

EDA MINUTES

DRAFT

1 **DATE** : **November 14, 2022**
2 **TIME STARTED** : **6:55 p.m.**
3 **TIME ENDED** : **7:05 p.m.**
4 **MEMBERS PRESENT** : **EDA Members Rafferty, Stoesz,**
5 **Cavegn, Ruhland**
6 **MEMBERS ABSENT** : **EDA Member Lyden**
7 **OTHERS PRESENT** : **Community Development Director**
8 **Michael Grochala; City Administrator**
9 **Sarah Cotton; City Clerk Julie Bartell**

10
11 The meeting was called to order at 6:55 p.m. by EDA President Ruhland

12
13 **CONSIDERATION OF THE MINUTES OF OCTOBER 10, 2022**

14
15 Economic Development Authority (EDA) Member Rafferty moved to approve the
16 minutes of October 10, 2022 as presented. EDA Member Stoesz seconded the motion.
17 Motion carried on a voice vote.

18
19 **ACTION ITEM**

20
21 **3A) A. Consider Amendment to Purchase and Development Agreement with**
22 **Silver Creek Equity, LLC. , Lots 1-3, Outlot B & C, The Village No. 4 – Community**
23 **Development Director Grochala reviewed his written report. Noting elements of the**
24 **agreement in place regarding this property, he explained that the developer is requesting**
25 **amendment of the terms to allow multi-family development to begin prior to commercial**
26 **being committed and some future consideration for removing the requirement for**
27 **commercial use. The request is to amend the purchase agreement to allow time and**
28 **during that time staff will work with the development team on specific amendments for**
29 **consideration. Director Grochala reviewed some possible changes that will be discussed.**
30 **The developer and architect were present.**

31
32 EDA Member Stoesz asked about the 45 day allowance requested; would 90 days be
33 more appropriate? Mr. Grochala said he anticipates having something back in 45 days
34 for council consideration.

35
36 EDA President Ruhland asked what would happen if the deadline passes – could permit
37 issuance be tied to the timeline.

38
39 The developer noted satisfaction with the proposed timeline. They will work hard to get
40 the retail and there is time allowed for that.

41
42 EDA Member Cavegn noted a previous meeting comment that if commercial isn't
43 interested after five years from occupancy, they probably will not be.

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1 EDA Member Rafferty moved to approve the extension of the due diligence period as
2 recommended by staff. EDA Member Cavegn seconded the motion. Motion carried on
3 a voice vote.

4

5 The meeting was adjourned at 7:05p.m.

6

7

EDA MINUTES

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1 **DATE** : **December 5, 2022**
2 **TIME STARTED** : **5:30 p.m.**
3 **TIME ENDED** : **6:00 p.m.**
4 **MEMBERS PRESENT** : **EDA Members Lyden, Stoesz, Cavegn,**
5 **Ruhland**
6 **MEMBERS ABSENT** : **EDA Member Rafferty**
7 **OTHERS PRESENT** : **Community Development Director**
8 **Michael Grochala; City Administrator**
9 **Sarah Cotton; City Clerk Julie Bartell**

10
11 The work session meeting was called to order at 5:30 p.m. by EDA President Ruhland.

12
13 **ACTION ITEM**

14
15 **3A) Discuss Amendment to Purchase and Development Agreement with Silver**
16 **Creek Equity, LLC. , Lots 1-3, Outlot B & C, The Village No. 4-** Community
17 Development Director Grochala recalled the council’s last discussion of this topic. As
18 background he noted that the existing agreement requires development of a commercial
19 element prior to or concurrent with multi-family. The developer had asked to move the
20 commercial requirement forward and eventually cap that clause if commercial doesn’t
21 come forward. In consideration of the council’s discussion, staff is presenting three
22 options to move forward – Option one is no change to the purchase agreement (developer
23 at this point not willing to move forward with this option); Option two would amend the
24 purchase agreement to allow the multi-family building to proceed without prior or
25 concurrent construction of retail/restaurant building; Option 3 would amend the purchase
26 agreement to allow for extensions to the due diligence period with additional, partially
27 non-refundable, earnest money deposits.

28
29 The developer was present and responded. He remarked that Option 3 would be a good
30 path for everyone. It allows him to move toward development (installing sign); without
31 that type of movement he doesn’t think they will move ahead. He really doesn’t have
32 interest in moving ahead without the retail.

