherwise have, in or on the Easement Area, any Hazardous Substances;
- D. That no previous owner, operator or possessor of the easement area, deposited, stored, disposed of, placed, or otherwise allowed in or on the Easement Area any Hazardous Substances;

Grantor agrees to indemnify, defend and hold harmless City, against any and all loss, costs, damage and expense, including reasonable attorneys fees and costs that City incurs because of the breach of any of the above representations or warranties and/or resulting from or due to the inaccuracy or falsity of any representation or warranty herein.

4. Grantor agrees to permanently demarcate the location of the boundaries of the wetland and wetland buffer strip as shown on Exhibit C. The monuments shall be permanent steel channel posts that are a minimum of 2.25 inches wide and 6 feet 6 inches long (2.25" x 6.5'). The sign shall be a minimum of 4 inches by 8 inches (4" x 8") that shall be mounted flush with the top of the post and shall include the statements "Conservation Easement: No Mowing Allowed" and "Wetlands and buffers filter pollutants, reduce flooding and provide habitat" with the City and Watershed District logos. The post shall be mounted to a height of four feet above grade and at least 2.5 feet in the ground. Removal of the monuments is not allowed.
5. Grantor agrees to maintain the Easement Area subject to the provisions stated herein.
6. The duration of this easement is perpetual and shall bind and inure to the benefit of the parties, their successors, and assigns.
7. Nothing contained herein shall impair any right of City now held or hereafter acquired to construct or maintain public utilities in or on the Easement Area.
8. Provisions of this Easement shall be binding upon and enforceable against the Property and the Grantor, their successors and assigns of the Property.

EXHIBIT A

“THE PROPERTY”

Legal Description Before Final Plat

Legal Description After Final Plat

EXHIBIT B
“EASEMENT AREA”

Legal Description Before Final Plat

Legal Description After Final Plat

EXHIBIT C

“EASEMENT AREA” DIAGRAM

EXHIBIT F

DEVELOPMENT AGREEMENT –CENTRAL MIDDLE SCHOOL BUILDING ADDITIONS AND REMODEL

AGREEMENT REGARDING SPECIAL ASSESSMENTS

THIS IS AN AGREEMENT MADE THIS ____ day of _____, 2020, between the City of Eden Prairie, a municipal corporation, (the "City") and Independent School District No. 272 a Minnesota public corporation (the "Owner").

A. The Owner holds legal and equitable title to property described as _____, Hennepin County, Minnesota, which property is the subject of this Agreement and is hereinafter referred to as the "Property".

B. The Owner desires to develop the property in such a manner that relies upon and requires the construction of improvements at the intersection of Scenic Heights Road and School Road (all of which is hereafter referred to as the "Improvements").

C. The parties hereto desire to enter into an Agreement concerning the financing of the construction of the Improvements all of which will inure to the benefit of the Property.

AGREEMENTS

IT IS HEREBY AGREED as follows:

1. The Owner consents to the levying of assessments against the Property in an amount not to exceed \$800,000 for the Improvements and payable over a term of 10 years.
2. The City's assessment records for the Property will show the assessments as a "pending assessment" until levied.
3. The Owner waives notice of any assessment hearing to be held at which hearing or hearings the assessment is to be considered by the City Council and thereafter approved and levied.
4. The Owner concurs that the benefit to the Property by virtue of the Improvements to be constructed exceeds the amount of the assessment to be levied against the Property. The Owner waives all rights it has by virtue of Minnesota Statute 429.081 or otherwise to challenge the amount or validity of the assessments, or the procedures used by the City in apportioning the assessments and hereby releases the City, its officers, agents and employees from any and all liability related to or arising out of the imposition or levying of the assessments.

5. This Agreement shall be effective immediately.

6. This Agreement may not be terminated or amended except in writing executed by both parties hereto, provided however upon the levying of the special assessments contemplated by Paragraph 1 hereof the City may upon request of the owner of the property affected, without the necessity of further City Council approval, unilaterally prepare and provide to the owner for recording a document releasing any property so levied from this Agreement.

7. This Agreement constitutes a lien on the Property in the amount of \$800,000 until such time as the assessments referred to above are levied.

