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J. DIRECT STAFF TO NOT WAIVE MONETARY LIMITS ON MUNICIPAL TORT LIABILITY ESTABLISHED BY MINNESOTA STATUTES 466.04

MOTION: Butcher moved, seconded by Case, to approve Items A-J on the Consent Calendar. **Motion carried 4-0.**

VIII. PUBLIC HEARINGS / MEETINGS

A. L.G.EVEREST TRANSFER FACILITY by L.G. Everest. Request for Planned Unit Development Concept Review on 2.74 acres; Planned Unit Development District Review with waivers on 2.74 acres; Zoning District Amendment in the I-General district on 2.74 acres; Preliminary Plat of 2.74 acres into 1 lot. Location: Industrial Drive. **(Resolution No. 2005-83 for PUD Concept Review, Ordinance for PUD District Review with waivers and Zoning District Amendment, Resolution No. 2005-84 for Preliminary Plat)**

Official notice of this public hearing was published in the June 9, 2005, *Eden Prairie Sun Current* and sent to 18 property owners.

Neal noted L.G. Everest is in the aggregate business and would ship aggregate by rail from western Minnesota to this site in Eden Prairie. Aggregate will be unloaded from rail cars by front-end loader into trucks which will either deposit material on site, transfer to Midwest Asphalt across the street or to other job sites in the Twin Cities area. The Planning Commission voted 6-0 to recommend approval of the project, including the waiver for lot size and loading on a street frontage, to the City Council at the May 23, 2005 meeting. Neal introduced Rick Everest for questions.

There were no comments from the public.

MOTION: Case moved, seconded by Aho, to close the Public Hearing.

Case noted this was not the kind of project he would solicit for Eden Prairie, but the zoning is pre-existing. He asked about noise, dust, and water quality studies. Jeremiah said these were submitted. Everest explained that although the initial volume is anticipated to be 50,000 tons, the studies were done at the maximum build out rate of 300,000 tons. The impact on water quality from crushing granite is minimal. Rock is loaded wet to reduce dust. Case noted there is a connection to Purgatory Creek.

Butcher asked for an idea of the volume and number of trains. Everest explained a 40-car train holds about 4,000 tons. The stock area only holds 6,000 tons. The number of trains coming in depends on how fast the aggregate goes out to customers. About half will go directly to the Midwest Asphalt plant on the neighboring property. The rest will be trucked out. There might be two trains a

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week at first depending on demand. The train comes in, stops, and is unloaded for eight hours so there are not a lot of rail cars banging about. There will be a siding so rail traffic is not disrupted.

Butcher asked about the local availability of aggregate and who would buy it. Everest confirmed local supplies are dwindling. It would be used primarily for road construction to make concrete and asphalt.

Aho asked how many trucks would be leaving the facility. Everest said that depends upon volume. Half the volume would be used at the asphalt plant and half trucked out. Each truck holds 27 tons. Everest said his company has had 600 trucks a day out of its Converse City and Sioux City plants without complaint. The site is small but workable due to the proximity of the railroad and arterial roads to keep trucks out of neighborhoods.

Tyra-Lukens asked about debris trails from trucks and operations noise. Jeremiah said Everest's operation would follow the same operating hours as Midwest Asphalt, Monday – Saturday 7 to 7 p.m. They could get a variance for 10 days each year with prior notice. Regarding debris, Everest said his trucks do not leak material as much as drag out mud. Since the site will be paved, mud will be less of an issue here. Everest said he sweeps at his other locations and agreed to sweep Industrial Drive as needed.

MOTION: Butcher moved, seconded by Aho, to adopt the Resolution for Planned Unit Development Concept Review on 2.74 acres; approve 1st Reading of the Ordinance for Planned Unit Development District Review with waivers, and Zoning District Amendment in the I-Gen Zoning District on 2.74 acres; adopt the Resolution for Preliminary Plat on 2.74 acres into one lot; and direct Staff to prepare a Development Agreement incorporating Staff and Board recommendations and Council conditions, including conformance to Midwest Asphalt's operating hours and street sweeping. **Motion carried 4-0.**

- B. MCCALL BLUFF** by McCall Construction Company. Request for Planned Unit Development Concept Review on 4.89 acres; Planned Unit Development District Review and Zoning District Amendment in the Rural Zoning District on 4.89 acres and Preliminary Plat of 4.89 acres into two lots. Location: 9997 Dell Road (**Resolution for PUD Concept Review, Ordinance for PUD District Review and Zoning District Amendment, Resolution for Preliminary Plat**)

Neal noted is a continued item from the June 7, 2005 meeting. The hearing was delayed in order for the applicant to provide information indicating there would be access to both the existing and proposed lot across property owned by Turnbull to the west of the site. The opinion letter from Thomas L. Owens (attorney for McCall) dated June 15, 2005 declares that neither the terms of the easement or