33
34 EDA Member Stoesz asked if it’s possible to extend the January 6th date and Mr.
35 Grochala said an extension is actually what is being discussed.

36
37 EDA Member Cavegn confirmed that Option 3 means that nothing happens right now. If
38 there isn’t someone for commercial in two years, nothing happens.

39
40 EDA Member Lyden noted that other Councilmembers have stated and he is in agreement
41 that the retail needs to be there. If the commercial doesn’t come, and that isn’t anyone’s
42 fault, he’d rather see the space as community open space than simply adding housing
43 units in place.

44

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- 45 The EDA concurred that they prefer Option 3 (extension of due diligence period).
46 Director Grochala explained that staff will bring forward an action for consideration at
47 the next EDA meeting (next week).
48
49
50 The meeting was adjourned at 6:00 p.m.

**ECONOMIC DEVELOPMENT AUTHORITY
AGENDA ITEM 3A**

STAFF ORIGINATOR: Michael Grochala

MEETING DATE: December 12, 2022

TOPIC: Amend Purchase and Sale Agreement with Silver Creek Equity, LLC, Michael Grochala

VOTE REQUIRED: Simple Majority.

BACKGROUND

In June, the City's Economic Development Authority (EDA) approved the purchase agreement (PA) with Silver Creek Equity (Developer) for the acquisition of 6.27 acres in the Legacy at Woods Edge development. The purchase price is \$2,376,154.00.

Under the terms of the agreement the Developer is required to construct a multi-tenant retail building or restaurant prior to, or concurrent with, the multi-family building. The agreement provided Developer with a 120 day due diligence period. At such time the Developer must either terminate the agreement or deposit an additional \$40,000 in earnest money.

To date, the Developer has not been able to secure any firm retail/restaurant commitments. Without a commitment they are not willing to proceed with construction of a speculative commercial building on the site. However, they would like to move forward with the development of the multi-family building. The Developer has developed a conceptual elevation of the proposed residential project and site plan.

The Developer is requested an amendment to the PA that would allow for construction of a market rate multi-family building prior to retail/restaurant construction. The building would not be age-restricted. The developer also requested EDA consideration to place a time limit on the requirement for retail/restaurant on the balance of the site.

The request was discussed at the November 7, 2022 work session. While there was support for allowing the multi-family to proceed, the timeline to limit the commercial requirement to three years was considered too short. On November 14, 2022 the EDA extended the due diligence period for 45 days to allow time for further discussion on proposed changes.

At the December 5, 2022 EDA work session the Authority discussed the following 3 options:

Option 1: No change to the purchase agreement. The due diligence period will expire on January 6, 2023. The buyer will need to deposit \$40,000 in earnest money by that date or terminate the agreement. If buyer moves forward they would have until April 27, 2023 to complete the entitlements process and close on the property. This would require construction of a retail or restaurant building (with tenant or speculative), prior to construction of the multi-family building. The EDA may grant extension to entitlements process if necessary.

Option 2: Amend the purchase agreement to allow the multi-family building to proceed without prior or concurrent construction of retail/restaurant building. This would include a deed restriction on the commercial portion of the property to limit consideration of a use change for a period of 7 years. Timeline of entitlements process and closing date would likely require extension.

Option 3: Amend purchase agreement to allow for extensions to due diligence period with additional, partially non-refundable, earnest money deposits. All other restrictions of the existing purchase agreement would remain in place including construction of retail/restaurant building prior to or concurrent with construction of the multi-family building. Timeline of entitlements process and closing date would need to be adjusted based on extensions.

EDAC Consideration

The EDAC discussed the proposed changes at their December 1, 2022 meeting and recommended moving forward with the multi-family building construction (Option 2) with the expectation that it would help drive potential commercial development.

Following discussion, Staff was directed to prepare an amendment based on Option 3.

The proposed amendment, drafted by Kennedy and Graven, includes the following terms:

- Buyer may extend Due Diligence Period up to 8 times for 3 month periods, provided an additional \$5,000 deposit is made with each extension.
- Only half of the earnest money is refundable.
- EDA (Seller) has right to refuse any extension.
- Buyer has right of first refusal if another party becomes interested prior to Buyer making final determination to purchase.
- Site Plan/Entitlements must be completed within 6 months after the Due Diligence Period Ends.
- Closing is 8 months from end of Due Diligence Period, or 60 days from final approval, whichever is earliest.
- Minimum Improvements amended to read market rate housing project (not aged restricted) with 100 to 160 units. Multi-tenant retail and restaurant requirements remain unchanged.