OWNER

A Minnesota _____

By: **NOT TO BE SIGNED**

CITY OF EDEN PRAIRIE

A Minnesota Municipal Corporation

By: **NOT TO BE SIGNED**

Ronald A. Case
Its Mayor

By: **NOT TO BE SIGNED**

Rick Getschow,
Its City Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Ronald A. Case, the Mayor, and Rick Getschow, the City Manager, of the City of Eden Prairie, a Minnesota municipal corporation, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ the _____, a Minnesota _____, on behalf of the _____.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

City of Eden Prairie
8080 Mitchell Road
Eden Prairie, MN 55344

SUPERINTENDENT CONSENT AGENDA

A. Semi-Monthly Reports

HUMAN RESOURCES

1. Human Resources – Eden Prairie Supervisors & Specialists (EPSS)

a. New Hires

Durow, Peter – Music – Vocal, 0.6 FTE, Central Middle School, effective 2/21/2020.

2. Human Resources - Licensed Staff

a. New Hires

Duea, Jackie – Social Studies, 0.333 FTE, Eden Prairie High School, effective 1/28/2020 through 4/6/2020.

b. Resignation/Retirements

Erickson, Jessica – Music – Vocal, 0.6 FTE, Central Middle School, effective 2/17/2020.

Johnson, Brenda – Mathematics, 1.0 FTE, Eden Prairie High School, effective 1/24/2020.

Knorr, Natasha – English, 1.0 FTE, Central Middle School, effective 6/10/2020.

Paoli-Stern, Julie – Elementary Classroom Teacher, 1.0 FTE, Cedar Ridge Elementary, effective 6/10/2020.

Rutledge, Danielle – School Nurse, .879 FTE, Eden Lake Elementary and Forest Hills Elementary, effective 6/10/2020.

c. Leaves

Churchill, Laura – Elementary Classroom Teacher, Cedar Ridge Elementary, 3-5 year leave effective 8/24/2020.

3. Human Resources - Classified Staff

a. New Hires

CLASS

Guillet, Sarah – Training & Learning Technology Specialist, Administrative Services Center, 8 hours/day, 5 days/week, 260 days/year, effective 2/27/2020.

Whiteaker, Carol – Receptionist, Eagle Heights Spanish Immersion, 8 hours/day, 5 days/week, 185 days/year, effective 2/25/2020.

FOOD SERVICE

Hackett, Lori – Food Service Assistant I, Oak Point Elementary, 3.5 hours/day, 5 days/week, 177 days/year, effective 2/18/2020.

MSEA

Abdihakim, Maryama – Playground Paraprofessional, Prairie View Elementary, 2 hours/day, 5 days/week, 172 days/year, effective 2/25/2020.

Jeme, Malaika – Eagle Zone Special Education Paraprofessional, Community Education, 4.4 hours/day, 3 days/week, 98 days/year, effective 2/27/2020.

Kryzer, Samantha – Eagle Zone Program Assistant, Community Education, effective 2/28/2020.

Larson, Michelle – Lunchroom/Playground Paraprofessional, Eagle Heights Spanish Immersion, 3 hours/day, 5 days/week, 178 days/year, effective 2/25/2020.

Martinson, Jamie – Eagle Zone Program Assistant, Community Education, 2.5 hours/day, 3 days/week, 103 days/year, effective 2/19/2020.

Osman, Nimo – Special Education Paraprofessional, Cedar Ridge Elementary, 5

hours/day, 5 days/week, 178 days/year, effective 2/18/2020.

b. Resignations/Retirements

Robertson, Dedra – Special Education Paraprofessional, Cedar Ridge Elementary, effective 3/27/2020.

BUILDING SERVICES

Pedersen, Michael – Day Custodian, Administrative Services Center, effective 1/31/2020.

CLASS

Ford, Jacquelyn – Administrative Assistant – Technology, Administrative Services Center, effective 4/2/2020.

MSEA

Bhaya, Shipra – Little Eagles Preschool Paraprofessional, Community Education, effective 2/18/2020.

Erickson, Jessica – STAR Mentor Paraprofessional, Central Middle School, effective 2/14/2020.

Robertson, Dedra – Special Education Paraprofessional, Cedar Ridge Elementary, effective 3/27/2020.

Singhatwadia, Neelam – Special Education Paraprofessional, Oak Point Elementary, effective 2/19/2020.

Thompson, Danielle – Special Education Paraprofessional, Eden Prairie High School, effective 2/28/2020.

PRESCHOOL TEACHERS

Halstead, Delaney – Little Eagles Preschool Teacher, Community Education, effective 2/27/2020.

TRANSPORTATION

Miller, Randy – Bus Driver, Transportation, effective 2/27/2020.

Slater, Jeff – Bus Driver, Transportation, effective 2/27/2020.

Termination of Employee A effective 3/3/2020.