RECOMMENDATION

Staff recommends approval of Resolution No. 22-03.

ATTACHMENTS

1. Resolution No. 22-03
2. 2nd Amendment to Purchase Agreement
3. Concept Plan

LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY

RESOLUTION NO. 22-03

**RESOLUTION APPROVING THE EXECUTION OF A SECOND
AMENDMENT TO PURCHASE AND DEVELOPMENT
AGREEMENT WITH SILVER CREEK EQUITY LLC**

BE IT RESOLVED By the Board of Commissioners (the “Board”) of the Lino Lakes Economic Development Authority (the “Authority”) as follows:

Section 1. Recitals.

1.01. The Authority owns certain property located in the City of Lino Lakes, Minnesota (the “Property”).

1.02. On June 13, 2022, following a duly noticed public hearing, the Board approved the sale of the Property to Silver Creek Equity LLC, a Delaware limited liability company, or its successors or assigns (collectively, the “Developer”), for the purpose of developing market-rate housing for seniors, multi-tenant retail, and restaurants.

1.03. The Authority and the Developer entered into a Purchase and Development Agreement (the “Original Agreement”) governing the sale of the Property to the Developer.

1.04. The Authority and the Developer entered into a First Amendment to Purchase and Development Agreement (the “First Amendment to Agreement”), which amended the Original Agreement (as amended, the “Amended Agreement”), in order to extend the due diligence period described in the Original Agreement.

1.05. The Authority and the Developer have determined to further amend the Original Agreement and have caused to be prepared and presented to the Board a Second Amendment to Purchase and Development Agreement (the “Second Amendment to Agreement”), which amends the Amended Agreement.

Section 2. Authority Approval; Further Proceedings.

2.01. The Second Amendment to Agreement is hereby in all respects approved, subject to modifications that do not alter the substance of the transaction and that are approved by the President and the Executive Director, provided that execution of the Second Amendment to Agreement by such officials shall be conclusive evidence of approval.

2.02. The President and Executive Director are hereby authorized to execute, on behalf of the Authority, the Second Amendment to Agreement and any other documents referenced therein requiring execution by the Authority or otherwise required to effectuate the transaction described in the Second Amendment to Agreement.

2.03. Authority staff and consultants are authorized and directed to take all actions needed to carry out the transactions described in this resolution.

Approved by the Board of Commissioners of the Lino Lakes Economic Development Authority this
12th day of December, 2022.

President, Michael Ruhland

ATTEST:

Executive Director, Sarah Cotton

LN140-127 (JAE)
842641v1

**SECOND AMENDMENT TO
PURCHASE AND DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO PURCHASE AND DEVELOPMENT AGREEMENT (the “Second Amendment to Agreement”) is made this ____ day of December, 2022, between the LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY, a public body corporate and politic of the State of Minnesota (the “Seller”), and SILVER CREEK EQUITY LLC, a Delaware limited liability company, or an affiliate or its assigns (the “Buyer”), and amends the Purchase and Development Agreement, dated July 25, 2022 (the “Original Agreement”), between the Seller and the Buyer, as amended by the First Amendment to Purchase and Development Agreement, dated November 14, 2022 (the “First Amendment to Agreement,” and together with the Original Agreement, the “Amended Agreement”), between the Seller and the Buyer. All capitalized terms used herein that are otherwise not defined shall have the meanings provided in the Amended Agreement.

WHEREAS, the Seller and the Buyer entered into the Original Agreement pursuant to which the Seller agreed to sell to the Buyer, and the Buyer agreed to purchase, the property located in the City of Lino Lakes, Minnesota and legally described in EXHIBIT A attached hereto (the “Property”); and

WHEREAS, the Seller and the Buyer entered into the First Amendment to Agreement in order to extend the Due Diligence Period to a period ending one hundred sixty-five days (165) days from the Effective Date of the Original Agreement (i.e., January 6, 2023); and

WHEREAS, the Seller and the Buyer desire to make additional amendments to the Original Agreement; and

NOW, THEREFORE, IT IS HEREBY AGREED by and between the Seller and the Buyer as follows:

**ARTICLE 1
AMENDMENTS**

Section 1.01. Section 4(B) of the Amended Agreement is hereby amended as follows (new language is underlined, and deleted language is stricken):

- B. Earnest Money.** Earnest money will be paid in ~~two payments~~ several installments. Ten Thousand and 00/100 dollars (\$10,000) will be paid to the Seller on the Effective Date of this Agreement. The Buyer shall have the ability to extend the Due Diligence Period up to eight (8) times, subject to the terms of the following paragraph, for three (3) month periods, if the Seller deposits a payment of Five Thousand and 00/100 dollars (\$5,000) for each extension. The original \$10,000 in earnest money and all deposits related to an extension of the Due Diligence Period will be considered “Earnest Money.” ~~An additional Forty Thousand and 00/100 dollars (\$40,000) is payable to the Seller within on the last day of the Due Diligence Period.~~ The Earnest Money shall be deposited with Servion Commercial Title, New Brighton, Minnesota (the “Title Company”). The Earnest Money shall be applied towards payment of the Purchase Price on the Closing Date (as defined below). If the Buyer determines to not proceed with the project proposed in this Agreement, half of the Earnest Money will not be refundable to the Buyer.

The Seller shall have the right to refuse any extension of the Due Diligence Period set forth in the preceding paragraph. In the event that a separate entity is interested in

purchasing the Property and the Buyer has not made a final determination to purchase the Property, the Seller agrees to provide the Buyer with a right of first refusal with thirty (30) days to close.

Section 1.02. Section 5(B) of the Amended Agreement is hereby amended as follows (new language is underlined, and deleted language is stricken):

B. Site Plan Review, Entitlements, and Final Platting. The Buyer shall, no later than six (6) months ~~from the Effective Date~~ after the Due Diligence Period ends, complete site plan review, complete final platting, and obtain all other governmental entitlements (collectively, the “Entitlements”).

Section 1.03. Section 6 of the Amended Agreement is hereby amended as follows (new language is underlined, and deleted language is stricken):

6. CLOSING DATE. The Closing Date shall occur on the earlier of (i) ~~nine months following the Effective Date of this Agreement~~ eight months from the end of the Due Diligence Period; and (ii) the date that is sixty (60) days after the date the Buyer obtains final approval of all Entitlements needed for the Minimum Improvements (as defined herein), including but not limited to a planned unit development amendment, a planned unit development final stage plan for each building, and a final plat. A six month exception may be provided but only at the option of the Seller.

Section 1.04. The first paragraph of Section 13 of the Amended Agreement is hereby amended as follows (new language is underlined, and deleted language is stricken):

13. CONSTRUCTION OF MINIMUM IMPROVEMENTS. Within one year of purchasing the Property, the Buyer must commence construction on the Property. The Buyer has agreed to development on the Property a four story market rate housing project ~~designed for persons 55 and older seeking active independent living~~ with 100 to ~~150~~ 160 units (the “Housing Building”), one approximately 7,500 square foot multi-tenant retail building (the “Retail Building”), and two restaurant buildings of 5,000 square feet or more (the “Restaurant Buildings”) on the Property. The Housing Building, the Retail Building, and the Restaurant Buildings are referred to herein as a “Building.” In addition, the Buyer shall construct and pay for two project identity signs (the “Project Identity Signs”) on the Property at locations approved by the City. The design of the Project Identity Signs shall be subject to the approval of the City. The Buyer shall provide advertising space on the Project Identity Signs to the City at no cost. The Buildings and the Project Identity Signs are collectively referred to herein as the “Minimum Improvements.”

Section 1.05. Section 25 of the Amended Agreement is hereby amended as follows (new language is underlined, and deleted language is stricken):

25. DEFAULT; REMEDIES; SPECIFIC PERFORMANCE. If the Buyer defaults in any of the agreements herein, the Seller may, as the Seller’s sole remedies, (a) terminate this Agreement; and (b) retain ~~any~~ half of the Earnest Money paid by the Buyer ~~as liquidated damages~~, time being of the essence hereof. If the Seller defaults in any of the agreements herein, the Buyer may (1) terminate this Agreement, in which event the Seller will cause the Title Company to refund the Earnest Money to the Buyer; (2) terminate this Agreement and seek actual damages for breach of this Agreement; or (3) seek specific performance of this Agreement; provided that any action for specific performance must be brought within six months after the date of the alleged breach.

ARTICLE 2
MISCELLANEOUS

Section 2.01. All references to the “Agreement” in the Original Agreement shall be deemed to include the Original Agreement, as amended by the First Amendment to Agreement, and as further amended by this Second Amendment to Agreement.

Section 2.02. Except as otherwise amended herein, the Amended Agreement remains in full force and effect.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Purchase and Development Agreement as of the date and year first written above.

SELLER:

LINO LAKES ECONOMIC DEVELOPMENT AUTHORITY

By: _____
Name: Michael Ruhland
Its: President

By: _____
Name: Sarah Cotton
Its: Executive Director

STATE OF MINNESOTA)
) SS.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Michael Ruhland, the President of the Lino Lakes Economic Development Authority, a public body corporate and politic of the State of Minnesota, on behalf of the Seller.

Notary Public

STATE OF MINNESOTA)
) SS.
COUNTY OF ANOKA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Sarah Cotton, the Executive Director of the Lino Lakes Economic Development Authority, a public body corporate and politic of the State of Minnesota, on behalf of the Seller.

Notary Public

This document drafted by:

Kennedy & Graven, Chartered (JAE)
150 South Fifth Street, Suite 700
Minneapolis, Minnesota 55402

Execution page of the Buyer to the Second Amendment to Purchase and Development Agreement, dated the date and year first written above.

BUYER:

SILVER CREEK EQUITY LLC

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, the _____ of Silver Creek Equity LLC, a Delaware limited liability company, on behalf of the Buyer.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 1, 2, and 3, Block 2 and Outlot B and Outlot C, The Village No. 4, according to the recorded plat thereof, Anoka County, Minnesota

LINO LAKES MIXED USE

PROPOSAL OVERVIEW

Building A- Total SF:	217,450 SF
Building A- Total Finished SF:	172,100 SF
Garage SF:	45,350 SF
Level 1 SF:	45,350 SF
Level 2 SF:	43,350 SF
Level 3 SF:	43,350 SF
Level 4 SF:	40,050 SF

Total Parking Estimate:	482
Residential Garage:	137
Shared Surface:	278
Existing Street Parking:	67
Required Stall Size:	9' x 19'

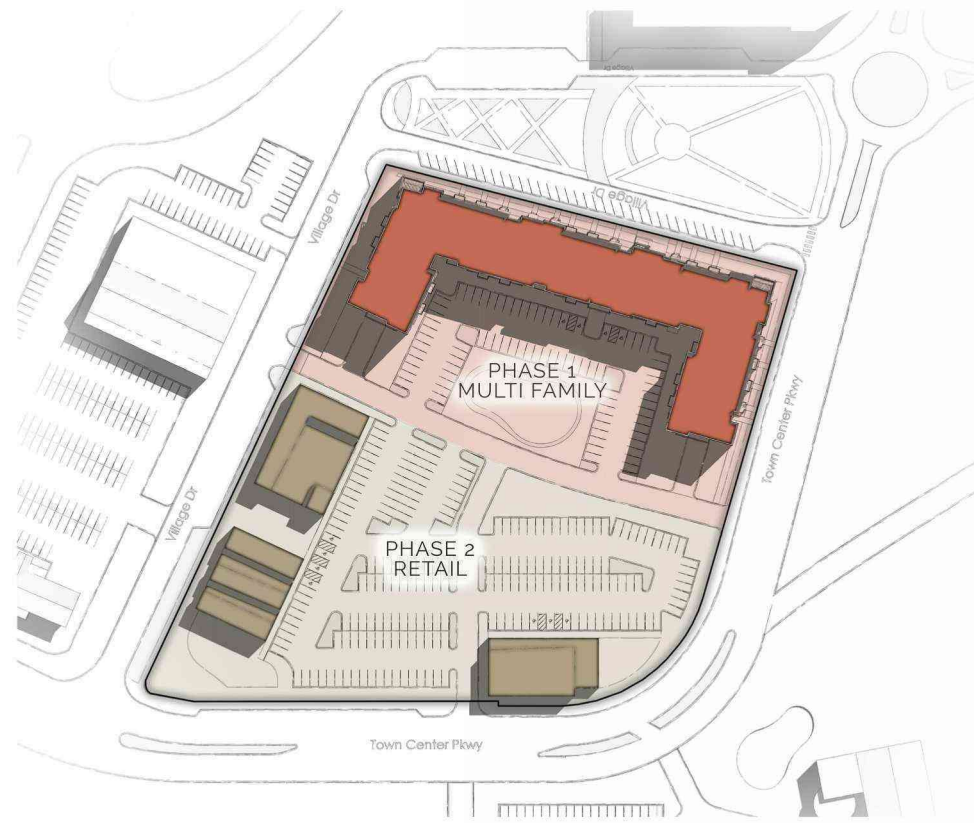
Site Information:	
Site Area (Approx):	6.27 Acres / 273,121 SF
Impervious Area:	3.53 Acres/153,915 SF (56%) (Shall not exceed 65%)

Unit Estimate:	160
Total SF/Unit:	1,075 SF/Unit

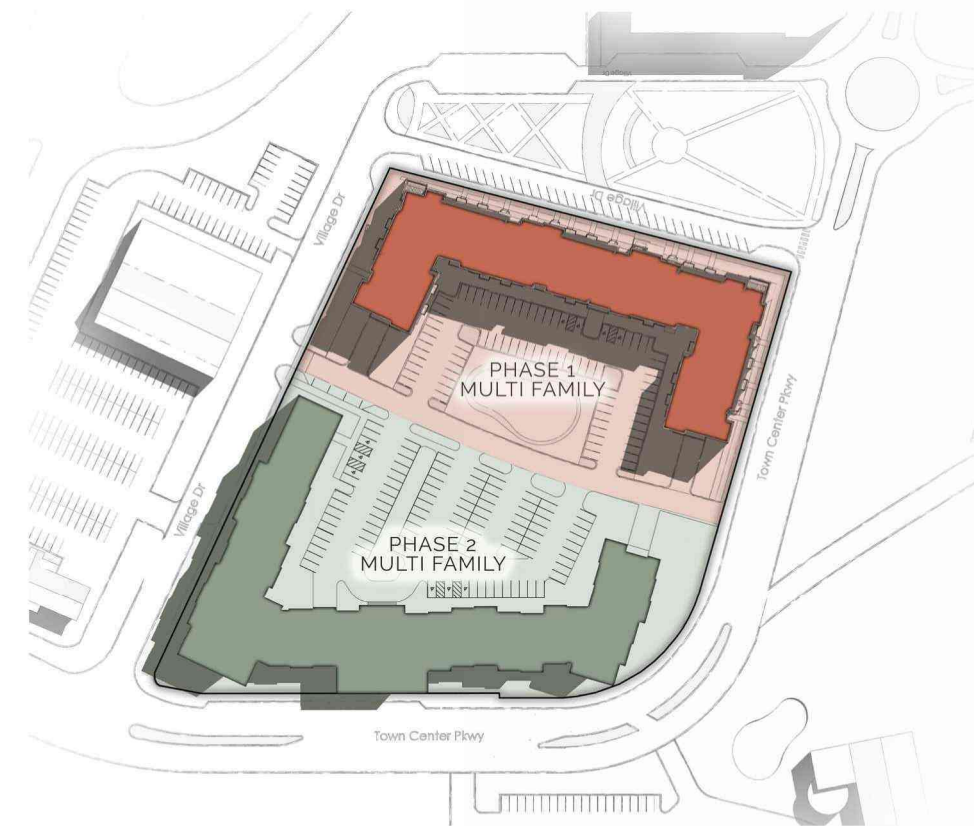
Required Shared parking: **393**

Lot Requirements:	
Building setback:	Max 5' from Property Lines

Height: Max of 45', & parapets may extend up to 10' above max height, provided they make up no more than 1/3 of the length of the buildings facade.



SITE PLAN



ALTERNATE SITE PLAN AFTER DECEMBER 31ST, 2025



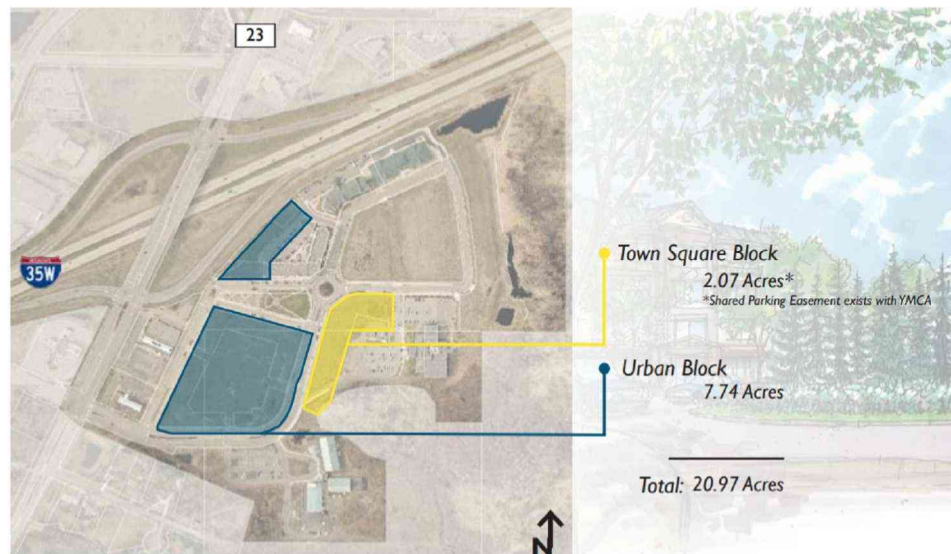
CONCEPTUAL NARRATIVE

THE LEGACY AT WOODS EDGE DEVELOPMENT SITE OFFERS A UNIQUE OPPORTUNITY AS AN URBAN BLOCK WITH ADJACENCIES TO THE RICE CREEK PARK RESERVE AND LINO LAKES COMMUNITY GREEN. ESTABLISHING AN AREA WITH THE CHARACTERISTICS OF A TRADITIONAL DOWNTOWN HAS BEEN LAID OUT BY THE CITY OF LINO LAKES AS A GOAL FOR THIS DEVELOPMENT SITE. ATTRIBUTES INCLUDE ARCHITECTURAL FEATURES AT DEFINING CORNERS, A STRONG STREETScape FACADE ESTABLISHED BY THE "BUILD-TO LINES", AND A BLEND OF RETAIL AND MIXED-USE PROGRAMMING.

UTILIZING THE EXISTING CURB CUTS AND UTILITY STUBS, A PRIMARY EAST/WEST CIRCULATION WOULD BIFURCATE THE SITE INTO DEVELOPMENT PHASES. THE CIRCULATION PATH WOULD SERVE BOTH VEHICULAR AND PEDESTRIAN TRAFFIC, AND BE ENRICHED WITH LANDSCAPE AND STORM WATER OPPORTUNITIES.

PHASE 1, THE NORTH SITE, IS ENVISIONED AS A FOUR-STORY, 155-160 UNIT MULTI-FAMILY STRUCTURE, WHICH WOULD WRAP THE NORTHERN PERIMETER OF THE SITE. CONCEPTUALLY, THE BUILDING WOULD USE AN ARTICULATED FACADE WITH ALTERNATING MATERIALS TO REINFORCE AN URBAN EDGE, AND IN A SENSE EMULATING A HISTORIC MAIN STREET CHARACTER. MATERIALS WOULD BE USED TO REINFORCE A CLASSICAL YET MODERN ORGANIZATION, AND POTENTIALLY INCLUDE ELEMENTS SUCH AS A STRONG BASE, DEFINED CORNICES, BAY WINDOWS AND WALK-UP UNIT ENTRANCES TO ACTIVATE THE STREETScape. MATERIALLY, THE CONCEPTUAL DESIGN ILLUSTRATES A COMBINATION OF BRICK MASONRY, METAL AND FIBER CEMENT SIDING.

PHASE 2, THE SOUTH SITE, IS ENVISIONED AS THREE TO FOUR COMMERCIAL OUTLOTS, WHICH WOULD PROVIDE FOR A MIX OF RETAIL AND RESTAURANT OPPORTUNITIES. TO DATE, MULTIPLE RETAIL AND RESTAURANT USERS HAVE EVALUATED THE DEVELOPMENT OPPORTUNITY ON THIS SITE, BUT NO COMMITMENTS HAVE BEEN MADE. WHILE ONGOING EFFORTS WILL BE MADE TO SECURE RETAIL TENANTS, THE PROPOSAL AT HAND SUGGESTS A SECOND PHASE OF MULTI-FAMILY DEVELOPMENT IF THE RETAIL VISION FAILS TO MATERIALIZE.



GRAPHIC FROM THE 2016 REVISED LEGACY AT WOODS EDGE BROCHURE



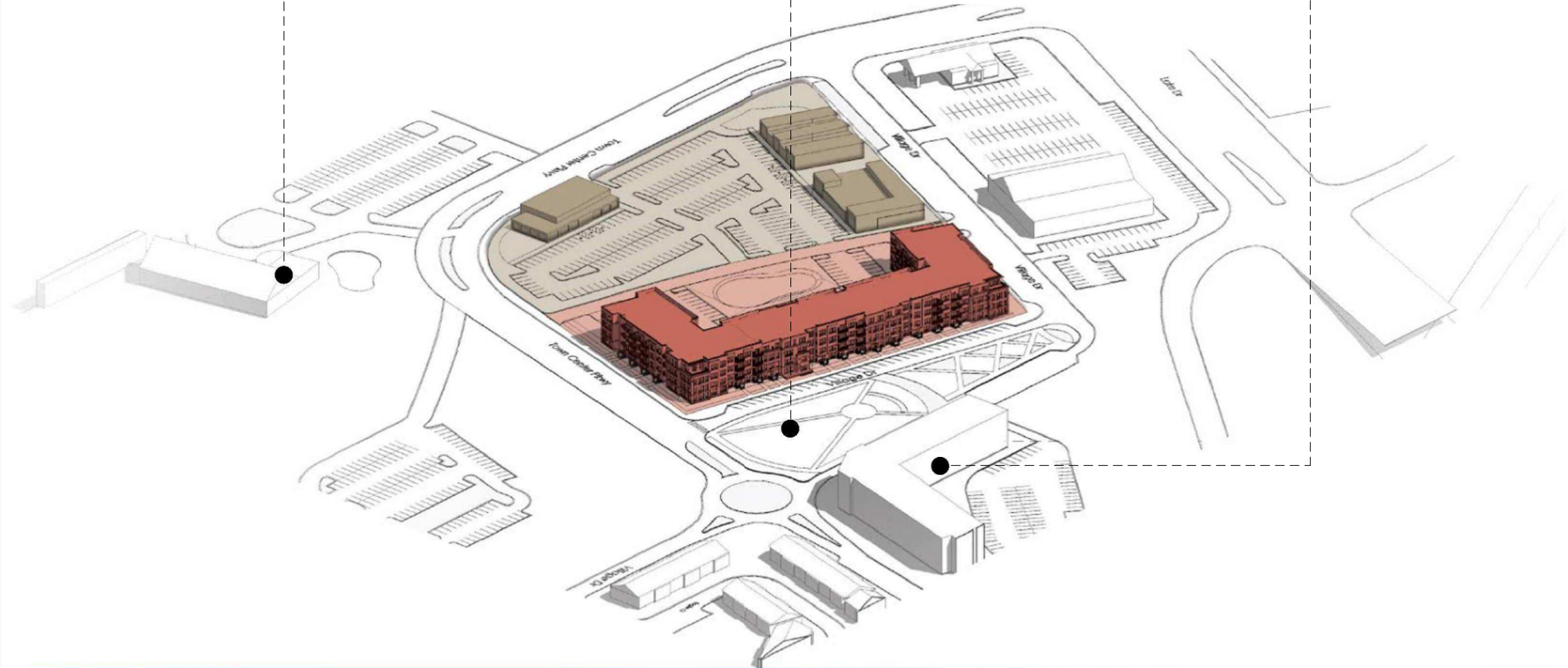
CITY HALL/ PUBLIC WORKS/ POLICE STATION



COMMUNITY GREEN



LAKWOOD APARTMENTS & COMMERCIAL SPACE



NORTH ELEVATION OF THE MULTI-FAMILY BUILDING



PRECEDENT IMAGERY (FROM TOP)- HIGHLAND BRIDGE TOWNHOMES, 610 WEST, CW LOFTS



CONCEPTUAL RENDERING OF THE INTERSECTION AT VILLAGE DR. & TOWN CENTER PKWY (TOP) & AERIAL FROM WEST SITE ENTRANCE (BOTTOM)